STATUTORY INSTRUMENTS

1988 No. 945

TRIBUNALS AND INQUIRIES

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) Rules 1988

Made - - - -	*24th May 1988*
Laid before Parliament	*16th June 1988*
Coming into force	*7th July 1988*

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971**(a)**, and after consultation with the Council on Tribunals, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) Rules 1988 and shall come into force on 7th July 1988.

Interpretation

2. In these Rules, unless the context otherwise requires, references to sections and Schedules are references to sections of, and Schedules to, the Town and Country Planning Act 1971 and–

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

"the Commission" means the Historic Buildings and Monuments Commission for England;

"conservation area consent" means consent required by section 277A(2)**(b)**;

"development order" has the meaning assigned to it by section 24;

"document" includes a photograph, map or plan;

"inquiry" means a local inquiry in relation to which these Rules apply;

"inspector" means a person appointed by the Secretary of State under Schedule 9 to determine an appeal;

"the land" means the land or building to which an inquiry relates;

"listed building consent" has the meaning assigned to it by section 55(3A)**(c)**;

"local authority" has the meaning assigned to it by section 290(1);

(a) 1971 c.62, applied by the Town and Country Planning Act 1971 (c.78), Schedule 9, paragraph 7.
(b) Section 277A was inserted by the Town and Country Amenities Act 1974 (c.32), section 1(1).
(c) Section 55(3A) was inserted by the Local Government, Planning and Land Act 1980 (c.65), Schedule 15, paragraph 6(3).

"local planning authority" means the body who were responsible for dealing with the application occasioning the appeal;

"pre-inquiry meeting" means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously;

"relevant date" means the date of the written notice informing the appellant and the local planning authority that an inquiry is to be held, and "relevant notice" means that notice;

"the 1974 Rules" means the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974**(a)**;

"section 29(3) party" means–

(a) a person whose representations the inspector is required by the application of section 29(3)**(b)** or by regulations under Part I of Schedule 11**(c)** to take into account in determining an appeal; and

(b) a person whose representations the local planning authority were required by section 29(3) or those regulations to take into account in determining the application occasioning the appeal;

"statement of case" means a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence.

Application of Rules

3.—(1) These Rules apply in relation to any local inquiry held in England or Wales by an inspector before he determines–

(a) an appeal to the Secretary of State in relation to planning permission under section 36**(d)** or under section 36 as applied by section 37**(e)**;

(b) an appeal to the Secretary of State in relation to listed building consent under paragraph 8 of Schedule 11 or under paragraph 8 as applied by paragraph 9 of that Schedule (including an appeal under one or both of those paragraphs as applied by section 56B(2)**(f)**), or in relation to conservation area consent under paragraph 8 or under paragraph 8 as applied by paragraph 9, as those paragraphs are applied by virtue of section 277A**(g)**, including the application by that section of section 56B(2),

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

(2) Where these Rules apply in relation to an appeal which at some time fell to be disposed of in accordance with the Town and Country Planning (Inquiries Procedure) Rules 1988**(h)** or Rules superseded by those Rules**(i)**, any step taken or thing done under those Rules which could have been done under any corresponding provision of these Rules shall have effect as if it had been taken or done under that corresponding provision.

Preliminary information to be supplied by local planning authority

4.—(1) The local planning authority shall, on receipt of a notice informing them that an inquiry is to be held ("the relevant notice"), forthwith inform the Secretary of State and the appellant in writing of the name and address of any section 29(3) party who has made representations to them; and the Secretary of State shall as soon as practicable thereafter inform the appellant and the local planning authority of the name and address of any section 29(3) party who has made representations to him.

(a) S.I. 1974/420, amended by S.I. 1986/420.

(b) *See* section 36(5) and Schedule 9, paragraph 2(1).

(c) The relevant regulations are the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1987 (S.I. 1987/349), regulations 5 and 6.

(d) Section 36 was amended by the Local Government, Planning and Land Act 1980, Schedule 15, paragraph 4(2); by the Town and Country Planning (Minerals) Act 1981 (c.36), Schedule 1, paragraph 3; and by the Housing and Planning Act 1986, Schedule 11, paragraphs 17 and 18.

(e) Section 37 was amended by the Local Government, Planning and Land Act 1980, Schedule 15, paragraph 4(3).

(f) Section 56B was inserted by the Housing and Planning Act 1986, Schedule 9, paragraph 4.

