

**2002 No. 1223**

**TRIBUNALS AND INQUIRIES, ENGLAND**

**The Town and Country Planning (Major Infrastructure  
Project Inquiries Procedure) (England) Rules 2002**

*Made* - - - - - 26th April 2002

*Laid before Parliament* 13th May 2002

*Coming into force* - - - 7th June 2002

The Lord Chancellor, in exercise of the powers conferred on him by section 9 of the Tribunals and Inquiries Act 1992(a) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following Rules:-

**Citation, commencement and extent**

1.—(1) These Rules may be cited as the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002.

(2) These Rules shall come into force on 7th June, 2002.

(3) These Rules extend to England only.

**Interpretation**

2. In these rules—

“applicant” in the case of an appeal, means the appellant;

“assessor” means a person appointed by the Secretary of State to sit with an inspector at an inquiry or re-opened inquiry to advise the inspector on such matters arising as the Secretary of State may specify;

“by local advertisement” means by publication of the notice in at least one newspaper circulating in the locality in which the land to which the application relates is situated;

“the Commission” means the Historic Buildings and Monuments Commission for England;

“development order” has the meaning given in section 59 of the Planning Act;

“document” includes a photograph, map or plan;

“inquiry” means a major infrastructure project inquiry in relation to which these Rules apply;

“inspector” means a person appointed by the Secretary of State to hold an inquiry or a re-opened inquiry;

“land” means the land or building to which an inquiry relates;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(b);

“listed building consent” has the meaning given in section 8(7) of the Listed Buildings Act;

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(a) 1992 c. 53, to which there are amendments not relevant to these Rules.

(b) 1990 c. 9. Schedule 3 was amended by the Planning and Compensation Act 1991 (c. 34), section 25 and Schedule 3, part II, paragraph 28 and by S.I. 1997/2971. Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42). There are other amendments not relevant to these Rules.

“local planning authority” means in relation to—

- (i) a referred application, the body who would otherwise have dealt with the application;
- (ii) an appeal, the body who were responsible for dealing with the application occasioning the appeal;

“major infrastructure project” means development of a description mentioned in the Schedule;

“mediator” means a person appearing to the Secretary of State to have been trained in mediation techniques by an independent mediation organisation and who is appointed by the Secretary of State to undertake a mediation under rule 11;

“outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry;

“the Planning Act” means the Town and Country Planning Act 1990(a);

“pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously, and where two or more such meetings are held references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

“referred application” means an application of any description mentioned in rule 3(1) which is referred to the Secretary of State for determination;

“registration form” means a form for completion by interested parties who wish to participate in the inquiry;

“relevant notice” means the Secretary of State’s written notice informing the applicant and the local planning authority that an inquiry is to be held;

“the 2000 Rules” means the Town and Country Planning (Inquiries Procedure)(England) Rules 2000(b);

“starting date” means the date of the—

- (a) Secretary of State’s written notice to the applicant and the local planning authority that he has received all the documents required to enable him to entertain the application or appeal; or
- (b) relevant notice,

whichever is the later;

“statement of case” means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence;

“statement of common ground” means a written statement prepared jointly by the local planning authority and the applicant, which contains agreed factual information about the proposal, which is the subject of the application or appeal;

“statutory party” means—

- (a) a person mentioned in paragraph (1)(b)(i) of article 19 of the Town and Country Planning (General Development Procedure) Order 1995(c) whose representations the Secretary of State is required by paragraph (3) of that article to take into account in determining the referred application or appeal to which an inquiry relates; and, in the case of an appeal, such a person whose representations the local planning authority were required by paragraph (1) of that article to take into account in determining the application occasioning the appeal; and

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(a) 1990 c. 8, section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2), Schedule 6 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and 84(6) and Schedule 7 paragraphs 8 and 54 and Schedule 19, part I, the Tribunal and Inquiries Act 1992 (c. 53), section 18 and Schedule 3, paragraph 28, the Environment Act 1995 (c. 25), Schedule 22, paragraph 44, S.I. 1992/1630, S.I. 1992/1491 and S.I. 1997/2971. There are also other amendments not relevant to these Rules.

(b) S.I. 2000/1624.

(c) S.I. 1995/419, to which there are amendments not relevant to these Rules.

- (b) a person whose representations the Secretary of State is required by paragraphs (3)(b) and (5) of regulation 6 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990(a) to take into account in determining the referred application or appeal to which an inquiry relates; and in the case of an appeal, a person whose representations the local planning authority were required by paragraph (3)(b) of that regulation to take into account in determining the application occasioning the appeal; “technical adviser” means a person appearing to the Secretary of State to have such qualifications and experience as to enable him to conduct an expert assessment of scientific or technical evidence to be given to the inquiry and who is appointed by the Secretary of State for that purpose under rule 10.

### **Application of Rules**

3.—(1) These Rules apply in relation to any local inquiry relating to a major infrastructure project caused by the Secretary of State to be held in England before he determines—

- (a) an application for planning permission referred to him under section 77, or an appeal to him under section 78, of the Planning Act;
- (b) an application for listed building consent referred to him under section 12, or for variation or discharge of conditions referred to him under that section as applied by section 19, or an appeal to him under section 20, of the Listed Buildings Act;
- (c) an application for conservation area consent referred to him under section 12 (including an application to which that section is applied by section 19), or an appeal to him under section 20, of the Listed Buildings Act as those sections are applied by section 74(3) of that Act,

but do not apply to any local inquiry by reason of the application of any provision mentioned in this paragraph by any other enactment.

