

OPENING ANNOUNCEMENTS AND OTHER MATTERS TO BE COVERED FOR RIGHTS OF WAY INQUIRY

Whilst there are specific points which must be covered in the opening announcements for an inquiry, how they are phrased and delivered, and even the order in which they are dealt with, are matters of personal style and expression. The example given in this appendix may be adapted to suit your own style and the circumstances of the case. The example relates to a Definitive Map Order inquiry; appropriate alterations or additions will have to be made to suit public path orders or other types of inquiry.

GOLDEN RULES

- Set up early
- Enter at two minutes to ten
- Ensure all doors are closed
- Ensure silence

INTRODUCTION

Good morning ladies and gentlemen. It is 10 am and the inquiry is now open.

[I have taken the time by the clock in the room (which appears to be X minutes fast / slow)]

I hope that everyone can hear me clearly. However, if at any time any one has a difficulty with hearing the proceedings please let me know.

SUBJECT OF INQUIRY

This inquiry is into the Order made by -----

for

NAME AND STATUS OF INSPECTOR

My name is ----- I am the Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs to conduct this inquiry and to [decide whether or not the Order should be confirmed / report to the

Secretary of State with a recommendation as to the decision to be made in this case].

THE ORDER (PURPOSE OF THE INQUIRY)

The Order was made under (*section and Act*) -----

by (*Order Making Authority*) -----

on (*date of Order*) -----

Following advertisement of the Order (*number of*) ----- objections were received that have not been withdrawn.

Accordingly, the purpose of this inquiry is to determine whether the criteria set out in (the appropriate section and Act) have been met. The Order Making Authority has relied upon (relevant criteria in Act relied upon), in which case the matters before me for consideration are:

What is not before me are matters such as: -

(Give appropriate examples as necessary or relevant e.g.: the desirability of the proposals in the Order or environmental concerns).

This may be a disappointment to some people but the law is quite clear on that point. My determination must be based upon the evidence relating to a claim for a public right of way.

If confirmed without modifications the effect of the Order under consideration would be to (*give details of the Order and the routes in question*);

In due course, I shall make my decision on the basis of those matters before me. The decision will be one of the following options;

- to confirm the Order
- to propose that the Order be confirmed subject to modifications;
- or not to confirm the Order.

STATUTORY FORMALITIES

Can the Order Making Authority confirm that all of the relevant statutory requirements have been complied with?

APPEARANCES

I will now take the names and addresses of those people who wish to speak.

a) Firstly, who is representing the Order Making Authority?

Will you be calling any witnesses? [*Ask for names*]

b) Is there any one else who wishes to speak in support of the Order?

c) Who wishes to speak on behalf of the Objector(s)?

Do you intend to call any witnesses? [*Ask for names*]

d) Are there any other interested persons who would like to speak at the inquiry?
I will need to know whether you are for or against the Order.

SITE VISIT

As far as is possible from public vantage points, I made an unaccompanied inspection of the claimed rights of way (say when), and have I have familiarised myself with the area.

I intend to walk the claimed rights of way in the company of representatives of the Order Making Authority, other supporters of the Order and the objector(s), either during, or following the close of the inquiry.

During that final inspection, however, I will not be able to hear any further evidence. However, people should make sure I have seen features or locations that they have mentioned in their evidence. I must stress that I will be strict about this rule and I will not be prepared to entertain attempts to present further evidence or engage in discussion over the merits or otherwise of the Order during the site visit.

I will make the arrangements for this final inspection at an appropriate time; probably just before I close the inquiry.

PROCEDURE

For the benefit of those who may not be familiar with them I will now give a brief outline of the procedure to be adopted at this type of local inquiry.

1) Case for the Order Making Authority

I will start by hearing the case for the Order Making Authority. This usually takes the form of a short opening address and then the evidence of the witnesses.

2) Case for the Supporters

I will then take evidence from anyone else who wishes to speak in support of the Order.

3) Case for Objectors(s)

That will be followed by the cases for the principal or statutory objector(s). Following which there will be an opportunity for anyone else who wishes to do so to speak in opposition to the Order.

