

SCHEDULE 2

Article 24

MODIFICATIONS TO THE TOWN AND COUNTRY PLANNING
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

“SCHEDULE

Rule 23A

PART 1

MODIFICATIONS WHERE NATIONAL SECURITY DIRECTION GIVEN

Interpretation

1. In rule 2(1)—
 - (a) after the definition of “applicant” insert—

““appointed representative” means a person appointed under—

 - (a) section 321(5) or (6) of the Planning Act; or
 - (b) paragraph 6A(1) or (2) of Schedule 3 to the Listed Buildings Act;”;
 - (b) after the definition of “assessor” insert—

““closed evidence” means evidence which is subject to a security direction;”;
 - (c) after the definition of “the 1992 Rules” insert—

““security direction” means a direction given by the Secretary of State under—

 - (a) section 321(3) of the Planning Act (matters related to national security); or
 - (b) paragraph 6(6) of Schedule 3 to the Listed Buildings Act (matters related to national security);”;and
 - (d) in the definition of “statement of common ground” after “local planning authority” insert “, or appointed representative, as the case may be,”.

Procedure where Secretary of State causes a pre-inquiry meeting to be held

2. In rule 5—
 - (a) for paragraph (3) substitute—

“(3) The Secretary of State shall, as soon as practicable after receipt, send a copy of the local planning authority’s outline statement to the applicant, a copy of the applicant’s outline statement to the appointed representative and a copy of the applicant’s open outline statement to the local planning authority.

(3A) In this rule “open outline statement” means such part (if any) of an outline statement as does not include or refer to closed evidence.”;
 - (b) in paragraph (5) after “statement to him,” insert “and the open outline statement to”; and
 - (c) after paragraph (5) insert—

“(5A) The Secretary of State shall, as soon as practicable after receipt, send to the appointed representative any outline statement received in accordance with paragraph (5).”.

Receipt of statement of case etc

3. In rule 6—

Status: This is the original version (as it was originally made).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

- (a) in paragraph (3) for “copy of their statement of case” substitute “copy of their open statement”;
- (b) in paragraph (4) for “statement of case to the local planning authority” substitute “open statement to the local planning authority”;
- (c) in paragraph (6)—
 - (i) in sub-paragraph (b) for “statement of case” substitute “open statement”;
 - (ii) for “send a copy of each such statement of case” substitute “send a copy of any open statement received by him in accordance with sub-paragraph (a)”;
- (d) in paragraph (7)—
 - (i) in sub-paragraph (a) for “statements of case of the applicant and the local planning authority” substitute “open statement of the applicant and the statement of case of the local planning authority”;
 - (ii) in sub-paragraph (b) for “statement of case” substitute “open statement”;
- (e) in paragraph (16) after “inspector” insert “and appointed representative”; and
- (f) after paragraph (16) insert—

“(17) For the purposes of this rule “open statement” means such part (if any) of a statement of case as does not include or refer to closed evidence.”.

Appearances at inquiry

- 4. In rule 11(1) after sub-paragraph (a) insert—

“(aa) the appointed representative;”.

Proofs of evidence

- 5. In rule 13—
 - (a) in paragraph (1) for “Any person” substitute “Subject to paragraph (1A), any person”; and
 - (b) after paragraph (1) insert—

“(1A) Paragraph (1B) applies where the proof of evidence includes or refers to closed evidence.

(1B) Where this paragraph applies, any person entitled to appear at an inquiry, who proposes to give, or to call another person to give evidence at the inquiry by reading a proof of evidence, shall—

 - (a) send to the Secretary of State 2 copies, in the case of the local planning authority and the applicant, or 3 copies in the case of any other person, of—
 - (i) the proof of evidence including closed evidence together with any written summary of it;
 - (ii) the proof of evidence excluding closed evidence (“the open proof”) together with any written summary of it; and
 - (b) simultaneously send copies of the open proof and any written summary of it to any statutory party,

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each open proof together with any written summary of it to the local planning authority and the applicant.”;
 - (c) in paragraph (4) after “inspector” insert “and appointed representative”; and
 - (d) in paragraph (5) after “paragraph (1)” insert “or (1B)”.

Statement of common ground

6. In rule 14—
- (a) in paragraph (1)(a) after “ground” insert “insofar as it does not relate to closed evidence”; and
 - (b) after paragraph (3) insert—
 - “(4) Where the application or appeal is made by or on behalf of the Crown, the appointed representative and the applicant shall—
 - (a) together prepare an agreed statement of common ground insofar as it relates to closed evidence; and
 - (b) ensure that the Secretary of State receives it not less than 4 weeks before the date fixed for the holding of the inquiry.”.

Site inspections

7. In rule 16—
- (a) in paragraph (1) for “The inspector” substitute “Subject to paragraph (1A), the inspector”;
 - (b) after paragraph (1) insert—
 - “(1A) Paragraph (1) does not apply where a site inspection will involve inspection of closed evidence.”;
 - (c) in paragraph (2) for “During” substitute “Subject to paragraph (2A), during”;
 - (d) after paragraph (2) insert—
 - “(2A) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (2) does not apply and the inspector—
 - (a) may inspect the land in the company of the applicant and the appointed representative, where one has been appointed; and
 - (b) shall make such an inspection if so requested by the applicant or the appointed representative before or during an inquiry.”; and
 - (e) in paragraph (4) after “paragraph (2)” insert “or (2A)”.

