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STATUTORY INSTRUMENTS

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**2011 No. 2019**

**The Access to the Countryside (Appeals against Works Notices) (England) Regulations 2011**

**PART 3**

**Determination of Appeals**

**CHAPTER 1**

**Appeals to be determined on the basis of written representations**

**Site inspections**

**13.**—(1) Where it appears to the Secretary of State necessary or expedient to do so, the Secretary of State may arrange for an inspection of the appeal land to be made by the inspector.

(2) Where the inspector intends to make an inspection under paragraph (1), the Secretary of State must ask the appellant and the appropriate authority whether they wish to be present or represented.

(3) Where the appellant or the appropriate authority has indicated a wish to be present or represented, the inspector must afford the appellant and the appropriate authority, or their representatives, the opportunity to be present during the inspection.

(4) The inspector is not bound to defer an inspection if the appellant or the appropriate authority, or their representative, is not present at the appointed time.

**Decision on appeal**

**14.** The Secretary of State or, as the case may be, the inspector may proceed to a decision on the appeal taking into account only such statements of case, representations and comments as have been provided within the time limits specified by or under these Regulations.

**Notification of a decision**

**15.**—(1) The Secretary of State or, as the case may be, the inspector, must as soon as practicable notify the decision on an appeal and the reasons for reaching it, in writing to—

- (a) the appellant;
- (b) the appropriate authority;
- (c) every interested person;
- (d) every other owner or occupier of land who has been notified by the appropriate authority as mentioned in regulation 4(4) or section 37(3) of the 2000 Act; and
- (e) the local access forum.

(2) The Secretary of State must ensure that, as soon as practicable after such decision has been made, a copy of the decision is made available for inspection on a relevant website for a period of three months.

## CHAPTER 2

### Appeals to be determined by way of a hearing

#### **Date and notification of hearing**

**16.**—(1) The date fixed by the Secretary of State for the holding of a hearing must be not later than eighteen weeks from the start date, unless the holding of the hearing on that date is not practicable.

(2) The Secretary of State must give the appellant, the appropriate authority and every interested person, not less than four weeks' written notice of the date, time and place fixed for the holding of a hearing.

(3) But the Secretary of State may agree with the appellant and the appropriate authority that a lesser period of notice may be given.

(4) The Secretary of State may—

- (a) change the date fixed for the holding of a hearing (whether or not the date as changed is within the period mentioned in paragraph (1)); or
- (b) change the time or place for the holding of a hearing.

(5) Where, under paragraph (4)(a), the Secretary of State changes the date for the holding of a hearing, paragraphs (2) and (3) apply to the new date as they applied to the date originally fixed.

(6) Where, under paragraph (4)(b), the Secretary of State changes the time or place for the holding of a hearing, the Secretary of State must give reasonable notice of such change.

(7) The Secretary of State—

- (a) may require the appropriate authority to publish, not less than two weeks before the date fixed for the hearing, a notice of the hearing in one or more newspapers circulating in the locality in which the appeal land is situated;
- (b) may require the appropriate authority to affix a notice of the hearing firmly to the appeal land or to some object on or near the land in such manner as to be readily visible to and legible by members of the public; and
- (c) must ensure that a notice of the hearing is made available for inspection on a relevant website until the appeal is determined.

(8) Where a notice is affixed pursuant to paragraph (7)(b), the appropriate authority may not remove the notice, or cause it to be removed, for such period before the hearing as the Secretary of State may specify.

(9) Every notice of a hearing under paragraph (7) must contain—

- (a) a statement of the date, time and place of the hearing and of the powers enabling the Secretary of State to determine the appeal; and
- (b) a brief description of the appeal land and of the grounds of appeal.

(10) A notice under paragraph (7) may relate to more than one hearing.

#### **Appearances at hearing**

**17.**—(1) The persons entitled to appear at the hearing are—

- (a) the appellant; and
- (b) the appropriate authority;

but the inspector may permit any other person to appear at a hearing, and such permission may not be unreasonably withheld.

(2) Any person entitled or permitted to appear may appear in person or be represented by any other person.