(2) Where these Rules apply in relation to an application for planning permission or to an appeal which at some time fell to be disposed of in accordance with the 2000 Rules any step taken or thing done under those Rules which could have been done under any corresponding provision of these Rules shall have effect as if it had been taken or done under that corresponding provision.

### **Preliminary information to be supplied by local planning authority**

4.—(1) The local planning authority shall on receipt of the relevant notice,—

- (a) forthwith inform the Secretary of State and the applicant in writing of the name and address of any statutory party who has made representations to them; and the Secretary of State shall, as soon as practicable thereafter, inform the applicant and the local planning authority in writing of the name and address of any statutory party who has made representations to him and of any other persons who are known to have a right to appear at the inquiry or to have an interest in the proposal;
- (b) forthwith publish by local advertisement notice of the application of these Rules, the arrangements for pre-inquiry meetings, and the statements by the Secretary of State in accordance with rules 6(2)(a)(ii) and (iii).

(2) This paragraph applies where—

- (a) the Secretary of State has given to the local planning authority a direction restricting the grant of planning permission for which application was made;
- (b) in a case relating to a listed building consent, the Commission has given a direction to the local planning authority pursuant to section 14(2) of the Listed Buildings Act as to how the application is to be determined;
- (c) the Secretary of State or any other Minister of the Crown or any government department, or any body falling within rule 13(1)(c), has expressed in writing to the local planning authority the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions; or

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(a) S.I. 1990/1519, regulation 6 is modified where listed building consent or conservation area consent is required for the purposes of certain proposals included in an application under section 6 of the Transport and Works Act 1992 (c. 42) by S.I. 1992/3138. There are also other amendments not relevant to these Rules.

- (d) any person consulted in pursuance of a development order has made representations to the local planning authority about the application.

(3) Where paragraph (2) applies, the local planning authority shall forthwith after the starting date inform the person concerned of the inquiry and, unless they have already done so, that person shall thereupon give the local planning authority a written statement of the reasons for making the direction, expressing the view or making the representations, as the case may be.

### **Registration**

5.—(1) Upon receipt of the notice given under rule 4(1)(a), the local planning authority shall—

- (a) send to each person notified or known to the local planning authority to have a right to appear at the inquiry or to have an interest in the proposal, and to each statutory party, a copy of the statement sent by the Secretary of State under rule 6(2)(a)(ii) and a copy of the registration form; and
- (b) publish by local advertisement a notice stating—
  - (i) that these Rules apply to the local inquiry;
  - (ii) the matters contained in the statement sent by the Secretary of State under rule 6(2)(a)(ii);
  - (iii) the arrangements for the first pre-inquiry meeting; and
  - (iv) that persons interested in participating in the inquiry should obtain from the local planning authority a copy of the registration form.

(2) The registration form shall include the address to which completed forms must be returned, and the date by which that must be done. It shall request the following information:—

- (a) the name, address and telephone number of the person registering;
- (b) the name, address and telephone number of any agent, or, in the case of an organisation, of the contact person;
- (c) whether or not the person registering has an interest in any land which will be affected by the proposal;
- (d) whether or not the person or organisation registering is likely to want to be represented formally and to play a major part in the inquiry;
- (e) if not, whether or not the person registering will wish to give oral evidence at the inquiry or will wish only to submit representations in writing.

### **Procedure for pre-inquiry and other meetings**

6.—(1) The Secretary of State shall hold a pre-inquiry meeting.

(2) The following provisions shall apply to the pre-inquiry meeting, or where there is more than one, to the first pre-inquiry meeting—

- (a) the Secretary of State shall send with the relevant notice—
  - (i) notice of his intention to hold a pre-inquiry meeting;
  - (ii) a statement of the matters which, in his view, are the matters to be considered at the inquiry; and where another Minister of the Crown or a government department has expressed in writing to the Secretary of State a view which is mentioned in rule 4(2)(c), the Secretary of State shall set this out in his statement;
- (b) the Secretary of State shall send a copy of the statement described in the previous paragraph to the Minister or government department concerned;
- (c) the local planning authority shall publish by local advertisement a notice of the Secretary of State's intention to hold a pre-inquiry meeting and of the statements sent in accordance with paragraph (2)(a)(ii) above; and
- (d) the applicant and the local planning authority shall ensure that within eight weeks of the starting date 2 copies of their outline statement have been received by the Secretary of State.

(3) The Secretary of State shall, as soon as practicable after receipt, send a copy of the local planning authority's outline statement to the applicant and copy of the applicant's outline statement to the local planning authority.

- (4) Where rule 4(2) applies, the local planning authority shall—
- (a) include in their outline statement—
    - (i) the terms of any direction given together with a statement of the reasons for it; and
    - (ii) any view expressed or representation made on which they intend to rely in their submissions at the inquiry; and
  - (b) within the period mentioned in paragraph (2)(d) send a copy of their outline statement to the person concerned.

