

2006 No. 213

PLANNING

The Planning (Inquiry Procedure) Rules (Northern Ireland) 2006

Made - - - - *11th May 2006*

Coming into operation - *10th June 2006*

The Department of the Environment, in exercise of the powers conferred by Article 123(2) of the Planning (Northern Ireland) Order 1991(a) makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Planning (Inquiry Procedure) Rules (Northern Ireland) 2006 and shall come into operation on 10th June 2006.

Interpretation

2.—(1) In these Rules—

“application” means an application as described in Article 123B (1) of the 1991 Order and the “applicant” is the person making such an application;

“appointed representative” means a person appointed under Article 123A (4) or (5) of the 1991 Order;

“certificate” means a certificate issued by the Secretary of State under Article 123B of the 1991 Order;

“closed evidence” means evidence which is subject to a direction;

“direction” means a direction given by the Secretary of State under Article 123A (2) of the 1991 Order;

“document” includes a photograph, map or plan;

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c.12)); or

(b) by other means but while in an electronic form;

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

“inspector” means a person appointed by the Department to hold an inquiry;

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

“open evidence” means evidence which is not closed evidence;

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

(a) S.I. 1991/1220 (N.I. 11) as amended by Article 22 of S.I. 2006/1252 (N.I. 7)

“pre-inquiry meeting” means a meeting held before 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;

“relevant notice” means the Department’s written notice informing the applicant that an inquiry is to be held;

“starting date” means the date of—

- (a) the Department’s written notice to the applicant that it has received all the documents required to enable it to entertain the application; or
 - (b) the 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 Department and the applicant, or the appointed representative and the applicant, which contains agreed factual information about the proposal, which is the subject of the application;

“statutory party” means—

- (a) a person mentioned in Article 25(3) of the 1991 Order; and
- (b) a party mentioned in Article 15 of the Planning (General Development) Order (Northern Ireland) 1993(a)

whose representations the Department is required to take into account before determining the application to which an inquiry relates;

“the Department” means the Department of the Environment;

“the 1991 Order” means the Planning (Northern Ireland) Order 1991.

(2) In these Rules, and in relation to the use of electronic communications for any purpose of these Rules which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Rules impose an obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address;
- (b) references to statements, notices, or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Rules to serve, give or send any statement, notice or other document to any other person (“the recipient”).

(4) The requirement shall be taken to be fulfilled where the statement, notice or other document transmitted by means of electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4) “legible in all material respects” means that the information contained in the statement, notice or document is available to the recipient to no lesser extent than it would be if served, sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday or a public holiday.

(a) S.R. 1993 No. 278 as amended by S.R. 2000 No. 101

(7) A requirement in these Rules that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4).

(8) A requirement in these Rules to send more than one copy of a statement, notice or other document may be complied with by sending one copy only of the statement, notice or other document in question.

Application of Rules

3. These Rules apply in relation to an inquiry held by the Department in accordance with Article 123B (2) of the 1991 Order.

Preliminary information to be supplied

- 4.—(1) The Department shall, on receipt of a certificate, notify the applicant in writing—
- (a) that an inquiry is to be held for the purpose of determining the application unless the Department has not received any objections or representations in respect of it or every objection or representation made is withdrawn; and
 - (b) of the name and address of each statutory party who has made an objection or representation to it in relation to the application.
- (2) This paragraph applies where—
- (a) a Minister of the Crown, any government department or a district council falling within rule 11(1)(b) has expressed in writing to the Department the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions; or
 - (b) any person consulted in pursuance of a development order has made an objection or representation to the Department about the application.
- (3) Where paragraph (1) applies and an inquiry is to be held, the applicant or, as the case may be, the person concerned under paragraph (2), unless they have already done so, shall forthwith after the starting date, request a direction by the Secretary of State under Article 123A (2) of the 1991 Order.
- (4) The Department shall ensure that within 2 weeks of the starting date—
- (a) each statutory party; and
 - (b) each person who made representations to the Department about the application,

has been notified that an inquiry is to be held and of the address to which and of the period within which they may make representations to the Department.

