
STATUTORY INSTRUMENTS

2005 No. 2115

TRIBUNALS AND INQUIRIES, ENGLAND

The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005

<i>Made</i>	- - - -	<i>27th July 2005</i>
<i>Laid before Parliament</i>		<i>3rd August 2005</i>
<i>Coming into force</i>	- -	<i>24th August 2005</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 9 of the Tribunals and Inquiries Act 1992⁽¹⁾, and after consultation with the Council on Tribunals, hereby makes the following Rules:

Citation, commencement and application

1.—(1) These Rules may be cited as the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005 and shall come into force on 24th August 2005.

(2) Subject to paragraph (3), these Rules apply in relation to any local inquiry caused by the Secretary of State to be held in England before he determines an application referred to him under section 76A(4)(a) of the Town and Country Planning Act 1990⁽²⁾.

(3) Where the Mayor of London has directed the local planning authority to refuse the application, these Rules shall apply with the modifications set out in rule 27.

Interpretation

2.—(1) In these Rules—

“additional inspector” means an inspector appointed by the Secretary of State under section 76B(3)(a)⁽³⁾ of the Planning Act;

“assessor” means a person appointed by the Secretary of State to sit with an inspector at an inquiry or re-opened inquiry to advise the inspector on such matters arising as the Secretary of State may specify;

“by local advertisement”, in relation to a notice, means—

(1) 1992 c. 53, to which there are amendments not relevant to these Rules.

(2) 1990 c. 8. Section 76A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 44.

(3) Section 76B was inserted by the Planning and Compulsory Purchase Act 2004, section 44.

- (a) by publication of the notice in at least one newspaper circulating in the locality in which the land to which the application relates is situated; and
- (b) where the local planning authority maintain a website for the purpose of advertisement of applications, by publication of the notice on the website;
- “the Commission” means the Historic Buildings and Monuments Commission for England⁽⁴⁾;
- “development order” has the meaning given in section 59 of the Planning Act;
- “document” includes a photograph, map or plan;
- “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000⁽⁵⁾;
- “environmental statement” has the same meaning as in regulation 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999⁽⁶⁾;
- “inquiry” means an inquiry in relation to which these Rules apply; and where an inquiry is conducted by means of concurrent sessions, it includes any such session;
- “inspector” includes a lead inspector and an additional inspector;
- “land” means the land or building to which an inquiry relates;
- “lead inspector” means a person appointed by the Secretary of State under section 76A(4)(b) of the Planning Act;
- “the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990⁽⁷⁾;
- “listed building consent” has the meaning given in section 8(7) of the Listed Buildings Act;
- “local planning authority” means, in relation to a referred application, the body which would otherwise have dealt with the application;
- “major participant” means a person who has indicated in accordance with rule 6(2)(d) that he is likely to want to be represented formally and to play a major part in the inquiry;
- “mediator” means a person who is appointed by the Secretary of State to undertake a mediation under rule 8;
- “outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry;
- “the Planning Act” means the Town and Country Planning Act 1990⁽⁸⁾;
- “pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously, and where two or more such meetings are held about the same inquiry, references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;
- “referred application” means an application which is referred to the Secretary of State for determination;

(4) See section 32 of the National Heritage Act 1983 (c. 47).

(5) 2000 c. 7.

(6) S.I. 1999/293 amended by S.I. 2000/2867.

(7) 1990 c. 9. Schedule 3 was amended by the Planning and Compensation Act 1991 (c. 34), section 25 and Schedule 3, Part II, paragraph 28 and by S.I. 1997/2971. Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42). There are other amendments not relevant to these Rules.

(8) 1990 c. 8. Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2). Schedule 6 was amended by the Planning and Compensation Act 1991, section 32 and 84(6) and Schedule 7 paragraphs 8 and 54 and Schedule 19, Part I; by the Tribunal and Inquiries Act 1992 (c. 53), section 18 and Schedule 3, paragraph 28; by the Environment Act 1995 (c. 25), Schedule 22, paragraph 44 and by S.I. 1992/1491, 1992/1630, and 1997/2971. Sections 76A and 76B were inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 44. There are other amendments not relevant to these Rules.

“registration form” means a form for completion by persons who wish to participate in the inquiry;

“relevant notice” means the Secretary of State’s notice under rule 4;

“statement of case” means, and comprises, a written statement which contains—

- (a) full particulars of the case which a person proposes to put forward at an inquiry;
- (b) a list of any documents which that person intends to refer to or put in evidence;
- (c) a list of the individuals whom that person proposes to call as witnesses; and
- (d) the subject-matter of the evidence of each such witness;

“statement of common ground” means a written statement prepared jointly by the local planning authority and the applicant, which contains agreed factual information about the proposal which is the subject of the application;

“statutory party”, in relation to a referred application to which these Rules apply, means—

- (a) a person mentioned in paragraph (1)(b)(i) of article 19 of the Town and Country Planning (General Development Procedure) Order 1995⁽⁹⁾ whose representations the Secretary of State is required by paragraph (3) of that article to take into account in determining the application; and
- (b) a person whose representations the Secretary of State is required by paragraphs (3) (b) and (5) of regulation 6 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990⁽¹⁰⁾ to take into account in determining the application,

“technical adviser” means a person appointed by the Secretary of State under rule 7.

