

2003 No. 1270

TRIBUNALS AND INQUIRIES, WALES

**The Town and Country Planning (Enforcement)
(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>

ARRANGEMENT OF RULES

1. Citation, commencement and application
2. Interpretation
3. Application of these Rules
4. Preliminary information to be supplied by the local planning authority
5. Notification of name of inspector
6. Service of statements of case etc.
7. Statement of matters and pre-inquiry meetings
8. Inquiry timetable
9. Date and notification of inquiry
10. Notification of appointment of assessor
11. Attendance and participation at an inquiry
12. Information to be provided by all parties
13. Representatives of the National Assembly for Wales or government departments at inquiry
14. Inspector may act in place of the National Assembly for Wales
15. Written statements of evidence
16. Statement of common ground
17. Procedure at inquiry
18. Site inspections
19. Procedure after inquiry
20. Notification of decision
21. Procedure following remitting of appeal
22. Allowing further time
23. Additional copies
24. Transmission of documents
25. Revocation and savings

The Lord Chancellor, in exercise of the powers conferred upon him by section 9 of the Tribunals and Inquiries Act 1992(a) and of 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 (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003 and shall come into force on 1st June 2003.

(2) These Rules apply to Wales.

Interpretation

2. In these Rules—

“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;

“certificate of lawful use or development” means a certificate under section 191 or 192 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);

“enforcement appeal” means an appeal against an enforcement notice;

“enforcement notice” means a notice under section 172 of the Planning Act or under section 38 of the Listed Buildings Act;

“inquiry” means a local inquiry 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;

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

“local planning authority” means in relation to—

(a) an enforcement appeal, the body who issued the relevant enforcement notice;

(b) an appeal against the refusal or non-determination of an application for a certificate of lawful use or development, the body to whom the application was made;

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

“outline statement” means a written statement of the principal submissions which a person proposes to put forward at an inquiry;

“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;

(a) 2000 c.7.

(b) 1990 c.9, section 39 was amended by paragraph 3 of Schedule 3 to the Planning and Compensation Act 1991 (c.34), Schedule 3 was amended by section 25 of, and Schedule 3, Part II, paragraph 28 to, that Act 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.

(c) 1990 c.8, section 174 was amended by section 6(1) of, and paragraph 22 of Schedule 7 to, the Planning and Compensation Act 1991 (c.34) and section 195 was amended by paragraph 32 of that Schedule. Schedule 6 was amended by the Planning and Compensation Act 1991 (c.34), sections 3 and 84(b), Schedule 7 paragraphs 8 and 54 and Schedule 19, Part I. Schedule 6 was also amended by section 18 of, and Schedule 3 to, paragraph 28 to, the Tribunals and Inquiries Act 1992 (c.53), by Schedule 22, paragraph 44 to the Environment Act 1995 (c.25) and S.I. 1992/1491 and S.I. 1997/2971. There are also other amendments not relevant to these Rules.

“starting date” means the date of the—

- (a) National Assembly’s written notice to the appellant and the local planning authority that it has received all the documents required to enable it to entertain the appeal pursuant to regulation 9 of the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2002(a); or
- (b) relevant notice,

whichever is the later;

“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, which contains agreed factual information about the development, breach of condition or works which is the subject of the appeal.

Application of these Rules

3.—(1) These Rules apply in relation to any local inquiry held in Wales by an inspector before the inspector determines an appeal made on or after 1st June 2003 under—

- (a) section 174 of the Planning Act (appeal against enforcement notice);
- (b) section 195 of the Planning Act (appeal against refusal or non-determination of an application for a certificate of lawful use or development);
- (c) section 39 of the Listed Buildings Act (appeal against listed building enforcement notice) or under that section as applied by section 74(3) of that Act (appeal against conservation area enforcement notice),

but do not apply to any local inquiry by reason of the application of any provision mentioned in this rule by or under 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—

- (a) the Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003(b); or
- (b) the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992(c),

any step taken or thing done under those Rules which could have been done under any corresponding provision of these Rules is to have effect as if it had been taken or done under that corresponding provision.

Preliminary information to be supplied by local planning authority

4.—(1) The National Assembly must, as soon as practicable after it is determined to hold an inquiry under these Rules, inform the appellant and the local planning authority in writing that an inquiry is to be held.

(2) The local planning authority must—

- (a) send to the National Assembly and the appellant a completed questionnaire and a copy of each of the documents referred to in it so as to be received within 2 weeks of the starting date;
- (b) in the case of an enforcement appeal, notify any—
 - (i) person on whom a copy of the enforcement notice has been served;
 - (ii) occupier of property in the locality in which the land to which the enforcement notice relates is situated; and
 - (iii) any other person who in the opinion of the local planning authority is affected by the breach of planning control or contravention of listed building or conservation area control which is alleged in the enforcement notice,

(a) S.I. 2003/394 (W.53).