4) Interested Persons may then put their points

So that every body has an opportunity to put relevant points to the inquiry as a final stage in the giving of evidence any interested parties may have the opportunity to speak.

In each case once a witness has given their evidence, usually referred to as "evidence in chief", that witness will be available for:

- cross examination from the opposing party.
- questions from any interested persons that I have noted who hold an opposing view.
- (if represented by an advocate) Re-examination (questions of clarification) from his/her own side.
- It is possible that I may have questions of my own for the witness.

So that everyone can see and hear the witnesses clearly I would like the witnesses to sit at this table -----.

I would like to stress that witnesses should be asked questions. People should not use an opportunity to question a witness as a pretext to make statements that should rightly be given as their own evidence.

When interested people address the inquiry please will they come forward and speak from the witness table. It is also most helpful to everybody at the inquiry if interested parties would stand when addressing me from the body of the room. This makes it clear who is speaking and what is being said.

It is no longer necessary for the advocates to stand at all times when speaking at an inquiry. Current practice is that advocates should normally remain seated when questioning any witness. There might be some occasions where the layout of an inquiry room might make this impractical [but I do not think that is the case here.]

There are still occasions when it is sensible for participants to stand so that it is clear who “has the floor”. I would expect the main parties to stand whilst giving opening and closing addresses, when they make interventions during another party’s case and when making applications for rulings or costs.

5) Closing submissions from Objectors and Supporters

(This should only really be necessary if they have called witnesses)

6) Closing submissions from Order Making Authority

The inquiry will finish with closing submissions on behalf of the Objectors and finally by the Order Making Authority who are entitled to the last word.

I would like to ask the Order Making Authority and the Objectors at this point whether or not they are likely to have a written version of their final submissions. If they are available it might be a great help to me. However, I appreciate at a short Inquiry such as this it may not be possible, in which case you may have to adjust your delivery speed to match my note taking.

PROOFS OF EVIDENCE, LETTERS AND OTHER DOCUMENTATION

Moving on to the documentary content of the inquiry I have already seen letters from each of the Objectors. Is the OMA aware of their content?

I have received proofs of evidence from:

(May need amendment depending upon what has been received)

- The Order Making Authority
- The Supporters (state who)
- Objectors (state who)

If I have not already received a proof of evidence, I would expect the main parties to produce one when taking the witness stand.

Has there been any further exchange of documents?

I will take all the letters and other written representations that I have received into account when coming to my decision.

Document Library

It would be of benefit to the inquiry if, just before they give their evidence, those witnesses who intend to speak to their proofs could distribute a number of spare copies so that interested persons may follow what is being said.

[Alternatively, spare copies of proofs, maps and other documents could be placed on a table at the back of the inquiry room for interested persons to borrow **and return** documents.]

Document table and “the huddle”

Because some of the points raised at the inquiry may involve detailed examination of historical evidence, it may be that I and a limited number of participants from the main parties may have to engage in close scrutiny of maps or other documents. Sometimes it is only possible to fully appreciate points that are being put forward by examining the original of a document as opposed to any copy that may be contained in the Planning Inspectorate’s file.

Please would everyone be aware that this is an important part of the inquiry process, but it does not mean that I will be discussing the merits of the evidence at such times. I have to be fully satisfied that I have seen and noted the content of relevant documents – any discussion of matters arising will only take place in open inquiry sessions.

I would be grateful if those people who are not actively involved would refrain from noisy or distracting conversation in the body of the room.

INQUIRY PROGRAMME

The inquiry is scheduled to sit for ----- day(s). However, I would like to check at this stage if this is a realistic estimate. Can each of the main parties tell me how long they think it will take to give their evidence and to explore relevant matters through cross-examination?

- OMA
- Supporters
- Objectors

Note how long they say and sketch out a timetable for the inquiry.

In view of the anticipated duration of the OMA’s and other cases of which I am already aware it will probably not be until just before mid-day before we would reach the stage of hearing evidence from members of the public.

