

2002 No. 2685

TRIBUNALS AND INQUIRIES, ENGLAND

**The Town and Country Planning (Enforcement)
(Determination by Inspectors) (Inquiries Procedure)
(England) Rules 2002**

Made - - - - - *23rd October 2002*

Laid before Parliament *1st November 2002*

Coming into force - - *23rd December 2002*

The Lord Chancellor, in exercise of the powers conferred upon 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 (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002 and shall come into force on [23rd December] 2002.

(2) These Rules extend to England only.

Interpretation

2. In these Rules—

“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;

“certificate of lawful use or development” means a certificate under section 191 or 192 of the Planning Act;

“document” includes a photograph, map or plan;

“enforcement appeal” means an appeal against an enforcement notice;

“enforcement notice” means a notice under section 172 of the Planning Act or under section 38 of the Listed Buildings Act;

“inquiry” means a local inquiry to which these Rules apply;

“inspector” means a person appointed by the Secretary of State under Schedule 6 to the Planning Act or, as the case may be, Schedule 3 to the Listed Buildings Act to determine an appeal;

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

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

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

^(b) 1990 c. 9, section 39 was amended by paragraph 3 of Schedule 3 to the Planning and Compensation Act 1991 (c. 34), Schedule 3 was amended by section 25 and Schedule 3, part II, paragraph 28 of that Act 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—

- (a) an enforcement appeal, the body who issued the relevant enforcement notice;
- (b) an appeal against the refusal or non-determination of an application for a certificate of lawful use or development, the body to whom the application was made;

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

“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;

“questionnaire” means a document in the form supplied by the Secretary of State to local planning authorities for the purpose of proceedings under these Rules;

“relevant notice” means the Secretary of State’s written notice under rule 4(1), informing the appellant and the local planning authority that an inquiry is to be held;

“starting date” means the date of the—

- (a) Secretary of State’s written notice to the appellant and the local planning authority that he has received all the documents required to enable him to entertain the appeal pursuant to regulation 10 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002(b); 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 appellant, which contains agreed factual information about the development, breach of condition or works which are the subject of the appeal.

Application of the Rules

3.—(1) These Rules apply in relation to any local inquiry held in England by an inspector before he determines an appeal made on or after 23rd December 2002 under—

- (a) section 174 of the Planning Act (appeal against enforcement notice);
- (b) section 195 of the Planning Act (appeal against refusal or non-determination of an application for a certificate of lawful use or development);
- (c) section 39 of the Listed Buildings Act (appeal against listed building enforcement notice) or under that section as applied by section 74(3) of that Act (appeal against conservation area enforcement notice),

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

(2) Where these Rules apply in relation to an appeal which at some time fell to be disposed of in accordance with—

- (a) the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002(c); or
- (b) the Town and Country Planning (Enforcement)(Inquiries Procedure) Rules 1992(d),

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.

(a) 1990 c. 8, section 174 was amended by section 6(1) of, and paragraph 22 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34) and section 195 was amended by paragraph 32 of that Schedule. Schedule 6 was amended by the Planning and Compensation Act 1991 (c. 34), sections 3 and 84(b), Schedule 7 paragraphs 8 and 54 and Schedule 19 part I. Schedule 6 was also amended by section 18 of, and Schedule 3, paragraph 28 to, the Tribunals and Inquiries Act 1992 (c. 53), by Schedule 22, paragraph 44 to the Environment Act 1995 (c. 25) and S.I. 1992/1491 and S.I. 1997/2971. There are also other amendments not relevant to these Rules.

(b) S.I. 2002/[2682].

(c) S.I. 2002/[2686].

(d) S.I. 1992/1903.

Preliminary information to be supplied by local planning authority

4.—(1) The Secretary of State shall, as soon as practicable after it is determined to hold an inquiry under these Rules, inform the appellant and the local planning authority in writing that an inquiry is to be held.

- (2) The local planning authority shall within 2 weeks of the starting date—
- (a) send to the Secretary of State and the appellant a completed questionnaire and a copy of each of the documents referred to in it;
 - (b) in the case of an enforcement appeal, notify any—
 - (i) person on whom a copy of the enforcement notice has been served;
 - (ii) occupier of property in the locality in which the land to which the enforcement notice relates is situated; and
 - (iii) other person who in the opinion of the local planning authority is affected by the breach of planning control or contravention of listed building or conservation area control which is alleged in the enforcement notice,that an appeal has been made and of the address to which and of the period within which they may make representations to the Secretary of State.