(b) S.I. 2003/1269.

(c) The Rules superseded are S.I. 1992/1903.

that an appeal has been made and of the address to which, and period within which, they may make representations to the National Assembly; such notice being received within 2 weeks of the starting date.

Notification of name of inspector

5.—(1) The National Assembly must, subject to paragraph (2), 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 their name and the fact of their appointment.

Service of statements of case etc.

6.—(1) The local planning authority must, so as to be received within 6 weeks of the starting date, serve 2 copies of their statement of case on the National Assembly and, in the case of an enforcement appeal, a copy on any person on whom a copy of the enforcement notice has been served.

(2) The local planning authority must include in its statement of case, details of the time and place where the opportunity will be given to inspect and take copies described in paragraph (13).

(3) The appellant must, so as to be received within 6 weeks of the starting date, serve 2 copies of their statement of case on the National Assembly and, in the case of an enforcement appeal, a copy on any person on whom a copy of the enforcement notice has been served.

(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 the relevant part of any document, referred to in the list of documents comprised in that party'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 to take part in the inquiry to serve, so as to be received within 4 weeks of being so required—

- (a) 3 copies of their statement of case on it; and
- (b) in the case of an enforcement appeal, a copy of their statement of case on any person on whom a copy of the enforcement notice has been served,

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 their statement of case is required to be sent.

(8) The National Assembly may in writing require any person, who has served on it a statement of case in accordance with this rule, 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 sent to it.

(9) A local planning authority or appellant required to provide further information must send, so as to be received within the time specified—

- (a) 2 copies of that information in writing to the National Assembly; and
- (b) in the case of an enforcement appeal, a copy to any person on whom a copy of the enforcement notice has been served,

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 send, so as to be received within the time specified—

- (a) 3 copies of that information in writing to the National Assembly; and
- (b) in the case of an enforcement appeal, a copy to any person on whom a copy of the enforcement notice has been served,

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 serves a statement of case on 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 give any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any statement of case, written comments, further 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 send, so as to be received within 9 weeks of the starting date—

- (a) 2 copies of their written comments to the National Assembly; and
- (b) in the case of an enforcement appeal, a copy of their written comments to any person on whom a copy of the enforcement notice has been served,

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

(15) Any person, other than the local planning authority or the appellant, who serves a statement of case on the National Assembly under this rule and who wishes to comment on another person's statement of case, must send, so as to be received not less than 4 weeks before the date fixed for the holding of the inquiry—

- (a) 3 copies of their written comments to the National Assembly; and
- (b) in the case of an enforcement appeal, a copy of their written comments to any person on whom a copy of the enforcement notice has been served,

and the National Assembly must, as soon as practicable after receipt, send a copy of the written comments to the local planning authority and to 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, in the case of an enforcement appeal, any person on whom a copy of the

enforcement notice has been served, a written statement of the matters about which the inspector particularly wishes to be informed for the purposes of the inspector's consideration of the appeal.

- (2) An inspector must hold a pre-inquiry meeting—
 - (a) if the inspector expects an inquiry to last for 4 days or more, unless the inspector considers it is unnecessary; or
 - (b) for shorter inquiries, if it appears to the inspector 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 person known to be entitled to take part in the inquiry; and
 - (d) any other person whose presence at the pre-inquiry 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 attending 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) An inspector may request any further information from the appellant or the local planning authority at the pre-inquiry meeting.
- (6) The appellant and the local planning authority must—
 - (a) send 2 copies of any further information requested under paragraph (5) to the inspector; and
 - (b) in the case of an enforcement notice appeal, send a copy to any person on whom a copy of the enforcement notice has been served,

so as to be received within 4 weeks of the conclusion of the pre-inquiry meeting.

(7) 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 any further information received from the appellant to the local planning authority.

Inquiry timetable

8.—(1) In respect of inquiries that appear to the National Assembly likely to last for 4 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 written statement of evidence and summary sent in accordance with rule 15(1) must be sent to the inspector.

Date and notification of inquiry

9.—(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 by it 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 applied 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 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 document sent by and copied to the authority pursuant to rule 6 may be inspected.

Notification of appointment of assessor

10. 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.

Attendance and participation at an inquiry

11.—(1) The persons entitled to take part in the 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 they are 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;

(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 1 and Schedule 2, paragraph 79(3) to, the Planning (Consequential Provisions) Act 1990 (c.11).

- (e) in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served;
- (f) in the case of an appeal under section 195 of the Planning Act, any person having an interest in the land;
- (g) where the inquiry relates to an enforcement notice under section 38 of the Listed Buildings Act and, where an application for listed building consent had been made for the works set out in the enforcement notice, the National Assembly would have been notified of the application pursuant to a direction given under section 15(5) of the Listed Buildings Act, Cadw;
- (h) any other person who has served 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 person entitled or permitted to take part in an inquiry may do so on their own behalf or be represented by any other person.