(2) Subject to paragraph (4), a requirement imposed on the Secretary of State or the inspector to circulate a document is met by sending a copy of that document to—

- (a) the local planning authority;
- (b) the applicant; and
- (c) each major participant.

(3) Subject to paragraph (4), a requirement imposed on the Secretary of State or the inspector to deposit a document is met by sending a copy of it to the local planning authority.

(4) Nothing in paragraphs (2) or (3) requires the Secretary of State or the inspector to send a copy of a document to the person from whom it was received.

Electronic communications

3.—(1) In these Rules, and in relation to the use of electronic communications for any purpose of these Rules which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where any provision of these Rules require any person to provide a name and address to any other person, the requirement shall not be fulfilled unless the person subject to the requirement provides a postal address;
- (b) references to statements, notices, or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

⁽⁹⁾ S.I. 1995/419, to which there are amendments not relevant to these Rules.

⁽¹⁰⁾ S.I. 1990/1519, regulation 6 is modified where listed building consent or conservation consent is required for the purposes of certain proposals included in an application under section 6 of the Transport and Works Act 1992 (c. 42) by S.I. 1992/3138. There are other amendments not relevant to these Rules.

(2) Paragraphs (3) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement of these Rules to give or send any statement, notice or other document to any other person (“the recipient”).

(3) The requirement shall be taken to be fulfilled where the statement, notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(4) In paragraph (3), “legible in all material respects” means that the information contained in the statement, notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(5) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(6) A requirement of these Rules that any document shall be in writing is fulfilled where that document satisfies the criteria in paragraph (3).

(7) A requirement in these Rules to send more than one copy of a statement, notice or other document may be complied with by sending one copy only of the statement, notice or other document in question.

(8) Where a person is no longer willing to accept the use of electronic communications for any purpose of these Rules which is capable of being effected electronically, he shall give notice in writing—

- (a) withdrawing any address notified to the Secretary of State or to a local planning authority for that purpose, or
- (b) revoking any agreement entered into with the Secretary of State or with a local planning authority for that purpose,

and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice being not less than seven days after the date on which the notice is given.

Notice by Secretary of State

4. The Secretary of State shall notify the applicant and the local planning authority in writing that an inquiry is to be held (referred to in the following provisions of these Rules as the “relevant notice”).

Preliminary information to be supplied

5.—(1) The local planning authority shall on receipt of the relevant notice forthwith inform the Secretary of State and the applicant in writing of the name and address of any statutory party who has made representations to them; and the Secretary of State shall, as soon as practicable thereafter, inform the applicant and the local planning authority in writing of the name and address of—

- (a) any statutory party who has made representations to him; and
- (b) any other persons who are known to have a right to appear at the inquiry or to have an interest in the proposal.

(2) Where this paragraph applies, the local planning authority shall forthwith after receipt of the relevant notice inform the person concerned of the inquiry and, unless they have already done so, that person shall thereupon give the local planning authority a written statement of the reasons for making the direction, expressing the view or making the representations, as the case may be.

- (3) Paragraph (2) paragraph applies where—
- (a) the Secretary of State has given to the local planning authority a direction restricting the grant of planning permission for which application was made;
 - (b) in a case relating to listed building consent, the Commission has given to the local planning authority a direction pursuant to section 14(2) of the Listed Buildings Act as to how the application is to be determined;
 - (c) the Secretary of State or any other Minister of the Crown or any government department, or any body falling within rule 15(1)(c), 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
 - (d) any person consulted in pursuance of a development order has made representations to the local planning authority about the application.

Registration

- 6.—(1) On receipt of the relevant notice, the local planning authority shall—
- (a) send to each person notified or known to the local planning authority to have a right to appear at the inquiry or to have an interest in the proposal a copy of the statement sent by the Secretary of State under rule 9(2)(a)(ii) and a copy of the registration form; and
 - (b) publish by local advertisement a notice stating—
 - (i) that these Rules apply to the local inquiry;
 - (ii) the matters contained in the statement sent by the Secretary of State under rule 9(2)(a)(ii);
 - (iii) the arrangements for the first pre-inquiry meeting; and
 - (iv) that persons interested in participating in the inquiry should obtain from the local planning authority a copy of the registration form.
- (2) The registration form shall include the address to which completed forms must be returned, and the date by which that must be done. It shall request the following information—
- (a) the name, address and telephone number of the person registering;
 - (b) the name, address and telephone number of any agent, or, in the case of an organisation, of the contact person;
 - (c) whether or not the person registering has an interest in any land which will be affected by the proposal;
 - (d) whether or not the person registering is likely to want to be represented formally and to play a major part in the inquiry;
 - (e) if not, whether or not the person registering will wish to give oral evidence at the inquiry or will wish only to submit representations in writing.

Appointment of technical adviser

7.—(1) If it appears to the Secretary of State that evidence to be given to the inquiry is, or is likely to be, of such technical or scientific nature that the inquiry would be conducted more efficiently and expeditiously if an expert and independent assessment of that evidence were to be made, he may at any time appoint a technical adviser for that purpose.

(2) A technical adviser shall be a person appearing to the Secretary of State to have such qualifications and experience as enable him to conduct an expert assessment of scientific or technical evidence to be given to the inquiry.

(3) Where the Secretary of State appoints a technical adviser, he may in writing require the local planning authority to publish by local advertisement and within such period as he may specify a notice stating the name of the person so appointed and specifying the evidence to be assessed.

