STATUTORY INSTRUMENTS

2013 No. 2137

TRIBUNALS AND INQUIRIES, ENGLAND

The Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013

Made - - - -	*27th August 2013*
Laid before Parliament	*3rd September 2013*
Coming into force - -	*1st October 2013*

The Lord Chancellor, in exercise of the powers conferred by section 9 of the Tribunals and Inquiries Act 1992(**a**) makes the following Rules:

Citation, commencement and application

1.—(1) These Rules may be cited as the Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013 and shall come into force on 1st October 2013.

2. These Rules apply in relation to England only.

Amendments to the Town and Country Planning (Inquiries Procedure) (England) Rules 2000

3.—(1) The Town and Country Planning (Inquiries Procedure) (England) Rules 2000(**b**) are amended in accordance with this rule.

(2) After rule 23A (modifications where national security direction given and for urgent Crown development or works) insert—

"Modifications for most appeals

23B.—(1) Subject to paragraph (2) these Rules shall apply subject to the modifications set out in this rule in relation to an appeal made under—

(a) section 78 of the Planning Act;

(b) section 20 of the Listed Buildings Act; or

(c) section 20 of the Listed Buildings Act as applied by section 74(3) of that Act.

(2) These modifications shall not apply—

(**a**) 1992 c. 53. Section 9 was amended by S.I. 2013/2042 which removed the requirement to consult the Administrative Justice and Tribunals Council. The Administrative Justice and Tribunals Council was substituted for the Council on Tribunals by a substitution of the definition "Council" in section 16 of the 1992 Act by paragraph 30(a) of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 9 has also been amended in ways not relevant to these Rules.

(**b**) S.I. 2000/1624, as amended by S.I. 2002/1223, 2003/956, 2006/1282, 2008/2831 and 2009/455.

(a) where a direction is given by the Secretary of State under section 321(3) of the Planning Act(**a**) or paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security)(**b**);

(b) where section 293A of the Planning Act or section 82B of the Listed Buildings Act (urgent Crown development)(**c**) applies;

(c) in relation to type A or type B appeals within the meaning in article 33(7) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (appeals)(**d**); or

(d) in relation to any appeal transferred out of Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009(**e**) under regulation 9 of those Regulations.

(3) In rule 2 (interpretation)—

(a) after the definition of "document" insert—

""draft statement of common ground" means the draft statement of common ground (if any) submitted in accordance with article 33 of the 2010 Order or regulation 8 of the Listed Buildings Regulations(**f**)";

(b) after the definition of "electronic communication" insert—

""full statement of case"—

(a) means, in relation to the applicant, the full statement of case submitted with their notice of appeal under article 33 of the 2010 Order or regulation 8 of the Listed Buildings Regulations; and

(b) in relation to everyone else means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward and copies of any documents which that person intends to refer to or put in evidence;";

(c) after the definition of "the Listed Buildings Act" insert—

""the Listed Buildings Regulations" means the Planning (Listed Buildings and Conservation Areas) Regulations 1990(**g**);";

(d) after the definition of "local planning authority" insert—

""the 2010 Order" means the Town and Country Planning (Development Management Procedure) (England) (Order) 2010(**h**)";

(e) for the definition of "outline statement" substitute—

""outline statement" means—

(a) in relation to the applicant, the full statement of case submitted with their notice of appeal under article 33 of the 2010 Order or regulation 8 of the Listed Buildings Regulations; and

(b) in relation to everyone else, a written statement of the principal submissions which a person proposes to put forward at an inquiry."; and

(f) omit the definition of "statement of case".

(4) In rule 5 (procedure where Secretary of State causes pre-inquiry meeting to be held)—

(**a**) Section 321 has been amended in ways not relevant to these Rules.
(**b**) Paragraph 6 has been amended in ways not relevant to these Rules.
(**c**) Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5); section 82B was inserted by section 83(1) of that Act.
(**d**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment.
(**e**) S.I. 2009/452.
(**f**) S.I. 1990/1519, as amended by S.I. 2004/3341 and Regulations coming into force on the same day as this amendment.
(**g**) S.I. 1990/1519, as amended by S.I. 2004/3341 and Regulations coming into force on the same day as this amendment, and in other ways not relevant to these Rules.
(**h**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment and in other ways not relevant to these Rules.