(5) The Secretary of State may in writing require any other person who has notified him of an intention or a wish to appear at the inquiry to send an outline statement to him, the applicant and the local planning authority and the person shall ensure that they are received by the Secretary of State, the applicant and the local planning authority within 4 weeks of the date of the Secretary of State's written requirement.

(6) The pre-inquiry meeting (or, where there is more than one, the first pre-inquiry meeting) shall be held within 16 weeks of the starting date.

(7) The Secretary of State shall give not less than 3 weeks written notice of the pre-inquiry meeting to—

- (a) the applicant;
- (b) the local planning authority;
- (c) any person known at the date of the notice to be entitled to appear at the inquiry; and
- (d) any other person whose presence at the pre-inquiry meeting appears to him to be desirable;

and he may require the local planning authority to take, in relation to notification of the pre-inquiry meeting, one or more of the steps which he may under rule 12(6) require them to take in relation to notification of the inquiry.

(8) The inspector—

- (a) shall preside at the pre-inquiry meeting;
- (b) shall determine the matters to be discussed and the procedure to be followed;
- (c) may require any person present at the pre-inquiry meeting who, in his opinion, is behaving in a disruptive manner to leave; and
- (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit him to return or attend only on such conditions as he may specify.

(9) The inspector may at any time hold such other meetings (including pre-inquiry meetings) as he considers necessary for the efficient and expeditious conduct of the inquiry and he shall arrange for such notice to be given of such meetings as appears to him necessary; and paragraph (8) shall apply to such meetings.

(10) If the Secretary of State requests any further information from the applicant or the local planning authority at the pre-inquiry meeting, they shall ensure that 2 copies of it have been received by him and a copy has been received by any statutory party within 4 weeks of the conclusion of the pre-inquiry meeting and the Secretary of State shall, as soon as practicable after receipt, send a copy of the further information received from the applicant to the local planning authority and a copy of the further information received from the local planning authority to the applicant.

#### **Receipt of statements of case etc.**

7.—(1) The local planning authority and the applicant shall each ensure that within four weeks from the conclusion of the pre-inquiry meeting 2 copies of their statement of case have been received the Secretary of State and one copy has been received by any statutory party.

(2) The local planning authority shall:-

- (a) include in their statement of case—
  - (i) details of the time and place where the opportunity to inspect and take copies described in paragraph (12) below shall be afforded; and
  - (ii) where rule 4(2) applies, the matters mentioned in rule 6(4)(a)(ii), unless they have already included these in an outline statement; and

(b) where rule 4(2) applies, within the period specified in paragraph (1) send a copy of their statement of case to the person concerned.

(3) The Secretary of State shall, as soon as practicable after receipt, send a copy of the local planning authority's statement of case to the applicant and a copy of the applicant's statement of case to the local planning authority.

(4) The applicant and the local planning authority may in writing each require the other to send them a copy of any document, or of the relevant part of any document, referred to in the list of documents comprised in the party's statement of case; and any such document, or relevant part, shall be sent, as soon as practicable, to the party who required it.

(5) the Secretary of State may in writing require any other person, who has notified him of an intention or wish to appear at an inquiry, to send within 4 weeks of being so required—

(a) 3 copies of their statement of case to him; and

(b) a copy of their statement of case to any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each such statement of case to the local planning authority and to the applicant.

(6) The Secretary of State shall as soon as practicable—

(a) send to a person from whom he requires a statement of case in accordance with paragraph (5), a copy of the statements of case of the applicant and the local planning authority; and

(b) inform that person of the name and address of every person to whom his statement of case is required to be sent.

(7) The Secretary of State or the inspector may in writing require any person, who has sent to him a statement of case in accordance with this rule, to provide such further information about the matters contained in the statement as he may specify and may specify the time within which the information shall be received by him.

(8) A local planning authority or applicant required to provide further information shall ensure that—

(a) 2 copies of that information in writing have been received by the Secretary of State, or as the case may be the inspector, within the specified time; and

(b) a copy has been received by any statutory party within the specified time,

and the Secretary of State, or as the case may be the inspector, shall, as soon as practicable after receipt, send a copy of the further information received from the local planning authority to the applicant and copy of the further information received from the applicant to the local planning authority.

(9) Any other person required to provide further information shall ensure that—

(a) 3 copies of that information in writing have been received by the Secretary of State, or as the case may be the inspector, within the specified time; and

(b) a copy has been received by any statutory party within the specified time,

and the Secretary of State, or as the case may be the inspector, shall, as soon as practicable after receipt, send a copy of the further information to the local planning authority and the applicant.

(10) Any person other than the applicant who sends a statement of case to the Secretary of State shall send with it a copy of—

(a) any document; or

(b) the relevant part of any document,

referred to in the list comprised in that statement, unless a copy of the document or part of the document in question is already available for inspection pursuant to paragraph (12).

(11) The Secretary of State shall within 12 weeks of the starting date send a written statement of the matters referred to in rule 6(2)(a)(ii) to—

(a) the local planning authority;

(b) the applicant;

(c) any statutory party; and

(d) any person from whom he has required a statement of case.

