

2003 No. 1267

TRIBUNALS AND INQUIRIES, WALES

**The Town and Country Planning Appeals (Determination by
Inspectors) (Inquiries Procedure) (Wales) Rules 2003**

<i>Made - - - -</i>	<i>8th May 2003</i>
<i>Laid before Parliament</i>	<i>9th May 2003</i>
<i>Coming into force</i>	<i>1st June 2003</i>

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The Lord Chancellor, in exercise of the powers conferred on him by section 9 of the Tribunals and Inquiries Act 1992(a), and all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following Rules:

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

Citation, commencement and application

1.—(1) These Rules may be cited as the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003 and come into force on 1st June 2003.

(2) These Rules apply to Wales.

Interpretation

2. In these Rules, unless the context otherwise requires—

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

“conservation area consent” has the meaning given in section 74(1) of the Listed Buildings Act;

“development order” has the meaning given in section 59 of the Planning Act;

“document” includes a photograph, map or plan;

“electronic communication” has the meaning assigned to that term by section 15(1) of the Electronic Communications Act 2000(a);

“inquiry” means a local inquiry in relation to which these Rules apply;

“inspector” means a person appointed by the National Assembly under Schedule 6 to the Planning Act or, as the case may be, Schedule 3 to the Listed Buildings Act to determine an appeal;

“land” means the land or building to which an inquiry relates;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(b);

“listed building consent” has the meaning given in section 8(7) of the Listed Buildings Act;

“local planning authority” means the body which was responsible for dealing with the application occasioning the appeal;

“the National Assembly” means the National Assembly for Wales;

“the Planning Act” means the Town and Country Planning Act 1990(c);

“pre-inquiry meeting” means a meeting held prior to 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, references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

“questionnaire” means a document in the form supplied by the National Assembly to local planning authorities for the purpose of proceedings under these Rules;

“relevant notice” means the National Assembly’s written notice informing the appellant and the local planning authority that an inquiry is to be held;

“the 1992 Rules” means the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) Rules 1992(d);

“starting date” means the date of the—

(a) National Assembly’s written notice to the appellant and the local planning authority that the National Assembly has received all the documents required to enable it to entertain the appeal; or

(b) relevant notice,

whichever is the later;

(a) 2000 c.7.

(b) 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 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.

(c) 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 (c.34), sections 32 and 84(6) and Schedule 7, paragraphs 8 and 54 and Schedule 19, Part I, the Tribunals and Inquiries Act 1992 (c.53), section 18 and Schedule 3, paragraph 28, the Environment Act 1995 (c.25), Schedule 22, paragraph 44, S.I. 1992/1630, S.I. 1992/1491 and S.I. 1997/2971. There are also amendments not relevant to these Rules.

(d) S.I. 1992/2039, to which there are amendments not relevant to these Rules.

“statement of case” means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence;

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

“statutory party” means—

- (a) a person mentioned in paragraph (1)(b)(i) of article 19 of the Town and Country Planning (General Development Procedure) Order 1995^(a) whose representations the inspector is required by paragraph (3) of that article to take into account in determining the appeal to which an inquiry relates, and such a person whose representations the local planning authority were required by paragraph (1) of that article to take into account in determining the application occasioning the appeal; and
- (b) a person whose representations the inspector is required by paragraphs (3)(b) and (5) of regulation 6 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990^(b) to take into account in determining the appeal to which an inquiry relates, and a person whose representations the local planning authority were required by paragraph (3)(b) of that regulation to take into account in determining the application occasioning the appeal.

Application of these Rules

3.—(1) These Rules apply in relation to any local inquiry held in Wales by an inspector before that inspector determines an appeal to the National Assembly—

- (a) in relation to an application for planning permission under section 78 of the Planning Act (including an appeal made under that section as it is applied to tree preservation orders^(c));
- (b) in relation to listed building consent under section 20 of the Listed Buildings Act, or in relation to conservation area consent under that section as applied by section 74(3) of that Act;
- (c) against the service of a tree preservation enforcement notice under section 208 of the Planning Act,

but do not apply to any local inquiry by reason of the application of any provision mentioned in this paragraph by any other enactment.

