

OFFICE OF THE DEPUTY PRIME MINISTER

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Office of the Deputy Prime Minister
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PLANNING INQUIRIES INTO MAJOR INFRASTRUCTURE PROJECTS: PROCEDURES

INTRODUCTION

The main body of the Circular follows with 1 annex.

1. This Circular explains the new procedures for handling major infrastructure project inquiries in England, which are being introduced with effect from **24 August 2005**. The definition of a major infrastructure project – a planning application for a development which the Secretary of State thinks is of national or regional importance – is set out in section 76A of the Town and Country Planning Act 1990 (inserted by section 44 of the Planning and Compulsory Purchase Act 2004) and is no longer set out in the Rules. These procedures therefore apply to inquiries into major infrastructure projects initiated on or after 24 August 2005 for which the Secretary of State thinks that the development is of national or regional importance. Inquiries announced before then will continue to be processed through to conclusion on the basis of existing procedures and guidance¹.
2. The new procedures evolve from the package to further streamline the processing of major infrastructure projects through the planning system announced by the Secretary of State on 18 July 2002.
3. In summary the package comprised:
 - up-to-date statements of Government policy before major infrastructure projects are considered in the planning system to help reduce inquiry time spent on debating the policy;

¹ The Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002 (SI 2002/1223) and DTLR Circular 02/2002

- an improved regional framework which will assist consideration of individual projects (e.g. through the revised arrangements for Regional Planning Guidance);
 - improved inquiry procedures for major infrastructure projects through provision in the Planning and Compulsory Purchase Act 2004 which enables the use of concurrent inquiry sessions to consider a major infrastructure project;
 - improved arrangements for compulsory purchase and compensation.
4. The purpose of the new inquiry procedures is to achieve significant improvements in the time taken to handle major infrastructure projects by streamlining the process and reducing unnecessary delays whilst continuing to ensure that adequate opportunity is given for people to have a say, to test the evidence and to make a sound decision.
 5. The new arrangements will be monitored over a five-year period. Given the infrequency with which major infrastructure projects of national or regional importance come forward, it is thought that to monitor over a shorter period would not be constructive. As part of the monitoring, the impact on resources over time for the different parties will be assessed, and if necessary changes will be considered.

THE INQUIRY PROCESS

6. The inquiry process remains firmly grounded in the principles of openness, fairness, and impartiality. At the same time, it has become increasingly clear that without impairing either the quality of decisions or the parties' ability to present their case fully and fairly, it is possible for all involved to assist in speeding up the process. The better use of resources should ensure that matters are handled as efficiently as possible. However, this will require a disciplined, and constructive approach. **It is important that all the parties read this Circular, including the annex where the new Rules are explained. The following advice is intended to be a guide, and it is not definitive. An authoritative statement of the law can only be made by the Courts.**
7. This Circular highlights the main ways inquiries will be operated under the procedural Rules for called-in planning applications under section 76A of the Town and Country Planning Act 1990.

KEY POINTS

8. These Rules regulate the procedure to be followed in connection with local inquiries relating to applications for planning permission or for the approval of a local planning authority required under a development order held by the Secretary of State in England, where he thinks that the development to which the application relates is of national or regional importance.
9. The Rules apply in relation to England only. They reproduce, with amendments, the Town and Country Planning (Major Infrastructure Projects Inquiries

Procedure) (England) Rules 2002. The principal changes made by these new Rules are:

- The rules enable inquiries to be held in concurrent sessions by a number of inspectors, where the lead inspector so recommends to the Secretary of State
 - The rules also provide for publicity for inspector's notes of pre-inquiry meetings and recommendations.
 - The term "major participant" (**rule 2**) has been introduced and means a person who has indicated in accordance with rule 6(2)(d) that he is likely to want to be represented formally and to play a major part in an inquiry.
 - The Secretary of State will notify the applicant and the local planning authority that an inquiry is to be held (**rule 4**) using these Rules.
 - The rules regarding **appointment of Technical Adviser (rule 7)** and mediation (**rule 8**) allow where appropriate, for evidence gathering to take place prior to or between the pre-inquiry meetings.
10. The period up to when the inquiry should start has been lengthened to allow the Inspector flexibility in the arrangements prior to its start. The completion of evidence gathering and focus on areas of agreement and disagreement between the local planning authority and applicant in the statement of common ground, with similar statements involving other major participants, as appropriate, should allow for a more focussed inquiry. **The timetable (rule 12)** would be discussed with the parties at the pre-inquiry meeting. The Inspector will specify the date by which proofs of evidence and any statement of common ground should be sent to the Secretary of State. A copy of the timetable i.e. after receipt of the proofs of evidence would then be issued within 4 weeks of the start of the inquiry. The timetable would reflect any cross-examination that the Inspector was prepared to allow. The Secretary of State would have to agree any variation to the timetable, in practice this would mean agreeing to a variation to the proposed end date of the inquiry which lengthened the duration of the inquiry, rather than to changes in the timetable or the detail of the inquiry programme covering appearances of participants.
11. **Rule 10** introduces a requirement for the lead inspector to prepare and publish a note of the proceedings of each pre-inquiry meeting.
12. **Rule 11(4)** requires the local planning authority and major participants to identify in their statements which part of the other's statement they agree or disagree with.

OTHER CHANGES

13. **Rule 3** provides for the use of electronic communication in carrying out some or any of the functions of the Rules.

COSTS

14. DOE Circular 8/93 “Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings” gives detailed guidance on the award of costs in planning appeal proceedings.

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Addressed to:
The Chief Executives of:

County Councils in England
District Councils in England
Unitary Authorities in England
London Borough Councils
Greater London Authority
Regional Planning Bodies
Regional Development Agencies

Council of the Isles of Scilly

The Town Clerk, City of London

The National Park Officer, National Park Authorities in England

The Chief Planning Officer, The Broads Authority

TOWN AND COUNTRY PLANNING (MAJOR INFRASTRUCTURE PROJECT INQUIRIES PROCEDURE) (ENGLAND) RULES 2005

(SI 2005 No 2115)

1. The main body of the circular should be read in conjunction with this annex.

Scope of the Rules

2. These Rules apply to any local inquiry caused by the Secretary of State to be held in England before he determines an application for planning permission referred to him under section 76A of the Town and Country Planning Act 1990, in relation to a major infrastructure project as defined in the Rules. These Rules are based on the Town and Country Planning (Major Infrastructure Projects Inquiries Procedure) (England) Rules 2002 (S.I. 2002/1223) which in turn were based on the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (S.I. 2000/1624).

Background to the Rules

3. The principal objective of these new Rules is to improve and streamline the handling of major infrastructure project inquiries for the benefit of all parties. These Rules are designed to retain the existing high standards of fairness and impartiality while improving process and performance.

Rule 2 – Interpretation

4. The following terms are some of those defined in rule 2 – NB the list is not exhaustive:
 - **lead Inspector** runs the inquiry and **additional Inspector** to conduct concurrent sessions
 - **inquiry** which includes concurrent sessions
 - **major participant** as a person who has indicated in accordance with rule 6 (**Registration**) that he wishes to play a major part in the inquiry.

- **outline statement** means a written statement of the principal submissions which a person proposes to put forward at an inquiry.
- **statement of case** should now include a list of persons whom the party proposes to call as witnesses, and the subject-matter of the evidence of each such witness
- **statutory party** as a person whose representations the Secretary of State is required to take into account by virtue of the relevant legislation provided that person has already made representations to the local planning authority or to the Secretary of State.
- the requirement imposed on the Secretary of State or the inspector to **circulate a document** is met by sending a copy of that document to the local planning authority; the applicant and each major participant.

Rule 3 – Electronic communications

5. This rule enables persons to send notices and documents for the purpose of the Rules by means of electronic communications i.e. email.