(12) The local planning authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any statement of case, written comments, information or other document a copy of which has been sent to the local planning authority in accordance with this rule; and
- (b) the local planning authority's statement of case together with a copy of any document, or of the relevant part of any document, referred to in the list comprised in that statement, and any written comments, information or other documents sent by the local planning authority pursuant to this rule.

(13) If the local planning authority or the applicant wish to comment on another person's statement of case they shall ensure that within 4 weeks of its receipt—

- (a) 2 copies of their written comments have been received by the Secretary of State; and
- (b) a copy of their written comments has been received by any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of the written comments received from the applicant to the local planning authority and a copy of the written comments received from the local planning authority to the applicant.

(14) Any person, who sends a statement of case to the Secretary of State under this rule, and who wishes to comment on another person's statement of case, shall ensure that not less than 4 weeks before the date fixed for the holding of the inquiry—

- (a) 3 copies of their written comments have been received by the Secretary of State; and
- (b) a copy of their written comments has been received by any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of the written comments to the local planning authority and the applicant.

(15) The Secretary of State shall, as soon as practicable after receipt, send to the inspector any statement of case, document or further information or written comments sent to him in accordance with this rule and received by him within the relevant period, if any, specified in this rule.

#### **Inquiry timetable**

**8.**—(1) The inspector shall at a pre-inquiry meeting held in accordance with rule 6—

- (a) propose a timetable for the proceedings at, or at part of, an inquiry; and
- (b) specify the date by which any proof of evidence and summary sent in accordance with rule 15(1) shall be received by the Secretary of State;

and shall give written notice of the date so specified to every person entitled to appear at the inquiry.

(2) The inspector shall within 14 days from the date specified under paragraph (1) send to every person entitled to appear at the inquiry a copy of the timetable for the proceedings approved by the Secretary of State.

(3) The inspector shall not vary the timetable mentioned in paragraph (2) without the approval of the Secretary of State.

#### **Notification of appointment of assessor**

**9.** Where the Secretary of State appoints an assessor, he shall notify every person entitled to appear at the inquiry of the name of the assessor and of the matters on which he is to advise the inspector.

#### **Appointment of technical adviser**

**10.**—(1) If it appears to the Secretary of State that evidence to be given to the inquiry is, or is likely to be, of such technical or scientific nature that the inquiry would be conducted more efficiently and expeditiously if an expert assessment of that evidence were to be made, he may at any time appoint a technical adviser for that purpose.

(2) Where the Secretary of State appoints a technical adviser, he may in writing require the local planning authority to publish by local advertisement and within such period as he may specify, a notice stating the name of the person so appointed and specifying the evidence to be assessed.

(3) The technical adviser shall assess the evidence so specified and shall report his assessment in writing to the inspector, identifying any areas of disagreement between the parties and stating his view of the significance of each such disagreement.

(4) The inspector shall within 7 days of receipt of the technical adviser's report send a copy to every person entitled to appear at the inquiry.

(5) The technical adviser shall give evidence on his report to the inquiry and shall be subject to cross-examination to the same extent as any other witness.

(6) The inspector may allow the technical adviser to alter or add to his report so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any such alteration or addition.

## **Mediation**

**11.**—(1) If it appears to the Secretary of State that—

(a) there is an absence of agreement between persons entitled to appear at the inquiry on a matter which is relevant to the inquiry;

(b) the inquiry would be conducted more efficiently and expeditiously if agreement could be reached in relation to that matter or any disagreement in relation to it could be defined and narrowed; and

(c) such a result is capable of being achieved by mediation,

then he may appoint a mediator for that purpose.

(2) Where the Secretary of State appoints a mediator, he may in writing require the local planning authority to publish by local advertisement and within such period as he may specify a notice stating the name of the person so appointed and the matter in relation to which he is to mediate.

(3) The mediator shall determine the procedure for the mediation.

(4) Within 7 days from the conclusion of the mediation, the mediator shall give to the inspector a report describing the mediation procedure and its outcome and the inspector shall upon receipt of that report send a copy to every person entitled to appear at the inquiry.

(5) The inspector shall permit any person entitled to appear at the inquiry to address him on the report referred to in paragraph (4), but the mediator shall not give evidence at the inquiry.

## **Date and notification of inquiry**

**12.**—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than 8 weeks after the conclusion of the last pre-inquiry meeting.

(2) Where the Secretary of State considers it impracticable to fix a date in accordance with paragraph (1), the date fixed shall be the earliest date after the end of the period mentioned in that paragraph which he considers to be practicable.

(3) Unless the Secretary of State agrees a lesser period of notice with the applicant and the local planning authority, he shall give not less than 4 weeks written notice of the date, time and place fixed by him for the holding of an inquiry to every person entitled to appear at the inquiry.

(4) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the period mentioned in paragraph (1); and paragraph (3) shall apply to a variation of a date as it applied to the date originally fixed.

(5) The Secretary of State may vary the time or place for the holding of an inquiry and shall give such notice of any variation as appears to him to be reasonable.