(4) The technical adviser shall, in consultation with the persons entitled to appear at the inquiry either jointly or separately, assess the evidence so specified and shall report his assessment in writing to the inspector.

(5) The technical adviser's report shall include a description of any areas of disagreement between the parties and shall state his view of the significance of each such disagreement.

(6) The inspector shall within 7 days of receipt of the technical adviser's report circulate it.

(7) The technical adviser shall give evidence on his report at the inquiry and shall be subject to cross-examination to the same extent as any other witness.

(8) The inspector may allow the technical adviser to alter or add to his report so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any such alteration or addition.

Mediation

8.—(1) If it appears to the Secretary of State that—

- (a) there is an absence of agreement between persons entitled to appear at the inquiry on a matter which is relevant to the inquiry;
- (b) the inquiry would be conducted more efficiently and expeditiously if agreement could be reached in relation to that matter or any disagreement in relation to it could be defined and narrowed; and
- (c) such a result is capable of being achieved by mediation,

then he may at any time appoint a mediator for that purpose.

(2) A mediator shall be a person appearing to the Secretary of State to have been trained in mediation techniques by an independent mediation organisation.

(3) Where the Secretary of State appoints a mediator, he may in writing require the local planning authority to publish by local advertisement and within such period as he may specify a notice stating the name of the person so appointed and the matter in relation to which he is to mediate.

(4) The mediator shall determine the procedure for the mediation.

(5) Within 7 days from the conclusion of the mediation, the mediator shall give to the inspector a report describing the mediation procedure and its outcome and the inspector shall, as soon as practicable after receipt, circulate the report.

(6) The inspector shall permit any person entitled to appear at the inquiry to address him on the report referred to in paragraph (5), but the mediator shall not give evidence at the inquiry.

Procedure for pre-inquiry and other meetings

9.—(1) The Secretary of State shall hold a pre-inquiry meeting.

(2) The following provisions shall apply to the pre-inquiry meeting, or where there is more than one, to the first pre-inquiry meeting—

- (a) the Secretary of State shall send with the relevant notice—
 - (i) notice of his intention to hold a pre-inquiry meeting;
 - (ii) a statement of the matters which, in his view, are the matters to be considered at the inquiry; and where another Minister of the Crown or a government department has

- expressed in writing to the Secretary of State a view which is mentioned in rule 5(2)(c), the Secretary of State shall set this out in his statement;
- (b) the Secretary of State shall send a copy of the statement described in the previous paragraph to the Minister or government department concerned and to each major participant; and
- (c) the local planning authority shall publish by local advertisement a notice of the Secretary of State's intention to hold a pre-inquiry meeting and of the statement sent in accordance with paragraph (2)(a)(ii) above.
- (3) The Secretary of State may at any time modify the statement referred to in paragraph (2)(a)(ii) above and if he does so shall send the modified statement to the local planning authority who shall publish by local advertisement a notice of the modification made.
- (4) The applicant, the local planning authority and each major participant shall ensure that within 8 weeks of the date of the relevant notice 2 copies, in the case of the applicant and the local planning authority, or 3 copies in any other case, of their outline statement have been received by the Secretary of State.
- (5) The local planning authority and each major participant shall identify in their outline statement any part of an environmental statement prepared by the applicant with which they disagree and the grounds for any such disagreement.
- (6) Where rule 5(2) applies, the local planning authority shall—
- (a) include in their outline statement—
- (i) the terms of any direction given together with a statement of the reasons for it; and
- (ii) any view expressed or representation made on which they intend to rely in their submissions at the inquiry; and
- (b) within 8 weeks from the date of the relevant notice send a copy of their outline statement to the person concerned.
- (7) The Secretary of State may in writing require any other person who has notified him of an intention or a wish to appear at the inquiry to send an outline statement to him, and that person shall ensure that the statement is received by the Secretary of State within 4 weeks of the date of the Secretary of State's written requirement.
- (8) The Secretary of State shall, as soon as practicable after receipt, circulate each outline statement sent in accordance with paragraphs (4) or (7).
- (9) The pre-inquiry meeting (or, where there is more than one, the first pre-inquiry meeting) shall be held within 16 weeks of the date of the relevant notice.
- (10) The Secretary of State shall give not less than 3 weeks' written notice of the pre-inquiry meeting to—
- (a) the applicant;
- (b) the local planning authority;
- (c) each major participant;
- (d) any person known at the date of the notice to be entitled to appear at the inquiry; and
- (e) any other person whose presence at the pre-inquiry meeting seems to him to be desirable, and he may require the local planning authority to take, in relation to notification of the pre-inquiry meeting, one or more of the steps which he may under rule 14(6) require them to take in relation to notification of the inquiry.
- (11) The inspector—
- (a) shall preside at the pre-inquiry meeting;

- (b) shall determine the matters to be discussed and the procedure to be followed;
- (c) may require any person present at the pre-inquiry meeting who, in his opinion, is behaving in a disruptive manner to leave; and
- (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit him to return or attend only on such conditions as he may specify.

(12) The inspector may at any time and for any purpose connected with the inquiry to which these rules apply hold such other meetings as he considers necessary, and he shall arrange for such notice to be given of those meetings as appears to him necessary; and paragraph (11) shall apply to such meetings.

