



GUERNSEY STATUTORY INSTRUMENT

2008 No. 7

**The Land Planning and Development (Plans Inquiry)  
Regulations, 2008**

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# **The Land Planning and Development (Plans Inquiry) Regulations, 2008**

*Made* January 30<sup>th</sup>, 2008  
*Coming into operation* on the same date as the  
Law  
*Laid before the States*, 2008

**THE ENVIRONMENT DEPARTMENT**, in exercise of the powers conferred on it by sections 12(3) and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>a</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:-

## **PART I PROCEDURE AT INQUIRY AND FUNCTIONS OF INSPECTOR AND INQUIRY ADMINISTRATION**

### **Procedure at inquiry.**

1. (1) Except as otherwise provided in these Regulations, the inspector shall determine the procedure during an inquiry including at any preliminary meeting or inquiry hearing held pursuant to Part IV of these Regulations.

(2) An inquiry, including any preliminary meeting or inquiry hearing, is to be undertaken with as little formality as a proper consideration of the matters to be considered by the inquiry will permit.

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<sup>a</sup> Order in Council No. XVI of 2005.

### Inquiry Administration.

2. (1) Where an inspector is appointed to conduct an inquiry into any proposals then the Policy Council must appoint persons to be members of the Inquiry Administration for that inquiry.

(2) A person may not be appointed as a member of an Inquiry Administration if -

- (a) he is an employee of the States who is employed by the States within the Department, a member of the Department or a person who carries out work for, or provides services to, the Department in relation to any functions of the Department under the Law or the repealed enactments,
- (b) he has any prior direct involvement with the preparation of the proposals in question,
- (c) he has any significant direct financial interest in any of the matters set out in the proposals,
- (d) he is a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law 1948<sup>b</sup>,

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<sup>b</sup> Ordres en Conseil Vol. XIII, p288 as amended by Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 164 and 278; Vol. XXXII, p. 41; No. V of 1993; No. II of 1996; No. III of 1998; No. X of 1998; No. XIII of 2003; No. III of 2004; No II of 2007 and Ordinances XXXIII of 2003 and III of 2004.

- (e) he is a member of the Strategic Land Planning Group or the Planning Panel, and
- (f) he is a person who holds appointment to any judicial office in Guernsey,

and where he is so appointed he must not carry out any functions of that Administration in relation to any particular matter in which he has a significant direct personal interest.

(3) The Inquiry Administration must carry out the following in accordance with any relevant requirements of these Regulations -

- (a) assist the inspector in placing all notices in La Gazette Officielle pursuant to these Regulations,
- (b) organise a library of core documents for the inquiry,
- (c) register any written representations received by the inspector and give each a reference number,
- (d) keep written representations in such a way that those relating to the same site or policy in the proposals can be readily identified,
- (e) send copies of any written representations to the Department,
- (f) deal with any reasonable enquiries from members of the public relating to the procedural requirements for the

inquiry and in particular the requirements for the making of written representations,

- (g) make arrangements for members of the public to inspect and purchase documents made available for public inspection and purchase pursuant to these Regulations,
- (h) keep the personal contact details of the inspector confidential, and
- (i) undertake any other tasks the inspector may reasonably require relating to the administration of the inquiry.

(4) For the purposes of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>c</sup> a member of the Inquiry Administration who is also an employee of the States of Guernsey is an officer responsible to the Policy Council and not to the inspector.

## PART II

### INITIAL AND FURTHER REPRESENTATIONS ON THE PROPOSALS

#### **Invitation to make initial representations.**

3. (1) As soon as reasonably possible after his appointment by the Policy Council in relation to particular proposals the inspector must -

- (a) place a notice in La Gazette Officielle specifying the matters set out in paragraph (2), and

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<sup>c</sup> Order in Council No. XXI of 1991.