(2) Where these Rules apply in relation to an appeal which at some time fell to be disposed of in accordance with the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003^(d) or Rules superseded by those Rules^(e), any step taken or thing done under those Rules which could have been done under any corresponding provision of these Rules has effect as if it had been taken or done under that corresponding provision.

Preliminary information to be supplied by the local planning authority

4.—(1) The local planning authority must, on receipt of the relevant notice, forthwith inform the National Assembly and the appellant in writing of the name and address of any statutory party who has made representations to the local planning authority; and the National Assembly must, as soon as practicable thereafter, inform the appellant and the local planning authority in writing of the name and address of any statutory party who has made representations to the National Assembly.

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

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

(c) Section 78 is applied to tree preservation orders by The Town and Country Planning (Trees) Regulations 1999 (S.I. 1999/1892).

(d) S.I. 2003/1266.

(e) The Rules superseded are S.I. 1992/2038.

- (2) This paragraph applies where—
- (a) the National Assembly has given to the local planning authority a direction restricting the grant of planning permission for which application was made; or
 - (b) the National Assembly, any Minister of the Crown or government department, or any body falling within rule 11(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
 - (c) any person consulted in pursuance of a development order has made representations to the local planning authority about the application.

(3) Where paragraph (2) applies, the local planning authority must forthwith after the starting date inform the person concerned of the inquiry and, unless the person concerned has already done so, that person must 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.

- (4) The local planning authority must ensure that within 2 weeks of the starting date—
- (a) the National Assembly and the appellant have received a completed questionnaire and a copy of each of the documents referred to in it; and
 - (b) any—
 - (i) statutory party; and
 - (ii) other person who made representations to the local planning authority about the application occasioning the appeal,

have been notified that an appeal has been made and of the address to which, and of the period within which, they may make representations to the National Assembly.

Notification of name of inspector

5.—(1) Subject to paragraph (2), the National Assembly must notify the name of the inspector to every person entitled to take part in the inquiry.

(2) Where the National Assembly appoints another inspector instead of the person previously appointed and it is not practicable to notify the new appointment before the inquiry is held, the inspector holding the inquiry must, at its commencement, announce the name and the fact of the appointment of the inspector.

Receipt of statements of case etc.

6.—(1) The local planning authority must ensure that, within 6 weeks of the starting date, 2 copies of its statement of case are received by the National Assembly; and a copy of its statement of case is received by any statutory party.

- (2) The local planning authority must—
- (a) include in its statement of case—
 - (i) details of the time and place where the opportunity to inspect and take copies described in paragraph (13) below will be afforded; and
 - (ii) where rule 4(2) applies, the terms of any direction given together with a statement of the reasons together with any view expressed or representation made on which it intends to rely in its submissions at the inquiry; and
 - (b) where rule 4(2) applies, within the period mentioned in paragraph (1) send a copy of its statement of case to the person concerned.

(3) The appellant must ensure that, within 6 weeks of the starting date, 2 copies of its statement of case are received by the National Assembly and a copy is received by any statutory party.

(4) The National Assembly must, as soon as practicable after receipt, send a copy of the local planning authority's statement of case to the appellant and a copy of the appellant's statement of case to the local planning authority.

(5) The appellant and the local planning authority may in writing each require the other to send them a copy of any document, or of the relevant part of any document, referred to in the list

of documents comprised in the other's statement of case; and any such document, or relevant part, must be sent, as soon as practicable, to the party who required it.

(6) The National Assembly may in writing require any other person who has notified it of an intention or a wish to take part in an inquiry, to send—

- (a) 3 copies of that person's statement of case to it within 4 weeks of being so required; and
- (b) a copy of that person's statement of case to any statutory party;

and the National Assembly must, as soon as practicable after receipt, send a copy of each such statement of case to the local planning authority and to the appellant.

