

HAMPSHIRE RAMBLERS' FPAWE BEST PRACTICE GUIDELINE NUMBER 7 - PATH PLANNING ORDERS

BACKGROUND

Best Practice Guidelines

1. The Hampshire Ramblers' FPAWE Committee has produced a series of Best Practice Guidelines that it encourages Groups to adopt. Whilst Groups are generally free to adapt the Guidelines in order to meet local circumstances and restrictions, this Guideline explains a legal process. If Groups want to adjust the way of working recommended, could they please inform the FPAWE. If any Group has suggestions to improve the Guidelines, they should send them to the FPAWE Secretariat.

Planning Orders - Background

2. This BPG is aimed primarily at Group Footpath Secretaries (GFS) and Group Walking Environment Secretaries (GWES). It gives an overview of what is required of Groups and Hampshire Ramblers' Area Officers in order to successfully process Path Orders. It is assumed that GFS is the Group point of contact for Path Orders; if they are not, Groups must let the Hampshire Ramblers Order Recipient (HROR) (currently David Clark) know.

3. Path Orders are necessary to create, extinguish divert, or change a Public Right of Way (PROW) designation. They can be made by the Hampshire County Council under the Highways Act 1980, by District Councils under the Town and Country Planning Act 1990 Section 257 or by other specialist authorities. District Councils may also occasionally make Orders under the HA 1980. Please see page 168 of the Blue Book for more background. HCC also (occasionally) makes orders under s257 where it is also the planning authority.

4. HCC/ District Councils must consult the Ramblers under HA 1980. However, such consultation is not obligatory under TCPA 1990 although District Councils usually consult during the official planning approval stage and even subsequently.

5. Formal Consultation documents and Path Orders are normally forwarded by HCC and Districts to Ramblers Central Office (RCO) (pathorders@ramblers.org.uk) and to the HROR who will forward all documentation to Groups. The main player in the process is the Group, normally the GFS. They are expected to undertake the discussions with the authorities and make the decisions on whether the proposals are acceptable. The HROR is merely the post office for initial order receipts and the custodian of the monitoring spreadsheet, which is used to track the progress of the Orders.

6. Prior to the receipt of the formal Order documentation, informal preliminary discussions will usually take place, normally in one of two ways depending on what local contacts are in place:

6.1.either directly between the landowner and the GFS or between HCC staff (sometimes on behalf of the landowner) and the GFS;

6.2. or between the District Council Planning Department and the local GFS or GWES.

Planning Orders - Main Stages in the Formal Process

8. Following the informal discussions between the authorities/landowner and local Groups, there are 5 or 6 recognised stages in the formal order process. A full information flow diagram is at Annex A.

Draft Order Received and Draft Order discussions.

8.1.A formal consultation document, including a Draft Order produced by HCC or the District Planning Authority should normally be received by RCO, HROR and the GFS.

Order to Regulatory Committee/District Councils/Other Planning Authorities.

8.2.For some draft Orders which HCC are proposing to make, they will submit a report to the HCC Regulatory Committee (RC) for approval. This is a public meeting which all can attend. For contentious Orders the GFS is encouraged to attend and speak if appropriate. There is a system of delegation in place within HCC which allows Officers to approve Orders under certain conditions. The report presented to the RC will hopefully reflect the formal position taken by the Group in the Draft Order discussions above. If the Regulatory Committee does not approve the making of the Order the process may be abandoned or may restart at an appropriate point above. This will depend on the issues raised. Since April 2017, Countryside has had a Scheme of Authorisation which obviates the need to take everything through Regulatory Committee – this will mean that dedications, minor and uncontentious diversions/extinguishments and some DMMOs can now be dealt with ‘in-house’. This has had a positive impact on the throughput of orders and the officer time involved. HCC still consult in the same way as a matter of course and will still take major or contentious items to the Regulatory Committee. Internal delegated decisions are considered on a weekly basis and officer decision records published on HCC’s website the same week (See Para 26).

8.3.District Councils/Other Planning Authorities usually have a less public formal approval process. They too can approve or reject the draft Order.

Order Made (i.e. Published)

8.4.If the draft is approved, the Order is Made (Published) by HCC or the District Council. There is a statutory list of bodies to be notified at this stage (including RCO). When an Order is Made the public have a statutory period in which to object. If objections are received, then the Order making body will try to resolve them. Under some circumstances it is possible that the applicant may withdraw if the objections are seen as irreconcilable to their wishes. If no withdrawal takes place and objections remain the Order is passed to the Planning Inspector.