- (b) make any standard form for the making of written representations under this regulation available to the public and make the proposals and, where the proposals include policies relating to EIA development, the Environmental Statement available for inspection and purchase in both cases as set out in that notice.
- (2) The notice referred to in paragraph (1) must -
- (a) state the name of the inspector and that he has been appointed to carry out an inquiry,
  - (b) specify the main steps that the inspector intends to take in conducting the inquiry and the opportunities that there will be during the inquiry for the public to make written representations or be heard,
  - (c) specify the date fixed for the start of any inquiry hearing,
  - (d) specify the proposals and the date that they were published pursuant to section 8 of the Plans Ordinance<sup>d</sup>,
  - (e) state the times and public places at which copies of the proposals and, where the proposals include policies relating to EIA development, the Environmental Statement are available for inspection and, on payment of a reasonable fee, for purchase,

<sup>d</sup>

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Approved by resolution of the States on 26<sup>th</sup> September, 2007.

- (f) invite representations in writing on the proposals, and, where the proposals include policies relating to EIA development, the Environmental Statement to be made to the inspector, and
  - (g) state the manner in which and time by which representations in writing on the proposals and any Environmental Statement must be made to the inspector and require those who make such representations to indicate -
    - (i) whether or not they wish to make only written representations or to also be heard by the inspector at an inquiry hearing, and
    - (ii) if they do wish to be heard, whether or not they are content to be represented by a joint spokesperson in relation to such of their representations that the inspector considers concern the same or similar matters to those made by other persons.
- (3) The notice referred to in paragraph (1) may require that -
- (a) all representations are made on a standard form, in which case it shall indicate from where copies of the form may be obtained, and



- (b) a summary of representations is provided if they are longer than 1500 words.

(4) Any representation made under this regulation must be made in accordance with the requirements set out in the notice in La Gazette Officielle pursuant to this regulation.

**Invitation to make further representations.**

4. (1) Where the inspector receives any written representations duly made in accordance with regulation 3 ("initial representations") then he must take the steps set out in paragraph (2) -

- (a) where no inquiry hearing is to be held, within 4 weeks beginning with the date of the expiry of the period within which initial representations have to be made, or
- (b) where an inquiry hearing is to be held, within the period which -
  - (i) commences upon the date of the expiry of the period within which initial representations have to be made, and
  - (ii) ends on the day which falls 4 weeks before the date fixed for the start of the inquiry hearing.

(2) The steps referred to in paragraph (1) are to -

- (a) place a notice in La Gazette Officielle inviting representations in writing on those initial representations

to be made to the inspector and specifying the matters set out in paragraph (3), and

- (b) make any standard form for the making of representations under this regulation available to the public and make the initial representations available for inspection and purchase in both cases as set out in that notice.

(3) The notice referred to in paragraph (2)(a) must -

- (a) state the times and public places at which copies of the initial representations will be available for inspection and, on payment of a reasonable fee, for purchase, and
- (b) state the matters set out in regulation 3(2)(g) as if that regulation referred to representations in writing on initial representations.

(4) Regulation 3(3) shall apply to the notice placed pursuant to paragraph (2)(a) as it applies to the notice placed pursuant to regulation 3(1).

(5) Any representation made under this regulation must be made in accordance with the requirements set out in the notice in La Gazette Officielle pursuant to this regulation.

(6) The inspector must, as soon as reasonably possible after he receives any written representations duly made in accordance with this regulation ("**further representations**"), make them available for inspection, and, on payment of a reasonable fee, for purchase, at the places indicated pursuant to paragraph (3)(a).

**Department's response to initial representations and further representations.**

5. (1) As soon as reasonably possible after he has received any initial representations or further representations the inspector must send a copy to the Department for its response.

(2) The Department must send a written response to the inspector on each initial representation and further representation and such response -

(a) must be made to the inspector by such date as the inspector may reasonably specify in writing,

(b) may be made in relation to -

(i) one such representation, or

(ii) a number of such representations which have been identified by the Inquiry Administration as relating to the same site or policy or in relation to which the Department reasonably considers that one response can be made,

provided that the response clearly indicates in relation to which such representations the response is made.

(3) As soon as reasonably possible after receiving the Department's response, the inspector must -

(a) send a copy of it to the person who made the written representation in question, and

- (b) make a copy of it available for public inspection and, on payment of a reasonable fee, for purchase at the principal offices of the Inquiry Administration.