(7) The National Assembly must, as soon as practicable:

- (a) send to any person from whom it requires a statement of case in accordance with paragraph (6) a copy of the statements of case of the appellant and the local planning authority; and
- (b) inform that person of the name and address of every person to whom that person's statement of case is required to be sent.

(8) The National Assembly may in writing require any person who has sent a statement of case in accordance with these Rules to provide such further information about the matters contained in the statement of case as it may specify and may specify the time within which the information must be received.

(9) A local planning authority or appellant required to provide further information must ensure that—

- (a) 2 copies of that information in writing are received by the National Assembly within the specified time; and
- (b) a copy is received by any statutory party within the specified time,

and the National Assembly must, as soon as practicable after receipt, send a copy of the further information received from the local planning authority to the appellant and a copy of the further information received from the appellant to the local planning authority.

(10) Any other person required to provide further information must ensure that—

- (a) 3 copies of that information in writing are received by the National Assembly within the specified time; and
- (b) a copy is received by any statutory party within the specified time,

and the National Assembly must, as soon as practicable after receipt, send a copy of the further information to the local planning authority and the appellant.

(11) Any person other than the appellant who sends a statement of case to the National Assembly must 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 National Assembly must, as soon as practicable after receipt, send to the inspector any statement of case, document, further information and written comments sent to it in accordance with this rule and received by it within the relevant period, if any, specified in this rule.

(13) The local planning authority must 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 completed questionnaire and 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.

(14) If the local planning authority or the appellant wish to comment on another person's statement of case they must ensure that within 9 weeks of the starting date—

- (a) 2 copies of their written comments are received by the National Assembly; and
- (b) a copy of their written comments is received by any statutory party,

and the National Assembly must, as soon as practicable after receipt, send a copy of the written comments received from the local planning authority to the appellant and a copy of the written comments received from the appellant to the local planning authority.

(15) Any person who sends a statement of case to the National Assembly under this rule, and who wishes to comment on another person's statement of case, must ensure that within 9 weeks of the starting date—

- (a) 3 copies of that person's written comments are received by the National Assembly; and
- (b) a copy of those written comments is received by any statutory party,

and the National Assembly must, as soon as practicable after receipt, send a copy of the written comments to the local planning authority and the appellant.

Statement of matters and pre-inquiry meetings

7.—(1) An inspector may, within 12 weeks of the starting date, send to the appellant, the local planning authority and any statutory party, a written statement of the matters about which the inspector particularly wishes to be informed for the purposes of consideration of the appeal.

(2) An inspector must hold a pre-inquiry meeting—

- (a) if the inspector expects an inquiry to last for 8 days or more, unless the inspector considers it is unnecessary; or
- (b) in respect of shorter inquiries, if it appears to the inspector to be necessary.

(3) An inspector must give not less than 2 weeks' written notice of a pre-inquiry meeting to—

- (a) the appellant;
- (b) the local planning authority;
- (c) any statutory party;
- (d) any other person known to be entitled to take part in the inquiry; and
- (e) any other person whose presence at the meeting appears to the inspector to be desirable.

(4) The inspector—

- (a) is to preside at the pre-inquiry meeting;
- (b) is to 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 the inspector's 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 that person to return or attend only on such conditions as the inspector may specify.

(5) If the inspector requests any further information from the appellant or the local planning authority at the pre-inquiry meeting, the appellant or the local planning authority, as the case may be, must ensure that 2 copies of it are received by the inspector, and a copy is received by any statutory party, within 4 weeks of the conclusion of the pre-inquiry meeting and the inspector must, as soon as practicable after receipt, send a copy of the further information received from the local planning authority to the appellant and a copy of the further information received from the appellant to the local planning authority.

Inquiry timetable

8.—(1) In respect of all inquiries that appear to the National Assembly likely to last for 8 days or more, the inspector must prepare a timetable for the proceedings.