Where Appropriate and Because of Objections - Involvement of the Planning Inspector

8.5.If there are remaining objections from the public which cannot be resolved the Order is normally referred to a Planning Inspector (alternatively, the applicant may withdraw). If an Order has been passed to the Planning Inspectorate the Inspector may Confirm, Modify or Reject an Order. For minor modifications the Order may proceed to Confirmation without further process. Before making a decision on whether a contested Order should be confirmed or not the Planning Inspectorate will conduct an inquiry either by written representations or by holding Public Inquiry to which objectors have to submit evidence. If there are major changes, or the Order is rejected the process may restart at Paras 8.1 and 8.2 above, or the Order may be abandoned.

Order Rejected/Confirmed

8.6. An uncontested Order will be Confirmed (by HCC or District Council). For all Confirmations the statutory list must be notified again. There is no such statutory requirement to inform interested parties that Orders have been rejected or withdrawn.

Order Implemented.

8.7. After the Order is Confirmed, HCC would look to get the route certified as soon as possible after confirmation, whereupon they will change the CAMS map and eventually the definitive map.

HAMPSHIRE RAMBLERS' ACTIONS

Pre Order Informal Discussions

9. It is the Group's responsibility to make regular contact with District Councils and nurture a good contact network etc to indentify proposed changes to the PROW network. Often such changes may come out of the local planning system. It is always best to resolve problems/objections to the proposals at this stage so that when official Orders are finally initiated, they reflect, where possible, what the Ramblers want.

10. Groups should continue to monitor such informal activity, and it is recommended that a simple spreadsheet is created locally to do this. There is no need to inform the FPAWE Committee or the HROR of such activity.

Formal Consultations and Draft Order

11. Formal Consultations and a Draft Order can come from HCC, District Councils or Other Planning Authorities. They should send it to RCO and the HROR (and possibly, if Group local communications are good, to the GFS as well). Sometimes some authorities don't send to all, so it is worth making sure all are informed! On receipt the HROR will immediately pass on all the details to the GFS and a representative of Ramblers FPAWE Secretariat (FPAWE Rep) (Currently R Kenchington). The FPAWE Rep may wish to offer advice to the Group, but this will be limited to assisting the Group to reach the Ramblers' desired outcome. It is important to note that Ramblers have no role in policing the Path Order process. Because District Councils often fail to correctly consult the Ramblers, the FPAWE Rep will forward to the GFS and HROR any documents or announcements he picks up from the local press that have not been recorded on our system. The HROR will also add the Order to the monitoring spreadsheet.

12. It is the Groups' responsibility to enter discussions on the Draft Order having decided whether to support/modify/oppose it in accordance with the Ramblers Objectives. It is essential that a formal position is reached and communicated by the Group to the consulting body, copy to the HROR (even if the position is simply 'no comment'). Groups are also responsible for keeping the HROR up to date who will amend the spreadsheet so the FPAWE Committee always knows the latest state of play. If the group is taking a line that the FPAWE Rep believes is contrary to overall legitimate Ramblers' objectives, the position may be discussed by the FPAWE Committee (in or out of committee) if the FPAWE Secretariat sees it as necessary.

Order to HCC Regulatory Committee/District Councils/Other Planning Authorities

13. In theory, a formal copy of the Regulatory Committee papers submitted by HCC are forwarded to the Area footpath Secretary (AFS) (currently The AFS Marlow) as a member of the Hampshire Countryside Access Forum. These papers should always contain the Groups comments made at Para 12. The AFS would send copies of the papers to HROR and to the

affected GFS. The Committee's decision is also passed to The AFS through the minutes (which can take some 2 months to appear). The AFS would pass the decisions on to GFS and HROR when he knows them. Any urgent need to identify the RC findings must be sought by the GFS from HCC contacts (see Para 30, 32 and 33 below). If cases are considered under delegations to HCC officers' decisions can be found on their website (see Para 26). In practice papers have not been sent to the AFS and the procedure has not worked for several years without detriment. The FPAWE Rep keeps a watching brief on what occurs.