(13) If the Secretary of State requests any further information from the applicant, the local planning authority or any major participant at the pre-inquiry meeting, they shall ensure that 2 copies, in the case of the applicant or the local planning authority, or 3 copies in the case of any major participant, of the information have been received by the Secretary of State within such period as he may specify; and the Secretary of State shall, as soon as practicable after receipt, circulate all information received by him under this paragraph.

Publicity for inspector's notes of pre-inquiry meetings and recommendations

10.—(1) As soon as practicable after the end of each pre-inquiry meeting the inspector shall prepare a note of the proceedings at that meeting and shall send a copy of that note to the Secretary of State.

(2) As soon as practicable after sending the copy of the note to the Secretary of State, the inspector shall circulate it.

(3) As soon as practicable after making recommendations to the Secretary of State on—

(i) a timetable for the proceedings, in accordance with rule 12(2), or

(ii) the matters which he is directed to consider under section 76B(2)(a) of the Planning Act, the inspector shall circulate a copy of those recommendations.

Receipt of statements of case etc.

11.—(1) The applicant shall—

(a) ensure that within 4 weeks from the conclusion of the pre-inquiry meeting or within such other period as the Secretary of State may specify in writing 2 copies of his statement of case have been received by the Secretary of State; and

(b) as soon as reasonably practicable after sending the statement to the Secretary of State, send a copy of it to every other person specified or referred to in rule 15(1).

(2) The local planning authority, each major participant and any other person who is required to send a statement of case in accordance with paragraph (7), shall—

(a) ensure that within 6 weeks from the conclusion of the pre-inquiry meeting or within such other period as the Secretary of State may specify in writing 2 copies of their statement of case have been received by the Secretary of State; and

(b) as soon as reasonably practicable after sending the statement to the Secretary of State, send a copy of it to every other person specified or referred to in rule 15(1).

(3) The local planning authority shall—

(a) include in their statement of case—

(i) details of the time and place where the opportunity to inspect and take copies described in paragraph (13) below shall be afforded; and

- (ii) where rule 5(2) applies, the matters mentioned in rule 9(2)(a)(ii), unless they have already included these in an outline statement; and
 - (b) where rule 5(2) applies, within the period specified in paragraph (2) send a copy of their statement of case to the person concerned.
- (4) The local planning authority and each major participant shall in their statements of case identify each part of the applicant's statement of case with which they agree and each part with which they do not agree, and shall state the reasons for each disagreement.
- (5) The Secretary of State shall, as soon as practicable after receipt of each statement of case received by him deposit it.
- (6) The applicant, the local planning authority and any major participant may in writing request from any other person who is required to provide a statement of case a copy of any document, or of the relevant part of any document, referred to in the list of documents comprised in that person's statement of case; and any such document, or relevant part, shall be sent, as soon as practicable, to the person who requested it.
- (7) The Secretary of State may in writing require any other person who has notified him of an intention or wish to appear at the inquiry, to send to him 2 copies of their statement of case.
- (8) The Secretary of State shall as soon as practicable inform the person referred to in paragraph (7) of the name and address of every person to whom his statement of case is required to be sent.
- (9) The Secretary of State or the inspector may in writing require any person, who has sent to him a statement of case in accordance with this rule, to provide—
- (a) a specified number of additional copies of the statement; or
 - (b) such further information about the matters contained in the statement as he may specify,
- and may specify the time within which the copies or information shall be received by him.
- (10) Any person required to provide additional copies or further information shall—
- (a) ensure that the additional copies have been received by the Secretary of State or the inspector, as the case may be, within the specified time;
 - (b) ensure that 2 copies of the further information have been received by the Secretary of State or the inspector, within the specified time; and the Secretary of State or the inspector shall, as soon as practicable after receipt, deposit that further information; and
 - (c) as soon as reasonably practicable after sending the further information to the Secretary of State or the inspector, send a copy of it to every other person specified or referred to in rule 15(1).
- (11) Any person other than the applicant who sends a statement of case to the Secretary of State shall send with it a copy of—
- (a) any document; or
 - (b) the relevant part of any document,
- referred to in the list comprised in that statement, unless a copy of the document or part of the document in question is already available for inspection pursuant to paragraph (13).
- (12) The Secretary of State shall send a written statement of the matters referred to in rule 9(2)(a)(ii) to any person from whom he has required a statement of case.
- (13) The local planning authority shall afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—
- (a) any statement of case, written comments, information or other document a copy of which has been sent to the local planning authority in accordance with this rule; and

- (b) the local planning authority's statement of case together with a copy of any document, or of the relevant part of any document, referred to in the list comprised in that statement, and any written comments, information or other documents sent by the local planning authority pursuant to this rule,

subject to the payment by that person of a reasonable charge.

(14) If the local planning authority, the applicant, major participant or any other person who sends a statement of case under this rule wish to comment on another person's statement of case they shall—

- (a) ensure that within 4 weeks of its receipt 2 copies of their written comments have been received by the Secretary of State; and the Secretary of State shall, as soon as practicable after receipt, deposit such comments; and
- (b) as soon as practicable after sending their comments to the Secretary of State, send a copy of them to every other person specified or referred to in rule 15(1).

(15) The Secretary of State shall, as soon as practicable after receipt, send to the inspector any statement of case, document or further information or written comments sent to him in accordance with this rule and received by him within the relevant period, if any, specified in this rule.

