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STATUTORY INSTRUMENTS

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**1974 No. 419**

**TRIBUNALS AND INQUIRIES**

**The Town and Country Planning  
(Inquiries Procedure) Rules 1974**

<i>Made</i>	- - - -	<i>11th March 1974</i>
<i>Laid before Parliament</i>		<i>22nd March 1974</i>
<i>Coming into Operation</i>		<i>1st April 1974</i>

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

**Citation and commencement**

**1.**—(1) These Rules may be cited as the Town and Country Planning (Inquiries Procedure) Rules 1974.

(2) These Rules shall come into operation on 1st April 1974 but, save as provided in rule 17, shall not affect any application referred to the Secretary of State or appeal brought before that date.

**Application of Rules**

**2.**—(1) These Rules do not, except to the extent provided by paragraph (3) of this rule, apply to inquiries held under the provisions of Schedule 9 to the Town and Country Planning Act 1971, but save as aforesaid apply—

- (a) to local inquiries caused by the Secretary of State to be held for the purpose of applications for planning permission referred to him under section 35 of the Town and Country Planning Act 1971 and appeals to him under section 36 of that Act and (to the extent provided in rule 15) to hearings before a person appointed by the Secretary of State for the purpose of any such application or appeal;
- (b) to local inquiries caused by the Secretary of State 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 Secretary of State for the purpose of any such application or appeal, subject to the following modifications—
  - (i) rule 4 shall not apply and the references in these Rules to section 29 parties shall be omitted;

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- (ii) references to development shall be construed as references to the cutting down, topping or lopping of trees;
- (iii) references to permission shall be construed as references to consent;
- (c) to local inquiries caused by the Secretary of State to be held for the purposes of applications referred to him and appeals to him under Part I of Schedule 11 to the Town and Country Planning Act 1971 (including applications and appeals under that part of that Schedule as applied by section 8 of and Schedule 2 to the Town and Country Planning (Amendment) Act 1972 and (to the extent provided in rule 15) to hearings before a person appointed by the Secretary of State for the purpose of any such application or appeal, subject to the following modifications—
  - (i) references to development shall be construed as references to works for the demolition, alteration or extension of a listed building or to works for the demolition of a building in a conservation area as the case may be;
  - (ii) references to permission shall be construed as references to listed building consent;
- (d) to local inquiries caused by the Secretary of State to be held for the purpose of applications for consent referred to him under the Town and Country Planning (Control of Advertisements) Regulations 1969 to 1974 (1) and appeals to him under those Regulations and (to the extent provided in rule 15) to hearings before a person appointed by the Secretary of State for the purpose of any such application or appeal, subject to the following modifications—
  - (i) rule 4 shall not apply and the references in these Rules to section 29 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, subject to the modifications specified in rule 16.
- (3) Where the Secretary of State in exercise of his powers under paragraph 3(1) of Schedule 9 to the Town and Country Planning Act 1971, directs that an appeal (which, by virtue of paragraph 1(1) of that Schedule and the regulations made thereunder, falls to be determined by a person appointed by the Secretary of State) shall, instead of being determined by that person, be determined by the Secretary of State, these Rules apply in relation to any step taken or thing done after the giving of the said direction, but do not affect any step taken or thing done before the giving of such direction.

## Interpretation

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

- “the Act” means the Town and Country Planning Act 1971;
- “the Act of 1972” means the Local Government Act 1972;
- “applicant” in the case of an appeal means the appellant;
- “appointed person” means the person appointed by the Secretary of State to hold the inquiry;
- “conservation area” means an area designated under section 277 of the Act;
- “county planning authority” and “district planning authority” have the meanings assigned to them by section 1 of the Act;
- “inquiry” means a local inquiry to which these Rules apply;

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(1) S.I. 1969/1532, 1972/489, 1974/185 (1969 III, p. 4962; 1972 I, p. 1730; 1974 I, p. 661).

“the land” means the land (including trees and buildings) to which the inquiry relates;

“listed buildings” has the meaning assigned to it by section 54 of the Act;

“listed building consent” means consent required by section 55 (2) of the Act in respect of works for the demolition, extension or alteration of a listed building and the consent required by that subsection as applied by section 8 of the Town and Country Planning (Amendment) Act 1972 for works for the demolition of a building in a conservation area;

“local authority” has the meaning assigned to it by section 290(1) of the Act;

“local planning authority” means—

- (a) the county planning authority or district planning authority, as the case may be, who were responsible for dealing with the relevant application (or in the case of an application referred to the Secretary of State would have been so responsible had it not been so referred), or
- (b) any local authority or committee (including a National Park Committee) exercising the functions of the said planning authority in relation to the application by virtue of any arrangement made under section 101 of the Act of 1972;

“National Park Committee” has the meaning assigned to it by paragraph 5 of Schedule 17 to the Act of 1972;