Procedure where inspector causes pre-inquiry meeting to be held

- 5.—(1) The inspector shall hold a pre-inquiry meeting—
- (a) if he expects an inquiry to last for 8 days or more, unless he considers this to be unnecessary; or
 - (b) in respect of shorter inquiries, if he considers this to be necessary.
- (2) Where the inspector decides to hold a pre-inquiry meeting—
- (a) he shall send to the Department and the applicant—
 - (i) notice of his intention to hold a pre-inquiry meeting;
 - (ii) a statement of the matters about which he particularly wishes to be informed for the purposes of his consideration of the application in question and, where a Minister of the Crown or a government department has expressed in writing to the Department a view which is mentioned in rule 4(2)(a), the inspector shall set this out in the statement.

- (b) he shall send a copy of the statement described in paragraph 2(a)(ii) to the Minister or government department concerned;
- (c) he shall publish in a newspaper circulating in the locality in which the land to which the application relates is situated a notice of his intention to hold a pre-inquiry meeting and of the statement sent in accordance with paragraph (2)(a)(ii); and
- (d) the applicant and the Department shall ensure that within 8 weeks of the starting date 2 copies of each outline statement have been served on the inspector.

(3) The inspector shall, as soon as practicable after receipt, send a copy of the Department's outline statement to the applicant and a copy of the applicant's outline statement to the appointed representative and the Department.

(4) Where rule 4(2) applies or where the Secretary of State has issued a direction, the Department shall—

- (a) include in its outline statement—
 - (i) the terms of the direction together with a statement of the reasons for it; and
 - (ii) any view expressed or representations made on which it intends to rely in its submission to the inquiry; and
- (b) within the period mentioned in paragraph (2)(d) send a copy of its outline statement to the person concerned in rule 4(2).

(5) The inspector may in writing require a person who has notified him of an intention or a wish to appear at the inquiry to send an outline statement to him and the Department, and the open outline statement to the applicant.

(6) A person required by the inspector under paragraph 5 to send an outline statement to him and the Department, and the open outline statement to the applicant, shall ensure that these are served on the inspector, the Department and the applicant within 4 weeks of the date of the inspector's written requirement.

(7) In this rule "open outline statement" means such part (if any) of an outline statement as does not include or refer to closed evidence.

(8) The inspector shall, as soon as practicable after receipt, send to the appointed representative each outline statement received in accordance with paragraph (5).

(9) The pre-inquiry meeting (or, where there is more than one, the first pre-inquiry meeting) shall be held within 16 weeks of the starting date.

(10) The inspector shall give not less than 3 weeks written notice of the pre-inquiry meeting to—

- (a) the applicant;
- (b) the Department;
- (c) a person known at the date of the notice to be entitled to appear at the inquiry; and
- (d) a person whose presence at the pre-inquiry meeting appears to him to be desirable,

and he may require the Department to take, in relation to notification of the pre-inquiry meeting, one or more of the steps which he may under Rule 9(7) require them to take in relation to notification of the inquiry.

(11) The inspector—

- (a) shall preside at the pre-inquiry meeting;
- (b) shall determine the matters to be discussed and the procedure to be followed;
- (c) may require a person present at the pre-inquiry meeting who, in his 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 him to return or attend only on such conditions as he may specify.

(12) Where a pre-inquiry meeting has been held pursuant to paragraph (1), the inspector may hold a further pre-inquiry meeting and he shall arrange for such notice to be given of a further pre-

inquiry meeting as appears to him necessary; and paragraph (11) shall apply to such a pre-inquiry meeting.

(13) The applicant and the Department shall ensure that 2 copies of any further information requested by the inspector at the pre-inquiry meeting, have been served on him and a copy has been served on each statutory party within 4 weeks of the conclusion of the pre-inquiry meeting.

(14) The inspector shall, as soon as practicable after receipt of information provided under paragraph (13), send a copy of the information received from the applicant to the appointed representative and the Department and a copy of the information received from the Department to the appointed representative and the applicant.

Receipt of Statement of Case etc.

