

OPENING ANNOUNCEMENTS & CLOSING STAGES FOR ROW HEARINGS

Good morning, Ladies and Gentlemen. It is time to open this hearing. My name is (*Name and qualifications*). I am the Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs (or the National Assembly for Wales) to hold this hearing into the: (Give the exact title of the Order)

In due course I shall write my decision on the Order (or report to the Secretary of State / the National Assembly for Wales). A copy of the decision will automatically be sent to as the Order Making Authority. Everyone who has made an objection or representation, in the time period specified in the Council's statutory notice, and who did not subsequently withdraw it, will automatically receive a copy of the decision, whether they speak at the hearing or not. (*Though rather awkward to say, this wording has been recommended by the Parliamentary Ombudsman*). A copy of my decision will be published on www.gov.uk/guidance/rights-of-way-online-order-details and available to all those who speak at this hearing whether or not they made objections or representations in response to the statutory notice. Copies of the decision will also be sent to any other person who has written to The Planning Inspectorate requesting a copy. (*Do not omit last sentence*)

The hearing will take the form of a discussion, which I will lead. It will enable you to put your points of view and for me to obtain the information necessary for my decision (or report) on the Order. I will now mention a few formalities after which I will tell you how I intend to proceed.

I would like to know who is present and their interest in this case. I will take your names, addresses and postcodes.

- First, who is representing the Council as Order Making Authority?
Are you the only person who will speak for the Authority?
- Are there supporters of the Order present?
- Who is objecting to the Order?

Does anyone else with an interest in the case want to speak? If so, please tell me whether you are supporting, or objecting to the Order, or simply interested in the case.

If anyone has other unavoidable commitments this morning, please let me know now so that I can try to arrange the discussion so as to allow you to put your views before you need to leave.

(Make a note of all persons wishing to appear. Do not omit any of the steps just because you know or can guess the identity of those appearing).

(If a colleague is observing the proceedings) Mr/Mrs (or other title) is a colleague of mine. He/She is here to observe the proceedings but will not take part in the hearing or influence my decision (or report) in any way.

Is there an attendance list circulating? Please write your names and addresses clearly, including the postcode. Please also give the name and address of any organisation you are representing. Please hand the list to me before the end of the hearing. *(Take an attendance list proforma with you, in case the OMA forget).*

Is there anyone here from the press? *(If press present ask them to complete the attendance list. The decision will be available on the Planning Portal).*

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.

If so unless the recording is under my direct control (because the venue has recording equipment) you will need to confirm in writing that (i) you will not undertake any editing whatsoever of the recording and (ii) you will promptly provide a copy of the recording to the Inspectorate and any other person who requests it at the event, reaffirming that it has not been edited.

We will take a brief mid morning break and such other adjournments as prove necessary.

Please don't smoke at the hearing or in this room during adjournments. Please also check that if you have a mobile phone or a watch alarm that it is turned off or set to silent alert.

Another important matter is the procedure in event of fire or other emergency: Can the OMA advise us of the procedure to be followed please?

Now I must ask the OMA, Have all the relevant statutory requirements for the Order been met? *(Record any documents handed in to document compliance)*

I have already received letters from Has anyone any other letters to hand over to me? I will take note of the contents of all the letters and any other written representations I have received. I will take them into account in arriving at my conclusions and reaching my decision (or recommendation).

(Deal with queries about any documents briefly, trying to avoid a discussion in any depth about contents at this stage. Announce that a short adjournment will be given if necessary, to allow any material handed in, or that had not been copied to the parties to be considered).

I have already looked at the route(s) shown in the map attached to the Order and the surrounding area *(yesterday or on my way to the hearing)*. I will take an accompanied walk later. It is essential that someone from the Council as well as at least one representative for the objectors come with me. *(If this would be practical)*. All of you can do so if you so wish *(subject to the agreement of the landowner if the route is not already a public path or way)*.

(Find out who is likely to accompany you).

I may decide to close the hearing here before going again to see the site of the route(s) of the Order. Alternatively, I may decide, depending on the progress made here, to adjourn the hearing to the site. We can then continue the discussion there. It is important that all the parties agree to such an adjournment, as I will not carry on with the hearing in the absence of anyone unless they are happy for me to do so. I will make that decision later, in consultation with you all.

