PREM 19/2760

PART FIVE

MT

Confidential Filing

Correspondence from Sir John Sainsbury on Planning Controls

General Planning Enquiries

[D: Strategic Planning Guidance for London]

ATTACHED FOLDER [D: Plans for Wesley's Chapel]

LOCAL GOVERNMENT

Pt 1: July 1983

Pt 5: February 1988

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~2.2.1988~~		~~9.2.89~~					
~~1.3.88~~		~~9.1.89~~					
~~9.3.88~~		~~27.1.89~~					
~~6.6.88~~		~~24.2.89~~					
~~10.6.88~~		28.2.89					
~~21.6.88~~		PART CLOSED					
~~21.6.88~~							
~~4.7.88~~							
~~7.7.88~~							
~~21.7.88~~							
~~23.7.88~~							
~~29.7.88~~							
~~6.8.88~~							
~~31.8.88~~							
21.10.88							
~~27.9.88~~							
~~12.10.88~~							
~~18.10.88~~							
~~26.10.88~~							
~~29.11.88~~							
~~5.12.88~~							
~~16.12.88~~							
~~19.12.88~~							
~~23.12.88~~							

PREM 19/2760

PART 5. ends:-

SS/Env to PM 28/2/89

PART 6. begins:-

PS/CST to PS/DOE 1.3.89.

cc Jr A

A

Prime Minister

COMPULSORY ACQUISITION AND COMPENSATION

Your Private Secretary's letter of 18 October about reducing delays to major construction projects records your agreement that there should be no change to the market value basis of compensation for property purchased compulsorily for a commercial use. But you also asked me to consider whether there should be a general presumption that Ministers would not approve compulsory purchases for commercial uses which are incidental to the project for which compulsory powers are exercised.

I have been considering this point in the context of the terms of the announcement of our general conclusions about the basis of compensation. We need to make the announcement quickly to respond to considerable pressure on the subject from landowning interests in the context of water privatisation and the Kent rail link.

Where existing compulsory purchase powers are concerned, compulsory purchases can only be made where there is statutory authority and the statement must not imply otherwise. But equally the statement must not appear to fetter Ministers' discretion in the exercise of their functions as confirming authorities.

This leaves what should be said in the statement about the scope of future legislation which might be proposed or supported by the Government. Here we need to consider to what extent to tie our hands on issues which have not yet arisen. For example we may in future want to attract private finance for an infrastructure project by enabling investors to benefit from development values which the project unlocks. This is how some public bodies such as urban development corporations finance their activities. However we have no current proposals for extending the principle to the private sector and Paul Channon is, for example, specifically excluding the possibility in his draft consultation paper on

privately funded roads. My own view is that those land-owning interests who proposed development value compensation will clearly be disappointed with our decision on this aspect and that it is vital to reassure our supporters that CPO powers will not be made available in future to allow acquisition incidental to the main purpose of the development. The attached draft statement reflects this approach in its final two sentences.

The question is also likely to be raised on next year's legislation on the Kent rail link and privately financed roads. Our position will be easier to defend if we can quickly issue our proposed consultation paper on the land compensation proposals which we intend to include in the next Planning Bill. I still hope that this Bill can be included in the programme for the next session, but believe that in any event we should publish our proposals in advance of British Rail's announcement of their preferred route through Kent.

I would be grateful to know whether you agree to my making a statement in the terms of the attached draft.

Copies of this minute go to the members of E(A), John Wakeham and Sir Robin Butler.

N R

28 February 1989

DRAFT ARRANGED PQ ANSWER

1. The Government has given careful thought to the representations about the land compensation code made during the debates on the Channel Tunnel Bill and in a memorandum submitted by the National Farmers Union and the Country Landowners Association.

2. Under the existing provisions, compensation is based on the market value of the land, taking account of any planning permission or hope value which attaches to it, but disregarding the effects of the scheme for which the land is being taken, except in so far as the actual or prospective development might have taken place apart from the scheme. It is generally accepted that in most cases this basis of compensation achieves a fair result since it gives the land owner the value which his asset would have realised on the open market in the absence of the proposed scheme.

3. The main point raised during the Parliamentary debates on the subject, and repeated in the joint memorandum, was that the code operates unfairly where the end use of the land is essentially commercial, since a commercial undertaking acquiring land without the benefit of compulsory purchase powers might be expected to pay the landowner a premium in order to secure the land for itself. Particular concern was expressed about the compulsory powers which remain with nationalised industries after they have been privatised.

4. Land may be acquired compulsorily only where authorised by or under statute. The compulsory powers remaining with nationalised industries after privatisation relate only to the statutory functions of those industries and cannot be used to acquire land

which is not needed for those functions. Each acquisition must be justified on its merits having regard to the statutory powers concerned. In these respects compulsory acquisitions of land by or on behalf of private sector bodies do not differ from other compulsory acquisitions. The Government's view is that the market value of the land as assessed under the existing compensation provisions remains a fair measure of the loss to be compensated where any land is acquired compulsorily. It will be for Parliament to consider the scope and extent of any compulsory acquisition powers proposed in future legislation including private legislation to authorise particular development for which land may need to be compulsorily acquired. However, it is the Government's view that compulsory powers should not be available to acquire land for the purpose of incidental commercial development.

file

Treasury Chambers, Parliament Street,
01-270 3000

28 February 1989

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

Dear Nick

SUPPLY OF DEVELOPMENT LAND

Thank you for your letter of 27 January, following up our discussion on 18 January which I found helpful.

I agree with you that there should be no shortage of land for development in the South East, and that it is the function of the planning system to translate this into reality, in order to meet the unsatisfied need for new housing there (and indeed in neighbouring growth areas). So far as London and the South East are concerned, I welcome the steps you have taken to persuade SERPLAN to raise their sights. It will be important to ensure that their new higher objective for housing provision is matched by the plans of the county and district authorities, and I note good progress has been made with the counties at least. I have no doubt you will keep this under close review.

I read with interest the report on the provision of housing land throughout England which you enclosed with your letter. You are clearly right that there has been a shortfall of supply compared with demand. I was surprised to see that less than half of English counties have current joint land availability studies. This appears to indicate a failure of liaison between those counties and the housebuilding industry. I was pleased to see from your letter that, where the report showed for certain South Eastern counties a shortfall of available land to meet expected demand over the next five years, this is being rectified in the distribution of SERPLAN's increased provision among the counties.

Yet there are indications that the county plans are not always delivered at district level, at least in the sense that the distribution of available land between districts does not match customer preferences. I hope that your proposed reforms of the planning system will, when implemented, help redress the balance.

I was pleased to see that we are at one over the use of Section 52 agreements for planning gain. This seems to me a promising way to win over local opinion to development proposals, perhaps by encouraging environmental improvements paid for by the developer. I agree too that "new villages", where the developer funds infrastructure and community services, are a valuable concept, and welcome your encouragement of them.

Lastly, I note that you plan to write to me about means of ensuring the release of surplus publicly-owned land for development. So far as Government Departments are concerned, you will have seen the Prime Minister's response of 10 February to John Major's minute of 6 February, endorsing the need to keep up the pressure for disposals. I would welcome any help you can offer on this, and on ways of speeding up the disposal of local authority and other publicly-owned surplus land, particularly in inner city areas, and look forward to receiving your thoughts on this.

NIGEL LAWSON

Prime Minister

LAND COMPENSATION

At the E(A) meeting on 10 March last year (E(A)(88) 4th meeting) I was invited to prepare a consultation paper on the miscellaneous proposals prepared by the inter-departmental working group on Land Compensation. I now attach a draft of this paper. These proposals would form part of the Planning Bill which I have proposed for next session.

Most of the proposals in the consultation paper are comparatively minor, although a number of them (eg on the payment of interest) concern matters on which we have been under pressure from land-owning interests for many years. However, the paper also refers to three of the main compensation issues which we have been considering recently.

On development value compensation I propose that the paper should simply repeat the statement about which I am minuting you separately. On home loss payments the paper refers to the position of owner/occupiers without mentioning the proposed 10% supplement; this follows the proposal in my minute of 27 September, to which your Private Secretary's letter of 18 October signified your agreement. Finally the paper includes the proposals for wider and earlier acquisition of property adversely affected by public development which E(A) accepted on 10 March.

The proposal for wider and earlier acquisition will enable developing authorities to acquire properties likely to be seriously affected by a proposed development at the planning as well as the construction stages. BR propose to act in just this way in connection with the Channel Tunnel link, but it would be highly desirable to make it clear at much the same time that the same principles will apply to other non-rail development under

general legislation. I see some advantage therefore in publishing our general proposals before BR make their announcement on 8 March.

E(A)'s approval to the consultation paper was subject to detailed costing of the minor proposals (ie excluding home loss payments and wider and earlier acquisition the costs of which E(A) has already considered). It is very difficult to make precise estimates of the likely costs, since they will depend on the incidence of cases on which we have little information. However, we estimate the total cost of the minor proposals may be of the order of £1.75m per annum against which should be set some administrative savings resulting from simplification of the procedures. These costs, which would be spread over a wide range of departments and other bodies, would be contained within existing programmes.

Subject to you and colleagues' views, I propose to publish this consultation paper on 6 or 7 March.

Copies of this minute go to the members of E(A), John Wakeham and Sir Robin Butler.

N R

28 February 1989

DRAFT CONSULTATION PAPER

LAND COMPENSATION AND COMPULSORY PURCHASE LEGISLATION

1. This consultation paper invites comments on a number of legislative proposals relating to compulsory purchase procedures and land compensation, details of which are set out below.

2. Many of these proposals deal with particular circumstances in which the existing provisions do not operate satisfactorily in detail. However, the Government has also had regard to a number of wider issues. These are-

a. the basis of compensation where land which is compulsorily acquired is then used for essentially commercial purposes;

b. the future of home loss payments in the context of the abolition of domestic rateable values in April 1990;

c. the provisions for recognising the injurious effect of public developments on neighbouring properties during the planning and construction phases.

3. The fundamental principle of the present legislation (incorporated in sections 5 and 6 of the Land Compensation Act 1961) is that compensation for the compulsory purchase of land should be based on the open market value of the land disregarding any effect on that value of the proposal giving rise to the compulsory purchase. No changes to this principle are proposed (although some detailed amendments to section 5 are proposed in paragraphs 19 to 21 below). The Government's view on this issue was explained in the following written answer given by [the Minister for Planning and Water on [ ] 1989]:-

[PQ Answer]

Home loss payments

4. While land compensation is generally based on open market value as qualified by sections 5 and 6, the Government recognise that such compensation makes no allowance for the distress and inconvenience which people suffer when they are required to move house at a time not of their own choosing. Home loss payments under sections 29 to 33 of the Land Compensation Act 1973 give some recompense for distress, but are payable only to householders who have lived in their houses for 5 years or more. This gives rise to some anomalies, particularly for householders who have been obliged by the action of a public authority to move more than once and so do not qualify.

5. It is therefore proposed to amend the Land Compensation Act 1973-

a) to reduce the qualifying period of residence for home loss payments to one year;

b) to provide that where the one year qualifying period is not met because of a previous qualifying displacement, the period of residence prior to that displacement will be taken into account.

c) to enable acquiring authorities to make discretionary home loss payments (not necessarily at the full rate) to householders who do not qualify because they have lived in their homes for less than the qualifying period.

6. The level of home loss payment is currently 10 times the rateable value of the home subject to a minimum of £1,200 and a maximum of £1,500. These levels have applied since 16 January 1989 when the Home Loss Payments Order 1989, amending section 30 of the 1973 Act came into effect.

7. The Government has been considering what provision will be appropriate from 1 April 1990, when domestic rateable values are abolished under the Local Government Finance Act 1988. Home loss payments are made to council and housing association tenants when ~~then~~ they are displaced so that their homes may be improved, as well as to owner occupiers and tenants displaced as a result of compulsory purchase. Any method of calculating payments must be easily applicable to the circumstances in which the payments are made. Since the distress and inconvenience caused by being required to move home is not readily quantifiable in monetary terms, and will in any case vary from individual to individual, any level of home loss payment must to some extent be arbitrary.

8. With these considerations in mind it is proposed to amend section 30 of the Land Compensation Act 1973 to provide for the Secretary of State to prescribe a single flat rate of home loss payment payable to all qualifying claimants at broadly the present level. However, comments are invited on whether, in the light of the general operation of the land compensation code, some further provision would be appropriate in the case of owner occupiers who are displaced as a result of compulsory purchase.

9. A householder is entitled to a home loss payment only where the authority concerned has taken action compelling him to move - eg where a compulsory purchase order has been confirmed. Where a householder sells his home by agreement to an authority possessing compulsory powers, the authority has discretion under section 32(7) of the Land Compensation Act 1973 to make a payment equivalent to a home loss payment, where they would have been required to make such a payment if the acquisition had been compulsory. No amendment is proposed to this provision which appears to work satisfactorily.

10. No home loss payment is currently payable where a householder moves following the service of a blight notice under Part IX of the Town and Country Planning Act 1971. A blight notice requires an authority which has made proposals under certain statutory powers which, if carried out, would entail the compulsory acquisition of land, to acquire that land. Since a blight notice may be served only where there is already an

element of prospective compulsion on the landowner, it is proposed to provide that a landowner who has served an effective blight notice may claim a home loss payment where he would have been entitled to one if the acquisition had been compulsory.

Injurious affection during planning and construction phases

11. Where the value of property is injuriously affected by nuisance from the use of public works, compensation is payable under Part I of the Land Compensation Act 1973. These provisions apply where the owner of the works is immune against actions for nuisance, and the compensation payable reflects the adverse effects of the nuisances specified in the Act, ie noise, vibration, dust and other physical factors arising from the use of the works. There is also an entitlement under Part III of the 1973 Act to noise insulation for properties subject to noise disturbance at or above a specified level. However, compensation under Part I is not payable for other adverse effects, eg the loss of a view. The provisions of that Part (taken together with section 10 of the Compulsory Purchase Act 1965) effectively place public works on the same footing as private developments.

12. Part I compensation is assessed by reference to the value of land one year after new works have been brought into use, at which stage the injurious effect of the use can readily be gauged. However, the affected properties are likely to have decreased in value at a considerably earlier stage. Concern has been expressed that owners of injuriously affected property often suffer financial loss where they need to sell after a public project has been announced but before it has been completed. The only provisions available for mitigating such losses are the powers in section 26 of the Land Compensation Act 1973 and section 246 of the Highways Act 1980 under which developing authorities have discretion to acquire by agreement land the enjoyment of which is seriously affected by the carrying out of works. These powers are used from time to time to alleviate hardship arising from the injurious affects of works during the construction stage of a project.

13. The Government has considered the possibility of bringing forward the time when compensation under Part I might be payable. However, there are a number of objections to such a provision. Loss of value arising from the construction phase is, in principle, transient and it would not generally be appropriate to compensate for such a temporary loss. The compensation would therefore still have to be based on the anticipated loss of value resulting from the use of the works. But the amount of such a prospective loss would be particularly difficult to estimate where other losses which do not rank for compensation have also to be considered, and where the market itself is affected by uncertainty about the eventual effects of the project. It would also be necessary to make arrangements to avoid double payment in respect of the same property and to provide for recovery of compensation where the loss arising from use of the works is less than anticipated.

14. In these circumstances it is proposed to retain the existing discretionary powers for acquiring seriously affected properties. However, in recognition of the length of the planning phase of many major development projects during which it may be as difficult as during later phases to sell a property which is likely to be substantially affected and devalued by the construction of the project or the prospect of its use, it is proposed to extend these powers so that they are available once the proposed site for a project (eg the line of a road) has been announced by the developing body.

MISCELLANEOUS PROPOSALS - COMPENSATION

Interest on compensation - payment of interest by instalments

15. Under section 11 of the Compulsory Purchase Act 1965 simple interest is payable on compensation for compulsory purchase where land is entered by the acquiring authority or vested in that authority before the date on which the compensation is settled. Simple interest is also payable under the Land Compensation Act 1973 on compensation for injurious affection and on farm loss payments. Under these provisions all the accrued interest is payable on the settlement date.

16. In a consultation paper issued in 1984 the Department proposed that the law should be amended so that interest on outstanding compensation should instead be payable at regular intervals. The entitlement to payments of instalments would arise in relation to any compensation agreed by the acquiring authority to be payable but not advanced under the provisions of section 52 of the Land Compensation Act 1973. This proposal was generally well received. It is now proposed that the interval between payments should be one year, and that, in order to avoid the need to make a large number of small payments which would be administratively costly, the right to payment should arise only where the amount of interest payable exceeds £1000 at the time when it becomes due. However, it would be possible for the Secretary of State to specify a different interval and minimum amount.

Interest on compensation - extension of entitlement to interest

17. Interest is payable on compensation for compulsory purchase where land is entered by or vested in the acquiring authority before the date on which the compensation is paid. It is also payable on compensation for injurious affection. But interest is not payable on a number of other types of land compensation, including in particular compensation for certain adverse planning decisions under the Town and Country Planning Act 1971 and compensation arising from the exercise of certain powers for example under the Land Drainage Act 1976, the Highways Act 1980 and the Public Health Act 1936 (the current Water Bill would re-enact the relevant provision).

18. The Government has now concluded that there is little difference in principle between the various types of land compensation, and proposes that simple interest should be payable on compensation in all such cases for the period between the date of the decision or event giving rise to the claim and the date of payment. Such interest would be payable in instalments as proposed above.

Section 5 of the Land Compensation Act 1961: Rule (3)

19. Section 5 of the Land Compensation Act 1961 contains the principal rules for assessing compensation. Rule (2) provides for payment of the open market value of the land while rules (3) to (5) modify this principle in particular circumstances. Rule (3) provides -

> The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any authority possessing compulsory purchase powers.

20. It is proposed to retain this rule insofar as it excludes from the assessment of compensation any value which is attributable to possible uses which could only be undertaken by a public body or through the exercise of compulsory purchase powers. However, the words 'apart from the special needs of a particular purchaser' have the effect of excluding value which the landowner might have realised, for example by selling to a neighbour who would be willing to pay more for the land than other purchasers because of the use to which he could put it. This value would in practice be a part of the open market value to the land. It is therefore proposed to amend the legislation so that compensation may reflect this value where it can be shown to exist.

Section 5 of the Land Compensation Act 1961: Rule (4)

21. Rule (4) states -

> Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any Court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account.

The general effect of this rule, which is to exclude from the assessment of compensation any unlawful use, is considered reasonable. However, as it stands it has the effect of excluding development which may be unlawful but against which enforcement action cannot be taken because, for example, the appropriate time limit has expired. In the open market the value of such development would be included in the purchase price and it is proposed to amend rule (4) so that it would be taken into account in compensation.

Section 5 of the Land Compensation Act 1961: Rule (6) - Cost of re-investment

22. The case of Harvey v Crawley Development Corporation (1957) made clear that, where a householder incurs incidental costs (such as surveyor's and solicitor's fees) in acquiring another home to replace one being compulsorily acquired, those costs are then the subject of compensation under the heading of 'disturbance' as specified in Rule (6), since they are a direct consequence of the compulsory purchase. However, in that case Denning L J stated that where a person does not occupy a house but simply owns it as an investment, compensation would be limited to the value of the house and would not include the incidental costs of purchase. This would be because it would be the owner's decision whether to reinvest in another house or in some other kind of asset and not a consequence of the compulsory acquisition. The owner could not, for example, claim compensation for brokerage costs if he decided to invest on the stockmarket instead.

23. The general principle of the compensation code is that a claimant should be financially no better and no worse off as a result of compulsory purchase. But this is not achieved, under the Harvey v Crawley judgement, for owners of houses held as investments. It is therefore proposed to make express provision that where an investor in a particular kind of property which is being compulsorily purchased re-invests the compensation in other similar property he shall be entitled to be repaid the reasonable

incidental costs of the purchase. The incidental costs of investment in some other kind of property or other assets would, however, not be recoverable.

Section 17 of the Land Compensation Act 1961: Certificates of appropriate alternative development

24. Section 17 of the 1961 Act provides a procedure under which either the claimant or the acquiring authority may apply to the local planning authority for a certificate stating what development would have been permitted on the land if it were not compulsorily purchased. Such certificates are then taken into account in assessing market value for compensation purposes.

25. Certificates under section 17 are not available where the land to be acquired is within an area of comprehensive development (or an action area) or is allocated in a development plan primarily for residential, commercial or industrial use. This provision is no longer considered fair: in particular it does not adequately take account of specific locational factors which may affect the suitability of sites within such areas for particular uses. It is therefore proposed to make section 17 certificates available in all cases and for such certificates to cover, in appropriate cases, both the land to be acquired and other adjoining land in the same ownership.

26. As a general principle, legal and surveyor's fees properly incurred in connection with a claim for land compensation are included in the compensation payable. However, the Court of Appeal has held that costs incurred in connection with a section 17 application should not be allowed. It is proposed that section 17 should be amended to provide for the reasonable costs incurred in connection with such an application to be repayed.

Section 20 of the Compulsory Purchase Act 1965

27. Section 20 of the Compulsory Purchase Act 1965 sets out the compensation due to 'a person having no greater interest in the land than a tenant from year to year'. Subsection (2) provides -

> If part only of such land is required, he shall also be entitled to compensation for the damage done to him in his tenancy by severing the land held by him or otherwise injuriously affecting it.

The words 'in his tenancy' have the effect that a tenant cannot be compensated for damage to other land held by him in another tenancy or to land of which he owns the freehold, even though he would be entitled to compensation if that land had been part of the same tenancy. It is proposed to amend section 20 to provide compensation for severance and injurious affection to other land in which the claimant has an interest.

Section 34 of the Land Compensation Act 1973: farm loss payments

28. A farm loss payment may be made to the occupier of agricultural land who is obliged to leave all of his land in consequence of the compulsory acquisition of his interest in the land. The payment is intended to assist him in starting to farm on land which is unfamiliar to him provided that he does so within 3 years of displacement. Freeholders and tenants with a term which has at least 3 years to run may qualify.

29. The following amendments to these provisions are proposed:

a. tenants from year to year to qualify for payment;

b. payment to be available where the claimant has left the holding after confirmation of a compulsory purchase order but before being required to leave by the acquiring authority: this will enable claimants to take advantage of a suitable property if it becomes available before the date of displacement;

c. payment to be made to a claimant who is displaced from part only of his holding which he replaces by occupying other land, subject to a minimum area;

d. farm loss payment to be available - provided all other conditions are satisfied - following successful service of a blight notice. This is currently precluded by section 34(6).

Section 52 of the Land Compensation Act 1973: advance payment of compensation

30. Section 52 provides for advance payment of compensation where entry has been taken by the acquiring authority. There is doubt, however, about whether or not the section applies to claimants having no interest greater than that of a tenant from year to year whose entitlement to compensation is set out in section 20 of the Compulsory Purchase Act 1965. It is proposed to extend the rights in section 52 to such claimants.

Section 59 of the Land Compensation Act 1973: agricultural tenants of former Crown land

31. Section 59 enables certain agricultural tenants with tenancies from year to year on whom notices to quit are served to elect to claim compensation under section 20 of the Compulsory Purchase Act 1965 as though a notice of entry had been served. Compensation under section 20 is likely to be more beneficial to the claimant than compensation under the Agricultural Holdings Act 1986 following a notice to quit. The right to make an election under section 59 arises if the notice to quit is served by an acquiring authority (ie a body which could be authorised to acquire an interest in the land in question compulsorily) after serving notice to treat on the landlord or after agreeing to acquire the landlord's interest.

32. A problem arises in respect of tenants of Crown land. Since Crown land cannot be compulsorily purchased, no authority can be an acquiring authority for the purposes of section 59. Section

59 is not therefore available to tenants of Crown land. It is proposed to amend the section so that such tenants may elect to be compensated under section 20 of the 1965 Act.

MISCELLANEOUS PROPOSALS - COMPULSORY PURCHASE PROCEDURES

Fragmented sites

33. In some cases of public development, problems have arisen where objectors have fragmented the ownership of land needed for the project. This device was intended to frustrate acquiring authorities in the belief that they would have painstakingly to track down each individual owner. It is now understood that acquiring authorities are able to meet their obligations to land owners by posting notices on or near the land in question. Nevertheless, to reduce misunderstanding, it is proposed to amend the legislation to provide a declaratory statement of the obligations on acquiring authorities in such circumstances.

Special Parliamentary Procedure

34. The recent report of the Joint Select Committee on Private Bill Procedure includes proposals on the operation of the Statutory Orders (Special Procedure) Act 1945. These proposals, like all other proposals in the report are currently being studied by the Government. The following specific proposals relate to the application of the Special Parliamentary Procedure (SPP) to compulsory orders, which was not considered by the Joint Committee.

35. Under section 17 of the Acquisition of Land Act 1981 certain compulsory purchase orders are subject to SPP after confirmation if objections to them from certain local authorities or statutory undertakers have not been withdrawn. Compulsory purchase orders made by local authorities and certain other bodies are exempted from this requirement by section 17(3). The definition of 'local authority' in subsection (4) includes a number of bodies analagous to local authorities, but does not include urban

development corporations. This is anomalous. It is proposed to amend the definition of 'local authority' so that it includes urban development corporations.

36. Section 19(1) of the Acquisition of Land Act 1981 provides that a compulsory purchase order which includes land forming part of a common, open space or fuel or field garden allotment may be subject to SPP unless the Secretary of State certifies, either that alternative similar land which is equally advantageous is being made available in exchange, or in certain minor cases that the giving of exchange land is unnecessary. The purpose of this provision is to enable Parliament to consider proposals which would have the result of reducing the amount of open space available to the public. However, the provision also applies where the purpose of the compulsory purchase order is to ensure the preservation or better management of the open space in question. In such cases suitable exchange land may not be available, for example where the order concerns open space in central London. In these cases SPP is an unnecessary additional hurdle. It is therefore proposed to amend section 19(1) so that SPP is not required where the Secretary of State certifies that the public's ability to enjoy open space will not be disadvantaged by the compulsory purchase order.

37. Section 19(4) of the Acquisition of Land Act 1981 includes a definition of 'open space' for the purposes of identifying circumstances in which an order is subject to SPP if no exchange land is provided. There has been some uncertainty about whether the definition includes privately owned land to which the public has access in practice without any legal entitlement. It is proposed to amend this definition so that it includes only land to which the public has clear rights of access.

