



RIGHTS OF WAY SECTION

ADVICE NOTE No 22

USE OF CORRECT NOTATION ON DEFINITIVE MAP MODIFICATION ORDERS AND PUBLIC PATH ORDERS


Introduction

1. The purpose of this Advice Note is to inform all Order Making Authorities (OMAs) about the Planning Inspectorate's expectations in terms of the notation to be used in order maps. It supersedes the advice contained in our letter of 7 September 2011 which was issued to all OMAs in England.
2. This advice note is publicly available but has no legal force.

Background

3. All new opposed orders are checked by us to ensure that it is valid in terms of the relevant regulations. One of the things we check is the notation used on the order map to depict the way being stopped-up/deleted, added, diverted, upgraded or downgraded.

Definitive Map Modification Orders

4. Regulation 3 of the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (SI 1993 No.12) states that '*Rights of Way to which part III of the Act (public rights of way) applies shall be shown on the definitive map as indicated in Schedule 1 of these Regulations*'. Schedule 1 sets out the various lines styles to be used to depict footpaths, bridleways, restricted byways and byway open to all traffic. For the avoidance of doubt, the notation for a restricted byway is the same as that previously used to depict a road used as a public path – either a green broken line or a broken line and small arrow heads. Several options are provided for each type of way.
5. Regulation 6 of SI 1993 No.12 clearly states that '*Regulations 2 (map scale) and 3 (notation) above shall apply to the map contained in the modification...order as they apply to a definitive map*'.

6. On this basis, an order is considered to be fatally flawed if the wrong notation or non-standard notation is used to depict the routes affected by the order. We will therefore reject any order containing incorrect notation. However, in our letter to authorities of 7 September 2011, we advised that we would accept any order containing incorrect notation if the order was made prior to 7 September 2011¹. This still applies except in those cases where the error is significant and clearly misleading.

¹ We felt that this was only fair considering that we had identified that we had not been applying our policy of rejecting orders containing incorrect notation consistently.

7. Where an order relates to the deletion of a way, we would still expect the appropriate notation to be used. If the same order happens to contain a new route of the same type, for example the deletion and addition of a restricted byway, then the route to be deleted could be shown as a broken green line and the route to be added as a broken line and small arrowheads or vice-versa. The use of a bold black continuous line to show a way to be deleted should be avoided. However, if an OMA felt that this was the only clear way to show it (because of the number of routes shown on the map), we would not consider this sufficient to invalidate the order.
8. In our view, the unaffected routes should also be shown using the appropriate notation as it helps with clarity. However, there will be instances where there are many different unaffected routes, of different types, which need to be shown on the order map. Where this would be difficult to achieve and/or confusing to the public, then we would not be adverse to the use of non-regulation notation being used. We often see dotted lines used to represent unaffected footpaths. In all cases, the map key should clearly identify the different notation types used and what they mean. For additional clarity, the map key should also clearly describe the points of the order route i.e. A-B-C against the relevant notation style.
9. We are aware that the Regulations do not stipulate a colour for some of the line styles. Where this is the case it is down to the OMA to decide what colour to use. In most cases we would recommend that black ink be used - red should be avoided.
10. It has been argued that the increasing reliance on the use of digitally prepared maps makes it difficult to apply the correct notations. We do not consider this to be an acceptable excuse for not adhering to the notations set out in the Regulations.
11. Another concern that has been expressed is the fact that a map produced in colour may become unclear if reproduced in black and white. We do not consider this to be a problem so long as the map key clearly identifies the different line styles used and what they mean. Again the map key should clearly describe the points of the order route i.e. A-B-C against the relevant notation style.

Public Path Orders

12. Authorities should ensure that they follow the appropriate Regulations when preparing public path orders. Generally speaking routes to be stopped up or diverted should be shown by a bold black continuous line and routes to be added shown by a bold black broken line.
13. Again, our view is that the unaffected routes should be shown using the appropriate notation as set out in SI 1993 No.12 as this helps with clarity. However, the guidance set out in paragraph 8 above applies in those instances where the number of alternative routes shown on the order map could lead to confusion.

Combined Orders

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Combined Orders

14. Combined orders are covered by the Public Rights of Way (Combined Orders)(England) Regulations 2008 as amended by the Public Rights of Way (Combined Orders)(England) (Amendment) Regulations 2010. Whilst they do not specifically state what notation should be used on order maps, Regulation 5 (of the 2008 Regulations) requires that, where a combined order is to be made, the combined order shall be in the form prescribed for an order of the type in question (e.g. a creation order or a diversion order). This is supported by the Guidance for English Surveying Authorities issued in October 2010 which contains, at Annex 1, model forms for each type of order. These clearly state that routes to be stopped-up/diverted shall be shown by a continuous bold black line and ways to be added as a bold broken black line.

15. On this basis, and unless further guidance is produced by Defra, OMAs will be expected to use the notation set out in the form of order under the relevant public path order regulations.