6.—(1) The Department shall ensure that within—

- (a) 6 weeks of the starting date, or
- (b) where a pre-inquiry meeting is held pursuant to rule 5, 4 weeks of the conclusion of that pre-inquiry meeting,

2 copies of its statement of case have been served on the inspector and a copy has been served on each statutory party.

(2) The Department shall—

- (a) include in its statement of case details of the time and place where the opportunity to inspect and take copies described in paragraph (15) below shall be afforded including, in any case in which the Department relies on paragraph (16), the details mentioned in that paragraph; and
- (b) where rule 4(2) applies, within the period specified in paragraph (1) send a copy of its statement of case to the person concerned.

(3) The applicant shall ensure that in any case where a pre-inquiry meeting is held pursuant to rule 5, 2 copies of his statement of case have been served on the inspector and a copy of his open statement has been served on each statutory party.

(4) The inspector shall, as soon as practicable after receipt, send a copy of the Department's statement of case to the applicant and a copy of the applicant's statement of case to the Department.

(5) As soon as practicable, the applicant shall send to the Department and the Department shall send to the applicant a copy of any document, or of the relevant part of any document, referred to in the list of documents comprised in the other party's statement of case, as may be required in writing by the other party.

(6) The inspector may in writing require a person, who has notified him of an intention or wish to appear at an inquiry, to send—

- (a) 3 copies of his statement of case to the inspector; and
- (b) a copy of his open statement to the applicant and each statutory party.

(7) A person required by the inspector under paragraph 6 to send 3 copies of his statement of case to the inspector and a copy of his open statement to the applicant and each statutory party, shall ensure that these are served on the inspector, the applicant and each statutory party within 4 weeks of the inspector's written requirement.

(8) The inspector shall as soon as practicable—

- (a) send to a person from whom he requires a statement of case in accordance with paragraph (6) a copy of the open statement of the applicant and the statement of case of the Department; and
- (b) inform that person of the name and address of each person to whom his open statement is required to be sent.

(9) The inspector shall, as soon as practicable after receipt of a statement of case received under paragraph 6(a), send a copy to the Department and the applicant.

(10) The inspector may in writing require any person who has sent to him a statement of case in accordance with this rule, to provide such further information about the matters contained in the statement of case as he may specify and may specify the time within which the information shall be served on him.

(11) The Department or applicant required to provide further information, shall ensure that—

- (a) 2 copies of that information in writing have been served on the inspector within the specified time; and
- (b) a copy has been served on each statutory party within the specified time,

and the inspector shall, as soon as practicable after receipt, send a copy of the further information received from the Department to the applicant and a copy of the further information received from the applicant to the Department.

(12) Any other person required to provide further information shall ensure that—

- (a) 3 copies of that information in writing have been served on the inspector, within the specified time; and
- (b) a copy has been served on each statutory party within the specified time,

and the inspector shall, as soon as practicable after receipt, send a copy of the further information to the Department and the applicant.

(13) A person other than the applicant who sends a statement of case to the inspector shall 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 (15).

(14) Unless he has already done so, the inspector shall within 12 weeks of the starting date send a written statement of the matters referred to in rule 5(2)(a)(ii) to—

- (a) the applicant;
- (b) the Department;
- (c) each statutory party; and
- (d) a person from whom he has required a statement of case.

(15) The Department shall afford to a person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any statement of case or open statement of case, written comments, information or other document a copy of which has been sent to the Department in accordance with this rule; and
- (b) the Department's 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 Department pursuant to this rule.

(16) For the purposes of paragraph (15) an opportunity is to be taken to have been afforded to a person where that person is notified of—

- (a) publication on a website of the documents mentioned in that paragraph;
- (b) the address of the website;
- (c) the place on the website where the document may be accessed and how it may be accessed.

(17) If the Department or the applicant wish to comment on another person's statement of case they shall ensure that within 9 weeks of the starting date—

- (a) 2 copies of their written comments have been served on the inspector; and
- (b) a copy of their written comments has been served on each statutory party,

and the inspector shall, as soon as practicable after receipt, send a copy of the written comments received from the applicant to the Department and a copy of the written comments received from the Department to the applicant.

