# 1965 No. 473

# TRIBUNALS AND INQUIRIES

## The Town and Country Planning (Inquiries Procedure) Rules 1965

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| *Made* - - - - | 16*th March* 1965 |
| *Laid before Parliament* | 22*nd March* 1965 |
| *Coming into Operation* | 1*st April* 1965 |

I, Gerald, Baron Gardiner, 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 (Inquiries Procedure) Rules 1965.

(2) These Rules shall come into operation on 1st April 1965 but, save as provided in rule 17, shall not affect any application referred to the Minister or appeal brought before that date.

*Application of Rules*

**2.**—(1) These Rules apply—

(*a*) to local inquiries caused by the Minister of Housing and Local Government or by the Secretary of State for Wales to be held for the purpose of applications for planning permission referred to him under section 22 of the Town and Country Planning Act 1962(b) and appeals to him under section 23 of that Act and (to the extent provided in rule 15) to hearings before a person appointed by the Minister or by the Secretary of State, as the case may be, for the purpose of any such application or appeal ;

(*b*) to local inquiries caused by the Minister of Land and Natural Resources or by the Secretary of State for Wales to be held for the purpose of applications for consent referred to him under a tree preservation order and appeals to him under such an order and (to the extent provided in rule 15) to hearings before a person appointed by the Minister or by the Secretary of State, as the case may be, for the purpose of any such application or appeal, subject to the following modifications, that is to say—

(i) rule 4 shall not apply and the references in these Rules to section 17 parties shall be omitted ;

(ii) references to development shall be construed as references to the cutting down, topping, lopping or wilful destruction of trees ;

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

(a) 6 & 7 Eliz. 2. c. 66.

(b) 10 & 11 Eliz. 2 c. 38.

(*c*) to local inquiries caused by the Minister of Housing and Local Government or by the Secretary of State for Wales to be held for the purpose of applications for consent referred to him under a building preservation order and appeals to him under such an order and (to the extent provided in rule 15) to hearings before a person appointed by the Minister or by the Secretary of State, as the case may be, for the purpose of any such application or appeal, subject to the following modifications, that is to say—

(i) rule 4 shall not apply and the references in these Rules to section 17 parties shall be omitted ;

(ii) references to development shall be construed as references to the execution of works ;

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

(*d*) to local inquiries caused by the Minister of Housing and Local Government or by the Secretary of State for Wales to be held for the purpose of applications for consent referred to him under the Town and Country Planning (Control of Advertisements) Regulations 1960(**a**) and appeals to him under those Regulations and (to the extent provided in rule 15) to hearings before a person appointed by the Minister or by the Secretary of State, as the case may be, for the purpose of any such application or appeal, subject to the following modifications, that is to say—

(i) rule 4 shall not apply and the references in these Rules to section 17 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.

(2) These Rules apply in relation to Greater London as defined in section 2(1) of the London Government Act 1963(**b**), subject to the modifications specified in rule 16.

*Interpretation*

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

" the Act " means the Town and Country Planning Act 1962 ;

" the Minister " means the Minister who causes the inquiry to be held ;

" applicant " in the case of an appeal means the appellant ;

" 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 trees and buildings) to which the inquiry relates ;

" local authority " has the meaning assigned to it by section 221(1) of the Act ;

" local planning authority " means (*a*) the local planning authority (within the meaning of section 2 of the Act) for the area in which the land is, or (*b*) an authority exercising delegated functions on behalf of that authority, or (*c*) in the case of an application referred to the Minister or an appeal to him under a building preservation order made by the council of a county district, that council ;

(**a**) S.I 1960/695 (1960 III, p. 3253). (**b**) 1963 c. 33.

" referred application " means an application referred to the Minister under section 22 of the Act, or that section as applied by a tree preservation order or a building preservation order, or under regulation 28 of the Town and Country Planning (Control of Advertisements) Regulations 1960;

" section 17 parties " means—

(i) in relation to referred applications, persons from whom representations are received in pursuance of section 17(2) or (3) of the Act, as applied by section 22(4), within the time prescribed; and

(ii) in relation to appeals, persons from whom representations are received by the local planning authority in pursuance of section 17(3) of the Act, or by the Minister in pursuance of section 17(3) as applied by section 23(6), within the time prescribed;

" tree preservation order " and " building preservation order " mean respectively an order under section 29 and an order under section 30 of the Act;

" trees " includes groups of trees and woodlands.

(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.

*Preliminary information to be supplied by local planning authority*

**4.**—(1) The local planning authority, on being notified of the Minister's intention to proceed with the consideration of an application or appeal to which these Rules apply and of the name and address of any person who, pursuant to the provisions of section 17 of the Act, has made representations to the Minister, shall forthwith inform the applicant in writing of the name and address of every section 17 party and the Minister of all such persons who have made representations to the local planning authority.

(2) Where the Minister or the Minister of Transport has given a direction restricting the grant of permission, 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 application or 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.