Statutory undertakers' land - joint confirmation of CPOs

38. Section 16 of the Acquisition of Land Act 1981 provides that where a compulsory purchase order includes statutory undertakers' land, the undertakers may, in addition to making objections to the confirming Minister, make representations to their 'appropriate Minister'. If the appropriate Minister does not

issue a certificate to the effect that the land can be acquired without serious detriment to the undertaking, the order cannot be confirmed in respect of that land unless, in some cases, it is confirmed by the confirming Minister and the appropriate Minister jointly under section 31 of the 1981 Act. There is, however, no provision enabling statutory undertakers to withdraw representations once they have been made, so that the certification procedure in section 16 must be followed even where the statutory undertakers no longer wish to pursue their case. It is therefore proposed to amend section 16 to enable statutory undertakers to withdraw representations made under the section.

39. Section 31 of the Acquisition of Land Act 1981 applies to compulsory purchase orders under the Town and Country Planning Act 1971 and to compulsory purchase orders made by urban development corporations. Where such an order -

> a. includes statutory undertakers' land in respect of which the undertakers have made and not withdrawn a valid representation under section 16 to the appropriate Minister; and
>
> b. the Minister has not issued a certificate that the land can be acquired without serious detriment to the undertaking so that it would not otherwise be possible to confirm the order;

section 31 provides that the order may nevertheless be confirmed by the confirming Minister and the appropriate Minister jointly.

40. Recent legal advice has indicated that as it stands section 31 requires that all CPOs to which the section applies must be jointly confirmed where the appropriate Minister has not given a certificate under section 16. This is the case even where the statutory undertakers have made no objections or representations so that the need for the appropriate Minister's certificate under section 16 does not arise. The requirement for joint confirmation in such cases unnecessarily complicates the processing of the CPOs concerned and it is therefore proposed to amend section

31 to make clear that joint confirmation is necessary only where valid representations have been made under section 16 and no certificate is forthcoming.

Urban development corporations' powers to require information about land

41. In pursuit of their statutory objectives, urban development corporations may require information about the ownership of interests in land, for example because they are considering possible vesting or compulsory purchase orders under sections 141 or 142 of the Local Government, Planning and Land Act 1980. UDCs currently have powers to require such information only in connection with the exercise of powers under the Town and Country Planning Act 1971. It is proposed to extend to UDCs the powers which local authorities have under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 to require information which is needed with a view to performing any statutory function.

STATUTORY BLIGHT

42. It is a condition for the successful service of a blight notice that the landowner must demonstrate that he has made reasonable endeavours to sell the property concerned. Where a compulsory purchase order has been confirmed but notice to treat has not yet been served it would be unreasonable for any person other than the acquiring authority to buy the land. It is therefore proposed to lift the requirement of proof that the landowner has made all reasonable efforts to the land in these circumstances.

43. For proposals relating to home and farm loss payments where valid blight notices are served see paragraphs 10 and 29 above.

COMMENTS

44. Comments on these proposals are invited by 14 April 1989. They should be addressed to C J Lambert, Department of the Environment, Room C13/11, 2 Marsham Street, London SW1P 3EB. The Department of the Environment will pass copies to other Government Departments as necessary.

45. It would be helpful if consultees would submit two copies of their comments and would indicate -

a. whether they propose to publish their response to make it available to the media;

b. whether they agree that the Department may place copies of their response in its library and, if requested to do so, in the library of each House of Parliament. If so, three extra copies of the response should be supplied for this purpose (ie five copies in all).

If consultees answer 'no' to both (a) and (b), their response will be treated as in confidence to the Government; it may, however, be counted any in numerical summary of views received which does not identity individual comments.

PDC1A
February 1989

Prime Minister

You do not need to wade through the paper itself. It is, as Christopher Lucas says, a formal statement of planning policy. Content for it to be issued subject to the small cautionary note in point (iii) below?

PRIME MINISTER 28 February 1989

DRAFT STRATEGIC PLANNING GUIDANCE FOR LONDON

Nicholas Ridley has sent you the draft strategic planning guidance for London which he proposes to publish at the end of this week.

I don't think it's worth pressing this point at this stage. They have a long history and are pursuing a balancing act

Background

The aim of the guidance is to provide an overall framework against which the London boroughs can draw up their individual development plans. The sum of these plans, plus the guidance, will replace the old Greater London Development plan produced by the GLC. This approach is the same as that outlined for the whole of England and Wales in the recent Planning White Paper - local plans drawn up against a background of national and regional guidance.

Comment

The paper is well-written. It says nothing new. Much of it is taken up with references to various planning circulars, and statements on transport policy in London issued by the Department of Transport. Paul Channon is content.

Three points on the draft:

(i) The sanctity of the Green Belt is upheld firmly, despite arguments from the Adam Smith Institute and others that ugly parts of the Green Belt would be better developed than left semi-derelict. Nicholas Ridley sees the prohibition of development in the Green Belt as an essential part of encouraging inner city development. He also regards it as the necessary political counterpart to encouraging development in the countryside.

(ii) The estimate of the likely need for housing in London to the year 2001 is consistent with the projections for the whole of the south east now agreed by SERPLAN. The Treasury believe that the SERPLAN figures may be an under-estimate. There was an element of politics in settling the new projections of housing need in the south east - you will remember that Berkshire were furious at being told that they would have to accommodate more housing than they had originally thought, because of the increasing number of small households (reflecting divorce, longer life expectancy, single mothers etc). It is not worth quarrelling with the figures now. The key task is to ensure that local planning authorities provide at least enough land, in areas where developers want to build, to meet the SERPLAN targets. The Planning Guidance for London emphasises the need to provide land for housing above all. This is helpful.

(iii) Although the thrust of the paper is positive and clear, there are places where the Janus face of planning - speak peeps through. Thus, in para 16,

> "Boroughs should adopt a positive, flexible and realistic approach to business development... accommodating it where the market wishes to go, unless there are clear planning reasons not to do so".

The passage underlined could easily be used to justify an obstructive attitude to business development. Similarly, on retailing (paragraph 64),

"The effect on existing town centres should be taken into account ... To a large extent consumer demand determines the location of retailing developments and this is to be encouraged."

Are market forces to be allowed to determine the location of retailing, or will concern to preserve classic High Streets prevail?

Conclusion

Nicholas Ridley should go ahead and consult on the strategic guidance for London. The draft is generally fine, but your Private Secretary could flag up the points in (iii) above, and ask that the paper be checked to ensure that it leaves as few handles for obstruction by local planning authorities as possible.

CAROLYN SINCLAIR

CONFIDENTIAL AND PERSONAL

Lile
D2

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

27 February 1989

Dear Alan

The Prime Minister was grateful for your note on the Benson Building and Wesley Chapel. She was pleased to note that the HBMC have been contacted and urged to expedite consideration of the application. She hopes that there will not be an unnecessary delay in considering this question. I should therefore be grateful for a progress report within the next fortnight.

Yours ever

Dominic

(D.C.B. MORRIS)

Alan Ring, Esq.,
Department of the Environment.

CONFIDENTIAL AND PERSONAL

10

Prime Minister

DRAFT STRATEGIC PLANNING GUIDANCE FOR LONDON

I attach a draft of strategic planning guidance for London which I intend to publish for consultation next week.

The Local Government Act 1985 envisages that such guidance will be provided and the London Boroughs must have regard to it in preparing their Unitary Development Plans, which will replace the now very out-of-date Greater London Development Plan produced by the GLC.

The guidance draws on the advice submitted to me by the London Planning Advisory Committee on behalf of, and with the agreement of, all the London Boroughs.

The section on transport has been drafted in close consultation with the Department of Transport and closely reflects Paul Channon's recent Statement on Transport in London.

I shall consult widely on the draft guidance, which is likely to attract some publicity. Copies will be sent to all London MPs. I propose to announce publication by means of a PQ and Press Notice on Friday 3 March. I hope I can assume that you are content with these arrangements unless I hear to the contrary before then.

I am copying this minute to David Young, Norman Fowler, Douglas Hurd, John Major, Paul Channon and to Sir Robin Butler.

NR

N R

24 February 1989

PRIME MINISTER

WESLEY'S CHAPEL - PLANNING APPLICATION

Robin Catford passed to me the background correspondence on the concern which the Reverend Paul Hume raised with you about the development in the Wesley Chapel complex (Flag A). I have chivvied the DOE to see what the hold-up is. Their note responding is at Flag B. Clearly it is as well that the Reverend Paul Hume raised it with you since English Heritage and Islington Council each appear to have been waiting on the other to act.

I will let Mr. Hume know next week that things are now moving again and keep up the pressure on DOE.

I know you were concerned that if the decision falls to be taken by the Secretary of State it is always easier to do so before things get to the stage where he is having to reverse an earlier decision by one of the other parties. DOE hold firmly to the view that it would be unusual for the Secretary of State to call in the application before English Heritage have pronounced. I have not at this stage pressed them to do that since it could put you in an embarrassing position were it known that he had cornered him as a result of pressure from here.

Are you content that I should simply continue to press English Heritage and (through DOE) Islington Council to come to a speedy decision on the proposed development?

Yes - please ask for a proper report with a fortnight's notice from K.H.

DOMINIC MORRIS
24 February 1989

SL2ASR

2 MARSHAM STREET
LONDON SW1P 3EB
01-276 3000

My ref:

Your ref:

Dominic Morris Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

24 February 1989

Dear Dominic

THE BENSON BUILDING AND WESLEY CHAPEL, ISLINGTON

We spoke about this. Further enquiries have revealed that there has been a breakdown in communication between Islington Council and the Historic Buildings and Monuments Commission. I hope we shall see some speedier action now that they are talking to each other.

I attach a background note which I should be grateful if you would substitute for the one I sent you on 17 February.

Yours

A D RING
Private Secretary

R17/2

2 MARSHAM STREET
LONDON SW1P 3EB
01-276 3000

My ref:

Your ref:

Dominic Morris Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

17 February 1989

Dear Dominic

You asked me for a background note on the current proposals to redevelop the Benson Building and Wesley Chapel in City Road, Islington. This is attached.

Yours

A D RING
Private Secretary

Reference.....

BACKGROUND NOTE

THE BENSON BUILDING AND WESLEY CHAPEL , CITY ROAD , LB ISLINGTON.

The current position

1. The Methodist Mission have combined with the Wesleyan Church and now require new premises . They propose to do this by demolishing the Benson Building and rebuilding to form meeting rooms in the basement and study bedrooms in the remainder of the premises.

2. Applications for listed building consent and planning permission are with Islington Council.The Council have not as yet formally dealt with the applications although they indicated in January that they are willing to give listed building consent. The application for consent is subject to direction by the Historic buildings and Monuments Commission (HBMC) . HBMC state that the application is to be considered at the April meeting of their London Advisory Committee.In the event that HBMC consider that consent should be given,the application will be notified to the Secretary of State, probably in May .

3. Islington do not wish to give planning permission until the listed building consent question is settled.

Listed Building Consent procedure in London

4. Applications are made to local authorities in the first instance. They can refuse consent on their own decision , in which case the applicant has a statutory right of appeal to the Secretary of State. If the Council is minded to grant consent , it must first refer the application to the Historic Buildings and Monuments Commission for direction.

5 In the event that HBMC direct that the application be refused and the Council are not prepared to accept the direction,it has a right of appeal to the Secretary of State. If HBMC consider that consent should be granted and if demolition is involved , the application must be notified to the Secretary of State in order that he may consider whether to require that the application be referred to him for his decision.

6. It is open to the Secretary of State to direct that any application be referred to him instead of being dealt with by a local planning authority . It is not usual , however , for applications to be so called-in without first obtaining HBMC's views.

Mr Dominic Morris

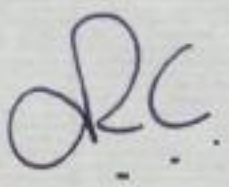
Wesley's Chapel: Planning Application

The Prime Minister last week received the Reverend Paul Hulme, the Minister at Wesley's Chapel in City Road, and agreed to be a Vice-President of the Friends of Wesley's Chapel. Papers about this - for information only - are attached.

One of the spin-offs (totally unexpected) was that Mr Hulme invoked the Prime Minister's aid in securing planning consents for new works in the courtyard of the Chapel. According to Mr Hulme, the local authority are content with the proposals but English Heritage are proving difficult. The Prime Minister reacted most sympathetically and was inclined to intervene without more ado. I did persuade her, however, to defer action until Mr Hulme had documented the facts.

Documents from Mr Hulme have arrived this morning as in the blue folder. This includes letters both to the Prime Minister and to me. Neither has been acknowledged.

May I ask you to take over from here, please, since it now becomes a planning matter rather than an ecclesiastical one? You will want to note that the Prime Minister is extremely keen to help, though this may mean doing little more than pushing for the process to be speeded up. She is also prepared to ask Lord Tonypandy to lend his support.



13 February 1989

A

1778

WESLEY'S CHAPEL

49 CITY ROAD, LONDON, EC1Y 1AU

Telephone 01-253 2262

Minister: The Rev. Paul Hulme, B.A.

10 February 1989

The Rt. Hon. Margaret Thatcher, M.P.
10 Downing Street
Westminster
London
SW1

Dear Prime Minister,

I was so grateful and very touched indeed by the warmth of your welcome and the kindness you showed to me last evening. It was most generous of you to spare the time to see me and to show such an interest in the work of Wesley's Chapel. We are honoured and delighted that you have agreed to become a Vice-President of the Friends of Wesley's Chapel, following in the historic tradition of some of your predecessors. Far from dividing the church, I am sure your support will do much to unite us all in a common concern for a quality of life for all.

We are entering upon a very interesting and hopeful chapter in the life of Wesley's Chapel. Its reputation as a focal point of Methodism throughout the world is now well established and we can happily, with the support of people like yourself, build upon that. Our immediate and urgent task is to ensure its effectiveness as a living church, ministering in the centre of London. With the amalgamation of the Leysian Mission and Wesley's Chapel we are now able to underwrite and ensure that this vital aspect of our work grows in influence. There is so much to be done here on our own doorstep, in terms of ministry within this richly diverse community. It is an exciting and hopeful prospect and I feel it is a tremendous privilege to be called to be Minister at Wesley's Chapel at this stage in its history.

I was so glad to be able to share with you my concern about the future development of our work in relation to the adaptation of our ancillary premises and the problem we are facing with strictures placed upon us by English Heritage. As requested, I enclose details of this case in the hope that you may be able to offer some advice, so that we may be able to get on with this essential work as soon as possible.

Please be assured of our prayers and warmest regards in all your enormous responsibilities.

Yours sincerely,

Paul Hulme

THE LEYSIAN BUILDING: WESLEY'S CHAPEL, CITY ROAD, LONDON

The Leysian Mission will join with Wesley's Chapel in March 1989.

The Trustees of both Societies commissioned Trevor Wilkinson Associates, Chartered Architects, to design the necessary new accommodation to facilitate this development.

The only area of the Wesley's Chapel complex where it is possible to develop new building is currently occupied by the undistinguished, but listed, Benson Building.

The new design gives the required accommodation to equip Wesley's Chapel for its role in the years to come as a national shrine with a community purpose.

The accommodation includes a Main Hall, Minister's Vestry, Office, Reception, Study Bedrooms and provisions for the disabled with a Lift serving the new accommodation and also Wesley's Chapel and the Museum of Methodism in the Crypt.

The existing Benson Building is not capable of adaptation to provide this accommodation.

It is the considered opinion of the Trustees and Islington Borough Council Planning Committee that the new proposals enhance the forecourt of Wesley's Chapel.

The Planning and Listed Building Consent applications have been with the Authorities since April 1988 and we were encouraged by the Officers of Islington Planning Department and English Heritage to think that permission would be forthcoming. The Local Authority have approved the scheme but English Heritage have hardened their attitude in recent weeks regarding the proposed demolition of the Benson Building. This building has very little architectural or historic merit and our Architect feels that it would not have been listed if it had not been part of the group of buildings in the forecourt.

At our latest meeting with the English Heritage Officer on 30th January 1989, attended by the Islington Deputy Planning Officer (who has been instructed by his committee to assist us in our endeavours to persuade English Heritage), the General Secretary of the Property Division of the Methodist Church, and the Ministers of Wesley's Chapel and the Leysian Mission, we were unable to advance the situation. The Officer did not give us very much hope at all that this scheme would be accepted, in spite of the fact that he sympathised with our intentions and our concern to be sensitive to this historic setting. We are now awaiting a date when we can meet his superior.

The position is exacerbated by the fact that the scheme has been developed to tender stage and a contractor is standing by to commence work. There could be a substantial cost penalty if the scheme does not proceed quickly, but more important, it means that all we hope to do to make Wesley's Chapel a living local church will be seriously impeded.

B

BACKGROUND NOTE

THE BENSON BUILDING AND WESLEY CHAPEL, CITY ROAD, LB ISLINGTON

The current position

1. The Methodist Mission have combined with the Wesleyan Church and now require new premises. They propose to do this by demolishing the Benson Building and rebuilding to form meeting rooms in the basement and study bedrooms in the remainder of the premises.

2. Applications for listed building consent and planning permission are with Islington Council. If the Council consider that listed building consent should be given, they will pass the application to the Historic Buildings and Monuments Commission (HBMC) for direction. The HBMC state that, although they received an indication by telephone in January that the Council were prepared to grant consent, they have not as yet received the formal confirmation that they need to proceed with the case. Enquiries of Islington Council reveal that they are waiting for a further approach from the HBMC. As there has clearly been a breakdown in communications between the two bodies, an approach has been made to the HBMC urging them to contact Islington and expedite consideration of the application. In the event that HBMC consider that consent should be given, the application will be notified to the Secretary of State for him to decide whether or not to call-in the application.

3. Islington do not wish to give planning permission until the listed building consent question is settled.

Listed Building Consent procedure in London

4. Applications are made to local authorities in the first instance. They can refuse consent on their own decision, in which

case the applicant has a statutory right of appeal to the Secretary of State. If the Council is minded to grant consent, it must first refer the application to the HBMC for direction.

5. In the event that the HBMC direct that the application be refused and the Council are not prepared to accept the direction, it has a right of appeal to the Secretary of State. If the HBMC consider that consent should be granted and if demolition is involved, the application must be notified to the Secretary of State in order that he may consider whether to require that the application be referred to him for his decision.

6. It is open to the Secretary of State to direct that any application be referred to him instead of being dealt with by a local planning authority. It is not usual, however, for applications to be so called-in without first obtaining the HBMC's views.

WESLEY'S CHAPEL
49 CITY ROAD, LONDON, EC1Y 1AU
Telephone 01-253 2262

Minister: The Rev. Paul Hulme, B.A.

10 February 1989

Robin Catford, Esq.
Secretary for Appointments
10 Downing Street
London
SW1A 2AA

Dear Mr Catford,

It was good to meet you yesterday and to be able to talk with you again on the telephone this morning. I would be most grateful if you could hand the enclosed letter to the Prime Minister.

I have tried to state our problem as succinctly as possible and enclose herewith the case, together with the Architect's plans and photographs.

In a sentence, the situation we now face is that the Planning Officer will give planning permission and issue Listed Consent subject to English Heritage's approval to a Listed Building Consent. In our meeting with the English Heritage official his final words were, 'Whatever we say, this will end on the desk of the Secretary of State and he will have the final decision'.

I would be most grateful for any help and advice you could give on this matter.

With many thanks.

Yours sincerely,

Paul Hulme

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

27 January 1989

Dear Nick

FUTURE OF DEVELOPMENT PLANS: WHITE PAPER

Thank you for your letter of 5 December in which you sought H Committee's agreement to the publication of a White Paper on the future of development plans.

The Prime Minister and Tony Newton indicated that they were broadly content subject to a number of drafting points which I understand you have taken on board. John Major expressed concern about the risks of a bias against development. You have explained your proposals for seeking to guard against this and have agreed to keep in mind his suggestion of further guidance to local authorities about the use of planning gain, and John has indicated that he is now content. Finally, your office has agreed with mine that the reference in the final paragraph of the White Paper on the Government's intention to introduce legislation should be amended to read "the Government intends to introduce legislation . . . as soon as Parliamentary time permits".

No other colleague commented and you may take it, therefore, that you have H Committee's agreement to the publication of your White Paper.

I am copying this letter to the Prime Minister, members of H Committee, Cecil Parkinson, David Young, John MacGregor and Sir Robin Butler.

Yours ever

JOHN WAKEHAM

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment

LOCAL GOVT : Planning prs.

cst.ps/4jm19.1/lets

CONFIDENTIAL

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB

19 January 1989

Dear Secretary of State,

FUTURE OF DEVELOPMENT PLANS: WHITE PAPER

Thank you for your letter of 9 January, in response to mine of 23 December.

I am grateful for your further explanation of the safeguards in your proposals against the risks of inhibiting development which concerned me, and for your agreement to keep in mind my suggestion of further guidance to local authorities about the use of planning gain. I note that you will keep my officials in touch with your review.

In the light of these points, I am now content for you to proceed with publication of your White Paper.

I am copying this letter to the Prime Minister, other members of H Committee, Paul Channon, Cecil Parkinson, Tony Newton, John MacGregor and Sir Robin Butler.

Yours sincerely,
P. Wardell

pp JOHN MAJOR

[Approved by the Chief Secretary and signed in his absence]

LOCAL GOVT: Planning Control A5.

CONFIDENTIAL

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon John Major MP
Chief Secretary
HM Treasury
Parliament Street
LONDON
SW1

9 January 1989

Dear Chief Secretary

Thank you for your letter of 23 December, in response to mine of 5 December to John Wakeham.

I agree that we have to take account of the possibility of a bias against development at the local level. In fact, I think the recent increase in the volume of planning appeals owes as much to the buoyancy of the economy and to the greater volume of planning applications to local authorities as it does to authorities' greater propensity to refuse applications. Nevertheless, it was partly for this reason that we have made specific provision in the new system for regional planning guidance issued by central Government; we have also retained a strategic role for the counties, who will be able to give districts clear guidance on the scale and broad location of development which the new development plans must accommodate. We shall also be providing mechanisms to ensure that there is consistency between planning at the strategic level and the district development plans. Apart from the role of Inspectors, which you mention, reserve powers will be available to Peter Walker and me to intervene where planning at the local level is going seriously off the rails.

We shall continue to consult with DTI and other interested departments over the provision of regional planning guidance. We already have such arrangements in place for the preparation of strategic guidance for London and the other metropolitan areas (where the new planning arrangements have in effect already been introduced, following the abolition of the metropolitan counties). I will arrange for copies of guidance to be sent to the Treasury. You also suggested that authorities should be reminded, in a circular from this department, of the scope for benefiting their areas by making agreements with developers to share with the community a proportion of the gain from the grant of planning permission. We would not want, of course, to re-invent community land, betterment levy or development land tax. My Department's circular 22/83 gives full advice about planning gain and this was summarised in January last year in Planning Policy Guidance

CONFIDENTIAL

Note 1. The White Paper "Releasing Enterprise" said (para 6.2.5) that the Government were considering the issue of further policy guidance. Although that was in the context of evidence of abuse of planning gain, we will be sure to keep your suggestion before us as we look at this. My officials will keep yours in close touch.

If we do decide to propose changes in the present policy, we shall have to consult widely, because it affects many interests. But I think this is independent of the White Paper and not an issue which can or should hold up its publication.

I am copying this to the Prime Minister and to the other recipients of your letter.

Yours sincerely

pp

NICHOLAS RIDLEY

(Approved by the Secretary of State
and Signed in his Absence)

cst.ps/14jm23.12/lets

CONFIDENTIAL

cc PM

nbpm

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB

23 December 1988

Dear Secretary of State

FUTURE OF DEVELOPMENT PLANS: WHITE PAPER

Your letter of 5 December to John Wakeham refers. I have seen the letter of 12 December from the Prime Minister's Private Secretary and Tony Newton's letter of 19 December, with which I generally agree.

The development plan system is of considerable economic significance, and it is most important that we get the balance right. Your proposals address the design of the planning system, where I agree it is important to achieve a system which works better and more quickly than the present one.

We also need to consider the results that a streamlined system should deliver, however, and to see this in a wider context. District authorities are already in many cases unsympathetic to development, as the trend of planning appeals shows, and the introduction of the National Non-Domestic Rate from 1990 will remove the (admittedly in most cases illusory) incentive for allowing development that it appears to increase the district's rating base. There must be a risk that in this context devolution of all detailed planning to district level will lead to a bias against development, which would be damaging economically. The damage would be exacerbated if at the same time it became more difficult for developers successfully to appeal against the refusal of planning permission.

I note that Tony Newton referred to the letter Ken Clarke wrote to you in his previous capacity on 9 November 1987, expressing support for your proposals but also similar concerns, and making a number of suggestions for balancing district

LOCAL GOVT: Planning PTS.

CONFIDENTIAL

councils' influence. In particular, Ken argued that the regional guidance your Department will issue, which will be critical to the balance of the system, should be firm, that it should be cleared with DTI, and that Inspectors conducting public inquiries into local development plans should be required to consider their consistency with such guidance: Tony Newton has made essentially the same point again. I am glad to see that you have taken these points on board in the White Paper and I agree that the DTI should play a part in framing regional guidance and be consulted by district councils when framing local plans. I should be grateful if you would make arrangements to copy your Department's regional guidance to the Treasury.

Beyond that, however, it seems to me that authorities need to be reminded of the scope for benefiting their areas by entering into arrangements whereby the developer shares a proportion of the gain from the grant of planning permission with the community. There is a range of ways in which this can be done. A Circular from your Department, giving some examples, would be a useful means of bringing this point home.

I am copying this letter to the Prime Minister, other members of H Committee, Paul Channon, Cecil Parkinson, Tony Newton, John MacGregor and Sir Robin Butler.

Yours sincerely

C Evans

JOHN MAJOR
(Approved by the Chief Secretary and signed in his absence)

Archie Hamilton, M.P.

CF

R21/12

House of Commons
London SW1A 0AA

(seen by AT)

19th December, 1988

Dear Mr Turnbull

I agreed with your predecessor, Nigel Wicks, that I would keep him in touch with any developments there might be on my front in terms of planning permission.

Although I am no longer Parliamentary Private Secretary to the Prime Minister, I thought you might like to be kept informed.

I have recently put in an application for 43 houses at Bramley Park on land that I own with my wife and children and I expect the decision to be taken at a Planning Committee of the Waverley Council in either February, or March.

The plans have been agreed and are being supported by Bramley Parish Council and the Bramley Village Society and lengthy consultations have taken place with the Waverley Council as well.

I will be in touch again if there are any major changes in development.

