

1968 No. 1953

TRIBUNALS AND INQUIRIES

**The Town and Country Planning (Inquiries Procedure)
(Amendment) Rules 1968**

<i>Made - - - -</i>	<i>9th December 1968</i>
<i>Laid before Parliament</i>	<i>16th December 1968</i>
<i>Coming into Operation</i>	<i>1st January 1969</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 7A of the Tribunals and Inquiries Act 1958(a) (inserted in that Act by section 33 of the Town and Country Planning Act 1959(b)) and after consultation with the Council on Tribunals, hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Town and Country Planning (Inquiries Procedure) (Amendment) Rules 1968, and the Town and Country Planning (Inquiries Procedure) Rules 1965(c) and these Rules may be cited together as the Town and Country Planning (Inquiries Procedure) Rules 1965 and 1968.

(2) These Rules shall come into operation on 1st January 1969 but shall not affect any application referred to the Minister or appeal brought before that date.

(3) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. The Town and Country Planning (Inquiries Procedure) Rules 1965 are hereby amended as follows:—

(a) In rule 2(1):—

(i) for the words “These Rules apply—” there shall be substituted the words:—

“These Rules do not, except to the extent provided by paragraph (3) of this rule, apply to inquiries held under the provisions of Part III of the Town and Country Planning Act 1968(e), but save as aforesaid apply—”;

(ii) for the reference in paragraph (b) to the Minister of Land and Natural Resources there shall be substituted a reference to the Minister of Housing and Local Government; and

(iii) for paragraph (c) there shall be substituted the following paragraph:—

“(c) to local inquiries caused by the Minister of Housing and Local Government or by the Secretary of State for Wales to be held for the purpose of applications referred to him and appeals to him under Part I of schedule 5 to the Town and Country Planning Act 1968 and (to the extent provided in rule 15) to hearings before a person appointed by the Minister or by the Secretary of State, as the case may be, for the purpose of any such application or appeal, subject to the following modifications:—

(a) 1958 c. 66.
(c) S.I. 1965/473 (1965 I p. 1204).
(e) 1968 c. 72.

(b) 1959 c. 53.
(d) 1889 c. 63.

- (i) references to development shall be construed as references to works for the demolition, alteration or extension of a listed building;
- (ii) references to permission shall be construed as references to a listed building consent."

(b) At the end of rule 2 there shall be inserted the following paragraph:—

"(3) Where the Minister of Housing and Local Government or the Secretary of State for Wales, in exercise of his powers under section 22 of the Town and Country Planning Act 1968, directs that an appeal, (which, by virtue of section 21 of that Act and the regulations made thereunder, falls to be determined by a person appointed by the Minister or by the Secretary of State, as the case may be), shall, instead of being determined by that person, be determined by the Minister or 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."

(c) For rule 3 there shall be substituted the following rule:—

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

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

'the Act of 1968' means the Town and Country Planning Act 1968;

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

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

'inquiry' means a local inquiry to which these Rules apply;

'appointed person' means the person appointed by the Minister to hold the inquiry;

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

'listed building' and 'listed building consent' have the meanings assigned to them in section 40 of the Act of 1968;

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

'local planning authority' means (a) the local planning authority (within the meaning of section 2 of the Act) for the area in which the land is, or (b) an authority exercising delegated functions on behalf of that authority;

'referred application' means an application referred to the Minister under section 22 of the Act, or that section as applied by a tree preservation order, or under regulation 28 of the Town and Country Planning (Control of Advertisements) Regulations 1960(a), or under paragraph 3 of Schedule 5 to the Act of 1968;

'section 17 parties' means—

- (i) in relation to referred applications, persons from whom representations are received within the time prescribed, (a) in pursuance of section 17(2) or (3) of the Act, as applied by section 22(4), or (b) in the case of applications referred under paragraph 3 of schedule 5 to the Act of 1968, 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 17(3) of the Act, or by the Minister in pursuance of section 17(3) as applied by section 23(6), or (b) in the case of appeals brought under paragraph 7 of schedule 5 to the Act of 1968, in pursuance of regulations made under paragraph 2 of the said schedule;

'tree preservation order' means an order under section 29 of the Act;

'trees' includes groups of trees and woodlands.

(2) References in these Rules to section 17 of the Act shall be construed as including where appropriate references to regulations made under paragraph 2 of schedule 5 to the Act of 1968.

(3) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament."

(d) In rule 16, for paragraphs (a), (b) and (d) there shall be substituted the following paragraphs:—

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

" 'the Act of 1963' means the London Government Act 1963"(a); 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; or
- (ii) in relation to the appeals referred to in rules 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, 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 Minister or which is the subject of the appeal was required to be referred to the Greater London Council, or
- (b) in pursuance of paragraph 5 of schedule 5 to the Act of 1968, 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 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 Minister 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.” ”

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

“(b) the local planning authority and—

- (i) where the application was required to be referred under section 24(6) of the Act of 1963, or required to be notified under paragraph 5 of schedule 5 to the Act of 1968, the Greater London Council, or
- (ii) where the Greater London Council is the local planning authority, the Common Council of the City of London or the council of the London borough in which the land is, as the case may be.” ”

Dated 9th December 1968.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Town and Country Planning (Inquiries Procedure) Rules 1965 by substituting, for the previous references to applications for consent under a building preservation order and appeals under such an order, a provision including within the scope of the Rules local inquiries held into appeals brought, or applications referred, to the Minister of Housing and Local Government or the Secretary of State for Wales in respect of listed building consents under Part I of schedule 5 to the Town and Country Planning Act 1968. Consequential amendments are made, in particular to the definition of “section 17 parties” in the 1965 Rules so as to include persons who, by regulations made under the provisions of that schedule, have been given a status corresponding to that of persons making representations under section 17(3) of the Town and Country Planning Act 1962, and provision is made for references to “section 17” to include references to such regulations.

These Rules also provide that, where the Minister or the Secretary of State directs under section 22 of the Act of 1968 that an appeal, which has been proceeding as an appeal to be determined by an appointed person, shall instead be determined by the Minister or the Secretary of State, the Rules of 1965 shall apply to all subsequent steps taken or things done in the appeal.

Account has also been taken of the transfer, under the Ministry of Land and Natural Resources (Dissolution) Order 1967 (S.I. 1967/156), of functions formerly exercised in regard to tree preservation orders in England by the Minister of Land and Natural Resources to the Minister of Housing and Local Government.