(6) The Secretary of State may in writing require the local planning authority to take one or more of the following steps—

(a) not less than 2 weeks before the date fixed for the holding of an inquiry, to publish by local advertisement and in the London Gazette a notice of the inquiry;

(b) to send a notice of the inquiry to such persons or classes of persons as he may specify, within such period as he may specify; or

- (c) to post a notice of the inquiry in such places near to the land, and within such period, as he may specify.
- (7) Where the land is under the control of the applicant he shall—
  - (a) if so required in writing by the Secretary of State, affix a notice of the inquiry firmly to the land or to some object on or near the land, in such manner as to be readily visible to and legible by members of the public; and
  - (b) not remove the notice, or cause or permit it to be removed, for such period before the inquiry as the Secretary of State may specify.
- (8) Every notice of inquiry published, sent or posted pursuant to paragraph (6), or affixed pursuant to paragraph (7), shall contain—
  - (a) a clear statement of the date, time and place of the inquiry and of the powers enabling the Secretary of State to determine the application or appeal in question;
  - (b) a written description of the land sufficient to identify approximately its location;
  - (c) a brief description of the subject matter of the application or appeal; and
  - (d) details of where and when copies of any documents sent by and copied to the local planning authority pursuant to rule 7 may be inspected.

### **Appearances at inquiry**

- 13.—**(1) The persons entitled to appear at an inquiry are—
- (a) the applicant;
  - (b) the local planning authority;
  - (c) any of the following bodies if the land is situated in their area and they are not the local planning authority—
    - (i) a county or district council;
    - (ii) an enterprise zone authority designated under Schedule 32 to the Local Government, Planning and Land Act 1980(a);
    - (iii) the Broads Authority, within the meaning of the Norfolk and Suffolk Broads Act 1988(b);
    - (iv) a housing action trust specified in an order made under section 67(1) of the Housing Act 1988(c);
  - (d) where the land is in an area previously designated as a new town, the Commission for the New Towns;
  - (e) any statutory party;
  - (f) the council of the parish in which the land is situated, if that council made representations to the local planning authority in respect of the application in pursuance of a provision of a development order;
  - (g) where the application was required to be notified to the Commission under section 14 of the Listed Buildings Act, the Commission;
  - (h) any other person who has sent a statement of case in accordance with rule 7(5) or who has sent an outline statement in accordance with rule 6(5).
- (2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not be unreasonably withheld.
- (3) Any person entitled or permitted to appear may do so on his own behalf or be represented by any other person.

### **Representatives of government departments and other authorities at inquiry**

- 14.—**(1) Where—
- (a) the Secretary of State or the Commission has given a direction described in rule 4(2)(a) or (b); or

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(a) 1980 c. 65 to which there are amendments not relevant to these Rules.

(b) 1988 c. 4 to which there are amendments not relevant to these Rules.

(c) 1988 c. 50. Section 67(1) was amended by sections 3, 4, Schedule 1 Part 1, Schedule 2, paragraph 79(3) of the Planning (Consequential Provisions) Act 1990 (c.11).

- (b) the Secretary of State or any other Minister of the Crown or any government department, or any body falling within rule 13(1)(c), has expressed a view described in rule 4(2)(c) and the local planning authority have included the terms of the expression of view in a statement sent in accordance with rule 6(2) or 7(2); or
- (c) another Minister of the Crown or any government department has expressed a view described in rule 4(2)(c) and the Secretary of State has included its terms in a statement sent in accordance with rule 6(2) or 7(11),

the applicant, the local planning authority or a person entitled to appear may, not later than 4 weeks before the date of an inquiry, apply in writing to the Secretary of State for a representative of the Secretary of State or of the other Minister, department or body concerned to be made available at the inquiry.

(2) Where an application is made in accordance with paragraph (1), the Secretary of State shall make a representative available to attend the inquiry or, as the case may be, send the application to the other Minister, department or body concerned, who shall make a representative available to attend the inquiry.

(3) Any person attending an inquiry as a representative in pursuance of this rule shall state the reasons for the direction or expressed view and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(4) Nothing in paragraph (3) shall require a representative of a Minister or a government department to answer any question which in the opinion of the inspector is directed to the merits of government policy.

### **Proofs of evidence**

**15.**—(1) Any person entitled to appear at an inquiry, who proposes to give, or to call another person to give evidence at the inquiry by reading a proof of evidence, shall—

- (a) send 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of the proof of evidence together with any written summary, to the Secretary of State; and
- (b) simultaneously send copies of these to any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each proof of evidence together with any summary to the local planning authority and the applicant.

(2) No written summary shall be required where the proof of evidence proposed to be read contains no more than 1500 words.

(3) The proof of evidence and any summary shall be received by the Secretary of State no later than the date specified by the inspector pursuant to rule 8(1)(b).

(4) The Secretary of State shall send to the inspector, as soon as practicable after receipt, any proof of evidence together with any summary sent to him in accordance with this rule and received by him within the relevant period, if any, specified in this rule.

(5) Where a written summary is provided in accordance with paragraph (1), only that summary shall be read at the inquiry, unless the inspector permits or requires otherwise.

(6) Any person, required by this rule to send copies of a proof of evidence to the Secretary of State, shall send with them the same number of copies of the whole, or the relevant part, of any document referred to in the proof of evidence, unless a copy of the document or part of the document in question is already available for inspection pursuant to rule 7(12).

