**EXPLANATORY MEMORANDUM TO**

**THE TOWN AND COUNTRY PLANNING (HEARINGS AND INQUIRIES PROCEDURES) (ENGLAND) (AMENDMENT) RULES 2009**

**2009 No.455**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 To make amendments to the Town and Country Planning (Hearings Procedure) (England) Rules 2000, the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, the Town and Country Planning (Inquiries Procedure)(England) Rules 2000 and the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005. These amendments deal with a number of issues raised by the Joint Committee on Statutory Instruments (JCSI) when the SIs listed above were originally made and implement two policies aimed at speeding up the hearing and inquiry process.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The 2000 Rules were reported for defective drafting by the JCSI in their 27th Report dated 25th July 2000 and the 2005 Rules were reported by the JCSI in their ninth report dated 22 November 2005. The amendments aim to address directly the issues raised by the JCSI and ensure consistency across the various Rules.

## 4. Legislative Context

4.1 Part 3 of the Town and Country Planning Act 1990 ("the 1990 Act") makes provision for the control of development of land and in particular requires planning permission for development. Planning permission may be granted on application or by general or local development order. Under section 78 of the 1990 Act there is a right to appeal against planning decisions and failure to take such decisions. Appeals under section 78 may be dealt with at an inquiry, hearing or by written representations. The Rules which are being amended by this instrument set out the procedures to be followed in the case of hearings and inquiries.

4.2 Although the Rules are made by the Lord Chancellor under section 9 of the Tribunals and Inquiries Act 1992, the Department for Communities and Local Government has policy responsibility for Town and Country Planning and some of the amendments made by this instrument are linked with a wider number of changes to the appeal processes generally.

4.3 As explained above, the majority of the amendments address issues raised by the JCSI when the various Rules were first laid before Parliament.

## 5. Territorial Extent and Application

5.1 This instrument applies to England only.

## 6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

7.1 The current planning appeals system in England is widely recognised for delivering a high quality service. However the system's efficiency and effectiveness is being threatened by the sheer volume of appeals being received. In 2007-08 the Planning Inspectorate dealt with over 22,000 planning appeals in England. This represents a significant increase from around 14,000 in 1997-98. Due to the current economic climate we expect around 18,000 appeals in 2009/10 – around 15% lower than the Planning Inspectorate is currently receiving, but still significantly more than a decade ago.

7.2 The public consultation document, *"Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced"*, published in May 2007, set out a number of proposals to improve the appeals system, with the aim of delivering quicker appeal decisions through streamlined processes, without compromising the quality of decision.

7.3 This instrument gives effect to two of the proposals from that consultation.

7.4 The first relates to the Statement of Common Ground (SoCG) - a written statement prepared jointly by the local planning authority and the appellant that contains agreed factual information about the proposal. This is required for appeals determined via an inquiry. Under the present system, parties are not required to submit a SoCG until 4 weeks before the inquiry date. This is after they have submitted initial grounds for appeal/refusal and statements of case (written statements containing full particulars of the case). By bringing the timetable forward, to require submission 6 weeks after the start of the appeal process, parties will be producing the SoCG at the same time as their statements of case. It is therefore more likely that the SoCG will inform the statements of case and vice-versa. This cross referencing should reduce the volume of evidence produced, and thereby the length of the inquiry, making the system more efficient and cost effective for all involved.

7.5 The other proposal relates to the nine week comment stage for hearings and inquiries. Currently, parties to appeals decided by hearing or inquiry are offered a final opportunity to comment in writing at the nine week stage. However, there is already an opportunity at the hearing or inquiry for such additional comments to be made. Furthermore, for inquiries in particular, this opportunity to comment in writing is rarely used. Removing this, largely redundant, requirement for the nine week comment stage will speed up the appeal process.

7.6 The opportunity has also been taken to correct defective drafting reported by the Joint Committee on Statutory Instruments (JCSI) when the Town and Country Planning (Hearings Procedure) (England) Rules 2000, the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, the Town and Country Planning (Inquiries Procedure)(England) Rules 2000 and the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005 were first made.