14. The Monitoring Spreadsheet will be updated by the HROR upon advice from the AFS.

Order Made (i.e. Published)

15. If for any reason the order making authority does not go through the Formal Consultation/Draft Order stage above, the actions in that section must be carried out when the Order is Made. Copies must be sent by the Order maker to a list of Statutory bodies (including RCO). The RCO will pass the details to the HROR who will in turn forward them to Groups and the FPAWE Rep. It is essential that GFS comment on the Published Order, even if it is 'no comments'. Responses must be made within the statutory timeframe.

Unresolved Objections to Made Order Referred to Planning Inspector

16. If the Planning Inspector needs to resolve objections, Groups should be prepared to attend any hearings to put the Ramblers' view. If the Ramblers' Group is an objector, the FPAWE Secretariat should be contacted for guidance on how the Ramblers' case should be dealt with and for assistance in submitting the case and attending any Public Inquiry. Alternatively, the interested parties may decide to reconcile differences through correspondence; again, Groups should play a full role as appropriate. After participating in this part of the process, Groups should update the HROR so he can update the Monitoring Spreadsheet.

Order Confirmed

17. If the Order is approved, it is Confirmed will again be sent to the statutory list including RCO who will send it to the HROR who in turn will forward it to Groups and update the monitoring spreadsheet. As there is no statutory requirement for the statutory list to be informed of rejections or withdrawals there is a danger that the Monitoring Spreadsheet will continue to contain entries that are no longer being considered. It is therefore important that GFS contact Districts periodically to check on progress so that column (j) of the spreadsheet truly reflects the correct position.

Order Implementation

18. Groups should monitor implementation. They should check that the CAMS map is changed by HCC to reflect the Confirmed Order changes. Only when HCC or Groups have confirmed the CAMS map has been changed will the case be archived by the HROR on the monitoring spreadsheet.

Completing the Monitoring Spreadsheet

19. See Annex B for an Example of the format. Groups should ensure any updates for the monitoring spreadsheet are forwarded to the HROR. The spreadsheet has some beige columns that have dropdown menus from which a choice should be made where appropriate. The HROR will complete the columns as follows.

- 19.1. Hants Ramblers Serial (a). This is the year the process started followed by a simple numeric reference serial.
- 19.2. Date Last Amended (b). This is the date of the last amendment. It should help identify where inactivity is present.
- 19.3. Primary Order Type (c). This shows the main aim of the Order, i.e. Closure, Diversion, New, or Change Designation (e.g. footpath becoming a bridleway). Some may be mixed (e.g. closure and diversion) but just the main one will be recorded.
- 19.4. Commentary on Aim (d). This puts into words what the aim is, e.g. divert an existing path because of building development. State the legal source of the order (e.g. HA 1980).
- 19.5. Group (e). This shows the lead Group for the Order.
- 19.6. Parish (f). This shows the parish name.
- 19.7. PROW Number (g). This is the PROW number(s) that are involved.
- 19.8. HCC Reference (h). If applicable the HCC serial number for the order is shown.
- 19.9. Local Authority Reference (i). If applicable the local Authority reference, e.g. an associate planning application number, is shown.
- 19.10. Progress of Application (j). This shows what stage the application is at. Note that if applications are amended, they may move backwards in the process.
- 19.11. Latest Rambler Group comments made to Authority (k). The Group will be commenting at various stages in the process. This is a summary of what the Group latest position is (e.g. Object to the Order unless the definitive map links all parts of the paths along estate roads).
- 19.12. Comments on State of Play (l). For example, this shows what is awaited, what is holding up progress or what disputes are being resolved.
- 19.13. Final Decision (m). Only when the final decision is clear will this show Rejected/Confirmed. Note that apparent rejections could be open to appeal. It will be changed to Implemented when the change is reflected on the CAMS map.

20. For Group inputs, copies of Group emails sent to the Authorities should be copied to the HROR or the information can be emailed to the HROR by quoting the appropriate serial number and giving the input against the appropriate column letter.

OTHER PARTICIPANTS AND THEIR ROLES

Ramblers' Central Office

21. They should formally receive draft and published Orders that will be forwarded to the HROR. They can also give advice on the process to Groups.
22. Ramblers set the Objectives towards which all our efforts should be directed.