*Notification of Inquiry*

**5.**—(1) 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 42 days' notice in writing of such date, time and place to the applicant and to the local planning authority and to all section 17 parties at the addresses furnished by them:

Provided that—

(i) with the consent of the applicant and of the local planning authority, the Minister may give such lesser period of notice as shall be agreed with the applicant and the local planning authority and in that event he may specify a date for service of the statements referred to in paragraphs (1) and (2) of rule 6 later than the date therein prescribed;

(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.

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

(2) 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 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 (1) of this rule shall not apply to any such notices.

(3) Where the land is under the control of the applicant, he shall, if so required 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 before the inquiry as the Minister may specify the applicant shall not remove the notice, or cause or permit it to be removed.

*Statements to be served before Inquiry*

**6.**—(1) In the case of a referred application, the Minister shall, not later than 28 days before the date of the inquiry (or such later date as he may specify under proviso (i) to paragraph (1) of rule 5) serve or cause to be served on the applicant, on the section 17 parties (where this has not already been done) and on the local planning authority a written statement of the reasons for his direction that the application be referred to him and of any points which seem to him to be likely to be relevant to his consideration of the application; and where a government department has expressed in writing to the Minister the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions, or, in the case of an application for consent under a tree preservation order, should be granted together with a direction requiring the replanting of trees, the Minister shall include this expression of view in his statement and shall supply a copy of the statement to the government department concerned.

(2) Not later than 28 days before the date of the inquiry (or such later date as the Minister may specify under proviso (i) to paragraph (1) of rule 5), the local planning authority shall serve on the applicant and on the section 17 parties a written statement of any submission which the local planning authority propose to put forward at the inquiry and shall supply a copy of the statement to the Minister.

(3) 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, or, in the case of an application for consent under a tree preservation order, should be granted together with a direction requiring the replanting of trees, 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.

(4) 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 applicant and the section 17 parties ; and the local planning authority shall afford them a reasonable opportunity to inspect and, where practicable, take copies of the documents.

(5) The local planning authority shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of any statement served by the Minister under paragraph (1) or by the authority under paragraph (2) and of the other documents referred to in paragraph (4) as well as of any statement served on the authority by the applicant under paragraph (6) of this rule.

(6) The applicant shall, if so required by the Minister, serve on the local planning authority, on the section 17 parties and on the Minister, within such time before the inquiry as the Minister may specify, a written statement of the submissions which he proposes to put forward at the inquiry ; and such statement shall be accompanied by a list of any documents (including maps and plans) which the applicant intends to refer to or put in evidence at the inquiry, and he shall, if so required by the Minister, afford the local planning authority and the section 17 parties a reasonable opportunity to inspect and, where practicable, take copies of such documents.

*Appearances at Inquiry*

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

(*a*) the applicant ;

(*b*) the local planning authority (within the meaning of section 2 of the Act) for the area in which the land is ;

(*c*) where the land is in a united district for which a joint planning board has been constituted under section 2 of the Act, the council of the administrative county in which the land is ;

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

(*e*) section 17 parties ;

(*f*) where the land is in an area designated as the site of a new town, the development corporation of the new town ;

(*g*) any persons on whom the Minister has required notice to be served under rule 5(2)(*b*).

(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*

**8.** Where the Minister has given a direction restricting the grant of permission for the development for which application was made, the applicant may, not later than 14 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 on such application 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*

**9.**—(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 the view that the application should not be granted either wholly or in part or should be granted only subject to conditions or, in the case of an application under a tree preservation order, should be granted together with a direction requiring the replanting of trees, and the Minister or the local planning authority have included this view in their statement as required by paragraph (1) or (3) of rule 6,

the applicant may, not later than 14 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 who, in pursuance of this rule, attends an inquiry into a referred application shall state the reasons for the view expressed by his department and included in the Minister's statement under rule 6(1), and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(4) A representative of a government department who, in pursuance of this rule, attends an inquiry on an appeal, shall be called as a witness by the local planning authority and shall state the reasons for the view expressed by his department and included in the authority's statement under rule 6(3), and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(5) Nothing in either of the two last foregoing paragraphs shall require a representative of a government department to answer any question which in the opinion of the appointed person is directed to the merits of government policy and the appointed person shall disallow any such question.

*Procedure at Inquiry*

**10.**—(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 applicant otherwise determines, the applicant 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 applicant, the section 17 parties and the local planning authority shall be entitled to call evidence and cross-examine persons giving evidence, but any other person 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 8 and rule 9(5) 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 or the applicant, or both of them, to alter or add to the submissions contained in any statement served under paragraph (2) or (6) of rule 6, or to 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 applicant or the local planning authority, as the case may be, and the section 17 parties an adequate opportunity of considering any such fresh submission or document; and the appointed person may make in his report a recommendation as to the payment of any additional costs occasioned by any such 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 received by him before the inquiry from any person.

(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*

**11.**—(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 applicant 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 applicant, the local planning authority and the section 17 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*

**12.**—(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 applicant, the local planning authority and any section 17 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 21 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 21 days for the re-opening of the inquiry.

