1962 No. 1425

TRIBUNALS AND INQUIRIES

The Town and Country Planning Appeals (Inquiries Procedure) Rules 1962

Made - - - -	*9th July* 1962
Laid before Parliament	13*th July* 1962
Coming into Operation	1*st October* 1962

I, David, Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 7A of the Tribunals and Inquiries Act 1958(a) and of all other powers enabling me in this behalf and after consultation with the Council on Tribunals, hereby make the following Rules :—

Citation and Commencement

1.—(1) These Rules may be cited as the Town and Country Planning Appeals (Inquiries Procedure) Rules 1962.

(2) These Rules shall come into operation on the 1st day of October 1962 but shall not affect any appeals brought before that date.

Application of Rules

2. These Rules shall apply—

(*a*) to local inquiries caused by the Minister of Housing and Local Government to be held for the purpose of appeals to him under section 16 of the Town and Country Planning Act 1947(b) and (to the extent provided in Rule 13 hereof) to hearings before a person appointed by the said Minister for the purpose of such appeals ; and

(*b*) to local inquiries caused by the said Minister to be held for the purpose of appeals to him under the Town and Country Planning Act (Control of Advertisements) Regulations 1960(c) and (to the extent provided in Rule 13 hereof) to hearings before a person appointed by the said Minister for the purpose of such appeals, subject to the following modifications, that is to say—

(i) paragraph (1) of Rule 4 shall not apply and the references in these Rules to section 37 parties shall be omitted ;

(ii) references to development shall be construed as references to the display of advertisements ;

(iii) references to permission shall be construed as references to consent.

Interpretation

3.—(1) In these Rules, unless the context otherwise requires—

"the Act of 1947" means the Town and Country Planning Act 1947 ;

"the Act of 1959" means the Town and Country Planning Act 1959(d) ;

(a) 6 & 7 Eliz. 2. c. 66.
(b) 10 & 11 Geo. 6. c. 51.
(c) S.I. 1960/695 (1960 III, p. 3253).
(d) 7 & 8 Eliz. 2. c. 53.

" the Minister " means the Minister of Housing and Local Government;

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

" appointed person " means the person appointed by the Minister to hold the inquiry;

" the land " means the land (including buildings) to which the inquiry refers;

" local authority " has the meaning assigned to it by subsection (1) of section 119 of the Act of 1947;

" local planning authority " means either (*a*) the local planning authority (within the meaning of section 4 of the Act of 1947) for the area in which the land is situate, or (*b*) an authority exercising delegated functions on behalf of that authority, as the case may be;

" section 37 parties " has the meaning assigned to it by paragraph (3) of Rule 4.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Procedure before Inquiry

4.—(1) The local planning authority, on being notified of the Minister's intention to proceed with the consideration of an appeal to which these Rules relate, shall forthwith inform the Minister and the appellant in writing of the names and addresses of all persons who, pursuant to the provisions of section 37 of the Act of 1959, have made representations to the local planning authority on the application which is the subject of the appeal.

(2) Where the Minister or the Minister of Transport has given a direction restricting the grant of permission for the development for which application was made, the local planning authority shall also inform the Minister or the Minister of Transport, as the case may be, that such direction is relevant to the appeal and the Minister or the Minister of Transport, as the case may be, shall, where he has not already done so, forthwith furnish to the local planning authority a statement in writing of the reasons for the direction.

(3) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Minister who shall give not less than forty-two days' notice in writing of such date, time and place to the appellant and to the local planning authority and to all persons (hereafter referred to as section 37 parties) who, pursuant to the provisions of section 37 of the Act of 1959, have duly made representations on the application which is the subject of the appeal, whether to the local planning authority or to the Minister, at the addresses furnished to the Minister:

Provided that—

(i) with the consent in writing of the appellant and of the local planning authority, the Minister may give such lesser period of notice as shall be agreed with the appellant and the local planning authority and in that event he may specify a date for service of the statement referred to in paragraph (6) of this Rule later than the date prescribed in that paragraph;

(a) 52 & 53 Vict. c. 63.

(ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Minister shall give such notice of the variation as may appear to him to be reasonable in the circumstances.

(4) Without prejudice to the foregoing provisions of this Rule, the Minister may require the local planning authority to take one or more of the following steps, namely—

(*a*) to publish in one or more newspapers circulating in the locality in which the land is situate such notices of the inquiry as he may direct;

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

(*c*) to post such notices of the inquiry as he may direct in a conspicuous place or places near to the land;

but the requirements as to the period of notice contained in paragraph (3) of this Rule shall not apply to any such notices.

(5) Where the land is under the control of the appellant, he shall, if so requested by the Minister, affix firmly to some object on the land in such a manner as to be readily visible to and legible by the public such notice of the inquiry as the Minister may specify and thereafter for such period prior to the inquiry as the Minister may specify the appellant shall not remove such notice, or cause or permit the same to be removed.