Current Charitable objectives:

- 1. The provision and protection of footpaths and other ways over which the public have a right of way or access on foot, including the prevention of obstruction of public rights of way*
- 2. The protection and enhancement for the benefit of the public of the beauty of the countryside and other areas by such lawful means as the trustees think fit, including by encouraging the provision, preservation and extension of public access to land on foot*
- 3. The provision of facilities for and the organising of open-air recreational activities and in particular rambling and mountaineering with the object of improving the conditions of life for the persons for whom the facilities are intended, namely the public at large, and in the interests of social welfare (including health)*
- 4. Advancing the education of the public in subjects relating to access to, and the preservation and conservation of, the countryside and of the health benefits of outdoor recreational pursuits the trustees may further the objects particularly by helping all persons to a greater love, knowledge and care of the countryside and urban open spaces, and by encouraging participation in walking for recreation and as a means of transport.'*

Hampshire County Council

23. They are the main source of Orders under the HA 1980. They are also a good contact if there are any questions or problems when dealing with District Council Planning. HCC have agreed to forward draft formal orders for DMMOs/PPOs/Dedications to RCO and HROR. They will also forward informal Order proposals directly to GFS.

24. HCC have also agreed to review the monitoring spreadsheet quarterly to ensure we are only dealing with current HCC cases (not rejected ones) and we are up-to-date with progress.

District Councils

25. They are responsible for Orders under the TCPA 1990. They also have responsibility for general planning applications for building extensions/new builds and new housing estates. These can often affect footpaths so Groups should always be aware of the RoW implications for all planning applications. Getting our points in at the earliest opportunity is the best way of influencing later Orders.

Regulatory Committee

26. The Regulatory Committee is a public meeting with papers open to public access. It doesn't just cover PROW matters. This is run by HCC. The Regulatory Committee has full delegated authority to determine planning applications on behalf of the County Council. Non-controversial planning applications are dealt with by the Director of Economy, Transport and Environment under delegation arrangements. Non-controversial Rights of Way and Commons Registration decisions concerning Public Path Orders are delegated to the Countryside Access Group Manager to decide. Delegated decisions are promulgated in the week made at:
<http://democracy.hants.gov.uk/ieListMeetings.aspx?CommitteeId=191>

Planning Inspector

27. The Planning Inspectorate deals with planning appeals, national infrastructure planning applications, examinations of local plans and other planning-related and specialist casework in England and Wales. The Planning Inspectorate's job is to make decisions and provide recommendations and advice on a range of land use planning-related issues across England and Wales. They aim to do this in a fair, open and timely way. The Planning Inspectorate is independent of HCC.

REFERENCES AND CONTACTS

28. Regulatory Committee:

<http://democracy.hants.gov.uk/mgCommitteeDetails.aspx?ID=191>

29. Planning Inspectorate: <https://www.gov.uk/government/organisations/planning-inspectorate/about>

30. HCC Planning: countryside.planning@hants.gov.uk

31. General enquiries relating to all countryside matters, including the definitive map.
countryside@hants.gov.uk

32. HCC Countryside Service Network Development Officer: Tara Pothecary
tara.pothecary@hants.gov.uk

33. HCC Definitive Map Review Manager: Harry Goodchild Harry.Goodchild@hants.gov.uk

34. Ramblers Central Office Order Recipient Pathorders@ramblers.org.uk

35. Hampshire Ramblers Order Recipient dclarkhants@hotmail.com

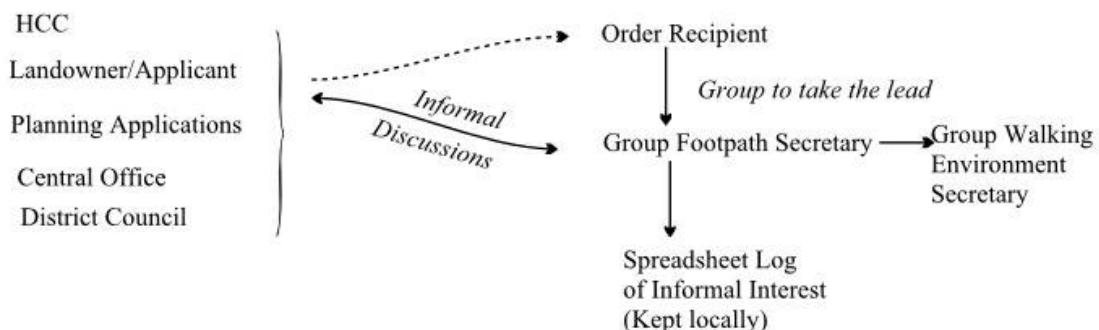
CONCLUSION

36. In order to meet its objectives of protecting and improving the RoW network it is vital that Ramblers fully play their role in the Path Order system. Groups should be involved at all stages of the planning process to ensure the Ramblers' voice is heard. This Best Practice Guideline shows the process and how Groups should be fully involved.

