
STATUTORY INSTRUMENTS

2007 No. 2008

**The Rights of Way (Hearings and
Inquiries Procedure) (England) Rules 2007**

PART 3

HEARINGS

Date and notification of hearing

5.—(1) The date fixed by the Secretary of State for a hearing shall be—

- (a) not later than twenty weeks after the start date; or
- (b) where he considers that a date within such twenty-week period would not be practicable, the earliest date which he considers to be practicable after the expiry of that twenty-week period.

(2) The Secretary of State may at any time change the date, time or place fixed for the hearing (whether or not, in the case of a change of date, the new date is within the period mentioned in paragraph (1)(a)) and shall give such notice of the change as appears to him to be reasonable to every person mentioned in rule 4(4).

(3) Not less than four weeks before the date fixed for the hearing, the authority—

- (a) shall cause a notice of the hearing to be displayed in a prominent position at each end of so much of any way or proposed way as is affected by the order and in such other places in the locality as the authority may consider appropriate;
- (b) shall publish a notice of the hearing in one or more newspapers circulating in the locality in which the land to which the order relates is situated; and
- (c) may publish notice of the hearing by any additional means they consider appropriate.

(4) Every notice referred to in paragraph (3) shall contain—

- (a) the date, time and place of the hearing;
- (b) a brief description of—
 - (i) the land to which the order that is the subject of the hearing relates; and
 - (ii) the effect of the order; and
- (c) details of where and when copies of the order and documents relating to the hearing may be inspected and copied.

Submission of statements of case for the hearing

6.—(1) The authority shall ensure that, within eight weeks of the start date, the Secretary of State has received their statement of case.

(2) As soon as practicable after the receipt of the statement of case mentioned in paragraph (1), the Secretary of State shall send a copy of that statement (excluding copies of any supporting

documents) to the applicant (if any), each relevant person and any other person who has submitted or subsequently submits a statement of case under paragraph (5).

(3) The applicant shall ensure that, within 12 weeks of the start date, the Secretary of State has—

- (a) received his statement of case; or
- (b) received notice that he intends to rely on the authority's statement of case as his own.

(4) The Secretary of State shall, as soon as practicable after receiving the applicant's statement of case or notice under paragraph (3)—

- (a) send a copy of that statement or notice to the authority; and
- (b) send a copy of that statement (excluding copies of any supporting documents) or notice to each relevant person and to any other person who has submitted or subsequently submits a statement of case under paragraph (5).

(5) Every relevant person and every other person who wishes to give evidence at the hearing shall ensure that, within 12 weeks of the start date, the Secretary of State has received his statement of case.

(6) The Secretary of State shall, as soon as practicable—

- (a) send a copy of each statement which he receives under paragraph (5) to the authority;
- (b) send a copy of each such statement (excluding copies of any supporting documents) to the applicant (if any); and
- (c) send a copy of each such statement (excluding copies of any supporting documents) to every other person who has submitted or subsequently submits a statement of case under paragraph (5).

Provision of further information

7.—(1) The Secretary of State may require such further information as he may specify from any person in respect of his statement of case mentioned in rule 6.

(2) Any information required under paragraph (1) shall be provided in writing within such period as the Secretary of State may reasonably require.

(3) The Secretary of State shall, as soon as practicable after receipt of the further information required under paragraph (1), send a copy to the authority and to every other person who has submitted or subsequently submits a statement of case or notice under rule 6.

Appearances at the hearing

8.—(1) The persons entitled to appear at the hearing are—

- (a) the authority;
- (b) the applicant;
- (c) every relevant person; and
- (d) every other person who has submitted a statement of case as mentioned in rule 6(5).

(2) The Secretary of State may permit any other person to appear at the hearing, and such permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may appear in person or be represented by any other person.

Procedure at the hearing

9.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at the hearing.

(2) The hearing shall take the form of a discussion led by the inspector, and cross-examination shall not be permitted unless the inspector considers that cross-examination is required to ensure a thorough examination of the main issues.

(3) Where the inspector considers that cross-examination is required under paragraph (2), he shall consider, after consulting every person who—

- (a) is entitled or permitted to appear at the hearing, and
- (b) is present at that hearing,

whether the hearing should be closed and an inquiry should be held instead.

(4) At the start of the hearing the inspector shall identify—

- (a) what are in his opinion the main issues to be considered at the hearing; and
- (b) any matters on which he requires further explanation from any person appearing at the hearing.