Inquiry timetable

12.—(1) The inspector shall at a pre-inquiry meeting held in accordance with rule 9—

- (a) propose a timetable for the proceedings at, or at part of, an inquiry, and
- (b) specify the date by which any proof of evidence and summary sent in accordance with rule 17(1), and any statement of common ground sent in accordance with rule 18(1), shall be received by the Secretary of State,

and shall give written notice of the date so specified to every person entitled to appear at the inquiry.

(2) The inspector shall, as soon as practicable after the pre-inquiry meeting referred to in paragraph (1), make recommendations to the Secretary of State on the proposed timetable.

(3) The inspector shall no later than 4 weeks before the start of the inquiry send to every person entitled to appear at the inquiry a copy of the timetable for the proceedings approved by the Secretary of State.

(4) The inspector may subsequently vary the timetable mentioned in paragraph (2) but he shall not do so before the start of the inquiry without the approval of the Secretary of State.

Notification of appointment of assessor

13. Where the Secretary of State appoints an assessor, he shall notify every person entitled to appear at the inquiry of the name of the assessor and of the matters on which he is to advise the inspector.

Date and notification of inquiry

14.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than 10 weeks after the conclusion of the pre-inquiry meeting.

(2) Where the Secretary of State considers it impracticable to fix a date in accordance with paragraph (1), the date fixed shall be the earliest date after the end of the period mentioned in that paragraph which he considers to be practicable.

(3) Unless the Secretary of State agrees a lesser period of notice with the applicant and the local planning authority, he shall give not less than 4 weeks' written notice of the date, time and place fixed by him for the holding of an inquiry to every person entitled to appear at the inquiry.

(4) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the period mentioned in paragraph (1); and paragraph (3) shall apply to a variation of a date as they applied to the date originally fixed.

(5) The Secretary of State may vary the time or place for the holding of an inquiry and shall give such notice of any variation as appears to him to be reasonable.

(6) The Secretary of State may in writing require the local planning authority to take one or more of the following steps—

- (a) not less than 2 weeks before the date fixed for the holding of an inquiry, to publish by local advertisement and in the London Gazette a notice of the inquiry;
- (b) to send a notice of the inquiry to such persons or classes of persons as he may specify, within such period as he may specify; or
- (c) to post a notice of the inquiry in such places near to the land, and within such period, as he may specify.

(7) Where the land is under the control of the applicant he shall—

- (a) if so required in writing by the Secretary of State, affix a notice of the inquiry firmly to the land or to some object on or near the land, in such manner as to be readily visible to and legible by members of the public; and
- (b) not remove the notice, or cause or permit it to be removed, for such period before the inquiry as the Secretary of State may specify.

(8) Every notice of inquiry published, sent or posted pursuant to paragraph (6), or affixed pursuant to paragraph (7), shall contain—

- (a) a clear statement of the date, time and place of the inquiry and of the powers enabling the Secretary of State to determine the application in question;
- (b) a written description of the land sufficient to identify approximately its location;
- (c) a brief description of the subject matter of the application; and
- (d) details of where and when copies of any documents sent by and copied to the local planning authority pursuant to rule 11 may be inspected.

(9) A written notice shall be taken to have been given by the Secretary of State for the purposes of paragraph (3) where he and any person entitled to appear at the inquiry have agreed that notice of the matters mentioned in that paragraph may instead be accessed by that person via a website, and—

- (a) the notice is a notice to which that agreement applies;
- (b) the Secretary of State has published that notice on the website; and
- (c) not less than 4 weeks before the date fixed by the Secretary of State for the holding of the inquiry, the person is notified of—
 - (i) the publication of the notice on the website;
 - (ii) the address of the website; and
- (d) the place on the website where the notice may be accessed, and how it may be accessed.

Appearances at inquiry

15.—(1) The persons entitled to appear at an inquiry are—

- (a) the applicant;

- (b) the local planning authority;
 - (c) any of the following bodies if the land is situated in their area and they are not the local planning authority—
 - (i) a county or district council;
 - (ii) a National Park authority established under section 63 of the Environment Act 1995⁽¹¹⁾;
 - (iii) an enterprise zone authority designated under Schedule 32 to the Local Government, Planning and Land Act 1980⁽¹²⁾;
 - (iv) the Broads Authority, within the meaning of the Norfolk and Suffolk Broads Act 1988⁽¹³⁾;
 - (v) a housing action trust specified in an order made under section 67(1) of the Housing Act 1988⁽¹⁴⁾;
 - (vi) an urban development corporation established by order of the Secretary of State under section 135(1) of the Local Government, Planning and Land Act 1980;
 - (d) where the land is in an area previously designated as a new town, the Commission for the New Towns;
 - (e) any statutory party;
 - (f) any major participant;
 - (g) the council of the parish in which the land is situated, if that council made representations to the local planning authority in respect of the application in pursuance of a provision of a development order;
 - (h) where the application was required to be notified to the Commission under section 14 of the Listed Buildings Act, the Commission; and
 - (i) any other person who has sent a statement of case in accordance with rule 11(2).
- (2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not be unreasonably withheld.
- (3) Any person entitled or permitted to appear may do so on his own behalf or be represented by any other person.

