



① cc Acting Unit  
② n.b.p.m. *done*  
21/6

2 MARSHAM STREET  
LONDON SW1P 3EB

01-212 3434

My ref:

Your ref:

21 June 1984

*Dear David*

INQUIRY PROCEDURES

Earlier this year, we were in correspondence about the Prime Minister's concern about the cost and length of major inquiries. Consideration is still being given to the case for substantial reform, as well as to the problems of disruption, and my Secretary of State expects to be in a position to put a memorandum to colleagues immediately after the recess.

- / In the meantime, the Prime Minister may wish to have the enclosed copy of a proposed Code of Practice on which the Department has recently gone to consultation and which is intended to help major inquiries to run smoothly, speedily and efficiently by making full use of the pre-inquiry period to prepare the ground.
- / I am sending a copy of this letter to Richard Hatfield.

*Yours ever*

*Andrew*

A C ALLBERRY  
Private Secretary

David Barclay Esq



## PREPARING FOR MAJOR INQUIRIES: A CODE OF PRACTICE

### INTRODUCTION

1. This document sets out a Code of Practice for procedures leading up to major planning inquiries.
2. The public local inquiry is widely accepted as a fair and thorough way of examining the merits of development proposals and finding out and assessing what interested parties, organisations, and members of the public think about them.
3. But inquiries cost time and money for everyone involved. So when the development proposal is a major one or affects a lot of people it is in everyone's interest that the proceedings should be planned and organised so as to run smoothly and take no longer than is necessary.
4. The aim of the Code is to help the Inspector achieve this. It is intended as a non-statutory Code, which supplements the statutory rules on conduct of inquiries while conforming with the principles of natural justice. It takes account of experience of pre-inquiry procedures and practices already tried out.
5. The Code is intended for application in cases where the development proposal is of major public interest because of its national or regional implications, or the extent or complexity of the environmental, safety, technical or scientific issues involved. However, elements of the code will be available to assist procedures in many other cases.

### WHAT THE CODE SEEKS TO DO

6. What the Code seeks to do is to enable the Inspector to prepare the ground for the public inquiry by:
  - a. identifying in advance those interested who intend to participate in the inquiry, making them known to one another, and enabling them to dispose of their time and resources to best advantage;
  - b. getting advance presentation of information and views so that the key issues and factors can be identified at an early stage, and those concerned can later concentrate their submissions on those issues;
  - c. where possible, getting certain facts generally agreed between the parties, and made available to all interested participants;
  - d. enabling the inquiry arrangements and procedures to be properly planned for the benefit of all concerned.

### WHAT THE CODE INVOLVES:

#### FIRST STEPS

7. The Department will indicate at the earliest possible stage when it is proposed to apply the Code to a major proposal which is subject to a public inquiry.
8. Notice of Application of the Code will be given in the first instance to the initiator of the proposal, the local planning authority(ies) interested Government Departments and those with statutory rights to be heard at the inquiry.



## PUBLICATION OF NOTICE OF APPLICATION OF CODE

9. The notice to the local planning authority will be accompanied by a request:
  - a. to supply within 14 days to all those with statutory rights to be heard at the inquiry (identified in the Inquiries Procedure Rules) and any other bodies or persons known to the authority to be interested, copies of:
    - i. the standard form of notice indicating that the Code will be applied;
    - ii. the Code itself;
    - iii. a standard registration form (standard notice and registration forms annexed);
  - b. to publish the notice in the press within 21 days with a request that interested parties who wish to make representations should obtain, complete and return the registration form.

## REGISTRATION OF PARTICIPANTS

10. The registration form will request the following information:
  - a. the name, address and telephone number of the persons registering;
  - b. the name, address and telephone number of any agent;
  - c. any property interest in the site area;
  - d. an indication of the objection or representation to be made;
  - e. whether or not the person registering is prepared to consider co-operating with other parties sharing the same views in presenting their views at the inquiry;
  - f. whether or not he/she wishes to express a view in writing only or wants an opportunity to be heard; and if the latter
  - g. whether he/she wishes to call witnesses and to cross-examine other parties and their witnesses.

The Department will ask for the completed form to be returned within 21 days of publication of the Notice of Application of the Code to the inquiry secretariat or other nominated person. The notice is the indication of an intention to take part in the inquiry. Full statements follow at later stages.

## REGISTER OF PARTICIPANTS

11. A Register of Participants will be produced from these forms and will be available on request from the Inquiry Secretariat which will be set up in the Planning Inspectorate. The Register will identify those intending to give evidence at the inquiry and those who wish to make written representations.

12. The use of the Register will enable information to be gathered at an earlier stage about the extent and nature of objections and other interests. This will enable the Inspector to programme the inquiry well in advance and with a greater



degree of accuracy than before. It will also help participants at the inquiry find out the identities of other participants, and their points of view, and give them the opportunity if they wish to approach others with a view to combining their representations or planning jointly their respective contributions to the inquiry.