Yours sincerely

Archie Hamilton

Andrew Turnball, Esq
Private Secretary to the
Prime Minister
10 Downing Street
London S.W.1

dti

the department for Enterprise

CONFIDENTIAL

R20/12

The Rt. Hon. Tony Newton OBE, MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Nicholas Ridley MP
Secretary of State
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147
Our ref
Your ref
Date 1st December 1988

Dear Nick,

THE FUTURE OF DEVELOPMENT PLANS: WHITE PAPER

I have seen a copy of your letter of 5 December to John Wakeham, enclosing the draft of the White Paper setting out your proposals to reform the development plan system.

I agree that there would be considerable advantage in publishing the White Paper now. I am glad that in the current draft you have been able to meet most of the concerns expressed by Kenneth Clarke in his letter of 9 November 1987. However, I am not sure whether the arrangements, as set out in the White Paper, are sufficiently watertight to prevent district and county councils taking adequate account of matters of national or regional consideration. I realise that the question of when to invoke your reserve powers is an extremely difficult one, not least because of the resource implications for the Planning Inspectorate, but it does seem to me that the last sentence of paragraph 3.17, in particular, gives too explicit a signal of your intentions. I understand my officials are in touch with yours on this point and also on whether the text could be amended elsewhere to make it clear that councils should follow national and regional planning guidance rather than merely have regard to it.

DE4ABJ

dti

the department for Enterprise

I have one other point. At present, district councils consult interested Government Departments, including my own, when preparing their draft local plans. We should like to retain these arrangements for the district development plans and I hope that paragraph 3.12 can be amended to make this clear.

I am copying this letter to the Prime Minister, John Wakeham, other members of H, David Young, Paul Channon, Cecil Parkinson, John MacGregor, and to Sir Robin Butler.

Yours ever.

Tony

TONY NEWTON

DE4ABJ

Local Govt. Planning
P 5

PRIME MINISTER

2

You will recall that at the last Sainsbury Group meeting you suggested that DOE Ministers ought to have in simple tabular form regular reports on the progress of planning appeals so that they could monitor these and chase outstanding cases. You might be interested to see a sample of the performance report that the Chief Inspector puts in. These currently cover six monthly periods but I understand that following your prompting DOE Ministers are looking at increasing the frequency of these reports.

Dominic Morris

16 December 1988

MJ2CZV

PLANNING INSPECTORATE

PERFORMANCE REPORT - APRIL TO SEPTEMBER 1988

SECTION 36 AND 37 APPEALS

1. Output of decisions

In the first 6 months of the financial year, a total of 9652 decisions were issued. This is 16% more than the 8298 decisions issued in the same 6 months last year.

Output would have been higher still, but for the postal strike, which considerably hampered our operations in September.

2. Intake of new appeals

The total intake of new appeals was 12,604, an increase of 21% on the same period last year. A particularly worrying factor was the continuing growth in appeals against the local authority's failure to determine an application within the 8 weeks: these now comprise almost 10% of the total. Three years ago, "failure" appeals were barely 4% of the total received.

3. Effect on the backlog

During the period 1602 appeals were withdrawn (12.7% of the total intake). The 'balance sheet' for the half year was therefore:-

Numbers of appeals in hand at start			12,160
Gross-	New appeals received	12,604	
	Less appeals withdrawn	1,602	
Net -	Appeals received	11,002	
	Less decisions issued	9,652	
	Balance carried forward	1,350	1,350
Number of appeals in hand at end			13,510

4. Percentage of Appeals Allowed

Of the 9652 decisions issued in the period, 3615 (or 37.4%) gave approval to the appellant's case, with 6037 rejected. Over the whole of last year, the comparable figure for successful appeals was 37.6%.

However, these figures refer only to decisions issued. If all those appeals submitted but subsequently withdrawn are counted as unsuccesful, the proportion of all appeals concluded in the first six months of this year in which the appellant was successful was 32.1% - again almost exactly the same proportion as last year.

5. Handling times

The latest handling times, for decisions issued in September, compare as follows with the averages for last year:-

Median times from Receipt to Decision

Type of case	Median Weeks - Full year 1987/88	Median Weeks September 1988	Number of Cases in Sept 1988
S of S Inquiry	55	59	19
S of S W Reps	42	33	20
Inspector Inquiry	37	34	120
Inspector Hearing	29	26	48
Inspector W Reps	23	22	1320
Overall median, all cases	23	23	1527

The improved times for most categories were mainly due to quicker handling in the "post-inquiry" phase, and reflect the greater use of wordprocessors and reduction of delays at the Portsmouth typing pool. We are however now suffering increasing delays earlier in the process, because of shortage of Inspectors. The backlog of cases which have completed their initial processing, but are held up in the Chartroom simply because of Inspector shortage, now exceeds 2500 cases. These delays will not be reflected in the monthly processing times until the decision letters are issued some months hence.

6. New Inquiries Procedure Rules

The new Statutory rules for Public Inquiries came into effect in July, with new timetables to be observed for arranging Inquiries. Careful preparation and staff training, and the allocation of extra Inspectors to Inquiry casework (at some cost to Written Representations work) have enabled us to cope satisfactorily so far, and at the end of September a record number of 1027 inquiries were forward booked - an increase of 34% over the position a year ago.

OTHER WORK

7. Performance on S88 Enforcement Appeals

Following the establishment of a separate enforcement chart in April with additional staffing, output of decisions on enforcement cases has risen substantially. In the first 6 months of the year 1,459 decisions were issued, an increase of 24% on the same period last year.

8. Other casework

During the period we remained very busy on other types of casework. 16 Major Highways Inquiries were conducted for the Department of Transport, and 2 for the Welsh Office. 26 Inquiries were held into Local Authority Highway matters. Applications for Listed Building Consent and Rights of Way Inquiries are rising particularly sharply.

9. Staff recruitment and retention

We have made some progress in filling vacancies and expanding the administrative organization following approval of the MINIS bid, but high turnover amongst junior staff remains a problem and at the half year stage we were still 18 staff short of the agreed complement.

We had hoped to recruit 15 new Contract Inspectors on the July intake, but could only attract 7. We have interviewed candidates for the November and January intakes, and hope to be able to fill both these courses.

PLANNING INSPECTORATE
NOVEMBER 1988

LOCAL GOVT: Planning PTS

File SEW
cc BS

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

14 December 1988

Dear Roger,

INTERDEPARTMENTAL WORKING GROUP ON LAND COMPENSATION

The Prime Minister was grateful for your Secretary of State's minute of 5 December. She is content with the amendment to the earlier proposals, involving an increase in the minimum rate of home loss payment to £1200 while leaving the maximum unchanged to £1500.

I am sending a copy of this letter to the Private Secretaries to members of E(A) and to Sir Robin Butler.

Yours,
Paul

(PAUL GRAY)

Roger Bright, Esq.,
Department of the Environment.

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

Dominic Morris Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

14 December 1988

Dear Dominic

Thank you for your letter of ~~28~~ 30 November about planning appeals performance.

As requested, I enclose a copy of the Chief Planning Inspector's performance report. This covers the period April to September this year. Ministers are currently considering whether to increase the frequency of these reports.

Yours

A D RING
Private Secretary

CC PU.

Prime Minister
Content with this minor amendment to the earlier package?

Yes

flag. RRG 12/12

PRIME MINISTER

Thank you for your Private Secretary's letter of ~~18~~ October about the further report of the inter-departmental working group on land compensation.

We are generally working on implementing the decisions on land compensation as agreed. However, there is one aspect on which, in the light of legal advice, we are having to proceed a little differently.

We agreed that, pending primary legislation to recast the home loss payments scheme, the rate of home loss payment should be increased as soon as possible to a flat figure of £1500 for all claimants. This proposal assumed that we would be able to use powers in the Local Government Finance Act 1988 to make provision consequential on the introduction of the community charge. However, we are now advised that any provision we might make to substitute a flat rate of home loss payments for the current scale base on rateable values could not come into effect until 1 April 1990 if it is to rely on the powers in the 1988 Act. Many people will lose if we delay until that date, by which time I hope that our primary legislation will in any case be before Parliament.

I therefore propose instead, to make an Order under powers in the existing home loss legislation to increase the amount by which the rateable value is multiplied when calculating the payment from 3 to 10 and to increase the minimum payment from £150 to £1200 while leaving the maximum unchanged at £1500. This will ensure that claimants whose homes are of average or above average rateable value will receive £1500 while no one will receive less than £1200. I am told that to narrow the range any more than this would be an unusal use of our existing powers and be likely to fall foul of the JCSI.

This proposal is therefore as close to the spirit of our earlier decision as is possible relying on the 1973 Act powers alone. We estimate that it will save a little under £1m a year compared with a flat £1500 for all.

I am sending a copy of this letter to all members of E(A) and to Sir Robin Butler.

PP NR
12 December 1988

(Approved by the Secretary of State
and Signed in his Absence)

LOCAL GOVT: Planning Pts

CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

12 December 1988

Dear Roger

DEVELOPMENT PLANS: WHITE PAPER

The Prime Minister has seen a copy of your Secretary of State's letter of 5 December to the Lord President. She feels that paragraph 2 of the introduction to the White Paper is too complacent and ought to be deleted. Subject to that, however, she is content that the White Paper should be published.

I am copying this letter to the Private Secretaries to members of H Committee, the Secretaries of State for Trade and Industry and Energy, the Minister of Agriculture, Fisheries and Food and Sir Robin Butler.

Yours ever

Dominic

D C B MORRIS

Roger Bright, Esq.,
Department of the Environment

CONFIDENTIAL

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon Peter Walker MBE MP
Secretary of State
Welsh Office
Gwydyr House
Whitehall
LONDON
SW1A 2ER

12 December 1988

Dear Secretary of State,

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

Thank you for your letter of 29 November enclosing a revised draft of your proposed circular.

I am grateful to you for amending the draft to meet one specific point mentioned in my letter of 8 November. I remain concerned that the general tenor of the guidance might encourage other groups within the community who would like to see the planning system turned to their particular purposes and operating as a mechanism to protect their sectional interests. But I recognise your particular problems and am prepared to see you issue the circular, subject to one further amendment to strengthen the link with land-use planning, viz: Para 3, last sentence, to read: "Where a local planning authority consider that the Welsh language has land-use planning consequences which should be taken into account in preparing a local plan, it will be appropriate for the plan to indicate that fact."

I am sending a copy of this letter to the Prime Minister, Patrick Mayhew, Malcolm Rifkind and Sir Robin Butler.

Yours sincerely

pp

NICHOLAS RIDLEY
(Approved by the Secretary of State and signed in his absence)

LOCAL GOVT. Planning Control pt 5.

PRIME MINISTER

DEVELOPMENT PLANS: WHITE PAPER

Mr. Ridley is seeking colleagues' agreement to the publication before Christmas of the White Paper on the future of development plans (Flag A). At Flag B is a detailed note from Carolyn Sinclair of the Policy Unit on it. As she says, it contains no great surprises and reflects what you heard at the Sainsbury Group in October. Nor, since it is the product of extensive consultation, is it likely to cause great surprise to planners or developers. I would not therefore recommend your reading it though you might like to see the high-lighted paragraphs in 2.11 and 2.13 which show where Mr. Ridley's thinking on the respective roles of the County and District Plans ended up. This is all probably useful for bringing the district planners out of the closet but at county level it has less to it than meets the eye.

Content for the White Paper to be published? I should like to talk to N.R. but think he is away next week. If so, fine with publication subject to

Do you want paragraph 2 of the White Paper's introduction to be deleted as Carolyn Sinclair suggests? Yes

For the longer term would you want us to look for a suitable opportunity for a policy speech from you on land use as she suggests? Yes

dropping para 2 in introduction, and I will talk to Nick the Christmas

D. MORRIS
9 December 1988

MRMAAQ

B/F B

PRIME MINISTER 7 DECEMBER 1988

PLANNING WHITE PAPER

Nicholas Ridley has written to John Wakeham enclosing a draft White Paper setting out his proposals for recasting the planning system. He hopes for legislation in 1989/90.

These will be the most far-reaching changes to planning since you took office. But they will be criticised by some as mere tinkering: they leave the 1947 planning system essentially intact. Nicholas Ridley's proposals will not meet the criticisms of the planning system which have recently been levelled by the Centre for Policy Studies and others (see below).

Background

Ministers looked at the planning system in 1979, 1980 and 1983. They concluded that it was basically sound. A number of minor changes were made to make the system simpler and more efficient.

Procedures at local and central level have been speeded up. For example, the median time for handling appeals in DoE on the basis of written representations has moved thus:-

1980	-	28 weeks
1983	-	17 weeks
1984	-	21 weeks
1988	-	19 weeks.

The later figures have to be set against an increase of 74% in the volume of appeals between 1984/85 and 1988/89.

Thanks for this excellent minute - I agree with almost all. I think I shall need to have a word with §15. [illegible] not.

White Paper proposals

Nicholas Ridley's White Paper follows a consultation document published in September 1986. The White Paper opens by saying that the planning system introduced in 1947 has, for the most part, served the country well. It has balanced economic growth with conservation of historic buildings and the countryside. The White Paper's proposals are set firmly in the context of continuing the process of simplification of planning begun in 1979. The aim is to remove unnecessary barriers to enterprise.

The main proposals are:

- wider coverage of regional planning guidance issued by the Secretary of State in consultation with local planning authorities in the area;

- a legal obligation on district councils to prepare local development plans;

- abolition of County Structure plans and their replacement by Statements of County Planning Policies;

- streamlining of procedures for preparing and adopting local development plans;

- removal of the need for county plans to be approved in each case by the Secretary of State;

- reserve powers for the Secretary of State to intervene at county or district level where plans ignore national or regional guidelines.

Comment

Nicholas Ridley has four aims:-

1) to disengage himself - and the Government - from individual planning decisions as much as possible;

2) to speed up the preparation of plans at both county and district level;

3) to strengthen the influence of national and regional land-use policies at the local level;

4) to create greater certainty in the system, so that developers and the public know where they are.

His proposals are likely to be most successful on the first aim - to get Marsham Street out of day to day planning as far as possible. This is important politically. He proposes to force local district councils to prepare and publish plans which show where, and what kind of, development will be allowed.

Districts should prepare such plans under the present system. But they are not legally obliged to do this, and the majority have not bothered, or operate on the basis of "desk drawer plans" which have never been published. The result is maximum uncertainty and concern, with difficult decisions often being referred to the Secretary of State to enable the districts to duck the unpopular task of drawing lines on a map. Some district councils probably do not have the capacity to draw up decent plans.

The extent to which the White Paper proposals succeed on the other 3 aims remains to be seen. Counties will not be allowed to pronounce on extraneous matters - such as economic policy - without the approval of the Secretary of

State. They will be expected to produce County Statements within 2 years of the legislation. Districts will be expected to complete their plans within 3 years of the County Statements being completed.

Speeding up will only happen if Counties and districts can between them agree to provide enough land for housing (now the key issue) to satisfy the needs identified nationally. If Counties or districts fail to do their bit, the Secretary of State will need to call in their plans and there will be a row (as over Berkshire).

What other people are saying about the planning system

The complacent tone of the introduction to the White Paper can be contrasted with two recent publications by the Institute of Economic Affairs and the Centre for Policy Studies. These are summarised at Annex A.

Both pamphlets argue

- that the planning system imposes significant costs on the UK economy by creating unnecessary obstacles to economic growth, job creation and labour mobility;

- that it has preserved the countryside, but has not prevented urban ugliness and over crowding;

- that it contributes directly to the poor design and cramped appearance of most new housing development in the UK;

- that power to prevent or allow development is concentrated in local hands where parochial concerns will loom large. Local decisions can only be challenged through a cumbersome, slow and expensive process which has no guarantee of success.

- that the whole system is characterised by uncertainty, including ambiguity in some of the planning guidelines issued by DoE.

This last point has been strongly echoed by development consultants and others engaged in day-to-day planning decisions.

Comment

Who is correct? Nicholas Ridley, who argues that the system is basically sound, but needs further streamlining; or those who argue that the system is basically rotten and doing a great deal of damage to the economy?

There is a considerable force in the criticisms of the IEA and the CPS. Against the yardstick of economic performance, the balance in Britain between developing and conserving is tipped too far towards conserving. We often put more value on preventing development than on creating new jobs and homes. The planning system gives expression to this.

But how do you change a system which is very democratic and which reflects popular sentiment as seen through a local lens? Planning power is in local hands in most EC countries and in the US. Comparisons are difficult, and not very instructive. Planning is more legalistic on the Continent, and often combines a form of zoning with building regulations. Continental systems tend to provide greater certainty for the developer (and the public), but are slower to adapt to changed circumstances eg shifts of population. No country appears to offer a blue-print for an optimum planning system (and those which have historically leaned toward central land-use planning, such as France, have recently moved towards greater local control).

Arguably it is not so much the system as attitudes to development which need to change. The IEA and the CPS recognise this. It is noticeable that their blistering critiques of the system are followed by rather limited proposals for change.

Conclusions

Nicholas Ridley's proposals deserve a cautious welcome. They should be politically helpful, if they work as they are supposed to do. But they still leave a great deal of room for local opposition to development to prevail.

On one point the emphasis has shifted a little since the summer. Then Nicholas Ridley was talking of scrapping structure plans, and the Counties feared they would lose their role in planning altogether.

Development consultants argue that devolving planning responsibility from the County to the district level could be disastrous - parochialism would prevail even more than now. The CPS pamphlet makes the same point. So did Sir John Sainsbury at your last meeting.

The original thinking here probably reflected Nicholas Ridley's irritation with the present system. He currently has to approve each County Structure plan. On the one hand, they are often long and diffuse documents; on the other, they do not draw lines on a map showing developers where they can or cannot proceed.

The White Paper now recognises that in practice County Statements will be necessary to reconcile national, regional and district interests; and Nicholas Ridley may have to intervene to ensure that they are satisfactory. We would

then be back where we started, though the hope would be that County Statements would be shorter and more businesslike than County Structure Plans.

Assuming legislation in 1989-90, it will take several years at least to bring the new system into effect. Meanwhile there is criticism of the opaque nature of some DoE planning guidance. Contrast PPG2, on Green Belts, which is widely acknowledged as very clear, with the highlighted paragraphs in PPG1. The latter could come straight out of "Yes Prime Minister".

Recommendations

Short-term

- Agree that publication of the White Paper can go ahead;

- But complacency should be avoided in the text - there is considerable criticism of the planning system, although people are short on viable alternatives. Paragraph 2 of the Introduction should be dropped. - I don't like - the architecture has been terrible and we have enough homes where they are needed.

- Meanwhile guidance from DoE, whether at national or regional level, needs to be as clear and unambiguous as possible. The Planning Policy Guidance notes issued this year are helpful, but some of them resemble biblical texts in being open to many interpretations.

Long-term

- The Government must persuade people to take a less restrictive attitude to development, especially in the South East. Narrow self-interest must not be allowed to prevent the building of new houses in the countryside, which is where more and more people want to live.

- Nicholas Ridley made a good start with his speeches to the Bow Group in May, and to the Party Conference.

- Changing deep-rooted attitudes is easier said than done, but your approach to nuclear power points the way: the key lies in facts.

- A keynote speech by you, pointing up the extent of rural England (80 per cent of all land, even in the South East), reduced need for agricultural land, inevitability of change in a society developing to give its citizens a better life etc.

CAROLYN SINCLAIR

ANNEX A

No Room! No Room! - Paper by Institute of Economic Affairs

This argues that

- Planning has imposed significant costs on the British economy, going well beyond the central and local governments costs of the system, and the compliance costs of developers.

- Planning controls have contributed to high house prices and crowded urban areas.

- Planning controls have pushed up the price of land. This makes exporting industries which require land uncompetitive, deterring the siting of plants in the UK.

- Planning controls limit the supply of new housing in the South, contributing to labour shortages and high wages.

- Planning stifles the development of small firms which tend to proliferate in areas of high economic activity (ie the South).

- The value of planning permission is so high that it is a tradeable commodity between developers. Large amounts of time and money are spent on securing the right to build, leaving less to spend on good design and construction. Poor design encourages further resistance to development.

- Because of the uncertainty of obtaining planning permission, the system favours the large developer and inhibits competition.

The IEA solution is:

to allow developers to negotiate compensation direct with those affected by a proposed development (a variant on planning gain which is negotiated between the developer the local planning authority).

Planning planning - Paper by Centre for Policy Studies

This argues that:

- Local planning authorities are still in the era of planned development. Although only a minority of local authorities have produced formal plans, many operate on the basis of unofficial plans which attempt to specify development in minute detail.

- Such detailed local planning is particularly common in the South, where the market pressures for development are strongest.

- Local authorities need to switch from trying to map out the economic future of Britain to exercising control over private sector development.

- The system needs to be made very much simpler and more flexible.

The CPS solution is:

at national level

For DoE to issue policies on major infrastructure projects and issues of widespread interest such as the Green Belt, the trend to out-of-town shopping etc;

at County or Metropolitan level

For there to be strategic plans which reconcile local and regional projects with national policies;

at local level

Detailed land use plans should be abandoned. Individual applications should instead be decided according to clear criteria, including whether a proposal is environmentally sound.

Department of the Environment
Welsh Office

PPG 1
January 1988

PLANNING POLICY GUIDANCE:

GENERAL POLICY AND PRINCIPLES

Introduction

1. The town and country planning system has not changed in its essentials since it was established in 1947. The legislation is now contained in the Town and Country Planning Act 1971, as amended by subsequent Acts. The fundamental requirement of the legislation is that development, as defined in the Act, may not be undertaken without planning permission.

2. Essentially, the system is designed to regulate the development and use of land in the public interest. The system has served the country well. It is an important instrument for the protection and enhancement of the environment in town and country, for the preservation of historic buildings and the rural landscape, and for the maintenance of Green Belts.

3. The system should be efficient, effective and simple in conception and operation, to facilitate much needed development and to strike the right balance between that development and the interests of conservation. It should not be regarded simply as a means of preventing change. Properly used, it can help to secure economy, efficiency and amenity in the development and use of land.

4. Used improperly the system can impose costs on the economy and constraints, without any real public benefit, on enterprise and on the freedom of individuals to make use of their own property. It can cause delay and uncertainty even where development is eventually approved. The very wide discretionary power that the system affords should not be used to apply excessively detailed and onerous controls of a kind that would not be tolerated in general legislation.

Speed of operation

5. The planning system should contribute to the process of enabling things to happen in the right place at the right time. Promptness, relevance and efficiency are the characteristics of good planning. The benefits to the economy and to the individual from the businesslike handling of planning applications are very substantial. The magnitude of investment at risk from delay is very large: the annual value of orders for new building and civil engineering construction (most of which requires planning permission) was approximately £17 billion in 1986.

6. Unnecessary delays in the planning system can result in extra costs, wasted capital, delayed production, reduced employment, income, and profitability. The Secretaries of State and local planning authorities have a clear responsibility to minimise delay in determining planning applications and appeals. Planning applications should normally be decided within eight weeks. The Government has published targets for the handling of applications and appeals. These timetables can be achieved without risk to the overall quality of planning decisions and justice being seen to be done.

Target Times for Decisions on Planning Applications and Appeals

Planning applications
The Secretaries of State have indicated that local planning authorities should aim to decide 80% of all applications within eight weeks.

Planning appeals
(a) For cases decided by Inspectors, the aim is to achieve the following median times from lodging of an appeal to issuing the decision;

written representations cases:
11 weeks (by end 1988)

inquiry cases:
17 weeks (by end 1989)

(b) Where the Secretaries of State take the decision, the aim is to decide 80% of cases within eight weeks of receiving the Inspector's report.

Development requiring permission

7. The 1971 Act (in Section 22) defines development as 'The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.'

8. It also provides that certain works and uses do not constitute development under the Act. These include:

- works of maintenance, improvement or alteration which affect only the interior of a building or which do not materially affect its external appearance
- the use of buildings or land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such
- the use of land for the purpose of agriculture or forestry
- change of use of land or buildings from one use to another within a class defined in the Town and Country Planning Use Classes Order 1987.

9. Further, the Town and Country Planning General Development Order 1977, as amended, gives general permission in advance for certain defined classes of development, mainly of a minor character. The most frequently invoked class permits a wide range of small extensions and alterations to dwelling-houses. Enterprise Zone schemes and Simplified Planning Zone schemes also confer planning permission in advance for developments of types defined in the scheme concerned.

10. Save for the exceptions in paragraphs 8 and 9, specific planning permission is required for development upon application to the local planning authority. The Secretary of State may require that applications be referred to him for decision but this call-in power is exercised in only a very few cases each year.

11. The decision whether to grant permission must 'have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations'. Permission may be granted subject to such conditions as the local planning authority or the Secretary of State may think fit (section 29 of the 1971 Act).

Development plans

12. Development plans, as prescribed by Part II of the 1971 Act, are a vital part of the framework for controlling development. Their provisions are not prescriptive, but they are intended to provide a firm basis for rational and consistent decisions on planning applications. They also provide a means of co-ordinating the needs of development, including the provision of infrastructure, and the interests of conservation.

13. Development plans cannot, however, do more than to give a broad framework: they do not go into precise detail or show exactly what development will or will not be allowed. Development which accords with the provisions of the development plan still needs planning permission – and will not necessarily get it: while development which does not accord with the plan may be permitted if other circumstances tell in its favour. Moreover, under section 29(1) of the Act the plan is only one of the material considerations which must be taken into account.

14. Many development plans were approved several years ago, often several years after they had been prepared, and were based on even earlier information. The policies which they contain, and the assumptions on which they were based, may therefore be out of date and not well related to today's conditions. They cannot be adapted rapidly to changing conditions, and they cannot be expected to anticipate every need or opportunity for economic development that may arise. They should not be regarded as overriding other material considerations, especially where the plan does not deal adequately with new types of development or is no longer relevant to today's needs and conditions – particularly the need to encourage employment and to provide the right conditions for economic growth. However, there is a reciprocal point: where the plan is up-to-date and relevant to the particular proposal, it follows that the plan should normally be given considerable weight in the decision and strong contrary planning grounds will have to be demonstrated to justify a proposal which conflicts with it.

The presumption in favour of development

15. The planning system fails in its function whenever it prevents, inhibits or delays development which can reasonably be permitted. There is always a presumption in favour of allowing applications for development, having regard to all material considerations, unless that development would cause demonstrable harm to interests of acknowledged importance. Except in the case of inappropriate development in the Green Belt the developer is not required to prove the case for the development he proposes to carry out; if the planning authority consider it necessary to refuse permission, the onus is on them to demonstrate clearly why the development cannot be permitted.