Representatives of government departments and other authorities at inquiry

16.—(1) Where—

- (a) the Secretary of State or the Commission has given a direction described in rule 5(2)(a) or (b); or
- (b) the Secretary of State or any other Minister of the Crown or any government department, or any body falling within rule 15(1)(c), has expressed a view described in rule 5(2)(c) and the local planning authority have included the terms of the expression of view in a statement sent in accordance with rule 9(6); or
- (c) another Minister of the Crown or any government department has expressed a view described in rule 5(2)(c) and the Secretary of State has included its terms in a statement sent in accordance with rule 9(2),

⁽¹¹⁾ 1995 c. 25.

⁽¹²⁾ 1980 c. 65, to which there are amendments not relevant to these Rules.

⁽¹³⁾ 1988 c. 4, to which there are amendments not relevant to these Rules.

⁽¹⁴⁾ 1988 c. 50. Section 67(1) was amended by the Planning (Consequential Provisions) Act 1990 (c. 11), sections 3, 4, Schedule 1 Part 1 and Schedule 2, paragraph 79(3).

the applicant, the local planning authority or a person entitled to appear may, not later than 4 weeks before the date of an inquiry, apply in writing to the Secretary of State for a representative of the Secretary of State or of the other Minister, department or body concerned to be made available at the inquiry.

(2) Where an application is made in accordance with paragraph (1), the Secretary of State shall make a representative available to attend the inquiry or, as the case may be, send the application to the other Minister, department or body concerned, who shall make a representative available to attend the inquiry.

(3) Any person attending an inquiry as a representative in pursuance of this rule shall state the reasons for the direction or expressed view and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(4) Nothing in paragraph (3) shall require a representative of a Minister or a government department to answer any question which in the opinion of the inspector is directed to the merits of government policy.

Proofs of evidence

17.—(1) Any person entitled to appear at an inquiry, who proposes to give, or to call another person to give evidence at the inquiry by reading a proof of evidence, shall send 2 copies of the proofs of evidence, in the case of the local planning authority and the applicant, or 3 copies in any other case, to the Secretary of State; and the Secretary of State shall, as soon as practicable after receipt, deposit each such proof of evidence.

(2) Where a copy of a proof of evidence sent under paragraph (1) contains more than 1,500 words, it shall be accompanied by a written summary; and the Secretary of State shall deposit each such summary.

(3) Where a person sends copies of a proof of evidence and summary (if any), that person shall at the same time send a copy to every other person specified or referred to in rule 15(1) unless the person so specified or referred to has indicated in writing that he does not require to be sent a copy.

(4) The proof of evidence and any summary shall be received by the Secretary of State no later than the date specified by the inspector pursuant to rule 12(1)(b).

(5) The Secretary of State shall send to the inspector, as soon as practicable after receipt, any proof of evidence together with any summary sent to him in accordance with this rule and received by him within the relevant period, if any, specified in this rule.

(6) Where a written summary is provided in accordance with paragraph (2), only that summary shall be read at the inquiry, unless the inspector permits or requires otherwise.

(7) Any person, required by this rule to send copies of a proof of evidence to the Secretary of State, shall send with them the same number of copies of the whole, or the relevant part, of any document referred to in the proof of evidence, unless a copy of the document or part of the document in question is already available for inspection pursuant to rule 11(13).

(8) The Secretary of State or the inspector may in writing require any person who has sent a copy of a proof of evidence or summary in accordance with this rule to provide such additional copies of the proof or summary as he may specify and may specify the time within which the copy of the proof or summary shall be received by him.

(9) Any person required to provide additional copies shall ensure that the copies have been received by the Secretary of State or inspector within the specified time.

Statement of common ground

18.—(1) The local planning authority and the applicant shall together prepare an agreed statement of common ground.

(2) Where an agreed statement of common ground is prepared in accordance with paragraph (1), the applicant shall—

- (a) ensure that, by the date specified by the inspector under rule 12(1)(b), 2 copies of the statement have been received by the Secretary of State; and the Secretary of State shall, as soon as practicable after receipt, deposit that statement;
- (b) at the same time as he sends the statement to the Secretary of State, send a copy of it to every other person specified or referred to in rule 15(1)(c) to (i); and
- (c) afford to any other person who so requests a reasonable opportunity to inspect and, where practicable and on payment of a reasonable charge, take copies of the statement.

Procedure at inquiry

19.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) At the start of the inquiry the inspector shall identify the matters to be considered at the inquiry, and any matters on which he requires further explanation from the persons entitled or permitted to appear.

(3) Nothing in paragraph (2) shall preclude any person entitled or permitted to appear from referring to matters which they consider relevant to the consideration of the application but which were not matters identified by the inspector pursuant to that paragraph.

(4) Unless in any particular case the inspector 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 inspector may determine.

(5) A person entitled to appear at an inquiry shall be entitled to call evidence and the applicant, the local planning authority and any major participant shall be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (6) and (10), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the discretion of the inspector.

(6) The inspector may refuse to permit the—

- (a) giving or production of evidence;
- (b) cross-examination of persons giving evidence; or
- (c) presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

(7) The inspector may refuse to permit the cross-examination of persons giving evidence, or may require such cross-examination to cease, if it appears to him that permitting such cross-examination or allowing it to continue (as the case may be) would have the effect that the timetable referred to in rule 12(2) could not be met.