(18) A person who sends a statement of case to the inspector under this rule and who wishes to comment on another person's statement of case, shall ensure that not less than 4 weeks before the date fixed for the holding of the inquiry—

- (a) 3 copies of his written comments have been served on the inspector; and
- (b) a copy of his written comments has been served on each statutory party,

and the inspector shall, as soon as practicable after receipt, send a copy of the written comments to the Department and the applicant.

(19) The inspector shall, as soon as practicable after receipt, send to the appointed representative any statement of case, document or further information or written comments sent to him in accordance with this rule and served on him within the relevant period, if any, specified in this rule.

(20) 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.

Further power of inspector to hold pre-inquiry meetings

7.—(1) Where no pre-inquiry meeting is held pursuant to rule 5, an inspector may hold one if he thinks it necessary.

(2) An inspector shall give not less than 2 weeks written notice of a pre-inquiry meeting he proposes to hold under paragraph (1) to—

- (a) the applicant;
- (b) the Department;
- (c) a person known at the date of the notice to be entitled to appear at the inquiry; and
- (d) a person whose presence at the pre-inquiry meeting appears to him to be desirable.

(3) Rule 5(11) shall apply to a pre-inquiry meeting held under this rule.

Inquiry timetable

8.—(1) The inspector shall arrange a timetable for the proceedings at, or at part of, an inquiry where—

- (a) a pre-inquiry meeting is held pursuant to rule 5; or
- (b) it appears to the inspector likely that an inquiry will last for 8 days or more.

(2) The inspector may arrange a timetable for the proceedings at, or at part of, any other 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 proof of evidence and summary sent in accordance with rule 12(1) shall be served on him.

Date and notification of inquiry

9.—(1) The date fixed by the inspector for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than—

- (a) subject to paragraph (b), 22 weeks after the starting date; or
- (b) in a case where a pre-inquiry meeting is held pursuant to rule 5, 8 weeks after the conclusion of that meeting.

(2) Where the inspector considers it impracticable to fix a date in accordance with paragraph (1), the date fixed shall be the earliest date after the end of the relevant period mentioned in that paragraph which he considers practicable.

(3) Unless the inspector agrees a lesser period of notice with the applicant and the Department, he shall give not less than 4 weeks written notice of the date, time and place fixed by him for the holding of an inquiry to every person entitled to appear at the inquiry.

(4) A written notice shall be taken to have been given by the inspector for the purposes of paragraph (3) where he and a person entitled to appear at the inquiry have agreed that notice of the matters mentioned in that paragraph may instead be accessed by that person via a website, and—

- (a) the notice is a notice to which that agreement applies;
- (b) the inspector has published that notice on the website;
- (c) not less than 4 weeks before the date fixed by the inspector for the holding of the inquiry, the person is notified of—
 - (i) the publication of the notice on a website,
 - (ii) the address of the website, and
 - (iii) the place on the website where the notice may be accessed, and how it may be accessed.

(5) The inspector may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the relevant period mentioned in paragraph (1); and paragraphs (3) and (4) shall apply to a variation of a date as they would apply to the date originally fixed.

(6) The inspector may vary the time or place for the holding of an inquiry and shall give such notice of any variation as appears to him to be reasonable.

(7) The inspector may require the Department 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 he may specify, within such period as he may specify.

(8) Every notice of inquiry published or sent pursuant to paragraph (7), shall contain—

- (a) a clear statement of the date, time and place of the inquiry and of the powers enabling the Department to cause an inquiry to be held for the purpose of determining the application 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 application; and
- (d) details of where and when copies of any documents sent by and copied to the Department pursuant to rule 6 may be inspected.

Appearances at inquiry

10.—(1) The persons entitled to appear at an inquiry are—

- (a) the applicant;
- (b) the appointed representative;
- (c) the Department;
- (d) any district council if the land is situated in its area;
- (e) each statutory party;
- (f) a person who has sent a statement of case in accordance with rule 6(7) or who has sent an outline statement in accordance with rule 5(6).

(2) Nothing in paragraph (1) shall prevent the inspector from permitting any other person to appear at an inquiry, and such permission shall not be unreasonably withheld.