(6) Not later than twenty-eight days before the date of the inquiry (except where the Minister specifies a later date under proviso (i) to paragraph (3) of this Rule), the local planning authority shall serve on the appellant and on the section 37 parties a written statement of the submissions which the local planning authority propose to put forward at the inquiry and shall supply a copy of the statement to the Minister.

(7) Where the Minister or the Minister of Transport has given a direction restricting the grant of permission for the development for which application was made, the local planning authority shall mention this in their statement and shall include in the statement a copy of the direction and the reasons given for it; and where a government department 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 and the local planning authority propose to rely on such expression of view in their submissions at the inquiry, they shall include it in their statement and shall supply a copy of the statement to the government department concerned.

(8) Where the local planning authority intend to refer to or put in evidence at the inquiry documents (including maps and plans), the authority's statement shall be accompanied by a list of such documents, together with a notice stating the times and place at which the documents may be inspected by the appellant and the section 37 parties; and the local planning authority shall afford them a reasonable opportunity to inspect and, where practicable, take copies of the documents.

(9) The local planning authority shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of the authority's statement and the other documents referred to in the last foregoing paragraph.

Appearances at Inquiry

5.—(1) The persons entitled to appear at the inquiry shall be—

(*a*) the appellant;

(*b*) the local planning authority (within the meaning of section 4 of the Act of 1947) for the area in which the land is situate ;

(*c*) where the land is situate in a united district for which a joint planning board has been constituted under section 4 of the Act of 1947, the council of the administrative county in which the land is situate ;

(*d*) where the land is situate within the administrative county of London, the Common Council of the City of London or, in the case of land outside the City, the council of the metropolitan borough in which the land is situate ;

(*e*) where the land is not situate within the administrative county of London or a county borough, the council of the county district in which the land is situate, or the Council of the Isles of Scilly, as the case may be ;

(*f*) section 37 parties ;

(*g*) any persons on whom the Minister has required notice to be served under sub-paragraph (*b*) of paragraph (4) of Rule 4.

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

(3) A local authority may appear by their clerk or by any other officer appointed for the purpose by the local authority, or by counsel or solicitor, and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.

(4) Where there are two or more persons having a similar interest in the matter under inquiry the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

Representatives of the Minister at Inquiry

6. Where the Minister has given a direction restricting the grant of permission for the development for which application was made, the appellant may, not later than fourteen days before the date of the inquiry, apply in writing to the Minister to make a representative of his Department available at the inquiry ; and in that case the Minister shall make a representative of his Department available who shall at the inquiry answer questions in elucidation of the statement of the reasons given for the Minister's direction, not being questions which, in the opinion of the appointed person, are directed to the merits of Government policy.

Representatives of Other Government Departments at Inquiry

7.—(1) Where either—

(*a*) the Minister of Transport has given a direction restricting the grant of permission for the development for which application was made, or

(*b*) a government department 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 and the local planning authority have set out such view in their statement as required by paragraph (7) of Rule 4,

the appellant may, not later than fourteen days before the date of the inquiry apply in writing to the Minister for a representative of the Ministry of Transport or other government department concerned to be made available at the inquiry.

(2) The Minister shall transmit any application made to him under the last foregoing paragraph to the Ministry of Transport or other government department concerned who shall make a representative of the department available to attend the inquiry.

(3) A representative of a government department attending the inquiry in pursuance of this Rule shall be called as a witness by the local planning authority and shall state the reasons for the direction or view referred to in paragraph (1) hereof and shall give evidence and be subject to cross-examination to the same extent as other witnesses, provided that the appointed person shall disallow any questions which in his opinion are directed to the merits of Government policy.

Procedure at Inquiry

8.—(1) Except as otherwise provided in these Rules, the procedure at the inquiry shall be such as the appointed person shall in his discretion determine.

(2) Unless in any particular case the appointed person 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 appointed person may determine.

(3) The appellant, the section 37 parties and the local planning authority shall be entitled to call evidence and cross-examine persons giving evidence, but any other persons appearing at the inquiry may do so only to the extent permitted by the appointed person.

(4) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest; but, save as aforesaid and without prejudice to the provisions of Rule 6 and paragraph (3) of Rule 7, any evidence may be admitted at the discretion of the appointed person, who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.

(5) The appointed person may allow the local planning authority to alter or add to the submissions contained in the statement served under paragraph (6) of Rule 4 or any list of documents which accompanied such statement so far as may be necessary for the purpose of determining the questions in controversy between the parties, but shall (if necessary by adjourning the inquiry) give the appellant and the section 37 parties an adequate opportunity of considering any fresh submission or document and may make in his report a recommendation as to the payment of any additional costs occasioned by such an adjournment.

(6) If any person entitled to appear at the inquiry fails to do so, the appointed person may proceed with the inquiry at his discretion.