7.7 The JCSI reported that the 2000 Hearings, Inspectors and Inquiries Rules did not impose a requirement on the Secretary of State to serve a "relevant notice" (defined in the Rules) or a written notice that he has received all of the documents required to enable him to entertain the appeal. Consequently, defining "starting date" by reference to these notices was not in accordance with proper drafting practice.

7.8 The instrument addresses this issue by substituting a clearer definition of starting date for these purposes in each of the rules. It also imposes a requirement on the Secretary of State to serve

notice on the appellant and the local planning authority informing them that the appeal is to proceed at a hearing or inquiry, as the case may be.

7.9 Rule 6(6) of the Inspectors and Inquiries Rules is amended to make it clear that statements of case should be sent to the Secretary of State **and statutory parties** within 4 weeks of being so required.

7.10 The JCSI identified an inconsistency between the Hearings Rules and the Inspectors and Inquiries Rules in respect of the rule relating to calling evidence at an inquiry. Under the Hearings Rules there are exclusions for irrelevance and for disruptive behaviour whereas under the Inspectors and Inquiries Rules the exclusions are for irrelevance and status of proof of evidence. This inconsistency is corrected to the effect that the exclusions in all cases should be for irrelevance and disruptive behaviour.

7.11 Rules 13 and 21(6) of the Major Infrastructure Project Inquiries Rules is amended through this instrument to require every person entitled to appear at the inquiry to be notified **in writing**:
- of the name of the assessor and of the matters on which he is to advise the inspector (rule 13); and
- where the Secretary of State is disposed to disagree with the recommendation of the lead inspector, of his disagreement and the reasons for it (rule 21(6)).

7.12 The Hearings, Inspectors and Inquiries Rules are also updated to achieve consistency in relation to the need to give notification in writing.

- ***Consolidation***

7.13 This instrument amends SI 2000 Nos.1624, 1625, 1626 and SI 2005 No.2115. There are no plans to consolidate this legislation.

## 8. Consultation outcome

8.1 The proposals being implemented by this statutory instrument were included in the public consultation document, *"Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced",* which was published in May 2007.

8.2 The consultation period ran for 12 weeks. 291 written representations were received and meetings were held with various stakeholders to obtain verbal feedback on the proposals. Respondents were divided into five categories - Government bodies, the public, businesses, environment/community groups and professionals/academics.

8.3 The proposal to bring forward submission of the Statement of Common Ground (SoCG) attracted firm support, with 63 out of 80 (79%) respondents in agreement. In each category of respondent more people agreed with the proposal than were against it. Some respondents expressed concern that the new deadline was too early to allow for effective, well considered SoCG to be prepared, as arguments would not have had time to evolve by this point. Some business respondents expressed concern about local planning authorities and their level of cooperation in the joint production of SoCG. In light of the consultation responses further consideration was given to the timing of the submission of the SoCG but it was decided to stay with the 6 week deadline, to ensure that common ground is identified early enough in the process to inform the evidence and need for expert witnesses.

8.4 There was also strong support for the proposal to remove the nine week comment stage, with 53 out of 61 (87%) respondents indicating agreement. Again, for each category of respondent there were more in agreement than against this proposal. There were no

significant objections. The main reservation expressed was that the 9 week stage was a useful way in which to clarify understanding of the other party's case in advance of the hearing or inquiry. We have considered this point but believe that such understanding is capable of being reached earlier in the appeal process and that the hearing and inquiry itself provides ample opportunity to ensure that parties are fully aware of and can debate any outstanding issues.

## 9. Guidance

9.1 The Government circular 05/2000, "*Planning Appeals: Procedures (including inquiries into called-in planning applications*", which currently provides guidance on all of the appeal procedures, will be replaced by updated guidance available on the Planning Inspectorate's website.

