

2006 No. 1282

TOWN AND COUNTRY PLANNING, ENGLAND AND  
WALES

The Town and  
Country Planning  
(Application of Subordinate  
Legislation to the Crown)  
Order 2006

<i>Made</i> - - - - -	<i>10th May 2006</i>
<i>Laid before Parliament</i>	<i>17th May 2006</i>
<i>Coming into force</i> - -	<i>7th June 2006</i>



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The Secretary of State, in exercise of the powers conferred by sections 55(2)(f), 59, 60, 61(1) and 293A of the Town and Country Planning Act 1990(a) and sections 88 and 122(3) of the Planning and Compulsory Purchase Act 2004(b) makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006 and shall come into force on 7th June 2006.

**Town and Country Planning (Ironstone Areas Special Development) Order 1950**

2. The Town and Country Planning (Ironstone Areas Special Development) Order 1950(c) applies to the Crown.

**Town and Country Planning (Construction and Improvement of Private Streets) Regulations 1951**

3. The Town and Country Planning (Construction and Improvement of Private Streets) Regulations 1951(d) apply to the Crown.

**Local Land Charges Rules 1977**

4. The Local Land Charges Rules 1977(e) apply to the Crown insofar as they relate to planning charges.

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(a) 1990 c. 8. Section 293A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(1).  
(b) 2004 c. 5.  
(c) S.I. 1950/1177.  
(d) S.I. 1951/2224 amended by S.I. 1965/654.  
(e) S.I. 1977/985 amended by S.I. 1978/1638, 1995/260 and 2003/2502. See, in particular, Part 3 of Schedule 2 to the Rules which concerns planning charges.

### **Town and Country Planning (Use Classes) Order 1987**

5.—(1) The Town and Country Planning (Use Classes) Order 1987(a) applies to the Crown with, in relation to England, the following modifications.

(2) In Part C of the Schedule, after class C2 (residential institutions) insert—

#### **“Secure residential institutions**

Class C2A. Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.”.

(3) In Part D of the Schedule, in class D1 (non-residential institutions) after sub-paragraph (h) insert—

“(i) as a law court.”.

### **Town and Country Planning (Simplified Planning Zones) (Excluded Development) Order 1987**

6. The Town and Country Planning (Simplified Planning Zones) (Excluded Development) Order 1987(b) applies to the Crown.

### **Town and Country Planning (Applications) Regulations 1988**

7. The Town and Country Planning (Applications) Regulations 1988(c) apply to the Crown.

### **Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989**

8. The Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989(d) apply to the Crown.

### **Planning (Listed Buildings and Conservation Areas) Regulations 1990**

9.—(1) The Planning (Listed Buildings and Conservation Areas) Regulations 1990(e) apply to the Crown with the following modifications.

(2) In regulation 6 (certificate to accompany applications and appeals) after paragraph (5) insert—

“(5A) The provisions of this regulation, except paragraph (3), shall apply where an application for listed building consent is made to the Secretary of State under section 82B(2) of the Act, as they apply in relation to an application which falls to be determined by the local planning authority with the following modifications—

(a) in paragraph (1) for “A local planning authority shall not entertain any application under regulation 3 or 4” substitute “The Secretary of State shall not entertain any application under section 82B(2) of the Act”;

(b) omit paragraph (3).”.

(3) In regulation 8A(6) (use of electronic communications) after sub-paragraph (a) insert—

“(aa) making an application under section 82B(2) of the Act for consent;”.

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(a) S.I. 1987/764 amended by S.I. 1991/1567, 1992/610, 1992/657, 1994/724, 1995/297, 1999/293, 2002/1875 (W.184), 2005/84 and 2006/220.

(b) S.I. 1987/1849 amended by S.I. 1996/396.

(c) S.I. 1988/1812 amended by S.I. 2003/956 and 2006/1063.

(d) S.I. 1989/193 amended by S.I. 1991/2735, 1992/1817, 1992/3052, 1996/396, 1997/37, 2001/2719, 2002/768, 2002/1876, 2002/2258, 2004/2736 (W. 243), 2005/843 and 2006/994.

(e) S.I. 1990/1519 amended by S.I. 2003/956, 2003/2048, 2004/2210 and 2006/1063.

(4) For regulation 15 (application for listed building or conservation area consent in anticipation of disposal of Crown land) substitute—

**“Application for listed building or conservation area consent in respect of Crown land**

**15.** The following provisions of these Regulations shall, in their application to the making and determination of applications for listed building consent and conservation area consent in respect of Crown land, have effect subject to the following modifications—

- (a) in regulation 3(2), for “a certificate under regulation 6” substitute “the certificate or other document required by regulation 6 below”;
- (b) in regulation 6—
  - (i) in paragraph (1) after “accompanied by” insert “the documents described in paragraph (1A) below or,” and
  - (ii) after paragraph (1) insert—

“(1A) An application for listed building or conservation area consent in respect of Crown land shall be accompanied by—

    - (a) a statement that the application is made in respect of Crown land; and
    - (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.”.

(5) In Part 2 of Schedule 2 (certificates under regulation 6)—

- (a) for “Council” substitute “[Council] [Secretary of State]\*” in each place where the word occurs; and
- (b) in note (f) after “council” insert “or the Secretary of State as appropriate”.

**Planning (Hazardous Substances) Regulations 1992**

**10.** The Planning (Hazardous Substances) Regulations 1992(a) apply to the Crown as if, in regulation 4 (exemptions), after paragraph (1) there were inserted—

“(1A) Hazardous substances consent is not required for the presence of a hazardous substance in, on, over or under land at military establishments, installations or storage facilities.”.

**Town and Country Planning (Control of Advertisements) Regulations 1992**

**11.** The Town and Country Planning (Control of Advertisements) Regulations 1992(b) except for regulation 27 (contravention of Regulations) apply to the Crown.

**Town and Country Planning General Regulations 1992**

**12.** Regulation 16 of, and Schedule 2 to, the Town and Country Planning General Regulations 1992(c) (notices and counter-notices relating to planning blight) apply to the Crown.

**Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992**

**13.** The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992(d) apply to the Crown.

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(a) S.I. 1992/656 amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 233 and S.I. 1994/2567, 1996/252 and 1999/981.

(b) S.I. 1992/666 amended by S.I. 1994/2351, 1996/396, 1999/1810, 2000/1149 and 2003/2155.

(c) S.I. 1992/1492. There are no amendments relevant to this instrument.

(d) S.I. 1992/2832.

## **Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994**

14. The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994(a) applies to the Crown.

## **Conservation (Natural Habitats, &c.) Regulations 1994**

15. Part 4 of the Conservation (Natural Habitats, &c.) Regulations 1994(b) (adaptation of planning and other controls) applies to the Crown as if, in regulation 54(1) (grant of planning permission), after sub-paragraph (a) there were inserted—

“(aa) granting planning permission on an application under section 293A(c) of that Act (urgent Crown development);”.

## **Town and Country Planning (General Permitted Development) Order 1995**

16.—(1) The Town and Country Planning (General Permitted Development) Order 1995(d) applies to the Crown with, in relation to England, the following modifications.

(2) In article 1(2) (interpretation)—

(a) in the definition of “building” for “and Class A of Part 31” substitute “, Class A of Part 31 and Class C of Part 38”;

(b) after the definition of “classified road” insert—

““Crown land” has the meaning given by section 293(e) of the Act;”;

(c) after the definition of “Notification Regulations” insert—

““operational Crown building” means a building which is operational Crown land;

“operational Crown land” means—

(a) Crown land which is used for operational purposes; and

(b) Crown land which is held for those purposes,

but does not include—

(i) land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or held, for operational purposes;

(ii) Crown land—

(aa) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate;

(bb) in which there is an interest belonging to Her Majesty in right of Her private estates;

(cc) in which there is an interest belonging to Her Majesty in right of the Duchy of Lancaster; or

(dd) belonging to the Duchy of Cornwall;

“operational purposes” means the purposes of carrying on the functions of the Crown or of either House of Parliament;”;

(d) for the definition of “original” substitute—

““original” means—

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(a) S.I. 1994/1771.

(b) S.I. 1994/2716. Relevant amendments were made by S.I. 1997/3055 and 2000/1973.

(c) Section 293A was inserted by the Planning and Compulsory Purchase Act 2005 (c. 5), section 82(1).

(d) S.I. 1995/418 amended by S.I. 1996/528, 1998/462, 1999/1661, 2001/2718, 2002/828, 2003/2155, 2005/85, 2005/2935, 2006/124 (W. 17) and 2006/221.

(e) Section 293 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), Schedule 3 paragraph 6.

- (a) in relation to a building, other than a building which is Crown land, existing on 1st July 1948, as existing on that date and, in relation to a building, other than a building which is Crown land, built on or after 1st July 1948, as so built;
  - (b) in relation to a building which is Crown land on 7th June 2006, as existing on that date and, in relation to a building built on or after 7th June 2006 which is Crown land on the date of its completion, as so built;”.
- (3) After paragraph (12) of article 1 insert—
- “(13) For the purposes of this Order, development carried out by or on behalf of any person in whom control of accommodation in any part of the Palace of Westminster or its precincts is vested shall be treated (so far as it would not otherwise be treated) as development by or on behalf of the Crown.”.
- (4) In article 3(12) (permitted development) after sub-paragraph (f) insert—
- “(g) development for which permission is granted by Class B of Part 13.”.
- (5) In article 4(3) (directions restricting permitted development)—
- (a) after sub-paragraph (a) insert—
    - “(aa) development permitted by Class B of Part 13;
    - (ab) development permitted by Part 37 or Part 38;”;
  - (b) in sub-paragraph (b) after “emergency” insert “other than development permitted by Part 37”.
- (6) In Schedule 2 (permitted development)—
- (a) for Part 13 (development by local highway authorities) substitute Part 13 as set out in Part 1 of Schedule 1 to this Order; and
  - (b) after Part 33 (closed circuit television cameras) insert Parts 34 to 38 as set out in Part 2 of that Schedule.

### **Town and Country Planning (General Development Procedure) Order 1995**

**17.—(1)** The Town and Country Planning (General Development Procedure) Order 1995(a) applies to the Crown with, in relation to England, the following modifications.

- (2) For article 4A (applications in respect of Crown land) substitute—

#### **“Applications in respect of Crown land**

**4A.—(1)** An application for planning permission in respect of Crown land shall be accompanied by—

- (a) a statement that the application is made in respect of Crown land; and
- (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.”.

- (3) In article 8 (publicity for applications for planning permission) after paragraph (7) insert—
 

“(7A) This article applies to applications made to the Secretary of State under section 293A of the Act (urgent Crown development) as if the references to a local planning authority were references to the Secretary of State.”.
- (4) After article 10 (consultations before the grant of planning permission) insert—

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(a) S.I. 1995/419 amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 233 and by S.I. 1995/1139, 1996/396, 1996/593, 1996/1817, 1997/858, 1999/293, 1999/981, 2002/768, 2002/1877 (W. 186), 2003/956, 2003/2047, 2004/1434 (W. 147), 2004/3340, 2005/2087 and 2006/1062.

**“Consultations before the grant of planning permission: urgent Crown development**

**10A.**—(1) Article 10 applies in relation to applications made to the Secretary of State under section 293A of the Act with the following modifications.