Procedure after inquiry

8. In rule 17—
- (a) after paragraph (3) insert—
 - “(3A) Where closed evidence was considered at the inquiry—
 - (a) the inspector and assessor, where one has been appointed, shall set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
 - (b) where an assessor has been appointed, the inspector shall append the closed part of the assessor’s report to the closed part of his own report and shall state in the closed part of his own report how far he agrees or disagrees with the closed part of the assessor’s report and, where he disagrees with the assessor, his reasons for that disagreement.”;
 - (b) at the beginning of paragraph (5) insert “Subject to paragraph (5A)”;
 - (c) after paragraph (5) insert—

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

“(5A) Where the Secretary of State differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector in relation to a matter in respect of which closed evidence has been given, the notification referred to in paragraph (5) shall include the reasons for the Secretary of State’s disagreement unless—

- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
- (b) inclusion of the reasons would disclose any part of the closed evidence.”.

Notification of decision

9. In rule 18—

- (a) in paragraph (1) for “the Secretary of State” substitute “Subject to paragraph (1B), the Secretary of State”;
- (b) after paragraph (1A) insert—

“(1B) Where the Secretary of State’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Secretary of State to notify those reasons to any person other than—

 - (a) the appointed representative; or
 - (b) a person specified, or of any description specified, in the security direction.”;
- (c) in paragraph (2) for “Where a copy” substitute “Subject to paragraph (2A), where a copy”;
- and
- (d) after paragraph (2) insert—

“(2A) Nothing in paragraph (2) requires the disclosure of the closed part of the inspector’s report referred to in rule 17(2A) to a person other than—

 - (a) the appointed representative; or
 - (b) a person specified, or of any description specified, in the security direction.”.

Procedure following quashing of decision

10. In rule 19—

- (a) at the beginning of sub-paragraph (a) of paragraph (1) insert “subject to paragraph (1A)”;
- and
- (b) after paragraph (1) insert—

“(1A) Where the matters referred to in paragraph (1)(a) will involve consideration of closed evidence, the Secretary of State shall only send the written statement to—

 - (a) the appointed representative; and
 - (b) a person specified, or of any description specified, in the security direction.”.

Closed evidence not to be disclosed

11. After rule 22A insert—

“Closed evidence not to be disclosed

22B. Nothing in these Rules shall be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the Secretary of State;
- (b) the appointed representative; or
- (c) a person specified, or of any description specified, in the security direction.”

PART 2

MODIFICATIONS FOR URGENT CROWN DEVELOPMENT OR URGENT WORKS AFFECTING CROWN LAND

Interpretation

1. In rule 2(1) in paragraph (a) of the definition of “statutory party” after “in determining the” insert “application,”.

Application of Rules

2. In rule 3—

(a) after paragraph (1)(a) insert—

“(aa) an application for planning permission made to the Secretary of State under section 293A(1) of the Planning Act (urgent Crown development);” and

(b) after paragraph (1)(b) insert—

“(bb) an application for listed building consent made to the Secretary of State under section 82B(2) of the Listed Buildings Act (urgent works relating to Crown land);”.

Preliminary information to be supplied

3. For rule 4 substitute—

“Preliminary information to be supplied by the Secretary of State

4.—(1) The Secretary of State shall, as soon as practicable after the date of the relevant notice inform the applicant and the local planning authority in writing of the name and address of any statutory party who has made representations to him.

(2) This paragraph applies where—

- (a) any Minister of the Crown (other than the Secretary of State), any government department, or any body falling within rule 11(1)(c), has expressed in writing to the Secretary of State the view that the application should not be granted either wholly or in part, or should be granted subject only to conditions; or
- (b) any person consulted in pursuance of a development order has made representations to the Secretary of State about the application.

(1) Section 293A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(1).

(2) Section 82B was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 82(2).

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

(3) Where paragraph (2) applies, the Secretary of State shall forthwith after the date of the relevant notice inform the person concerned of the inquiry and, unless they have already done so, that person shall thereupon give the Secretary of State a written statement of the reasons for expressing the view or making the representations, as the case may be.”.

Procedure where Secretary of State causes pre-inquiry meeting to be held

4. In rule 5—
- (a) in paragraph (2)(d) for “8” substitute “6”;
 - (b) in paragraph (5) for “4” substitute “3”;
 - (c) in paragraph (6) for “16” substitute “10”;
 - (d) in paragraph (7) for “3” substitute “2”;
 - (e) in paragraph (10) for “4” substitute “3”.

Receipt of statements of case etc

5. In rule 6—
- (a) in paragraph (1)(a) for “6” substitute “4”;
 - (b) in paragraph (1)(b) for “4” substitute “3”;
 - (c) in paragraph (3)(a) for “6” substitute “4”;
 - (d) in paragraph (3)(b) for “4” substitute “3”;
 - (e) in paragraph (6)(a) for “4” substitute “3”;
 - (f) in paragraph (12) for “12” substitute “8”;
 - (g) in paragraph (14) for “9” substitute “6”;
 - (h) in paragraph (15) for “4” substitute “3”.

Date and notification of inquiry

6. In rule 10—
- (a) in paragraph (1)(a) for “22” substitute “14”;
 - (b) in paragraph (1)(b) for “8” substitute “5”;
 - (c) in paragraph (6)—
 - (i) omit “in writing require the local planning authority to”;
 - (ii) in sub-paragraph (a) omit “to”;
 - (iii) in sub-paragraphs (b) and (c) omit the first “to” in each place.

Proofs of evidence

7. In rule 13(3)(a) for “4” substitute “3”.