(a) in paragraph (2)(d) omit "the applicant and"; and

(b) in paragraph (3) omit the words from "and a copy of the applicant's" to the end.

(5) In rule 6 (receipt of statements of case etc)—

(a) in the title insert "full" before "statements of case";

(b) substitute "full statement of case" for "statement of case" wherever it appears;

(c) for paragraph (3) substitute—

"(3) As soon as practicable after receiving the information in rule 4(1) (preliminary information to be supplied by local planning authority) the applicant shall ensure that a copy of their full statement of case has been received by any statutory party.

(3A) In any case where a pre-inquiry meeting is held pursuant to rule 5, the applicant may modify their full statement of case following that meeting.

(3B) Where paragraph 3A applies, and the applicant wishes to make modifications, they shall ensure that a copy of their modified full statement of case has been received by the Secretary of State, the local planning authority and any statutory party within 4 weeks of the conclusion of that pre-inquiry meeting.";

(d) in paragraph (4) omit the words from "and a copy of the applicant's" to the end;

(e) omit paragraph (5);

(f) in paragraph (8)—

(i) substitute "either of them" for the first "him"; and

(ii) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "in accordance with this rule";

(g) omit paragraph (11);

(h) in paragraph (13)—

(i) in sub-paragraph (a) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "in accordance with this rule"; and

(ii) in sub-paragraph (b) omit from "together with a copy" to "comprised in that statement"; and

(i) in paragraph (16) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "in accordance with this rule", and omit "in this Rule".

(6) In rule 10(8)(d) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "pursuant to rule 6".

(7) In rule 11(1)(h) (appearances at inquiry) substitute "full statement of case" for "statement of case".

(8) In rule 15(10) (procedure at inquiry)—

(a) substitute "full statement of case" for "statement of case" and

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "under rule 6".

(9) In rule 21(1)(b) (additional copies)—

(a) substitute "full statement of case" for "statement of case"; and

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "with rule 6".

(10) In rule 23(2)(c) (Mayor of London: modifications to rule 5)—

(a) for paragraph (i) substitute—

"(i) in paragraph (2)(d) after "the local planning authority" insert "and the Mayor";"

(b) in paragraph (ii) in the substituted paragraph (3)—

(i) in sub-paragraph (a) substitute "statement" for "statements" and omit "the applicant and"; and

(ii) in sub-paragraph (b) substitute "statement" for "statements" and omit "the applicant and".

(11) In rule 23(2)(d) (Mayor of London: modifications to rule 6)—

(a) substitute "full statement of case" for "statement of case" wherever it appears;

(b) for paragraph (ii) substitute—

"(ii) in paragraph (3) insert "and the Mayor, and that the Mayor has received a copy of their draft statement of common ground" after "any statutory party";

(iia) in paragraph (3B) insert ", the Mayor" after "local planning authority"; "

(c) in paragraph (iii) in the substituted paragraph (4)—

(i) in sub-paragraph (a) substitute "statement" for "statements" and omit "the applicant and";

(ii) in sub-paragraph (b) substitute "statement" for "statements" and omit "the applicant and"; and

(d) omit paragraph (iv)."

Amendments to the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

4.—(1) Subject to rule 6, the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000(**a**) are amended in accordance with this rule.

(2) In rule 2 (interpretation)—

(a) after the definition of "document" insert—

""draft statement of common ground" means the draft statement of common ground (if any) submitted in accordance with article 33 of the 2010 Order(**b**) or regulation 8 of the Listed Buildings Regulations(**c**)";

(b) after the definition of "electronic communication" insert—

""full statement of case"—

(a) means, in relation to the applicant, the full statement of case submitted with their notice of appeal under article 33 of the 2010 Order or regulation 8 of the Listed Buildings Regulations; and

(b) in relation to everyone else means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward and copies of any documents which that person intends to refer to or put in evidence;";

(c) after the definition of "the Listed Buildings Act" insert—

""the Listed Buildings Regulations" means the Planning (Listed Buildings and Conservation Areas) Regulations 1990(**d**);";

(**a**) S.I. 2000/1625, as amended by S.I. 2003/956, 2008/2831 and 2009/455.
(**b**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment.
(**c**) S.I. 1990/1519, as amended by S.I. 2004/3341 and Regulations coming into force on the same day as this amendment.
(**d**) S.I. 1990/1519, as amended by S.I. 2004/3341, Regulations coming into force on the same day as this amendment and in other ways not relevant to these Rules.