### **Procedure at hearing**

**18.**—(1) Except as otherwise provided in these Regulations, the inspector is to determine the procedure at a hearing.

(2) At the start of the hearing—

(a) the inspector's name and appointment must be announced by the inspector; and

(b) the inspector must identify—

(i) what are, in the inspector's opinion, the main issues to be considered at the hearing, and

(ii) any matters on which further information is required from any person appearing at the hearing.

(3) A hearing is to take the form of a discussion led by the inspector.

(4) Paragraph (2)(b) does not preclude the addition in the course of the hearing of other issues for consideration or preclude any person entitled or permitted to appear from referring to issues which that person considers relevant to the consideration of the appeal but which were not issues identified by the inspector pursuant to that paragraph.

(5) The inspector may—

(a) require any person appearing at a hearing who, in the inspector's opinion, is behaving in a disruptive manner to leave; and

(b) refuse to permit that person to return or permit the person to return only on such conditions as the inspector may specify.

(6) The inspector may—

(a) proceed with a hearing in the absence of any person entitled to appear at it; and

(b) from time to time adjourn a hearing.

(7) Where a hearing is adjourned, no further notice is required, provided that the date, time and place of the adjourned hearing are announced at the hearing before the adjournment.

### **Evidence at hearing**

**19.**—(1) The appellant and the appropriate authority are entitled to give, or to call another person to give, oral evidence, and any other person may give, or call another person to give, oral evidence if so permitted at the discretion of the inspector.

(2) But the inspector may, at any stage in the proceedings, refuse to permit the giving of evidence or presentation of any matter which the inspector considers to be irrelevant or repetitious.

(3) Where the inspector refuses to permit the giving of oral evidence, the person wishing to give, or call any other person to give, oral evidence may submit to the inspector any evidence or other matter in writing before the close of the hearing.

(4) Cross-examination is not permitted at the hearing unless the inspector considers that it is required to ensure a thorough examination of the main issues.

(5) Where under paragraph (4) the inspector considers that cross-examination is required, the inspector must consider, after consulting the appellant and the appropriate authority, whether the hearing should be closed and an inquiry should be held instead.

(6) Where, under sub-paragraph (a) of regulation 18(5), the inspector has required a person to leave and, under sub-paragraph (b) of that regulation, the inspector refuses to permit that person to

return, or permits that person to return only on conditions, that person may submit to the inspector any evidence or other matter in writing before the close of the hearing.

(7) The inspector may allow the appellant or the appropriate authority to alter or add to a statement of case received by the Secretary of State and submitted under regulation 9 so far as may be necessary for the purposes of the hearing.

(8) The inspector may take into account any written representations, or evidence or any other document received by the inspector in connection with a hearing before the hearing opens or during the hearing provided it is disclosed at the hearing.

### **Site inspections**

**20.**—(1) Where it appears to an inspector that one or more matters would be more satisfactorily resolved by adjourning the hearing to the site of the appeal land, the inspector may adjourn the hearing to that site and conclude the hearing there provided the inspector is satisfied that—

- (a) the hearing would proceed satisfactorily and that no party would be placed at a disadvantage;
- (b) all parties present at the hearing would have the opportunity to attend the adjourned hearing; and
- (c) neither the appellant nor the appropriate authority have raised any reasonable objections to the hearing being continued at the site of the appeal land.

(2) Unless the hearing is to be adjourned to the appeal land pursuant to paragraph (1), the inspector may, where it appears necessary or expedient to do so, arrange to make an inspection of the appeal land in the company of the appellant and the appropriate authority or their representatives at any time before or during the hearing in relation to an appeal.

(3) Before making a site inspection the inspector must announce the date and time of the inspection during the hearing.

(4) The inspector is not bound to defer an inspection if the appellant or the appropriate authority or their representatives are not present at the appointed time.

### **Procedure after hearing—appeals determined by the Secretary of State**

**21.**—(1) This regulation applies where a hearing has been held for the purposes of any appeal determined by the Secretary of State.

(2) After the close of the hearing, the inspector must make a report in writing to the Secretary of State which includes conclusions and recommendations or reasons for not making any recommendations.

(3) When making a determination the Secretary of State may disregard any written representations, evidence or other document received after the close of the hearing.