Information to be provided by all parties

12. Any person entitled or permitted to take part in the inquiry, who proposes to give, or call another person to give evidence in the inquiry, must send in writing to the National Assembly, so as to be received no later than 4 weeks before the inquiry—

- (a) an estimate of the time required to present all their evidence; and
- (b) the number of witnesses that they intend to call to give evidence.

Representatives of the National Assembly or government departments at inquiry

13.—(1) Where the National Assembly, any Minister of the Crown or any government department has expressed in writing to the local planning authority a view on an appeal and the authority refer to that view in a statement prepared pursuant to rule 6(1), the appellant may apply in writing, so as to be received no later than 4 weeks before the date of the inquiry, to the National Assembly for a representative of the National Assembly or of the Minister or department 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 or government department concerned, who must make a representative available to attend the inquiry.

(3) A person attending an inquiry as a representative pursuant to this rule must state the reasons for the 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 questions which, in the opinion of the inspector, are directed to the merits of National Assembly policy or requires a representative of a Minister or government department to answer any questions which, in the opinion of the inspector, are directed to the merits of government policy.

Inspector may act in place of National Assembly

14. 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), 9, 22 and 23; and where an inspector requires further information or copies pursuant to rule 6(8) or 23, that information or copies must be sent to the inspector.

Written statements of evidence

15.—(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 of evidence must—

- (a) subject to paragraph (2), 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 written statement of evidence together with a written summary to the National Assembly; and
- (b) in the case of an enforcement appeal, simultaneously send copies of these to any person on whom a copy of the enforcement notice has been served,

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 written statement of evidence proposed to be read contains no more than 1500 words.

(3) The written statement of evidence and any summary must be sent to the National Assembly so as to be received 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 written 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 written statement of evidence together with any summary sent to the inspector in accordance with this rule 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 written statement of evidence to the National Assembly, or any other person, must send with them the same number of copies of the whole, or the relevant part, of any document referred to in the written statement of evidence, 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 give any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by them in accordance with this rule.

Statement of common ground

16.—(1) The local planning authority and the appellant must together prepare an agreed statement of common ground and must send it to—

- (a) the National Assembly; and
- (b) in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served,

so as to be received not less than 4 weeks before the date fixed for the holding of the inquiry.

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

Procedure at inquiry

17.—(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 the inspector otherwise determines, the appellant will begin and will 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 will be entitled to call evidence and the appellant, the local planning authority and, in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served will be 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 will 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 matter,

which the inspector considers to be irrelevant or repetitious; but where the inspector refuses to permit the giving of oral evidence, the person 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 in an inquiry by reading a summary of their written statement of evidence in accordance with rule 15(5)—

- (a) the written statement of evidence referred to in rule 15(1) will be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that they now wish to rely on the contents of that summary alone; and
- (b) the person whose evidence the written statement contains will then be subject to cross-examination on it to the same extent as if it were evidence they had given orally.

(8) The inspector may direct that facilities be made available 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 attending (whether or not they take part) 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 served 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 other document received by the inspector 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 at the inquiry before the adjournment, no further notice will be required.

(14) Where the National Assembly expects an inquiry to last for 4 days or more, any person who takes part in the inquiry, and makes closing submissions, must before the close of the inquiry provide the inspector with a copy of their closing submissions in writing.

Site inspections

18.—(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, in the case of an enforcement appeal, any person on whom a copy of the enforcement notice has been served; 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 site inspection, the inspector must announce during the inquiry the date and time at which the inspector proposes to make it.

(4) The inspector may (but is not required 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

19.—(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 inspector's notification of decision pursuant to rule 20 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 the 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 persons entitled to, and who did, take part in the inquiry of the matter in question; and
- (b) giving them an opportunity of making written representations to the inspector or of asking for the re-opening of the inquiry,

and they must send such written representations or request to re-open the inquiry to the National Assembly so as to be received 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 9 apply as if references to an inquiry were references to a re-opened inquiry.

Notification of decision

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

- (a) the appellant 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 give 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 remitting of appeal

21.—(1) Where a decision of an inspector on an appeal for which an inquiry has been held is remitted to the National Assembly for rehearing and re-determination 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 on which further representations are invited in order for it to consider the appeal further;
- (b) must give those persons the opportunity of making written representations to it about those matters or 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 (8) of rule 9 apply as if 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 send such representations or requests to the National Assembly so as to be received within 3 weeks of the date of the written statement sent under paragraph (1)(a).

Allowing further time

22. 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 period within which, any step is required or enabled to be taken are to be construed accordingly.