The Government's planning policies

16. The courts have held that the Department's statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications. The policies must be publicly known. They are normally disseminated by way of Planning Policy Guidance, supplemented by White Papers, Ministerial statements and departmental circulars etc. Such policy statements cannot make irrelevant any matter which in a particular decision is a material consideration. But where such statements discharge the proper role of a policy in indicating the weight that should be given to relevant considerations, the decision-maker must properly understand them and have regard to them. If he then elects not to follow them, he must give clear reasons for not doing so. (See Mr Justice Woolf, in *F C Gransden and Co Ltd* v. *SSE and Gillingham BC*, (1985).)

The purpose of the planning system

17. The purpose of the planning system is to regulate the development and use of land *in the public interest*. It is not to protect the private interests of one person against the activities of another. While considerations of public interest may in the particular case serve to protect private interests, the material question is not whether owners and occupiers of neighbouring properties would suffer financial or other loss from a particular development, but whether the proposal would affect the locality generally and unacceptably affect amenities that ought in the public interest to be protected.

18. Any relevant views expressed by third parties, by local residents and other neighbouring occupiers of land should be taken into account in determining planning applications. Nevertheless, on its own, local opposition to a proposal is not a ground for the refusal of planning permission unless that opposition is founded upon valid planning reasons which are supported by substantial evidence. While the substance of local opposition must be considered, the duty is to decide each case on its planning merits.

19. The system is concerned with land-use planning matters, ie, those relating directly to the physical development and use of land, and not to other matters (which in consequence of other duties and powers may well be in those contexts the proper concern of authorities which are local planning authorities). This principle applies to the content of development plans, to decisions in individual cases and to the imposition of planning conditions.

20. Decisions in individual cases should be based on planning grounds only and must be reasonable. The 'other material considerations' of section 29(1) of the 1971 Act can cover a wide field: 'In principle ... any consideration which relates to the use and development of land is capable of being a planning consideration.' (Cooke J, in *Stringer v. Ministry of Housing and Local Government (1971)*). They must however, be genuine planning considerations, ie, they must be related to the purpose of planning legislation, which is to regulate the development and use of land.

21. It follows that planning authorities should, in refusing planning permission, give reasons (as they are required to do by Article 7 of the General Development Order) which are complete, precise, clear, specific and relevant to the application. Where a decision is considered at a planning inquiry and the local planning authority cannot show that they had reasonable planning grounds for the decision, costs incurred in the appeal proceedings may be awarded against them.

22. Moreover, planning legislation should not normally be used to secure objects achievable under other legislation. For example, planning permission for a betting office should not be refused on moral grounds or because it is considered that there are sufficient such offices in the area already. The Gaming Acts provide for licensing of betting offices, *inter alia* on the basis of the demand from place to place.

23. More generally, it is not the function of the planning system to interfere with or inhibit competition between users and investors in land, or to regulate the overall provision and character of space for particular uses for other than land-use planning reasons. Where development is acceptable in land-use terms, it is up to landowners, developers and tenants to decide whether to proceed with it. If, however, the applicant can demonstrate that there is a weighty national or local need for a particular type of development in that location, that consideration may be sufficient to outweigh important planning objections which might be a sufficient basis for refusal in the absence of the demonstrated need for the development. The existence of alternative sites which might be suitable for a particular development is not normally a reason for refusing permission if the development is acceptable in planning terms.

Planning conditions

24. The power to impose conditions on a planning permission can enable many development proposals to proceed where it would otherwise be necessary to refuse planning permission. Sensitive use of conditions can improve the quality of development control and enhance public confidence in the planning system. To achieve these ends conditions should be used in a way which is clearly seen to be fair, reasonable and practicable. Conditions should only be imposed where they are

* necessary
* relevant to planning
* relevant to the development to be permitted
* enforceable
* precise
* reasonable in all other respects.

In considering whether a particular condition is necessary, one key test is whether planning permission would have to be refused if the condition were not to be imposed. If not, then such a condition needs special and precise justification. The same criteria and test should be applied in deciding whether to dispense with an extant condition on a permission.

Planning gain

25. There are matters which, while necessary in planning terms if a proposed development is to proceed, cannot be dealt with by way of a planning condition, even one in the form that the development may not be commenced until certain action has been taken. This may be so, for example, where the action is not reasonably within the power of the applicant to secure. In such circumstances, it may be possible to grant permission if the matter is made the subject of an agreement under, for example, section 52 of the 1971 Act or a similar provision. Used in this way,

agreements can assist towards securing the best use of land and a properly planned environment. But the planning authority is not entitled to use the mechanism and the applicant's need for planning permission as an opportunity to exact a payment for the benefit of ratepayers at large. The obligation of land-owners and users to pay tax on development profits is met through the general arrangements for the taxation of individuals and companies.

26. The terms of such agreements are likely to be reasonable if they meet the following three tests:

* whether what is required
  - is needed to enable the development to proceed, for example, alterations to road access or additional sewerage; *or*
  - is a financial payment towards the cost of such works; *or*
  - is otherwise so directly related to the development or its subsequent use that permission should not be given without it, for example, the provision of car-parking or open space, or a financial contribution towards its provision by others; *or*
  - is designed to secure an acceptable balance of planning uses on the site.
* whether what is sought is fairly and reasonably related in scale and kind to the proposed development
* whether what the developer is being asked to provide or help to finance represents in itself a reasonable charge on the developer as distinct from being financed by national or local taxation or other means, for example, by a charge on users of the facilities to be provided or financed by the developer under the terms of the agreement.

The essential principle is that the facilities to be provided or financed should be directly related to the development in question or the use of the land after development. Agreements should be not used to impose matters which would be unacceptable in a planning condition against the tests in paragraph 24 above, apart from that of enforceability.

Aesthetic control

27. Matters of detailed design have long been an unnecessary source of contention and delay in the planning system. Aesthetics is an extremely subjective matter. Planning authorities should not impose their tastes on developers simply because they believe them to be superior. Developers should not be compelled to conform to the fashion of the moment at the expense of individuality, originality or traditional styles. Nor should they be asked to adopt designs which are unpopular with their customers or clients.

28. Nevertheless control of external appearance can be important, especially for instance in environmentally sensitive areas such as National Parks, Areas of Outstanding Natural Beauty, conservation areas and areas where the quality of the environment is of a particularly high standard. Local planning authorities should reject obviously poor designs which are out of scale or character with their surroundings. They should confine concern to those aspects of design which are significant for the aesthetic quality of the area. Only exceptionally should they control design details if the sensitive character of the area or the particular building justifies it. Even where such detailed control is exercised it should not be over-fastidious in such matters as, for example, the precise shade of colour of bricks. Authorities should be closely guided in such matters by their professionally qualified advisers. This is especially important where a building has been designed by an architect for a particular site. Design guides may have a useful role to play provided that they are used as guidance and not as detailed rules.

29. Control of external appearance should only be exercised where there is fully justified reason for doing so. Where there are no reasonable objections to the external appearance proposed by the applicant and a refusal of permission is based simply on a preference for a different external appearance, there may be grounds for an award of costs in an inquiry appeal.

Enforcement and discontinuance

30. It is clearly undesirable that development should be carried out in advance of any necessary planning permission being obtained. However the power to issue an enforcement notice alleging that there has been a breach of planning control is discretionary. It may only be used if the authority 'consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations'. This discretionary power should be used, in regard to either operational development or material changes of use, only where planning reasons clearly warrant such action, and there is no alternative to enforcement proceedings. Where the activity involved is one which would not give rise to insuperable planning objections if it were carried out somewhere else, then the planning authority should do all it can to help in finding suitable alternative premises before initiating enforcement action.

31. Analogous considerations apply, but with even more force, to opposed orders to discontinue authorised or established uses of land. Given that existing rights are at issue, such action should be taken only if there appears to be an overriding justification on planning grounds. Special considerations apply to the use of land and buildings by small businesses (see PPG 4).

Positive planning

32. The planning system is only one, and by no means always the most important, of the instruments available to public authorities to secure improvements in the built and rural environments, and to protect those environments from the negative effects of economic and social change. Many local planning authorities are active in using the full range of powers at their disposal to improve the environment. Depending on their powers, authorities (including National Park authorities and urban development corporations) are engaged in land-use management, economic development, conservation, transport planning, traffic management, estate and property management, the development of tourism and leisure facilities, etc. While land-use planning and development control has limited capabilities, it can, when judiciously used in conjunction with other relevant powers, play an important part in helping to shape an improved and healthy environment in town and country.

Notes

This PPG note draws principally on the following: Cmnd. 9571 (chapter 3); Cm. 43; DoE circulars 22/80, 22/83, 1/85, 14/85, 31/85, and 2/87; and on Development Control Policy Note No. 1.

DCPN1 is withdrawn.

PLANNING POLICY GUIDANCE:

GREEN BELTS

1. The Government attaches great importance to Green Belts, which have been an essential element of planning policy for more than three decades. The objectives of Green Belt policy and the related development control policies set out in 1955 remain valid today.

2. The first official proposal 'to provide a reserve supply of public open spaces and of recreational areas and to establish a green belt or girdle of open space' was made by the Greater London Regional Planning Committee in 1935. New provisions for compensation in the 1947 Town and Country Planning Act allowed local authorities to incorporate green belt proposals in their first development plans. The codification of Green Belt policy and its extension to areas other than London came in 1955 with an historic circular inviting local planning authorities to consider the establishment of Green Belts. That process of local initiation and central approval continues today. It has resulted in the approval of 15 separate Green Belts, varying in size from 1,200,000 acres around London to just 2,000 acres at Burton-on-Trent.

3. The Green Belts approved through structure plans now cover approximately 4,500,000 acres, 14% of England. The general extent and location of the designated areas are given in the table and map overleaf.

Purposes of Green Belts

4. Green Belts have five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to safeguard the surrounding countryside from further encroachment;
- to prevent neighbouring towns from merging into one another;
- to preserve the special character of historic towns; and
- to assist in urban regeneration.

5. Green Belts also have a positive role in providing access to open countryside for the urban population. Such access may be for active outdoor sports or for passive recreation. Outdoor leisure pursuits are likely to occupy an increasing proportion of the Green Belts if, as currently expected, the land needed for food production decreases.

6. Green Belts often contain areas of attractive landscape, but the quality of the rural landscape is not a material factor in their designation or in their continued protection.

Designation of Green Belts

7. The essential characteristic of Green Belts is their permanence and their protection must be maintained as far as can be seen ahead.

8. Green Belts are established through development plans. Their general extent has now been fixed through the approval of structure plans and many detailed boundaries have been set in local plans and in old development plans.

9. Once the general extent of a Green Belt has been approved it should be altered only in exceptional circumstances. If such an alteration is proposed the Secretary of State will wish to be satisfied that the authority has considered opportunities for development within the urban areas contained by and beyond the Green Belt. Similarly, detailed Green Belt boundaries defined in adopted local plans or earlier approved development plans should be altered only exceptionally. Detailed boundaries should not be amended or development allowed merely because the land has become derelict. On the outer edge of a Green Belt, readily recognisable features, such as roads, streams or belts of trees, should be used to define the boundaries.

10. Where detailed Green Belt boundaries have not yet been defined, local planning authorities are urged to complete this task. It is necessary to establish boundaries that will endure and they should be carefully drawn so as not to include land which it is unnecessary to keep permanently open. Otherwise there is a risk that encroachment on the Green Belt will have to be allowed in order to accommodate future development.

11. When local planning authorities prepare new or revised structure and local plans, any proposals affecting Green Belts should be related to a time scale which is longer than that normally adopted for

other aspects of the plan. They should satisfy themselves that Green Belt boundaries will not need to be altered at the end of the plan period. In some cases this will mean safeguarding land between the urban area and the Green Belt which may be required to meet longer term development needs.

Control over development

12. The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them.

13. Inside a Green Belt, approval should not be given, except in very special circumstances, for the construction of new buildings or for the change of use of existing buildings for purposes other than agriculture and forestry, outdoor sport, cemeteries, institutions standing in extensive grounds, or other uses appropriate to a rural area.

14. Structure and local planning policies should make no reference to the possibility of allowing other development in exceptional circumstances. Nor should the visual amenities of the Green Belt be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice its main purpose, might be inappropriate by reason of their siting, materials or design.

15. Minerals can be worked only where they are found. Their extraction need not be incompatible with Green Belt objectives, provided that high environmental standards are maintained and that the site is well restored.

16. Green Belts contain a large number of substantial and attractive agricultural buildings which, with normal repair and maintenance, can be expected to last for many years. When these are no longer needed for farming, the planning authority will need to consider whether they might be appropriately re-used for other purposes which help to diversify the rural economy. Redundant agricultural buildings can provide suitable accommodation for small firms or tourist activities or can be used as individual residences. The re-use of redundant buildings should not be refused unless there are specific and convincing reasons which cannot be overcome by attaching conditions to the planning permission.

17. In the next few years many older hospitals located in Green Belts are likely to become redundant. In planning for the future of these buildings and their sites the aim should be to use them for purposes compatible with the Green Belt, which can include institutional uses. The size, layout and form of the buildings may, however, make them unsuitable for such purposes. In such cases it will be necessary to consider whether very special circumstances exist that would warrant the change of use of the buildings or the construction of new buildings.

18. In some cases it may be possible to convert the existing buildings for housing or other uses, perhaps with some demolition of ancillary buildings. But if that is not a practical solution then the future of the buildings and the site, and the possibility of redevelopment, will need to be carefully considered. Putting the sites to beneficial use will be preferable to allowing the buildings to remain empty and the site to become derelict. Guidelines to assist local planning authorities in preparing policies for the sites and in dealing with planning applications follow:

Guidelines for the future use of redundant hospital sites in Green Belts

(a) Re-use of the existing buildings for purposes within the accepted Green Belt categories is the preferred option, especially where the buildings are of architectural and historical importance. There may in particular be scope for re-use by institutions.

(b) However, if there is little or no prospect of viable re-use within those categories, then other uses are preferable to allowing the buildings to remain empty or grossly under-occupied. The aim should be to achieve redevelopment for other suitable uses by conversion of the existing buildings.

(c) If the existing buildings, or part of them, are unsuitable for conversion, then redevelopment should not normally occupy a larger area of the site nor exceed the height of the existing buildings. The location of the new buildings should be decided having regard to the main features of the landscape and the need to integrate the new development with its surroundings (eg it may be more appropriate to site new development closer to existing development).

(d) The amenity value of the site should be retained or enhanced where practical by preserving mature trees and keeping or laying out landscaped areas, and if possible opening them to public access with adequate provision for their maintenance.

(e) Redevelopment should not normally involve additional expenditure by the public sector on the provision of infrastructure (eg on roads and sewerage) nor should it overload local facilities such as schools and health care facilities.

(f) Local planning authorities should where appropriate include policies on these lines in their development plans.

Note

This PPG note draws principally on DoE circulars 14/84 and 12/87 and a Parliamentary statement by the Secretary of State for the Environment on 30 April 1986 (*Hansard*, column 414).

LOCAL GOVT: Planning Pts.

CONFIDENTIAL

A COPY

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-276 3000

My ref:

Your ref:

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

5 December 1988

Dear John

THE FUTURE OF DEVELOPMENT PLANS: WHITE PAPER

Willie Whitelaw, as chairman of H Committee, gave general approval on 30 November 1987 to the publication of a White Paper on our proposals for recasting the development plan system. The main proposals were to introduce a single-tier system of District Development Plans to replace the present two-tier system of structure and local plans; to provide for much simplified county statements; to simplify procedures and reduce the time needed for them, and to reduce the need for Ministerial intervention. Peter Walker and I postponed publication at that time because of the pressure on Parliamentary time.

We would, however, now like to go ahead and publish the White Paper as soon as possible. A copy is attached.

I would hope to be able to legislate on this in the 1989/90 session and will be bidding to QL Committee accordingly. But whether or not that bid is successful, Peter and I see great advantage in publishing our firm proposals now. In particular it will re-inforce the important message we have been putting over for some months about districts achieving comprehensive local plan coverage, by showing them how getting ahead with this will usefully anticipate the new proposals while reassuring them that work done now will not be rendered nugatory by our proposals. It will also put an end to speculation, some of it ill-founded, about what we propose.

The proposed changes do not extend to Scotland, where I understand that the existing system operates satisfactorily.

Copies of this go to the Prime Minister, other members of H, the Secretaries of State for Trade and Industry, Transport, and Energy, the Minister of Agriculture, Fisheries and Food and Sir Robin Butler.

Yours ever
Nicholas

NICHOLAS RIDLEY

DRAFT 2.12.88

THE FUTURE OF DEVELOPMENT PLANS

Introduction

I: **THE ROLE OF DEVELOPMENT PLANS**

The present development plan system
The 1986 consultation proposals
Responses to the consultation paper

II: **THE NEW SYSTEM**

The Secretary of State's role: national planning policies
Regional planning guidance in England
Planning Guidance in Wales
The role of the Counties
District functions
Areas with special planning regimes

III: **PROCEDURES FOR PLAN MAKING**

General principles
Statements of County Planning Policies
District Development Plans
Secretary of State's reserve powers
Joint working

IV: **IMPLEMENTING THE NEW SYSTEM**

Implementation and Transitional arrangements
Unitary development plans and simplified planning zones
Development control

V: **SUMMARY AND CONCLUSION**

WHITE PAPER: FUTURE OF DEVELOPMENT PLANS

Introduction

1. This White paper sets out the Government's proposals for legislation to simplify and improve the development plan system in England and Wales. It takes account of the responses received to the consultation paper The Future of Development Plans published in September 1986.

2. The town and country planning system in England and Wales, first introduced in 1947, has now been in operation for 40 years. For the most part it has served the country well: it has provided the means by which the needs of economic growth and development have been met while conserving our heritage of historic buildings and rural landscapes, preserving good agricultural land and protecting the Green Belts.

3. The Government is committed to maintaining an effective planning system that meets both the need for development and the interests of conservation. The Government's aim has been to simplify the system and improve its efficiency. Since 1979 it has carried out a progressive review and overhaul of the system, as part of its general strategy of removing unnecessary barriers to enterprise*.
The General Development Order and the Use Classes Order have been revised and simplified: both of these measures permit a wide range of minor development to be undertaken without the need for a separate planning application. The proposals in this White Paper are aimed at simplifying and improving the development plan system so as to provide a sound basis for development control.

* The measures are described in Lifting the Burden (Cmnd 9571), Building Businesses ...Not Barriers (Cmnd 9794) and Releasing Enterprise (Cm 512).

4. To be effective, development plans must look to the future in catering for the needs of development, while helping to protect and enhance the environment. They must provide developers and the public with a clear indication of where development will and will not be acceptable, and they must be responsive to unforeseen needs and opportunities. But they should concentrate on the essentials and exclude policies and proposals which are either not directly relevant to land use planning or involve needlessly detailed and restrictive controls.

5. The Government intends to achieve these objectives by -

i. publishing national guidance on planning policies - this is already well advanced through the new series of Planning Policy Guidance notes and Minerals Planning Guidance notes introduced earlier this year (current titles are listed at Annex A);

ii. providing regional planning guidance where necessary to assist in the preparation of new Statements of County Planning Policies and District Development Plans (as published in PPGs 9, 10 and 11);

iii. introducing a single-tier system of District Development Plans to replace the present two-tier system of structure and local plans;

iv. simplifying procedures, while continuing to provide for effective public participation in plan preparation;

v. reducing the need for Ministerial authorisation and intervention.

6. There is a strong element of continuity between the present and future systems. The proposed legislation will ensure that current plans and work already in hand on the review and up-dating of those plans can be readily assimilated into the new system. Statements of County Planning Policies will to a large extent draw on the key

features of existing structure plans and provide an epitome of established planning policy for the County, while taking account of current trends and providing for the period ahead. Likewise, the new District Development Plan will be able to incorporate existing local plans. The Government has already encouraged the extension of local plan coverage under the present statutory provisions. Well prepared and up-to-date local plans, consistent with national and regional policies, provide the best basis for planning at the local level. Without such a basis, the control of development can be an arbitrary process. In the absence of an adequate local plan, neither developers nor local people know where development will or will not be permitted.

7. The new District Development Plans will need to be kept under review and revised in the light of changing circumstances. Their preparation and revision must take full account of the views of local people on how necessary development can best be accommodated in ways that respect the local environment. Once a development plan for an area has been adopted, it should normally be given considerable weight in deciding planning applications and appeals, and strong contrary planning grounds need to be demonstrated to justify a proposal which conflicts with it.

8. The present proposals relate to the non-metropolitan Districts in England and Wales. In the metropolitan areas the Local Government Act 1985 provides for unitary development plans, which are very similar to what is now proposed for other areas - a single development plan for each District, prepared and adopted by the local planning authority and involving the participation of local people.

PART I: THE ROLE OF DEVELOPMENT PLANS

1.1 Development plans are an essential component of a rational land use planning system. They provide the framework within which planning authorities can look forward, identify the best means of accommodating future development needs, and ensure that those needs are properly reconciled with the interests of conservation. The plan preparation process provides the opportunity for local communities and other interested parties to express their views on the balance between continuity and change in the physical environment.

1.2 The 1986 consultation paper summed up the importance of development plans as follows:-

> "The planning system has to cater for a diverse and market-related pattern of economic activity. It has to facilitate economic development and employment opportunities. It has to respond to rapidly changing technology and to major changes in retailing, in manufacturing and in the use of leisure. It has to ensure that adequate provision is made for land for housing, making full use of derelict and vacant land in urban areas. The need now is for a system which is flexible and responsive in providing for these changes but which maintains its protection of those areas whose continued conservation is important to the future quality of life in Britain."

1.3 The Government recognises the role of elected planning authorities in deciding where development should occur in their areas. The best way to achieve rational and consistent control is for those authorities to make proper provision for development and conservation in development plans. Such plans will more than repay the cost of their preparation by facilitating the planning process. Ever since the Town and Country Planning Act of 1947, the legislation has required planning authorities in deciding planning applications to "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations". This will continue to be the case and the Government intend that where the plan

is relevant and up-to-date it should normally be given considerable weight in deciding planning applications and appeals, while also taking account of any other material considerations.

1.4 The reform of the development plan system is directly relevant to the issue of development control performance. One of the effects of the increased prosperity which the Government's economic policies have generated, has been a rapid growth in demand for both job-related development and new housing. This in turn has resulted in a substantial increase in the numbers of planning applications and appeals. Delays in the handling of applications and appeals can impose significant costs on companies and on individuals.

1.5 Development plans that are clear and up-to-date will help to secure economy, efficiency and amenity in the development and use of land. They can also help potential applicants to assess their chances of obtaining planning permission and thus reduce speculative applications and enable soundly based applications and appeals to be dealt with more promptly. Moreover, the fact that there is a coherent plan, and the knowledge that it will normally be given considerable weight in dealing with planning applications and appeals, can do much to increase public confidence in the planning system, and reduce the uncertainty and opposition that can be generated where applications have to be decided on an ad hoc basis in the absence of an adequate plan for the area.

The present development plan system

1.6 The present system of development plans outside London and the Metropolitan areas comprises structure plans prepared by the Counties and local plans which are normally prepared by the Districts. This system was introduced in the Town and Country Planning Act 1968 (later consolidated into the Town and Country Planning Act 1971)

1.7 The 1968 Act also changed the procedure for preparing and confirming development plans in several important respects. Until then the Secretary of State had been required to approve all development plans; the 1968 provisions retained the requirement for

Ministerial approval of structure plans, but did not require their approval of local plans. The Act also introduced new requirements for public consultation in plan preparation, and for a reasoned justification of the policies and proposals in the plan. To ensure that these requirements were met, procedures were included in the legislation to give the Secretary of State the opportunity to intervene and direct amendment of local plans where necessary. [To ensure consistency between the different levels of plan-making, provisions were introduced requiring local plans to be certified by County councils before being placed on public deposit.]

1.8 Full structure plan coverage of England and Wales took 14 years to complete and was not achieved until July 1985. Now that the initial structure plans are in place, the time from submission to approval of structure plan alterations and replacement plans still takes some 28 months on average. The time taken in preparation prior to submission can be even longer.

1.9 The coverage of local plans is still very incomplete. Outside London, about 20% of England and Wales (by population) is covered by formally adopted local plans. By 1 November 1988 only [54] out of the 333 non-metropolitan Districts had local plans on deposit or adopted which fully covered their areas. Leaving aside subject plans, some [70] Districts have no local plans at all, and the remainder frequently have local plans for only a small part of their area.

1.10 In the past local planning authorities have been advised to be selective in the preparation of local plans, but it has become increasingly clear that local plans are needed for the purposes of effective development control, although the degree of detail required will vary according to the needs of the area. In the absence of adopted local plans, some authorities have made use of informal, non-statutory plans which avoid the formal adoption procedures - but for that very reason cannot be accorded any substantial authority for development control purposes.

1.11 Procedural delays have been exacerbated in many cases by the increasingly detailed nature of the plans themselves. Many structure plans contain detailed development control policies which properly belong in local plans. Similarly, some local plans attempt a degree of detailed prescription and comprehensiveness which is not necessary. There is a considerable degree of overlap and duplication in the plan-making carried out at the County and District levels.

1.12 The requirement for the Secretary of State's approval to structure plans, including every alteration or replacement, has significantly added to the time taken to maintain up-to-date plans. And because of the unnecessarily detailed content of many structure plans, the Secretary of State has inevitably been drawn into consideration and modification of detailed policies which go far beyond the essential planning framework for the area.

The 1986 Consultation Proposals

1.13 The 1986 consultation paper proposed the following main changes to the present development plan system:-

i. wider coverage of regional planning guidance issued by the Secretary of State after consultation with the planning authorities in the area;

ii. abolition of the present County structure plan system, and its replacement by Statements of County Planning Policy, concentrating on matters that need to be dealt with at the County level;

iii. new single-tier District Development Plans, prepared by all District councils for the whole of their areas (but with discretionary provision for Counties to prepare separate minerals development plans);

iv. simplification of the procedures for preparing and adopting development plans, based on those for local plans, to reduce their complexity and shorten the timescale, but with proper provision for public consultation;

v. provision for the Secretary of State exceptionally to "call-in" or direct the modification of a Statement of County Planning Policies or District Development Plan, but no general requirement for his approval.

Responses to the consultation paper

1.14 There were over 400 responses to The Future of Development Plans, from a very wide range of organisations and individuals concerned with planning. The Government acknowledges the valuable part they have played in enabling the original outline proposals to be developed into proposals for legislation.

1.15 So far as it is possible to generalise, the overall response to the consultation paper's proposals was positive. The diagnosis of the short-comings of the present system was generally accepted, as were the Government's objectives for reforming it. There was general support for clearer statements of national planning policy. The intention to provide for regional planning guidance, in consultation with local planning authorities and others, was also widely welcomed.