(d) after the definition of "local planning authority" insert—

""the 2010 Order" means the Town and Country Planning (Development Management Procedure) (England) (Order) 2010(**a**)"; and

(e) omit the definition of "statement of case".

(3) In rule 4(4) (preliminary information to be supplied by local planning authority) substitute "1 week" for "2 weeks".

(4) In rule 6 (receipt of statements of case etc)—

(a) in the title insert "full" before "statements of case";

(b) substitute "full statement of case" for "statement of case" wherever it appears;

(c) in paragraph (1) substitute "5 weeks" for "6 weeks";

(d) for paragraph (3) substitute—

"(3) As soon as practicable after receiving the information in rule 4(1) (preliminary information to be supplied by local planning authority), the appellant shall ensure that a copy of their full statement of case has been received by any statutory party.";

(e) in paragraph (4) omit the words from "and a copy of the appellant's" to the end;

(f) omit paragraph (5);

(g) in paragraph (8) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "in accordance with these Rules";

(h) omit paragraph (11);

(i) in paragraph (12) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "in accordance with this rule", and omit the words "in this rule"; and

(j) in paragraph (13)—

(i) in sub-paragraph (a) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "in accordance with this rule"; and

(ii) in sub-paragraph (b) omit from "together with a copy" to "comprised in that statement".

(5) In rule 7(1) (statement of matters and pre-inquiry meetings) substitute "10 weeks" for "12 weeks".

(6) In rule 10 (date and notification of inquiry)—

(a) in paragraph (1)(a) substitute "16 weeks" for "20 weeks";

(b) in paragraph (3) substitute "16 weeks" for "20 weeks"; and

(c) in paragraph (7)(d) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "pursuant to rule 6".

(7) In rule 11(1)(h) (appearances at inquiry) substitute "full statement of case" for "statement of case".

(8) In rule 15(1)(b) (statement of common ground) substitute "5 weeks" for "6 weeks".

(9) In rule 16(10) (procedure at inquiry)—

(a) substitute "full statement of case" for "statement of case"; and

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "under rule 6".

(10) In rule 22(1)(a) (additional copies)—

(a) substitute "full statement of case" for "statement of case"; and

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(**a**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment and other ways not relevant to these Rules.

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "with rule 6".

(11) In rule 24(2)(c) (Mayor of London: modifications to rule 6)—

(a) substitute "full statement of case" for "statement of case" wherever it appears;

(b) for paragraph (ii) substitute—

"(ii) in paragraph (3) insert "and the Mayor, and that the Mayor has received a copy of their draft statement of common ground" after "any statutory party";"

(c) in paragraph (iii) in the substituted paragraph (4)—

(i) in sub-paragraph (a) substitute "statement" for "statements" and omit "the appellant and"; and

(ii) in sub-paragraph (b) substitute "statement" for "statements" and omit "the appellant and"; and

(d) omit paragraph (iv).

Amendments to the Town and Country Planning (Hearings Procedure) (England) Rules 2000

5.—(1) Subject to rule 6, the Town and Country Planning (Hearings Procedure) (England) Rules 2000(**a**) are amended in accordance with this rule.

(2) In rule 2 (interpretation)—

(a) after the definition of "document" insert—

""draft statement of common ground" means the draft statement of common ground (if any) submitted in accordance with article 33 of the 2010 Order(**b**) or regulation 8 of the Listed Buildings Regulations(**c**)";

(b) after the definition of "electronic communication" insert—

""full statement of case"—

(a) means, in relation to the appellant, the full statement of case submitted with their notice of appeal under article 33 of the 2010 Order or regulation 8 of the Listed Buildings Regulations; and

(b) in relation to everyone else means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward and copies of any documents which that person intends to refer to or put in evidence;";

(c) omit the definition of "hearing statement"; and

(d) after the definition of "Listed Buildings Act" insert—

""the Listed Buildings Regulations" means the Planning (Listed Buildings and Conservation Areas) Regulations 1990(**d**);";

(e) after the definition of "non-transferred appeal" insert—

""the 2010 Order" means the Town and Country Planning (Development Management Procedure) (England) (Order) 2010(**e**);";

(f) after the definition of "starting date" insert—

""statement of common ground" means a written statement prepared jointly by the local planning authority and the appellant, which contains agreed factual information about the proposal which is the subject of the appeal.".