Notification of name of inspector

5.—(1) The Secretary of State shall, subject to paragraph (2), notify the name of the inspector to every person entitled to appear at the inquiry.

(2) Where the Secretary of State appoints another inspector instead of the person previously appointed and it is not practicable to notify the new appointment before the inquiry is held, the inspector holding the inquiry shall, at its commencement, announce his name and the fact of his appointment.

Service of statements of case etc.

6.—(1) The local planning authority shall, within 6 weeks of the starting date, serve 2 copies of their statement of case on the Secretary of State and, in the case of an enforcement appeal, a copy on any person on whom a copy of the enforcement notice has been served.

(2) The local planning authority shall include in their statement of case details of the time and place where the opportunity will be given to inspect and take copies described in paragraph (13).

(3) The appellant shall, within 6 weeks of the starting date, serve 2 copies of his statement of case on the Secretary of State and, in the case of an enforcement appeal, a copy on any person on whom a copy of the enforcement notice has been served.

(4) 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 appellant and a copy of the appellant's statement of case to the local planning authority.

(5) The appellant and the local planning authority may in writing each require the other to send them a copy of any document, or the relevant part of any document, referred to in the list of documents comprised in that 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.

(6) 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 serve—

- (a) 3 copies of their statement of case on him within 4 weeks of being so required; and
- (b) in the case of an enforcement appeal, simultaneously, a copy of their statement of case on any person specified by the Secretary of State,

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 appellant.

- (7) The Secretary of State shall, as soon as practicable—
- (a) send to any person from whom he requires a statement of case in accordance with paragraph (6) a copy of the statements of case of the appellant 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.

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

(9) A local planning authority or appellant required to provide further information, shall send within the time specified—

- (a) 2 copies of that information in writing to the Secretary of State; and
- (b) in the case of an enforcement appeal, a copy to any person on whom a copy of the enforcement notice has been served,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of the further information received from the local planning authority to the appellant and a copy of the further information received from the appellant to the local planning authority.

(10) Any other person required to provide further information shall send within the time specified—

- (a) 3 copies of that information in writing to the Secretary of State; and
- (b) in the case of an enforcement appeal, a copy to any person on whom a copy of the enforcement notice has been served,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of the further information to the local planning authority and the appellant.

(11) Any person other than the appellant who serves a statement of case on 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 (13).

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

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

- (a) any statement of case, written comments, further 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 completed questionnaire and 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 document sent by the local planning authority pursuant to this rule.

(14) If the local planning authority or the appellant wish to comment on another person's statement of case, they shall send within 9 weeks of the starting date—

- (a) 2 copies of their written comments to the Secretary of State; and
- (b) in the case of an enforcement appeal, a copy of their written comments to any person on whom a copy of the enforcement notice has been served,

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

(15) Any person, other than the local planning authority or the appellant, who serves a statement of case on the Secretary of State under this rule and who wishes to comment on another person's statement of case, shall send, not less than 4 weeks before the date fixed for the holding of the inquiry—

- (a) 3 copies of their written comments to the Secretary of State; and
- (b) in the case of an enforcement appeal, a copy of their written comments to any person on whom a copy of the enforcement notice has been served,

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 to the appellant.

Statement of matters and pre-inquiry meetings

7.—(1) An inspector may, within 12 weeks of the starting date, send to the appellant, the local planning authority and, in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served, a written statement of the matters about which he particularly wishes to be informed for the purposes of his consideration of the appeal.

- (2) An inspector shall hold a pre-inquiry meeting—
 - (a) if he expects an inquiry to last for 4 days or more, unless he considers it is unnecessary; or
 - (b) for shorter inquiries, if it appears to him necessary.
- (3) An inspector shall give not less than 2 weeks' written notice of a pre-inquiry meeting to—
 - (a) the appellant;
 - (b) the local planning authority;
 - (c) any other person known 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.
- (4) 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.
- (5) An inspector may request any further information from the appellant or the local planning authority at the pre-inquiry meeting.
- (6) The appellant and the local planning authority shall—
 - (a) send 2 copies of any further information requested under paragraph (5) to the inspector; and
 - (b) in the case of an enforcement notice appeal, send a copy to any person on whom a copy of the enforcement notice has been served,

within 4 weeks of the conclusion of the pre-inquiry meeting.