## 10. Impact

10.1 Businesses, charities or voluntary bodies, when in an appellant role will benefit from a more efficient and effective appeals process. They will no longer need to submit comments at the 9 week stage and the requirement to submit statements of common ground earlier in the process, will encourage early identification of the issues for consideration during the appeal.

10.2 The main public sector impact is the public expenditure saving that will accrue to the Planning Inspectorate as outlined in the attached impact assessment (approximately £22,000 per annum from 2010/11 onwards). In addition, there will be some small savings to local planning authorities as a result of the removal of comments at 9 weeks, although we have not been able to quantify this saving.

10.3 An Impact Assessment is attached to this memorandum.

## 11. Regulating small business

11.1 The legislation applies to small business insofar as they are appellants. Decisions on framing these proposals so as to benefit small businesses took account of consultation responses from small businesses, which were generally supportive.

11.2 As described above and in the attached impact assessment, these changes will result in cost and time savings to all appellants and the legislation will therefore benefit small businesses as it does other types of appellant. Removing the nine week comment stage will reduce the administrative burdens on business (including some small businesses) resulting in cost savings of £3.486m[1]

## 12. Monitoring & review

12.1 The procedures for dealing with planning appeals as a whole will be reviewed by Communities and Local Government 3 years after implementation of the policies set out in the consultation document. This review will take account of the impact of these procedural changes. The level of savings to the Planning Inspectorate from the removal of the nine weeks comments stage will be reviewed as part of the normal Business Planning Process.

We have also identified the following indirect measures for assessing the impact of these policy changes:

[1] Source: CLG's Simplification Plan – 2008 Update – The Route to Better Regulations at http://www.communities.gov.uk/documents/corporate/pdf/1094604.pdf

- general performance against the Planning Inspectorate's targets for determining appeals (which contribute to the Department's Strategic Objective relating to planning)
- average length of inquiries/ hearings.

## 13. Contact for queries

Theresa Donohue, Department for Communities and Local Government Tel: 0207 944 3936 or email:Theresa.Donohue@communities.gsi.gov.uk

# Summary: Intervention & Options

| Department /Agency: | Title: | |
|---|---|---|
| **Department for Communities and Local Government** | **Impact Assessment of The Town and Country Planning (Hearing and Inquiries Procedure)(Amendment)(England) Rules 2009** | |
| **Stage:** Final | **Version:** | **Date: March 2009** |
| **Related Publications:** "Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced" (May 2007) | | |

**Available to view or download at:**
**http://www.communities.gov.uk/documents/planningandbuilding/pdf/improvingappealconsultation.pdf**

**Contact for enquiries:** Theresa Donohue **Telephone:** 020 7944 3936

What is the problem under consideration? Why is government intervention necessary?

The current planning appeals system in England is widely recognised for delivering a high quality service. However the system's efficiency and effectiveness is being threatened by the sheer volume of appeals being received.

Government intervention is required to create a more efficient appeals system which is able to handle large numbers of appeals and deliver quicker appeal decisions, without compromising the quality of decision.

What are the policy objectives and the intended effects?

To improve the efficiency and cost effectiveness of the planning appeals system. The intended effects will be a reduction in the documentation produced and submitted for inquiries and in the overall timetable for the appeals determined via hearings and inquiries which should bring about associated costs savings.

What policy options have been considered? Please justify any preferred option.

Option A: Do nothing

Option B: Bring forward the submission date of the Statement of Common Ground (SoCG) for inquiries to 6 weeks after the appeal start date and remove the nine week comment stage for inquiries and hearings. Bringing forward submission of the SoCG which should help to reduce the amount of documentation later produced and therefore the length of the inquiry and removing the nine week comment stage should speed up the appeal process. Both proposals will make the appeals process more efficient and cost effective for all parties.

The preferred option is option B.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The appeals procedures as a whole will be reviewed after 3 years from the implementation of all the policy changes by the Department and this will take account of the impact of these particular policy changes.

The anticipated savings to the Planning Inspectorate from the removal of the nine weeks comments stage will be reviewed as part of the normal Business Planning Process.