(2) For paragraphs (1), (1A), and (1B) substitute—

“(1) Before granting planning permission for development which, in his opinion, falls within a category set out in the table below, the Secretary of State shall consult the authority or person mentioned in relation to that category, except where—

- (a) the authority or person so mentioned has advised the Secretary of State that they do not wish to be consulted; or
- (b) the development is subject to any standing advice provided by the authority or person so mentioned to the Secretary of State in relation to the category of development.

(1A) The exception in paragraph (1)(a) shall not apply where, in the opinion of the Secretary of State, development falls within paragraph (zb) of the table below.

(1B) The exception in paragraph (1)(b) shall not apply where—

- (a) the development is an EIA development; or
- (b) the standing advice was issued more than two years before the date of the application for planning permission for the development and the guidance has not been amended or confirmed as being extant by the authority or person within that period.”.

(3) In the table after paragraph (b) insert—

“(ba)	Development likely to affect land in the area of a parish council	The parish council”
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(4) Omit paragraph (3).

(5) In paragraph (4)—

- (a) for “a local planning authority are” substitute “the Secretary of State is”;
- (b) in sub-paragraph (a) for “they” substitute “he”.

(6) In paragraph (5) for “local planning authority” substitute “Secretary of State”.

(5) In article 19(3) (representations to be taken into account) for “of the Act (reference of applications to the Secretary of State)” substitute “(reference of applications to the Secretary of State) and section 293A(2) (applications for urgent Crown development) of the Act”.

(6) In article 25 (register of applications)—

- (a) in paragraph (4)(d) after “whether on appeal” insert “, on an application under section 293A(2) of the Act (applications for urgent Crown development)”;
- (b) in paragraph (9) for “Every” substitute “Subject to paragraph (9A), every”; and
- (c) after paragraph (9) insert—

“(9A) A copy of any application made under section 293A(2) of the Act (applications for urgent Crown development) and of any plans and drawings submitted in relation to it shall be placed on the register within 14 days of the date on which the local planning authority is consulted on the application by the Secretary of State.”.

(7) In Part 1 of Schedule 2 (notices under articles 6 and 9)—

- (a) in the first notice—
  - (i) for “Council” substitute “[Council] [Secretary of State]†” in each place where the word occurs; and
  - (ii) in note (05) after “Council” insert “or the Secretary of State as appropriate”;
- (b) in the second notice—
  - (i) for “Council” substitute “[Council] [Secretary of State]†” in each place where the word occurs; and

- (ii) in note (g) after “Council” insert “or the Secretary of State as appropriate”.

### **Town and Country Planning (Minerals) Regulations 1995**

18. The Town and Country Planning (Minerals) Regulations 1995(a) apply to the Crown.

### **The Town and Country Planning (General Development Procedure) (Welsh Forms) Order 1995**

19.—(1) The Town and Country Planning (General Development Procedure) (Welsh Forms) Order 1995(b) applies to the Crown and is modified as follows.

(2) In Part 1 of Schedule 2 (notices under articles 6 and 9)—

(a) in the first notice—

- (i) for “i Gyngor” substitute “[i Gyngor] [i Gynulliad Cenedlaethol Cymru]†”;
- (ii) for “i’r Cyngor” substitute “at[y Cyngor] [Gynulliad Cenedlaethol Cymru]†”;
- (iii) in footnote (c) after “Cyngor” insert “neu Gynulliad Cenedlaethol Cymru fel y bo’n briodol”; and
- (iv) in footnote (e) after “Cyngor” insert “neu Gynulliad Cenedlaethol Cymru fel y bo’n briodol”;

(b) in the second notice—

- (i) for “i Gyngor” substitute “[i Gyngor] [i Gynulliad Cenedlaethol Cymru]†”;
- (ii) for “y Cyngor” substitute “[y Cyngor] [Gynulliad Cenedlaethol Cymru]†”;
- (iii) in footnote (c) after “Cyngor” insert “neu Gynulliad Cenedlaethol Cymru fel y bo’n briodol” and
- (iv) in footnote (g) after “Cyngor” insert “neu Gynulliad Cenedlaethol Cymru fel y bo’n briodol”.

### **Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997**

20. The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997(c) apply to the Crown.

### **Town and Country Planning (Compensation for Restrictions on Mineral Working and Mineral Waste Depositing) Regulations 1997**

21. The Town and Country Planning (Compensation for Restrictions on Mineral Working and Mineral Waste Depositing) Regulations 1997(d) apply to the Crown.

### **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**

22.—(1) The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(e) apply to the Crown with the following modifications.

(2) In regulation 8 (application referred to the Secretary of State without an environmental statement)—

(a) in paragraph (1)—

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(a) S.I. 1995/2863.  
(b) S.I. 1995/3336.  
(c) S.I. 1997/420.  
(d) S.I. 1997/1111.  
(e) S.I. 1999/293 amended by S.I. 2000/2867.

- (i) before “referred” insert “made or”; and
- (ii) before “referral” insert “making or the”; and
- (b) in paragraph (2) before “referred” insert “made or”.

**Town and Country Planning (Trees) Regulations 1999**

**23.**—(1) The Town and Country Planning (Trees) Regulations 1999(a) apply to the Crown with the following modifications.

(2) In regulation 10(1) (trees in conservation areas-exemptions) after sub-paragraph (a) insert—

“(aa) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of, the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967(b) or otherwise under their management or supervision;”.

(3) In the Schedule (form of tree preservation order) in article 5(1) (exemptions) after paragraph (a) insert—

“(aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980(c) (procedures for making or confirming certain orders and schemes);

(ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;”.

**Town and Country Planning (Inquiries Procedure) (England) Rules 2000**

**24.**—(1) The Town and Country Planning (Inquiries Procedure) (England) Rules 2000(d) apply to the Crown with the following modifications.

(2) After rule 23 (Mayor of London) insert—

**“Modifications where national security direction given and for urgent Crown development or works**

**23A.**—(1) The modifications set out in Part 1 of the Schedule shall have effect where a direction is given by the Secretary of State under—

(a) section 321(3)(e) of the Planning Act(f) (planning inquiries to be held in public subject to certain exceptions); or

(b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act(g) (determination of certain appeals by person appointed by the Secretary of State).

(2) The modifications set out in Part 2 of the Schedule shall have effect where either section 293A of the Planning Act (urgent Crown development) or section 82B of the Listed Buildings Act (urgent works relating to Crown land), or both, apply.”.

(3) At the end of the Rules add the Schedule set out in Schedule 2 to this Order.

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(a) S.I. 1999/1892 amended by S.I. 2001/1149 and 2001/4050.  
 (b) 1967 c. 10. Relevant amendments were made by S.I. 1999/1747.  
 (c) 1980 c. 66.  
 (d) S.I. 2000/1624 amended by S.I. 2003/956.  
 (e) 1990 c. 8. Relevant amendments were made to section 321 by the Planning and Compulsory Purchase Act 2004 (c. 5) section 80(1).  
 (f) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5) section 80(1).  
 (g) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).

**Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000**

25. The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000(a) apply to the Crown.

**Town and Country Planning (Hearings Procedure) (England) Rules 2000**

26. The Town and Country Planning (Hearings Procedure) (England) Rules 2000(b) apply to the Crown.

**Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000**

27. The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000(c) apply to the Crown.

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

28.—(1) The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002(d) apply to the Crown with the following modifications.

(2) After rule 25 (Mayor of London) insert—

**“Modifications where national security direction given**

25A. The modifications set out in the Schedule shall have effect where a direction is given by the Secretary of State under—

- (a) section 321(3) of the Planning Act(e) (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act(f) (determination of certain appeals by person appointed by the Secretary of State).”.

(3) At the end of the Rules add the Schedule set out in Schedule 3 to this Order.

**Landfill (England and Wales) Regulations 2002**

29. The Landfill (England and Wales) Regulations 2002(g) apply to the Crown insofar as they relate to planning permission for landfill.

**Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002**

30. The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002(h) apply to the Crown subject to the modification that, for regulation 7 (notification of appeal to the local planning authority) there is substituted—

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(a) S.I. 2000/1625 amended by S.I. 2003/956.  
(b) S.I. 2000/1626 amended by S.I. 2003/956.  
(c) S.I. 2000/1628 amended by S.I. 2003/956.  
(d) S.I. 2002/1223. These Rules have been revoked, subject to certain savings and transitional provisions by article 28 of the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005 (S.I. 2005/2115).  
(e) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), section 80(1).  
(f) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).  
(g) S.I. 2002/1559 to which there are amendments not relevant to this instrument. See regulation 5 and paragraph 1(1) of Schedule 2 which impose restrictions on the grant of planning permission for landfill.  
(h) S.I. 2002/2682 amended by S.I. 2003/956.

### **“Notification of appeal to the local planning authority**

7.—(1) On receipt of the statement under regulation 6 the Secretary of State shall notify the local planning authority in writing that an appeal has been made and copy to them the appeal and, subject to paragraph (2), the statement made under regulation 6.

(2) Nothing in paragraph (1) shall require the Secretary of State to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the Secretary of State’s opinion, public disclosure of that information would be contrary to the national interest.”.

### **Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002**

**31.**—(1) The Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002(a) apply to the Crown with the following modifications.

(2) In regulation 7 (representations)—

- (a) in paragraph (6) after “and shall” insert “, subject to paragraph (7A),”;
- (b) in paragraph (7) after “receipt” insert “and subject to paragraph (7A),”;
- (c) after paragraph (7) insert—

“(7A) Nothing in paragraph (6) or (7) shall require the Secretary of State to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the Secretary of State’s opinion, public disclosure of that information would be contrary to the national interest.”.

(3) In regulation 8 (third party representations)—

- (a) at the beginning of paragraph (2)(a) insert “subject to paragraph (2A),”;
- (b) after paragraph (2) insert—

“(2A) Nothing in paragraph (2)(a) shall require the Secretary of State to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the Secretary of State’s opinion, public disclosure of that information would be contrary to the national interest.”.

### **Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002**

**32.**—(1) The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002(b) apply to the Crown with the following modifications.

(2) In rule 5 (hearing statements)—

- (a) in paragraph (5) for “The Secretary of State” substitute “Subject to paragraph (5A), the Secretary of State”;
- (b) after paragraph (5) insert—

“(5A) Nothing in paragraph (5) shall require the Secretary of State to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the Secretary of State’s view, public disclosure of that information would be contrary to the national interest.”.

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

**33.** The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002(c) apply to the Crown.

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(a) S.I. 2002/2683 amended by S.I. 2003/956.  
(b) S.I. 2002/2684 amended by S.I. 2003/956.  
(c) S.I. 2002/2685 amended by S.I. 2003/956.

## **Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002**

**34.**—(1) The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002(a) apply to the Crown with the following modifications.

(2) After rule 25A (withdrawal of consent to use of electronic communications) insert—

### **“Modifications where national security direction given**

**25B.** The modifications set out in the Schedule shall have effect where a direction is given by the Secretary of State under—

- (a) section 321(3) of the Planning Act(b) (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act(c) (determination of certain appeals by person appointed by the Secretary of State).”.

(3) At the end of the Rules add the Schedule set out in Schedule 4 to this Order.