(4) Paragraph (5) applies where, after the close of the hearing, the Secretary of State—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to the Secretary of State be material to a conclusion reached by the inspector, or
- (b) takes into consideration any new evidence or new matter of fact,

and is, for that reason, disposed to disagree with a recommendation made by the inspector.

(5) Where this paragraph applies, the Secretary of State may not come to a decision which is at variance with the recommendation made by the inspector without first—

- (a) notifying the appellant, the appropriate authority and any other person who appeared at the hearing of the disagreement and the reasons for it, and

- (b) affording them an opportunity of making written representations, or, if the Secretary of State has taken into consideration any new evidence or new matter of fact, of asking for the re-opening of the hearing.
- (6) Those persons making written representations or asking for the re-opening of the hearing pursuant to an invitation under paragraph (5)(b) must ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notification under paragraph (5)(b).
- (7) The Secretary of State may, if appropriate, cause the re-opening of a hearing, and must do so if asked by the appellant or the appropriate authority under paragraph (5)(b), in the circumstances mentioned in paragraph (4) and within the period mentioned in paragraph (6).
- (8) Where a hearing is re-opened—
  - (a) the Secretary of State must send to the appellant, the appropriate authority and any other person who appeared at the hearing a written statement of the matters with respect to which further evidence is invited; and
  - (b) paragraphs (2) to (9) of regulation 16 apply as if the references to a hearing were references to a re-opened hearing.

#### **Procedure after hearing—transferred appeals**

**22.**—(1) This regulation applies where a hearing has been held for the purposes of a transferred appeal.

(2) Where an assessor has been appointed, the assessor must, after the close of the hearing, make a report in writing to the inspector of the matters on which the assessor was appointed to advise, and the inspector must state in the notification of the decision on the appeal pursuant to regulation 24 that such a report was made.

(3) When making a decision, the inspector may disregard any written representations, evidence or any other document received after the close of the hearing.

(4) If, after the close of the hearing, the inspector proposes to take into account any new evidence or new matter of fact which was not raised at the hearing and which the inspector considers is material to the decision, the inspector may not come to a decision without first—

- (a) notifying the appellant, the appropriate authority and any other person who appeared at the hearing; and
- (b) affording them an opportunity of making written representations or of asking for the re-opening of the hearing.

(5) Any person making written representations or asking for the re-opening of the hearing pursuant to an invitation under paragraph (4)(b) must ensure that such written representations or request to re-open the hearing are received by the Secretary of State within three weeks of the date of the notification.

(6) An inspector may, if appropriate, cause a hearing to be re-opened and must do so if asked by the appellant or the appropriate authority under paragraph (4)(b), in the circumstances mentioned in paragraph (4) and within the period mentioned in paragraph (5).

(7) Where a hearing is re-opened—

- (a) the inspector must send to the appellant, the appropriate authority and any other person who appeared at the hearing a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2) to (9) of regulation 16 apply as if the references to a hearing were references to a re-opened hearing.

### **Notification of decision—appeals determined by the Secretary of State**

23.—(1) This regulation applies where a hearing has been held for the purposes of any appeal determined by the Secretary of State.

(2) The Secretary of State must, as soon as practicable, notify the decision on the appeal and the reasons for reaching it, in writing to—

- (a) the appellant;
- (b) the appropriate authority;
- (c) every other person who appeared at the hearing or who is an interested person;
- (d) every other owner or occupier of the land who has been notified by the appropriate authority as mentioned in regulation 4(4) or section 37(3) of the 2000 Act; and
- (e) the local access forum.

(3) Where a copy of the inspector’s report is not sent with the notification of the decision, the notification must be accompanied by a statement of the inspector’s conclusions and of any recommendations made by the inspector in the report.

(4) If a person entitled to be notified of the decision has not received a copy of the inspector’s report, the Secretary of State must, upon an application made by that person in writing, supply a copy of the inspector’s report within four weeks of the receipt of the notification of the decision on the appeal under paragraph (2).

(5) In paragraphs (3) and (4), “report” does not include any documents appended to the inspector’s report.