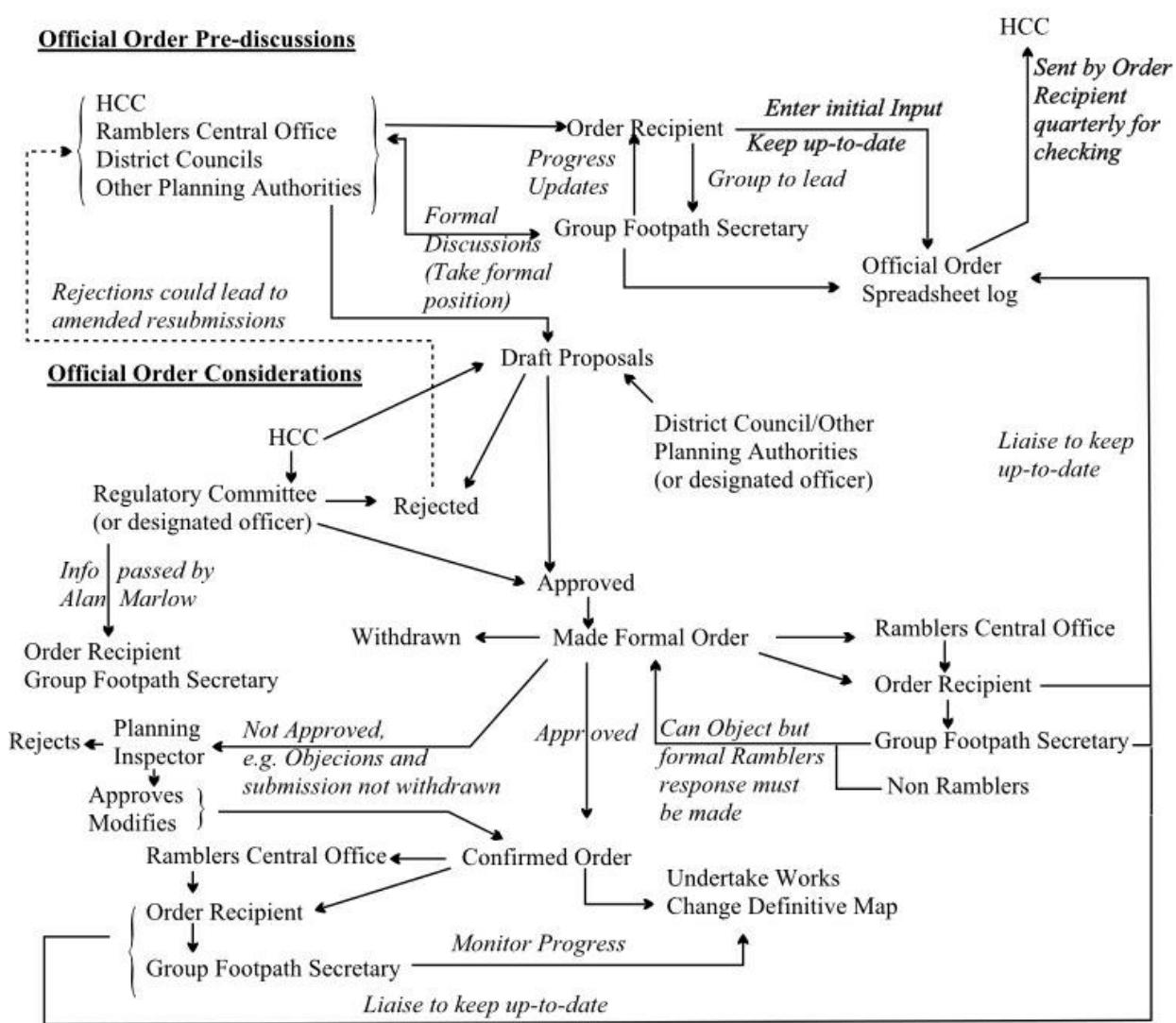
David Clark
Hampshire Ramblers Order Recipient
Approved by FPAWE 27 September 2025

SYSTEM FOR PATH ORDERS

Informal



Official Order Pre-discussions



EXAMPLE OF MONITORING SPREADSHEET