(**a**) S.I. 2000/1626, as amended by S.I. 2003/956 and 2009/455.
(**b**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment.
(**c**) S.I. 1990/1519, as amended by S.I. 2004/3341 and Regulations coming into force on the same day as this amendment.
(**d**) S.I. 1990/1519, as amended by S.I. 2004/3341, Regulations coming into force on the same day as this amendment and in other ways not relevant to these Rules.
(**e**) S.I. 2010/2184, as amended by an Order coming into force on the same day as this amendment and in other ways not relevant to these Rules.

(3) In rule 4(2) (preliminary information to be supplied by local planning authority) substitute "1 week" for "2 weeks".

(4) In rule 6 (receipt of hearing statements etc)—

(a) in the title substitute "full statements of case" for "hearing statements";

(b) substitute "full statement of case" for "hearing statement" wherever it appears;

(c) for paragraph (1) substitute—

"(1) As soon as practicable after receiving the information in rule 4(1) (preliminary information to be supplied by local planning authority), the appellant shall ensure that a copy of their full statement of case has been received by any statutory party.

(1A) The local planning authority shall ensure that, within 5 weeks of the starting date, 2 copies of their full statement of case have been received by the Secretary of State, and that a copy has been received by any statutory party.";

(d) in paragraph (3) substitute "5 weeks" for "6 weeks";

(e) in paragraph (5)(a) substitute "paragraph (1A)" for "paragraph (1)";

(f) in paragraph (6)(a) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "under paragraph (5)"; and

(g) in paragraph (7) substitute "paragraphs (1A) to (3), article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" for "paragraphs (1) to (3)".

(5) After rule 6 insert—

"Statement of common ground

6A.—(1) The local planning authority and the appellant shall—

(a) together prepare an agreed statement of common ground; and

(b) ensure that the Secretary of State receives it and that any statutory party receives a copy of it within 5 weeks of the starting date.

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

(3) For the purposes of the previous paragraph, an opportunity shall be taken to have been afforded to a person where the person is notified of—

(a) publication of the statement of common ground on a website;

(b) the address of the website; and

(c) the place on the website where the document may be accessed and how it may be accessed.".

(6) In rule 7 (date and notification of hearing)—

(a) in paragraph (1)(a) substitute "10 weeks" for "12 weeks";

(b) in paragraph (3) substitute "10 weeks" for "12 weeks"; and

(c) in paragraph (6)(d) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "pursuant to rule 6".

(7) In rule 11(9) (procedure at hearing)—

(a) substitute "full statement of case" for "hearing statement"; and

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations," after "received under rule 6".

(8) In rule 18(2)(a) (further time and additional copies)—

(a) substitute "full statement of case" for "hearing statement"; and

(b) insert ", article 33 of the 2010 Order, or regulation 8 of the Listed Buildings Regulations" after "rule 6".

(9) In rule 20(2)(c) (Mayor of London: modifications to rule 6) for paragraph (i) substitute—

"(i) in paragraph (1) insert "and the Mayor, and that the Mayor has received a copy of their draft statement of common ground" after "any statutory party";

(ia) in paragraph (1A) insert "and the Mayor" after "The local planning authority" and substitute "3" for "2";"; and

(10) After rule 20(2)(c) insert—

"(ca) in rule 6A(1) after "The local planning authority" insert ", the Mayor"."

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6. Rules 4 and 5 do not apply in relation to—

(a) type A or type B appeals (within the meaning in article 33(7) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (appeals)(**a**)); or

(b) any appeal transferred out of Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009(**b**) under regulation 9 of those Regulations.

Transitional provisions

7.—(1) These Rules do not apply in relation to—

(a) any appeal under section 78(1) of the Planning Act(**c**) or section 20(1) of the Listed Buildings Act relating to an application determined before these Rules come into force; or

(b) any appeal under section 78(2) of the Planning Act(**d**) or section 20(2)(**e**) of the Listed Buildings Act if the relevant period referred to in those paragraphs expired before these Rules come into force.