## **Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003**

**35.** The Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003(d) apply to the Crown.

## **Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003**

**36.** The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003(e) apply to the Crown subject to the modification that, for regulation 6 (notification of appeal to the local planning authority) there is substituted—

### **“Notification of appeal to the local planning authority**

**6.**—(1) Upon receipt of the statement under regulation 5, the National Assembly must notify the local planning authority in writing that an appeal has been made and copy to the local planning authority the appeal and the statement made under regulation 5.

(2) Nothing in paragraph (1) requires the National Assembly to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the opinion of either the National Assembly or the Secretary of State, public disclosure of that information would be contrary to the national interest.”.

## **Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003**

**37.**—(1) The Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003(f) apply to the Crown with the following modifications.

(2) In regulation 7 (representations)—

- (a) in paragraph (6) after “and must” insert “, subject to paragraph (7A),”;
- (b) in paragraph (7) after “receipt” insert “and subject to paragraph (7A),”;
- (c) after paragraph (7) insert—

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(a) S.I. 2002/2686 amended by S.I. 2003/956.

(b) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), section 80(1).

(c) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).

(d) S.I. 2003/390 amended by S.I. 2004/3157.

(e) S.I. 2003/394 amended by S.I. 2004/3157.

(f) S.I. 2003/395 amended by S.I. 2004/3157.

“(7A) Nothing in paragraph (6) or (7) requires the National Assembly to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the opinion of either the National Assembly or the Secretary of State, public disclosure of that information would be contrary to the national interest.”.

(3) In regulation 8 (third party representations)—

- (a) at the beginning of paragraph (2)(a) insert “subject to paragraph (2A),”; and
- (b) after paragraph (2) insert—

“(2A) Nothing in paragraph (2)(a) requires the National Assembly to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the opinion of either the National Assembly or the Secretary of State, public disclosure of that information would be contrary to the national interest.”.

### **Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003**

**38.**—(1) The Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003(a) apply to the Crown with the following modifications.

(2) After rule 22A (Withdrawal of consent to use of electronic communications) insert—

#### **“Modifications where national security direction given and for urgent Crown development or works**

**22B.**—(1) The modifications set out in Part 1 of the Schedule have effect where a direction is given by the National Assembly or the Secretary of State under—

- (a) section 321(3)(b) of the Planning Act(c) (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act(d) (determination of certain appeals by person appointed by the Secretary of State).

(2) The modifications set out in Part 2 of the Schedule have effect where either section 293A of the Planning Act (urgent Crown development) or section 82B of the Listed Buildings Act (urgent works relating to Crown land), or both, apply.”.

(3) At the end of the Rules add the Schedule set out in Schedule 5 to this Order.

### **Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003**

**39.** The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003(e) apply to the Crown.

### **Town and Country Planning (Enforcement) (Hearings Procedure) (Wales) Rules 2003**

**40.**—(1) The Town and Country Planning (Enforcement) (Hearings Procedure) (Wales) Rules 2003(f) apply to the Crown with the following modifications.

(2) In rule 5 (hearing statements)—

- (a) in paragraph (5) for “The National Assembly” substitute “Subject to paragraph (5A), the National Assembly”; and

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(a) S.I. 2003/1266 amended by S.I. 2004/3172.

(b) 1990 c. 8. Relevant amendments were made to section 321 by the Planning and Compulsory Purchase Act 2004 (c. 5) section 80(1).

(c) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5) section 80(1).

(d) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).

(e) S.I. 2003/1267 amended by S.I. 2004/3172.

(f) S.I. 2003/1268 amended by S.I. 2004/3172.

(b) after paragraph (5) insert—

“(5A) Nothing in paragraph (5) requires the National Assembly to disclose information as to national security or the measures taken or to be taken to ensure the security of any premises or property where, in the view of the National Assembly or the Secretary of State, public disclosure of that information would be contrary to the national interest.”.

### **Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003**

**41.**—(1) The Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003(a) apply to the Crown with the following modifications.

(2) After rule 25A (withdrawal of consent to use of electronic communications) insert—

#### **“Modifications where national security direction given**

**25B.** The modifications set out in the Schedule have effect where a direction is given by the National Assembly or the Secretary of State under—

- (a) section 321(3) of the Planning Act(b) (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act(c) (determination of certain appeals by person appointed by the National Assembly or the Secretary of State).”.

(3) At the end of the Rules add the Schedule set out in Schedule 6 to this Order.

### **Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003**

**42.** The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003(d) apply to the Crown.

### **Town and Country Planning (Hearings Procedure) (Wales) Rules 2003**

**43.** The Town and Country Planning (Hearings Procedure) (Wales) Rules 2003(e) apply to the Crown.

### **Town and Country Planning (Timetable for Decisions) (England) Order 2005**

**44.** The Town and Country Planning (Timetable for Decisions) (England) Order 2005(f) applies to the Crown.

### **Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005**

**45.** The Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005(g) apply to the Crown.

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(a) S.I. 2003/1269 amended by S.I. 2004/3172.

(b) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), section 80(1).

(c) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).

(d) S.I. 2003/1270 amended by S.I. 2004/3172.

(e) S.I. 2003/1271 amended by S.I. 2004/3172.

(f) S.I. 2005/205.

(g) S.I. 2005/206.

**Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005**

**46.**—(1) The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005<sup>(a)</sup> apply to the Crown with the following modifications.

(2) After rule 27 (Mayor of London) insert—

**“Modifications where national security direction given**

**27A.** The modifications set out in the Schedule shall have effect where a direction is given by the Secretary of State under—

- (a) section 321(3) of the Planning Act<sup>(b)</sup> (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act<sup>(c)</sup> (determination of certain appeals by person appointed by the Secretary of State).”

(3) At the end of the Rules add the Schedule set out in Schedule 7 to this Order.

Signed by authority of the Secretary of State

10th May 2006

*Kay Andrews*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

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(a) S.I. 2005/2115.

(b) 1990 c. 8. Section 321 was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), section 80(1).

(c) 1990 c. 9. Schedule 3 was amended by the Planning and Compulsory Purchase Act 2004, section 80(3).

PART 1

“PART 13

**DEVELOPMENT BY HIGHWAY AUTHORITIES**

**Class A**

**Permitted development**

**A.** The carrying out by a highway authority—

- (a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b)(a) of the Act; or
- (b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.

**Class B**

**Permitted development**

**B.** The carrying out by the Secretary of State of works in exercise of his functions under the Highways Act 1980(b), or works in connection with, or incidental to, the exercise of those functions.”

PART 2

“PART 34

**DEVELOPMENT BY THE CROWN**

**Class A**

**Permitted development**

**A.** The erection or construction and the maintenance, improvement or other alteration by or on behalf of the Crown of—

- (a) any small ancillary building, works or equipment on Crown land required for operational purposes;
- (b) lamp standards, information kiosks, passenger shelters, shelters and seats, telephone boxes, fire alarms, drinking fountains, refuse bins or baskets, barriers for the control of people and vehicles, and similar structures or works required in connection with the operational purposes of the Crown.

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(a) Section 55(2)(b) was amended by the Planning and Compulsory Purchase Act 2004 (c. 5), section 118 and paragraph 2 of Schedule 6.  
(b) 1980 c. 66.

### **Interpretation of Class A**

**A.1** The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

### **Class B**

#### **Permitted development**

**B.** The extension or alteration by or on behalf of the Crown of an operational Crown building.

#### **Development not permitted**

**B.1** Development is not permitted by Class B if—

- (a) the building as extended or altered is to be used for purposes other than those of—
  - (i) the Crown; or
  - (ii) the provision of employee facilities;
- (b) the height of the building as extended or altered would exceed the height of the original building;
- (c) the cubic content of the original building would be exceeded by more than—
  - (i) 10%, in respect of development on any article 1(5) land; or
  - (ii) 25%, in any other case;
- (d) the floor space of the original building would be exceeded by more than—
  - (i) 500 square metres in respect of development on any article 1(5) land; or
  - (ii) 1,000 square metres in any other case;
- (e) the external appearance of the original building would be materially affected;
- (f) any part of the building as extended or altered would be within 5 metres of any boundary of the curtilage of the original building; or
- (g) the development would lead to a reduction in the space available for the parking or turning of vehicles.

### **Interpretation of Class B**

**B.2** For the purposes of Class B—

- (a) the erection of any additional building within the curtilage of another building (whether by virtue of Class B or otherwise) and used in connection with it is to be treated as the extension of that building, and the additional building is not to be treated as an original building;
- (b) where two or more original buildings are within the same curtilage and are used for the same operational purposes, they are to be treated as a single original building in making any measurement;
- (c) “employee facilities” means social, care or recreational facilities provided for employees or servants of the Crown, including crèche facilities provided for the children of such employees or servants.

### **Class C**

#### **Permitted development**

**C.** Development carried out by or on behalf of the Crown on operational Crown land for operational purposes consisting of—

- (a) the installation of additional or replacement plant or machinery;
- (b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; or
- (c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.

#### **Development not permitted**

**C.1** Development described in Class C(a) is not permitted if—

- (a) it would materially affect the external appearance of the premises; or
- (b) any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.

#### **Interpretation of Class C**

**C.2** In Class C, “Crown land” does not include land in or adjacent to and occupied together with a mine.

### **Class D**

#### **Permitted development**

**D.** The provision by or on behalf of the Crown of a hard surface within the curtilage of an operational Crown building.

## **PART 35**

### **AVIATION DEVELOPMENT BY THE CROWN**

#### **Class A**

#### **Permitted development**

**A.** The carrying out on operational Crown land, by or on behalf of the Crown, of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at an airbase.

#### **Development not permitted**

**A.1** Development is not permitted by Class A if it would consist of or include—

- (a) the construction or extension of a runway;
- (b) the construction of a passenger terminal the floor space of which would exceed 500 square metres;
- (c) the extension or alteration of a passenger terminal, where the floor space of the building as existing at 7th June 2006 or, if built after that date, of the building as built, would be exceeded by more than 15%;
- (d) the erection of a building other than an operational building;
- (e) the alteration or reconstruction of a building other than an operational building, where its design or external appearance would be materially affected.

## **Condition**

**A.2** Development is permitted by Class A subject to the condition that the relevant airbase operator consults the local planning authority before carrying out any development, unless that development falls within the description in paragraph A.4.

## **Interpretation of Class A**

**A.3** For the purposes of paragraph A.1, floor space shall be calculated by external measurement and without taking account of the floor space in any pier or satellite.

**A.4** Development falls within this paragraph if—

- (a) it is urgently required for the efficient running of the airbase, and
- (b) it consists of the carrying out of works, or the erection or construction of a structure or of an ancillary building, or the placing on land of equipment, and the works, structure, building, or equipment do not exceed 4 metres in height or 200 cubic metres in capacity.

**A.5** For the purposes of Class A, “operational building” means an operational Crown building, other than a hotel, required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, military or civilian personnel, goods, military equipment, munitions and other items.

## **Class B**

### **Permitted development**

**B.** The carrying out on operational land within the perimeter of an airbase, by or on behalf of the Crown, of development in connection with the provision of air traffic services.

## **Class C**

### **Permitted development**

**C.** The carrying out on operational land outside but within 8 kilometres of the perimeter of an airbase, by or on behalf of the Crown, of development in connection with the provision of air traffic services.

### **Development not permitted**

**C.1** Development is not permitted by Class C if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic services;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast antenna or apparatus, if greater.

## **Class D**

### **Permitted development**

**D.** The carrying out on operational land, by or on behalf of the Crown, of development in connection with the provision of air traffic services.