Rule 4 – Notice by Secretary of State

6. This rule provides for the Secretary of State to notify the applicant and the local planning authority in writing that an inquiry is to be held.

Rule 5 – Preliminary Information to be Supplied by Local Planning Authority

7. The local planning authority shall on receipt of the relevant notice send the Secretary of State and the applicant details of any statutory party who has made representations to them and of any other persons who have made representations and/or expressed an interest in the proposal.

Rule 6 – Registration

8. The information on the registration form will help plan the inquiry. In most cases the Planning Inspectorate will set up the registration process. A register of participants from the information contained in the registration forms will be prepared, and will be in 3 parts:
 - Part 1 will contain details of all those who have indicated that they wish to play a major part in the proceedings (referred to subsequently as "major participants").

- Part 2 will contain details of those who have indicated that they wish to give oral evidence without playing a major part in the remainder of the proceedings.
 - Part 3 will contain details of those who wish to submit representations in writing without taking part in the inquiry itself.
9. A copy of the register will be sent to the applicant, the local planning authority and other major participants, and arrangements will also be made for copies to be available for public inspection. Additions or deletions or transfers between one part of the register and another can be made at any time, and these will be notified in the same way.
 10. The Inspector will normally allow all those included in Part 1 of the register to appear at the inquiry. Those included in Part 2 of the register will also normally be allowed to appear, provided that their evidence is relevant and does not merely duplicate evidence already given by others. Those not included in Part 1 or Part 2 of the register with no legal entitlement to appear at the inquiry will be allowed to appear at the discretion of the Inspector.
 11. This follows the Code of Practice set out for major inquiries in Annex 4 of DETR Circular 05/2000.

Rule 7 – Appointment of Technical Adviser

12. A Technical Adviser may be appointed by the Secretary of State at any point before or during the inquiry.
13. The Technical Adviser would be appointed at the request of the lead Inspector, and be tasked with assessing the technical evidence of all parties (at any time before or during the inquiry, but most usefully before the inquiry starts). The Technical Adviser would engage in discussions with the parties, jointly and/or separately, and would produce his or her own independent report on the technical issues, identifying the key areas of disagreement, and giving an opinion about the significance of the disagreements. This report would become an inquiry document, and it, along with the Technical Adviser, would be available for questioning by all parties at the inquiry. An Inspector would not be bound by the findings of the Technical Adviser's report.
14. Where a Technical Adviser has been appointed rule 7(3) allows the Secretary of State to direct the LPA to notify persons entitled to appear at the inquiry of the Technical Adviser's name and the matters on which he is to advise. Technical Advisers may be important in assisting the progress of inquiries towards a quicker understanding of more technical or scientific issues.
15. The Inspector must send out copies of the Technical Adviser's report to every person entitled to appear within seven days of receipt.
16. A Technical Adviser shall give evidence on his/her report at the inquiry and may be subject to cross examination. Rule 7(8) enables the Inspector to allow the

Technical Adviser to add to or amend the report should he/she wish to do so to clarify his/her views. The Inspector shall (if necessary by adjourning the inquiry) give every person entitled to appear at the inquiry the opportunity to consider any amendment or addition to the Technical Adviser's report.