(5) Paragraph (4) shall not preclude the addition in the course of the hearing of other issues for consideration or preclude any person entitled or permitted to appear at the hearing from referring to other issues which he considers to be relevant to the hearing.

(6) Subject to paragraph (7), any person appearing at the hearing may give, or call another person to give, oral evidence, and may present, or call another person to present, any matter.

(7) The inspector may at any stage in the proceedings refuse to permit—

- (a) the giving or production of evidence, or
- (b) the presentation of any matter,

which he considers to be irrelevant or repetitious.

(8) Where under paragraph (7) the inspector refuses to permit the giving or production of evidence or the presentation of any matter, the person wishing to give or produce evidence or to present any matter, or to call any other person to give or produce evidence or to present any matter, may submit to the inspector any evidence or other matter in writing before the close of the hearing.

(9) The inspector may—

- (a) require any person present at a hearing who, in his opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return or permit him to return only on such conditions as he may specify.

(10) Any person mentioned in paragraph (9) may submit to the inspector any evidence or other matter in writing before the close of the hearing.

(11) The inspector may, at the hearing, allow any person to alter or add to his statement of case received by the Secretary of State under rule 6 so far as may be necessary for the purposes of the hearing.

(12) Where the inspector has allowed an alteration or addition under paragraph (11), he shall (if necessary by adjourning the hearing) give—

- (a) every other person appearing at the hearing,
- (b) every other person present at the hearing who was entitled to receive a copy of the statement of case in question under rule 6, and
- (c) such other persons as he considers appropriate,

an adequate opportunity of considering the alteration or addition.

- (13) The inspector may—
- (a) proceed with the hearing in the absence of any person entitled or permitted to appear at it;
 - (b) take into account any written representations, evidence or any other document received by him from any person before the hearing opens or during the hearing, provided he discloses it at the hearing; and
 - (c) from time to time adjourn the hearing.

Site inspections and adjourning the hearing to the land

10.—(1) The inspector may make an unaccompanied inspection of the land to which the order relates before or during the hearing without giving notice of his intention to the persons entitled or permitted to appear at the hearing.

- (2) During the hearing or after its close, the inspector—
- (a) may inspect the land to which the order relates in the company of the authority and any person entitled or permitted to appear at the hearing; and
 - (b) shall make such an inspection if so requested before or during the hearing by the authority or any person entitled or permitted to appear at the hearing.

(3) The inspector shall not be required to make more than one inspection under paragraph (2)(b).

(4) In all cases where the inspector intends to make an accompanied inspection under paragraph (2), he shall announce during the hearing the date and time at which he proposes to make it.

(5) The inspector shall not be bound to defer an inspection in the event that any person entitled or permitted to appear at the hearing is not present at the appointed time.

(6) Where it appears to the inspector that one or more matters would be more satisfactorily resolved by adjourning the hearing to the land to which the order relates, he may adjourn the hearing to that land and may conclude the hearing there, provided he is satisfied that—

- (a) the hearing would proceed satisfactorily and that no person entitled or permitted to appear at the hearing would be placed at a disadvantage; and
- (b) no person entitled or permitted to appear at the hearing has raised any reasonable objection to the hearing being continued on that land.

(7) Nothing in this rule—

- (a) entitles or requires the inspector (or those accompanying him, where applicable) to access land in order to make an inspection or to continue a hearing where such access would be unlawful; or
- (b) requires the inspector to access land to make an inspection where making such an inspection would not, in the inspector's opinion, be expedient for reasons of safety.

(8) For the purposes of paragraph (7)(a), access is lawful on any occasion if the inspector (and those accompanying him, where applicable) may access the land on that occasion without committing an offence or trespassing on the land.

Procedure after hearing - decisions by the Secretary of State

11.—(1) This rule applies where a hearing has been held for the purposes of a decision by the Secretary of State as respects an order.

(2) After the close of the hearing, the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and either his recommendations or his reasons for not making any recommendations.