(6) But any person who has received a copy of the report may, within two weeks of such receipt, apply in writing to the Secretary of State for an opportunity to inspect any documents appended to the report, and the Secretary of State must afford that person that opportunity.

(7) The Secretary of State must ensure that, as soon as practicable after any notification has been given under paragraph (2), a copy of the notification is made available for inspection on a relevant website for a period of three months.

### **Notification of decision—transferred appeals**

24.—(1) This regulation applies where a hearing has been held for the purposes of a transferred appeal.

(2) An inspector must, as soon as practicable, notify the decision on the appeal and the reasons for it, in writing to—

- (a) the appellant;
- (b) the appropriate authority;
- (c) every other person who appeared at the hearing or who is an interested person;
- (d) every other owner or occupier of the land who has been notified by the appropriate authority as mentioned in regulation 4(4) or section 37(3) of the Act; and
- (e) the local access forum.

(3) Any person entitled to be notified of the inspector’s decision under paragraph (2) may apply in writing to the Secretary of State for an opportunity to inspect any documents referred to in the notification, and the Secretary of State must afford that person that opportunity.

(4) Any person making an application under paragraph (3) must ensure that it is received by the Secretary of State within six weeks of the receipt of the notification of the decision on the appeal under paragraph (2).

(5) The Secretary of State must ensure that, as soon as practicable after any notification has been given under paragraph (2), a copy of the notification is made available for inspection on a relevant website for a period of three months.

## CHAPTER 3

### Appeals to be determined by way of an inquiry

#### **Procedure where the Secretary of State or inspector causes a pre-inquiry meeting to be held**

**25.**—(1) The Secretary of State or the inspector must hold a pre-inquiry meeting if it appears to be necessary, and any such meeting (or, where there is more than one, the first such meeting) must be held within twelve weeks of the start date.

(2) Where the Secretary of State or the inspector decides to hold such a meeting, the Secretary of State must notify the appellant and the appropriate authority in writing of the intention to hold such a meeting.

(3) The Secretary of State or the inspector must give not less than two weeks' written notice of the pre-inquiry meeting to—

- (a) the appellant and the appropriate authority; and
- (b) any other person whose presence at the pre-inquiry meeting the Secretary of State considers to be desirable.

(4) The inspector—

- (a) is to preside at the pre-inquiry meeting;
- (b) is to determine the matters to be discussed and the procedure to be followed;
- (c) may require any person present at the pre-inquiry meeting who the inspector considers is behaving in a disruptive manner to leave; and
- (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting or may permit that person to return or attend only on such conditions as the inspector may specify.

(5) Where a pre-inquiry meeting is held pursuant to paragraph (1), the inspector may hold a further pre-inquiry meeting, and in that case must arrange for such notice to be given of the further pre-inquiry meeting as appears to be necessary.

(6) Paragraph (4) applies to any further pre-inquiry meeting held pursuant to paragraph (5).

(7) If the Secretary of State or the inspector (“the requesting authority”) requests any further information at the pre-inquiry meeting from the appellant, the appropriate authority or any other person present at that meeting, the person required to provide the information must ensure that two copies of it have been received by the requesting authority within any reasonable time specified by the requesting authority of the conclusion of the pre-inquiry meeting.

(8) The Secretary of State must, as soon as practicable after receipt of any such information, send a copy of it to the other parties entitled to appear at the inquiry.

#### **Inquiry timetable**

**26.**—(1) Where a pre-inquiry meeting is held pursuant to regulation 25, the inspector must arrange a timetable for the proceedings of the inquiry.

(2) The inspector must specify in the timetable arranged pursuant to this regulation a date by which any proof of evidence mentioned in regulation 28 is to be sent to the Secretary of State.