(3) A person entitled or permitted to appear may do so on his own behalf or represented by any other person.

Representatives of government departments and other authorities at inquiry

11.—(1) Where—

- (a) the Secretary of State has given a direction; or
- (b) a Minister of the Crown, a government department or a district council has expressed a view as described in rule 4(2)(a) and the inspector has included the terms of the expression of view in a statement sent in accordance with rule 5(2); or
- (c) another Minister of the Crown or a government department has expressed a view described in rule 4(2)(a) and the Department has included the terms of the expression of view in a statement sent in accordance with rule 6(1),

the applicant or a person entitled to appear may, not later than 4 weeks before the date of an inquiry, apply to the Department for a representative of the Secretary of State or of the other Minister or government department concerned to be made available at the inquiry.

(2) Where an application is made in accordance with paragraph (1), the Department shall send the application to the Secretary of State, other Minister or government department concerned, who shall make a representative available to attend the inquiry.

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

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

Proofs of evidence

12.—(1) Subject to paragraph (2), a 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 2 copies, in the case of the Department and the applicant, or 3 copies in the case of any other person, of the proof of evidence together with any written summary, to the inspector; and
- (b) simultaneously send copies of these to each statutory party,

and the inspector shall, as soon as practicable after receipt, send a copy of each proof of evidence together with any summary to the Department and the applicant.

(2) Paragraph (3) applies where the proof of evidence includes or refers to closed evidence.

(3) Where this paragraph applies a 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 inspector 2 copies, in the case of the Department and the applicant, or 3 copies in the case of other persons, of—
 - (i) the proof of evidence including closed evidence together with any written summary of it; and
 - (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 each statutory party,

and the inspector shall, as soon as practicable after receipt, send a copy of the proof of evidence including closed evidence together with any written summary of it to the Department and a copy of the open proof together with any written summary of it to the applicant.

(4) No written summary shall be required where the proof of evidence proposed to be read contains no more than 1500 words.

- (5) The proof of evidence and any summary shall be served on the inspector 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 proof of evidence and any summary shall be served on the inspector, that date.
- (6) The inspector shall send to the appointed representative, as soon as practicable after receipt, each proof of evidence together with each summary sent to him in accordance with this rule and served on him within the relevant period, if any specified in this rule.
- (7) Where a written summary is provided in accordance with paragraph (1) or (3), only that summary shall be read at the inquiry, unless the inspector permits or requires otherwise.
- (8) A person required by this rule to send copies of a proof of evidence to the inspector, shall send with them the same number of copies of the whole, or the relevant part, of each document referred to in the proof of evidence, unless a copy of the document or part of the document in question is already available for inspection pursuant to rule 6(15).
- (9) The Department shall afford to a person who so requests a reasonable opportunity to inspect and, where practicable, take copies of each document sent to or by him in accordance with this rule.
- (10) For the purposes of paragraph (9) an opportunity shall be taken to have been afforded to a person where the person is notified of—
- (a) publication of the relevant document on a website,
 - (b) the address of the website, and
 - (c) the place on the website where the document may be accessed, and how it may be accessed.

Statement of common ground

- 13.—**(1) The Department and the applicant shall—
- (a) together prepare an agreed statement of common ground insofar as it does not relate to closed evidence; and
 - (b) ensure that a copy of it is served on the inspector and each statutory party not less than 4 weeks before the date fixed for the holding of the inquiry.
- (2) The Department shall afford to a person who so requests, a reasonable opportunity to inspect, and where practicable, take copies of the statement of common ground sent to the inspector.
- (3) For the purposes of paragraph (2) an opportunity shall be taken to have been afforded to a person where the person is notified of—
- (a) publication of the statement of common ground on a website,
 - (b) the address of the website, and
 - (c) the place on the website where the statement of common ground may be accessed, and how it may be accessed.
- (4) Where the application 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 inspector receives it not less than 4 weeks before the date fixed for the holding of the inquiry.

Procedure at inquiry

- 14.—**(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at an inquiry.