(7) The inspector shall, as soon as practicable after receipt, send a copy of the further information received from the local planning authority to the appellant and a copy of any further information received from the appellant to the local planning authority.

Inquiry timetable

8.—(1) In respect of inquiries that appear to the Secretary of State likely to last for 4 days or more, the inspector shall prepare a timetable for the proceedings.

(2) In respect of shorter inquiries, the inspector may at any time prepare a timetable for the proceedings at, or at part of, an inquiry.

(3) The inspector may, at any time, vary the timetable prepared under the preceding paragraphs.

(4) The inspector may specify in a timetable prepared pursuant to this rule a date by which any proof of evidence and summary sent in accordance with rule 15(1) shall be sent to him.

Date and notification of inquiry

- 9.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be—
 - (a) not later than 20 weeks after the starting date unless he considers such a date impracticable; or
 - (b) the earliest date after that period which he considers to be practicable.

(2) Unless the Secretary of State agrees a lesser period of notice with the appellant 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.

(3) 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 of 20 weeks mentioned in paragraph (1); and paragraph (2) shall apply to a variation of a date as it applied to the date originally fixed.

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

(5) 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 a notice of the inquiry in one or more newspapers circulating in the locality in which the land is situated;
- (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 a conspicuous place near to the land, within such period as he may specify.

(6) Where the land is under the control of the appellant, 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.

(7) Every notice of inquiry published, sent or posted pursuant to paragraph (5), or affixed pursuant to paragraph (6), shall contain—

- (a) a clear statement of the date, time and place of the inquiry and of the powers enabling the inspector to determine the 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 appeal; and
- (d) details of where and when copies of the local planning authority's completed questionnaire and any document sent by and copied to the authority pursuant to rule 6 may be inspected.

Notification of appointment of assessor

10. 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.

Appearances at inquiry

11.—(1) The persons entitled to appear at the inquiry are—

- (a) the appellant;
- (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 a 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;

(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 and Schedule 2, paragraph 79(3) of the Planning (Consequential Provisions) Act 1990 (c. 11).

- (e) in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served;
- (f) in the case of an appeal under section 195 of the Planning Act, any person having an interest in the land;
- (g) the Historic Buildings and Monuments Commission for England where—
 - (i) the inquiry relates to an enforcement notice under section 38 of the Listed Buildings Act;
 - (ii) the listed building is in Greater London; and
 - (iii) if an application for listed building consent had been made for the works set out in the enforcement notice, the Commission would have been notified of the application under a direction given under section 15(5) of the Listed Buildings Act;
- (h) any other person who has served a statement of case in accordance with rule 6(6).

(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.

Information to be provided by all parties

12. Any person entitled or permitted to appear at the inquiry, who proposes to give, or call another person to give evidence at the inquiry, shall send in writing to the Secretary of State no later than 4 weeks before the inquiry—

- (a) an estimate of the time required to present all their evidence; and
- (b) the number of witnesses that they intend to call to give evidence.

Representatives of government departments at inquiry

13.—(1) Where the Secretary of State or any other Minister of the Crown or any government department has expressed in writing to the local planning authority a view on an appeal and the authority refer to that view in a statement prepared pursuant to rule 6(1), the appellant 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 or department 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 or department concerned, who shall make a representative available to attend the inquiry.

(3) A person attending an inquiry as a representative pursuant to this rule shall state the reasons for the 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 government department to answer any question, which in the opinion of the inspector, is directed to the merits of government policy.

Inspector may act in place of Secretary of State

14. An inspector may in place of the Secretary of State take such steps as the Secretary of State is required or enabled to take under or by virtue of rule 6(6) to (10), (14) and (15), rules 9, 22 and 23; and where an inspector requires further information or copies pursuant to rules 6(8) or 23, that information or copies shall be sent to him.

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) subject to paragraph (2), send 2 copies, in the case of the local planning authority and the appellant, or 3 copies in the case of any other person, of the proof of evidence together with a written summary to the Secretary of State; and

(b) in the case of an enforcement appeal, simultaneously send copies of these to any person on whom a copy of the enforcement notice has been served, 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 appellant.