### **Date and notification of inquiry**

- 27.—(1) The date fixed by the Secretary of State for the holding of an inquiry must be—
- (a) where a pre-inquiry meeting is held pursuant to regulation 25, not later than eight weeks after the conclusion of that meeting; and
  - (b) in any other case eighteen weeks from the start date, unless the holding of the inquiry on that date is not practicable.
- (2) The Secretary of State must give the appellant, the appropriate authority and every interested person not less than four weeks' written notice of the date, time and place fixed for the holding of an inquiry.
- (3) But the Secretary of State may agree with the appellant and the appropriate authority that a lesser period of notice may be given.
- (4) The Secretary of State may—
- (a) change the date fixed for the holding of an inquiry (whether or not the date as changed is within the relevant period mentioned in paragraph (1)); or
  - (b) change the time or place for the holding of an inquiry.
- (5) Where, under paragraph (4)(a), the Secretary of State changes the date for the holding of an inquiry, paragraphs (2) and (3) apply to the new date as they applied to the date originally fixed.
- (6) Where, under paragraph (4)(b) the Secretary of State changes the time or place for the holding of an inquiry, the Secretary of State must give reasonable notice of such change.
- (7) The Secretary of State—
- (a) may require the appropriate authority to publish, not less than two weeks before the date fixed for the inquiry, a notice of the inquiry in one or more newspapers circulating in the locality in which the appeal land is situated;
  - (b) may require the appropriate authority to affix a notice of the inquiry firmly to the appeal land or to some object on or near the land in such manner as to be readily visible to and legible by members of the public; and
  - (c) must ensure that a notice of the inquiry is made available for inspection on a relevant website until the appeal is determined.
- (8) Where a notice is affixed pursuant to paragraph (7)(b), the appropriate authority may not remove the notice, or cause it to be removed, for such period before the hearing as the Secretary of State may specify.
- (9) Every notice of an inquiry under paragraph (7) must contain—
- (a) a statement of the date, time and place of the inquiry and of the powers enabling the Secretary of State to determine the appeal; and
  - (b) a brief description of the appeal land and of the grounds of appeal.
- (10) A notice under paragraph (7) may relate to more than one inquiry.

### **Proofs of evidence**

- 28.—(1) Where the appellant or the appropriate authority propose to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence, the appellant or the appropriate authority, as the case may be, must send two copies of the proof of evidence, together with any written summary accompanying it, to the Secretary of State.
- (2) The Secretary of State must, as soon as practicable after receiving the documents specified in paragraph (1), send a copy of that proof of evidence together with any written summary accompanying it to the other party.



(3) A written summary is required where the proof of evidence in question exceeds one thousand five hundred words.

(4) The appellant and the appropriate authority must ensure that the proof of evidence and any written summary is received by the Secretary of State no later than—

- (a) four weeks before the date fixed for the holding of the inquiry; or
- (b) where pursuant to regulation 26 a timetable has been arranged which specifies a date by which the proof of evidence and any summary are to be received by the Secretary of State, that date.

(5) Where a written summary is provided in accordance with paragraphs (1) and (3), only that summary is to be read at the inquiry, unless the inspector permits or requires otherwise.

(6) Any person required by this regulation to send copies of a proof of evidence to the Secretary of State must send with them the same number of copies of the whole (or the relevant part) of any document referred to in the proof of evidence.

### **Statement of common ground**

**29.**—(1) The appellant and the appropriate authority must together prepare a statement of common ground.

(2) The appropriate authority must ensure that the Secretary of State receives the statement of common ground not less than four weeks before the date fixed for the holding of the inquiry.

### **Appearances at inquiry**

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

- (a) the appellant; and
- (b) the appropriate authority;

but the inspector may permit any other person to appear at an inquiry, and such permission may not be unreasonably withheld.

(2) Any person entitled or permitted to appear may appear in person or be represented by any other person.

### **Procedure at inquiry**

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

(2) At the start of the inquiry –

- (a) the inspector’s name and appointment must be announced by the inspector; and
- (b) the inspector must identify—
  - (i) what are, in the inspector’s opinion, the main issues to be considered at the inquiry, and
  - (ii) any matters on which further information is required from any person appearing at the inquiry.

(3) Paragraph (2)(b) does not preclude the addition in the course of the inquiry of other issues for consideration or preclude any person entitled or permitted to appear from referring to issues which that person considers relevant to the consideration of the appeal but which were not issues identified by the inspector pursuant to that paragraph.

(4) Unless in a particular case the inspector otherwise determines, the appropriate authority is to begin and the appellant has the right of final reply.