(2) At the start of the inquiry the inspector shall identify what are, in his opinion, the main issues to be considered at the inquiry and any matters on which he requires further explanation from a person entitled or permitted to appear.

(3) Nothing in paragraph (2) shall preclude a person entitled or permitted to appear from referring to issues which he considers relevant to the consideration of the application but which were not issues identified by the inspector pursuant to that paragraph.

(4) Unless in any particular case the inspector otherwise determines, the Department shall begin and the applicant shall have the right of final reply; and the other persons entitled or permitted to appear shall be heard in such order as the inspector may determine.

(5) A person entitled to appear at an inquiry shall be entitled to call evidence and the applicant, the Department and each statutory party shall, subject to paragraph (6), be entitled to cross-examine persons giving evidence, but subject to the foregoing and paragraphs (6), (7) and (8), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the discretion of the inspector.

(6) Nothing in paragraph (5) or paragraph (8)(b) shall permit a person other than—

- (a) the inspector;
- (b) the Department;
- (c) the appointed representative; or
- (d) such other person or person of such description as is specified in the direction,

to hear or inspect closed evidence.

(7) the inspector may refuse to permit the—

- (a) giving or production of evidence;
- (b) cross-examination of persons giving evidence; or
- (c) presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

(8) Where a person gives evidence at an inquiry by reading a summary of his proof of evidence in accordance with rule 12(7)—

- (a) the proof of evidence referred to in rule 12(1) shall be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary alone; and
- (b) the person whose evidence the proof of evidence contains shall, subject to paragraph (6), then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(9) The inspector may direct that facilities shall be afforded to a person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

(10) The inspector may—

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

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

(11) The inspector may allow a person to alter or add to a statement of case served on him under rule 6 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(12) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(13) The inspector may take into account any written representation or evidence or any other document served on him by any person before an inquiry opens or during the inquiry provided that he discloses it at the inquiry.

(14) 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 shall be required.

(15) A person who appears at an inquiry, that the inspector expects to last for 8 or more days, and makes a closing submission shall, by the close of the inquiry, provide the inspector with a copy of his closing submission in writing.

Site inspections

15.—(1) Subject to paragraph (2), 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.

(2) Paragraph (1) does not apply where a site inspection will involve inspection of closed evidence.

(3) Subject to paragraph (4), during an inquiry or after its close, the inspector—

- (a) may inspect the land in the company of the applicant, the Department and each statutory party; and
- (b) shall make such an inspection if so requested by the applicant or the Department before or during an inquiry.

(4) Where an accompanied site inspection will involve the inspection of closed evidence, paragraph (3) 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.

(5) In all cases where the inspector intends to make an accompanied site inspection he shall announce during the inquiry the date and time at which he proposes to make it.

(6) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (3) or (4) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

16.—(1) After the close of an inquiry, the inspector shall make a report in writing to the Department. This report shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(2) Where closed evidence was considered at the inquiry, the inspector shall set out in a separate part (“the closed part”) of his report any description of that evidence together with any conclusions, recommendations or advice in relation to that evidence.

(3) When making his recommendation the inspector may disregard any written representations, evidence or any other document received after the close of the inquiry.

(4) Subject to paragraph (5) if, after the close of an inquiry, the Department—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to it to be material to, a conclusion reached by the inspector; or
- (b) takes into consideration any new evidence or new matter of fact (not being a matter of government policy),

and is for that reason disposed to disagree with a recommendation made by the inspector, it shall not come to a decision which is at variance with the recommendation without first notifying a person entitled to appear at the inquiry who appeared at it of its disagreement and the reasons for it; and affording him an opportunity of making written representations to it or (if it has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking for the re-opening of the inquiry.

(5) Where the Department differs from the inspector on any matter of fact mentioned in, or appearing to it 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 (4) shall include the reasons for the Department's disagreement unless—

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

(6) A person making written representations or requesting that the inquiry be re-opened under paragraph (4), shall ensure that such representations or requests are served on the Department within 3 weeks of the date of the Department's notification under that paragraph.