## **Development not permitted**

**D.1** Development is not permitted by Class D if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic services;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.

## **Class E**

### **Permitted development**

**E.** The use of land by or on behalf of the Crown in an emergency to station moveable apparatus replacing unserviceable apparatus in connection with the provision of air traffic services.

### **Condition**

**E.1** Development is permitted by Class E subject to the condition that on or before the expiry of a period of six months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to such other state as may be agreed in writing between the local planning authority and the developer.

## **Class F**

### **Permitted development**

**F.** The use of land by or on behalf of the Crown to provide services and facilities in connection with the provision of air traffic services and the erection or placing of moveable structures on the land for the purposes of that use.

### **Condition**

**F.1** Development is permitted by Class F subject to the condition that, on or before the expiry of the period of six months beginning with the date on which the use began, the use shall cease, any structure shall be removed, and the land shall be restored to its condition before the development took place, or to such other state as may be agreed in writing between the local planning authority and the developer.

## **Class G**

### **Permitted development**

**G.** The use of land by or on behalf of the Crown for the stationing and operation of apparatus in connection with the carrying out of surveys or investigations.

### **Condition**

**G.1** Development is permitted by Class G subject to the condition that on or before the expiry of the period of six months beginning with the date on which the use began, the use shall cease, any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to such other state as may be agreed in writing between the local planning authority and the developer.

## **Class H**

### **Permitted development**

**H.** The use of buildings by or on behalf of the Crown within the perimeter of an airbase for purposes connected with air transport services or other flying activities at that airbase.

### **Interpretation of Part 35**

**I.** For the purposes of Part 35—

“airbase” means the aggregate of the land, buildings and works comprised in a Government aerodrome within the meaning of article 155 of the Air Navigation Order 2005(a); and

“air traffic services” has the same meaning as in section 98 of the Transport Act 2000(b) (air traffic services).

## **PART 36**

### **CROWN RAILWAYS, DOCKYARDS ETC. AND LIGHTHOUSES**

## **Class A**

### **Permitted development**

**A.** Development by or on behalf of the Crown on operational Crown land, required in connection with the movement of traffic by rail.

### **Development not permitted**

**A.1** Development is not permitted by Class A if it consists of or includes—

- (a) the construction of a railway;
- (b) the construction or erection of a hotel, railway station or bridge; or
- (c) the construction or erection otherwise than wholly within a railway station of an office, residential or educational building, car park, shop, restaurant, garage, petrol filling station or a building used for an industrial process.

### **Interpretation of Class A**

**A.2** For the purposes of Class A, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected.

## **Class B**

### **Permitted development**

**B.** Development by or on behalf of the Crown or its lessees on operational Crown land where the development is required—

- (a) for the purposes of shipping; or
- (b) at a dock, pier, pontoon or harbour in connection with the embarking, disembarking, loading, discharging or transport of military or civilian personnel, military equipment, munitions, or other items.

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(a) S.I. 2005/1970.  
(b) 2000 c. 38.

### **Development not permitted**

**B.1** Development is not permitted by Class B if it consists of or includes the construction or erection of a bridge or other building not required in connection with the handling of traffic.

### **Interpretation of Class B**

**B.2** For the purposes of Class B, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected.

### **Class C**

#### **Permitted development**

**C.** The use of any land by or on behalf of the Crown for the spreading of any dredged material resulting from a dock, pier, harbour, water transport, canal or inland navigation undertaking.

### **Class D**

#### **Permitted development**

**D.** Development by or on behalf of the Crown on operational Crown land, or for operational purposes, consisting of—

- (a) the use of the land as a lighthouse, with all requisite works, roads and appurtenances;
- (b) the extension of, alteration, or removal of a lighthouse; or
- (c) the erection, placing, alteration or removal of a buoy or beacon.

### **Development not permitted**

**D.1** Development is not permitted by Class D if it consists of or includes the erection of offices, or the reconstruction or alteration of offices where their design or external appearance would be materially affected.

### **Interpretation of Class D**

**D.2** For the purposes of Class D—

- “buoys and beacons” includes all other marks and signs of the sea; and
- “lighthouse” includes any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals.

## **PART 37**

### **EMERGENCY DEVELOPMENT BY THE CROWN**

#### **Class A**

#### **Permitted development**

**A.** Development by or on behalf of the Crown on Crown land for the purposes of—

- (a) preventing an emergency;
- (b) reducing, controlling or mitigating the effects of an emergency; or
- (c) taking other action in connection with an emergency.

## **Conditions**

**A.1** Development is permitted by Class A subject to the following conditions—

- (a) the developer shall, as soon as practicable after commencing development, notify the local planning authority of that development; and
- (b) on or before the expiry of the period of six months beginning with the date on which the development began—
  - (i) any use of that land for a purpose of Class A shall cease and any buildings, plant, machinery, structures and erections permitted by Class A shall be removed; and
  - (iii) the land shall be restored to its condition before the development took place, or to such other state as may be agreed in writing between the local planning authority and the developer.

## **Interpretation of Class A**

**A2.**—(1) For the purposes of Class A, “emergency” means an event or situation which threatens serious damage to—

- (a) human welfare in a place in the United Kingdom;
- (b) the environment of a place in the United Kingdom; or
- (c) the security of the United Kingdom.

(2) For the purposes of paragraph (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—

- (a) loss of human life;
- (b) human illness or injury;
- (c) homelessness;
- (d) damage to property;
- (e) disruption of a supply of money, food, water, energy or fuel;
- (f) disruption of a system of communication;
- (g) disruption of facilities for transport; or
- (h) disruption of services relating to health.

(3) For the purposes of paragraph (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause—

- (a) contamination of land, water or air with biological, chemical or radio-active matter; or
- (b) disruption or destruction of plant life or animal life.

## **PART 38**

### **DEVELOPMENT FOR NATIONAL SECURITY PURPOSES**

#### **Class A**

#### **Permitted development**

**A.** The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure by or on behalf of the Crown on Crown land for national security purposes.

### **Development not permitted**

**A.1** Development is not permitted by Class A if the height of any gate, fence, wall or other means of enclosure erected or constructed would exceed 4.5 metres above ground level.

### **Class B**

#### **Permitted development**

**B.** The installation, alteration or replacement by or on behalf of the Crown on Crown land of a closed circuit television camera and associated lighting for national security purposes.

#### **Development not permitted**

**B.1** Development is not permitted by Class B if—

- (a) the dimensions of the camera including its housing exceed 75 centimetres by 25 centimetres by 25 centimetres;
- (b) the uniform level of lighting provided exceeds 10 lux measured at ground level.

#### **Conditions**

**B.2** Development is permitted by Class B subject to the following conditions—

- (a) the camera shall, so far as practicable, be sited so as to minimise its effect on the external appearance of any building to which it is fixed;
- (b) the camera shall be removed as soon as reasonably practicable after it is no longer required for national security purposes.

#### **Interpretation of Class B**

**B.3** For the purposes of Class B—

“camera” except in paragraph B1(a) includes its housing, pan and tilt mechanism, infra red illuminator, receiver, mountings and brackets; and

“ground level” means the level of the surface of the ground immediately adjacent to the building to which the camera is attached or, where the level of the surface of the ground is not uniform, the level of the lowest part of the surface of the ground adjacent to it.

### **Class C**

#### **Permitted development**

**C.** Development by or on behalf of the Crown for national security purposes in, on, over or under Crown land, consisting of—

- (a) the installation, alteration or replacement of any electronic communications apparatus;
- (b) the use of land in an emergency for a period not exceeding six months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use; or
- (c) development ancillary to radio equipment housing.

#### **Development not permitted**

**C.1** Development is not permitted by Class C(a) if—

- (a) in the case of the installation of apparatus (other than on a building) the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;

- (b) in the case of the alteration or replacement of apparatus already installed (other than on a building), the apparatus, excluding any antenna, would, when altered or replaced, exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;
- (c) in the case of the installation, alteration or replacement of apparatus on a building, the height of the apparatus (taken by itself) would exceed the height of the existing apparatus or—
  - (i) 15 metres, where it is installed, or is to be installed, on a building which is 30 metres or more in height; or
  - (ii) 10 metres in any other case,
 whichever is the greater;
- (d) in the case of the installation, alteration or replacement of apparatus on a building, the highest part of the apparatus when installed, altered or replaced would exceed the height of the highest part of the building by more than the height of the existing apparatus or—
  - (i) 10 metres, where it is installed, or is to be installed, on a building which is 30 metres or more in height;
  - (ii) 8 metres, in the case of a building which is more than 15 metres but less than 30 metres in height; or
  - (iii) 6 metres in any other case.
 whichever is the greater;
- (e) in the case of the installation, alteration or replacement of apparatus (other than an antenna) on a mast, the height of the mast and the apparatus supported by it would, when the apparatus was installed, altered or replaced, exceed any relevant height limit specified in respect of apparatus in paragraphs C.1(a), (b), (c) and (d), and for the purposes of applying the limit specified in sub-paragraph (c), the words “(taken by itself)” shall be disregarded;
- (f) in the case of the installation, alteration or replacement of any apparatus other than—
  - (i) a mast;
  - (ii) an antenna;
  - (iii) any apparatus which does not project above the level of the surface of the ground; or
  - (iv) radio equipment housing,
 the ground or base area of the structure would exceed the ground or base area of the existing structure or 1.5 square metres, whichever is the greater;
- (g) in the case of the installation, alteration or replacement of an antenna on a building (other than a mast) which is less than 15 metres in height; on a mast located on such a building; or, where the antenna is to be located below a height of 15 metres above ground level, on a building (other than a mast) which is 15 metres or more in height—
  - (i) the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located, unless it is essential for operational purposes that the antenna is located in that position; or
  - (ii) in the case of dish antennas, the size of any dish would exceed the size of the existing dish when measured in any dimension or 1.3 metres when measured in any dimension, whichever is the greater;
- (h) in the case of the installation, alteration or replacement of a dish antenna on a building (other than a mast) which is 15 metres or more in height, or on a mast located on such a building, where the antenna is located at a height of 15 metres or

above, measured from ground level the size of any dish would exceed the size of the existing dish when measured in any dimension or 1.3 metres when measured in any dimension, whichever is the greater;

- (i) in the case of the installation of a mast, on a building which is less than 15 metres in height, such a mast would be within 20 metres of a highway, unless it is essential for operational purposes that the mast is installed in that position;
- (j) in the case of the installation, alteration or replacement of radio equipment housing—
  - (i) the development is not ancillary to the use of any other electronic communications apparatus; or
  - (ii) the development would exceed 90 cubic metres or, if located on the roof of a building, the development would exceed 30 cubic metres.

**C.2.** Development consisting of the installation of apparatus is not permitted by Class C(a) on article 1(5) land unless—

- (a) the land on which the apparatus is to be installed is, or forms part of, a site on which there is existing electronic communication apparatus;
- (b) the existing apparatus was installed on the site on or before the relevant day; and
- (c) the site was Crown land on the relevant day.

**C.3—(1)** Subject to paragraph (2), development is not permitted by Class C(a) if it will result in the installation of more than one item of apparatus (“the original apparatus”) on a site in addition to any item of apparatus already on that site on the relevant day.