We have also identified the following indirect measures for assessing the impact of these policy changes:

- general performance against the Planning Inspectorate's targets for appeals (which contribute to the Department's Strategic Objective relating to planning)

- average length of inquiries/ hearings

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

Kay Andrews

Date: 4th March 2009

# Summary: Analysis & Evidence

| Policy Option: B | Description: Impact Assessment of The Town and Country Planning (Hearing and Inquiries Procedure)(Amendment)(England) Rules 2009 |
|---|---|

**COSTS**

**ANNUAL COSTS**

**One-off** (Transition) **Yrs**

**£**

**Average Annual Cost**
(excluding one-off)

**£**

Description and scale of **key monetised costs** by 'main affected groups' None of the costs have been monetised.

**Total Cost** (PV) **£**

Other **key non-monetised costs** by 'main affected groups' It is possible that early submission of the SoCG will lead to less useful documents as local planning authorities and appellants have less time to agree matters, or that some work may be duplicated if further work is needed to update the SoCG at the time of the inquiry but these costs are expected to be minimal due to expected greater cooperation at an earlier stage between appellants and local authorities.

**BENEFITS**

**ANNUAL BENEFITS**

**One-off** **Yrs**

**£**

**Average Annual Benefit**
(excluding one-off)

**£ 3,800,000**

Description and scale of **key monetised benefits** by 'main affected groups' The removal of the nine week comment stage will reduce the administrative burden on business by £3.792m (2008 prices) annually and lead to staff savings for the Planning Inspectorate of approximately £22,000 per annum from 2010/11 onwards.

**Total Benefit** (PV) **£ 28,000,000**

Other **key non-monetised benefits** by 'main affected groups' The early submission of the SoCG should encourage greater cooperation between appellant and local planning authority earlier in the process and thus reduce the scope and duration of the inquiry.

Key Assumptions/Sensitivities/Risks

| Price Base Year2008 | Time Period Years 10 | **Net Benefit Range** (NPV) **£** | **NET BENEFIT** (NPV Best estimate) **£ 28,000,000** |
|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| What is the geographic coverage of the policy/option? | | | England | |
| On what date will the policy be implemented? | | | 6 April 2009 | |
| Which organisation(s) will enforce the policy? | | | Planning Inspectorate | |
| What is the total annual cost of enforcement for these organisations? | | | £ | |
| Does enforcement comply with Hampton principles? | | | Yes/No | |
| Will implementation go beyond minimum EU requirements? | | | Yes/No | |
| What is the value of the proposed offsetting measure per year? | | | £ | |
| What is the value of changes in greenhouse gas emissions? | | | £ | |
| Will the proposal have a significant impact on competition? | | | No | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | N/A | N/A |

| **Impact on Admin Burdens Baseline** (2005 Prices) | | | (Increase - Decrease) |
|---|---|---|---|
| Increase of £ 0 | Decrease of £ 3.486m | **Net Impact** | **£ -3.486m** |

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Impact Assessment

## 1. Purpose and intended effect

***Objective***
To improve the efficiency of the appeals process.

***Background***

The current rules governing Hearings and Inquiries procedures are contained in:

- The Town and Country Planning (Hearings Procedure)(England) Rules 2000 (SI 2000 No 1626);
- The Town and Country Planning (Inquiries Procedure)(England) Rules 2000 (SI 2000 No 1624); and
- The Town and Country Planning Appeals (Determination by Inspectors)(Inquiries Procedure)(England) Rules 2000 (SI 2000 No 1625)

The Statement of Common Ground (SoCG) is a written statement prepared jointly by the local planning authority and the appellant which contains agreed factual information about the proposal. It is required for appeals determined via an inquiry.

Current rules require the SoCG to be submitted to the Planning Inspectorate 4 weeks before the date of the inquiry, at the same time as proofs of evidence. Inspectors' experience is that, in many cases, this allows too short a time before the inquiry starts, and tends to result in the production of statements which do little to contribute to the appeal process.