**Inspector's consideration of written representations.**

6. The inspector must consider any written representations made to him under regulations 3 or 4 and any response from the Department made to him under regulation 5 and he -

- (a) may request further information from any person who has made any written representation or been consulted in relation to the proposals pursuant to these Regulations or the Plans Ordinance,
- (b) may solicit the views of any person appearing to have a particular interest or expertise in the subject matter of the written representation, and
- (c) shall make any information obtained pursuant to this regulation available for public inspection and purchase as though regulation 4(6) applied to it.

**Statement of common ground.**

7. (1) If it appears to the inspector that the Department and any of the other parties are in agreement on certain facts then he may invite them, where it is practicable to do so, to submit to him an agreed statement of common ground.

(2) The inspector shall afford to any person who so requests a reasonable opportunity to inspect, and where practicable, take copies, on payment of a reasonable fee, of any statement of common ground sent to the inspector.

PART III  
SITE INSPECTIONS AND CONSIDERATION OF PROPOSALS WITHOUT AN  
INQUIRY HEARING

**Site inspections.**

8. (1) Where an inquiry hearing is to be held, an inspector may make an unaccompanied inspection of any land pursuant to section 84 of the Law before or during that inquiry hearing without giving notice of his intention to the persons entitled to appear at the inquiry hearing.

(2) Where an inquiry hearing is to be held -

(a) the inspector may, during the inquiry hearing or after its close, carry out an inspection of land pursuant to section 84 of the Law in the company of any person entitled or permitted to appear at the inquiry hearing and shall make such an inspection if so requested by any person entitled to appear at the inquiry hearing,

(b) where the inspector intends to make an accompanied site inspection, he shall inform those entitled or permitted to appear of the date and time of that inspection by -

(i) prior notice, or

(ii) announcement during the inquiry hearing,

which in either case must be given a reasonable time before the date of the inspection,

- (c) the inspector shall not be bound to defer an accompanied site inspection where any person entitled or permitted to appear at the inquiry hearing is not present at the time appointed.

**Consideration of proposals without an inquiry hearing.**

9. (1) No inquiry hearing need be held if all persons who have made written representations have indicated in writing that they do not wish to appear.

(2) The inspector shall hold an inquiry hearing in public before submitting his report to the Department, unless -

- (a) paragraph (1) applies,
- (b) no written representations have been made, or
- (c) all written representations have been withdrawn.

(3) If no inquiry hearing is to be held, the inspector must place a notice in La Gazette Officielle, to this effect, setting out the reasons why.

**PART IV**

**PROCEDURE FOR AN INQUIRY HEARING AND ON A REFERENCE BACK**

**Statement of matters and inquiry timetable.**

10. (1) A reasonable time before any inquiry hearing is due to be held the inspector shall -

(a) make available for public inspection and, on payment of a reasonable fee, for purchase, at the principal offices of the Policy Council and at the place where the inquiry hearing is to be held –

(i) a written statement of the matters about which he particularly wishes to be informed for the purposes of his consideration of the proposals, and

(ii) a written timetable outlining the order in which those matters are to be considered at the inquiry hearing, and

(b) send that inquiry hearing timetable to the parties.

(2) The inspector may –

(a) vary the timetable for proceedings at the inquiry hearing, or

(b) amend the statement of matters about which he particularly wishes to be informed,

and shall give the parties reasonable notice of such variation or amendment.

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

**Preliminary meeting.**

11. (1) The inspector shall hold a preliminary meeting -

- (a) if he expects the inquiry hearing to last for 8 days or more, unless he considers it unnecessary,
- (b) in respect of shorter inquiry hearings, if it appears to him to be necessary.

(2) Where a preliminary meeting has been held pursuant to paragraph (1), the inspector may hold a further preliminary meeting.

(3) Any preliminary meeting must be held a reasonable time before any inquiry hearing and the inspector shall -

- (a) give not less than 2 weeks notice of any preliminary meeting to the parties, and
- (b) at the same time place a notice of his intention to hold a preliminary meeting in La Gazette Officielle.