(5) Any other persons appearing at the inquiry are to be heard in such order as the inspector may determine.

(6) The inspector may—

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

(7) The inspector may—

- (a) proceed with an inquiry in the absence of any person entitled to appear at it; and
- (b) from time to time adjourn an inquiry.

(8) Where an inquiry is adjourned, no further notice is required, provided that the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment.

### **Evidence at inquiry**

**32.**—(1) A person appearing at an inquiry is entitled to give, or call any other person to give, oral evidence.

(2) The appellant, the appropriate authority, and any other person if so permitted by the inspector, may cross-examine any person giving evidence.

(3) But the inspector may at any stage in the proceedings refuse to permit—

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

which the inspector considers is irrelevant or repetitious.

(4) Where the inspector refuses to permit the giving of oral evidence, the person wishing to give or call any other person to give, oral evidence may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(5) Where a person gives evidence at an inquiry by reading a summary of a proof of evidence referred to in regulation 28(1) —

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

(6) Where, under sub-paragraph (a) of regulation 31(6), the inspector has required a person to leave and, under sub-paragraph (b) of that regulation, the inspector refuses to permit that person to return or permits that person to return only on conditions, that person may submit to the inspector any evidence or other matter in writing before the close of the inquiry.

(7) The inspector may allow any person to alter or add to a statement of case received by the Secretary of State under regulation 9 or a proof of evidence or summary sent to the Secretary of State under regulation 28(1) so far as may be necessary for the purposes of the inquiry, but must (if necessary by adjourning the inquiry) give every other person appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(8) The inspector may take into account any written representations, or evidence or any other document received by the inspector in connection with an inquiry before the inquiry opens or during the inquiry, provided it is disclosed to the inquiry.

### **Site inspections**

**33.**—(1) During an inquiry or after its close, the inspector may, where it appears necessary or expedient to do so, arrange to make an inspection in relation to an appeal.

(2) Where the inspector intends to make an inspection under paragraph (1), the inspector must ask the appellant and the appropriate authority whether they wish to be present or be represented.

(3) Where the appellant or the appropriate authority has indicated a wish to be present, or represented, the inspector must give the appellant and the appropriate authority reasonable notice of the date and time of the inspection, and must afford the appellant and the appropriate authority, or their representatives, the opportunity to be present during the inspection.

(4) The inspector is not bound to defer an inspection if the appellant or the appropriate authority or their representatives are not present at the appointed time.

### **Procedure after inquiry—appeals determined by the Secretary of State**

**34.**—(1) This regulation applies where an inquiry has been held for the purposes of any appeal determined by the Secretary of State.

(2) After the close of the inquiry the inspector must make a report in writing to the Secretary of State which includes conclusions and recommendations or reasons for not making any recommendations.

(3) When making a determination the Secretary of State may disregard any written representations, evidence or other document received after the close of the inquiry.

(4) Paragraph (5) applies where, after the close of the inquiry, the Secretary of State—

(a) differs from the inspector on any matter of fact mentioned in, or appearing to the Secretary of State to be material to, a conclusion reached by the inspector, or

(b) takes into consideration any new evidence or new matter of fact,

and is, for that reason, disposed to disagree with a recommendation made by the inspector.

(5) Where this paragraph applies, the Secretary of State may not come to a decision which is at variance with the recommendation made by the inspector without first—

(a) notifying the appellant, the appropriate authority and any other person who appeared at the inquiry of the disagreement and the reasons for it, and

(b) affording them an opportunity of making written representations or, if the Secretary of State has taken into consideration any new evidence or new matter of fact, of asking for the re-opening of the inquiry.

(6) Those persons making written representations or asking for the re-opening of the inquiry pursuant to an invitation under paragraph (5)(b) must ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notification under paragraph (5)(a).

(7) The Secretary of State may, if appropriate, cause the re-opening of an inquiry and must do so if asked by the appellant or the appropriate authority under paragraph (5)(b), in the circumstances mentioned in paragraph (4) and within the period mentioned in paragraph (6).