(2) In respect of shorter inquiries, the inspector may at any time prepare a timetable for the proceedings at, or at part of, an inquiry.

(3) The inspector may, at any time, vary the timetable arranged under the preceding paragraphs.

(4) The inspector may specify in a timetable arranged pursuant to this rule a date by which any statement of evidence and summary sent in accordance with rule 14(1) must be received.

Notification of appointment of assessor

9. Where the National Assembly appoints an assessor, it must notify every person entitled to take part in the inquiry of the name of the assessor and of the matters on which the assessor is to advise the inspector.

Date and notification of inquiry

10.—(1) The date fixed by the National Assembly for the holding of an inquiry must be—

(a) not later than 20 weeks after the starting date unless it considers such a date impracticable; or

(b) the earliest date after that period which it considers to be practicable.

(2) Unless the National Assembly agrees a lesser period of notice with the appellant and the local planning authority, it must give not less than 4 weeks' written notice of the date, time and place fixed for the holding of an inquiry to every person entitled to take part in the inquiry.

(3) The National Assembly may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the period of 20 weeks mentioned in paragraph (1); and paragraph (2) applies to a variation of a date as it applies to the date originally fixed.

(4) The National Assembly may vary the time or place for the holding of an inquiry and must give such notice of any such variation as appears to it to be reasonable.

(5) The National Assembly 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 a notice of the inquiry in one or more newspapers circulating in the locality in which the land is situated;

(b) to send a notice of the inquiry to such persons or classes of persons as it may specify, within such period as it may specify; or

(c) to post a notice of the inquiry in a conspicuous place near to the land, within such period as it may specify.

(6) Where the land is under the control of the appellant, the appellant must—

(a) if so required in writing by the National Assembly, 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 National Assembly may specify.

(7) Every notice of inquiry published, sent or posted pursuant to paragraph (5), or affixed pursuant to paragraph (6), must contain—

(a) a clear statement of the date, time and place of the inquiry and of the powers enabling the inspector to determine the appeal 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 appeal; and

(d) details of where and when copies of the local planning authority's completed questionnaire and any documents sent by and copied to the local planning authority pursuant to rule 6 may be inspected.

Participation in an inquiry

- 11.**—(1) The persons entitled to take part in an inquiry are—
- (a) the appellant;
 - (b) the local planning authority;
 - (c) any of the following bodies if the land is situated in their area and the body is not the local planning authority—
 - (i) a county or county borough council;
 - (ii) an enterprise zone authority designated under Schedule 32 to the Local Government, Planning and Land Act 1980**(a)**;
 - (iii) a housing action trust specified in an order made under section 67(1) of the Housing Act 1988**(b)**;
 - (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) the council of the community 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;
 - (g) any other person who has sent a statement of case in accordance with rule 6(6).
- (2) Nothing in paragraph (1) precludes the inspector from permitting any other person to take part in an inquiry; and such permission is not to be unreasonably withheld.
- (3) Any persons entitled or permitted to take part may do so on their own behalf or be represented by any other person.

Representatives of the National Assembly, government departments and other authorities at inquiry

- 12.**—(1) Where—
- (a) the National Assembly has given a direction described in rule 4(2)(a); or
 - (b) the National Assembly, any Minister of the Crown or government department, or any body falling within rule 11(1)(c), has expressed a view described in rule 4(2)(b) and the local planning authority has included its terms in a statement served in accordance with rule 6(1),

the appellant, the local planning authority or a person entitled to take part in an inquiry may, not later than 4 weeks before the date of an inquiry, apply in writing to the National Assembly for a representative of the National Assembly or of the Minister, department or body concerned to be made available at the inquiry.

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

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

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

Inspector may act in place of the National Assembly

13. An inspector may, in place of the National Assembly, take such steps as the National Assembly is required or enabled to take under or by virtue of rules 6(6) to (10), (14) and (15), 10,

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

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

12(1) and (2), 21 and 22; and where an inspector requires further information or copies pursuant to rule 6(8) or 22, that information or copies must be sent to the inspector.