(4) The inspector shall preside at a preliminary meeting and shall determine the matters to be discussed.

(5) Regulation 13(8) shall apply to a preliminary meeting as it applies to an inquiry hearing.

**Persons entitled to appear at an inquiry hearing.**

12. (1) The parties are entitled to appear at an inquiry hearing.



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

(3) Any person entitled or permitted to appear may do so on his own behalf, be represented by a joint spokesperson or by any other person.

**Procedure at an inquiry hearing.**

13. (1) For the purposes of an inquiry hearing the inspector shall have power -

(a) by summons under his hand to call before him and examine all such persons as he thinks fit and to -

(i) require any such person to answer any question or furnish any information, produce any book, document or article or provide a hard copy of any information which is held electronically which the inspector may consider relevant, and

(ii) retain any such book, document, or article until after he has submitted his report to the Department, and

(b) to take statements from all such persons as he may think fit.

(2) At the start of the inquiry hearing the inspector shall identify what are, in his opinion, the main matters to be considered in relation to the proposals at the

inquiry hearing and any matters on which he requires further explanation from the persons entitled or permitted to appear.

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

(4) The inspector may group written representations which he considers concern the same or similar matters.

(5) The inspector may from time to time adjourn an inquiry hearing and if the date, time and place for the resumption of the inquiry hearing are announced at that hearing before the adjournment no further notice shall be required.

(6) The inspector may proceed with an inquiry hearing in the absence of any person entitled to be heard.

(7) The inspector may refuse to permit any questioning or presentation of any matter which he considers to be irrelevant, repetitive, slanderous, frivolous or vexatious 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 hearing.

(8) The inspector may require any person who, in the inspector's opinion, is acting in a disruptive manner to leave and may -

(a) refuse to permit that person to return, or

- (b) permit him to return only on such conditions as the inspector may specify,

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

- (9) The inspector may allow -

- (a) the Department to alter or add to its response to any written representations, and
- (b) any other person entitled to appear to alter or add to his written representations,

so far as may be necessary for the purposes of the inquiry hearing but he shall (if necessary by adjourning the inquiry hearing) give every other person entitled to appear who is appearing at the inquiry hearing an adequate opportunity of considering any fresh matter or document.

- (10) A written copy must be submitted to the inspector in advance if a substantial closing speech is to be presented at the inquiry hearing.

- (11) The inspector may take into account any representations in writing or evidence or any other document received by him from any person before an inquiry hearing opens or during the inquiry hearing provided that he discloses it at the inquiry hearing.

**Procedure on a reference back: amendments proposed by the States.**

- 14. (1) Where the Policy Council refers proposals back to the inspector or a different inspector, following a recommendation pursuant to section 10(3) of the

Plans Ordinance, to re-open the inquiry to consider an amendment proposed by the States, the inquiry must only consider matters which relate to that amendment.

(2) Where proposals are referred back to the inspector or a different inspector in such circumstances, that inspector shall as soon as reasonably possible after such reference back -

- (a) prepare a list of the amendments proposed by the States,
- (b) place a notice in La Gazette Officielle which shall -
  - (i) specify the proposals,
  - (ii) set out the list of amendments proposed by the States and the times and public places at which copies of that list are available for public inspection, and on payment of a reasonable fee, for purchase,
  - (iii) invite representations in writing to be made to the inspector on the amendments, and
  - (iv) state the manner in which and time by which such representations must be made to the inspector,
- (c) make copies of that list available for inspection and purchase as specified in the notice in La Gazette Officielle,

- (d) send a notice specifying the matters in subparagraph (b) to any person who appeared at any inquiry hearing, and
- (e) may, as he thinks fit, cause any inquiry hearing, to be held or re-opened.

## PART V

### GENERAL PROVISIONS

#### **Allowing further time.**

15. The Policy Council 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 Regulations, and references in these Regulations to a time within or by which, or a period within which, any step is required or enabled to be taken shall be construed accordingly.