(2) In addition to the original apparatus which may be installed on a site by virtue of Class C(a), for every four items of apparatus which existed on that site on the relevant day, one additional item of small apparatus may be installed.

(3) In paragraph (2), “small apparatus” means—

- (a) a dish antenna, other than on a building, not exceeding 5 metres in diameter and 7 metres in height;
- (b) an antenna, other than a dish antenna and other than on a building, not exceeding 7 metres in height;
- (c) a hard standing or other base for any apparatus described in sub-paragraphs (a) and (b), not exceeding 7 metres in diameter;
- (d) a dish antenna on a building, not exceeding 1.3 metres in diameter and 3 metres in height;
- (e) an antenna, other than a dish antenna, on a building, not exceeding 3 metres in height;
- (f) a mast on a building, not exceeding 3 metres in height;
- (g) equipment housing not exceeding 3 metres in height and of which the area, when measured at ground level, does not exceed 9 square metres.

### **Conditions**

**C.4—(1)** Class C(a) and Class C(c) development is permitted subject to the condition that any antenna or supporting apparatus, radio equipment housing or development ancillary to radio equipment housing constructed, installed, altered or replaced on a building in accordance with that permission shall, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building.

(2) Class C(a) development consisting of the installation of any additional apparatus on article 1(5) land is permitted subject to the condition that the apparatus shall be installed as close as is reasonably practicable to any existing apparatus.

(3) Class C(b) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall, at the expiry of the relevant period be removed from the land and the land restored to its condition before the development took place.

(4) Class C development—

- (a) on article 1(5) land or land which is, or is within, a site of special scientific interest; or
- (b) on any other land and consisting of the construction, installation, alteration or replacement of a mast; or of an antenna on a building or structure (other than a mast) where the antenna (including any supporting structure) would exceed the height of the building or structure at the point where it is installed or to be installed by 4 metres or more; or of radio equipment housing with a volume in excess of 2.5 cubic metres; or of development ancillary to radio equipment housing—

is permitted subject, except in case of emergency, to the conditions set out in C.5.

**C.5—**(1) The developer shall, before commencing development, give notice of the proposed development to any person (other than the developer) who is an owner or tenant of the land to which the development relates—

- (a) by serving the appropriate notice on every such person whose name and address is known to him; and
- (b) where he has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by local advertisement.

(2) Where the proposed development consists of the installation of a mast within 3 kilometres of the perimeter of an aerodrome, the developer shall, before commencing development, notify the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator, as appropriate.

### **Interpretation of Class C**

**C.6** For the purposes of Class C—

“aerodrome operator” means the person who is for the time being responsible for the management of the aerodrome;

“development ancillary to radio equipment housing” means the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the purposes of the radio equipment housing;

“appropriate notice” means a notice signed and dated by or on behalf of the developer and containing—

- (a) the name of the developer;
- (b) the address or location of the proposed development;
- (c) a description of the proposed development (including its siting and appearance and the height of any mast);

“local advertisement” means by publication of the notice in a newspaper circulating in the locality in which the land to which the proposed development relates is situated;

“mast” means a radio mast or a radio tower;

“owner” means any person who is the estate owner in respect of the fee simple, or who is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired;

“relevant day” means—

- (a) 7th June 2006; or

- (b) where apparatus is installed pursuant to planning permission granted on or after 7th June 2006, the date when that apparatus is finally installed pursuant to that permission,

whichever is later;

“relevant period” means a period which expires—

- (a) six months from the commencement of the construction, installation, alteration or replacement of any apparatus or structure permitted by Class C(a) or Class C(c) or from the commencement of the use permitted by Class C(b), as the case may be; or

- (b) when the need for such apparatus, structure or use ceases,

whichever occurs first; and

“tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which the proposed development relates.”

## SCHEDULE 2

Article 24

### MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

## “SCHEDULE

Rule 23A

### PART 1

#### MODIFICATIONS WHERE NATIONAL SECURITY DIRECTION GIVEN

##### **Interpretation**

##### **1. In rule 2(1)—**

- (a) after the definition of “applicant” insert—

““appointed representative” means a person appointed under—

- (a) section 321(5) or (6) of the Planning Act; or
- (b) paragraph 6A(1) or (2) of Schedule 3 to the Listed Buildings Act;”;

- (b) after the definition of “assessor” insert—

““closed evidence” means evidence which is subject to a security direction;”;

- (c) after the definition of “the 1992 Rules” insert—

““security direction” means a direction given by the Secretary of State under—

- (a) section 321(3) of the Planning Act (matters related to national security); or
  - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;
- and

- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

##### **Procedure where Secretary of State causes a pre-inquiry meeting to be held**

##### **2. In rule 5—**

- (a) for paragraph (3) substitute—

“(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, a copy of the applicant’s outline statement to the appointed representative and a copy of the applicant’s open outline statement to the local planning authority.

(3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;

(b) in paragraph (5) after “statement to him,” insert “and the open outline statement to”; and

(c) after paragraph (5) insert—

“(5A) The Secretary of State shall, as soon as practicable after receipt, send to the appointed representative any outline statement received in accordance with paragraph (5).”.

### **Receipt of statement of case etc**

3. In rule 6—

(a) in paragraph (3) for “copy of their statement of case” substitute “copy of their open statement”;

(b) in paragraph (4) for “statement of case to the local planning authority” substitute “open statement to the local planning authority”;

(c) in paragraph (6)—

(i) in sub-paragraph (b) for “statement of case” substitute “open statement”;

(ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by him in accordance with sub-paragraph (a)”;

(d) in paragraph (7)—

(i) in sub-paragraph (a) for “statements of case of the applicant and the local planning authority” substitute “open statement of the applicant and the statement of case of the local planning authority”;

(ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;

(e) in paragraph (16) after “inspector” insert “and appointed representative”; and

(f) after paragraph (16) insert—

“(17) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Appearances at inquiry**

4. In rule 11(1) after sub-paragraph (a) insert—

“(aa) the appointed representative;”.

### **Proofs of evidence**

5. In rule 13—

(a) in paragraph (1) for “Any person” substitute “Subject to paragraph (1A), any person”; and

(b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the proof of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, 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 to the Secretary of State 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of—
    - (i) the proof of evidence including closed evidence together with any written summary of it;
    - (ii) the proof of evidence excluding closed evidence (“the open proof”) together with any written summary of it; and
  - (b) simultaneously send copies of the open proof and any written summary of it to any statutory party,
- and the Secretary of State shall, as soon as practicable after receipt, send a copy of each open proof together with any written summary of it to the local planning authority and the applicant.”;
- (c) in paragraph (4) after “inspector” insert “and appointed representative”;
  - (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

### **Statement of common ground**

#### **6. In rule 14—**

- (a) in paragraph (1)(a) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (3) insert—
  - “(4) Where the application or appeal is made by or on behalf of the Crown, the appointed representative and the applicant shall—
    - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
    - (b) ensure that the Secretary of State receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

### **Site inspections**

#### **7. In rule 16—**

- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;
- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
    - (a) may inspect the land in the company of the applicant and the appointed representative, where one has been appointed; and
    - (b) shall make such an inspection if so requested by the applicant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

### **Procedure after inquiry**

#### **8. In rule 17—**

- (a) after paragraph (3) insert—
  - “(3A) Where closed evidence was considered at the inquiry—

- (a) the inspector and assessor, where one has been appointed, shall set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
  - (b) where an assessor has been appointed, the inspector shall append the closed part of the assessor’s report to the closed part of his own report and shall state in the closed part of his own report how far he agrees or disagrees with the closed part of the assessor’s report and, where he disagrees with the assessor, his reasons for that disagreement.”;
- (b) at the beginning of paragraph (5) insert “Subject to paragraph (5A)”;
- (c) after paragraph (5) insert—
- “(5A) Where the Secretary of State 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 in relation to a matter in respect of which closed evidence has been given, the notification referred to in paragraph (5) shall include the reasons for the Secretary of State’s disagreement unless—
- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
  - (b) inclusion of the reasons would disclose any part of the closed evidence.”.

**Notification of decision**

**9. In rule 18—**

- (a) in paragraph (1) for “the Secretary of State” substitute “Subject to paragraph (1B), the Secretary of State”;
- (b) after paragraph (1A) insert—
 

“(1B) Where the Secretary of State’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Secretary of State to notify those reasons to any person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”
- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”; and
- (d) after paragraph (2) insert—
 

“(2A) Nothing in paragraph (2) requires the disclosure of the closed part of the inspector’s report referred to in rule 17(2A) to a person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”

**Procedure following quashing of decision**

**10. In rule 19—**

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”;
- (b) after paragraph (1) insert—
 

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Secretary of State shall only send the written statement to—

  - (a) the appointed representative; and

- (b) a person specified, or of any description specified, in the security direction.”

**Closed evidence not to be disclosed**

11. After rule 22A insert—

**“Closed evidence not to be disclosed**

**22B.** Nothing in these Rules shall be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the Secretary of State;
- (b) the appointed representative; or
- (c) a person specified, or of any description specified, in the security direction.”

**PART 2**

**MODIFICATIONS FOR URGENT CROWN DEVELOPMENT OR URGENT WORKS AFFECTING CROWN LAND**

**Interpretation**

1. In rule 2(1) in paragraph (a) of the definition of “statutory party” after “in determining the” insert “application,”.

**Application of Rules**

2. In rule 3—

- (a) after paragraph (1)(a) insert—

“(aa) an application for planning permission made to the Secretary of State under section 293A(a) of the Planning Act (urgent Crown development);”  
and

- (b) after paragraph (1)(b) insert—

“(bb) an application for listed building consent made to the Secretary of State under section 82B(b) of the Listed Buildings Act (urgent works relating to Crown land);”.

**Preliminary information to be supplied**

3. For rule 4 substitute—

**“Preliminary information to be supplied by the Secretary of State**

**4.—(1)** The Secretary of State shall, as soon as practicable after the date of the relevant notice 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.

**(2)** This paragraph applies where—

- (a) any Minister of the Crown (other than the Secretary of State), any government department, or any body falling within rule 11(1)(c), has expressed in writing to the Secretary of State the view that the application

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(a) Section 293A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(1).  
(b) Section 82B was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(2).

should not be granted either wholly or in part, or should be granted subject only to conditions; or

(b) any person consulted in pursuance of a development order has made representations to the Secretary of State about the application.

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

#### **Procedure where Secretary of State causes pre-inquiry meeting to be held**

4. In rule 5—

- (a) in paragraph (2)(d) for “8” substitute “6”;
- (b) in paragraph (5) for “4” substitute “3”;
- (c) in paragraph (6) for “16” substitute “10”;
- (d) in paragraph (7) for “3” substitute “2”; and
- (e) in paragraph (10) for “4” substitute “3”.

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

5. In rule 6—

- (a) in paragraph (1)(a) for “6” substitute “4”;
- (b) in paragraph (1)(b) for “4” substitute “3”;
- (c) in paragraph (3)(a) for “6” substitute “4”;
- (d) in paragraph (3)(b) for “4” substitute “3”;
- (e) in paragraph (6)(a) for “4” substitute “3”;
- (f) in paragraph (12) for “12” substitute “8”;
- (g) in paragraph (14) for “9” substitute “6”; and
- (h) in paragraph (15) for “4” substitute “3”.