“referred application” means an application referred to the Secretary of State under section 35 of the Act, or that section as applied by a tree preservation order, or under regulation 28 of the Town and Country Planning (Control of Advertisements) Regulations 1969 or under paragraph 4 of Schedule 11 to the Act;

“section 29 parties” means—

- (i) in relation to referred applications, persons from whom representations are received within the time prescribed—
  - (a) in pursuance of section 29(2) or (3) of the Act, as applied by section 35(4), or
  - (b) in the case of applications referred under paragraph 4 of Schedule 11 to the Act, in pursuance of regulations made under paragraph 2 of the said Schedule; and
- (ii) in relation to appeals, persons from whom representations are received within the time prescribed—
  - (a) by the local planning authority in pursuance of section 29(3) of the Act, or by the Secretary of State in pursuance of section 29(3) as applied by section 36(5), or
  - (b) in the case of appeals brought under paragraph 8 of Schedule 11 to the Act, in pursuance of regulations made under paragraph 2 of the said Schedule.

(2) Without prejudice to the foregoing provisions of this rule, the Secretary of State may require the local planning authority to take one or more of the following steps—

- (a) to publish in one or more newspapers circulating in the locality in which land is situated 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 Secretary of State, 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 Secretary of State may specify, and thereafter for

such period before the inquiry as the Secretary of State 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 Secretary of State shall (where this has not already been done), 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 local planning authority and on the section 29 parties 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 Secretary of State 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 Secretary of State 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 Secretary of State may specify under proviso (i) to paragraph (1) of rule 5), the local planning authority shall—

- (a) serve on the applicant and on the section 29 parties a written statement of any submission which the local planning authority propose to put forward at the inquiry, and
- (b) supply a copy of the statement to the Secretary of State.

(3) Where the Secretary of State or a local authority has given a direction restricting the grant of permission for the development for which application was made or a direction as to how the application was to be determined, 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 shall, within the period specified in paragraph (2) above, supply a copy of the statement to the Secretary of State or local authority concerned; and where a government department or a local authority has expressed in writing to the local planning authority the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions, or, 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, within the period specified in paragraph (2) above, supply a copy of the statement to the government department or local authority 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 29 parties; and the local planning authority shall afford them a reasonable opportunity to inspect and, where practicable, to 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 Secretary of State 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 Secretary of State, serve on the local planning authority, on the section 29 parties and on the Secretary of State, within such time before the inquiry as the Secretary of State 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 Secretary of State, afford the local planning authority and the

section 29 parties a reasonable opportunity to inspect and, where practicable, to 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;
- (c) where the land is not in Greater London, the council of the administrative county in which the land is situated, if not the local planning authority;
- (d) where the land is not in Greater London, the council of the district in which the land is situated (or the Council of the Isles of Scilly, as the case may be), if not the local planning authority;
- (e) where the land is in a National Park, the National Park Committee (if any), if not the local planning authority;
- (f) any joint planning board constituted under section 1 of the Act (or any joint planning board or special planning board reconstituted under Part I of Schedule 17 to the Act of 1972), where that board is not the local planning authority;
- (g) where the land is in an area designated as the site of a new town, the development corporation of the new town;
- (h) section 29 parties;
- (i) the council of the parish or community in which the land is situated, if that council has made representations to the local planning authority in respect of the application in pursuance of a provision of a development order made under section 24 of the Act;
- (j) any persons on whom the Secretary of State 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 government departments at inquiry**

8.—(1) Where either—

- (a) the Secretary of State 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 Secretary of State 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 Secretary of State for a representative of his department or of the other government department concerned to be made available at the inquiry.

(2) Where an application is made to the Secretary of State under the last foregoing paragraph he shall make a representative of his department available to attend the inquiry or, as the case may be, transmit the application to the other government department concerned, who shall make a representative of that 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 Secretary of State's direction restricting the grant of permission or, as the case may be, the reasons for the view expressed by his department and included in the Secretary of State's statement under rule 6(1) or the local planning 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.

(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 Secretary of State's direction or, as the case may be, 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 last two 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.

### **Representatives of local authorities at inquiry**

9.—(1) Where any local authority has—

- (a) given to the local planning authority a direction restricting the grant of planning permission or a direction as to how an application for planning permission was to be determined; or
- (b) expressed in writing the view that an application for planning permission should not be granted wholly or in part or should be granted only subject to conditions, and the local planning authority have included this view in their statement, as required under rule 6(3),

the applicant may, not later than 14 days before the date of the inquiry, apply in writing to the Secretary of State for a representative of the authority concerned to be made available to attend the inquiry.

(2) Where an application is made to the Secretary of State under the last foregoing paragraph he shall transmit the application to the authority concerned, who shall make a representative of the authority available to attend the inquiry.