#### **Availability of documents on a website.**

16. Where documents are required to be made available for public inspection pursuant to these Regulations then the Inspector may also make such documents available at the same time on a website and where he does so any notice in La Gazette Officielle which specifies the times and places at which those documents are available shall also include -

- (a) the address of the website, and
- (b) details of how the documents may be accessed from that website,

and such information shall also be displayed at the places where the documents are made available for public inspection.

**Interpretation.**

17. (1) In these Regulations, unless the context requires otherwise -

**"Department"** means the States of Guernsey Environment Department,

**"Development Plan"** means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

**"EIA development"** shall be construed in accordance with section 2 of the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007<sup>e</sup>,

**"Environmental Statement"** shall have the meaning in section 13(1) of the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007,

**"further representations"** shall be construed in accordance with regulation 4(6),

**"information"** includes information which is held electronically,

**"initial representations"** shall be construed in accordance with regulation 4(1),

**"inquiry"** means the process which an inspector is appointed to conduct under section 7 of the Plans Ordinance in order to -

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<sup>e</sup> Approved by resolution of the States on 26<sup>th</sup> September, 2007.

- (a) consider particular proposals,
- (b) consider any written representations and response by the Department in relation to such proposals, and
- (c) conduct any inquiry hearing into such proposals, written representations and responses,

so as to make a report to the Department with his conclusions and recommendations in relation to such proposals,

**"Inquiry Administration"** means a body of persons appointed by the Policy Council in accordance with regulation 2 to assist an inspector with the administration of an inquiry,

**"joint spokesperson"** means a person who is appointed by a group of persons, who have made written representations, to appear before the inspector on behalf of that group of persons at an inquiry hearing,

**"the Law"** means the Land Planning and Development (Guernsey) Law, 2005,

**"Local Planning Brief"** means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

**"notice"** means notice in writing,

**"parties"** means -

- (a) the Department, and

(b) any person who has made written representations which have not been withdrawn,

**"Plan"** means a Development Plan or a Subject Plan,

**"Planning Panel"** means the Panel established under section 86 of the Law,

**"Plans Ordinance"** means the Land Planning and Development (Plans) Ordinance, 2007,

**"Policy Council"** means the States of Guernsey Policy Council,

**"preliminary meeting"** means a meeting held before an inquiry hearing to consider what may be done with a view to securing that the inquiry hearing is conducted efficiently and expeditiously,

**"proposals"** means proposals for a fresh or replacement Plan or Local Planning Brief or for amendments thereto,

**"statement of common ground"** means a written statement prepared jointly by the Department and any other party which contains factual information agreed between them about the proposals,

**"Strategic Land Planning Group"** means the Group appointed under section 3(1) of the Law,

**"Subject Plan"** means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,



"under the Law or the repealed enactments" includes provisions made under the Law or the repealed enactments and related expressions shall be construed accordingly,

"written representations" means any representations in writing duly made to the inspector in accordance with the requirements of these Regulations and not withdrawn,

and other terms used in these Regulations which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) The Interpretation (Guernsey) Law, 1948<sup>f</sup> shall apply to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation.**

18. These Regulations may be cited as the Land Planning and Development (Plans Inquiry) Regulations, 2008.

**Commencement.**

19. These Regulations shall come into force on the same date as the Law.

Dated this 27<sup>th</sup> day of January, 2008

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<sup>f</sup> Ordres en Conseil Vol XIII, p.355.

*David de Lisle*

DAVID DE LISLE

Minister of the States Environment Department

For and on behalf of the Department

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the procedure to be followed for an inquiry to be conducted by an inspector into the provisions of a fresh or replacement Development Plan, Subject Plan, Local Planning Brief or for amendments thereto ("the proposals") prepared by the Environment Department pursuant to the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (Plans) Ordinance, 2007.

They make provision for the appointment and functions of the Inquiry Administration who assist the inspector with the administration of the inquiry, the making of representations in relation to the proposals and any Environmental Statement prepared in relation to policies in the proposals and the inspector's consideration of them. They make provision in relation to the inspector's powers to inspect land where an inquiry hearing is to be held and the circumstances in which no public hearing into the proposals need be held. They also provide for the procedure where a public hearing is to be held and on a reference back to the inspector where the States have proposed amendments to the proposals.