- (3) When making his decision the Secretary of State may disregard any subsequent material.
- (4) Paragraph (5) applies where, after the close of the hearing, the Secretary of State—
 - (a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector, and is, for that reason, minded to disagree with a recommendation made by the inspector, or
 - (b) takes into consideration any subsequent material which he considers to be relevant to his decision.
- (5) Where this paragraph applies, the Secretary of State shall not come to a decision without first—
 - (a) giving notice to the persons mentioned in paragraph (6)—
 - (i) that he is minded to disagree with a recommendation made by the inspector, and of the reasons for being so minded, or
 - (ii) of the subsequent material which he considers to be relevant to his decision; and
 - (b) affording the persons mentioned in paragraph (6) an opportunity to make written representations to him and to ask for the hearing to be re-opened.
- (6) The persons referred to in paragraph (5) are every person who—
 - (a) was entitled to appear at the hearing, or
 - (b) appeared at the hearing with the Secretary of State's permission.
- (7) Those persons making written representations or requesting that the hearing be re-opened under paragraph (5) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notice under that paragraph.
- (8) The Secretary of State may, if he thinks fit, cause a hearing to be re-opened.
- (9) Where a hearing is re-opened under paragraph (8)—
 - (a) the Secretary of State shall, not less than eight weeks before the date of the re-opened hearing, send to every person who was entitled to appear at the hearing, and every person who appeared at the hearing with the Secretary of State's permission, a written statement of the matters with respect to which further evidence or argument is invited; and
 - (b) paragraphs (2) to (4) of rule 5 shall apply as if the references to a hearing were references to a re-opened hearing.

Procedure after hearing - transferred decisions

- 12.—**(1) This rule applies where a hearing has been held for the purposes of a transferred decision.
- (2) When making his decision the inspector may disregard any subsequent material.
- (3) If, after the close of the hearing, the inspector takes into consideration any subsequent material which he considers to be relevant to his decision, he shall not come to a decision without first—
 - (a) giving notice of the subsequent material which he considers to be relevant to his decision to every person who was entitled to appear at the hearing and every person who appeared at the hearing with the Secretary of State's permission; and
 - (b) affording such persons an opportunity to make written representations to him and to ask for the hearing to be re-opened.
- (4) Any person wishing to avail himself of the opportunity mentioned in paragraph (3)(b) shall ensure that such written representations or requests to re-open the hearing are received by the Secretary of State within three weeks of the date of the notification mentioned in paragraph (3)(a).
- (5) The inspector may, if he thinks fit, cause a hearing to be re-opened.

- (6) Where a hearing is re-opened under paragraph (5)—
 - (a) the inspector shall send to every person who was entitled to appear at the hearing, and every person who appeared at the hearing with the Secretary of State’s permission, a written statement of the matters with respect to which further evidence or argument is invited; and
 - (b) paragraphs (2) to (4) of rule 5 shall apply as if the references to a hearing were references to a re-opened hearing.

Notification of decision - decisions by the Secretary of State

13.—(1) This rule applies where a hearing has been held under these Rules for the purposes of a decision by the Secretary of State.

(2) The Secretary of State shall, as soon as practicable, give notice of his decision and his reasons for it, to—

- (a) every person who was entitled to appear at the hearing under rule 8(1);
- (b) every person who appeared at the hearing with the Secretary of State’s permission; and
- (c) every other person who was notified by the Secretary of State in accordance with rule 4(4) (c) to (f).

(3) Where a copy of the inspector’s report is not sent with the notice of the decision given under paragraph (2), that notice shall include a statement of the inspector’s conclusions and of any recommendations made by him.

(4) If a person entitled to be notified of the Secretary of State’s decision has not received a copy of the report mentioned in paragraph (3), he shall be supplied with a copy of it on written application to the Secretary of State.

(5) As soon as practicable after giving notice of his decision under paragraph (2), the Secretary of State shall make a copy of that notice available for inspection for a period of three months on a website maintained by him.

(6) In this rule, “report” does not include any documents appended to the inspector’s report, but any person who has received a copy of the report may apply in writing to the Secretary of State for an opportunity to inspect any such documents and the Secretary of State shall afford him that opportunity.

Notification of decision - transferred decisions

14.—(1) This rule applies where a hearing has been held under these Rules for the purposes of a transferred decision.

(2) The inspector shall, as soon as practicable, give notice of his decision and his reasons for it, to—

- (a) every person who was entitled to appear at the hearing under rule 8(1);
- (b) every person who appeared at the hearing with the Secretary of State’s permission; and
- (c) every other person who was notified by the Secretary of State in accordance with rule 4(4) (c) to (f).

(3) Any person entitled to be notified of the inspector’s decision under paragraph (2) may apply in writing to the Secretary of State for an opportunity of inspecting any documents referred to in that notification, and the Secretary of State shall afford him that opportunity.

(4) The Secretary of State shall ensure that, as soon as practicable after the notice has been given under paragraph (2), a copy of that notice is made available for inspection for a period of three months on a website maintained by him.