(3) The Minister may in any case if he thinks fit cause the inquiry to be re-opened, and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and, if the inquiry is re-opened, paragraphs (1) and (2) of rule 5 shall apply as they applied to the original inquiry, with the substitution in paragraph (1) of "28" for "42".

*Notification of Decision*

**13.**—(1) The Minister shall notify his decision, and his reasons therefor, in writing to the applicant, the section 17 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*

**14.** 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*

**15.** These Rules, except paragraphs (2) and (3) of rule 5 and rule 7(1)(*g*), shall apply to any such hearing as is mentioned in rule 2 and for that purpose references in these Rules to an inquiry shall be construed as references to such a hearing.

*Application to Greater London*

**16.** In their application to Greater London these Rules shall apply with the following modifications:—

(*a*) In rule 3 after the definition of "the Act" there shall be added—

"'the Act of 1963' means the London Government Act 1963;" and for the definition of "local planning authority" the following definition shall be substituted:—

"'local planning authority' means—

(*a*) in relation to the applications and appeals referred to in rule 2(*a*) the authority which by virtue of section 24 of the Act of 1963 or of regulations made under that section is the local planning authority in relation to the class of development concerned in the area of Greater London where the land is; or

(*b*) in relation to the applications referred to in rule 2(*c*) the authority who made or are deemed to have made the building preservation order; or

(*c*) in relation to the applications referred to in rule 2(*b*) or (*d*) either the Common Council of the City of London or the council of the London borough in which the land is, as the case may be."

(*b*) At the end of rule 4 the following paragraph shall be added:—

"(3) Where in pursuance of regulations under section 24(6) of the Act of 1963 the application which is before the Minister or which is the subject of the appeal was required to be referred to the Greater London Council and that Council has issued a direction to the local planning authority as to the manner in which the application is to be dealt with, or has (whether before or after the reference to the Minister or the appeal) otherwise expressed an opinion to the local planning authority on the application, the Greater London Council shall at the request of the local planning authority forthwith furnish to the local planning authority a statement in writing of their reasons for that direction or opinion."

(*c*) At the end of rule 6, the following paragraph shall be added:—

"(7) In a case falling within rule 4(3), the local planning authority shall include in their statement particulars of the direction or opinion of the Greater London Council and of the reasons given for it."

(*d*) For rule 7(1)(*b*) there shall be substituted the following:—

"(*b*) the local planning authority and—

(i) where the application was required to be referred under section 24(6) of the Act of 1963, the Greater London Council, or

(ii) where the Greater London Council is the local planning authority, the Common Council of the City of London or the council of the London borough in which the land is, as the case may be."

(*e*) After rule 9 the following rule shall be inserted:—

"*Representatives of the Greater London Council at Inquiry*

**9A.**—(1) In a case falling within rule 4(3), the applicant or the local planning authority may, not later than 14 days before the

date of the inquiry, apply in writing to the Minister for a representative of the Greater London Council to be made available at the inquiry.

(2) The Minister shall transmit any application made to him under the last foregoing paragraph to the Greater London Council who shall make a representative of the Council available to attend the inquiry.

(3) A representative of the Greater London Council who, in pursuance of this rule, attends an inquiry shall be called as a witness by the local planning authority and shall give evidence and be subject to cross-examination to the same extent as any other witness."

*Revocation of previous Rules*

**17.** The Town and Country Planning Appeals (Inquiries Procedure) Rules 1962(a) are hereby revoked, and any appeal to which those Rules applied and which has not been determined when these Rules come into operation shall be continued under these Rules.

Dated 16th March 1965.

*Gardiner*, C.

(a) S.I. 1962/1425 (1962 II, p. 1578).

## EXPLANATORY NOTE

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

These rules replace with modifications the Town and Country Planning Appeals (Inquiries Procedure) Rules 1962 which prescribed 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 (now section 23 of the Town and Country Planning Act 1962) or under the Town and Country Planning (Control of Advertisements) Regulations 1960.

The principal changes are as follows :—

(1) References to provisions of the Act of 1947 become references to the corresponding provisions of the Act of 1962.

(2) Account is taken of the transfer of functions formerly exercised by the Minister of Housing and Local Government to the Minister of Land and Natural Resources (in regard to tree preservation orders in England) and to the Secretary of State for Wales (in regard to planning functions in Wales) under the Minister of Land and Natural Resources Order 1965 (S.I. 1965/143) and the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 (S.I. 1965/319), respectively (rule 2(1)).

(3) The case where an application is referred to the Minister for decision by him instead of by the local planning authority is brought within the rules as well as the case of an appeal (rule 2(1)(*a*)).

(4) The operation of the rules is extended to cover inquiries concerning giving or withholding of consent under tree preservation orders (rule 2(1)(*b*)) and building preservation orders (rule 2(1)(*c*)).

(5) An applicant or appellant may be required to serve a written statement of the submissions which he proposes to put forward at an inquiry (rule 6(6)).

(6) The power of the appointed person to take into account written representations or statements made prior to the inquiry is extended (rule 10(7)).

(7) Adaptations of the rules in regard to Greater London consequent on the London Government Act 1963 are contained in rule 16.