(7) The local planning authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by them in accordance with this rule.

### **Statement of common ground**

**16.**—(1) The local planning authority and the applicant shall—

- (a) together prepare an agreed statement of common ground; and
- (b) ensure that the Secretary of State receives it and that any statutory party receives a copy of it not less than 4 weeks before the date fixed for the holding of the inquiry.

(2) The local planning authority shall afford to any person who so requests a reasonable opportunity to inspect, and where practicable, take copies of the statement of common ground sent to the Secretary of State.

### **Procedure at inquiry**

17.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) At the start of the inquiry the inspector shall identify the matters determined by the Secretary of State to be the matters to be considered at the inquiry, and any matters on which he requires further explanation from the persons entitled or permitted to appear.

(3) Nothing in paragraph (2) shall preclude any person entitled or permitted to appear from referring to matters which they consider relevant to the consideration of the application or appeal but which were not matters identified by the inspector pursuant to that paragraph.

(4) Unless in any particular case the inspector otherwise determines, the local planning authority shall begin and the applicant shall have the right of final reply; and the other persons entitled or permitted to appear shall be heard in such order as the inspector may determine.

(5) A person entitled to appear at an inquiry shall be entitled to call evidence and the applicant, the local planning authority and any statutory party shall be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (6) and (10), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the discretion of the inspector.

- (6) The inspector may refuse to permit the—
- (a) giving or production of evidence;
  - (b) cross-examination of persons giving evidence; or
  - (c) presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

(7) The inspector may refuse to permit the cross-examination of persons giving evidence, or may require such cross-examination to cease, if it appears to him that permitting such cross-examination or allowing it to continue (as the case may be) would have the effect that the timetable referred to in rule 8(2) could not be met.

(8) Where a person gives evidence at an inquiry by reading a summary of his proof of evidence in accordance with rule 15(5)—

- (a) the proof of evidence referred to in rule 15(1) shall be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary alone; and
- (b) the person whose evidence the proof of evidence contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(9) The inspector may direct that facilities shall be afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

- (10) The inspector may—
- (a) require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave; and
  - (b) refuse to permit that person to return; or
  - (c) permit him to return only on such conditions as he may specify,

but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(11) The inspector may allow any person to alter or add to a statement of case received by the Secretary of State or him under rule 7 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(12) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(13) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

(14) The inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice shall be required.

(15) Any person who appears at an inquiry and makes closing submissions shall by the close of the inquiry provide the inspector with a copy of their closing submission in writing.

### **Site inspections**

**18.**—(1) The inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

(2) During an inquiry or after its close, the inspector—

- (a) may inspect the land in the company of the applicant, the local planning authority and any statutory party; and
- (b) shall make such an inspection if so requested by the applicant or the local planning authority before or during an inquiry.

(3) In all cases where the inspector intends to make an accompanied site inspection he shall announce during the inquiry the date and time at which he proposes to make it.

(4) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

### **Procedure after inquiry**

**19.**—(1) After the close of an inquiry, the inspector shall by such date as the Secretary of State may determine make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(2) Where the Secretary of State determines a date by which the inspector is to report to him, he shall give notice in writing of that determination to the inspector and to all parties entitled to appear at the inquiry.

(3) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(5) When making his decision the Secretary of State may disregard any written representations, evidence or any other document received after the close of the inquiry.

(6) If, after the close of an inquiry, the Secretary of State—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector; or
- (b) takes into consideration any new evidence or new matter of fact (not being a matter of government policy),

and is for that reason disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first

notifying the persons entitled to appear at the inquiry who appeared at it of his disagreement and the reasons for it; and affording them an opportunity of making written representations to him or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking for the re-opening of the inquiry.

(7) Those persons making written representations or requesting the inquiry to be re-opened under paragraph (5), shall ensure that such representations or requests are received by the Secretary of State within 3 weeks of the date of the Secretary of State's notification under that paragraph.

(8) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened, and he shall do so if asked by the applicant or the local planning authority in the circumstances mentioned in paragraph (6) and within the period mentioned in paragraph (7); and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraph (3) to (8) of rule 12 shall apply as if the references to an inquiry were references to a re-opened inquiry.

### **Notification of decision**

**20.**—(1) The Secretary of State shall, as soon as practicable, notify his decision on an application or appeal, and his reasons for it, in writing to—

- (a) all persons entitled to appear at the inquiry who did appear, and
- (b) any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him, and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application to the Secretary of State.

(3) In this rule "report" includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing, within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

(4) Any person applying to the Secretary of State under paragraph (2) shall ensure that his application is received by the Secretary of State within 4 weeks of the Secretary of State's determination.

### **Procedure following quashing of decision**

**21.**—(1) Where a decision of the Secretary of State on an application or appeal in respect of which an inquiry has been held is quashed in proceedings before any court, the Secretary of State—

- (a) shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further representations are invited for the purposes of his further consideration of the application or appeal;
- (b) shall afford to those persons the opportunity of making written representations to him in respect of those matters or of asking for the re-opening of the inquiry; and
- (c) may, as he thinks fit, cause the inquiry to be reopened (whether by the same or a different inspector) and if he does so paragraphs (3) to (8) of rule 12 shall apply as if the references to an inquiry were references to a re-opened inquiry.