(8) Where an inquiry is re-opened—

(a) the Secretary of State must send to the appellant, the appropriate authority and any other person who appeared at the inquiry a written statement of the matters with respect to which further evidence is invited; and

(b) paragraphs (2) to (9) of regulation 27 apply as if the references to an inquiry were references to a re-opened inquiry.

### **Procedure after inquiry—transferred appeals**

**35.**—(1) This regulation applies where an inquiry has been held for the purposes of a transferred appeal.

(2) Where an assessor has been appointed, the assessor must, after the close of the inquiry, make a report in writing to the inspector of the matters on which the assessor was appointed to advise, and the inspector must state in the notification of the decision on the appeal pursuant to regulation 37 that such a report was made.

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

(4) If, after the close of the inquiry, an inspector proposes to take into account any new evidence or new matter of fact which was not raised at the inquiry, and which the inspector considers is material to the decision, the inspector may not come to a decision without first—

- (a) notifying the appellant, the appropriate authority and any other person who appeared at the inquiry; and
- (b) affording them an opportunity of making written representations or of asking for the re-opening of the inquiry.

(5) Any person making representations or asking for the re-opening of the inquiry pursuant to an invitation under paragraph (4)(b) must ensure that such written representations or request to re-open the inquiry are received by the Secretary of State within three weeks of the date of the notification.

(6) An inspector may, if appropriate, cause an inquiry to be re-opened, and must do so if asked by the appellant or the appropriate authority under paragraph (4)(b), in the circumstances mentioned in paragraph (4) and within the period specified in paragraph (5).

(7) Where an inquiry is re-opened—

- (a) the inspector must send to the appellant, the appropriate authority and any other person who appeared at the inquiry a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2) to (9) of regulation 27 apply as if the references to an inquiry were references to a re-opened inquiry.

### **Notification of decision—appeals determined by the Secretary of State**

**36.**—(1) This regulation applies where an inquiry has been held for the purposes of any appeal to be determined by the Secretary of State.

(2) The Secretary of State must, as soon as practicable, notify the decision on the appeal and the reasons for reaching it, in writing to—

- (a) the appellant;
- (b) the appropriate authority;
- (c) every other person who appeared at the inquiry or who is an interested person;
- (d) every other owner or occupier of the land who has been notified by the appropriate authority as mentioned in regulation 4(4) or section 37(3) of the 2000 Act; and
- (e) the local access forum.

(3) Where a copy of the inspector's report is not sent with the notification of the decision, the notification must be accompanied by a statement of the inspector's conclusions and of any recommendations made by the inspector in the report.

(4) If a person entitled to be notified of the decision has not received a copy of the inspector's report, the Secretary of State must, upon an application made by that person in writing, supply a

copy of the inspector's report within four weeks of the receipt of the notification of the decision on the appeal under paragraph (2).

(5) In paragraphs (3) and (4), "report" does not include any documents appended to the inspector's report.

(6) But any person who has received a copy of the report may, within two weeks of such receipt, apply in writing to the Secretary of State for an opportunity to inspect any documents appended to the report, and the Secretary of State must afford that person that opportunity.

(7) The Secretary of State must ensure that, as soon as practicable after any notification has been given under paragraph (2), a copy of the notification is made available for inspection on a relevant website for a period of three months.

### **Notification of decision—transferred appeals**

**37.**—(1) This regulation applies where an inquiry has been held for the purposes of a transferred appeal.

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

- (a) the appellant;
- (b) the appropriate authority;
- (c) every other person who appeared at the inquiry or who is an interested person;
- (d) every other owner or occupier of the land who has been notified by the appropriate authority as mentioned in regulation 4(4) or section 37(3) of the 2000 Act; and
- (e) the local access forum.

(3) Any person entitled to be notified of the inspector's decision under paragraph (2) may apply to the Secretary of State in writing for an opportunity to inspect any documents referred to in the notification and the Secretary of State must afford that person that opportunity.

(4) Any person making an application pursuant to paragraph (3) must ensure that it is received by the Secretary of State within six weeks of the notification of the inspector's decision on the appeal under paragraph (2).

(5) The Secretary of State must ensure that, as soon as practicable after any notification has been given under paragraph (2), a copy of the notification is made available for inspection on a relevant website for a period of three months.