13. Registered participants will be asked to submit a statement of case to the Inspector in advance of making representations or submitting evidence to the inquiry. They will be made aware of statements made by the participants and other parties. Certain parties have rights under the Rules to present evidence and to cross examine. These facilities will normally be extended to registered participants although failure to comply with requirements of the Code may result in withdrawal of those facilities. Under the Rules the Inspector retains the discretion to hear other interested persons and would normally hear those who had not been registered.

#### DEPARTMENT'S STATEMENT OF RELEVANT MATTERS

14. In the case of an application called-in under section 35 of the Town and Country Planning Act 1971 the Department will normally issue its Rule 6(1) Statement under the Town and Country Planning (Inquiry Procedure) Rules 1974 (SI 1974 No 419), at the same time as the Notice of Application of the Code. This Statement will indicate the reasons for call-in and the matters seen at that time to be relevant to the consideration of the proposal. These will be set out as clearly and as constructively as possible so as to focus attention on the main points to which the participants should address themselves in later submissions of information and views. Copies will be sent to all registered participants.

15. Subject to any additions or modification to this initial Statement the Inspector will expect participants throughout the proceedings to orient their submissions on the issues identified.

#### ANNOUNCEMENT OF INQUIRY

16. As soon as possible after the decision to call in the application, or other procedure leading to an inquiry, and the decision to apply the Code, the Department will announce the appointment of the person to conduct the inquiry, and any assessors (where required and if known at this stage), and (provisionally if necessary) the date of commencement of the inquiry, and the venue. Other details, and confirmation of provisional details, will be announced at appropriate stages during the procedure.

#### REPORTS OF ENVIRONMENTAL ASSESSMENTS

17. Once the Rule 6(1) statement has been issued, the Secretariat will formally ask the applicant whether the proposal has been the subject of an Environmental Assessment (EA) (ie a study of the environmental implications). If it has, the Secretariat will ask for copies of any report of the assessment to be submitted within 28 days of the request. The applicant will also be asked to make copies of the report available at suitable locations which will have been designated for the purpose, and to supply copies at a reasonable price to any registered participant who applies for them.

18. The Secretariat will notify participants that copies of the report are available for inspection at suitable locations and can be purchased from the developers.



#### ADVANCE STATEMENTS FROM MAIN PARTIES

19. 14 days after the EA report has been available or, if no EA has been made, immediately after issue of the Notice of Application of the Code the Department will request:

- a. a statement of case under Rule 6(2) or equivalent statement under the appropriate inquiry procedure rules from the local planning authority(ies);
- b. a statement of case under Rule 6(6) or equivalent statement under the appropriate inquiry procedure rules from the applicant;
- c. a statement of case from any other Government Department, statutory body or undertaker with an interest in the proposal.

The Department will ask for these statements to be submitted within 28 days of the issue of the request for them.

20. On receipt by the Department, copies of the statements will be sent to the other parties listed in a. to c. above.

21. Other copies will be placed by the Department (or Inquiry Secretariat) on deposit at the designated locations.

22. All registered participants will be notified of the places where copies of these statements may be inspected and of the cost of obtaining copies.

23. The purpose of the statements is to ensure that accurate details of the proposal, the site and surroundings, relevant central and local Government policies, development plan provisions, Departmental and planning authority views and results of consultations are available before other participants prepare their contributions. They will also enable the Inspector to plan the forthcoming inquiry.

24. So far as possible the statements should be confined to the issues identified in the Department's Rule 6(1) statement and to such other issues as are identified as being relevant by the participants.

25. A list of documents to which references has been or will be made should be included. A separate list should be supplied of relevant research studies or reports which have been taken into account or are being prepared.

26. Participants may submit supplementary statements taking account of or replying to views expressed by other participants but all such statements should be submitted before the pre-inquiry meeting or meetings. Supplementary statements will be circulated or placed on deposit like the main statements.

#### ADVANCE STATEMENTS FROM OTHER PARTICIPANTS

27. Once the advance statement have been received from the main parties, the Department will request all other registered participants to provide an advance statement of case.

28. Copies of all these statements will be circulated to all other registered participants except that where they are very lengthy or bulky, or the numbers involved are very large, they may instead be deposited for inspection at the chosen locations.



29. These statements should contain all relevant items which the Inspector will asked to take into account, classified so far as possible under the issues identified in the Rule 6(1) statement. A list of documents referred to should be included.

30. Whether or not the participant appears at the inquiry the statement will become an official inquiry document and will be taken into account. The Inspector may permit any other participant to respond to it either in writing or at the inquiry.

31. The Inspector will normally expect participants at the inquiry to concentrate their comments on the matters outlined in their statement together with any comments that they wish to make in response to submissions made by other participants. If participants at that stage seek to introduce entirely new evidence, he may adjourn the inquiry to allow other participants to consider this new material. He may also consider making a recommendation on award of costs against a party who unreasonably occasions such an adjournment. Refusal to comply with the requirements of the Code, or reasonable requests for the presentation of information within specific time limits, or other actions which may cause delay to proceedings, are matters to be taken into account by the Secretary of State when determining an application made to him for an award of costs.