Currently, parties to appeals decided by hearing or inquiry are offered a final opportunity to comment in writing at the nine week stage. For inquiries in particular this opportunity to comment in writing is rarely used – comments were received for around 10% of hearings and inquiries cases submitted last year. There is in any case the opportunity at the hearing or inquiry for any additional comments to be made.

***Rationale for government intervention***
In responses to the concerns identified above, these proposals were included in the consultation document *'Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced'* published in May 2007[2]. These proposals will improve the efficiency and cost effectiveness of the appeal for all parties involved by streamlining the appeals process for appeals decided by hearing or inquiry, and thus freeing up resources to deal with the numbers of appeals in the system.

## 2. Consultation

These proposals were subject to a 12 week public consultation. Categories of respondent included Government bodies, public, professional bodies and academics, environment and community groups and business.

There were a total of 291 responses to the consultation. In contrast to other proposals put forward these proposals did not attract significant response. However, amongst those who gave their views, there was strong support for both proposals:

[2] http://www.communities.gov.uk/archived/publications/planningandbuilding/improvingappealconsultation

- Removing the nine week comments stage - 53 out of 61 respondents agreed with the proposal; comments in favour included that stage was unnecessary and hardly used.
- Bringing forward submission of the SoCG - 63 out of 80 respondents agreed with the proposal; comments in favour included that this would reduce areas of dispute and ensure peripheral matters were not included in the appeal.

## 3. Options

***A. Do nothing***
The current appeal system would be maintained.

***B. Bring forward submission of the SoCG and remove the nine week comment stage for appeals determined via inquiries or hearings***
The deadline for submission of the SoCG for appeals determined via inquiry will be brought forward to 6 weeks after the start of the appeal process. This means parties will be producing the SoCG at the same time as their statements of case. It is therefore more likely that the SoCG will come to inform the statements of case and vice-versa. This should reduce the amount of documentation produced, and therefore the length of the inquiry, making the system more efficient and cost effective for all involved.

We consider that the nine week comment stage is unnecessary as there is an opportunity at the hearing or inquiry for any additional comments to be made. Furthermore, for inquiries in particular, this opportunity to comment in writing is rarely used. By removing the requirement for this stage we will speed up the appeal process making it more efficient and cost effective for all parties involved.

## 4. Costs and benefits

***Sectors and groups affected***
- Public sector (the Planning Inspectorate and local authorities)

- Appellants (including business, voluntary sectors, charities and the public)

- Third parties (including business, voluntary sectors, charities and the public)

***Option A: Do nothing***

*Benefits*
Familiarity – all parties are familiar with the current process.

*Costs*
Under the current system there is greater likelihood of increasing delays for appellants and local authorities.

***Option B: Bring forward submission of the SoCG and remove the nine week comment stage for appeals determined via inquiries and hearings***

*Benefits*
For the appellant
- Removing the nine week comment stage will reduce the administrative burdens on business resulting in cost savings of £3.486m[3]. This figure is indicative and was calculated in the Administrative Burdens Measurement Exercise. It relates to the removal of information obligations on business and is calculated in 2005 prices. It has been inflated using the

[3] Source: CLG's Simplification Plan – 2008 Update – The Route to Better Regulations at http://www.communities.gov.uk/documents/corporate/pdf/1094604.pdf

Consumer Price Index to calculate discounted benefits in 2008 prices. This gives annual savings to business of £3.782m annually.

- Bringing forward submission of SoCG will lead to greater communication and cooperation between appellant and local planning authority earlier in the process which should lead to reduction in scope of inquiry and therefore the duration of inquiry.

For the local planning authority

- Removing the nine week comment stage will reduce the workload for local planning authorities slightly because they will no longer have to respond to other parties' statement of case/ comments at this stage although parties will still have the opportunity to put forward these comments at the actual inquiry/hearing.
- Bringing forward submission of SoCG will require the same level of work earlier in the appeals process however it should reduce workload later by reducing the scope of inquiry and therefore the duration of inquiry.