#### **Date and notification of inquiry**

6. In rule 10—

- (a) in paragraph (1)(a) for “22” substitute “14”;
- (b) in paragraph (1)(b) for “8” substitute “5”; and
- (c) in paragraph (6)—
  - (i) omit “in writing require the local planning authority to”;
  - (ii) in sub-paragraph (a) omit “to”;
  - (iii) in sub-paragraphs (b) and (c) omit the first “to” in each place.

#### **Proofs of evidence**

7. In rule 13(3)(a) for “4” substitute “3”.

MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING  
(MAJOR INFRASTRUCTURE PROJECT INQUIRIES PROCEDURE)  
(ENGLAND) RULES 2002

“SCHEDULE

Rule 25A

MODIFICATIONS WHERE NATIONAL SECURITY  
DIRECTION GIVEN

**Interpretation**

**1. In rule 2—**

- (a) after the definition of “applicant” insert—
  - ““appointed representative” means a person appointed under—
  - (a) section 321(5) or (6) of the Planning Act; or
  - (b) paragraph 6A(1) or (2) of Schedule 3 to the Listed Buildings Act;”;
- (b) after the definition of “by local advertisement” insert—
  - ““closed evidence” means evidence which is subject to a security direction;”;
- (c) after the definition of “the 2000 Rules” insert—
  - ““security direction” means a direction given by the Secretary of State under—
  - (a) section 321(3) of the Planning Act (matters related to national security); or
  - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;
- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

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

**2. In rule 6—**

- (a) for paragraph (3) substitute—
  - “(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, a copy of the applicant’s outline statement to the appointed representative and a copy of the applicant’s open outline statement to the local planning authority.
  - (3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;
- (b) in paragraph (5) after “statement to him,” insert “and the open outline statement to”; and
- (c) after paragraph (5) insert—
  - “(5A) The Secretary of State shall, as soon as practicable after receipt, send to the appointed representative any outline statement received in accordance with paragraph (5).”.

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

#### **3. In rule 7—**

- (a) in paragraph (1) after “one copy” insert “of the local planning authority’s statement of case and one copy of the applicant’s open statement”;
- (b) in paragraph (3) for “applicant’s statement of case” substitute “applicant’s open statement”;
- (c) in paragraph (5)—
  - (i) in sub-paragraph (b) for “statement of case” substitute “open statement”;
  - (ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by him in accordance with sub-paragraph (a)”;
- (d) in paragraph (6)—
  - (i) in sub-paragraph (a) for “statements of case of the applicant and the local planning authority” substitute “open statement of the applicant and the statement of case of the local planning authority”;
  - (ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;
- (e) in paragraph (15) after “inspector” insert “and appointed representative”; and
- (f) after paragraph (15) insert—

“(16) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Appearances at inquiry**

#### **4. In rule 13(1) after sub-paragraph (a) insert—**

“(aa) the appointed representative;”.

### **Proofs of evidence**

#### **5. In rule 15—**

- (a) in paragraph (1) for “Any person” substitute “Subject to paragraph (1A), any person”; and
- (b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the proof of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, 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 to the Secretary of State 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of—
    - (i) the proof of evidence including closed evidence together with any written summary of it;
    - (ii) the proof of evidence excluding closed evidence (“the open proof”) together with any written summary of it; and
  - (b) simultaneously send copies of the open proof and any written summary of it to any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each open proof together with any written summary of it to the local planning authority and the applicant.”;
- (c) in paragraph (4) after “inspector” insert “and appointed representative”; and
- (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

## **Statement of common ground**

### **6. In rule 16—**

- (a) in paragraph (1)(a) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (2) insert—
  - “(3) Where the appeal or application is made by or on behalf of the Crown, the appointed representative and the applicant shall—
  - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
  - (b) ensure that the Secretary of State receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

## **Site inspections**

### **7. In rule 18—**

- (a) in paragraph (1) for “the inspector” substitute “Subject to paragraph (1A), the inspector”;
- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve the inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
  - (a) may inspect the land in the company of the applicant and the appointed representative, where one has been appointed; and
  - (b) shall make such an inspection if so requested by the applicant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

## **Procedure after inquiry**

### **8. In rule 19—**

- (a) after paragraph (4) insert—
  - “(4A) Where closed evidence was considered at the inquiry—
  - (a) the inspector and assessor, where one has been appointed, shall set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
  - (b) where an assessor has been appointed, the inspector shall append the closed part of the assessor’s report to the closed part of his own report and shall state in the closed part of his own report how far he agrees or disagrees with the closed part of the assessor’s report and, where he disagrees with the assessor, his reasons for that disagreement.”;
- (b) at the beginning of paragraph (6) insert “Subject to paragraph (6A)”;
- (c) after paragraph (6) insert—
  - “(6A) Where the Secretary of State 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 in relation to a matter in respect of which closed evidence has been given,

the notification referred to in paragraph (6) shall include the reasons for the Secretary of State's disagreement unless—

- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
- (b) inclusion of the reasons would disclose any part of the closed evidence.”.

### **Notification of decision**

#### **9. In rule 20—**

- (a) in paragraph (1) for “The Secretary of State” substitute “Subject to paragraph (1A), the Secretary of State”;
- (b) after paragraph (1) insert—

“(1A) Where the Secretary of State's reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Secretary of State to notify those reasons to any person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”
- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”; and
- (d) after paragraph (2) insert—

“(2A) Nothing in paragraph (2) requires the disclosure of the closed part of the inspector's report referred to in rule 19(3A) to a person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”

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

#### **10. In rule 21—**

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”; and
- (b) after paragraph (1) insert—

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Secretary of State shall only send the written statement to—

  - (a) the appointed representative; and
  - (b) such other persons or persons of such description as are specified in the direction.”.

### **Closed evidence not to be disclosed**

#### **11. After rule 24 insert—**

##### **“Closed evidence not to be disclosed**

**24A.** Nothing in these Rules shall be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the Secretary of State;
- (b) the appointed representative; or

- (c) a person specified, or of any description specified in the security direction.”.

## SCHEDULE 4

Article 34

# MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING (ENFORCEMENT) (INQUIRIES PROCEDURE) (ENGLAND) RULES 2002

## “SCHEDULE

Rule 25B

### MODIFICATIONS WHERE NATIONAL SECURITY DIRECTION GIVEN

#### **Interpretation**

**1.** In rule 2(1)—

- (a) before the definition of “assessor” insert—
- ““appointed representative” means a person appointed under—
- (a) section 321(5) or (6) of the Planning Act; or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act;”;
- (b) after the definition of “certificate of lawful use or development” insert—
- ““closed evidence” means evidence which is subject to a security direction;”;
- (c) after the definition of “relevant notice” insert—
- ““security direction” means a direction given by the Secretary of State under—
- (a) section 321(3) of the Planning Act (matters related to national security); or
- (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;
- and
- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

#### **Procedure where pre-inquiry meeting is to be held**

**2.** In rule 6—

- (a) for paragraph (3) substitute—
- “(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 appellant, a copy of the appellant’s outline statement to the appointed representative and a copy of the appellant’s open outline statement to the local planning authority.
- (3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;
- (b) in paragraph (4) after “statement to him” insert “and the open outline statement to”;
- (c) in paragraph (5) after “outline” insert “, or outline open,”; and

- (d) after paragraph (5) insert—

“(5A) The Secretary of State shall, as soon as practicable after receipt, send a copy of any outline statement received in accordance with paragraph (4) to the appointed representative.”.

### **Service of statements of case etc**

3. In rule 8—

(a) in paragraph (3) for “copy on any person” substitute “copy of their open statement on any person”;

(b) in paragraph (4) for “statement of case to the local planning authority” substitute “open statement to the local planning authority”;

(c) in paragraph (6)—

(i) in sub-paragraph (b) for “statement of case” substitute “open statement”;

(ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by him in accordance with sub-paragraph (a)”;

(d) in paragraph (7)—

(i) in sub-paragraph (a) for “statements of case of the appellant and the local planning authority” substitute “open statement of the appellant and the statement of case of the local planning authority”;

(ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;

(e) in paragraph (16) after “inspector” insert “and appointed representative”; and

(f) after paragraph (16) insert—

“(17) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Appearances at inquiry**

4. In rule 13(1) after sub-paragraph (a) insert—

“(aa) the appointed representative;”.

### **Proofs of evidence**

5. In rule 16—

(a) in paragraph (1) for “Any person” substitute “Subject to rule (1A), any person”;

(b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the proof of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, 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 to the Secretary of State 2 copies, in the case of the local planning authority and the appellant, or 3 copies in the case of any other person, of—

(i) the proof of evidence including closed evidence together with any written summary of it;

(ii) the proof of evidence excluding closed evidence (“the open proof”) together with any written summary of it; and

(b) simultaneously send copies of the open proof and any written summary of it to any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each open proof together with any written summary of it to the local planning authority and the appellant.”;

- (c) in paragraph after “inspector” insert “and appointed representative”; and
- (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

### **Statement of common ground**

#### **6. In rule 17—**

- (a) in paragraph (1) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (3) insert—
  - “(4) Where the appeal is made by or on behalf of the Crown, the appointed representative and the appellant shall—
  - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
  - (b) ensure that the Secretary of State receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

### **Site inspections**

#### **7. In rule 19—**

- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;
- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve the inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
  - (a) may inspect the land in the company of the appellant and the appointed representative, where one has been appointed; and
  - (b) shall make such an inspection if so requested by the appellant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

### **Procedure after inquiry**

#### **8. In rule 20—**

- (a) after paragraph (3) insert—
  - “(3A) Where closed evidence was considered at the inquiry—
  - (a) the inspector and assessor, where one has been appointed, shall set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
  - (b) where an assessor has been appointed, the inspector shall append the closed part of the assessor’s report to the closed part of his own report and shall state in the closed part of his own report how far he agrees or disagrees with the closed part of the assessor’s report and, where he disagrees with the assessor, his reasons for that disagreement.”;

- (b) at the beginning of paragraph (5) insert “Subject to paragraph (5A)”; and
- (c) after paragraph (5) insert—

“(5A) Where the Secretary of State 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 in relation to closed evidence, the notification referred to in paragraph (5) shall include the reasons for the Secretary of State’s disagreement unless—

- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
- (b) inclusion of the reasons would disclose any part of the closed evidence.”.

### **Notification of decision**

#### **9. In rule 21—**

- (a) in paragraph (1) for “The Secretary of State” substitute “Subject to paragraph (1B), the Secretary of State”;
- (b) after paragraph (1A) insert—

“(1B) Where the Secretary of State’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Secretary of State to notify those reasons to any person other than—

- (a) the appointed representative; or
- (b) a person specified, or of any description specified, in the security direction.”

- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”; and
- (d) after paragraph (2) insert—

“(2A) Nothing in paragraph (2) requires the disclosure of any closed evidence to a person other than—

- (a) the appointed representative; or
- (b) a person specified, or of any description specified, in the security direction.”

### **Procedure following remitting of appeal**

#### **10. In rule 22—**

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”; and
- (b) after paragraph (1) insert—

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Secretary of State shall only send the written statement to—

- (a) the appointed representative; and
- (b) a person specified, or of any description specified, in the security direction.”

### **Closed evidence not to be disclosed**

#### **11. After rule 25A insert—**

**“Closed evidence not to be disclosed**

**25B.** Nothing in these Rules shall be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the Secretary of State;
- (b) the appointed representative; or
- (c) a person specified, or of any description specified, in the security direction.”