(g) Subsection (8) of section 277A was substituted by the Housing and Planning Act 1986, Schedule 9, paragraph 8(2); see also S.I. 1987/349, regulation 12 and Schedule 3.

(h) S.I. 1988/944.

(i) The Rules superseded are S.I. 1974/419, amended by S.I. 1986/420.

(2) This paragraph applies where–

(a) the Secretary of State or any local authority has given to the local planning authority a direction restricting the grant of planning permission for which application was made; or

(b) in a case relating to listed building consent, the Commission has given a direction to the local planning authority pursuant to paragraph 6(2)(b) of Schedule 11 as to how the application is to be determined; or

(c) the Secretary of State or any other Minister of the Crown or any government department or local authority has expressed in writing to the local planning authority the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions; or

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

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

Notification of identity of inspector

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

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

Service of statements of case etc.

6.—(1) The local planning authority shall, not later than 6 weeks after the relevant date, serve a statement of case on the Secretary of State, the appellant and any section 29(3) party.

(2) Where rule 4(2) applies, the local planning authority shall–

(a) include in their statement of case the terms of–

(i) any direction given together with a statement of the reasons therefor; and

(ii) any view expressed or representation made on which they intend to rely in their submissions at the inquiry; and

(b) within the period mentioned in paragraph (1) supply a copy of their statement to the person or body concerned.

(3) The appellant shall, not later than 9 weeks after the relevant date, serve a statement of case on the Secretary of State, the local planning authority and any section 29(3) party.

(4) The Secretary of State may in writing require any other person who has notified him of an intention or a wish to appear at an inquiry to serve a statement of case, within 4 weeks of being so required, on the appellant, the local planning authority, the Secretary of State and any (or any other) section 29(3) party.

(5) The Secretary of State shall supply any person from whom he requires a statement of case in accordance with paragraph (4) with a copy of the local planning authority's and the appellant's statement of case and shall inform that person of the name and address of every person on whom his statement of case is required to be served.

(6) The Secretary of State may require any person who has served a statement of case in accordance with this rule to provide such further information about the matters contained in the statement as he may specify.

(7) Any person serving a statement of case on the local planning authority shall serve with it a copy of any document, or of the relevant part of any document, referred to in it.

(8) The Secretary of State shall transmit any statement of case served on him in accordance with this rule to the inspector.

(9) The local planning authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any statement or document which, or a copy of which, has been served on them in accordance with any of the preceding paragraphs of this rule, and of any statement so served by them together with a copy of any document, or of the relevant part of any document, referred to in it; and shall specify in the statement served in accordance with paragraph (1) the time and place at which the opportunity will be afforded.

Statements of relevant matters and pre-inquiry meetings

7.—(1) An inspector may, not later than 12 weeks after the relevant date, cause to be served on the appellant, the local planning authority and any section 29(3) party a written statement of the matters which appear to him to be likely to be relevant to his consideration of the appeal.

(2) An inspector may hold a pre-inquiry meeting where he considers it desirable and shall arrange for not less than 14 days written notice of it to be given to the appellant, the local planning authority, any section 29(3) party, any other person known to be entitled to appear at the inquiry and any other person whose presence at the meeting appears to him to be desirable.

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

Inquiry time-table

8. An inspector may at any time arrange a time-table for the proceedings at, or at part of, an inquiry and may at any time vary the time-table.

Notification of appointment of assessor

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

Date and notification of inquiry

10.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than 20 weeks after the relevant date; and where he considers it impracticable to fix a date in accordance with the preceding provisions of this paragraph, the date fixed shall be the earliest date after the end of the period mentioned which he considers to be practicable.

(2) Unless the Secretary of State agrees a lesser period of notice with the appellant and the local planning authority, he shall give not less than 28 days written notice of the date, time and place for the holding of an inquiry to every person entitled to appear at the inquiry.

(3) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the period of 20 weeks mentioned in paragraph (1); and paragraph (2) shall apply to the variation of a date as it applied to the date orginally fixed.

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

(5) The Secretary of State may require the local planning authority to take one or more of the following steps–

(a) to publish not less than 14 days before the date fixed for the holding of an inquiry in one or more newspapers circulating in the locality in which the land is situated such notice of the inquiry as he may direct;

(b) to serve within such period as he may specify notice of an inquiry in such form and on such persons or classes of persons as he may specify;

(c) to post within such period as he may specify such notice of an inquiry as he may direct in a conspicuous place near to the land.