Rule 8 – Mediation

17. Mediation was introduced to the inquiry process to help to narrow the issues before and during the inquiry. Mediators can be appointed, usually at the request of the Inspector, and tasked with facilitating agreement between the parties on any issues, whether technical or otherwise. The mediation process may be open and facilitative, or confidential, in which case neither the mediator nor the parties may disclose anything which takes place in the course of the mediation, other than an agreed written statement at the end of the process. This statement might simply say that nothing had been agreed, or it could be a fully reasoned paper with conclusions which could feed into the Inspector's report. The Inspector would not be bound by the conclusions of the agreed statement. Whatever its content, it would become an inquiry document, about which the parties (**but not the mediator**) could be questioned. It is vital to the success of this concept that the Inspector would have no access to any information about the mediation other than that contained in the agreed statement. Mediators could be appointed at any time before or during the inquiry.
18. Under rule 8 the Secretary of State may require the local planning authority to publish in one or more local newspapers the name and qualifications of the mediator appointed at his request, and the matter in relation to which he will mediate.
19. The mediator will determine his/her own procedure for the mediation. After the mediation he/she has 7 days to submit to the Inspector a report of any agreement reached by the parties. Upon receipt the Inspector shall send a copy to every person entitled to appear at the inquiry.
20. Any person entitled to appear at the inquiry would be able to address the Inspector on the subject of the parties' statement of agreement as reported by the mediator, but the mediator will not give evidence at the inquiry nor be subject to cross examination.
21. It is still the intention that round table sessions (rule 9) and Joint Data Groups (or their equivalent) may be held to allow those parties with particular concerns in common to discuss them with each other. Mediation and the evidence gathering by the Technical Adviser could be part of this process.

Rule 9 – Procedure for Pre-Inquiry and other Meetings

22. At least one pre-inquiry meeting shall always be held. It is important that the pre-inquiry phase is used to focus the inquiry and reach as much consensus between parties as possible, to make the most effective use of inquiry time.

23. Rule 9(2)(a)(ii) requires the Secretary of State to provide a statement of "the matters to be considered at the inquiry" as a result of his direction to the lead inspector under section 76B (2)(a) of the Planning and Compulsory Purchase Act 2004. Its purpose is to provide a clear statement of what, on the information before him, he considers to be the key issues. The Secretary of State's statement is intended to assist the parties and Inspector in preparing for the inquiry. It is not intended to be a definitive statement since Inspectors must be free to hear all evidence that they believe is relevant to their consideration of the case. However, the inspector may also give an indication of those matters which he considers do not need to be considered or which need not be considered in great detail during the inquiry process.
24. Rule 9(4) requires the submission of outline statements by the applicant, local planning authority and each major participant. These statements should contain the general lines of the case which they intend to put forward and explain its relationship to the matters identified by the Secretary of State about which he particularly wishes to be informed. They should include an estimate of how long the presentation of the case is likely to take; information about witnesses likely to be called and an indication of which other witnesses the participant would like to cross-examine; a list of any special studies which have been taken into account or are being prepared. The Secretary of State will send the local planning authority and the applicant a copy of each other's outline statements of case. In any event, arrangements will be made for copies of all statements to be available for public inspection. In addition, all participants remain free to submit other written statements to the Inspector at any time: such statements will be made available for public inspection and circulated as appropriate.
25. The outline statements have two functions. First, they provide advance warning of arguments which the various participants are proposing to deploy at the inquiry. It should be possible to identify from these statements the issues that are likely to feature most prominently at the inquiry. Secondly, the outline statements provide the information that the Inspector requires to structure and programme the inquiry. In the light of what is said in them the Inspector may wish to invite participants who appear to hold the same or similar views to consider collaborating to present a single case at the inquiry. The outline statement will also help the Inspector to see whether there are any relevant issues which are in danger of not being properly covered at the inquiry, and to consider how to remedy any deficiencies, for example by inviting persons who have expert knowledge of the matter concerned to take part in the inquiry.
26. The Inspector will seek to identify from the statements those areas where facts appear to be capable of agreement between main parties, such as descriptions of the proposal, the site and surroundings, or the facts and methodologies relating to environmental effects. He will do this as soon as possible after the receipt of the outline statements. The statement of common ground will then be circulated in the same way as the written statements. When participants agree to work together to prepare an agreed statement of facts or statement of common ground, the statement will be circulated as soon as possible after agreement has been reached.

RULE 9 ALSO PROVIDES FOR ROUND TABLE SESSIONS

27. Experience has shown that these can be a very effective means of agreeing facts, and narrowing the extent of disagreements, both before and during the inquiry. Various models have been adopted by Inspectors, but they have in common a format which is non adversarial and in which a discussion of a specific issue is led by an Inspector or by a chairperson nominated from within the group. The results of these sessions are written up as inquiry documents and form part of the material which informs the Inspector's report.