Written statements of evidence

14.—(1) Any person entitled to take part in an inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a written statement must—

- (a) send 2 copies, in the case of the local planning authority and the appellant, or 3 copies in the case of any other person, of the statement together with a written summary, to the National Assembly; and
- (b) simultaneously send one copy of those documents to any statutory party,

and the National Assembly must, as soon as practicable after receipt, send a copy of each written statement of evidence together with any summary to the local planning authority and the appellant.

(2) No written summary is required where the statement of evidence proposed to be read contains no more than 1500 words.

(3) The statement of evidence and any summary must be received by the National Assembly no later than—

- (a) 4 weeks before the date fixed for the holding of the inquiry; or
- (b) where a timetable has been arranged pursuant to rule 8 which specifies a date by which the statement of evidence and any summary must be received by the National Assembly, that date.

(4) The National Assembly must send to the inspector, as soon as practicable after receipt, any statement of evidence together with any summary sent to it in accordance with this rule and received by it within the relevant period, if any, specified in this rule.

(5) Where a written summary is provided in accordance with paragraph (1), only that summary is to be read at the inquiry, unless the inspector permits or requires otherwise.

(6) Any person required by this rule to send copies of a statement of evidence to the inspector must send with them the same number of copies of the whole, or the relevant part, of any document referred to in the statement, unless a copy of the document or part of the document in question is already available for inspection pursuant to rule 6(13).

(7) The local planning authority must afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by it in accordance with this rule.

Statement of common ground

15.—(1) The local planning authority and the appellant must—

- (a) together prepare an agreed statement of common ground; and
- (b) ensure that the National Assembly and any statutory party receive a copy of it, not less than 4 weeks before the date fixed for the holding of the inquiry.

(2) The local planning authority must afford to any person who so requests, a reasonable opportunity to inspect and, where practicable, take copies of the statement of common ground sent to the National Assembly.

Procedure at inquiry

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

(2) At the start of the inquiry, the inspector must identify what are, in the inspector's opinion, the main issues to be considered at the inquiry and any matters on which the inspector requires further explanation from the persons entitled or permitted to take part.

(3) Nothing in paragraph (2) precludes any person entitled or permitted to take part from referring to issues which they consider relevant to the consideration of the appeal but which were not issues identified by the inspector pursuant to that paragraph.

(4) Unless in any particular case the inspector otherwise determines, the local planning authority is to begin and the appellant is to have the right of final reply; and the other persons entitled or permitted to take part are to be heard in such order as the inspector may determine.

(5) A person entitled to take part in an inquiry is entitled to call evidence and the appellant, the local planning authority and any statutory party is entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (6) and (7), the calling of evidence and the cross-examination of persons giving evidence are otherwise 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 the inspector considers to be irrelevant or repetitious; but where the inspector refuses to permit the giving of oral evidence, the persons wishing to give the evidence may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(7) Where a person gives evidence at an inquiry by reading a summary of their statement of evidence in accordance with rule 14(5)—

- (a) the statement of evidence referred to in rule 14(1) is to be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector of a wish to rely on the contents of that summary alone; and
- (b) the person whose evidence the statement of evidence contains will be subject to cross-examination on it to the same extent as if it were evidence which had been given orally.

(8) The inspector may direct that facilities be afforded to any person taking part in an inquiry to take or obtain copies of documentary evidence open to public inspection.

(9) The inspector may—

- (a) require any person present at an inquiry who, in the inspector's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the inspector may specify,

but any such person may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(10) The inspector may allow any person to alter or add to a statement of case submitted by that person and received by the National Assembly or by the inspector under rule 6 so far as may be necessary for the purposes of the inquiry; but the inspector must (if necessary by adjourning the inquiry) give every other person entitled to, and who does, take part in the inquiry an adequate opportunity of considering any fresh matter or document.