I appreciate that some people may have other engagements and may not be able to stay for the entire duration of the inquiry. If there is anyone who must leave early please let me know now and I will attempt to hear you if at all possible by perhaps slightly altering the running order of the proceedings.

Before the close of the inquiry I will ask again if there is any one else who wishes to speak.

NOTIFICATION OF DECISION

Every one who made an objection or representation in the time period specified in the OMA's Statutory Notice of the Order, and who did not subsequently withdraw it, will automatically receive a copy of my decision, whether they speak at the inquiry or not.

A copy of the decision will also be sent to any other persons who have written to the Planning Inspectorate's Offices in Bristol requesting a copy.

A copy of the decision will be published on the Planning Portal and therefore available for all those attending and any other interested person(s).

Press

Are there any members of the Press here? If so, please ensure you add your details to the attendance sheet(s) for any days you are present.

OTHER PRELIMINARY MATTERS

Before we get into the formal proceedings of the inquiry, there are a few other preliminary matters to deal with.

Attendance List

Has the Order Making Authority arranged for the standard attendance list to be circulated?

It is important for my records that everybody present, whether you intend to speak or not, records their name, full address with the post code on the attendance list. Please write legibly.

If the inquiry runs into a second and subsequent days I will need a new attendance list for each day.

Will the OMA please ensure that the completed list is handed to me at the end of each day's proceedings.

Costs Applications

I am not inviting applications for costs but remind you that if you wish to apply for costs you must do so before the close of the inquiry.

Domestic Arrangements

It is not my usual practice to sit later than 5 pm. Depending on the progress of the inquiry I would propose to adjourn for lunch for a maximum of one hour at about 1 pm.

I will take a short "comfort break" mid-morning, and during the afternoon, at an appropriate natural break in the proceedings.

In the interests of openness and fairness to all parties I would appreciate it if people would not attempt to engage me in any form of conversation during adjournments. It is not that I am being unfriendly or stand-offish, but I must not be seen to engaged in private conversations with one party only.

I would like to point out that smoking, eating and drinking are not permitted in this room whilst the inquiry is in session or during any of the adjournments. Please switch off (or put on silent) mobile telephones, or similar devices.

You should be aware that these proceedings may be recorded and/or filmed and that anyone using social media during or after the event should do so responsibly. Please let me know if there will be any filming/recording of this event.

Toilets are available

Emergency Procedures

If for any reason there is a need to clear the room in an emergency could the OMA advise us of the appropriate procedure [would people please leave in an orderly fashion by way of the marked emergency exits].

Observer

[Before moving on I should point out that seated in the body of the hall is an observer from the Planning Inspectorate. He/she will take no part in the proceedings and he/she will not influence my decision in any way.]

ANYTHING ELSE?

That concludes my opening announcements. Are there any questions or queries about the procedural aspects of the inquiry or any other matters which any one wishes to raise at this stage?

I now call upon Mr / Mrs for the Order Making Authority to open their case.

CLOSING STAGES OF THE INQUIRY

Is there anyone else who wishes to be heard?

I will now hear the final submissions from the main parties. I will hear the Objectors first, followed by (the supporters* and then) the OMA, who will have the final say

*It would not be usual for me to hear a final submission from the supporters of the Order because they have not called any witnesses

Having now heard the final submissions from the main parties there are a number of matters that I need to attend to before formally closing the inquiry:

- have I any outstanding questions?
- have I got all of the documents that I need?
- have I got an attendance list for each day of the inquiry?
- have I got a copy of each of the proofs of evidence / photographs / plans?
- Are there any other matters to be attended to before I close the inquiry?

ARRANGING THE SITE VISIT

As there are no further matters I will now make the arrangements for the accompanied site inspection.

Once again I must stress that this site visit is not an opportunity for people to attempt to bring forward new evidence or submissions or to enter into a discussion about the case.

COSTS APPLICATIONS?

Are there any other submissions I am required to hear before closing the inquiry?

or

[if there are no applications for costs] I would like to thank everybody for their help at this inquiry, and I wish you all a safe journey home.

The Inquiry is now closed.