(6) Where the land is under the control of the appellant he shall, if so required by the Secretary of State, affix firmly to the land or to some object on or near the land, in such manner as to be readily visible to and legible by members of the public, such notice of the inquiry as the Secretary of State may specify; and he shall not remove the notice, or cause or permit it to be removed, for such period before the inquiry as the Secretary of State may specify.

Appearances at inquiry

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

(a) the appellant;

(b) the local planning authority;

(c) any of the following bodies if the land is situated in their area and they are not the local planning authority–

(i) a county or district council;

(ii) a National Park Committee within the meaning of paragraph 5 of Schedule 17 to the Local Government Act 1972(**a**);

(iii) a joint planning board constituted under section 1(2) or a joint planning board or special planning board reconstituted under Part I of Schedule 17 to the Local Government Act 1972;

(iv) an urban development corporation established under section 135 of the Local Government, Planning and Land Act 1980;

(d) where the land is in an area designated as a new town, the development corporation for the new town or the Commission for the New Towns as its successor;

(e) a section 29(3) party;

(f) the council of the parish or community in which the land is situated, if that council made representations to the local planning authority in respect of the application in pursuance of a provision of a development order;

(g) where the application was required to be notified to the Commission under paragraph 6 of Schedule 11 (listed building consent in Greater London), the Commission;

(h) any other person who has served a statement of case in accordance with rule 6(4).

(2) Any other person may appear at an inquiry at the discretion of the inspector.

(3) Any person entitled or permitted to appear may do so on his own behalf or be represented by counsel, solicitor or any other person.

(4) The inspector may allow one or more persons to appear for the benefit of some or all of any persons having a similar interest in the matter under inquiry.

Representatives of government departments and other authorities at inquiry

12.—(1) Where–

(a) the Secretary of State, any local authority or the Commission have given a direction such as is described in rule 4(2)(a) or (b); or

(b) the Secretary of State or any other Minister of the Crown or any government department or local authority has expressed a view such as is described in rule 4(2)(c) and the local planning authority have included its terms in a statement served in accordance with rule 6(1),

the appellant may, not later than 14 days before the date of an inquiry, apply in writing to the Secretary of State for a representative of the Secretary of State or of the other Minister, department or body concerned to be made available at the inquiry.

(**a**) 1972 c.70.

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

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

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

Inspector may act in place of Secretary of State

13. An inspector may in place of the Secretary of State take such steps as the Secretary of State is required or enabled to take under or by virtue of rule 6(4) to (6), rule 10, rule 12(1) or (2) or rule 20.

Statements of evidence

14.—(1) A 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 written statement shall send a copy of the statement to the inspector and shall, if so required by the inspector, supply a written summary of that evidence.

(2) The statement shall be sent to the inspector not later than 3 weeks before the date on which the person is due to give evidence in accordance with the time-table arranged pursuant to rule 8 or, if there is no such time-table, 3 weeks before the date fixed for the inquiry, and the summary shall be sent within such period as may be specified by the inspector.

(3) Where the appellant or the local planning authority send a copy of a statement of evidence or a summary to an inspector in accordance with paragraph (1) they shall at the same time send a copy to the other party; and where any other party so sends such a copy statement or summary he shall at the same time send a copy to the appellant and the local planning authority.

(4) Where the inspector has required a written summary of evidence in accordance with paragraph (1), the person giving that evidence at the inquiry shall do so only by reading the written summary, unless permitted by the inspector to do otherwise.

(5) Any person required by this rule to send a copy of a statement of evidence to any other person shall send with it a copy of the whole, or the relevant part of, any documents referred to in it, unless copies of the documents or parts of documents in question have already been made available by the local planning authority pursuant to rule 6(9).

Procedure at inquiry

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

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

(3) A person entitled to appear at an inquiry shall be entitled to call evidence and the appellant, the local planning authority and a section 29(3) party shall be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (4) and (5), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit–

(a) the giving or production of evidence,

(b) the cross-examination of person giving evidence, or

(c) the presentation of any other matter,

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

(5) Where a person gives evidence at an inquiry by reading a summary of his evidence in accordance with rule 14(4), the statement of evidence referred to in rule 14(1) may be tendered in evidence, and the person whose evidence the statement contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

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

(7) The inspector may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify; but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(8) The inspector may allow any person to alter or add to a statement of case served under rule 6 so far as may be necessary for considering any of the matters under inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

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

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

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

Site inspections

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

(2) The inspector may, during an inquiry or after its close, inspect the land in the company of the appellant, the local planning authority and any section 29(3) party, and he shall make such an inspection if so requested by the appellant or the local planning authority before or during an inquiry.