#### INSPECTOR'S APPRAISAL OF WRITTEN STATEMENTS

32. The Inspector will consider all written statements which have been received before the pre-inquiry meeting (see below). He will seek to produce a list of the topics relevant to the inquiry which expands or amplifies those identified in the Rule 6(1) statement so far as it seems appropriate to do so. After possible amendment in the light of any discussion at a pre-inquiry meeting the list will be circulated to all participants and used as a general framework for the inquiry.

33. Participants whose written statements indicate that they hold the same or similar views on any topic may be invited by the Inspector to consider collaboration to present a single case at the inquiry.

34. The Inspector may by a circular letter to all participants indicate matters on which clarification or additional information is needed.

35. The Inspector may invite persons who are not registered participants to attend the inquiry and give evidence on matters on which they have expert knowledge, if he considers that there is otherwise a risk that some relevant issue may not be properly investigated at the inquiry.

36. The Inspector will seek to identify from the statements those areas where facts appear to be capable of agreement between the main parties, such as descriptions of the proposal, the site and surroundings or facts and methodologies relating to environmental effects. The statement of agreed facts and matters still in dispute which are relevant to the inquiry would be deposited and circulated in the same way as the written statements. The Inspector may lay down units of measurement, nomenclature, acronyms etc to be used throughout the inquiry.

37. The Inspector may allocate responsibility for preparation of the draft list of facts to the developer or any other party. Meetings of participants may be arranged to discuss the list of facts or matters still in dispute which are relevant to the inquiry and it may be a subject of discussion at a pre-inquiry meeting.



## THE PRE-INQUIRY MEETING

38. The Inspector will hold one or more pre-inquiry meetings to ensure that as much information as possible is made available as early as possible and to clarify what needs to be done before the inquiry opens. The first of these meetings will normally take place about 28 days after the date by which main parties have been asked to submit their statements and the last at least 28 days before the opening of the inquiry. All main parties and all registered participants will be invited to attend and they will be given at least 28 days notice of the arrangements.

39. The matters to be considered at the pre-inquiry meeting(s) will include:

- a. any necessary amendment to or clarification of the Inspector's list of topics for the inquiry;
- b. identification of any material required by the Inspector and not already covered by statements, and consideration of how this is to be provided, including the progress of any research studies being undertaken;
- c. responses to any invitation from the Inspector to participants to consider collaboration;
- d. arrangements for preparation of agreed statements of facts including establishment of Working Groups where appropriate;
- e. a review of the timetable for the work to be done before the inquiry opens, including the submission of any further statements;
- f. the role of the assessors (if any).

## THE PROGRAMME MEETING

40. The Inspector will also hold a meeting to consider procedural matters (often this will be incorporated into one of the Pre-Inquiry meetings). At least 28 days Notice of the Meeting will be given. The matters to be considered at the Procedural Meeting will include:-

- a. details of the venue and proposed dates and times of sittings;
- b. programming the inquiry;
- c. the need for additional venues for parts of the Inquiry;
- d. accommodation and facilities at the Inquiry (eg copying, transcripts, telephones, public address system, and facilities for the media);
- e. secretariat arrangements;
- f. procedural matters (eg consideration of the form of opening and closing statements and the order of appearances);
- g. arrangements for the submission, circulation and inspection of documents, including the listing of documents already submitted.

41. To assist programming, the Secretariat will normally circulate a questionnaire inviting participants to say how long the presentation of their case is likely to take, which witnesses they will wish to cross-examine, and how long they expect this to take. This questionnaire could be circulated in conjunction with the requests for statements at earlier stages of the procedure. A final, detailed programme will be compiled and circulated at least 7 days in advance.



## INFORMAL MEETINGS

42. The Inspector may wish to arrange for informal meetings to be held to see whether agreed statements of facts can be prepared on particular issues (eg forecasts), to help participants with similar views to consider the possibility of collaboration, or for similar purposes. The Inspector will indicate the purpose and membership of such meetings, designate a chairman, and say when he expects to receive a report of the outcome, which will normally be at least 21 days before the opening of the inquiry. In the case of technical evidence, the chairman should aim to produce a report which will identify matters which are agreed, the matters in dispute, and the factors or assumption which have led to the difference of view.

## PROOFS OF EVIDENCE

43. The Inspector will require parties to submit proofs of evidence at least 21 days before the evidence in question is to be given, and he may also give directions about the form and layout of proofs and about their circulation. While the practice of taking proofs of evidence as read or the use of summaries can be helpful in speeding up the inquiry, it can sometimes give rise to difficulties, and the Inspector may therefore wish to sound out the views of participants on this point at the pre-inquiry meeting.

## CONCLUSION

44. These procedures are intended to ensure that the inquiry itself runs as smoothly, speedily and efficiently as possible. If by their use the general structure of the inquiry can be agreed and as much as possible of the factual background can be established before the main part of the inquiry opens, then the presentation of cases, submissions and evidence, can concentrate on the important issues that need to be addressed at the inquiry.

Department of the Environment

June 1984





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