(7) The appointed person shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statement made prior to the inquiry by any person entitled to appear at, but who, for whatever reason, does not attend, the inquiry.

(8) The appointed person may from time to time adjourn the 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

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

(2) The appointed person may, and shall if so requested by the appellant or the local planning authority before or during the inquiry, inspect the land after the close of the inquiry and shall, in all cases where he intends to make such an inspection, announce during the inquiry the date and time at which he proposes to do so.

(3) The appellant, the local planning authority and the section 37 parties shall be entitled to accompany the appointed person on any inspection after the close of the inquiry but the appointed person shall not be bound to defer his inspection if any person entitled to accompany him is not present at the time appointed.

Procedure after inquiry

10.—(1) The appointed person shall after the close of the inquiry make a report in writing to the Minister which shall include the appointed person's findings of fact and his recommendations, if any, or his reason for not making any recommendations.

(2) Where the Minister—

(*a*) differs from the appointed person on a finding of fact, or

(*b*) after the close of the inquiry receives any new evidence (including expert opinion on a matter of fact) or takes into consideration any new issue of fact (not being a matter of Government policy) which was not raised at the inquiry,

and by reason thereof is disposed to disagree with a recommendation made by the appointed person, he shall not come to a decision which is at variance with any such recommendation without first notifying the appellant, the local planning authority and any section 37 party who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within twenty-one days or (if the Minister has received new evidence or taken into consideration any new issue of fact not being a matter of Government policy) of asking within twenty-one days for the reopening of the inquiry.

(3) The Minister may in any case if he thinks fit cause the inquiry to be reopened, and shall cause it to be reopened if asked to do so in accordance with the last foregoing paragraph; and if the inquiry is reopened paragraphs (3) and (4) of Rule 4 shall apply as they applied to the original inquiry, with the substitution in paragraph (3) of the words "twenty-eight" for the words "forty-two".

Notification of Decision

11.—(1) The Minister shall notify his decision, and his reasons therefor, in writing to the appellant, the section 37 parties and the local planning authority and to any person who, having appeared at the inquiry, has asked to be notified of the decision; and, where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and recommendations.

(2) If any person entitled to be notified of the Minister's decision under the last foregoing paragraph has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Minister within one month from the date of his decision.

(3) For the purposes of this Rule, "report" does not include documents, photographs or plans appended to the report.

Service of Notices by Post

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

Hearings

13. These Rules, except paragraphs (4) and (5) of Rule 4 and sub-paragraph (*g*) of paragraph (1) of Rule 5, shall apply to any such hearing as is mentioned in Rule 2 hereof and for that purpose references in these Rules to an inquiry shall be construed as references to such a hearing.

Dated 9th July 1962.

Kilmuir, C.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules prescribe the procedure to be followed at local inquiries and hearings held in connection with appeals to the Minister of Housing and Local Government under section 16 of the Town and Country Planning Act 1947, or under the Town and Country Planning Act (Control of Advertisements) Regulations 1960.

Rule 4 prescribes the procedure before an inquiry. Not less than 42 days' notice of the inquiry must be given by the Minister, unless the parties agree to shorter notice. The local planning authority is required to serve on the appellant, and on any owner or agricultural tenant who has made representations under section 37 of the Town and Country Planning Act 1959, a statement of the submissions which the authority propose to put forward at the inquiry. The statement must include a copy of any direction given by the Minister or the Minister of Transport restricting the grant of permission for the development for which application was made to the local planning authority, as well as any views expressed in writing by a government department in opposition to the application on which the authority propose to rely. Any persons interested must be given a reasonable opportunity of inspecting and taking copies of the statement.

Rule 5 describes the persons who may appear at the inquiry while Rules 6 and 7 provide for the representation at the request of the appellant of any government department which has imposed restrictions on the development in question or has expressed views in opposition to the application.

Rule 8 prescribes the procedure at the inquiry and Rule 9 makes provision for the inspection of the site by the person appointed to hold the inquiry.

Rule 10 provides for the appointed person making a report to the Minister which must include his findings of fact and his recommendations, if any, or reasons for not making any recommendations. Where the Minister differs from the appointed person on a finding of fact or after the close of the inquiry receives new evidence (including expert opinion on a matter of fact) or takes into consideration any new issue of fact (not being a matter of Government policy) and is in consequence disposed to disagree with any recommendation made by the appointed person, he must not come

to a decision at variance with the recommendation without first giving the appellant, the local planning authority and any "section 37 party" who appeared at the inquiry an opportunity of making representations or (if the Minister has received new evidence or taken a new issue of fact into consideration) of having the inquiry re-opened.

Rule 11 requires the Minister to notify his decision and reasons to the appellant, the local planning authority and the "section 37 parties" and to any other person who appeared at the inquiry and who has asked to be notified.