1.16 There was general consensus on the need to retain an important role for the Counties in the planning process; on the need to avoid unnecessary detail at the County level; and on the need to speed up the whole process of plan preparation and revision. While a number of respondents argued for the retention of structure plans, there was also wide recognition that the present statutory arrangements required too great a degree of detailed involvement by the Secretary of State in structure plan approval and that this was a major cause of delay and complexity in the plan-making process.

1.17 There was widespread support for the concept of mandatory District-wide development plans, subject to some concern as to the ability of all District councils to draw up such plans within a reasonable timescale. It was suggested that there might be provision for Districts to prepare plans piecemeal for parts of their area, and to prepare plans jointly with other authorities. There was particular concern that the new arrangements should include mechanisms to ensure that District Development Plans were consistent with the Statement of County Planning Policies. Some respondents suggested that the best way of achieving this would be to provide that the Statements of County Planning Policies (like structure plans) should be formally part of "the development plan".

1.18 Strong support was expressed for the proposed introduction of a single development plan for each National Park, to be prepared by the National Park Authority. There was also wide support for retaining the present arrangements for minerals planning, including provision for separate County minerals development plans. There was little support for the concept of "rural conservation areas", and the general view was that policies for rural areas and conservation should be incorporated in the District Development Plans, taking account of County policies and existing protective designations such as Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest.

1.19 The consultation paper's proposals for streamlining the plan-making procedures received a positive response. The only suggestion to cause concern was the proposal that Inspectors conducting inquiries into District Development Plans should be free to comment on any aspect of the plan, and not restricted to considering objections to it. It was felt that the proposal could generate unnecessarily long and costly inquiries, and might imply unwelcome central intervention in the local plan-making process.

1.20 The proposal that responsibility for deciding certain types of planning applications of strategic importance should be transferred to the Counties elicited very little interest outside local government, and was not widely supported.

1.21 The rest of this White Paper sets out the Government's proposals for legislation in the light of these responses to the 1986 consultation paper. The main changes to the earlier proposals can be summarised as follows:-

i. the Government proposes to make no change to present development control responsibilities:

ii. it is proposed that Inspectors conducting public inquiries into development plans should be required to consider issues of consistency with national, regional and County planning policies, as well as individual objections made to the plan, but should not comment on any other aspects of the plan to which objections have not been raised;

iii. the concept of "rural conservation areas" will not be pursued but the full range of existing protective designations will be retained;

iv. provision will be made in the new arrangements for joint working between planning authorities where appropriate, including the National Park Authorities.

v provision will be made in the new arrangements for all Counties to prepare minerals development plans.

PART II: THE NEW SYSTEM

2.1. This part of the White Paper describes the main changes that the Government proposes to make to the present development plan system at the next legislative opportunity. The revised procedures which local planning authorities will be required to follow in preparing and adopting development plans are dealt with separately in Part III.

Secretary of State's role: national planning policies

2.2 In addition to their general responsibility for the statutory framework of the planning system, and their appellate function in respect of planning appeals, the Secretaries of State provide national policy guidance on issues of general relevance to the work of local planning authorities, in respect of both development plans and development control.

2.3. For many years, most policy guidance of this kind has been issued through departmental circulars. In January 1988, the first Planning Policy Guidance notes (PPGs) and Minerals Policy Guidance notes (MPGs) were issued. These notes are intended to provide clearer, more accessible and more systematic guidance on planning policies than has previously been available. The first PPGs and MPGs have been generally welcomed. The series will be extended to cover other policy matters from time to time.

2.4. In future, departmental circulars will be used to provide advice on administrative and procedural aspects of planning, rather than policy matters. The need to retain existing circulars will be reviewed as necessary. Occasionally, the Secretaries of State need to provide guidance promptly on a specific topic or procedural matter, and this is usually done by Parliamentary statements or written answers to Parliamentary questions. There will continue to be the need for Ministers occasionally to issue advice in this way, but such statements will subsequently be incorporated into circulars, PPGs or MPGs as appropriate.

Regional planning guidance in England

2.5. Most of the advice issued by the Secretaries of State applies throughout the country, and all authorities must have regard to it. Some planning issues, though not of national scope, apply across particular regions or parts of regions and need to be considered on a wider geographical basis than a single County or District.

2.6. The Secretary of State for the Environment has already published guidance on such issues for some regions. For example, regional guidance for South East England was issued in July 1986, following consultation with the South East Regional Planning Conference (SERPLAN), and has been reproduced in PPG 9. Similarly, PPG 10 reproduces the strategic guidance issued for the West Midlands Metropolitan area in February 1988, which provides the Metropolitan Districts with the guidance for the preparation for their unitary development plans. Guidance was similarly issued for Merseyside in August 1988 (now PPG 11), and is in preparation for London and the other Metropolitan areas. It will be published in the PPG series.

2.7. The provision of regional planning guidance by the Secretary of State for the Environment has usually been in response to proposals from conferences or groupings of local planning authorities. The need for guidance from the Secretary of State has been widely recognised, and it is intended to continue this process, which involves cooperation among the local planning authorities, consultation between central and local government and the publication of guidance in draft for public comment. Such arrangements may not be needed in all areas but local authorities are free to take the initiative in setting up similar arrangements where there are matters that can usefully be addressed on a regional or sub- regional basis. It is important to involve business organisations, developers and bodies representing conservation and other interests in such discussions.

2.8. Where guidance is issued by the Secretary of State, the Counties must have regard to it in preparing their Statements of County

Planning Policies and the District's in preparing their development plans; both the Statements and development plans must be consistent with any relevant national and regional planning guidance.

Planning Guidance in Wales

2.9 The response in Wales to the consultation paper suggested that the particular administrative and planning circumstances in the Principality, especially the multi-functional role of the Welsh Office, require a distinctive approach to the development of regional planning guidance. The Secretary of State for Wales proposes that a series of guideline documents should be produced by the Welsh Office for consultation with the local authorities and other bodies in Wales.

The role of the Counties

2.10. The Counties will continue to have a very important role in the planning process, both in relation to the preparation of regional guidance and in the formulation of planning policies on issues which need to be considered on a County-wide basis. In future, County policies will be formulated through the preparation and adoption of Statements of County Planning Policies, rather than through the present structure plan procedures.

2.11 The Statements of County Planning Policies will differ from the structure plans which they will replace in three important respects. First, the Statements will concentrate on those issues which genuinely need to be dealt with at the County rather than the District level (see paragraph 2.13.) Second, the County role will be more clearly defined and distinguished from that of the Districts. Third, each County will itself be responsible for adopting its Statement of County Planning Policies and for conducting the public examination of the draft statement: the Statement will not be subject to formal approval by the Secretary of State (subject to his reserve powers - see paragraph 3.14).

2.12 Each County planning authority will be required to prepare a Statement of County Planning Policies on a defined range of subjects, having regard to any planning guidance issued by the Secretary of State. The Statements will generally be expressed in broad policy terms as distinct from the degree of detail appropriate to the District Development Plans. Their principal purpose will be to provide a framework within which the District Development Plans can be prepared by the District councils. The County Statements will not identify detailed land allocations for particular types of new developments, though they may need to contain general locational guidance. They will comprise a written statement of planning policies, accompanied by a separate commentary on those policies; (the commentaries will not form part of the Statement as such). Diagrammatic maps may be included where necessary - eg. to indicate the general extent of the approved Green Belt.

2.13 In order to ensure that there is a clear distinction between the roles of County and District planning authorities, and to avoid the overlap that often exists at present between structure and local plans, there will be power for the Secretaries of State to specify the subjects which Counties may include in their policy statements. Where necessary Statements of County Planning Policies should include the County council's policies on:

i new housing (including figures for housing provision in each District);

ii Green Belts and conservation in town and country;

iii the rural economy;

iv major industrial, office, retail and other employment generating development;

v strategic highway and other transport facilities;

vi mineral working and protection of mineral resources;

vii waste disposal (in England), land reclamation and re-uses.

Any extension of the Statement of County Planning Policies beyond this "core" of strategic issues will require the prior agreement of the Secretary of State. So far as possible counties should aim to produce Statements that will be relevant for 10 years from the likely date of adoption. Counties will be required to keep their Statements up to date. Alterations may be necessary following the issue of new or revised regional planning guidance by the Secretary of State or new advice, for example on the projected growth of households.

2.14 There will be no general provision for separate subject plans in the new development plan system, but the issues raised by mineral resources and associated development will require the preparation of a minerals development plan by each County council. The procedures for preparing and adopting minerals development plans will be similar to those for other development plans, as described in Part III.

2.15 In England, development control responsibility for waste disposal, as well as minerals, will remain with the County councils. It will be open to them to include policies for waste disposal in a joint minerals and waste disposal development plan; but this will be a matter for the discretion of individual authorities.

District functions

2.16. The main feature of the new development plan system will be comprehensive District Development Plans. These plans will cover the whole of the District's administrative area, but may include inset maps to a larger scale e.g. for town centres. Outside the National Parks, District councils will be responsible for the preparation of the development plan. As with County Statements, Districts should aim, so far as possible, to produce plans that will be relevant for 10 years from the likely date of adoption. Districts will be required regularly to review their development plan, so as to keep it up-to-

date. Once the complete plan is in place, partial revision will be possible, provided that the statutory obligation to maintain a development plan for the whole District is met.

2.17 The District Development Plans will be similar to existing local plans in scope and content. They will be required to be consistent with national planning policies and any regional planning guidance issued by the Secretary of State, and with the Statements of County Planning Policies. The plan preparation procedures (see Part III) will provide for the views of the local community to be taken fully into account before plans are finalised.

2.18 The District Development Plan will provide guidance to potential applicants for planning permission on the policies that will be applied by the planning authority in considering individual applications. To ensure that this guidance is clear, the plans will comprise both a written statement and specific land-use proposals on a map base. The plan will be accompanied by a written commentary on the authority's policies and proposals, but this will not comprise part of the plan.

2.19 As the preparation of District-wide development plans will be mandatory, there will be no place in the new system for "informal" or "non-statutory" development plans. Supplementary planning guidance - for instance, in the form of planning briefs - will continue to be useful in explaining and applying the development plan's provisions to particular areas, and in encouraging applicants for planning permission to adopt good standards of design and layout. But such advisory material should not be treated as though it were of a statutory or regulatory character with which planning applications must comply. Specific requirements, e.g as to off-street parking standards should be included in the development plan if they are to be relied upon in the exercise of development control.

2.20 The requirement for District-wide development plans will also provide an opportunity to integrate the designation of conservation areas with the plan-making and review process. Such a change would provide for equivalent procedures and public involvement when new

conservation areas are considered and when changes to existing areas are proposed. There will be separate consultations on this proposal in the near future.

Areas with special planning regimes

2.21 The arrangements for development plans in the National Parks will need to reflect present variations in administrative arrangements and in the geographical circumstances of the parks. In all cases, the National Parks Authorities are responsible for deciding the full range of planning applications, including minerals and waste disposal. The Government proposes that all National Park Boards and Committees should be required to prepare a development plan for their area, comprising the functions performed elsewhere by Statements of County Planning Policies, the County minerals development plan and District Development Plans. However, it may be necessary to give National Park Authorities discretion to adapt these arrangements to local circumstances, subject to the Secretary of State's approval, and there will be separate consultation on this with each of the National Park Authorities and the County and District authorities concerned.

2.22 Some specially designated areas are subject to separate planning arrangements, normally aimed at facilitating rapid development or redevelopment. The arrangements for areas covered by Urban Development Corporations new towns, enterprise zones and simplified planning zones generally last for a finite period before the areas revert to normal planning control by the local authorities. As these are temporary planning arrangements, the areas are best excluded from detailed development plans, although local planning authorities will need to have regard to them in preparing their policies and proposals for the rest of their area. The boundaries of such designated areas should be shown in the development plan but without further detail.

PART III: PROCEDURES FOR PLAN MAKING

3.1 This part of the White Paper outlines the procedural changes which will accompany the new development plan system, described in Part II.

General principles

3.2 The procedural aspects of the new system will be designed to meet the general objectives outlined in Part I:

- to simplify the form and content of plans;
- to speed up their preparation and review;
- to define responsibilities clearly so as to avoid duplication;
- to provide effective but less protracted arrangements for public involvement in the planning process;
- to reduce the need for Ministerial authorisation and intervention; and
- to facilitate the transition from the existing to the new system, so as to ensure continuity and the ready assimilation of work already in progress on plan preparation and review.

3.3 The procedures for the preparation and adoption of the Statements of County Planning Policies and the District Development Plans need to be as efficient as possible, while providing proper scope for public scrutiny and comment. The optimum balance between these requirements cannot be prescribed uniformly to suit all circumstances. Some discretion is necessary, for example, to allow local planning authorities to provide opportunities for public involvement during the preparation of the draft Statements of County Planning Policies and District Development Plans. The statutory procedures will therefore prescribe the basic requirements but there will also be scope to adapt these to meet local circumstances.

3.4 The consultation paper sought views on possible changes to the procedures currently in force. Those modifications were generally well supported and they will, for the most part, be incorporated in the new system. The following paragraphs describe the procedures proposed for preparing and adopting the Statements of County Planning Policies and the District Development Plans.

Statement of County Planning Policies

3.5 As set out in part II, the Statement of County Planning Policies will comprise a written statement of policies and proposals. There will be a separate written commentary on the draft policies and proposals but this will not form part of the Statement.

3.6 When preparing their Statements, County councils will be required to have regard to any national policy guidance and to any regional planning guidance issued by the Secretary of State. They will be required to consult the District planning authorities in their area and any other statutory bodies with relevant interests, including Government Departments. The draft Statements will be published and available for public inspection. A period of six weeks will be allowed for the making of objections and representations.

3.7 Where there are contentious issues in the Statement that require public discussion, there will be provision for an examination-in-public conducted by a Panel, with the Chairman of the Panel and an Inspector nominated by the Secretary of State. The County will specify the issues for discussion but they will be required to include any matters raised by a District council or by the Secretary of State. The County council will be responsible for making the arrangements for the examinations in public and the Panel will report directly to the council. The Panel's report will be published and made available by the County for public inspection until the County Statement is adopted.

3.8 There will be no statutory requirement for further public involvement after the examination-in-public. The County will decide what modifications to make to its draft policy statement, and publish

notification of its decisions on the Panel's recommendations. At the same time the County will advertise their intention to adopt their Statement as modified, and will make a copy of the appropriate documents available to the Secretary of State, to the District councils and to the general public. Unless the Secretary of State directs otherwise, the County council will be able to adopt their statement, as modified, 28 days after advertising their intention to do so.

3.9. There will be a general duty on County councils to keep their Statements of County Planning Policy up-to-date (see paragraph 2.13). To facilitate the alteration of Statements of County Planning Policies, County councils will have discretion to decide, in the light of representations made on the draft alterations, whether an examination-in-public is necessary.

The District Development Plans

3.10 The procedures for preparing and adopting District Development Plans will be based on those currently used in local plans but with some changes designed to reduce the time taken to completion. Several of the existing requirements, which at present have to be followed consecutively, will be dealt with concurrently in the new system.

3.11 The new procedures for District Development Plans will also apply to minerals development plans and to National Park development plans. The three statutory steps towards adoption will be:

- publication of the draft plan, with six weeks for public objections or representations;

- a local public inquiry, where objectors exercise their right to be heard by an independent Inspector;

- publication of any modifications to the draft plan and of the authority's intention to adopt the modified plan, with a single period of six weeks for public objections to either the modifications or the intention to adopt.

3.12 District Development Plans will be required to be consistent with national and any regional planning guidance issued by the Secretary of State and with the Statements of County Planning Policies. District planning authorities will be required to consult, during the preparation of the draft plan, the County council and any statutory bodies likely to be affected. The present requirement to submit a report to the Secretary of State on the steps being taken to publicise the proposals and on consultations with other bodies will be discontinued, as will be the requirement to obtain a certificate of conformity from the County council. Once the draft plan is published, there will be one period of six weeks for the public to comment.

3.13 There will be a local public inquiry, held by an Inspector appointed by the Secretary of State, to hear objections to the plan. Any other representations may be heard at the Inspector's discretion. The Inspector will also consider whether the plan is consistent with the County Statement and with relevant national policies and any regional planning guidance issued by the Secretary of State. The County council will be able to appear at the inquiry to make representations on any concerns it has about the consistency of the District Development Plan with the Statement of County Planning Policies.

3.14 After the inquiry, the District will be required to publish the Inspector's report while they consider what action to take on each of his recommendations. Any modifications to the draft plan, the District's statement of decisions on the Inspector's recommendations and the notice of intention to adopt the plan, as modified, will all be published at the same time. If no further modifications are to be made, the authority will be able to adopt the plan after six weeks, unless the Secretary of State directs otherwise. Further modifications would require a further advertisement. These post-inquiry arrangements will help to shorten the time taken to complete the remaining formal stages towards adoption of the plan. They will not

reduce the public's entitlement to object to proposed modifications or their right to ask the Secretary of State to call in the plan for his own consideration.

3.15. There will be a duty on District councils to keep the District Development Plan up-to-date and to alter it, as soon as practicable, to make it consistent with any substantial alterations made to the Statement of County Planning Policies. To expedite the alteration of plans, provision will be made for objections to be considered by a written representations procedure, using an Inspector appointed by the Secretary of State, instead of holding a local public inquiry. This form of procedure will be appropriate where there is no substantial number of conflicting representations.

3.16 When considering individual planning applications and appeals, considerable weight will normally be given to the development plan. However, there will be times when the District Development Plan is temporarily inconsistent with the Statement of County Planning Policy or with the planning guidance issued by the Secretary of State, because one of these have been amended recently. In considering an application where the new advice from the Secretary of State or the County council is a relevant issue, such material considerations may over-ride the District Development Plan until it has been altered.

Secretary of State's reserve powers

3.17 The responsibility for preparing and adopting the Statements of County Planning Policies and the District Development Plans will rest upon the appropriate local planning authorities. The Secretary of State's responsibility for the operation of these aspects of the planning system will include the provision of national policy guidance, with regional planning guidance where necessary, together with certain reserve powers of direction or intervention similar to those that exist at present. Those powers have seldom been used and it is not envisaged that they would need to be used any more frequently under the new development plan system.

3.18. As the Secretary of State will no longer be required to consider and approve development plans, some consequential adjustments to his reserve powers will be needed, including changes to permit more selective intervention than at present. He will also have powers to ensure that authorities undertake their statutory responsibilities in a timely way and to provide for remedial action, as described in paragraph 4.4.

Joint working

3.19 The existing development plan system allows local planning authorities to prepare structure plans and local plans jointly. This facility is at present used mainly in and around the National Parks. For example, Cumbria County Council and the Lake District National Park Authority have a joint structure plan and there are several jointly prepared local plans covering urban communities on the fringes of some National Parks. The new development plan system will include provision for joint work between planning authorities, including Counties, Districts and National Park Authorities, where authorities are willing to cooperate in this manner.

PART IV: IMPLEMENTING THE NEW SYSTEM

4.1. The following paragraphs deal with the arrangements for introducing the new development plan system, including the consequential adjustments that will be needed to the unitary development plan arrangements which are being progressively introduced in the Metropolitan areas and London. They also set out the conclusions on the arrangements for development control.

4.2. The legislation required to establish the proposed development plan system will need to make provision for an orderly transition from the present system. It will be important to avoid the long delays which were associated with the introduction of structure and local plans. It is also necessary to ensure that the present arrangements for dealing with structure and local plans can continue until the new Statements of County Planning Policies and District Development Plans have been prepared and adopted.

4.3. Pending the introduction of the necessary legislation and the implementation of the new system, local planning authorities are encouraged to continue with the preparation of structure and local plans. The wider the cover of comprehensive and up-to-date local plans, the simpler will be the transition to the new system. Development planning undertaken in advance of the introduction of the new system will help authorities to deal with current development pressures and will also assist in the prompt and effective implementation of the new arrangements. Advice on the preparation of local plans is given in the recently published Planning Policy Guidance note 12.

Implementation and Transitional arrangements

4.4 Once the necessary legislation has been approved by Parliament, planning authorities will be able to proceed promptly with the preparation of Statements of County Planning Policies and District Development Plans. As explained in part I, the arrangements will provide for the ready assimilation of existing plans into the new

system, and work already in progress on plan preparation and review can be carried forward in a way that will be compatible with the new system. Counties will be expected to have their Statements of County Planning Policy adopted within 2 years of commencement of the legislation. Districts will also be able to begin preparing their draft District Development Plans, but they will not be able to adopt these until the County have adopted their Statement, unless specifically authorised by the Secretary of State. Districts will be required to complete and adopt their development plans within 3 years of the County Statement being adopted, but in most cases they should be able to achieve that within a shorter period. There will be provision for the Secretaries of State to issue a timetable for the preparation of a draft County Statement or District Development Plans and to make arrangements for their preparation, where an authority has failed to carry out its statutory responsibilities.

4.5 The legislation will make provision for local planning authorities to incorporate existing local plans, in whole or in part, into the new development plans, and for the retention of existing mineral plans by County councils. Where policies and proposals are incorporated unamended into the new development plans, these will not be open to challenge or debate unless they are not consistent with the Secretary of State's guidance or the adopted Statements of County Planning Policies.

4.6. When a District Development Plan has been adopted, it will supersede any extant plans. These arrangements will apply also to minerals development plans, which will supersede minerals subject plans, and to National Park development plans.

4.7. Some old development plans prepared under the 1962 Act have been continued in force, in whole or in part, by orders made under the 1971 Act. It is no longer appropriate to maintain those arrangements or to allow structure and local plans to continue in force indefinitely. There will be provision for the automatic revocation of any remaining development plans prepared under earlier legislation five years after commencement of the new development plan system.

Unitary development Plans and simplified planning zones.

4.8 It is intended to harmonise the terminolcgy and the detailed procedures for plan-making in the Metropolitan areas and London, with those now proposed for the rest of England and Wales. Such changes will, for example, allow Metropolitan and London planning authorities more discretion about the retention or repeal of existing local plans. The aim will be so far as possible to provide uniform, or closely comparable, procedures for the preparation and adoption of development plans throughout England and Wales, so as to assist public understanding of the system and its effective operation.

4.9 The simplified procedures proposed for the new development plan system will also apply to simplified planning zones, and should facilitate the wider adoption of such schemes.

Development control

4.10 District planning authorities are responsible for receiving and deciding all individual planning applications, other than those for mineral working (and waste disposal in England), which are the responsibility of County councils. In National Parks, the National Park Authority is responsible for deciding all applications. In England, Urban Development Corporations are responsible for deciding planning applications within their area. In Wales, however, the local authorities retain development control powers in the Cardiff Bay Development Corporation areas.

4.11 The Government has reviewed the current distribution of responsibilites between Counties and Districts for deciding planning applications and is not convinced that any changes need to be made at present. It has considered the case for extending the County councils' jurisdiction to give them responsibility for applications for certain other types of major development but is not at present persuaded that the possible advantages of such a change would outweigh the uncertainty and delay that might result from a less clear-cut division of responsibility between Counties and Districts than exists at present.

PART V: SUMMARY AND CONCLUSION

5.1 The main proposals are:

- a wider coverage of regional planning guidance, issued by the Secretaries of State after consultation with the local planning authorities in the area;

- introduction of Statements of County Planning Policies, which will replace structure plans and concentrate on matters which need to be dealt with at County level;

- introduction of a single-tier system of development plans, to be prepared by all District councils for the whole of their area;

- retention of separate minerals development plans, which will be a mandatory duty on the Counties;

- streamlining of the procedures for preparing and adopting development plans, based on those for local plans, but retaining proper provision for public consultation;

- procedures for preparing and altering Statements of County Planning Policies, similar to those used at present for structure plans but without the need for Ministerial approval;

- reserve powers, similar to those in the planning Acts at present, enabling the Secretaries' of State to intervene in the planning process, where necessary, and to ensure the fair and effective operation of the planning system.

Conclusion

5.2 The Government's proposals published in The Future of Development Plans 1986 have been the subject of wide consultation. The aim is to simplify the planning process and improve its efficiency, so as to serve effectively the needs of development and the interests of conservation, thus protecting and enhancing the environment in town and country. The main components of the new system and the procedures now proposed are set out in this White Paper. The Government intends to introduce legislation to implement them at the earliest opportunity.

With the Compliments of

the Attorney-General

Attorney General's Chambers,
Law Officers' Department,
Royal Courts of Justice,
Strand, W.C.2A 2LL

01-936 6201

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

The Rt. Hon. Peter Walker MBE MP
Secretary of State for Wales
Gwydyr House
Whitehall
LONDON SW1A 2ER

5 December 1988

Dear Peter:

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

I have seen the recent exchange of letters between Nicholas Ridley and yourself in connection with the draft of a Circular you are proposing to issue to Welsh planning authorities about the relevance of the Welsh language as a planning consideration. I am glad that you have felt able to incorporate the minor amendments I advised should be made in my letter of 21 September.

I have considered Nicholas' proposal to omit the opening words in paragraph 2 of the earlier draft of the Ciruclar, so as to delete the reference to the protection of the character and way of life of a community. In view of the statement elsewhere in the Circular requiring a clear link between the Welsh language and the social fabric of the community in question before the language may qualify as a relevant planning consideration, I do not consider it likely that the changes Nicholas has requested will give rise to any legal difficulties with the Circular. Accordingly, I am content with what is proposed.

I am sending a copy of this letter to the Prime Minister, Nicholas Ridley, Malcolm Rifkind and Sir Robin Butler.

Yours ever,

LOCAL GOVT
Planning pt 5

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel 01-270 3000 (Switsfwrdd)
01-270 (Llinell Union)

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel 01-270 3000 (Switchboard)
01-270 (Direct Line)

Swyddfa with Ysgrifennydd Gwladol Cymru

THE RT HON PETER WALKER MBE MP From The Secretary of State for Wales

CT/2125/88

29 November 1988

Dear Secretary of State

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

Thank you for your letter of 8 November.

I note that the objections which you raise to my issuing a circular rest now on policy rather than law and I do understand your unease at references to the character and way of life of a community. I would therefore be prepared to omit such references and attach a clean copy of the circular as amended.

You also mentioned your proposals for "local needs" housing and the possibility of handling the Welsh language issue alongside these. The problems of providing affordable housing for people living in villages and small country towns are of concern in parts of Wales as in England and I will be interested to hear what you have in mind.

I would of course be happy to discuss these matters with you, though if you can agree the revised text of my circular without a meeting - and Patrick Mayhew has no objection to this amended draft - so much the better. You will appreciate that I am anxious to press on with its issue.

I am sending a copy of this letter to the Prime Minister, Patrick Mayhew, Malcolm Rifkind and Sir Robin Butler.