For the Planning Inspectorate

- There were approximately 1700 Hearing and Inquiries appeals cases where comments were submitted at the nine week stage in 2007/08. The Planning Inspectorate estimates that there will be savings, in respect of the removal of the nine weeks comments stage, of 10-15 minutes per case for both Inspectors and administrative staff. Based on full time hours worked this will lead to savings equivalent to approximately 0.25 FTE[4] administrative staff and 0.25 FTE Inspector (or equivalent) resources. Table 1 below shows the staff resource savings for the Planning Inspectorate when the nine week comment stage is removed. These savings are expected to be realised from 2010/11 onwards once local planning authorities and appellants are familiar with the new procedure.

**Table 1: Staff resource savings for the Planning Inspectorate**

| Grade | Hours saved | % of full time hours | Average annual salary (FTE)[5] | 0.25 FTE salary |
|---|---|---|---|---|
| Administrative Officer | 0.25 *1700= 425 | 425/1628= **26%** | £20,879 | £5,200 |
| Inspector (SHPI) | 0.17 *1700= 289 | 289/1291= **22%** | £67,184 | £16,800 |
| | | | **TOTAL SAVING** | **£22,000** |

- There are no anticipated savings to the Planning Inspectorate arising from the bringing forward of the submission date for the SoCG.

*Costs*

- Early submission of the SoCG will give local planning authorities and appellants less time to agree matters which might result in documents which prove to be of limited use. However, this change is part of a package of reforms which focuses on appeals as last resort, and encourages constant communication between parties and early identification of matters in dispute. Any matter which remains unresolved could be brought to the inquiry itself.

- SoCG could potentially be out of date by inquiry date, resulting in duplication of work to update it. However, as a result of expected efficiencies to the whole of the appeals process, the targets the Planning Inspectorate will be working towards for determining appeals will be

[4] Full time equivalent
[5] Including ERNIC and full superannuation costs

shorter. In light of these reduced timescales, it is less likely that the SoCG will be out of date by the inquiry date and we expect these costs to be minimal.

5. **Specific Impact Tests**

**Small Firms Impact Test**

Small businesses can be involved in the appeals process as appellants or third parties.

There are no impacts from these changes on small firms in their role as third parties as the last point for third parties to comment is at 6 week stage and this has not changed. Third parties are not involved in the preparation of Statement of Common Grounds.

However these changes do impact on small businesses in their role as appellants. We have not identified any costs associated with the removal of the nine weeks comment stage for appellants and in fact as detailed above there will be reductions in the administrative burden for business as a whole which will include small businesses. Furthermore as parties will still have the opportunity to comment at the hearing/inquiry itself any negative impact from this change will be minimal for all parties. We have identified the benefits/costs arising from the earlier submission of the SoCG above but these are not expected to have a disproportionate impact on small businesses.

Businesses were invited to attend stakeholder events to discuss these and other proposals to reform the appeals process. They also had the opportunity to respond to the consultation on proposed changes – *Improving the Appeals Process in the Planning System*. Small businesses were not identified as a separate category of respondent to the consultation however the response from business generally was strongly in support of both proposals.

In summary, the changes are considered to have a minimal impact on all parties including small business.

**Competition assessment**

The competition filter was applied to these proposals. There are many appellants from the development industry where a few firms have a large market share. However, the proposal will not have a substantially different effect on firms, affect the market structure, penalise new firms or place restrictions on the services or products that firms provide.

**Environmental impacts**

There are no environmental impacts from these proposals.

**Equality impacts**

We have carried out an initial screening of equality impacts and do not consider that there would be disproportionate impacts for any particular group from this proposal.

**Rural, health and other social effects**

We do not consider that there would be rural, health or other social effects from these proposals.

**6. Other risks**

We do not consider that there are any other risks.

## 7. Enforcement, sanctions and monitoring

The Secretary of State has the power not to accept late representations it is therefore in the interests of all parties to cooperate with the new procedures.