(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 sent to the Secretary of State no later than—

(a) 4 weeks before the date fixed for the holding of the inquiry, or

(b) where a timetable has been prepared pursuant to rule 8 which specifies a date by which the proof of evidence and any summary shall be sent to the Secretary of State, that date.

(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 within the relevant period, 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, or any other person, 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 6(13).

(7) The local planning authority shall give 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 appellant shall together prepare an agreed statement of common ground and shall send it to—

(a) the Secretary of State; and

(b) in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served,

not less than 4 weeks before the date fixed for the holding of the inquiry.

(2) The local planning authority shall give any person who asks, 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 what are, in his opinion, the main issues 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 issues which they consider relevant to the consideration of the appeal but which were not issues identified by the inspector pursuant to that paragraph.

(4) Unless the inspector otherwise determines, the appellant shall begin and 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 appellant, the local planning authority and, in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served shall be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (6) and (7), 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 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) 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 contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

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

(9) 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.

(10) The inspector may allow any person to alter or add to a statement of case served under rule 6 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.

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

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

(13) 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.

(14) Where the Secretary of State expects an inquiry to last for 4 days or more, any person who appears at the inquiry and makes closing submissions, shall before the close of the inquiry, provide the inspector with a copy of their closing submissions 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 appellant, the local planning authority, any person with an interest in the land and, in the case of an enforcement appeal, any other person on whom a copy of the enforcement notice has been served; and
- (b) shall make such an inspection if so requested by the appellant 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) 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, and where he does so the inspector shall state in his notification of his decision pursuant to rule 20 that such a report was made.

(2) When making his decision the inspector may disregard any written representations or evidence or any other document received after the close of the inquiry.

(3) If, after the close of the inquiry, an inspector proposes to take into consideration any new evidence or any new matter of fact (not being a matter of government policy) which was not raised at the inquiry and which he considers to be material to his decision, he shall not come to a decision without first—

- (a) notifying the persons entitled to appear at the inquiry who appeared at it of the matter in question; and
- (b) giving them an opportunity of making written representations to him or of asking for the re-opening of the inquiry,

and they shall send such written representations or request to re-open the inquiry to the Secretary of State within 3 weeks of the date of the notification.

(4) An inspector may, as he thinks fit, cause an inquiry to be re-opened, and he shall do so if asked by the appellant or the local planning authority in the circumstances and within the period mentioned in paragraph (3); and where an inquiry is re-opened—

- (a) the inspector 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) paragraphs (2) to (7) of rule 9 shall apply as if references to an inquiry were references to a re-opened inquiry.

Notification of decision

20.—(1) The inspector shall, as soon as practicable after reaching his decision, notify his decision on an appeal, and his reasons for it in writing to—

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

(2) Any person entitled to be notified of the inspector's decision under paragraph (1) may apply to the Secretary of State in writing for an opportunity to inspect any documents listed in the notification and any report made by an assessor and the Secretary of State shall give him that opportunity.

(3) Any application made pursuant to paragraph (2) shall be sent to the Secretary of State within 6 weeks of the date of the decision.

Procedure following remitting of appeal

21.—(1) Where a decision of an inspector on an appeal for which an inquiry has been held is remitted by any court to the Secretary of State for rehearing and redetermination, 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 on which further representations are invited in order for him to consider the appeal further;
- (b) shall give those persons the opportunity of making written representations to him about those matters or asking for the re-opening of the inquiry; and
- (c) may, as he thinks fit, cause the inquiry to be re-opened (whether by the same or a different inspector) and if he does so paragraphs (2) to (8) of rule 9 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 send such representations or requests to 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 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 the inquiry request from any person entitled to appear additional copies of the following—

- (a) a statement of case sent in accordance with rule 6;
- (b) a proof of evidence sent in accordance with rule 15;
- (c) 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 sent to him.

(2) Any person so requested shall send the copies to the Secretary of State within the period specified.

Service of notices by post

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

Revocation and savings

25.—(1) Subject to paragraph (2), the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992^(a) (“the 1992 Rules”) shall continue to apply to any local inquiry in England held for the purposes of—

- (a) an enforcement appeal; or
- (b) an appeal under section 195 of the Planning Act,

which was made before 23rd December 2002.