(8) Where a person gives evidence at an inquiry by reading a summary of his proof of evidence in accordance with rule 17(6)—

- (a) the proof of evidence referred to in rule 17(1) shall be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary alone; and

- (b) the person whose evidence the proof of evidence contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.
- (9) The inspector may direct that facilities shall be afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.
- (10) The inspector may—
 - (a) require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave; and
 - (b) refuse to permit that person to return; or
 - (c) permit him to return only on such conditions as he may specify,but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.
- (11) The inspector may allow any person to alter or add to a statement of case received by the Secretary of State or him under rule 11 or a proof of evidence received by the Secretary of State under rule 17 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any such alteration or addition.
- (12) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.
- (13) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.
- (14) The inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice shall be required.
- (15) Any person who appears at an inquiry and makes closing submissions shall by the close of the inquiry provide the inspector with a copy of their closing submission in writing.

Site inspections

- 20.**—(1) The inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.
- (2) During an inquiry or after its close, the inspector—
 - (a) may inspect the land in the company of the applicant and the local planning authority; and
 - (b) shall make such an inspection if so requested by the applicant or the local planning authority before or during an inquiry.
 - (3) In all cases where the inspector intends to make an accompanied site inspection he shall announce during the inquiry the date and time at which he proposes to make it.
 - (4) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

- 21.**—(1) After the close of an inquiry, the lead inspector shall by such date as the Secretary of State may determine make a report in writing to the Secretary of State which shall include—
- (a) his consideration of the application;
 - (b) the consideration by any additional inspector of the matters relating to the application which that additional inspector has been directed to consider;

- (c) his conclusions; and
- (d) his recommendations or his reasons for not making any recommendations.

(2) Where the Secretary of State determines a date by which the lead inspector is to report to him, he shall give notice in writing of that determination to the lead inspector and to all persons entitled to appear at the inquiry.

(3) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(5) When making his decision the Secretary of State may disregard any written representations, evidence or any other document received after the close of the inquiry.

(6) If, after the close of an inquiry, the Secretary of State—

- (a) differs from an inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector; or
- (b) takes into consideration any new evidence or new matter of fact (not being a matter of government policy),

and is for that reason disposed to disagree with a recommendation made by the lead inspector, he shall not come to a decision which is at variance with that recommendation without first notifying the persons entitled to appear at the inquiry who appeared at it of his disagreement and the reasons for it; and affording them an opportunity of making written representations to him or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking for the re-opening of the inquiry.

(7) Those persons making written representations or requesting the inquiry to be re-opened under paragraph (6), shall ensure that such representations or requests are received by the Secretary of State within 3 weeks of the date of the Secretary of State's notification under that paragraph.

(8) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened, and he shall do so if asked by the applicant or the local planning authority in the circumstances mentioned in paragraph (6) and within the period mentioned in paragraph (7); and where an inquiry is re-opened (whether by the same or a different lead inspector) –

- (a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (3) to (9) of rule 14 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

22.—(1) The Secretary of State shall, as soon as practicable, notify his decision on an application, and his reasons for it, in writing to—

- (a) all persons entitled to appear at the inquiry who did appear, and
- (b) any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Notification in writing of a decision and reasons shall be taken to have been given to a person for the purposes of this rule where—

- (a) the Secretary of State and the person have agreed that decisions and reasons required under this rule to be given in writing may instead be accessed by that person via a website;

- (b) the decision and reasons are a decision and reasons to which that agreement applies;
- (c) the Secretary of State has published the decision and reasons on a website; and
- (d) the person is notified, in manner for the time being agreed between him and the Secretary of State, of—
 - (i) the publication of the decision and reasons on a website;
 - (ii) the address of the website; and
 - (iii) the place on the website where the decision and reasons may be accessed, and how they may be accessed.

(3) Where a copy of the lead inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him, and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application to the Secretary of State.

(4) In this rule "report" includes any assessor's report appended to an inspector's report and an additional inspector's report appended to the lead inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing, within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

(5) Any person applying to the Secretary of State under paragraph (3) shall ensure that his application is received by the Secretary of State within 4 weeks of the Secretary of State's determination.

Procedure following quashing of decision

23.—(1) Where a decision of the Secretary of State on an application in respect of which an inquiry has been held is quashed in proceedings before any court, the Secretary of State—

- (a) shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further representations are invited for the purposes of his further consideration of the application;
- (b) shall afford to those persons the opportunity of making written representations to him in respect of those matters or of asking for the re-opening of the inquiry; and
- (c) may, as he thinks fit, cause the inquiry to be reopened (whether by the same or a different lead inspector).

(2) Where the Secretary of State causes an inquiry to be re-opened, paragraphs (3) to (9) of rule 14 shall apply in relation to the re-opened inquiry as if references in those paragraphs to an inquiry were references to the re-opened inquiry.

(3) Those persons making representations or asking for the inquiry to be re-opened under paragraph (1)(b) shall ensure that such representations or requests are received by the Secretary of State within 3 weeks of the date of the written statement sent under paragraph (1)(a).

Allowing further time

24. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules, and references in these Rules to a day by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

Additional copies

25.—(1) The Secretary of State may at any time before the close of an inquiry request from any person entitled to appear additional copies of the following—

- (a) an outline statement sent in accordance with rule 9;
- (b) a statement of case or comments sent in accordance with rule 11;
- (c) a proof of evidence sent in accordance with rule 17; or
- (d) any other document or information sent to the Secretary of State before or during an inquiry,

and may specify the time within which such documents should be received by him.

(2) Any person so requested shall ensure that the copies are received by the Secretary of State within the period specified.