Any party who felt aggrieved that they were not given sufficient time/opportunity to put their case at appeal stage could make use of the Planning Inspectorate's complaints procedure.

The Advisory Panel on Standards for the Planning Inspectorate (APOS) considers all complaints against the Planning Inspectorate that the Inspectorate considers to be justified to see if any lessons can be learned. It also looks at a selection of the complaints that the Inspectorate has decided are unsubstantiated to consider whether the Inspectorate's categorisation of the complaint (i.e. "justified" or "unsubstantiated") is appropriate.

As a last resort aggrieved parties would have recourse to challenge in the High Court.

## 8. Summary

Based on the evidence above we consider that the implementation of Option B would improve the efficiency and cost effectiveness of the appeal system.

# Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

| **Type of testing undertaken** | ***Results in Evidence Base?*** | ***Results annexed?*** |
|---|---|---|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | No | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | Yes | No |
| Health Impact Assessment | Yes | No |
| Race Equality | Yes | Yes |
| Disability Equality | Yes | Yes |
| Gender Equality | Yes | Yes |
| Human Rights | Yes | Yes |
| Rural Proofing | Yes | No |

# Annexes

# EQUALITY IMPACT ASSESSMENT

## Part 1: SCREENING

1 Name of Programme (activity), Project (activity), or Policy

The Town and Country Planning (Hearing and Inquiries Procedure)(Amendment)(England) Rules 2009

This is:

- ☐ New policy/activity
- ☒ A change to existing policy/activity
- ☐ Existing policy/activity
- ☐ A pilot programme or project

2 Screening undertaken by:

| | |
|---|---|
| Director or Deputy Director | Michelle Banks |
| Policy Developer/Lead | Theresa Donohue |
| Other people involved in the screening | Katie Jones |

3 Brief description of programme, project , or policy:
**including main purpose, aims, objectives, and projected outcomes, and how these fit in with the wider aims of the organisation**

The first change will bring forward the deadline for submission of the Statement of Common Ground (SoCG) for appeals determined via inquiry to 6 weeks after the start of the appeal process. This means parties will be producing the SoCG at the same time as their statements of case. It is therefore more likely that the SoCG will come to inform the statements of case and vice-versa. This should reduce the amount of evidence produced and therefore the length of the inquiry making the system more efficient and cost effective for all involved.

The second change will remove the nine week comment stage. This stage is unnecessary as there is an opportunity at the hearing or inquiry for any additional comments to be made and, in any case, for inquiries in particular, this opportunity to comment in writing is rarely used. Removing the requirement for this stage should speed up the appeal process making it more efficient and cost effective for all parties involved.

These changes are part of a wider package which seek to improve the efficiency and cost effectiveness of the appeal for all parties involved by streamlining the process for appeals decided by hearing or inquiry, and thus freeing up resources to deal with the numbers of appeals in the system.

4 Relevance to Equality and Diversity Duties

**Does the policy have relevance to the department's:**

☐ **Race Equality Scheme?**
☐ **Disability Equality Scheme?**
☐ **Gender Equality Action Plan?**
☐ **Other (departmental or national) equality priorities?**

Please explain:

**How will these aims affect our duty to:**

☐ **Promote equality of opportunity?**
☐ **Elminate discrimination?**
☐ **Elminate harassment?**
☐ **Promote good community relations?**
☐ **Promote positive attitudes towards disabled people?**
☐ **Encourage participation of disabled people?**
☐ **Consider more favourable treatment of disabled people?**
☐ **Protect and promote Human Rights?**

**For example, think about the policy from the perspectives of different groups in society. Will the policy affect, positively or negatively, any group(s) differently to others? Will it differentially affect:**

- **Black, Asian or other ethnic minority and/or cultural groups?**
- **Disabled People?**
- **Women *or* men transgender people?**
- **Transgender people?**
- **Lesbians, gay men and/or bisexual people?**
- **Different religious communities/groups?**
- **Older people *or* children & young people?**
- **Any other groups?**
- **For policies affecting staff, those with flexible or agreed working patterns?**

**Are there any aspects of the policy, including how it is delivered, or accessed, that could contribute to inequalities? This should relate to all areas including Human Rights.**

☐ Yes
☒ No

Please explain:

**If you have indicated there is a negative impact on any group, is that impact:**

Legal?