**SCHEDULE 5**

Article 38

**MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING  
(INQUIRIES PROCEDURE) (WALES) RULES 2003**

**“SCHEDULE**

Rule 22B

**PART 1**

**MODIFICATIONS WHERE NATIONAL SECURITY DIRECTION GIVEN**

**Interpretation**

**1.** In rule 2(1)—

- (a) after the definition of “applicant” insert—
  - ““appointed representative” means a person appointed under—
  - (a) section 321(5) or (6) of the Planning Act; or
  - (b) paragraph 6A(1) or (2) of Schedule 3 to the Listed Buildings Act;”;
- (b) after the definition of “assessor” insert—
  - ““closed evidence” means evidence which is subject to a security direction;”;
- (c) after the definition of “the 1992 Rules” insert—
  - ““security direction” means a direction given by the National Assembly or the Secretary of State under—
  - (a) section 321(3) of the Planning Act (matters related to national security); or
  - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;
- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

**Procedure where the National Assembly causes a pre-inquiry meeting to be held**

**2.** In rule 5—

- (a) for paragraph (3) substitute—
  - “(3) The National Assembly must, as soon as practicable after receipt, send a copy of the local planning authority’s outline statement to the applicant, a copy of the applicant’s outline statement to the appointed representative and a copy of the applicant’s open outline statement to the local planning authority.

- (3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;
- (b) in paragraph (5) after “an outline statement,” insert “and the open outline statement “; and
- (c) after paragraph (5) insert—
- “(5A) The National Assembly must, as soon as practicable after receipt, send to the appointed representative any outline statement received in accordance with paragraph (5).”.

### **Receipt of statement of case etc**

3. In rule 6—
- (a) in paragraph (3) for “copy of its statement of case” substitute “copy of the applicant’s open statement”;
- (b) in paragraph (4) for “statement of case to the local planning authority” substitute “open statement to the local planning authority”;
- (c) in paragraph (6)—
- (i) in sub-paragraph (b) for “statement of case” substitute “open statement”;
- (ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by it in accordance with sub-paragraph (a)”;
- (d) in paragraph (7)—
- (i) in sub-paragraph (a) for “statements of case of the applicant and the local planning authority” substitute “open statement of the applicant and the statement of case of the local planning authority”;
- (ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;
- (e) in paragraph (16) after “inspector” insert “and appointed representative”; and
- (f) after paragraph (16) insert—
- “(17) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Participation in an inquiry**

4. In rule 11(1) after sub-paragraph (a) insert—
- “(aa) the appointed representative;”.

### **Written statements of evidence**

5. In rule 13—
- (a) in paragraph (1) for “Any person” substitute “Subject to paragraph (1A), any person”; and
- (b) after paragraph (1) insert—
- “(1A) Paragraph (1B) applies where the statement of evidence includes or refers to closed evidence.
- (1B) Where this paragraph applies, any person entitled to attend an inquiry, who proposes to give, or to call another person to give evidence at the inquiry by reading a statement of evidence, must—
- (a) send to the National Assembly 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of—
- (i) the statement of evidence including closed evidence together with any written summary of it;

- (ii) the statement of evidence excluding closed evidence (“the open statement”) together with any written summary of it; and
  - (b) simultaneously send copies of the open statement and any written summary of it to any statutory party,
- and the National Assembly must, as soon as practicable after receipt, send a copy of each open statement together with any written summary of it to the local planning authority and the applicant.”;
- (c) in paragraph (4) after “inspector” insert “and appointed representative”; and
  - (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

### **Statement of common ground**

#### **6. In rule 14—**

- (a) in paragraph (1)(a) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (3) insert—
  - “(4) Where the application or appeal is made by or on behalf of the Crown, the appointed representative and the applicant must—
    - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
    - (b) ensure that the National Assembly receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

### **Site inspections**

#### **7. In rule 16—**

- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;
- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
    - (a) may inspect the land in the company of the applicant and the appointed representative, where one has been appointed; and
    - (b) must make such an inspection if so requested by the applicant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

### **Procedure after inquiry**

#### **8. In rule 17—**

- (a) after paragraph (3) insert—
  - “(3A) Where closed evidence was considered at the inquiry—
    - (a) the inspector and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and

- (b) where an assessor has been appointed, the inspector must append the closed part of the assessor’s report to the closed part of the inspector’s report and must state in the closed part of that report the level of agreement or disagreement with the closed part of the assessor’s report and, where there is disagreement with the assessor, the reasons for that disagreement.”;
- (b) at the beginning of paragraph (5) insert “Subject to paragraph (5A)”; and
- (c) after paragraph (5) insert—
  - “(5A) Where the National Assembly differs from the inspector on any matter of fact mentioned in, or appearing to it to be material to, a conclusion reached by the inspector in relation to a matter in respect of which closed evidence has been given, the notification referred to in paragraph (5) must include the reasons for the National Assembly’s disagreement unless—
    - (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
    - (b) inclusion of the reasons would disclose any part of the closed evidence.”.

**Notification of decision**

**9. In rule 18—**

- (a) in paragraph (1) for “The National Assembly” substitute “Subject to paragraph (1B), the National Assembly”;
- (b) after paragraph (1A) insert—
  - “(1B) Where the National Assembly’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the National Assembly to notify those reasons to any person other than—
    - (a) the appointed representative; or
    - (b) a person specified, or of any description specified, in the security direction.”
      - ;
- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”; and
- (d) after paragraph (2) insert—
  - “(2A) Nothing in paragraph (2) requires the disclosure of the closed part of the inspector’s report referred to in rule 17(2A) to a person other than—
    - (a) the appointed representative; or
    - (b) a person specified, or of any description specified, in the security direction.”

**Procedure following quashing of decision**

**10. In rule 19—**

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”; and
- (b) after paragraph (1) insert—
  - “(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the National Assembly will only send the written statement to—
    - (a) the appointed representative; and
    - (b) a person specified, or of any description specified, in the security direction.”

## **Closed evidence not to be disclosed**

11. After rule 22A insert—

### **“Closed evidence not to be disclosed**

**22B.** Nothing in these Rules is to be taken so as to require or permit closed evidence to be disclosed to a person other than—

- (a) the National Assembly;
- (b) the appointed representative; or
- (c) a person specified, or of any description specified, in the security direction.”

## **PART 2**

### **MODIFICATIONS FOR URGENT CROWN DEVELOPMENT OR URGENT WORKS AFFECTING CROWN LAND**

#### **Interpretation**

1. In rule 2(1) in paragraph (a) of the definition of “statutory party” after “in determining the” insert “application,”.

#### **Application of Rules**

2. In rule 3—

(a) after paragraph (1)(a) insert—

“(aa) an application for planning permission made to the National Assembly under section 293A(a) of the Planning Act (urgent Crown development);”  
and

(b) after paragraph (1)(b) insert—

“(bb) an application for listed building consent made to the National Assembly under section 82B(b) of the Listed Buildings Act (urgent works relating to Crown land);”.

#### **Preliminary information to be supplied**

3. For rule 4 substitute—

### **“Preliminary information to be supplied by the National Assembly**

4.—(1) The National Assembly must, as soon as practicable after the date of the relevant notice, inform the applicant and the local planning authority in writing of the name and address of any statutory party who has made representations to it.

(2) This paragraph applies where—

- (a) any Minister of the Crown (other than the National Assembly), any government department, or any body falling within rule 11(1)(c), has expressed in writing to the National Assembly the view that the application should not be granted either wholly or in part, or should be granted subject only to conditions; or

---

(a) Section 293A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(1).  
(b) Section 82B was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(2).

(b) any person consulted in pursuance of a development order has made representations to the National Assembly about the application.

(3) Where paragraph (2) applies, the National Assembly must forthwith after the date of the relevant notice inform the person concerned of the inquiry and, unless the person concerned has already done so, that person must thereupon give the National Assembly a written statement of the reasons for expressing the view or making the representations, as the case may be.”

#### **Procedure where the National Assembly causes a pre-inquiry meeting to be held**

4. In rule 5—

- (a) in paragraph (2)(d) for “8” substitute “6”;
- (b) in paragraph (5) for “4” substitute “3”;
- (c) in paragraph (6) for “16” substitute “10”;
- (d) in paragraph (7) for “3” substitute “2”; and
- (e) in paragraph (10) for “4” substitute “3”.

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

5. In rule 6—

- (a) in paragraph (1)(a) for “6” substitute “4”;
- (b) in paragraph (1)(b) for “4” substitute “3”;
- (c) in paragraph (3)(a) for “6” substitute “4”;
- (d) in paragraph (3)(b) for “4” substitute “3”;
- (e) in paragraph (6) for “4” substitute “3”;
- (f) in paragraph (12) for “12” substitute “8”;
- (g) in paragraph (14) for “9” substitute “6”; and
- (h) in paragraph (15) for “4” substitute “3”.

#### **Date and notification of inquiry**

6. In rule 10—

- (a) in paragraph (1)(a) for “22” substitute “14”;
- (b) in paragraph (1)(b) for “8” substitute “5”; and
- (c) in paragraph (6)—
  - (i) omit “in writing require the local planning authority to”;
  - (ii) in sub-paragraph (a) omit “to”;
  - (iii) in sub-paragraphs (b) and (c) omit the first “to” in each place.

#### **Written statements of evidence**

7. In rule 13(3)(a) for “4” substitute “3”.

MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING  
(ENFORCEMENT) (INQUIRIES PROCEDURE) (WALES) RULES  
2003

## “SCHEDULE

Rule 25B

MODIFICATIONS WHERE NATIONAL SECURITY  
DIRECTION GIVEN

**Interpretation****1.** In rule 2(1)—

- (a) before the definition of “assessor” insert—
  - ““appointed representative” means a person appointed under—
  - (a) section 321(5) or (6) of the Planning Act; or
  - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act;”;
- (b) after the definition of “certificate of lawful use or development” insert—
  - ““closed evidence” means evidence which is subject to a security direction;”;
- (c) after the definition of “relevant notice” insert—
  - ““security direction” means a direction given by the National Assembly or the Secretary of State under—
  - (a) section 321(3) of the Planning Act (matters related to national security); or
  - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;
- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

**Procedure where pre-inquiry meeting is to be held****2.** In rule 6—

- (a) for paragraph (3) substitute—
  - “(3) The National Assembly must, as soon as practicable after receipt, send a copy of the local planning authority’s outline statement to the appellant, a copy of the appellant’s outline statement to the appointed representative and a copy of the appellant’s open outline statement to the local planning authority.
  - (3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;
- (b) in paragraph (4) after “statement” insert “and the open outline statement”;
- (c) in paragraph (5) after “outline” insert “, or outline open,”; and
- (d) after paragraph (5) insert—
  - “(5A) The National Assembly must, as soon as practicable after receipt, send a copy of any outline statement received in accordance with paragraph (4) to the appointed representative.”.