Yours sincerely

Keith Davies

Approved by the Secretary of State
and signed in his absence

Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
2 Marsham Street
London
SW1P 3EB

DRAFT WELSH OFFICE CIRCULAR

THE WELSH LANGUAGE: DEVELOPMENT PLANS AND PLANNING CONTROL

1. The purpose of this circular is to clarify the position of the Welsh language in relation to development plans and as a consideration in planning control.

DEVELOPMENT PLANS

2. In preparing structure and local plans local planning authorities have to consider the relationship of planning policies and proposals to social needs and problems including their likely impact on different groups in the population. Where use of the Welsh language is a component of the social fabric of a community it is, clearly, appropriate that the implications of this be taken into account in the formulation of the land use policies expressed in structure and local plans.

3. County planning authorities are required to indicate in the explanatory memorandum accompanying structure plan proposals the regard which they have had to social considerations. Where a planning authority have considered it appropriate to take account of the needs and interests of the Welsh language, the Secretary of State expects that they will include in this part of the memorandum an explanation of how their proposals reflect those matters. Where the Welsh language has been taken into regard in preparing a local plan it will be appropriate for the plan to indicate that fact.

PLANNING CONTROL

4. Where an application is made to a local planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Policies which relate to the needs and interests of the Welsh language may properly be among those considerations. This requirement bears equally on the Secretary of State and his Inspectors in considering planning appeals.

5. The policies will usually be found in the development plan. But the provisions of the development plan are not to be regarded as overriding other material considerations especially where the plan was approved several years ago and may not be well related to today's conditions. Where however a development

/plan is ...

plan is up-to-date and relevant to a particular proposal the plan is normally given considerable weight in the decision and strong contrary planning grounds have to be demonstrated to justify a proposal which conflicts with it.

6. Decisions in individual cases where the needs and interests of the Welsh language may be a material consideration, whether that consideration flows from policies in the development plan or elsewhere, must as with all other planning applications, be based on planning grounds only and must be reasonable. While it has been held that material considerations can cover a wide field they must be genuine planning considerations, that it, they must be related to the purpose of planning legislation, which is to regulate the development and use of land. In determining planning appeals where the language is an issue therefore the Secretary of State and his Inspectors will expect local planning authorities to produce specific evidence of the land use planning considerations which have led to their decision.

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

29 November 1988

Thank you for your letter of 25 November following up the record of the Sainsbury Group meeting. This will be very helpful. I would be grateful if you could let me have a specimen copy of the report which the CPI provides to Ministers on appeals performance. I am sure this will be useful.

(DOMINIC MORRIS)

A.D. Ring, Esq.,
Department of the Environment.

CF CCPU

R25/11

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

Dominic Morris Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

25 November 1988

Dear Dominic

Your letter of 25 October recording the Prime Minister's meeting with the Sainsbury Group includes reference to delays in dealing with an application for an out-of-town shopping centre at Exeter.

This is an exceptionally complicated case. There are altogether 14 appeals and called-in applications by rival developers for regional and district shopping/leisure/commercial centres both in and around Exeter in sites falling within 3 different local authorities. The first appeal was lodged in February 1986 and further appeals were received and applications called-in throughout that year and early in 1987. The inquiry was necessarily complex with so many cases and issues under consideration. It took place between February and October 1987, and the Inspector delivered his report in late July this year. With so many cases and such complex issues and the strong prospect that one or more of the developers will seek to challenge the decision in court, the report has had to be studied with care. Ministers expect to issue the decisions in the next few weeks. It has in fact proved possible and to detach two minor cases and those decisions have been issued. So this is no a normal case and there is no undue delay considering its complex nature.

Your letter also referred to the Prime Minister's suggestion that my Secretary of State might institute a simple progress-chasing mechanism so that Ministers were aware of the state of planning appeals and could identify those that were taking an undue lengthy of time earlier in the process than was currently the case.

The Chief Planning Inspector now provides Ministers in this Department with a regular report on appeals performance, which will ensure that Ministers have both more systematic information to monitor overall performance, and a clear account of the reasons for delay in each individual case which comes before them.

You told me that Sir John Sainsbury has been in touch with you about the role of the Inspector in relation to the proposed district development plans. Sir John has also written to Mr Howard about this and I enclose a copy of the Minister's reply.

Yours

A D RING
Private Secretary

Minister for Water and Planning

Department of the Environment
2 Marsham Street
London SW1P 3EB

Telephone 01 276 3310

H/PSO/72421/88

24 November 1988

Dear John

Thank you for your letter of 3 November.

In our original consultation paper on the future of development plans we proposed that the Inspector's role in relation to local plan inquiries might be widened so as to enable him to consider all aspects of the plan and not only, as at present, aspects to which objections had been raised. This proposal attracted a good deal of concern, chiefly because of the prospect that by widening the scope of the inquiry in this way the time taken to pepare and adopt local plans would be greatly extended. We think that there is a good deal of force in this argument and what we now have in mind is that this wider role of the Inspector should be related to the question of whether the local plan is consistent with national and regional planning policies and with the county statement. I think that this secures the main point that concerned you.

As to other aspects of the procedure for District development plans, the consultation paper envisaged that these would be similar to those for local plans at present (subject to some simplification), and the Inspector would report to the local authority as at present. The Secretary of State would, however, have powers to intervene and call in all or part of the plan for his consideration and to direct modification if necessary. This point was covered in our discussion with the Prime Minister.

Yours ever
Michael

MICHAEL HOWARD

Sir John Sainsbury

LOCAL GOVT: Planning Controls PTS

CCPS

2 MARSHAM STREET
LONDON SW1P 3EB
01-276 3000

My ref:

Your ref:

The Rt Hon Peter Walker MSE MP
Welsh Office
Gwydyr House
Whitehall
LONDON
SW1

8 November 1988

Dear Secretary of State,

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

The advice in Patrick Mayhew's letter of 21 September makes clear that the issue to be resolved is one of policy. My officials have discussed your proposed circular with yours.

I remain concerned that we should not provide ammunition to those who would like to use the planning system to serve sectional interests. It seems to me that what you propose could easily become the thin end of a highly undesirable wedge. The thick end would be local authorities' ability to control both the tenure and the occupancy of any new housing development in their areas, and to restrict the freedom of people who had bought their houses under the Right to Buy to sell them to anyone of their choice.

I am particularly concerned by the opening of paragraph 2 of your proposed circular. Planning certainly has a part to play in ensuring the health of communities, both rural and urban but if "the protection of the character and way of life of a community is a proper aim of town and country planning", then potentially any local authority could argue that it had its own (restrictive) "character and way of life" to protect. I would prefer a much narrower definition limited in effect to Welsh speaking areas in Wales.

I am also concerned about the prospect of Government advice that could be taken to have a cultural or racial bias I do not think your proposal can be confined within the boundaries of the Principality. If your proposed Circular were to issue, it could well provoke pressure from groups and localities in England and seeking similar protection for their particular interests or areas.

I would like to discuss this with you as soon as we can manage. It may well be that the Welsh language issue can be handled alongside some proposals I am considering for resolving the issue of "local needs" housing more generally.

I am sending a copy of this letter to the Prime Minister, Patrick Mayhew, Malcolm Rifkind and Sir Robin Butler.

Yours sincerely,

DP

NICHOLAS RIDLEY
(Approved by the Secretary of State
and signed in his absence)

LOCAL GOVT: Planning Pts

CCPU

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switsfwrdd)
01-270 0549 (Llinell Union)

ODDI WRTH YSGRIFENNYDD
PREIFAT YSGRIFENNYDD
GWLADOL CYMRU

PA

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switchboard)
01-270 0549 (Direct Line)

FROM THE PRIVATE SECRETARY
TO THE SECRETARY OF STATE
FOR WALES

CT/2116/88

8 November 1988

Dear Dominic,

Thank you for your letter of ~~25~~ Aug October.

We have identified the cases referred to at the Sainsbury Group discussion. There are in fact 3 appeals involved: a proposal to demolish a building in a Conservation Area and 2 proposals for the approval of detailed plans reserved on the grant of earlier planning permissions for residential development, all 3 in Chepstow.

We have done a thorough check and there is no record within the Department of any response having been given to the appellants or anyone else to the effect that "it would take 4 months ... before a decision was reached". In fact work on the 3 appeals is well under way and it should be possible to issue the decision letter soon.

My Secretary of State very much agrees on the need for quick decisions on planning appeals, and had already, prior to this particular issue arising, put in hand a review of the Department's management of planning appeals with a view to improving performance.

Yours ever,
Stephen

S R WILLIAMS

Dominic Morris Esq
Prime Minister's Office
10 Downing Street
London
SW1A 2AA

RS/11

From Sir John Sainsbury Chairman & Chief Executive

SAINSBURY'S

J Sainsbury plc
Stamford House
Stamford Street
London SE1 9LL

01-921 6000

Telex 264241

3rd November, 1988

Mr. Dominic Morris,
10, Downing Street,
London,
SW1A 2AA

BP 9/11

Dear Mr. Morris,

Hop

Thank you very much for your letter and for giving us such a useful record of the meeting which was held on 24th October. There are a number of points arising from your "personal record" that I should raise with you.

The first one occurs in the third paragraph of Page 2, where you refer to primary and secondary zones. What, in fact, I understood was being put forward was the concept of primary and secondary uses of specific zones, and not primary and secondary zones themselves.

Secondly, in the following paragraph you record the point about Inspectors looking at local plans. I do not think the Secretary of State said what you imply. Guidelines are guidelines. The Inspectors do not and, as far as we understand, would not have the powers to cancel local plans if they did not meet any published guidelines.

At the end of the section on Development Plans we, in fact, suggested that rather than reduce the number of appeals, we thought the proposal could well be counter-productive.

.../...

LOCAL GOVT
Planning pt 5

Finally, can I say that I did find your letter, in general, extremely helpful. There was a point discussed with my colleagues subsequent to the meeting with the Prime Minister, which I am writing to Michael Howard about, and dependent upon the outcome of this correspondence, I may well wish to write to you further, so that the Prime Minister can be brought up-to-date with our views.

Yours sincerely,

John Sainsbury

dti

the department for Enterprise

NBPM - at this stage.

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref PB6AAK
Your ref
Date 31 October 1988

Dear Nicholas,

I have been reflecting on our discussion last week with the Sainsbury Group on the handling of planning appeals. I look forward to seeing your draft consultation paper but there is one point I would like to flag up now.

While I support the introduction of a charging system, I am clear that its purpose should be to improve the quality of service rather than choke off demand. We must be seen to be improving the system by substantially reducing the time taken for appeals to be processed. Delays are very costly to business and any time saved should have economic benefits for outweighing the immediate costs of the Inspectorate.

I am copying this letter to the Prime Minister and to Michael Howard, John Cope and Christopher Chope.

Yours ever,
David

the Enterprise initiative

SUBJECT MEETING RECORD
cc MASTER

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

26 October 1988

Dear Sir John

As you know, the meetings of the Sainsbury Group are not formally minuted. But, as was done after the last meeting, I set out below my personal record of the meeting which the Prime Minister held on 24 October.

The Prime Minister welcomed you and your colleagues and invited you to open the discussion. The main points covered were as follows.

Planning Appeals

The Group remained concerned that the targets which had been set for the handling of planning appeals were still little nearer to being met. The percentage of applications allowed had been broadly consistent over the previous four years. The increase in the number of applications reflected increased demand for new buildings as a result of economic growth rather than developers chancing their arm with applications of more doubtful quality. The idea of transforming the Inspectorate into an executive agency was in principle enthusiastically welcomed by the Group but it would be necessary, in their view, to give the agency sufficient managerial and recruiting freedom to be able to compete with the private sector to attract the necessary talent. Interim action needed to be taken before the Inspectorate could become an agency to cut the time taken over the handling of appeals; the median times disguised some particularly bad cases. The Group mentioned an application for an out of town shopping centre at Exeter, where the appeal had been outstanding for two years, and a case in Monmouth where the Inspectors' report had been received on 9 September but the company concerned had been told it would take at least four months from then before a decision would be made. A number of possible actions to cut the time taken were discussed. There was general agreement on proposals for charging and the possibility of your Secretary of State taking powers to refuse the right to a public inquiry where the demand for one was 'unreasonable'. The Group agreed that, on balance, placing a maximum time limit on particular classes of inquiry was not worthwhile; those cases where such

a time limit could be imposed were prima facie candidates for refusal to grant an inquiry in the first place. It was agreed that the facility for informal hearings on applications had much to commend it. Because both parties had to agree to use the procedure, it was used only for very small developments - in practice, those of five or fewer houses. The code of practice did not, however, limit the number to five houses, and it was agreed that this facility, and the fact that the guideline did not place a limit on its use in the way currently imagined, should be made more widely known.

Development Plan System

The Secretary of State for the Environment outlined his proposals to require detailed local plans, to scrap county level structure plans and to require local authorities to deal with planning applications on the basis of the more detailed plans.

The Group, while in principle in favour of the approach outlined by the Secretary of State, expressed concern that the local plans would be used inflexibly. They would determine the fate of an application rather than merely being a material consideration in the decision. They had therefore made two suggestions which they thought would induce greater flexibility. The first was for plans to include areas of 'white land' for which no designated use was established in the plans, and secondly for plans to contain primary and secondary zones. In the primary zones the plan would have some form; in the secondary zones it would merely be indicative.

It was noted that the new legislation, to be introduced in the 1989/90 Session, would permit the Inspectors to look at the local plans and if they did not meet the guidelines the plans would have no effect. Although it was a power that was not intended to be used frequently, the Secretary of State would also have power to call in a plan and insert his own conditions if the plan had departed markedly from the guidelines. Part of the difficulty with this approach was that the Inspectors would be very hard pressed checking plans for all 380 districts. Though it was noted that as local plans became more influential in development applications the developers themselves would look much more closely at the drafts than they tended to do at present, and one or two early, well publicised, cases of action by the Inspectorate or the Secretary of State would ensure that local authorities took guidelines very seriously.

One of the reasons why the current county plans had such little influence was that they sought to cover too long a time-scale and changes during the course of the application rapidly made plans irrelevant. The Group agreed on the need for a review procedure but stressed that the guidelines should make clear that, in reviewing plans, authorities should not seek to revise them from scratch but should merely adjust them to take on board major developments which had occurred since they had been drawn up. On that basis, it was agreed that a

review process after each five years (rather than ten, as currently proposed) was the best balance.

This part of the discussion concluded with the Group commenting that the Secretary of State's approach appeared to be very much the right one, but that it would be wrong to expect too much from it in terms of reducing the number of appeals.

Section 52

The Group confirmed that their view of Section 52 had modified, particularly following the Lords' judgment on the Covent Garden development. They now believed that the section could be improved, rather than scrapped altogether. The key point which had been affirmed in the Covent Garden judgment was that planning gain must be attendant on the development. It would in future be more difficult for authorities to require developers to supply wholly unrelated amenities as a quid pro quo for a land development to go ahead. They returned to their proposal that there should be an appeal against an unreasonable element in the Section 52 condition without the appeal jeopardising the planning permission as a whole. Section 31A of the 1986 Act was cited as a useful model. The Secretary of State for the Environment said that he thought legislation would be necessary for that aspect. The Government could not give any commitment at this stage to legislation but would consider the point which had been raised.

Conservation Areas

The Secretary of State for the Environment outlined his proposal to incorporate the designation of conservation areas into the local planning process. This would provide a safeguard against arbitrary designation of conservation areas as a means of frustrating planning applications. It would also be a function of the local plan to review existing conservation areas; this ought to unable the Inspectorate to get a better feel for whether unjustified anomalies had cropped up in the accretion of conservation areas over the past twenty years. The Group welcomed the Secretary of State's proposals.

Spot Listing

The Group noted the Secretary of State proposed to introduce legislation to clarify that he has a power rather than a duty to list buildings of historical importance. Concern was expressed about the role of English Heritage. They had become an increasingly important part of the planning process in the Greater London area; their approach in this process seemed to be one of 'old is best', regardless of any other factors. They had, for example, informally opposed even the cleaning of the V&A museum. It was noted that the cleaning and flood-lighting of the V&A was being paid for from revenue derived from advertising on the hoardings erected

outside the V&A while the cleaning process was taking place. This idea might have useful application in other areas of conservation work on public buildings.

Other issues

There was a brief discussion on derelict land. The creation of the mini-UDCs was strongly welcomed. The results in Leeds were particularly impressive. A mini-UDC reduced bureaucracy and produced a level of private sector confidence which enabled development to proceed with minimal public cost. It was worthwhile considering whether the role of mini-UDCs could be made even more effective if they were combined with that of Development Trusts. The Group agreed to raise this with British Urban Development who were already pursuing broadly similar ideas with private enterprise zones, etc.

The Group noted that the recent measures on interest rates had taken the steam out of the domestic housing market. Wimpey had recorded a 30 per cent fall in the purchase of new homes in the £65,000 to £250,000 range. The commercial property market, however, remained as vigorous as ever.

Conclusion

It was agreed that the next meeting of the Group should take place in June or July next year, since that was likely to be the most suitable time for the Group to feed its views into the process of preparing legislation for the 1989/90 Session.

Yours sincerely

Dominic Morris

DOMINIC MORRIS

Sir John Sainsbury

FILE
EAMAEM

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

25 October 1988

At yesterday's annual meeting of the Sainsbury Group discussion (as usual) turned to delays in the handling of planning appeals. One of the cases cited was that of a Wimpey application in the Monmouth area where the Inspectors' report had been received on 9 September but where the Welsh Office were alleged to have said that it would take four months from then before a decision was reached. The Prime Minister commented that, if true, this seemed disturbing and, unless there were special factors, an undue length of time.

BF 11 I should be grateful for a short note on this case within the next fortnight.

DOMINIC MORRIS

Stephen Williams, Esq.,
Welsh Office

SUBJECT MEETING RECORD
CC MASTER

CONFIDENTIAL

file EAMAEL

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

25 October 1988

Dear Alan

PLANNING: SAINSBURY GROUP

You will see that the main meeting note records agreement on the introduction of charging as one means of reducing delays in the handling of planning appeals. Before the meeting proper started, there was some discussion between the Prime Minister and your Secretary of State on this issue.

The Prime Minister was concerned that the arrangements proposed would bear down particularly hard on the small builder. Your Secretary of State said that charges of £500 for written appeals would not be a significant deterrent. There would be charges of £1,000 or more for an inquiry. The Prime Minister's concern was that, once an application had gone to inquiry, the expenses mounted very rapidly. Planning counsel did not come cheap. Even if the small developer did not wish to employ counsel, the local authorities could and would, and the fear of costs being awarded against the small developer risked deterring many from appealing at all.

Mr Howard said that costs would be awarded only where the Secretary of State or Inspectors decided that one of the parties had behaved 'unreasonably'. I think the Prime Minister was partly reassured by that, and by your Secretary of State's comments, but you might like to think further on this aspect before you send across your consultation proposals on charging for appeals. One possibility, for example, might be to place an absolute cap on the amount a developer would face in charges for developments with less than a certain number of houses.

I am copying this letter to Jeremy Godfrey (Department of Trade and Industry), Alan Riddell (Department of the Environment), Mrs J Campbell (Department of Employment) and Miss Isobel Ogilvie (Department of the Environment).

Yours ever
Dominic

DOMINIC MORRIS

Alan Ring, Esq.,
Department of the Environment

SUBJECT MEETING RECORD
cc MASTER

FILE CAMMEK.

cc Sir J. Sainsbury

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

25 October 1988

Dear Alan

PLANNING: SAINSBURY GROUP

The Prime Minister held a meeting of the Sainsbury Group on 24 October to consider progress on various issues that had been raised and to look at the future structure of meetings with the Group.

Sir John Sainsbury was accompanied by Sir Clifford Chetwood, Sir Christopher Benson, Sir Nigel Mobbs, Mr Idris Pearce, Mr Roger Suddards and Mr John Taylor. Ministers present, in addition to your Secretary of State, were the Secretary of State for Trade and Industry, the Minister for Water and Planning (Mr Michael Howard), the Minister of State, Department of Employment (Mr John Cope), and the Parliamentary Under Secretary of State, Department of the Environment (Mr Christopher Chope).

The Prime Minister welcomed Sir John Sainsbury and his colleagues and invited him to open the discussion. The main points covered were as follows.

Planning Appeals

The Group remained concerned that the targets which had been set for the handling of planning appeals were still little nearer to being met. The percentage of applications allowed had been broadly consistent over the previous four years. The increase in the number of applications reflected increased demand for new buildings as a result of economic growth rather than developers chancing their arm with applications of more doubtful quality. The idea of transforming the Inspectorate into an executive agency was in principle enthusiastically welcomed by the Group but it would be necessary, in their view, to give the agency sufficient managerial and recruiting freedom to be able to compete with the private sector to attract the necessary talent. Interim action needed to be taken before the Inspectorate could become an agency to cut the time taken over the handling of appeals; the median times disguised some particularly bad cases. The Group mentioned an application for an out of town shopping centre at Exeter, where the appeal had been outstanding for

KK

two years, and a case in Monmouth where the Inspectors' report had been received on 9 September but the company concerned had been told it would take at least four months from then before a decision would be made. A number of possible actions to cut the time taken were discussed. There was general agreement on proposals for charging and the possibility of your Secretary of State taking powers to refuse the right to a public inquiry where the demand for one was 'unreasonable'. The Group agreed that, on balance, placing a maximum time limit on particular classes of inquiry was not worthwhile; those cases where such a time limit could be imposed were prima facie candidates for refusal to grant an inquiry in the first place. The Prime Minister suggested that your Secretary of State might institute a simple progress-chasing mechanism within the Department of the Environment so that Ministers were aware of the state of planning appeals and could identify those that were taking an undue length of time earlier in the process than was currently the case. It was agreed that the facility for informal hearings on applications had much to commend it. Because both parties had to agree to use the procedure, it was used only for very small developments - in practice, those of five or fewer houses. The code of practice did not, however, limit the number to five houses, and it was agreed that this facility, and the fact that the guideline did not place a limit on its use in the way currently imagined, should be made more widely known.

Development Plan System

Your Secretary of State outlined his proposals to require detailed local plans, to scrap county level structure plans and to require local authorities to deal with planning applications on the basis of the more detailed plans.

The Group, while in principle in favour of the approach outlined by your Secretary of State, expressed concern that the local plans would be used inflexibly. They would determine the fate of an application rather than merely being a material consideration in the decision. They had therefore made two suggestions which they thought would induce greater flexibility. The first was for plans to include areas of 'white land' for which no designated use was established in the plans, and secondly for plans to contain primary and secondary zones. In the primary zones the plan would have some form; in the secondary zones it would merely be indicative.

It was noted that the new legislation, to be introduced in the 1989/90 Session, would permit the Inspectors to look at the local plans and if they did not meet the guidelines the plans would have no effect. Although it was a power that was not intended to be used frequently, the Secretary of State would also have power to call in a plan and insert his own conditions if the plan had departed markedly from the guidelines. Part of the difficulty with this approach was that the Inspectors would be very hard pressed checking plans for all 380 districts. Though it was noted that as local plans became more influential in development applications the

developers themselves would look much more closely at the drafts than they tended to do at present, and one or two early, well publicised, cases of action by the Inspectorate or the Secretary of State would ensure that local authorities took guidelines very seriously.

One of the reasons why the current county plans had such little influence was that they sought to cover too long a time-scale and changes during the course of the application rapidly made plans irrelevant. The Group agreed on the need for a review procedure but stressed that the guidelines should make clear that, in reviewing plans, authorities should not seek to revise them from scratch but should merely adjust them to take on board major developments which had occurred since they had been drawn up. On that basis, it was agreed that a review process after each five years (rather than ten, as currently proposed) was the best balance.

This part of the discussion concluded with the Group commenting that the Secretary of State's approach appeared to be very much the right one, but that it would be wrong to expect too much from it in terms of reducing the number of appeals.

Section 52

The Group confirmed that their view of Section 52 had modified, particularly following the Lords' judgment on the Covent Garden development. They now believed that the section could be improved, rather than scrapped altogether. The key point which had been affirmed in the Covent Garden judgment was that planning gain must be attendant on the development. It would in future be more difficult for authorities to require developers to supply wholly unrelated amenities as a quid pro quo for a land development to go ahead. They returned to their proposal that there should be an appeal against an unreasonable element in the Section 52 condition without the appeal jeopardising the planning permission as a whole. Section 31A of the 1986 Act was cited as a useful model. Your Secretary of State said that he thought legislation would be necessary for that aspect. He agreed to consider this, though without commitment.

Conservation Areas

Your Secretary of State outlined his proposal to incorporate the designation of conservation areas into the local planning process. This would provide a safeguard against arbitrary designation of conservation areas as a means of frustrating planning applications. It would also be a function of the local plan to review existing conservation areas; this ought to unable the Inspectorate to get a better feel for whether unjustified anomalies had cropped up in the accretion of conservation areas over the past twenty years. The Group welcomed your Secretary of State's proposals.

Spot Listing

The Group noted your Secretary of State proposed to introduce legislation to clarify that he has a power rather than a duty to list buildings of historical importance. Concern was expressed about the role of English Heritage. They had become an increasingly important part of the planning process in the Greater London area; their approach in this process seemed to be one of 'old is best', regardless of any other factors. They had, for example, informally opposed even the cleaning of the V&A museum. It was noted that the cleaning and flood-lighting of the V&A was being paid for from revenue derived from advertising on the hoardings erected outside the V&A while the cleaning process was taking place. This idea might have useful application in other areas of conservation work on public buildings.

Other issues

There was a brief discussion on derelict land. The creation of the mini-UDCs was strongly welcomed. The results in Leeds were particularly impressive. A mini-UDC reduced bureaucracy and produced a level of private sector confidence which enabled development to proceed with minimal public cost. It was worthwhile considering whether the role of mini-UDCs could be made even more effective if they were combined with that of Development Trusts. The Group agreed to raise this with British Urban Development who were already pursuing broadly similar ideas with private enterprise zones, etc.

The Group noted that the recent measures on interest rates had taken the steam out of the domestic housing market. Wimpey had recorded a 30 per cent fall in the purchase of new homes in the £65,000 to £250,000 range. The commercial property market, however, remained as vigorous as ever.

Conclusion

Your Secretary of State would be publishing a White Paper in the New Year. If that time-table were adhered to, the crucial stage of preparation for legislation would be about June or July next year and it was agreed that the next meeting of the Group should be held then to enable them to feed their views into that process.

I am copying this letter to Jeremy Godfrey (Department of Trade and Industry), Alan Riddell (Department of the Environment), Mrs J Campbell (Department of Employment) and Miss Isobel Ogilvie (Department of the Environment).