Rule 10 – Publicity for Inspector's notes of pre-inquiry meetings and recommendations

28. Places a requirement on the Inspector to prepare a note of any pre-inquiry meeting and send it to the Secretary of State as soon as practicable afterwards. Each note should be circulated and deposited in accordance with rule 2 and should contain his recommendations to the Secretary of State on the timetable and prescribed matters.

Rule 11 – Receipt of Statements of Case

29. Both the local planning authority and the applicant must ensure that 2 copies of their statements of case are received by the Secretary of State within 4 weeks of the conclusion of the final pre-inquiry meeting.
30. Rule 11(4) requires the local planning authority and each major participant in their statements of case to identify each part of the applicant's statement of case with which they agree and those parts with which they do not agree and the reasons for the disagreement.
31. The statement of case should build on the outline statement and should contain the full particulars of the case which a party proposes to put forward at the inquiry; i.e. it should set out the arguments (planning and legal) that a party intends to put forward at inquiry and describe, but not contain, the evidence, and possibly cite the statutory provisions and case law, which a party intends to call in support of its arguments. It should also include a list of all the documents which a party will rely on when presenting their case at the inquiry and refer to in their proofs of evidence. This enables the parties to know as much as possible about each other's case at an early stage and will help the parties to focus on the matters which are in dispute. It can also help the parties assess whether there is scope for negotiation while there is still time for this to lead to a satisfactory outcome. Starting negotiations early can help avoid late cancellations of inquiries or requests for postponement.
32. To assist in ensuring that adequate information is supplied in advance of the inquiry, Rule 11(10) enables the Secretary of State or the Inspector to require the provision of such further information as may be specified. If any party considers a

statement of case produced by another party to be inadequate or incomplete, this should be drawn to the Inspector's attention at the earliest opportunity.

33. Third parties are entitled under Rule 11(12) to receive from the Secretary of State a copy of the principal parties' statements of case where they themselves have been required to serve a statement. Rule 11(13) ensures that copies of statements and relevant supporting documents are available for public inspection. Late statements and supporting documents will only be accepted in extraordinary circumstances. Examples of extraordinary circumstances include where representations are delayed because of a postal strike, or by the ill-health of an applicant, or to give a third party more time where they have been notified late, or where there has been a last minute change in circumstances which the inspector ought to know about.
34. Under Rule 11(12) (which cross-refers to Rule 9(2)(a)(ii)) the Secretary of State is required to provide a pre-inquiry statement of matters.
35. Under Rule 11(14), if the local planning authority, the applicant or major participant wishes to comment on another person's statement of case they have 4 weeks from its receipt to ensure that the Secretary of State has received copies of their written comments.

Rule 12 – Inquiry Timetable

36. Rule 12 the Inspector is required to propose a timetable for the inquiry at the pre-inquiry meeting.
37. Rule 12(1)(b) enables the Inspector to arrange and specify, in any timetable arranged under this Rule, a date for sending any proof of evidence and summary required by Rule 17. This links in with the provision in Rule 17(4) requiring a proof and summary to be sent to the Inspector by the date specified in a timetable arranged under Rule 12.
38. The Inspector shall send to every person entitled to appear at the inquiry a copy of the timetable for the proceedings approved by the Secretary of State no later than 4 weeks before the start of the inquiry. The Secretary of State would have to agree any variation to the timetable, in practice this would mean agreeing to a variation to the proposed end date of the inquiry which lengthened the duration of the inquiry, rather than to changes to the detail in the timetable of the inquiry programme covering appearances of participants.

Rule 13 – Notification of Appointment of Assessor

39. Where an assessor has been appointed, Rule 13 requires the Secretary of State to notify persons entitled to appear at the inquiry of the assessor's name and the matters on which he/she is to advise. Rule 22 refers to reports by assessors. An assessor may be important in assisting the progress of an inquiry towards a quicker understanding of more specialised issues. An assessor is defined in Rule 2 as a

person appointed by the Secretary of State to sit with an inspector at an inquiry or re-opened inquiry to advise the inspector on specified matters.

