

ADVICE TO AUTHORITIES REGARDING NEUTRAL STANCE

Planning Inspectorate WebsiteGuidance Booklet on Procedures for Considering Objections to Definitive Map and Public Path Orders: July 2011**5 Other issues relevant to hearings and inquiries*****Orders which the local authority does not support***

5.1 Local authorities do not always support orders that they have made. A local authority may have been directed to make an order by the Secretary of State, or new evidence may have come to light after the order was made which leads the local authority to change its view. If the local authority sends such an order to us the local authority should explain that it does not support it. But it still has to supply all the documents on the checklist (see section 1 paragraph 1.4), provide a venue for and attend any hearing or inquiry. In these circumstances the applicant, if there is one, or a supporter for the order will be asked if they wish to make the case in support of the order. If they agree they would be expected to submit their statement of case at the time when the local authority would have submitted theirs (i.e. not later than 8 weeks after the start date). This will be the same for the local authority. Whilst we would expect the person taking the case forward to submit their statement of case as if they were the local authority, the Rules do not state that they must and therefore if one is received at the same stage for all other parties (14 weeks from the start date for inquiries and 12 weeks from the start date for hearings) it will be accepted. Nonetheless, regardless of the local authority's stance, the Rules make the local authority responsible for ensuring that documents are submitted according to the timetable.

5.2 Where the local authority holds the view that the order should not be confirmed, this includes any orders they have been directed to make by the Secretary of State, it would be entirely appropriate for the local authority to appear at the inquiry or hearing as an objector, rather than assuming a neutral stance. Indeed, such a position can be helpful to the parties concerned, as well as the Inspector. Rights of Way Advice Note 1 gives more information about handling these orders. The note is on our website at www.planningportal.gov.uk/countryside.

Planning Inspectorate Website**Advice Note No.1****CONDUCT OF INQUIRIES AND HEARINGS INTO RIGHTS OF WAY ORDERS WHERE ORDER MAKING AUTHORITIES DO NOT ACTIVELY SUPPORT AN ORDER**

7. There may also be occasions where the OMA supported the initial making of the order but advertisement brought to light new information, further evidence or valid objections which caused the OMA to conclude that confirmation was not justified. Again, the OMA may opt to actively oppose confirmation of the order or it may choose to remain neutral as regards confirmation.