(2) Where a decision of an inspector on an appeal to which the 1992 Rules applied is subsequently remitted by any court to the Secretary of State for rehearing and redetermination, the matter shall be redetermined in accordance with these Rules or the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002^(b).

23rd October 2002

Rosie Winterton
Parliamentary Secretary,
Lord Chancellors Department

^(a) SI 1992/1903
^(b) S.I. 2002/[2686].

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure to be followed in connection with local inquiries in England held by inspectors appointed by the Secretary of State to determine appeals against—

- (a) enforcement notices under section 174 of the Town and Country Planning Act 1990;
- (b) the refusal or non-determination of an application for a certificate of lawful use or development under section 195 of that Act; and
- (c) listed building enforcement notices and conservation area enforcement notices under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The procedure for determination of such appeals to be determined by Inspectors and by the Secretary of State was formerly set out in the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992 (“the 1992 Rules”). The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002 revoke the 1992 Rules and set out the procedure for such appeals where they are determined by the Secretary of State. These Rules set out the procedure where such appeals are to be determined by inspectors.

The principal changes made by these Rules are set out below:

Rule 4(1) contains an additional requirement for the Secretary of State to inform the appellant and the local planning authority that an inquiry is to be held and rule 4(2) additionally requires the local planning authority to return their completed questionnaires to the Secretary of State within 2 weeks of the starting date.

Rule 6 requires the local planning authority and the appellant to serve 2 copies of their statement of case on the Secretary of State and, in the case of an enforcement appeal, a copy on any person upon whom an enforcement notice was served, within 6 weeks of the starting date. It also provides for the statements of case to be copied by the Secretary of State to the main parties and sets out time limits for the sending of further information and comments to the Secretary of State.

Rule 7 provides that a pre-inquiry meeting must be held in the case of inquiries likely to last for 4 days or more unless the inspector considers it unnecessary. It also allows the inspector to ask parties at the pre-inquiry meeting for further information.

Rule 8 requires the inspector to prepare an inquiry timetable where the inquiry is likely to last for 4 days or more.

Rule 9 requires the date fixed for the holding of the inquiry to be not later than 20 weeks from the starting date, or the earliest practicable date after that.

Rule 11 allows the Historic Buildings and Monuments Commission for England to appear at an inquiry where—

- (a) the inquiry relates to an appeal against an enforcement notice under section 38 of the Listed Buildings Act 1990;
- (b) the listed building is in Greater London; and
- (c) if an application for listed building consent had been properly made the Commission would have been notified of the application by a direction under a section 15 of the Listed Buildings Act 1990.

Rule 12 requires any person who proposes to give, or call or another to give, evidence at the inquiry to send particular information to the Secretary of State at least 4 weeks before the inquiry.

Rule 15 requires proofs of evidence to be sent to the Secretary of State no later than 4 weeks before the inquiry and for the Secretary of State to send these on to the inspector.

Rule 16 contains an additional requirement for the local planning authority and the appellant to prepare a statement of common ground and send it to the Secretary of State and any person on whom an enforcement notice was served, at least 4 weeks before the inquiry.

Rule 17(2) provides that at the start of the inquiry the inspector will state what he considers to be the main issues to be considered at the inquiry and rule 17(5) allows any person on whom a copy of the enforcement notice was served to cross examine persons giving evidence. Rule 17(14) requires the inspector to be provided with a copy of closing submissions in writing before the close of the inquiry where the inquiry is expected to last for 4 days or more.

Rule 19(2) enables the inspector to disregard any evidence, submissions etc, received after the close of the inquiry.

Rule 20 requires the inspector to notify his decision in writing to the appellant, the local planning authority, all other persons entitled to appear at the inquiry who did so and any other person who did appear and asked to be notified of the decision.

Rule 23 allows the Secretary of State to request additional copies of documents before the close of the inquiry.

There are also minor and drafting amendments.

A Regulatory Impact Assessment 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 Development Control Policy Division, Office of the Deputy Prime Minister, Bressenden Place, London SW1E 5DU, (Tel 020 7944 3969).

2002 No. 2685

TRIBUNALS AND INQUIRIES, ENGLAND

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