Rule 14 – Date and Notification of Inquiry

40. Rule 14 specifies that the date for the inquiry must be no later than 10 weeks from the conclusion of the (last) pre-inquiry meeting. Where the Secretary of State considers that it is impracticable to start the inquiry within the period specified in the Rule, it gives him the power to extend the date by which the inquiry must open to the earliest practicable date thereafter.
41. The Department's aim, in every case, is to fix as early an inquiry date as possible. Once a date has been fixed, it will be changed only for exceptional reasons. Ultimately the decision rests with the Secretary of State. The venue for the inquiry should afford adequate facilities for those with special needs.
42. The Secretary of State must normally give those entitled to appear at an inquiry least 4 weeks' notice of the inquiry under Rule 12. In practice, it will normally be possible to give much more notice.
43. The extent of publicity for an inquiry is, in practice, generally left to the discretion of the local planning authority, although the Secretary of State may stipulate requirements in a particular case under Rule 14(6). Local planning authorities will usually be in the best position, from their local knowledge, to decide upon the appropriate extent of press publicity or individual notification. It is important that persons or bodies known to have an interest in a major infrastructure project application are informed in good time of the inquiry details particularly where such a body is a statutory consultee. Where a local planning authority is required to publish notice of an inquiry in a newspaper, it is a requirement that this should be done not later than 2 weeks before the inquiry. As these inquiries will be for projects of national or regional significance, it is suggested that a notice of the inquiry is placed in the London Gazette. By definition, a major infrastructure project would normally cover a large area of land, so the Secretary of State may require the local planning authority (or authorities if the project crosses the boundary between two or more local planning authorities) to place more than one notice in conspicuous places as specified by the Secretary of State himself.

Rule 15 – Appearances at Inquiry

44. Rule 15(1) lists the persons entitled to appear at an inquiry, including certain public authorities. These authorities are bodies who can exercise local planning authority functions, although they may not necessarily be the local planning authority in the particular case.
45. Rule 15(2) makes clear that the Inspector will not unreasonably withhold permission for any other person to appear at an inquiry (i.e. beyond those entitled to appear under Rule 15(1)). In practice, anyone who wishes to appear at an

inquiry will usually be allowed to do so, provided they have something relevant to say which has not already been said.

46. It is good practice for individuals with a similar interest to work together to agree upon a spokesperson (or spokespersons).

Rule 16 – Representatives of Government Departments and Other Authorities at Inquiry

47. Although under this Rule a representative of a Government Department is not required to answer any question directed to the merits of Government policy, the Inspector may permit such a question if the representative is prepared to answer it.

Rule 17 – Proofs of Evidence

48. This Rule contains a number of provisions that are designed to assist improved public participation in the inquiry process and to help achieve savings in inquiry time, without detracting from the fairness of the proceedings or the ability of participants to make their views known.
49. Any person entitled to appear at an inquiry who intends to read, or call another person to read, from a proof of evidence is required to send a specified number of copies to the Secretary of State within the time periods laid down in the Rules.
50. Where a summary is provided, in accordance with the Rules, only that summary, as opposed to the full proof, shall be read out at the inquiry unless the Inspector permits or requires otherwise. This provision, and the discretion it affords to the Inspector, remains a crucial element of the Rules. However, the full proof will be treated as tendered in evidence under Rule 19(8) and cross-examination can take place on it.
51. It is recognised that a certain amount of flexibility, and sensible use of discretion by the Inspector, is important in using these provisions effectively to shorten inquiries while ensuring that they remain as thorough as possible, and without making them more difficult to follow. Thus, there is no statutory limit on the length of summaries. It is appreciated that it may sometimes be difficult to summarise complex technical evidence effectively, and it is not intended to prevent witnesses properly explaining their evidence. Situations may also arise where the Inspector considers it necessary or very important that more than the summary should be read out, e.g. in order to make the proceedings more intelligible for third parties or to ensure that relevant points are adequately explained. In such exceptional situations, Inspectors will use their own discretion to enable or require more than the summary to be read out.
52. However, summaries of complex evidence can help to make the salient points clearer to the interested parties, as well as saving time, which is in the interest of all participants.