(11) The inspector may proceed with an inquiry in the absence of any person entitled to take part in it.

(12) The inspector may take into account any written representation or evidence or any other document received from any person before an inquiry opens or during the inquiry provided that the inspector discloses it at the inquiry.

(13) The inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice will be required.

(14) In respect of any inquiry that the National Assembly expects to last for 8 or more days, any person who takes part in the inquiry, and who makes closing submissions, must, by the close of the inquiry, provide the inspector with a copy of those closing submissions in writing.

Site inspections

17.—(1) The inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of an intention to do so to the persons entitled to take part in the inquiry.

- (2) During an inquiry or after its close, the inspector—
- (a) may inspect the land in the company of the appellant, the local planning authority and any statutory party; and
 - (b) must make such an inspection if so requested by the appellant or the local planning authority before or during an inquiry.
- (3) In all cases where the inspector intends to make an accompanied inspection, the inspector must announce during the inquiry the date and time at which the inspector proposes to make it.
- (4) The inspector is not 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

18.—(1) Where an assessor has been appointed, the assessor may, after the close of the inquiry make a report in writing to the inspector in respect of the matters on which the assessor was appointed to advise and, where the assessor does so, the inspector must state in the notification of the decision pursuant to rule 19 that such a report was made.

(2) When making their decision, the inspector may disregard any written representations or evidence or any other document received after the close of the inquiry.

(3) If, after the close of an inquiry, an inspector proposes to take into consideration any new evidence or any new matter of fact (not being a matter of National Assembly policy) which was not raised at the inquiry and which the inspector considers to be material to the decision, the inspector must not come to a decision without first—

- (a) notifying the applicant and the local planning authority;
- (b) notifying the persons entitled to, and who did, take part in the inquiry of the matter in question; and
- (c) affording those notified pursuant to (a) and (b) an opportunity of making written representations or of asking for the re-opening of the inquiry,

and those persons must ensure that such written representations or request to re-open the inquiry are received by National Assembly within 3 weeks of the date of the notification.

(4) An inspector may, as the inspector thinks fit, cause an inquiry to be re-opened, and must do so if asked by the appellant or the local planning authority in the circumstances and within the period mentioned in paragraph (3); and where an inquiry is re-opened—

- (a) the inspector must send to the persons entitled to, and who did, take part in the inquiry a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2) to (7) of rule 10 apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

19.—(1) The inspector must, as soon as practicable, notify the decision on the appeal, and the reasons for it, in writing to—

- (a) the applicant and the local planning authority;
- (b) all persons entitled to, and who did, take part in the inquiry; and
- (c) any other person who, having taken part in the inquiry, has asked to be notified of the decision.

(2) Any person entitled to be notified of the inspector's decision under paragraph (1) may apply to the National Assembly in writing for an opportunity to inspect any documents listed in the notification and any report made by an assessor and the National Assembly must afford that person that opportunity.

(3) Any application made pursuant to paragraph (2) must be received by the National Assembly within 6 weeks of the date of the decision.

Procedure following quashing of decision

20.—(1) Where a decision of an inspector on an appeal in respect of which an inquiry has been held is quashed in proceedings before any court, the National Assembly—

- (a) must send to the persons entitled to, and who did, take part in the inquiry a written statement of the matters with respect to which further representations are invited for the purposes of its further consideration of the appeal; and
- (b) must afford to those persons the opportunity of making written representations to it in respect of those matters or of asking for the re-opening of the inquiry; and
- (c) may, as it thinks fit, cause the inquiry to be re-opened (whether by the same or a different inspector) and, if it does so, paragraphs (2) to (7) of rule 10 apply as if the references to an inquiry were references to a re-opened inquiry.

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

Allowing further time

21. The National Assembly 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 are to be construed accordingly.

Additional copies

22.—(1) The National Assembly may at any time before the close of an inquiry request from any person entitled to take part additional copies of the following—

- (a) a statement of case sent in accordance with rule 6;
- (b) a statement of evidence sent in accordance with rule 14; or
- (c) any other document or information sent to the National Assembly before or during an inquiry,

and may specify the time within which such copies should be received by it.