☐ Yes
☐ No

Please explain:

Intended?

☐ Yes
☐ No

Please explain:

5 Evidence Base for Screening

List the evidence sources used to make the screening assessment (i.e. the *known evidence*)

**These policy changes, along with others, were widely consulted on in the consultation paper *Improving the Appeal Process in the Planning System*. 291 Responses were received from a wide range of organisations and members of the public. None of the responses raised concerns that these policy changes had a disproportionate impact on any particular equality group.**

**We understand that few law firms are prepared to represent Gypsies and Travellers at appeal. We have considered whether bringing forward the submission of the SoCG might therefore impact disproportionately on this group by allowing insufficient time for them to seek legal representation. However the new deadline for submission of the SoCG corresponds to an existing stage of the Inquiries process – the submission of statements of case – and therefore appellants would already need to have sought legal advice by this time. We have therefore discounted this as a potential impact on one group.**

Consider whether there are any significant gaps in the known evidence base and list here your recommendations for how those gaps will be filled.

**The Planning Inspectorate has recently begun to collect data on the ethnicity, age, and gender of appellants, using data provided by the appellants voluntarily. However we do not have this type of information in terms of the use of the nine week comments stage specifically. As the nine weeks comments stage is not much used (only in 10% of hearings/inquiries last year)**

**and as parties will still have the opportunity to put forward any further comments at the inquiry/hearing itself, we do not consider that this change will adversely impact on anyone.**

6 Remembering the requirements of the equality duties:

- Have 'due regard' to the 'elimination' of discrimination and harassment;
- Promoting good community relations?
- **Promoting positive attitudes towards disabled people**
- **Encourage participation of disabled people?**
- **Consider more favourable treatment of disabled people?**
- **Protect and promote Human Rights?**

Will there be/has there been consultation with all interested parties?

☒ Yes
☐ No

Please explain: **These policy changes, along with others, were widely consulted on in the consultation paper *Improving the Appeal Process in the Planning System*. 291 Responses were received from a wide range of organisations and members of the public.**

- Are proposed actions necessary and proportionate to the desired outcomes?

☒ Yes
☐ No

**Please explain:**

- Where appropriate, will there be scope for prompt, independent reviews and appeals against decisions arising from the proposed policy?

☐ Yes
☒ No

**Please explain:** There will be a transition period to allow all parties to become familiar with the changes before they are strictly applied.

- Does the proposed policy have the ability to be tailored to fit different individual circumstances?

☐ Yes
☒ No

**Please explain:** To allow a fair appeals process the changes must apply to everyone.

- Where appropriate, can the policy exceed the minimum legal equality

and human rights requirements, rather than merely complying with them?

☐ Yes
☒ No

**Please explain:**

From the known evidence and strategic thinking, **what are the** key risks **(adverse impacts)** and opportunities **(positive impacts & opportunities to promote equality) this policy might present?**

| | Risks (Negative) | Opportunities (Positive) |
|---|---|---|
| Race | | |
| Disability | | |
| Gender or Gender identity | | |
| Sexual Orientation | | |
| Age | | |
| Religion/Belief | | |
| Human Rights | | |

For policies affecting staff, those with flexible or agreed working patterns

7 Proportionality
**Describe the scale and likelihood of these risks and opportunities:**

**8 Decision**
Set out the rationale for deciding whether or not to proceed to full impact assessment (refer to guidance notes)

These are minor changes to the appeals process which are designed to make the process more efficient and thus benefit all those involved. No particular risks/opportunities have been identified for any particular equality group as a result of this screening and therefore we do not consider that a full impact assessment is required.