53. Under the Rules all the parties are required to facilitate the exchange of relevant information in good time before an inquiry opens, so that everyone has adequate time to prepare properly. Parties should normally provide with their proofs of evidence, the data, methodology and assumptions used to support their submissions unless this material has been agreed and is included as part of a statement of common ground. If extensive tables, graphs, diagrams, maps etc are not produced until after the inquiry has opened, this can cause unnecessary delay, and the other parties might well need time, by means of an adjournment, to study these. If new material evidence is raised at a very late stage which another party has not had adequate time to consider, an adjournment may result and, unless there is good reason for the late submission, an award of costs could arise.

Rule 18 – Statement of Common Ground

54. The local planning authority and the applicant must ensure that the Secretary of State has received an agreed statement of common ground, by the date specified by the Inspector under rule 12(1)(b), and the Secretary of State must deposit that statement. In practice other major participants may also be involved in preparing statements with the local planning authority and the applicant, together or separately.

Rule 19 – Procedure at Inquiry

55. The applicant shall give evidence first and shall have the right of final reply unless the Inspector in a particular case decides otherwise. Other parties entitled or permitted to appear shall be heard in the order determined by the Inspector.
56. All persons entitled to appear at an inquiry are entitled to call evidence. Only the applicant, the local planning authority and major participants have an entitlement to cross-examine, although the Inspector may permit other persons to do so.
57. Under paragraph (6) of this Rule, the Inspector may refuse to hear evidence or to permit cross-examination which is irrelevant or repetitious, and he may require any person behaving in a disruptive manner to leave the inquiry.
58. Rule 19(7) enables the Inspector to refuse to permit the cross-examination of people giving evidence if it appears to him that this could jeopardise the timetable referred to in Rule 12(2). The Inspector should act even-handedly in using this Rule and should ensure that the timetable agreed in Rule 12(2) caters for time for persons to be cross examined.
59. Rule 19(8) makes clear that, notwithstanding the requirements relating to the provision and reading of summaries of proofs of evidence, the full proof will still be treated as tendered in evidence and open to cross-examination (unless the person required to provide the summary notifies the Inspector that he wishes to rely on the summary only).

60. Rule 19(13) enables the Inspector to take into account written representations, evidence or other documents received before or during the inquiry provided that they are disclosed at the inquiry. However, late representations will normally be disregarded unless there are extraordinary circumstances.

Rule 20 – Site Inspections

61. The Inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry. This Rule also allows an Inspector to make accompanied site visits during the inquiry and after its close. The Inspector will refuse to hear evidence or other submissions during any accompanied visit. It is legitimate, however, for people to draw his attention to particular features of the site and its surroundings.

Rule 21 – Procedure after Inquiry

62. Rule 21(1) allows the Secretary of State to determine a time by which he should receive the Inspector's report. In practice the Inspector will announce, at the end of the Inquiry, the date by which he expects the report will be submitted to the Secretary of State.
63. Where an additional inspector is appointed he is required by section 76B(4) (b) of the Town and Country Planning Act 1990 to report to the lead inspector on the matters he is appointed to consider. The lead inspector must report to the Secretary of State on his consideration of an additional inspector's report.
64. Where an assessor has been appointed to sit with an Inspector at an inquiry to advise on specialist matters, he may subsequently provide the Inspector with a written report on those matters. The Inspector is, however, responsible for the writing of his report to the Secretary of State and for the recommendation made. In Rule 21(4) there is a requirement for any written report made by an assessor to be appended to the Inspector's own report, and for the Inspector to state how far he agrees or disagrees with the assessor.
65. Regarding the treatment of evidence received after the inquiry, Rule 21(6) of the Rules requires reference back to the parties only where the Secretary of State is disposed to disagree with the Inspector's recommendation. Such disagreement might be because he 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, or he proposes to take into consideration any new evidence or any new matter of fact (not being a matter of Government policy). It is accepted that there may be circumstances other than those set out in the Rule 21(6) where the Secretary of State may consider that reference back should take place in the interests of natural justice. These will continue to be identified on a case-by-case basis.
66. Where reference back takes place under Rule 21(6), all persons entitled to appear at the inquiry who appeared at it will be afforded the opportunity of submitting written representations within 3 weeks. Where reference back is required because