### **Service of statements of case etc**

#### **3. In rule 8—**

- (a) in paragraph (3) for “copy on any person” substitute “copy of their open statement on any person”;
- (b) in paragraph (4) for “statement of case to the local planning authority” substitute “open statement to the local planning authority”;
- (c) in paragraph (6)—
  - (i) in sub-paragraph (b) for “statement of case” substitute “open statement”;
  - (ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by it in accordance with sub-paragraph (a)”;
- (d) in paragraph (7)—
  - (i) in sub-paragraph (a) for “statements of case of the appellant and the local planning authority” substitute “open statement of the appellant and the statement of case of the local planning authority”;
  - (ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;
- (e) in paragraph (16) after “inspector” insert “and appointed representative”; and
- (f) after paragraph (16) insert—

“(17) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Attendance and participation at an inquiry**

#### **4. In rule 13(1) after sub-paragraph (a) insert—**

“(aa) the appointed representative;”.

### **Written statements of evidence**

#### **5. In rule 16—**

- (a) in paragraph (1) for “Any person” substitute “Subject to paragraph (1A), any person”;
- (b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the written statement of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, any person entitled to attend an inquiry, who proposes to give, or to call another person to give evidence at the inquiry by reading a written statement of evidence, must—

  - (a) send to the National Assembly 2 copies, in the case of the local planning authority and the appellant, or 3 copies in the case of any other person, of—
    - (i) the written statement of evidence including closed evidence together with any written summary of it;
    - (ii) the written statement of evidence excluding closed evidence (“the open statement”) together with any written summary of it; and
  - (b) simultaneously send copies of the open statement and any written summary of it to any statutory party,

and the National Assembly must, as soon as practicable after receipt, send a copy of each open statement together with any written summary of it to the local planning authority and the appellant.”;
- (c) in paragraph (4) after “inspector” insert “and appointed representative”; and
- (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

## **Statement of common ground**

### **6. In rule 17—**

- (a) in paragraph (1) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (3) insert—
  - “(4) Where appeal is made by or on behalf of the Crown, the appointed representative and the appellant must—
  - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
  - (b) ensure that the National Assembly receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

## **Site inspections**

### **7. In rule 19—**

- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;
- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve the inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
  - (a) may inspect the land in the company of the appellant and the appointed representative, where one has been appointed; and
  - (b) must make such an inspection if so requested by the appellant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

## **Procedure after inquiry**

### **8. In rule 20—**

- (a) after paragraph (3) insert—
  - “(3A) Where closed evidence was considered at the inquiry—
  - (a) the inspector and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
  - (b) where an assessor has been appointed, the inspector must append the closed part of the assessor’s report to the closed part of the inspector’s own report and must state in the closed part of that report the level of agreement or disagreement with the closed part of the assessor’s report and, where there is disagreement with the assessor, the reasons for that disagreement.”;
- (b) at the beginning of paragraph (5) insert “Subject to paragraph (5A)”;
- (c) after paragraph (5) insert—
  - “(5A) Where the National Assembly differs from the inspector on any matter of fact mentioned in, or appearing to the National Assembly to be material to, a conclusion reached by the inspector in relation to closed evidence, the notification

referred to in paragraph (5) must include the reasons for the National Assembly's disagreement unless—

- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
- (b) inclusion of the reasons would disclose any part of the closed evidence.”.

### **Notification of decision**

#### **9. In rule 21—**

- (a) in paragraph (1) for “The National Assembly” substitute “Subject to paragraph (1B), the National Assembly”;
- (b) after paragraph (1A) insert—

“(1B) Where the National Assembly's reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the National Assembly to notify those reasons to any person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”

;
- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”; and
- (d) after paragraph (2) insert—

“(2A) Nothing in paragraph (2) requires the disclosure of any closed evidence to a person other than—

  - (a) the appointed representative; or
  - (b) a person specified, or of any description specified, in the security direction.”

.

### **Procedure following remitting of appeal**

#### **10. In rule 22—**

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”; and
- (b) after paragraph (1) insert—

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the National Assembly will only send the written statement to—

  - (a) the appointed representative; and
  - (b) a person specified, or of any description specified, in the security direction.”

.

### **Closed evidence not to be disclosed**

#### **11. After rule 25A insert—**

##### **“Closed evidence not to be disclosed**

**25B.** Nothing in these Rules must be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the National Assembly or the Secretary of State;
- (b) the appointed representative; or

- (c) a person specified, or of any description specified, in the security direction.”  
.”

## SCHEDULE 7

Article 46

### MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING (MAJOR INFRASTRUCTURE PROJECT INQUIRIES PROCEDURE) (ENGLAND) RULES 2005

## “SCHEDULE

Rule 27A

### MODIFICATIONS WHERE NATIONAL SECURITY DIRECTION GIVEN

#### **Interpretation**

**1.** In rule 2(1)—

- (a) after the definition of “additional inspector” insert—  
““appointed representative” means a person appointed under—  
(a) section 321(5) or (6) of the Planning Act; or  
(b) paragraph 6A(1) or (2) of Schedule 3 to the Listed Buildings Act;”;
- (b) after the definition of “by local advertisement” insert—  
““closed evidence” means evidence which is subject to a security direction;”;
- (c) after the definition of “relevant notice” insert—  
““security direction” means a direction given by the Secretary of State under—  
(a) section 321(3) of the Planning Act (matters related to national security); or  
(b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”; and
- (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

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

**2.** In rule 9 for paragraph (8) substitute—

- “(8) The Secretary of State shall, as soon as practicable after receipt—  
(a) circulate the open part of any outline statement sent in accordance with paragraphs (4) and (7); and  
(b) send the outline statement sent in accordance with those paragraphs to the appointed representative.”.

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

**3.** In rule 11—

- (a) in paragraph (1)(b) for “copy of it” substitute “copy of his open statement”;
- (b) in paragraph (2)(b) for “copy of it” substitute “copy of his open statement”;
- (c) in paragraph (5) for “deposit it” substitute “deposit any open statement”;

- (d) in paragraph (8) for “statement of case” substitute “open statement”;
- (e) in paragraph (15) after “inspector” insert “and appointed representative”; and
- (f) after paragraph (15) insert—

“(16) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

### **Appearances at inquiry**

- 4. In rule 15(1) after sub-paragraph (a) insert—

“(aa) the appointed representative;”.

### **Proofs of evidence**

- 5. In rule 17—

- (a) in paragraph (1) for “Any person” substitute “Subject to rule (1A), any person”;
- (b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the proof of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, 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 to the Secretary of State 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of—
  - (i) the proof of evidence including closed evidence;
  - (ii) the proof of evidence excluding closed evidence (“the open proof”);and
- (b) simultaneously send copies of the open proof to any statutory party, and the Secretary of State shall, as soon as practicable after receipt, send a copy of each open proof to the local planning authority and the applicant.”;
- (c) in paragraph (2) after “(1)” insert “or (1B)”;
- (d) in paragraph (5) after “inspector” insert “and appointed representative”.

### **Statement of common ground**

- 6. In rule 18—

- (a) in paragraph (1) after “ground” insert “insofar as it does not relate to closed evidence”; and
- (b) after paragraph (2) insert—

“(3) Where the application is made by or behalf of the Crown the appointed representative and the applicant shall—

- (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
- (b) ensure that the Secretary of State receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

### **Site inspections**

- 7. In rule 20—

- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;

- (b) after paragraph (1) insert—
  - “(1A) Paragraph (1) does not apply where a site inspection will involve inspection of closed evidence.”;
- (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
- (d) after paragraph (2) insert—
  - “(2A) Where an accompanied site inspection will involve inspection of closed evidence, paragraph (2) does not apply and the inspector—
    - (a) may inspect the land in the company of the applicant and the appointed representative, where one has been appointed; and
    - (b) shall make such an inspection if so requested by the applicant or the appointed representative before or during an inquiry.”; and
- (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

### **Procedure after inquiry**

#### **8. In rule 21—**

- (a) after paragraph (4) insert—
  - “(4A) Where closed evidence was considered at the inquiry—
    - (a) the inspector and assessor, where one has been appointed, shall set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
    - (b) where an assessor has been appointed, the inspector shall append the closed part of the assessor’s report to the closed part of his own report and shall state in the closed part of his own report how far he agrees or disagrees with the closed part of the assessor’s report and, where he disagrees with the assessor, his reasons for that disagreement.”;
- (b) at the beginning of paragraph (6) insert “Subject to paragraph (6A)”;
- (c) after paragraph (6) insert—
  - “(6A) Where the Secretary of State 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 in relation to closed evidence, the notification referred to in paragraph (6) shall include the reasons for the Secretary of State’s disagreement unless—
    - (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
    - (b) inclusion of the reasons would disclose any part of the closed evidence.”.

### **Notification of decision**

#### **9. In rule 22—**

- (a) at the beginning of paragraph (1) insert “Subject to paragraph (1A)”;
- (b) after paragraph (1) insert—
  - “(1A) Where the Secretary of State’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Secretary of State to notify those reasons to any person other than—
    - (a) the appointed representative; or
    - (b) a person specified, or of any description specified, in the security direction.”
- (c) at the beginning of paragraph (2) insert “Subject to paragraph (2A)”;

(d) after paragraph (2) insert—

“(2A) Nothing in paragraph (2) requires the disclosure of the closed part of the inspector’s report referred to in rule 21(3A) to a person other than—

(a) the appointed representative; or

(b) a person specified, or of any description specified, in the security direction.”

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

**10.** In rule 23—

(a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”; and

(b) after paragraph (1) insert—

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Secretary of State shall only send the written statement to—

(a) the appointed representative; and

(b) such other persons or persons of such description as are specified in the direction.”.

#### **Closed evidence not to be disclosed**

**11.** After rule 26 insert—

##### **“Closed evidence not to be disclosed**

**26A.** Nothing in these Rules shall be taken to require or permit closed evidence to be disclosed to a person other than—

(a) the Secretary of State;

(b) the appointed representative; or

(c) a person specified, or of any description specified, in the security direction.”

”

## **EXPLANATORY NOTE**

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

Part 7 of the Planning and Compulsory Purchase Act 2004 applies the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990 to the Crown. As well as applying the planning Acts to the Crown, Part 7 makes provision for national security, urgent Crown development, enforcement, preservation of trees and old mining permissions.

Section 88 of the 2004 Act gives the Secretary of State power, by order, to apply to the Crown any subordinate legislation made under or for the purposes of the planning Acts. As well as applying subordinate legislation to the Crown, this Order modifies the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and the Town and Country Planning (General Development Procedure) Order 1995 to take account of the new provisions on urgent Crown development (articles 9 and 17) and modifies various sets of Rules relating to the procedure to be followed at planning inquiries to take account of the new provisions dealing with the appointment of persons to represent the interests of any person who is prevented from seeing evidence at a planning inquiry which subject to a national security direction (articles 24, 28, 30, 31, 32, 34, 36, 37, 38, 40 and 41 , and Schedules 2 to 7).

The Order modifies the Town and Country Planning (Use Classes) Order 1987 by adding a new class of development, secure residential institutions. Change of use within that class to another use within that class does not constitute development The Order also adds use as a law court to class D1 which covers non-residential institutions (article 5).

The Order also modifies Part 13 of Schedule 2 to the Town and Country Planning (Permitted Development) Order 1995 to give the Secretary of State planning permission in relation to works carried out under the Highways Act 1980 and adds new Parts 34 to 38 to give the Crown planning permission for certain activities including aviation development, Crown railways, dockyards and lighthouses, development for emergency purposes and development for national security or national defence purposes (article 16 and Schedule 1).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities, voluntary bodies or the public sector.

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