(2) Those persons making representations or asking for the inquiry to be re-opened under paragraph (1)(b) shall ensure that such representations or requests are received by the Secretary of State within 3 weeks of the date of the written statement sent under paragraph (1)(a).

### **Allowing further time**

**22.** The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules, and references in these Rules to a day by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

### **Additional copies**

**23.—(1)** The Secretary of State may at any time before the close of an inquiry request from any person entitled to appear additional copies of the following—

- (a) an outline statement sent in accordance with rule 6;
- (b) a statement of case or comments sent in accordance with rule 7;
- (c) a proof of evidence sent in accordance with rule 15; or
- (d) any other document or information sent to the Secretary of State before or during an inquiry,

and may specify the time within which such copies should be received by him.

(2) Any person so requested shall ensure that the copies are received by the Secretary of State within the period specified.

### **Notices by post**

**24.** Notices or documents required or authorised to be sent under these Rules may be sent by post.

### **Mayor of London**

**25.—(1)** In this rule “the Mayor” means the Mayor of London.

(2) Where an inquiry is held into an application, or an appeal arising from such an application, in respect of which the Mayor has directed the local planning authority to refuse the application these Rules shall apply subject to the following modifications—

- (a) in rule 2—
  - (i) in the definition of the “relevant notice” after “the applicant” insert “, the Mayor”;
  - (ii) in sub-paragraph (a) of the definition of the “starting date” after “the applicant” insert “, the Mayor”;
- (b) in rule 4—
  - (i) in paragraph (1)(a) after “inform the Secretary of State” and after “inform the applicant” insert “, the Mayor”;
  - (ii) in paragraph (2) after sub-paragraph (d) insert—
    - “or
    - (e) the Mayor has given to the local planning authority a direction to refuse the application for planning permission.”;
- (c) in rule 6—
  - (i) in paragraph (2)(d) after “the applicant” insert “, the Mayor”;
  - (ii) for paragraph (3) substitute—
    - “The Secretary of State shall as soon as practicable after receipt send—
    - (a) copies of the outline statements of the applicant and the Mayor to the local planning authority;
    - (b) copies of the outline statements of the applicant and the local planning authority to the Mayor;
    - (c) copies of the outline statements of the local planning authority and the Mayor to the applicant.”;
  - (iii) in paragraph (5) after both references to “the applicant” insert “, the Mayor”;

- (iv) in paragraph (10) after the first reference to “from the applicant” insert “, the Mayor”, for “2” substitute “3” and for “send a copy of the further information received from the applicant to the local planning authority and a copy of the further information received from the local planning authority to the applicant” substitute—
  - “send—
  - (a) copies of the further information received from the applicant and the Mayor to the local planning authority;
  - (b) copies of the further information received from the applicant and the local planning authority to the Mayor; and
  - (c) copies of the further information received from the local planning authority and the Mayor to the applicant.”;
- (d) in rule 7—
  - (i) in paragraph (1) after “The local planning authority” insert “and the Mayor” and for “2” substitute “3”;
  - (ii) for paragraph (3) substitute—
    - “The Secretary of State shall as soon as practicable after receipt send—
    - (a) copies of the statements of case of the applicant and the Mayor to the local planning authority;
    - (b) copies of the statements of case of the applicant and the local planning authority to the Mayor; and
    - (c) copies of the statements of case of the local planning authority and the Mayor to the applicant.”;
  - (iv) in paragraph (4) for “The applicant and the local planning authority may in writing each require the other” substitute—
    - “Any party required to provide a statement of case pursuant to paragraph (1) may in writing require any other party so required”;
  - (v) in paragraph (5) for “3” substitute “4” and after “the local planning authority” insert “, the Mayor”;
  - (vi) in paragraph (6)(a) after “the applicant” insert “, the Mayor”;
  - (vii) in paragraph (8) after “A local planning authority” insert “, the Mayor”, in subparagraph (a) for “2” substitute “3” and for “send a copy of the further information received from the local planning authority to the applicant and copy of the further information received from the applicant to the local planning authority” substitute—
    - “send—
    - (a) copies of the further information received from the applicant and the Mayor to the local planning authority;
    - (b) copies of the further information received from the applicant and the local planning authority to the Mayor; and
    - (c) copies of the further information received from the local planning authority and the Mayor to the applicant.”;
  - (viii) in paragraph (9) for “3” substitute “4” and after “the local planning authority” insert “, the Mayor”;
  - (ix) in paragraph (11) at the end of paragraph (c) delete “and” and after paragraph (d) insert—
    - “and
    - (e) the Mayor.”;
  - (x) in paragraph (13) after the first reference to “the local planning authority” insert “, the Mayor”, for “2” substitute “3” and for “to the local planning authority and a copy of the written comments received from the local planning authority to the applicant.” substitute—
    - “and the Mayor to the local planning authority, a copy of the written comments received from the applicant and the local planning authority to the Mayor and a copy of the written comments received from the local planning authority and the Mayor to the applicant.”;