Now to the way I intend to proceed. I will shortly give a brief summary of the cases that have been put to me in writing. This means you do not have to read them out here. I will then say what I regard to be the main issues arising and the points on which I need further information. These issues will form the basis for our discussion.

I will invite the parties to contribute to the discussion. I will keep the procedure informal. I will welcome questions and comments from any of you about what has been said or written as the discussion proceeds.

There will be no formal presentation of cases or cross-examination but you will be able to question anyone around the table about what they have said or written, so long as I think that would be helpful to me.

Near the end of the hearing I will ask the objectors to sum up their position. The Council, as Order Making Authority, will also have the opportunity to sum up their case. Neither the objectors nor the Council should introduce anything new at that stage. Closing statements should summarise the respective positions of each party, taking account of the substance of the discussion at the hearing.

Are you all clear about procedures? If there are no questions about the way I intend to proceed, I will now table the Agenda and summarise the cases before me. *(It is usually best to ask for confirmation about each summary or part of summary as you go along.)*

- First the case for the Order Making Authority:

(Summarise the case, including the history of the Order, negotiations with various parties, including the objectors, and highlight the main arguments that the OMA make in support of their Order).

Is that a fair summary?

- Secondly, the case of the supporters.

(Confine this summary mainly to the points supporting the OMA case).

Is that a fair summary?

- Thirdly, I will now summarise the cases of the objectors.

(If there is more than one objector, start by giving the substance of the common ground they share and then take each additional issue in turn, referring as necessary to the objector who has introduced each issue).

Is that a fair summary?

(As an alternative to reviewing each party's whole case, it can sometimes be useful to make the summaries issue based: focus in turn on the main issues and say what each party has said about them).

We will shortly look at the main issues in turn. But first of all it is important that everyone understands my powers with respect to this particular Order.

(Refer at this point to the criteria (Indicate where they can be found) for the confirmation of the Order, especially with respect to relevance of the arguments of the objectors or any other parties. Follow the procedure relating to the effect of the Order and apply a passage from the list of relevant criteria used in inquiry openings. Tell the parties what matters are not before you and indicate things you cannot do such as settling points of law).

We will now examine each of the main issues. I will give everyone in turn a chance to raise objections, give support and otherwise make comments. I will then invite the objectors to sum up their case and ask the Council for their closing statement.

(When you consider that everything has been adequately covered, proceed to the closing of the hearing. If anyone asks about costs on the grounds of

unreasonable behaviour at this or any other stage, say that you are not empowered to hear an application where the hearing procedure has been used).

- Issue 1
- Issue 2
- (Issue 3 etc)

(Whilst discussing each issue, aim to show the relationships between the attitudes of the parties. It is helpful to crystallise a provisional conclusion about each issue as you move along. The Inspector at a hearing needs to maintain momentum while ensuring her/ his impartiality. Ask questions such as "Am I to understand that you are in agreement in principle with the route in the Order between points A and B, but that you cannot agree about the length between B and C? Avoid such remarks as "yes, I like that approach as it makes good sense and I am glad you agree about it" It may not appear to make good sense by the time you are writing your order decision or report and it may call your impartiality into question).

Closing Stages

Invite the parties, in turn, to make a closing statement if they wish.

Is there anyone else who wishes to be heard about the merits of the Order?

It seems to me that we can conclude the hearing here / that it will be useful to continue discussion on site. *(If the latter check that all are agreeable.)*

(If closing in the room:) I will hear any concluding statements now, first from the objectors and then from the OMA.

(If adjourning to the site:) I will hear any concluding statements now, as it is much easier to take any notes here at the table. If anything new transpires from our discussions on site I will add a note afterwards about that.

I will now close the hearing /adjourn and make arrangements to the hearing to the site. *(Make clear arrangements for the site visit / resumption at the site, before closing/leaving the room (when, where and who)*

Collect

- all the papers, (including any photocopies for which arrangements were made earlier in the hearing);
- check the attendance list against those present and ask anyone that has not completed it to do so;

- all the statements / proofs of evidence.

Adjourn to the site or close the Hearing. If adjourned to the site remember to formally close on site.

Thank everyone for their assistance and wish them a safe journey home.