(3) A representative of a local authority who, in pursuance of this rule, attends an inquiry shall be called as a witness by the local planning authority and shall state the reasons for the authority's direction or, as the case may be, the reasons for the view expressed by them and included in the local planning 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.

### **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 local planning authority and the section 29 parties 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(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 29 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 statements 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 29 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 Secretary of State 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 Secretary of State—

- (a) differs from the appointed person on a finding of fact, or
- (b) after the close of the inquiry takes into consideration any new evidence (including expert opinion on a matter of fact) or 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 29 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 Secretary of State has taken into consideration any new evidence or 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 Secretary of State 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 Secretary of State shall notify his decision, and his reasons therefor, in writing to the applicant, the local planning authority and the section 29 parties and to any person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) 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; and if any person entitled to be notified of the Secretary of State'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 Secretary of State within one month from the date of his decision.

(3) For the purpose of this rule “report” does not include documents, photographs or plans appended to the report but any person entitled to be supplied with a copy of the report under paragraph (2) of this rule may apply to the Secretary of State in writing within six weeks of the notification to him of the decision or the supply to him of the report, whichever is the later, for an opportunity of inspecting such documents, photographs and plans and the Secretary of State shall afford him an opportunity accordingly.

### **Service of notices by post**

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

### **Hearings**

**15.** These Rules, except paragraphs (2) and (3) of rule 5 and rule 7(1)(j) 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—

(i) in relation to the applications and appeals referred to in rule 2(1)(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 situated; or

- (ii) in relation to the applications and appeals referred to in rule 2(1)(b), (c) and (d), either the Common Council of the City of London or the council of the London borough in which the land is situated, as the case may be;”;

(b) at the end of rule 4, the following paragraph shall be added:—

“(3) Where either—

- (a) in pursuance of regulations under section 24(6) of the Act of 1963, the application which is before the Secretary of State or which is the subject of the appeal was required to be referred to the Greater London Council, or
- (b) in pursuance of paragraph 6 of Schedule 11 to the Act, notification of the application for listed building consent was required to be given to the Greater London Council,

and, in either case, that Council has either—

- (i) issued a direction to the local planning authority in whose area the land is situated as to the manner in which the application is to be dealt with or determined, or
- (ii) (whether before or after the reference to the Secretary of State or the appeal) otherwise expressed an opinion to such local planning authority on any such application,

the Greater London Council shall, at the request of the local planning authority, forthwith furnish to them 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 planning authority and—

- (i) where the application was required to be referred under section 24(6) of the Act of 1963, or required to be notified under paragraph 6 of Schedule 11 to the Act, 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 situated, 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 Secretary of State for a representative of the Greater London Council to be made available at the inquiry.

(2) The Secretary of State 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.

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(3) A representative of the Greater London Council who, in pursuance of this rule, attends the 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 (Inquiries Procedure) Rules 1969<sup>(2)</sup> are hereby revoked, and any application or 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 11th March 1974

*Elwyn-Jones, C*

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<sup>(2)</sup> (1969 II, p. 3171).

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## EXPLANATORY NOTE

These Rules replace with modifications the Town and Country Planning (Inquiries Procedure) Rules 1969. They prescribe the procedure to be followed at local inquiries and hearings held in connection with applications referred or appeals to the Secretary of State—

- (a) under sections 35 and 36 of the Town and Country Planning Act 1971, or
- (b) under tree preservation orders, or
- (c) in respect of listed building consents (including consent for the demolition of a building in a conservation area), or
- (d) under the Town and Country Planning (Control of Advertisements) Regulations 1969–1974.

Apart from the substitution of references to the provisions of the Town and Country Planning Act 1971 and the Tribunals and Inquiries Act 1971 for references to the provisions of the enactments consolidated by those Acts, the principal changes are:—

- (a) applications and appeals relating to consent for the demolition of a building in a conservation area are brought within the Rules;
- (b) account has been taken of the re-organisation of local government under the Local Government Act 1972 and of the amendments made by that Act to the Town and Country Planning Act 1971 by amending the definition of “local planning authority” in rule 3(1), by giving a parish or community council which has made representations about an application, a right to appear at the relevant inquiry, under rule 7(1)(i), and by making provision in rules 4(2), 6(3) and 9 for the circumstances in which another local authority may give a direction to the local planning authority or may express views as to the way in which a planning application should be dealt with;
- (c) Rule 8 deals with all appearances by representatives of the Secretary of State or of government departments at an inquiry since, as a result of the creation of the Department of the Environment, all Ministerial directions to local planning authorities restricting the grant of permission for development are given by the Secretary of State and the separate provisions of the former rules 8 and 9 are no longer required;
- (d) Rule 13(3) includes provision for the documents appended to an appointed person's report to be made available for inspection by the persons entitled to receive a copy of that report, on a written request made to the Secretary of State within the prescribed period.