Yours sincerely
Dominic

DOMINIC MORRIS

Alan Ring, Esq.,
Department of the Environment

R20/10

The Chairman's office

J Sainsbury plc
Stamford House
Stamford Street
London SE1 9LL

01-921 6000

Telex 264241

SAINSBURY'S

20th October 1988

Dominic Morris Esq.,
10, Downing Street,
London,
SW1A 2AA

Front Door told 20/10

cc
Mr Fountain

All but Mr Taylor's car will be
chauffeur driven. For this meeting
I am booking one more ride &
allowing Mr Taylor to park
in Downing St.

Dear Mr. Morris,

I have listed below the names of the Group members attending the meeting with the Prime Minister on Monday 24th October.

As requested I also list the make, colour and registration numbers.

Sir John Sainsbury	-	Granada, B204 YUV Blue
Sir Christopher Benson	-	Jaguar E809 JYY Blue
Sir Clifford Chetwood	-	Bentley C60 BYM Navy Blue
Sir Nigel Mobbs	-	Rolls Royce D453 UDP Dark Blue
Mr. D.N. Idris Pearce	-	On Foot
Mr. Roger Suddards CBE	-	Taxi
* Mr. John Taylor	-	BMW F456 NLK - Metallic Grey

Ridley (DOE)
Howard -
Chope -

Lord Y (DOT)

Chope (DOE)

Yours sincerely

Tracey McMahon

Tracey McMahon

E(PU)

Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

NBPM
RRCB
20/10

October 1988

Dear Nick

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

at flap

You asked colleagues for comments on the conclusions of the GB Working Group on Land Compensation and the proposals set out in your minute to the Prime Minister of 27 September 1988.

I agree with your conclusions and in line with the principle of preserving parity in land compensation matters in Northern Ireland we will follow suit with whatever legislative changes are proposed in GB.

In Northern Ireland, particularly in redevelopment areas, there can be houses with values less than £15,000 and, therefore, it is important that if/when the 10% owner/occupier supplement is introduced, the minimum payment should be £1,500.

I am copying this letter to other members of E(A) Committee and Sir Robin Butler.

Yours

TK

JB 16341

Local Govt: Planning
PS 5

PRIME MINISTER

On Monday you are having your annual meeting with the Sainsbury Group. The meeting comes in two parts: a meeting of Ministers from 1500-1530 and then a full meeting of the Sainsbury Group in the Cabinet Room from 1530-1700 (in practice it may break before then). I attach a handling brief from Carolyn Sinclair and a paper from Mr. Ridley. Carolyn's brief will not have been seen by either of the Ministers or the Sainsbury Group, but the headings are familiar to them and can form the agenda for the meeting. The only exception to that is the general point which Carolyn raises on the first page of her note: you will probably want to decide towards the end of the meeting, depending on how it has gone, whether you want to go towards single subject brainstorming sessions in future.

The cast is as usual:

Sir John Sainsbury	Chairman and Chief Executive of J. Sainsbury plc
Sir Clifford Chetwood	Chairman and Chief Executive of George Wimpey plc
Sir Christopher Benson	Vice Chairman and Managing Director of MEPC plc, Chairman of London Docklands
Sir Nigel Mobbs	Chairman and Chief Executive of Slough Estates plc, Chairman of the PSA Advisory Board
Mr. Idris Pearce	Managing Partner of Richard Ellis, Surveyors
Mr. Roger Suddards CBE	Senior Partner of Last Suddards Solicitors, Pro-Chancellor of Bradford University

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

21 October 1988

The Prime Minister was grateful for your Secretary of State's minute setting out the points for discussion at the Sainsbury Group on Monday. I am just writing to confirm that there will, as usual, be a half-hour briefing with the Minister involved from 1500-1530, at which point the meeting of the Sainsbury Group proper will begin.

I am copying this letter to Jeremy Godfrey (Department of Trade and Industry) and Mrs. J. Campbell (Minister of State's Office, Department of Employment).

Dominic Morris

Alan D. Ring, Esq.,
Department of the Environment.

CONFIDENTIAL

PRIME MINISTER 21 OCTOBER 1988

MEETING ON 24 OCTOBER
WITH SIR JOHN SAINSBURY'S GROUP ON PLANNING

Nicholas Ridley has minuted to you following his pre-meeting with the Sainsbury Group this week. This note is designed as a handling brief for your meeting.

I. General

Progress on the items discussed at your last meeting in December is described in Section II below. DOE have prepared in a workmanlike way for this meeting. They have stopped overtly trying to wind the group up. But they show no particular enthusiasm, and neither Nicholas Ridley nor Michael Howard have any positive suggestions for further discussion.

There is now a danger that the Group will become a little staid, batting backwards and forwards on a few selected pitches. You could ask the Group if they would like the next meeting to be a brain storming session on a single issue such as derelict or unused land. This goes wider than planning, but is a subject in which the Group is interested. We will be letting you have a Policy Unit paper on it soon.

This approach would not preclude continued monitoring of the other planning issues which the Group have raised - DOE might be asked to provide a written up-date for future meetings.

CONFIDENTIAL

£500

Little Party Conf now demand a public enquiry

II. Progress

(i) Planning appeals

The volume of appeals has increased by 74% between 1984-85 and 1988-89. DOE describes the struggle they have had to prevent a marked worsening in the time taken for decision.

The most important development here is DOE's proposal to consult on charging for appeals. The Sainsbury group support charging. Fees should cut down the number of appeals from smaller developers, and thus reduce the load on Inspectors. DOE also plan to make the Inspectorate an agency. This could help with manpower shortages.

And my doubts re injustice.

A point you will want to stress is that any system of charging must go hand in hand with an improvement in service. This means reducing the time taken to deal with the 86 per cent of appeals, which are dealt with in writing.

Plans are in hand to computerise progress chasing and the planning of Inspectors' time. This is long overdue and should be given priority in DOE's budget.

At present local planning authorities seldom seek costs in the case of frivolous appeals which fail. DOE are encouraging them to do this more frequently, as a way of deterring pointless appeals.

DOE report that since your last meeting they have tightened up on timetabling for inquiries Parties are now offered one date for an inquiry and if that is

rejected, the second date is enforced. The public inquiry process itself is not time-limited, but 90 per cent of cases are decided within two days.

ii. Section 52

Here the Sainsbury Group have done a volte face. They are now broadly in favour of the status quo which allows planning authorities to strike deals with developers to provide "planning gain".

Given planning authorities' widespread reluctance to approve development which may be contentious, it seems eminently sensible to allow for some horse-trading which will get the system moving. DOE propose to consult the Group on new guidance designed to prevent abuse of this provision.

iii. Aesthetic control

DOE claim that the Group seemed to agree that control of design should be retained. They propose to amend the General Development Order so as to require a clear explanation of objections on design grounds. This looks reasonable - poor design will only encourage resistance to development.

iv. Conservation areas

DOE continue to resist the idea that all new Conservation Areas should be specifically approved by the Secretary of State. As a halfway house, they propose that their next Planning Bill should make the designation of Conservation Areas part of the local plan. The Secretary of State would have the power to

intervene when his inspectors judged a local plan to be unreasonable.

You will want to see how hard the Group press on this point. If they are not content with Nicholas Ridley's proposal, you could press DOE to go further on specific approval.

v. Spotlisting

DOE are proposing to amend the legislation so as to make listing more discretionary. There will be a presumption against listing after planning permission has been granted.

Items (i) and (v) are the formal agenda. There are two other items you could raise.

III. Other items

Proposed reform of the planning system

Nicholas Ridley has told the Group of his proposals to require detailed local plans and scrap county level structure plans. This is the subject of his Planning Bill which he hopes to get into the 1989-90 timetable.

The Group are nervous that this could lead to local planning districts closing the shutters on development. The risk is there, though DOE would have a power to call in unreasonable plans. But overall the result should be much greater certainly about what will, and what will not, be allowed. This will allay many fears, and should reduce the number of pointless applications and appeals.

The Sainsbury Group will not necessarily see things in quite the same light. But greater certainty in the planning

system should be very welcome to the public.

Large retail development in the Green Belt

Nicholas Ridley has said over and over again that the Green Belt is safe in this Government's hands. It has doubled in size since 1979. And recent circulars and booklets make it abundantly clear that development will not be allowed save in very exceptional circumstances.

Arguably we have more Green Belt than we need. But its staunch defence is probably the essential political balance to pressing for more development on green sites outside the belt.

It is therefore maddening that developers continue to slap in applications for large retail developments in the Green Belt - for example, at Hewitt's Farm near Pratts Bottom in Kent. These have no chance of being approved, but they cause maximum uproar and unease as long as the developers refuse to take 'no' for an answer.

Although we are not aware that any of the Sainsbury Group are directly involved, they are a good audience to which to stress the futility of this approach, and the firmness of the Government's position on the Green Belt.

CAROLYN SINCLAIR

CONFIDENTIAL

Prime Minister

PLANNING SYSTEM: MEETING WITH SAINSBURY GROUP: 24 OCTOBER 1988

You are meeting the Sainsbury Group again on 24 October. I had a talk with them earlier this week and went over the topics that were raised at your last meeting with the Group. They do not have any substantial new points to raise but have had further thoughts about some of the items that were discussed last December. Michael Howard and I have also considered some aspects in more detail.

This minute follows the numbered items in your Private Secretary's note of that meeting and may serve as an agenda for the meeting on 24 October.

(i) Planning Appeals: Over the past four years since the group started their work they have taken a close interest in improvements to the planning appeal process. A series of management reviews has been implemented and the Inspectorate's output of decisions has markedly increased: by 11% in 1985, 10.5% in 1986, 18% in 1987, and by 22% so far this year. The Inspectorate's manpower has been increased, and the average number of decisions issued per Inspector has improved from 94 a year in 1984-85 to 110 this year. But the volume of appeals received has increased by 74% from 1984/85 to 1988/89. The Inspectorate has done well to keep abreast of the rising tide of appeals without any marked deterioration in median decision times: indeed there has been an improvement in decision times for cases decided on written representations, which comprise over 80% of all appeals - in the second quarter of this year the median time was 19 weeks compared to 21 weeks at the time when the Sainsbury Group began. The huge increase in appeals received, however, has meant that it is not yet possible

to achieve the target times that it had been hoped to attain and which would by now have been well within reach had the number of appeals remained at the level of four years ago.

The Group has stressed the need to make full use of information technology, and 165 Inspectors have now been equipped with and trained in the use of word processors. The Inspectorate has been kept up to complement and extra posts have been authorised. Last year's consultants report by Coopers and Lybrand has led to plans for developing a new information technology system for the Inspectorate, which is to include management accounting requirements as well as progress chasing and statistics, and also the "Chart Room" which plans the utilisation of Inspectors' time.

As the Group suggested, timetabling of appeals has been reinforced and the parties are now offered one date for an inquiry: if that date is rejected, the second date available is enforced (previously a choice of three dates was offered). You referred at the last meeting to the timetabling used in America and this has been investigated. There is no uniformity in the American system but the best example is said to be in California where a planning authority has 60 days in which to decide an application: this is comparable to the 8 weeks allowed under our system, but it appears that on complex projects a "timeline" of one year is allowed for the "lead agency" to reach a decision. But after this the appeal process often continues in the Courts, and with no comparable time limits.

While all these measures are helping us to cope with the ever-rising number of appeals, now forecast to reach about 27,000, this year we must also be prepared to

consider measures to reduce the volume of appeals work. At your last meeting the Group endorsed the concept of charging for appeals. This has since been approved in principle by colleagues, and detailed consultation proposals have now been prepared for a fees system. The introduction of fees, sufficient to cover the Inspectorate's costs, will facilitate the conversion of the Inspectorate to an executive agency, with the benefits that should flow from the "Next Steps" approach. We also have in mind some other proposals that would help to lighten the appeals load, including some limitation on the present right of either party to demand a public inquiry rather than having the appeal dealt with by written ~~requisitions~~ representation. You raised this possibility at our "VFM" meeting on 4 October.

(ii) Section 52: detailed discussions have taken place with members of the Group on the possibility of abolishing or amending Section 52, which is the provision that enables local planning authorities to exact "planning gain" from developers. While it is true that this power is sometimes abused (in which case the developer can appeal), the Group seem to have come round to the view that more would be lost than gained by abolishing it. Experienced developers are often able to negotiate satisfactory agreements with planning authorities, without which their development could not go ahead. On balance I have concluded that we should not amend the legislation but should issue new policy guidance on the proper scope of such agreements. We will consult the Group on the terms of that guidance, and also on their suggestion that a means should be found whereby unreasonable requirements in a S.52 "agreement" can be discharged without invalidating the permission (as is already the case with unreasonable planning conditions).

(iii) Aesthetic control: As I said at the last meeting, my initial preference was to find some means of abolishing control of design, although the Group suggested that it should be retained in Conservation Areas. On reflection I think that it would be wrong or perhaps premature to remove this form of control. What many people object to in resisting new development, particularly housing, is the quality of design and layout. I want to encourage better standards of design and to do that we must be prepared to refuse permission for really poor quality design. In my discussion with the Group they seemed to share this view. We are, however, implementing one of the other proposals made by the Group by amending the General Development Order so as to require full clear and precise reasons to be given where planning permission is refused (or conditions imposed) on design grounds: the developer will then know what changes he needs to make or the precise grounds on which he can appeal.

(iv) Conservation Areas: The Group have urged that any new Conservation Areas should be subject to my approval. This would impose an additional burden on my Department, and I am inclined to favour the alternative of incorporating the designation of Conservation Areas into the local plan process. This would be a safeguard against the arbitrary designation of Conservation Areas but would avoid the need to refer them all to me for approval, while enabling me to use reserve powers of intervention in exceptional cases.

(v) Spot listing: I am at present reviewing the policy and procedures for listing buildings of special architectural or historic importance. The best way to deal with the problems sometimes associated with spot listing is to amend the present statutory provisions so as to give the Secretary of State concerned the power, rather than the

duty, of listing such buildings. The Group were disposed to accept my conclusion on this and also on item (iv): both changes will require legislation.

In addition to these items, the Group maintain their support for our proposals on the reform of the development plan system, including the abolition of structure plans. They are concerned however, that placing greater reliance on local plans should not simply reinforce restrictive attitudes towards needed development. They are concerned that local plans should be consistent with national and regional policies (eg on the provision of land for housing). It will be for the counties to ensure such consistency, but I would have reserve powers (as I do at present) to intervene and call-in a local plan where necessary. As you know, I hope to gain a place for a Planning Bill in the 1989/90 legislative programme, when we can also deal with the proposals at items (i), (iv) and (v) above. That would also be the vehicle for the changes that we are proposing in compulsory purchase compensation.

Finally, there was some discussion at last December's meeting on the problem of derelict land, and the Group supported the establishment of further UDC's. Since then we have introduced four new UDC's and extensions to the Black Country and Merseyside UDC's. We have also introduced City Grant, as part of the Action for Cities package, which enables us to pay grant direct to the private developer rather than via the local authorities. We have encouraged prospective developers to apply direct to me to use my Land Register powers to force the disposal of unused publicly-owned land, and we have made arrangements whereby local authorities and other public land owners will maintain and publish details of all their unused land holdings.

The success of our policies for bringing derelict and unused land into use, in both public and private ownership, is demonstrated by the fact that statistics compiled by Ordnance Survey show that

nearly half of all land developed for new housing is now on land that is derelict or unused land in urban areas; in the South East over half of all new housing is on land of this kind rather than on "green fields". This remarkable trend supports our policies both on urban renewal and on conservation. The fact that last year saw the highest number of private sector housing completions for 14 years shows that the planning system is not such an obstacle to housebuilding as the housebuilders themselves often claim. I have told them that they can best help themselves by improving the quality of their product in terms of design, landscaping and value for money, and by having more regard to the views of local people on the kind of housing that they went to see and how it can best be fitted into the local environment.

I am copying this minute to those colleagues who usually attend meetings with the Group - the Secretary of State for Industry, the Secretary of State for Employment, and Michael Howard, and to Sir Robin Butler. I would also like Christopher Chope to join your next meeting with the Group, as he is now dealing with our planning work in the Department.

NR

19 October 1988

RESTRICTED

FILE
EMM ADJ

cc: PU.

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

18 October 1988

Dear Roger,

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

The Prime Minister was grateful for your Secretary of State's minute of 27 September and the enclosed report of the Working Group on Land Compensation. She has also seen the comments from other colleagues.

The Prime Minister agrees that there should be no change to the market value basis of compensation of property purchased compulsorily for a commercial use. But she feels that property owners have a legitimate grievance where land is taken for a commercial use which is incidental to the project for which compulsory purchase powers are exercised. She would be grateful if your Secretary of State could consider whether there should be a general presumption that Ministers would not approve a compulsory purchase in these circumstances, consistent with the approach he proposes for privatised utilities.

The Prime Minister agrees with your Secretary of State's proposals for home loss payments of £1,500 to tenants and a ten per cent supplement for owner/occupiers, subject to the upper limit of £5,000 on the owner/occupier supplement proposed by the Chief Secretary. She also accepts that the new payments should apply to all tenants, not just those affected by construction projects. The Prime Minister's agreement to all these points is on the understanding that the costs will be accommodated within existing public expenditure provisions.

On the transitional arrangements, the Prime Minister agrees that a flat rate home loss payment of £1,500 should initially be introduced for all householders. She also agrees that there should be a process of consultation on the position of owner/occupiers, as your Secretary of State proposes, but considers this should be of short duration.

I am sending a copy of this letter to the Private Secretaries to members of E(A), and to Trevor Woolley (Cabinet Office).

Yours

PAUL GRAY

EMM

Roger Bright, Esq.,
Department of the Environment

RESTRICTED

cc.

PRIME MINISTER

NBell
PRCG
14/10

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

I have seen a copy of Nicholas Ridley's minute of 27 September to you, enclosing the supplementary report of the inter-departmental Working Goup on Land Compensation. I have also seen a copy of David Young's minute of 5 October.

I support Nicholas' view that to allow development value compensation would have serious adverse implications for the work of Urban Development Corporations and agree that the present market value based compensation code is equitable and should be retained.

I also support the proposed increase in the flat rate home loss payment to £1,500 for all householders and the introduction of a 10% supplement for owner-occupiers.

I am copying this minute to the other members of E(A) Committee and to Sir Robin Butler.

13 October 1988

PW

RESTRICTED

Weekend box please
nb

PRIME MINISTER

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

At E(A) in March you commissioned further work on a number of detailed issues relating to development value, home loss payments and payments for owner occupiers.

The results of that further work have now given rise to a formidable weight of paper. Papers attached are:

- Flag A - a note by Mr. Ridley summarising his conclusions and attaching the detailed report of an inter-departmental working group.
- Flag B - Commentary by the Cabinet Office, prepared before all the other Ministerial comments were available, and attaching a draft minute recording your views.
- Flag C - Policy Unit comments.
- Flag D - Chief Secretary's comments.
- Flag E - Lord Young's comments.
- Flag F - Mr. Channon's comments.
- Flag G - Mr. Rifkind's comments.
- Flag H - Mr. MacGregor's comments.

You can concentrate just on Flags A-C. There are four issues:

(i) whether compensation payments for compulsory purchase should be changed to reflect the development value;

(ii) level of home loss payments for tenants;

(iii) level of home loss payments for owner occupiers;

(iv) possible restriction of new payments to land acquired for construction projects.

(i) Development value

There is general agreement that it would not be appropriate to change the basis of compensation to reflect development value.

Mr. Ridley proposes an early Parliamentary announcement of this point, making clear in the case of privatisation measures that compulsory purchase will be authorised only when there is an operational need. All other Ministers commenting have agreed to this approach.

The Cabinet Office (Flag B) suggest that Mr. Ridley should extend his undertaking that compulsory purchase will be used only when operationally necessary, by indicating a general presumption that Ministers would not approve compulsory purchase of land for commercial use where it is only incidental to the project for which the powers are being exercised.

(ii) Home loss payments for tenants

The inter-departmental working group recommend a £1,000 flat rate. A number of Ministers have supported this figure.

Mr. Ridley, however, thinks this would be too low, because it would mean a cut in the amounts currently payable to a minority of tenants, and could also involve much lower payments to tenants than envisaged in his separate proposals for owner occupiers. Mr. Ridley proposes £1,500, and this is supported both by the Policy Unit and Cabinet Office on

condition that Mr. Ridley covers the costs within his existing public expenditure allocations.

(iii) Home loss payments for owner occupiers

The inter-departmental working group recommended a separate system for owner occupiers involving a 10 per cent supplement on market values. Mr. Ridley supports this recommendation. But such a system requires legislation. So Mr. Ridley proposes an interim arrangement under which all householders would benefit from the introduction of a flat rate £1,500 home loss payment - which can be introduced by Order - with the new 10 per cent supplement for owner occupiers being announced when the new legislation can be introduced, probably in 1989/90.

Three aspects of this proposal have been questioned:

- it is envisaged that the average payment to owner occupiers when the new system is introduced would be around £2,500. The Chief Secretary suggests that the 10 per cent regime should, however, be subject to an upper limit of £5,000 to avoid very high payments in some parts of the country. His argument is supported by the Policy Unit;

- the Policy Unit are worried by Mr. Ridley's proposal to announce at the time the flat rate system is introduced for all householders that the Government is giving further consideration to the compensation code for owner occupiers, and to invite representations on this issue. Mr. Ridley thinks that as long as "further consideration" was carefully expressed in the consultation paper this would avoid creating expectations which might delay acquisitions already in the pipeline. But the Policy unit are concerned that there would be delays, and

they recommend that nothing should be said about future intentions for owner occupiers; instead, the flat rate payment for all householders should be introduced this autumn without any mention of a separate regime for owner occupiers; the announcement of the 10 per cent supplement regime for owner occupiers should subsequently be announced when the Enabling Bill is published.

Mr. Rifkind (Flag G) goes further and questions whether the 10 per cent regime would be appropriate at all; but he is content for consultation to proceed with a firm decision on whether to proceed being taken later.

(iv) Limiting payments to construction projects

There is general agreement that an attempt to limit the new payments to construction projects only would be difficult to implement or defend.

Conclusion

Are you content that:

(a) there should be no change to a development value basis for compensation, subject to the general presumption that Ministers would not approve compulsory purchase of land for commercial use where it is only incidental to the project in question?

Agreed MS

(b) the new home loss payments should not be limited to construction projects, on the understanding that Mr. Ridley will accommodate the costs within his public expenditure programmes?

Agreed MS

(c) home loss payments for all householders should be introduced by Order at the level of £1,500, rather than £1,000, again on the understanding that Mr. Ridley will accommodate the costs within his programmes?

Yes - otherwise some people would lose on what they are receiving now

As regards the possible move towards a separate regime for owner occupiers involving a supplement of 10 per cent of market value:

(i) do you accept there should be a firm decision now that a 10 per cent supplement regime will in due course be introduced; or would you prefer to defer a decision as Mr. Rifkind proposes?

Yes PT

(ii) do you want the supplement to be subject to an upper limit of £5,000 as the Chief Secretary and Policy Unit propose?

Seems reasonable - yes PT

(iii) are you content with Mr. Ridley's proposal to go out to consultation or do you think that nothing should be said at this stage for the reason identified by the Policy Unit?

I don't think we can say nothing - but the consultation must be short document

RLG

PAUL GRAY
12 October 1988

RESTRICTED

CCPU G

Prime Minister

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

Nicholas Ridley has copied to me his minute to you of 27 September, covering the report of the interdepartmental working group on land compensation.

I support the first two proposals in the conclusions to his minute. I have doubts however about the proposal to pay 10% supplementary compensation to owner-occupiers instead of home loss payments. As we noted when we discussed it in March it raises questions of equity. I am not convinced that in Scotland it would be cost-effective in reducing delays to construction projects, or that the admittedly small diversion of resources in my trunk road programme into higher compensation payments would be worth while. I am also concerned about the disparities in payments which would result, to which paragraph 30 of the group's report draws attention.

While therefore I would be content for the possibility of different arrangements for owner-occupiers to be the subject of consultation, as Nicholas proposes, and I would propose to consult on the same basis in Scotland, I think we should review the case for a 10% supplement for owner-occupiers carefully in the light of the responses to these consultations, and not reach a firm decision at this stage. I also see attractions, with a view to limiting the disparities in payments between

different groups and different parts of the country, in setting a ceiling on the proposed supplements. If home loss payments are to be fixed at £1500, as Nicholas proposes, a maximum of £5000 for supplementary compensation as recommended by John Major does not seem unreasonable.

I am copying this letter to the other members of E(A) and to Sir Robin Butler.

M R

Scottish Office
11 October 1988

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

RESTRICTED

The Rt Hon Nicholas Ridley AMICE MP
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

7 October 1988

Dear Nicholas,

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

In your minute to the Prime Minister of 27 September you invited colleagues to consider the conclusions you had reached on the recommendations of the supplementary report to Ministers from the inter-departmental working group on land compensation.

I am content in the main with the approach you suggest. However, I am concerned at the extra costs involved in the proposed new flat rate home loss payment of £1,500: given the substantial increase in expenditure that the proposals will involve, I feel, that we should stick with the Working Group recommendation of £1,000.

I understand that the package now proposed will not make any significant changes to the way in which farmers are treated as compared with other home-owners, tenants or businesses. We can never be sure how the farming organisations will react, but I hope there will be no major problems - other than the perennial complaints that compensation on compulsory purchase should be greater!

I am copying this letter to the Prime Minister, to other members of E(A) Committee and to Sir Robin Butler.

Yours ever,

JM

JOHN MacGREGOR

Local Govt: Planning

RESTRICTED

Prime Minister

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

1. I was grateful to receive a copy of Nicholas Ridley's note of 27 September giving his views on the supplementary report from the Working Group on Land Compensation.

2. I agree with Nicholas Ridley that there is no good case for enhancing the terms of compulsory purchase where land is to be used for commercial purposes. Any such change could affect the viability of any future privately financed infrastructure project involving commercial use of land. I also agree that there is a strong case for an immediate uprating of home loss payments. However, before we consult publicly on the longer term, we need to weigh the implications carefully. Any general consultation will raise expectations - and other groups than owner occupiers will not be slow to press their claims. If at the end of the day we propose a 10% supplement for owner occupiers, with a ceiling of £25,000, while sticking with a flat rate payment of £1,500 for tenants, it will not be easy to maintain the line that these payments do no more than compensate for the distress of home loss, and involve no departure from the principle of paying market value (no more, no less) for expropriated land. Any general departure from the market value principle could have significant implications for public expenditure.