(2) In this rule—

"the Listed Buildings Act" means the Planning (Listed Buildings and Conservation Areas) Act 1990(**f**); and

"the Planning Act" means the Town and Country Planning Act 1990(**g**).

Signed by authority of the Lord Chancellor

McNally
Minister of State
Ministry of Justice

27th August 2013

(**a**) S.I. 2010/2184, as amended by an Order coming into force on the same day as these Rules and in other ways not relevant to these Rules.
(**b**) S.I. 2009/452.
(**c**) Section 78(1) was amended by paragraph 11 of Schedule 12 to the Localism Act 2011 (c. 20).
(**d**) Section 78(2) was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34), section 43(2) of the Planning and Compulsory Purchase Act 2004 (c. 5) (in force in relation to England only, *see* S.I. 2009/384), and section 123(3) of the Localism Act 2011.
(**e**) Section 20(2) was amended by section 43(4) of the Planning and Compulsory Purchase Act 2004 (in force in relation to England only, *see* S.I. 2009/384).
(**f**) 1990 c. 9.
(**g**) 1990 c. 8.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the procedure for hearings and inquiries held in relation to most appeals made under section 78 of the Town and Country Planning Act 1990 ("the Planning Act"), and section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act"). They do not apply where the Secretary of State has issued a national security direction, or in relation to urgent Crown development. They do not apply in relation to type A or B appeals within the meaning in article 33(7) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 ("the DMPO") (appeals relating to development that is substantially the same as development in respect of which an enforcement notice has been served). They also do not apply in relation to any appeal transferred out of Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (expedited written representations procedure).

Article 33(2)(b) of the DMPO sets out the documents that must be submitted with an appeal form in relation to appeals made under section 78 of the Planning Act. Similar provision is made in relation to listed building and conservation area appeals in regulation 8 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990. At the same time as making these Rules, we are amending article 33(2)(b) and regulation 8 so that the appellant is required to provide their "full statement of case" and a draft statement of common ground to the Secretary of State, copied to the local planning authority, when making an appeal. This is effected through the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2013 ("the DMPO Amendment Order") and the Planning (Listed Buildings and Conservation Areas) (Amendment No. 2) (England) Order 2013 ("the Listed Buildings Amendment Regulations"). For inquiries, the full statement of case now includes copies of the documents the party intends to rely on, rather than a list of those documents.

This means that the appellant is now required to submit their full case when they make an appeal, and these Rules make a number of changes that follow on from that. The "full statement case" replaces both hearing statements and statements of case so that the terminology is the same for both hearings and inquiries. It also replaces the appellant's outline statement for pre-inquiry meetings in relation to inquiries determined by the Secretary of State. The appellant will be required to send their full statement of case to any statutory parties, as soon as practicable after they receive the relevant details.

The appellant will already have sent a copy of their full statement of case to the local planning authority when they submitted their appeal. Therefore, these Rules remove the requirement for the appellant to send the Secretary of State an additional copy for the Secretary of State to send to the local planning authority. Where the Mayor of London needs a copy of the appellant's full statement of case, and draft statement of common ground, this will be sent directly by the appellant.

In relation to inquiries determined by Inspectors, and hearings, these Rules change the timings for certain stages in the procedure. The local planning authority will have one week less to notify relevant third parties that an appeal has been made. They will also have one week less to submit their full statement of case, and the parties will have one week less to agree a statement of common ground. These Rules also introduce the statement of common ground into the hearings procedure. Inquiries determined by inspectors and hearings will be held sooner where practicable; the date is brought forward by 4 weeks for such inquiries, and 2 weeks for hearings.

Similar changes are being made to the written representations procedure at the same time through the Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013 ("the Written Representations Amendment Regulations"). Under this procedure, the parties to the appeal make written submissions and the Secretary of State, or an Inspector on his behalf, determines the appeal without hearing any oral representations.

A combined impact assessment is being prepared for these Rules, the DMPO Amendment Order, the Listed Buildings Amendment Regulations and the Written Representations Amendment Regulations. The assessment will be placed in the Library of each House of Parliament and on the Department for Communities and Local Government website (https://www.gov.uk/government/organisations/department-for-communities-and-local-government).

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