



## Planning Inspectorate

# Best Practice for Inquiries Into Local Highway Proposals

This page outlines points of best practice for local authorities and other non-ministerial bodies promoting Orders Under the Highways Act 1980, the Acquisition of Land Act 1981 or the Town and Country Planning Act 1990 which is primarily associated with proposals to extend or modify the highway and its use. The best practice set out below is based on the experience of Inspectors, with the aim of setting out helpful points which have allowed inquiries to run effectively and efficiently.

A local inquiry in this context is one relating to proposals by local highways authorities or other interested parties but not the Highways Agency.

Whilst this page has not been written with Highways Agency schemes in mind, inquiries into Highways Agency proposals are bound by similar procedures and rules. Parties involved in such inquiries may wish to note these points of best practice.

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**Procedures:** Links to the procedural rules under which various types of highwayrelated inquiries operate.

**Definitions:** Some definitions of terms used on this page.

**Documents:** Notes regarding the presentation, issuing and placing on deposit of documents before the inquiry.

**Evidence:** Brief notes regarding the content of evidence.

**Inquiry Facilities:** The promoter arranges the inquiry venue. Basic requirements are listed.

## 1. Procedures

Highways Inquiries are generally subject to the Highways (Inquiries Procedure) Rules 1994, referred to on this page as the Inquiries Rules. No Rules have been published for inquiries into Orders proposed to be made under the Town and Country Planning Act 1990, but the spirit of the Highways (Inquiries Procedure) Rules 1994 is often used in such cases.

An Inquiry which is concerned with a compulsory purchase order proposed to be made or confirmed in England is subject to the Compulsory Purchase (Inquiries Procedure) Rules 2007. In Wales, Inquiries which are only concerned with proposed Compulsory Purchase Orders, where the Order is not promoted by the Minister, are subject to the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990 while those in Wales where the Order is promoted by the Minister are subject to the Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1994.

Inquiries which are only concerned with proposed Orders to be made under the Road Traffic Regulation Acts only are subject to the Secretary of State's Traffic Orders

(Procedure) (England and Wales) Regulations 1990.

Guidance on inquiries into road proposals is also available from the Department of Transport. Guidance for acquiring authorities in England making compulsory purchase orders is set out in ODPM Circular 06/04.

The Planning Inspectorate has published Notes for the Guidance of Inspectors Holding Inquiries into Orders and Special Road Schemes. Those notes provide general guidelines to the Inspectors who hold such inquiries, but should not be considered to be binding in all respects.

## 2. Some Definitions

**Order-making Authority:** The local authority making an Order: for example, some orders under the Highways Act 1980 may be *made* by a Council as local highway authority but will not become effective until *confirmed* by the Secretary of State for Transport.

**Promoting Authority:** The local authority promoting an Order in respect of which it has applied to the Secretary of State for Transport (SoS) to have the Order made. Some Orders under the Town and Country Planning Act 1990 are *made* by the SoS *on application* by the local planning authority.

**Other cases:** In some cases - for example, Orders proposed to be made under section 247 of the Town and Country Planning Act 1990 - the Order might be promoted not by the local authority but by another party, such as a developer.

**Promoter:** In these notes, the term "promoter" is used to denote the party promoting the Order or Orders into which the Inquiry is held. This means the local authority or another body, as the case may be.

**Statutory objector:** A party who objects to the Order and who has either an interest in land affected by the Order(s) or who otherwise appears to the Secretary of State to be affected by the Order.

**Non-Statutory objector:** An objector who is not a statutory objector.

**Proof of Evidence:** Written evidence prepared by a witness, often an expert, for presentation at the Inquiry. Written statements of less than 1500 words by lay individuals are not referred to as proofs of evidence; rather, they are "written statements". Both forms of representation are acceptable, as is evidence given orally at the inquiry.

## 3. Key Points

The Inquiries Rules empower the Inspector to hold a pre-inquiry meeting. However, this is generally not done for small inquiries. The following notes provide best practice in respect of some key points which are often discussed at pre-inquiry meetings.

### 3.1 Documents

1. The Inquiries Rules require the promoter's Statement of Case to be issued to the Secretary of State and each statutory objector.
2. The Inquiries Rules also require that every document (or the relevant part of every document) to which the promoter intends to refer shall be issued to the Secretary of State. These are known as the Core Documents.
3. Under the Inquiries Rules, every document (or the relevant part of every document) to which the promoter intends to refer shall be placed on deposit for viewing by the public free of charge at all reasonable hours, and every statutory objector shall be notified of the places at which those documents may be inspected. Although there is no requirement to do so, local authorities

- may wish to also notify all non-statutory objectors known to them.
4. The Inquiries Rules allow the promoter and any person entitled to appear at the inquiry to give evidence in the form of a written proof of evidence, to be read out at the inquiry. Alternatively, evidence may be given orally or by written representations. All evidence that the Inspector agrees to be relevant and not unduly repetitive will normally be heard at the inquiry, if a party wishes to present it.
  5. Where the promoter or any other party chooses to present a proof of evidence to the inquiry, the Inquiries Rules require that a summary of the proof of evidence shall be provided if the proof of evidence contains more than 1500 words. The proof and the summary proof shall be sent to the Government Office for forwarding to the Inspector **three weeks before the start of the inquiry**.
  6. The Core Documents, together with all written proofs of evidence, shall be provided to the Government Office who will forward them to the Inspector, together with all other written objections and representations which the Secretary of State has received. All proofs of evidence put to the Inquiries and written objections and representations considered thereat will become available for public inspection during the Inquiries and be included within the set of Inquiries documents compiled by the Inspector and submitted to the Secretary of State with his/her report.
  7. To aid understanding and referencing, Inspectors suggest as follows:
    - o Proofs of evidence should be clearly legible.
    - o Pages should be numbered consecutively.
    - o For larger documents, a table of contents should be provided.
    - o Drawings, diagrams and the like submitted in support of proofs of evidence may be of any size but it is helpful for these to be folded down to A4 size or thereabouts and bound or attached to the document. The use of transparent plastic document pockets can assist in this respect.
  8. Inspectors find it helpful for each party submitting more than one document to provide a list of documents submitted. This will help to ensure that all documents are available at all stages. The promoter should summarise these lists to provide a comprehensive list of documents.

### 3.2 Evidence

1. The evidence presented to the inquiry should be relevant to the proposed Order(s) and scheme.
2. The promoter and all statutory objectors are entitled to appear at the inquiry. The Inspector will not unreasonably withhold permission for other interested people to appear at the inquiry, and it is therefore important that all inquiry documents should be available to the public at and before the inquiry.
3. The promoter's evidence may include a statement of the grounds on which it is considered the Orders should be confirmed. Inspectors find it helpful if these statements, or other evidence, set out how the scheme meets the statutory tests for the Orders. Statutory tests are set out in the legislation under which the Order is proposed to be made and, in the case of compulsory purchase orders, ODPM Circular 06/04. It is those tests that the Inspector will consider in preparing his report, and to which the Secretary of State will refer in reaching his decision.

### 3.3 Public Inquiries Facilities

4. Promoters need to take account of the Planning Inspectorate's facility note when making arrangements for Inquiry Venues. The facility note provides important information for those organising the venue for an inquiry. It describes generally acceptable arrangements for: -
  - Location
  - The room
  - Cloakrooms and toilets
  - Photocopying

- Retiring rooms
- Health and safety
- Layout of the inquiry room
- Other requirements.