Sending of notices and inspection of documents

26.—(1) Notices or documents required or authorised to be sent under these Rules may be sent—

- (a) by post; or
- (b) by using electronic communications to send or supply the notice or document (as the case may be) to a person at such address as may for the time being be specified by the person for that purpose.

(2) Where the local planning authority is under an obligation to afford to any person who so requests an opportunity to inspect and take copies of any document, an opportunity shall be taken to have been afforded to a person where the person is notified of—

- (a) publication of the relevant document on a website;
- (b) the address of the website; and
- (c) the place on the website where the document may be accessed, and how it may be accessed.

Mayor of London

27. The modifications referred to in rule 1(3) are—

- (a) in rule 2(1) after the definition of “major participant” insert—
 - ““Mayor” means the Mayor of London;”;
- (b) in rule 2(2) after sub-paragraph (a) insert—
 - “(aa) the Mayor;”;
- (c) in rule 4 after “the applicant” insert “, the Mayor”;
- (d) in rule 5—
 - (i) in paragraph (1) after “inform the Secretary of State” and after “inform the applicant” insert “, the Mayor”;
 - (ii) in paragraph (2) after sub-paragraph (d) insert—
 - “; or
 - (e) the Mayor has given to the local planning authority a direction to refuse the application for planning permission.”;
- (e) in rule 9 in paragraphs (4) and (10) after “the applicant” in each place where those words appear, insert “, the Mayor”;
- (f) in rule 11—

- (i) in paragraph (2) after “The local planning authority” insert “, the Mayor”; and
- (ii) in paragraph (14) after the first reference to “the local planning authority” insert “, the Mayor”;
- (g) in rule 14(3) after “the applicant” insert “, the Mayor”;
- (h) in rule 15(1) after paragraph (i) insert—
 - “; and
 - (j) the Mayor in relation to an inquiry arising from an application in respect of which he has given to the local planning authority a direction to refuse the application.”;
- (i) in rule 16(1)—
 - (i) after paragraph (c) insert—
 - “or
 - (d) the Mayor has given to the local planning authority a direction to refuse the application for planning permission.”; and
 - (ii) after “body concerned” insert “or of the Mayor”;
- (j) in rule 16(2) after “department” insert “, the Mayor”;
- (k) in rule 17(1)—
 - (i) after “the local planning authority” insert “, the Mayor”;
 - (ii) for “2” substitute “3”; and
 - (iii) for “3” substitute “4”;
- (l) in rule 18(1) after “The local planning authority” insert “, the Mayor”;
- (m) in rule 19(5) after “the local planning authority” insert “, the Mayor”;
- (n) in rule 21(8) after “the applicant” insert “, the Mayor”.

Revocation, savings and transitional

28.—(1) Subject to paragraph (2), the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002(**15**) (“the 2002 Rules”) are hereby revoked to the extent that they apply to any local inquiry to which these Rules apply.

(2) Subject to paragraph (3) the 2002 Rules shall continue to apply in relation to any application which has not been determined on the date when these Rules come into force.

(3) Where a decision of the Secretary of State on an application in relation to a major infrastructure project to which the 2002 Rules applied is subsequently quashed in proceedings before any court, the application shall be re-determined in accordance with these Rules.

Signed by authority of the Lord Chancellor

27th July 2005

Baroness Ashton of Upholland
Parliamentary Under Secretary of State
Department for Constitutional Affairs

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the procedure to be followed in connection with local inquiries relating to applications for planning permission or for the approval of a local planning authority required under a development order held by the Secretary of State in England, where he thinks that the development to which the application relates is of national or regional importance. They have been made in consequence of the enactment of the Planning and Compulsory Purchase Act 2004 which inserted new sections 76A and 76B into the Town and Country Planning Act 1990.

The Rules apply in relation to England only. They reproduce, with amendments, the Town and Country Planning (Major Infrastructure Projects Inquiries Procedure) (England) Rules 2002. The principal changes made by these Rules to apply to major infrastructure project inquiries is to enable inquiries to be held in concurrent sessions by a number of inspectors, where the lead inspector so recommends to the Secretary of State and to provide for publicity for inspector's notes of pre-inquiry meetings and recommendations.

Rules 4 to 8 provide for notification that the inquiry will take place, provision of preliminary information, registration by interested parties, the appointment of a technical adviser and mediation. Rules 9 and 10 provide for the procedure to be followed at pre-inquiry meetings and publicity following such meetings. Rules 11 to 18 provide for statements of case, statements of common ground and proofs of evidence, the setting of a timetable and date for the inquiry, the notification of that date and the appointment of any assessor, the persons who are entitled to appear at an inquiry and representatives of government departments. Rules 19 to 25 provide for procedure at and after the inquiry, including provisions for site visits, notification of decisions and the procedure to be followed if the decision is subsequently quashed in legal proceedings. Rule 26 provides for the service of documents and rule 27 modifies the Rules in relation to cases where the Mayor of London has directed the local planning authority to refuse the application. Rule 28 revokes the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002 to the extent that they apply to any local inquiry to which these Rules apply - subject to certain savings and transitional provisions.

A Regulatory Impact Assessment has been prepared in relation to the Rules. It has been placed in the Library of each House of Parliament and copies may be obtained from the Planning Directorate, Office of the Deputy Prime Minister, Room 4/H2, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020 7944 3945).