(7) The Department may, as it thinks fit, cause an inquiry to be re-opened, and it shall do so if asked by a person notified under paragraph (4) and within the period mentioned in paragraph (6); and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the inspector shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (3) to (8) of rule 9 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

17.—(1) Subject to paragraph (3), the Department shall, as soon as practicable, notify its decision on an application, and the reasons for it in writing to—

- (a) all persons entitled to appear at the inquiry who did appear; and
- (b) a person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Notification in writing of a decision and reasons shall be taken to have been given to a person for the purposes of this rule where—

- (a) the Department and the person have agreed that decisions and reasons required under this rule to be given in writing may instead be accessed by that person on a website;
- (b) the decision and reasons are a decision and reasons to which that agreement applies;
- (c) the Department has published the decision and reasons on a website;
- (d) the person is notified, in a manner for the time being agreed between him and the Department, of—
 - (i) the publication of the decision and reasons on a website;
 - (ii) the address of the website;
 - (iii) the place on the website where the decision and reasons may be accessed, and how they may be accessed.

(3) Where the Department's reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in paragraph (1) requires the Department to notify those reasons to a person other than—

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

(4) Subject to paragraph (5), where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusion and of any recommendation made by him, and if a person entitled to be notified of the decision

has not received a copy of that report, he shall be supplied with a copy of it on written application to the Department.

(5) Nothing in paragraph (4) requires the disclosure of the closed part of the inspector's report referred to in rule 16(2) to a person other than—

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

(6) In this rule "report" does not include any other documents so appended; but a person who has received a copy of the report may apply to the Department in writing, within 6 weeks of the date of the Department's decision, for an opportunity of inspecting any such documents and the Department shall afford him that opportunity.

(7) For the purposes of paragraph (6) an opportunity shall be taken to have been afforded to a person where that person is notified of—

- (a) publication of the relevant documents on a website;
- (b) the address of the website;
- (c) the place on the website where the documents may be accessed, and how they may be accessed.

(8) A person applying to the Department under paragraph (4) shall ensure that his application is served on the Department within 4 weeks of its determination.

Allowing further time

18. The inspector may at any time in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Rules, and references in these Rules to a day by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

Additional copies

19.—(1) The inspector may at any time before the close of an inquiry request from a person entitled to appear additional copies of the following—

- (a) an outline statement sent in accordance with rule 5;
- (b) a statement of case or comments sent in accordance with rule 6;
- (c) a proof of evidence sent in accordance with rule 12; or
- (d) any other document or information sent to him before or during an inquiry,

and may specify the time within which such copies should be served on him.

(2) A person so requested shall ensure that the copies are served on the inspector within the period specified.

Sending of notices etc.

20. Notices or documents required or authorised to be served, sent or supplied under these Rules may be served, sent or supplied—

- (a) by post; or
- (b) by using electronic communications to serve, send or supply the notice or document (as the case may be) to a person at such address as may for the time being be specified by the person for that purpose.

Use of electronic communications

21.—(1) Where a person uses electronic communications to transmit any statement, notice or other document for any purpose of these Rules which is capable of being carried out electronically

he shall be taken to have agreed to the use of such communications and that his address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(2) Where a person is no longer willing to accept the use of electronic communications for any purpose of these Rules which is capable of being effected electronically, he shall give notice in writing—

- (a) withdrawing any address notified to the inspector or to the Department for that purpose, or
- (b) revoking any agreement entered into with the inspector or with the Department for that purpose

and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.

Closed evidence not to be disclosed

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

- (a) the inspector;
- (b) the Department;
- (c) the appointed representative; or
- (d) a person specified, or of any description specified, in the direction.

Sealed with the Official Seal of the Department of the Environment on 11th May 2006



Marianne Fleming
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Order)

Article 123(1) of the Planning (Northern Ireland) Order 1991 provides that the Department of the Environment (the Department) may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under that Order and Article 123(2) provides that the Department may make rules to regulate the procedures to be followed in connection with inquiries held by or on behalf of the Department.

These Rules provide procedures to be followed in connection with inquiries required to be held under Article 123B and where the Secretary of State has directed that evidence described in the direction shall only be heard or be open to inspection at that inquiry by persons specified in the direction.

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