(2) Any person so requested must ensure that the copies are received by the National Assembly within the period specified.

Transmission of documents

23.—(1) Any document required or authorised to be sent by one person to another under these Rules may be sent by post or by means of electronic communication and any reference in these Rules, however expressed, to writing is to be construed as including a reference to a form capable of being stored on, transmitted to and from, and read by means of, a computer.

(2) Where, under these Rules, there is a requirement that a copy of a statement, representation, notice or other document should be sent by one person to another then, if that copy is sent by means of electronic communication, any further requirement that more than one copy should be sent is to be disregarded.

Revocation, savings and transitional provisions

24.—(1) Subject to paragraph (2), the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) Rules 1992(a) are hereby revoked in relation to Wales(b).

(2) Subject to paragraph (3), any appeal to which the 1992 Rules applied which has not been determined on the date when these Rules come into force, is to be continued under the 1992 Rules.

(3) Where a decision of an inspector on an appeal to which the 1992 Rules applied is subsequently quashed in proceedings before any court, the decision is to be re-determined in accordance with the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003(c).

(a) S.I. 1992/2039, to which there are amendments not relevant to these Rules.

(b) The 1992 Rules were revoked in relation to England by S.I. 2000/1625.

(c) S.I. 2003/1266.

Signed by authority of the Lord Chancellor

Dated 8th May 2003

Rosie Winterton
Parliamentary Secretary,
Lord Chancellor's Department

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules regulate the procedure to be followed in connection with local inquiries in Wales held by a person appointed (an “inspector”) by the National Assembly for Wales (“the National Assembly”) to determine appeals made to it in relation to planning permission, listed building consent, consent for the demolition of unlisted buildings in conservation areas (“conservation area consent”), tree preservation order consent and tree preservation enforcement notices.

These Rules replace with modifications, in relation to Wales, the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) Rules 1992 (“the 1992 Rules”), which are revoked, subject to the transitional provisions contained in rule 24 of these Rules. The 1992 Rules were revoked and replaced in relation to England by the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (S.I. 2000/1625).

The principal changes made by these Rules are that they are extended to cover appeals against the service of tree preservation enforcement notices and:

Rule 4(4) requires local planning authorities to return their completed questionnaires to the National Assembly within 2 weeks of the starting date.

Rule 6 requires the local planning authority and the appellant to ensure that 2 copies of their statements of case have been received by the National Assembly within 6 weeks of the starting date. It provides for the documents to be copied by the National Assembly to the parties and to be sent to the inspector.

Rule 7(2) requires that pre-inquiry meetings are to be held for all inquiries that the inspector expects to last for more than 8 days, unless the inspector considers it is unnecessary.

Rule 8 provides that the inspector will, in respect of inquiries that the National Assembly expects to last for 8 days or more, and may in respect of other inquiries, prepare a timetable for the proceedings at the inquiry and may vary the timetable.

Rule 14(4) provides for statements of evidence to be sent by the National Assembly to the inspector.

Rule 15 requires the local planning authority and the appellant to prepare a statement of common ground and send it to the National Assembly and any statutory party 4 weeks before the inquiry.

Rule 16(2) provides that at the start of the inquiry the inspector will state what the inspector considers to be the main issues to be considered at the inquiry.

Rule 16(14) provides that in respect of any inquiry that the National Assembly expects to last 8 days or more, any parties who take part must provide a copy of their final submissions in writing.

Rule 18(2) enables the inspector to disregard any representations or evidence received after the close of the inquiry.

Rule 22 enables the National Assembly to request additional copies of documents.

Rule 23 authorises documents to be sent by post or by means of electronic communication.

There are also minor and drafting amendments.

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TRIBUNALS AND INQUIRIES, WALES

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