- (xi) in paragraph (14) for “3” substitute “4” and after “to the local planning authority” insert “, the Mayor”;
- (e) in rule 12(3) after “the applicant” insert “, the Mayor”;
- (f) in rule 13(1) after paragraph (h) insert—
  - “(i) the Mayor in relation to an inquiry arising from an application in respect of which he has given to the local planning authority a direction to refuse the application.”;
- (g) in rule 14(1)—
  - (i) after paragraph (c) insert—
 “or
  - (d) the Mayor has given to the local planning authority a direction to refuse the application for planning permission,”; and
  - (ii) after “body concerned” insert “or of the Mayor”;
- (h) in rule 15—
  - (i) in paragraph (1)(a) after “the local planning authority” insert “, the Mayor”, for “2” substitute “3” and for “3” substitute “4”; and
  - (ii) in paragraph (1) after “summary to the local planning authority” insert “, the Mayor”;
- (i) in rule 16(1) after “The local planning authority” insert “, the Mayor”;
- (j) in rule 17(5) after “the local planning authority” insert “, the Mayor”;
- (k) in rule 19(8) after “the applicant” insert “, the Mayor”.

**Revocation, savings and transitional**

**26.**—(1) Subject to paragraph (2) any application or appeal to which the Town and Country Planning (Inquiries Procedure) Rules 1992(a) or the 2000 Rules applied which has not been determined on the date when these Rules come into force shall be continued under the 1992 Rules or the 2000 Rules as the case may be.

(2) Where a decision of the Secretary of State on an application or appeal in relation to a major infrastructure project to which the 1992 Rules or the 2000 Rules applied is subsequently quashed in proceedings before any court, these Rules shall apply to any re-determination of the decision.

26th April 2002

Irvine of Lairg, C.

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(a) S.I. 1992/2038 to which there are amendments not relevant to these Rules.

**Descriptions of Major Infrastructure Project**

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. (a) Installations for the reprocessing of irradiated nuclear fuel.  
(b) Installations designed—
  - (i) for the production or enrichment of nuclear fuel;
  - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste;
  - (iii) for the final disposal of irradiated nuclear fuel;
  - (iv) solely for the final disposal of radioactive waste; or
  - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
3. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—
  - (a) for the production of base organic chemicals;
  - (b) for the production of basic inorganic chemicals;
  - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
  - (d) for the production of basic plant health products and of biocides;
  - (e) for the production of basic pharmaceutical products using a chemical or biological process; or
  - (f) for the production of explosives.
4. (a) Construction of airports with a basic runway length of 2,100 metres or more.  
(b) Construction of a new runway which allows an addition to the number of occasions on which aircraft may take-off or land.  
(c) Extension of any runway by more than 100 metres.  
(d) Construction of a new airport terminal, or the expansion of an existing terminal, which provides additional capacity for more than 5 million passengers per annum.  
(e) Construction of facilities which provide additional capacity for more than 100,000 tonnes of air cargo per annum.  
(f) Construction of tramways, railways (including elevated and underground railways), suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport, where the area of the works exceeds 1 hectare.
5. (a) Inland waterways, canalisation and flood-relief works where the area of the work exceeds 1 hectare.  
(b) Ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.  
(c) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.  
(d) Construction of other harbours and port installations including fishing harbours, where the area of the works exceeds 1 hectare.
6. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC(a).
7. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
8. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
9. Pipelines for the transport of gas, oil or chemicals where the area of the works exceeds 1 hectare or, in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.
10. Quarries and open-cast mines and deep mines where the production level is greater than 2 million tonnes per annum.
11. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

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(a) O.J. No. L 135, 30.5.91, p. 40.

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules regulate the procedure to be followed in connection with local inquiries relating to major infrastructure projects in England held by the Secretary of State before he determines applications referred to him, or appeals made to him, in relation to planning permission, listed building consent and consent for the demolition of unlisted buildings in conservation areas (known as “conservation area consent”) required in respect of a major infrastructure project (defined in rule 2 and the Schedule).

The Rules reproduce, with amendments, the Town and Country Planning (Inquiries Procedure) (England) Rules 2000. The principal changes made by these Rules to apply to major infrastructure project inquiries are:

Rule 5 provides for persons wishing to participate in the inquiry to register their interest and the part they wish to play.

Rule 6 requires the Secretary of State to hold a pre-inquiry meeting, and enables the inspector to hold meetings other than pre-inquiry meetings.

Rule 8 provides for an inquiry timetable to be agreed by the Secretary of State, and that the agreed timetable is not to be varied without his consent.

Rule 10 enables the appointment of a technical adviser to assess expert evidence and report to the Inspector on areas of disagreement.

Rule 11 enables the appointment of a mediator to assist parties to reach agreement on matters relevant to the inquiry, or to define and narrow areas of disagreement.

Rule 17 enables the inspector to curtail cross-examination if he considers that permitting cross-examination or allowing it to continue (as the case may be) would have the effect that the timetable agreed under rule 8(1) could not be adhered to.

There are also minor and drafting changes.

A Regulatory Impact Appraisal has been prepared in relation to the Rules. It has been placed in the Library of each House of Parliament and copies may be obtained from the Planning Directorate, Department of Transport, Local Government and the Regions, Room 4/H2, Eland House, Bressenden Place, London SW1E 5DU (Telephone 0207 944 3945).



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