Additional copies

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

- (a) a statement of case sent in accordance with rule 6;
- (b) a written statement of evidence sent in accordance with rule 15;
- (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 sent to it.

(2) Any person so requested must send the copies to the National Assembly within the period specified.

Transmission of documents

24.—(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 and savings

25.—(1) Subject to paragraph (2), the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992**(a)** (“the 1992 Rules”) continue to apply to any local inquiry in Wales held for the purposes of—

- (a) an enforcement appeal; or
- (b) an appeal under section 195 of the Planning Act,

which was made before 1st June 2003.

(2) Where a decision of an inspector on an appeal to which the 1992 Rules applied is subsequently remitted by any court to the National Assembly for re-hearing and re-determination in proceedings, the matter must be re-determined in accordance with these Rules or the Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003**(b)**.

Signed by authority of the Lord Chancellor

Dated 8th May 2003

Rosie Winterton
Parliamentary Secretary,
Lord Chancellor’s Department

(a) S.I. 1992/1903.
(b) S.I. 2003/xxxx.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure to be followed in connection with local inquiries in Wales held by inspectors appointed by the National Assembly for Wales (“the National Assembly”) to determine appeals against—

- (a) enforcement notices under section 174 of the Town and Country Planning Act 1990;
- (b) the refusal or non-determination of an application for a certificate of lawful use or development under section 195 of that Act; and
- (c) listed building enforcement notices and conservation area enforcement notices under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The procedure for determination of such appeals to be determined by Inspectors and by the National Assembly for Wales (“the National Assembly”) was formerly set out in the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992 (“the 1992 Rules”). The Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2002 revoke the 1992 Rules in relation to Wales (the 1992 Rules were similarly revoked in relation to England by S.I. 2002/2686) and set out the procedure for such appeals where they are determined by the National Assembly. These Rules set out the procedure where such appeals are to be determined by inspectors.

The principal changes made by these Rules are set out below—

Rule 4(1) contains an additional requirement for the National Assembly to inform the appellant and the local planning authority that an inquiry is to be held and rule 4(2) additionally requires the local planning authority to return its completed questionnaires to the National Assembly within 2 weeks of the starting date.

Rule 6 requires the local planning authority and the appellant to serve 2 copies of their statement of case on the National Assembly and, in the case of an enforcement appeal, a copy on any person upon whom an enforcement notice was served, within 6 weeks of the starting date. It also provides for the statements of case to be copied by the National Assembly to the main parties and sets out time limits for the sending of further information and comments to the National Assembly.

Rule 7 provides that a pre-inquiry meeting must be held in the case of inquiries likely to last for 4 days or more unless the inspector considers it unnecessary. It also allows the inspector to ask parties at the pre-inquiry meeting for further information.

Rule 8 requires the inspector to prepare an inquiry timetable where the inquiry is likely to last for 4 days or more.

Rule 9 requires the date fixed for the holding of the inquiry to be not later than 20 weeks from the starting date, or the earliest practicable date after that.

Rule 11 allows Cadw (the Welsh Historic Monuments agency acting on behalf of the National Assembly) to take part in an inquiry where the inquiry relates to an appeal against an enforcement notice under section 38 of the Listed Buildings Act 1990 and, where an application for listed building consent had been properly made, the National Assembly would have been notified of the application by a direction given under a section 15 of the Listed Buildings Act 1990.

Rule 12 requires any person who proposes to give, or call or another to give, evidence at the inquiry to send particular information to the National Assembly at least 4 weeks before the inquiry.

Rule 15 requires written statements of evidence to be sent to the National Assembly no later than 4 weeks before the inquiry and for the National Assembly to send these on to the inspector.

Rule 16 contains an additional requirement for the local planning authority and the appellant to prepare a statement of common ground and send it to the National Assembly and any person on whom an enforcement notice was served, at least 4 weeks before the inquiry.

Rule 17(2) provides that at the start of the inquiry the inspector will state what they consider to be the main issues to be considered at the inquiry and rule 17(5) allows any person on whom a copy of the enforcement notice was served to cross examine persons giving evidence. Rule 17(14) requires the inspector to be provided with a copy of closing submissions in writing before the close of the inquiry where the inquiry is expected to last for 4 days or more.

Rule 19(2) enables the inspector to disregard any evidence, submissions etc., received after the close of the inquiry.

Rule 20 requires the inspector to notify their decision in writing to the appellant, the local planning authority, all other persons entitled to, and who did, take part in the inquiry and any other person who did take part and asked to be notified of the decision.

Rule 23 allows the National Assembly to request additional copies of documents before the close of the inquiry.

There are also minor and drafting amendments.

2003 No. 1270

TRIBUNALS AND INQUIRIES, WALES

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

£3.00

© Crown copyright 2003

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E0601 5/03 ON (MFK)