it is proposed to take account of some new evidence or new matter of fact, the parties may, alternatively, ask for the inquiry to be re-opened; and if such a request is made by the applicant or the local planning authority, the inquiry will have to be re-opened. In other circumstances, the Secretary of State may, at his discretion, cause the inquiry to be re-opened.

67. When making his recommendation the Inspector will disregard any written representations or evidence or other document received after the close of the inquiry.

Rule 22 – Notification of Decision

68. Any persons entitled to appear at the inquiry who did appear are entitled to be notified of the decision in writing, whether or not they have asked to be notified, and any other person, who appeared at the inquiry and asked to be notified will also be notified. Where an assessor provides a written report, this will be distributed with the Inspector's report as an appendix. The right to apply to the Secretary of State to inspect inquiry documents extends to 6 weeks from the date of decision to tie in with the High Court challenge period.

Rule 23 – Procedure Following Quashing of Decision

69. This Rule relates to the procedure to be followed where the original decision has been quashed by a Court. It ensures that those who were entitled to appear at the inquiry and who did so are given the opportunity to make further comments on the case, following the Court's decision. The Secretary of State will send to those parties a written statement of the matters on which further representations are invited within a 3 week period, for the purposes of his further consideration of the application or appeal, and will afford them the opportunity of asking for the inquiry to be re-opened. The Secretary of State may, at his discretion cause the inquiry to be re-opened, whether by the same or a different Inspector.

Rule 24 – Allowing Further Time

70. There may, exceptionally, be circumstances where it would be reasonable to allow further time for the taking of any step in respect of which the Rules specify a time-limit, and this Rule therefore enables the Secretary of State at any time, in a particular case to do so. The Secretary of State will be extremely sparing in the use of this power.

Rule 25 – Additional Copies

71. At any time before the close of an inquiry, the Secretary of State can request additional copies of a statement of case, a proof of evidence or any other document or information sent to him before or during an inquiry. The Secretary of State will specify the time within which the copies should be received by him.

Rule 27 – Mayor of London

72. Rule 27 modifies the rules where: the Mayor of London has directed a local planning authority to refuse an application.
73. The purpose of Rule 27 is to put the Mayor in a similar position, as regards procedure, as the applicant or the local planning authority.

OPERATION OF THE RULES – THE SECRETARIAT

74. In addition to changes to the Rules, the Inspector may wish to appoint an **Inquiry Manager**. Most significant inquiries are assisted by a Programme Officer who carries out the vital and demanding task of being the interface between the Inspector, the parties and the public (including the Press). Major inquiries also normally have the benefit of a Secretariat, a small team responsible for programming, administrative support, managing the library, managing IT, managing accommodation and so on. The Secretariat may also handle the registration of the parties (see Rule 6) before the inquiry. Experience has shown that a major inquiry is run more effectively if the Secretariat is set up well in advance of the inquiry and is headed by an Inquiry Manager. The Inquiry Manager's primary role is to help the Inspector to drive the process forward as speedily as possible and to keep within the agreed timetable, whilst maintaining constructive relationships with all the participants, and liaising between the Inquiry Secretariat and the relevant Government Office and the Planning Inspectorate (and any other Government Departments) on administrative matters.

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