(3) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

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

Procedure after inquiry

17.—(1) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise, and where he does so the inspector shall state in his notification of his decision pursuant to rule 18 that such a report was made.

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

(a) notifying the persons entitled to appear at the inquiry who appeared at it of the matter in question; and

(b) affording to them an opportunity of making written representations to him with respect to it within 21 days of the date of the notification or of asking within that period for the re-opening of the inquiry.

(3) An inspector may, as he thinks fit, cause an inquiry to be re-opened to afford an opportunity for persons to be heard on such matters relating to an appeal as he may specify, and he shall do so if asked by the appellant or the local planning authority in the circumstances and within the period mentioned in paragraph (2); and where an inquiry is re-opened–

(a) the inspector shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the specified matters; and

(b) paragraphs (2) to (6) of rule 10 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

18.—(1) An inspector shall notify his decision on an appeal, and his reasons for it, in writing to all persons entitled to appear at the inquiry who did appear, and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Any person entitled to be notified of the inspector's decision under paragraph (1) may apply to the Secretary of State in writing, within 6 weeks of the date of the decision, for an opportunity of inspecting any documents listed in the notification and any report made by an assessor and the Secretary of State shall afford him that opportunity.

Procedure following quashing of decision

19. Where a decision of an inspector on an appeal in respect of which an inquiry has been held is quashed in proceedings before any court, the Secretary of State–

(a) shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further representations are invited for the purposes of the further consideration of the appeal; and

(b) shall afford to those persons the opportunity of making, within 21 days of the date of the written statement, written representations to him in respect of those matters or of asking for the re-opening of the inquiry; and

(c) may, as he thinks fit, direct that the inquiry be re-opened, and if he does so paragraphs (2) to (6) of rule 10 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Allowing further time

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

Service of notices by post

21. Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be sent by post.

Revocations

22. Subject to rule 23, the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974**(a)** and rule 2(2) of and Schedule 2 to the Town and Country Planning (Various Inquiries) (Procedure) (Amendment) Rules 1986**(b)** are hereby revoked.

Transitional provisions

23.—(1) The following paragraphs of this rule apply where at the date on which these Rules come into force ("the commencement date") an appeal mentioned in rule 3(1) of these Rules is awaiting determination by an inspector.

(a) S.I. 1974/420.
(b) S.I. 1986/420.

(2) Where at the commencement date a local inquiry has been opened, the 1974 Rules shall continue to apply until its close, but these Rules shall regulate the procedure thereafter (including any re-opening of the inquiry).

(3) Where at the commencement date a local inquiry has not been opened, the 1974 Rules shall continue to apply until the inquiry is opened, but these Rules shall apply thereafter.

(4) The 1974 Rules shall continue to apply as respects hearings but only if the appellant or the local planning authority have before the commencement date expressed a wish to be heard.

24th May 1988 *Mackay of Clashfern*, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules regulate the procedure to be followed in connection with local inquiries in England or Wales held by inspectors appointed by the Secretary of State to determine appeals made to him in relation to planning permission, listed building consent and consent for the demolition of unlisted buildings in conservation areas (known as "conservation area consent").

They replace the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974, as amended by the Town and Country Planning (Various Inquiries) (Procedure) (Amendment) Rules 1986, which are revoked, subject to transitional provisions contained in rule 23.

The new Rules provide for a fuller exchange of information among the various interested parties about their respective cases before an inquiry opens, and introduce a more detailed timetable for the steps to be taken before an inquiry. Other new features are that they regulate pre-inquiry meetings and contain provisions relating to assessors, whom the Secretary of State may appoint to sit with and advise inspectors.

The procedural system instituted by the Rules is explained in detail in a Circular dated 16th June 1988 and prepared jointly by the Department of the Environment and the Welsh Office, number 10/88 (Department of the Environment) and 15/88 (Welsh Office). Copies may be purchased through Her Majesty's Stationery Office.