3. Therefore, before we embark on any public consultation I think we need to consider more closely the terms in which this is to be done, what at the end of the day we are likely to propose, and how we are to handle any wider expectations which may be aroused.

P. C.

PAUL CHANNON

7 October 1988

cst.ps/3jm6.10

FROM: CHIEF SECRETARY
DATE: 6 October 1988

PRIME MINISTER

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

I have seen a copy of Nicholas Ridley's minute to you of 27 September concerning the further deliberations of the Working Group on Land Compensation regarding home loss payments and development value.

2 I have noted the Group's views on development value and am content with the conclusion that the present compensation code should be retained.

3 The proposals for consolatory home loss payments of £1,500 for tenants and 10 per cent of market value for owner-occupiers are more difficult to resolve. My general views on this subject were set out in my earlier paper E(A)(88)16. I can see no evidence to support any increase in these payments and there is consequently a good deal of speculation in any judgement as to whether a reduction in delays will result. However in our discussions at E(A) there was support for the view that an increase was overdue on grounds of equity. In the light of the Working Group's further deliberations, I would be prepared to accept colleagues' majority view that the revised payment for tenants should be £1,000.

4 With regard to the proposal for a payment of 10 per cent of market value to owner-occupiers, I recognise that such people will be more likely than tenants to be affected by major construction projects other than redevelopment of housing estates and there is consequently less "deadweight" involved here. Such an arrangement may well sugar the pill and weaken the opposition of owner-occupiers required to leave their homes to make way for new construction. However, a payment calculated on a percentage basis would produce varying payments depending upon the area concerned,

and very high payments in parts of the country. On grounds of equity and economy, I would argue for a ceiling on the payment made in each case: an upper limit of £5,000 would seem appropriate.

5 Any increases in these figures will involve a considerable additional cost to major projects. These costs must be met from within existing provisions, if necessary from savings elsewhere on the respective programmes.

6 I note the Working Group's conclusion that it is not feasible to distinguish major non-housing construction projects from public housing projects which may make it necessary to displace people from their homes. The different treatment of tenants and owner-occupiers is in the circumstances probably the only reasonable way to proceed here.

7 I agree that it would be unwise for the consultation paper on changes to the compensation code to mention a specific figure for the owner-occupier supplement. This could encourage delays rather than speed up projects.

8 I am copying this minute to the other members of E(A) Committee and to Sir Robin Butler.

CEvans

JOHN MAJOR

(approved by the Chief Secretary and signed in his absence)

Local Govt: Planning Acts

PRIME MINISTER

6 OCTOBER 1988

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

Nicholas Ridley's minute of 27 September makes it clear that there is no objective basis for deciding the right level of increase in home loss payments to tenants and owner-occupiers whose houses are compulsorily purchased. The case for an increase is argued on grounds of equity rather than the likely effect on reducing delays to construction projects.

Present arrangements

The present arrangements base payments to tenants and owner-occupiers on the same formula involving rateable value. Since there has been no revaluation since 1973, this basis is clearly out of date.

The Proposals

A distinction will be made between tenants and owner-occupiers. Nicholas Ridley proposes a flat rate payment of £1,500 for tenants. A 10% supplement on market value will be paid to owner-occupiers. The cost of this package is £73 million per annum.

Because the second change requires primary legislation, and this cannot be introduced until the 1989/90 session, Nicholas Ridley recommends that the flat rate payment of £1,500 should initially apply to owner-occupiers as well, until the Bill providing for the 10% supplement can be introduced.

Argument

The case for an increase in home loss payments is largely to create a climate in which people will be less hostile to development The main reason for choosing a flat rate of £1,500 is that this is the current maximum payable either to tenants or owner-occupiers. A lower figure - such as £1,000 - would leave a small number of tenants and owner-occupiers worse off than they would be under the present arrangements.

The 10% supplement to owner-occupiers would produce an average payment of £2,500. This is felt to be a reasonable sum, and establishes a clear differentiation in the treatment of tenants and owner-occupiers.

John Major has suggested that the 10% should be subject to an upper limit of £5,000, to avoid very high payments in parts of the country. This is equitable, and would help to contain the cost.

Recommendation

Agree to the increases proposed by Nicholas Ridley, with the 10% supplement subject to an upper limit of £5,000.

Handling

Mr Ridley recommends that the new payment of £1,500 should be introduced for all householders by Order later this year.

He goes on to suggest that the Government should say that it is giving further consideration to the arrangements for compensating owner-occupiers in the consultation paper which he will be publishing this autumn.

This is unnecessary and ill-advised. Whatever wording is used, there is a real risk that a hint of further changes to

the regime for owner-occupiers will cause people to drag their feet over completing house sales. Moreover, it is arguably fraudulent to seem to be canvassing views on the right level of compensation for owner-occupiers when the Government has made up its mind on a 10% supplement to market value.

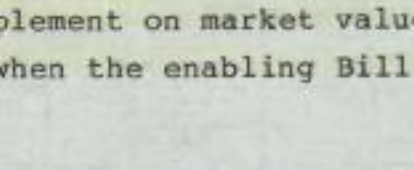
There is no need to say anything at this stage about the Government's future intentions for owner-occupiers. The steps would be:

- introduction of a flat rate payment of £1,500 for all householders by Order this autumn;

- announcement of a new regime - 10% supplement on market value - for owner-occupiers at the time the enabling Bill is published, effective for all sales not completed at that date.

Recommendation

The consultation paper should not say that further thought is being given to the position of owner-occupiers. The change to a 10% supplement on market value should be announced and made when the enabling Bill is published.



CAROLYN SINCLAIR

B

RESTRICTED

P 03236

From: R T J Wilson
5 October 1988

MR GRAY

cc PS/Sir Robin Butler

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

You asked for advice on the Secretary of State for the Environment's minute of 27 September to the Prime Minister.

BACKGROUND

2. E(A) considered an earlier paper from Mr Ridley on 10 March (E(A)(88) 4th Meeting). They agreed to a number of his proposals, but decided that further work was needed, in particular on:

i. the case for paying development value where land was taken for a commercial purpose;

ii. the basis for future home loss payments;

iii. the possibility of limiting any enhanced home loss payments to property acquired for construction projects (excluding in particular the relocation of tenants for housing policy reasons).

Mr Ridley's minute responds to these concerns.

DEVELOPMENT VALUE

3. The case for compensation based on development value where land subject to compulsory purchase is subsequently used for a commercial purpose was argued forcibly during the debates on the Channel Tunnel Bill. But Mr Ridley still rejects the case, for two main reasons:

i. the extra value accrues not to the new commercial user but to the public sector, and is a return on the public investment in infrastructure. He recognises that the Channel Tunnel is a special case, but argues that the extra value in that case is a return for the private investment in infrastucture;

ii. paying development value compensation would seriously affect the economics of Urban Development Corporation (UDCs), which acquire land, prepare it for development, and use the extra value created to finance future operations.

5. Mr Ridley is probably right to argue against development value compensation in the case of UDC's, whose main purpose is to promote development where it would not otherwise take place. The Channel Tunnel may also be a special case. But the argument that the public sector should benefit from development value in other cases seems less convincing. The Prime Minister might like to ask Mr Ridley whether there could be a general presumption that Ministers would not approve compulsory purchase of land for commercial use where it is only incidental to the project (eg a road development). This would be consistent with the line he proposes in relation to privatised utilities.

HOME LOSS PAYMENTS

6. Mr Ridley recommends an enhanced home loss payment of £1500 for tenants and a supplement of 10% of market value for owner occupiers. This is in tune with E(A)'s general conclusions on 10 March. The Treasury may however suggest tight limits on the 10% suppplement.

7. With the exception of DOE, all the Departments on the Working Group on Land Compensation now favour a new home loss payment for tenants of only £1,000. Mr Ridley argues however that this would mean a cut in the amount currently payable to a minority of tenants (and also to a minority of owner occupiers in the transitional period before his 10% supplement proposal could be enacted). Since the main effect of the higher payment for tenants would fall on his own housing programmes, and he has made clear that he is not seeking additional provision on this account, the Prime Minister may wish to accept his proposal.

LIMITING THE NEW PAYMENTS TO CONSTRUCTION PROJECTS

8. Mr Ridley rejects the suggestion that the new home loss payments should be limited to construction projects. His main arguments are:

i. there is no basis in equity for a distinction between tenants who are forcibly moved to allow a construction project to go ahead and those moved, for instance, for housing management reasons;

ii. a fair level of compensation would help to secure tenant support for Government policies designed to refurbish public housing.

9. Once again, the main effect of this proposal will be on Mr Ridley's own programmes, and the Prime Minister may therefore wish to accept his recommendation.

FINANCIAL IMPLICATIONS

10. Mr Ridley's proposals would increase the total cost of home loss payments from £13.5 million per annum to £73 million (GB figures). The alternative preferred by a majority of the Working Group - a £1,000 payment for tenants - would cost £55 million per annum. The interdepartmental Working Group have concluded that there is no objective basis for assessing the likely cost-effectiveness of these enhanced payments. They recommend monitoring to ensure that better information about cost effectiveness is available in future.

TRANSITIONAL ARRANGEMENTS

11. The introduction of a 10% supplement for owner occupiers requires primary legislation. Announcing this change in advance could blight schemes in the period before it is enacted. Mr Ridley therefore proposes an early general increase in home loss payments to £1500 for owner-occupiers as well as tenants by order. The 10% supplement would be announced only when the necessary legislation was introduced in Parliament, and would apply from that date. These seem sensible transitional proposals.

CONCLUSION

12. If the Prime Minister is content, you might write to Mr Ridley's Private Secretary in the attached terms.

R T J WILSON

DRAFT LETTER FOR PAUL GRAY TO SEND TO ROGER BRIGHT, DOE

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

The Prime Minister was grateful for your Secretary of State's minute of 27 September.

Subject to the views of other Ministers, the Prime Minister endorses Mr Ridley's proposals for home loss payments of £1500 to tenants and a 10% supplement for owner-occupiers. She accepts that the new payments should apply to all tenants, not just those affected by construction projects. She also agrees with Mr Ridley's proposed transitional arrangements.

The Prime Minister accepts that development value compensation would adversely affect the financial position of Urban Development Corporations and other projects whose main purpose is to promote commercial development. But she feels that property owners do have a legitimate grievance where land is taken for a commercial use which is incidental to the project for which compulsory purchase powers are exercised. She would be grateful if your Secretary of State could consider whether there should be a general presumption that Ministers would not approve compulsory purchase in these circumstances, consistent with the approach Mr Ridley proposes for privatised utilities.

I am copying this letter to the Private Secretaries to other members of E(A) and to Trevor Woolley in Sir Robin Butler's Office.

dti

the department for Enterprise

Ecfo E

PRIME MINISTER

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

I have seen a copy of Nicholas Ridley's minute of 27 September to you, enclosing the supplementary report of the inter-departmental Working Group on land Compensation.

I share Nicholas' concern at the potential implications for our inner cities policy if we concede the case for development value compensation. Such a change in the rules could seriously affect the financial viability of much of the reclamation work that is being undertaken by the Urban Development Corporations (UDCs). I also endorse his view that the UDCs should not have to pay a higher price for the land they acquire, when its value will be enhanced by the infrastructure they will provide. I realise that this whole issue is likely to surface again when the Water and Electricity Bills are debated, but I hope we will be able to hold the line.

As for the suggested changes in the amounts of compensation payable, I share Nicholas' view that the question is not purely one of cost-effectiveness but also one of equity, in which the Government should be seen to be acting fairly towards tenant and owner-occupier alike. I therefore support the proposal to introduce a 10% supplement for owner occupiers so as to recognise the stake they have in their property. At the same time, we cannot underestimate the disruption that tenants may face when forced to move house. I am not sure that a flat rate payment of £1,000 is sufficient recognition of this but I appreciate the arguments against going as high as the £1,500 proposed.

the Enterprise initiative

dti

the department for Enterprise

Finally, I agree that it would be tactically unwise for the consultation paper on changes to the compensation code to mention a specific figure for the owner occupier's supplement. This may well encourage owner occupiers in the interim to hold out for its introduction, with consequent delays for projects.

I am copying this minute to the other members of E(A) Committee, and to Sir Robin Butler.

D Y
5 October 1988

DEPARTMENT OF TRADE & INDUSTRY

the Enterprise initiative

LOCAL GOVT : planning pts.

RESTRICTED

Prime Minister

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

At the E(A) meeting on 10 March I was invited, in consultation with Ministers principally concerned, to give further consideration to a number of issues relating to home loss payments, supplements for owner-occupiers and development value. (E(A)(88) 4th meeting minutes.)

The inter-departmental working group on land compensation has considered the issues in question, and their report is attached. This letter sets out my own views on their recommendations.

Development value

Part 1 of the report sets out the arguments both for and against changing the basis of compensation for compulsory purchase where the land is subsequently returned to the private sector for profitable development. Under the present provisions compensation reflects what could have been obtained for the land had the project for which the compulsory purchase is taking place not arisen. The feeling was strongly expressed during the debates on the Channel Tunnel Bill that compensation should take account of the value which will be imparted to the land by the development.

The working group's general conclusion is that these arguments are not persuasive. They consider that the present compensation terms are fair to landowners. Insofar as the development in question could be secured without recourse to compulsory powers, any increase in value generated by the development is already taken into account in the compensation payable. Moreover existing compensation terms do not give an unfair advantage to commercial developers of land which has been resold to them after compulsory

acquisition by public authorities. The resale will be on commercial terms, and will therefore ensure that the public authority obtains a return on the investment in infrastructure which itself generates the development value.

I agree with the working group's conclusion. Bearing in mind the proposed supplement for owner-occupiers which is discussed below, I consider that the existing provisions remain the fairest way of compensating landowners for compulsory acquisition.

I attach particular importance to the point made in the report about the work of the Urban Development Corporations. Any provision for development value: compensation would have serious adverse financial implications for them, since one of their principal methods of operation is to acquire derelict or underused land, service it and then re-sell it for development - in other words, to create the conditions in which development value is generated. There is no reason in equity why the benefit of that effort should pass to the former owners of the land. As An@ex I to the working group's report shows, the result would be a very significant loss of receipts to the UDCs. On grounds of principle and praoticality I believe the argument for development value compensation must be resisted.

The issue has not come up prominently since the Channel Tunnel Bill debates when John Belstead undertook to the House of Lords to consider it. But the point becomes particularly acute in the context of privatisation measures which give the new private sector bodies access to compulsory purchase powers. Members of both Houses are likely to return to this issue when the next privatisation measures are discussed. We will need to make clear that compulsory purchase will be authorised only when there is operational need, and in particular that compulsory acquisition of land for commercially profitable activities will be authorised only where those activities will be a necessary and integral part of a wider project for which compulsory purchase is justified on

operational grounds. If we make clear that compulsory purchase will be authorised only for acquisitions which are necessary in the public interest, I believe we can present convincing arguments for retaining the present compensation code as the fairest practicable way of dealing with this issue.

I suggest that it would be helpful if there were to be a Parliamentary announcement of our conclusion on this issue. This might conveniently be given later this year, when we publish a consultation paper on our other land compensation proposals as agreed in E(A) on 10 March.

Home loss payments and supplements for owner-occupiers

At the 10 March meeting we considered proposals to uprate home loss payments for both tenants and owner-occupiers. We had before us the working group's first report and my proposal in E(A)(88)15 for a flat rate payment for tenants and a 10% supplement over market value for owner occupiers. The technical amendments to the home loss payments scheme proposed in the report, including the reduction of the qualifying period from 5 years to 1, were agreed.

We also agreed then that there was a strong case in equity for some increase in home loss payments to tenants (although a full uprating to 1973 values might not be justified) and that there were strong arguments in favour of a more generous scheme for owner-occupiers, based on a percentage of market value. But I was asked to look again at the likely costs, and at the possibility of limiting the new payments to land acquired for construction projects.

Part II of the attached report does not make unanimous proposals for revised levels of payment. A majority of the group recommend a flat rate of £1000 for tenants and a 10% supplement for owner-occupiers. I disagree with the first of these

recommendations. I consider that the flat rate for tenants should be £1500, the maximum under the current legislation. This would not only be fairer to the minority of tenants (some 400 a year) who would receive more than £1000 under current arrangements; it would also help to secure tenant support for our programmes of refurbishing public sector housing.

We should also have regard to the comparisons which will inevitably be drawn between tenants and owner-occupiers once a 10% supplement for the latter is introduced. While different treatment is, I believe, fully justified, too great a disparity would be hard to defend. On present values of compulsorily acquired property, a 10% payment to owner-occupiers would average £2500. This could be expected to increase over time. A £1000 payment to tenants would be less than half that figure; it would also be less than half of what would be needed fully to uprate average payments to their 1973 value. On both counts I believe that anything less than a £1500 flat rate payment for tenants would be heavily criticised.

A further, subsidiary consideration in support of a £1500 flat rate for tenants arises from the need for primary legislation to introduce the supplement for owner-occupiers. I hope to bring this forward in a Planning and Land Bill in the 1989-90 session. The working group's first report proposed that until the legislation is enacted, the flat rate (which could be introduced under powers in the Land Compensation Act 1973 and the Local Government Finance Act) should apply to owner-occupiers as well as tenants. If the flat rate were to be fixed at £1000, some 400 owner-occupiers a year would stand to receive less in the interim period than they would get under the present provisions.

The working group have considered whether the new payments can be restricted to land acquired for construction projects and whether their cost-effectiveness can be predicted. They conclude that it is not feasible to distinguish construction projects from other

public purposes which may make it necessary to displace people from their homes, and that the proposed differentiation between owner-occupiers and tenants comes as close to such a distinction as is practicable. The main reason for increasing home loss payments is equity, and on that ground alone, a substantial uprating is long overdue.

I agree with the working group's view that, while equity considerations do not conclusively indicate the appropriate level of uprating, there is no means of predicting how cost-effective any particular level would be in reducing delays to construction projects. We therefore need to judge how the proposed increases are likely to be perceived by those affected. In my view payments of £1500 to tenants and 10% for owner-occupiers would generally be seen as fair compensation for the disruption and distress arising from being forced to move. Any lower figures would be criticised as inadequate.

Financial implications

Annex II to the attached report gives new estimates, updated to 1988, for the main options for reform of home loss payments. Retention of the present scheme and full uprating of payments to 1973 values would increase costs from £13.5 million per annum (GB) to £87 million. My recommendation - a £1500 flat rate payment for tenants and a 10% supplement for owner-occupiers - would produce a lower total cost of £73 million p.a. The option preferred by a majority of the Working Group - a £1000 flat rate payment for tenants, and a 10% owner-occupier supplement - would cost £55 million p.a.

The updating of the estimates does not affect the broad incidence of costs in programme terms, as set out in paragraphs 22 and 23 of E(A)(88)15. For DOE, the extra costs would represent less than 1% of the capital programmes on which they fall (primarily the DOE/LAI cash limit). While they must be one of the factors taken into account in fixing future years' provision, they would not of themselves justify an increase.

Transitional arrangements

The Working Group envisaged that the new flat rate home loss payment should initially be introduced for all householders (by Order) late this year; but that at the same time a consultation paper should be published which would indicate our intention to introduce a 10% supplement for owner-occupiers at the next legislative opportunity.

This would however create a very unsatisfactory interim situation. It would mean that for at least 18 months, and perhaps longer, owner-occupiers faced with compulsory purchase would know that a 10% supplement was in the offing but would be unable to benefit from it. Some might seek to delay completion until after the new terms took effect.

A better approach would, I believe, be:-

i. to introduce the new flat-rate payment for all householders by Order later this year;

ii. to make no reference to a 10% supplement in the accompanying consultation paper, but say only that the Government is giving further consideration to the compensation code for owner-occupiers, and invite representations, without suggesting alternatives;

iii. subject to consideration of the representations received, to make provision for a 10% owner-occupier supplement in the next Planning and Land Bill, announce it when the Bill is published, and apply the new terms to all transactions not completed by the date of introduction of the Bill.

So long as the reference in the consultation paper to 'further consideration' was carefully expressed, this would avoid creating expectations which might delay acquisitions already in the pipeline.

Conclusions

I invite colleagues to agree that:-

i. no change should be made to the market value basis of compensation of property purchased compulsorily for a commercial use; an announcement of this conclusion should be made later in the year when (as agreed on 10 March) we publish our other land compensation proposals for consultation;

ii. at the same time we should introduce, by Order, a new flat rate home loss payment of £1500, initially for all householders;

iii. the consultation paper should indicate that we will be giving further thought to the position of owner-occupiers, but without mentioning a 10% supplement;

iv. subject to the outcome of consultations, we should introduce a 10% supplement for owner-occupiers in the next Planning and Land Bill, which I hope will be in 1989-90.

I should be grateful for your agreement, and that of colleagues, to our proceeding on this basis. The next step would be for my department to prepare the Orders necessary for the uprating of home loss payments, and to circulate a draft consultation paper for colleagues' approval.

I am copying this letter and the attached paper to the other members of E(A) Committee, and to Sir Robin Butler.

N R

17 September 1988

RESTRICTED

WORKING GROUP ON LAND COMPENSATION:

SUPPLEMENTARY REPORT TO MINISTERS

Introduction

1. The Working Group's main report was circulated to Ministers in February 1988 and discussed at E(A)88 4th meeting.

2. At that meeting Ministers asked that the Working Group should give further consideration to two issues:-

i. the case for paying development value compensation where land is acquired compulsorily for a commercial purpose;

ii. the cost implications of uprating home loss payments for tenants and introducing a new 10% supplement to market value for owner-occupiers; and the possibility of limiting payments to acquisitions for construction projects.

3. This paper reports on the Working Group's further discussion of these issues. Section II below also contains updated estimates of the cost of the alternatives for uprating home loss payments which were discussed in the main report.

I DEVELOPMENT VALUE.

The Present Position

4. The principle underlying compulsory purchase terms has for many years been that landowners should be compensated for the loss they suffer as a result of compulsory purchase. Compensation is assessed on the basis of what could have been obtained for the land on the open market had the public project not arisen.

5. The basis of compensation does not exclude development value or `hope' value, except to the extent that they are uniquely attributable to the scheme for which compulsory powers are being invoked. If in the absence of the scheme the market would have recognised development value or hope value, that it taken into account in assessing compensation for compulsory purchase. There are established statutory procedures for determining whether such value exists.

6. Even the increase in value generated by the public project itself may be taken into account, if there was any prospect of a private developer undertaking a similar scheme without recourse to compulsory powers. In general this will not be the case: the justification for public intervention will be the reluctance or inability of private agencies to undertake the work in question.

The Case For Development Value.

7. Landowners and others argue that there is a fundamental unfairness in these compensation terms where land is acquired compulsorily and is then returned to the private sector at a later date for profitable development. Compensation should, they argue, recognise the increase in value which such development will confer on the land, and which (it is claimed) the original owner of the land could have realised had the land remained in his ownership.

8. These arguments were advanced with particular force in the Parliamentary debates on the Channel Tunnel Bill. Where land was being compulsorily

acquired not for the Tunnel itself but for commercial end uses such as duty - free shops, restaurants and petrol stations, there was strong feeling that compensation should have been at full development value. It was pointed out that any business operating without access to compulsory powers must accept that the effect of their own development proposals will be to raise the price of land against them, and require them to pay prices in excess of existing use value.

9. A further point made in the debates was that the effect of the present compensation provisions is to give a worse deal to those whose land is actually required for public development than to neighbouring landowners who do not suffer the trauma of compulsory purchase. Once the public project is completed, those neighbouring landowners may well find that the value of their land is substantially increased; and of course they are free to realise that increased value on the open market, subject to normal planning considerations.

Relevant Categories Of Compulsory Purchase.

10. These arguments do not all apply to cases where land is acquired and then retained in public ownership, e.g. for road construction. But the Channel Tunnel Scheme is far from being the only scheme in which compulsory powers are used to acquire land which is ultimately for commercial use. Other examples are:-

i. Regeneration work carried out by Urban Development Corporations in inner urban areas: typically compulsory acquisitions of land which is derelict and for which the local property market is dormant. This is followed by land assembly, and the provision of infrastructure services which attract the private sector back and enable resale for development.

ii. Town centre redevelopment schemes undertaken by local authorities, in which disused land and rundown property is acquired compulsorily and then made over to a property company or pension fund for comprehensive commercial redevelopment.

iii. Provision of motorway service areas, where land acquired compulsorily

by DTp is leased to an operator who provides services on normal commercial terms.

11. What characterises all these cases is that compulsory powers are exercised by a public authority to bring about development which could not have taken place, or would have been unlikely to do so, without public intervention. The acquisition from the original landowners is on normal compensation terms. The public sector provides infrastructure or facilitates development in other ways, eg by land assembly or by clearance of derelict buildings. The land is then sold or leased to private developers on normal commercial terms.

12. The following points may be noted:-

i. the justification for public intervention is that the development would not otherwise have come about: to the extent that it would or might have done, the present compensation code already ensures that that prospect will be taken into account in compensating the original owners of the land;

ii. Where public intervention is genuinely necessary, it is that action which creates the development value attaching to the land;

iii. the profit accruing to the public sector from buying on compensation terms and selling at development value is the return on the public investment necessary to create the development value;

iv. the financial terms on which land is sold or leased for commercial development after compulsory acquisition are quite distinct from the terms of compulsory purchase; the disposing authority is under the normal public sector obligation to get the best price reasonably obtainable for the land it sells, and the commercial developer who finally acquires the land does not gain an unfair advantage at the expense of the original landowner.

13. The normal pattern is, therefore, one in which the public authority buys

on compulsory purchase terms and sells on at full development value. The 'profit' accrues to the public authority, not the end user, and offsets the cost of the investment necessary to create the enhanced valued of the land

14. The Channel Tunnel scheme may appear to depart from this general pattern. Though compulsory powers rest with a public authority (DTp), and the terms of the concession agreement are strictly independent of the terms of compulsory purchase, the agreement in effect provides that the land acquired for the scheme shall be leased to Eurotunnel at no more than the cost to DTp of its compulsory acquisition. On the face of it, this arrangement is vulnerable to the landowners' charge that Eurotunnel are being given an unfair commercial advantage at their expense.

15. However, the justification for this arrangement in the Channel Tunnel case is that it is the developer and not the public authority which is providing the infrastructure. The decision to lease the land to Eurotunnel on terms equivalent to their cost to DTp was part of a judgment of the overall risks, costs and benefits of the package to the developer and to the public interest of what was necessary to persuade Eurotunnel to go ahead. In effect, what the public sector has done is to forego development value in return for provision of infrastructure by the developer. Even if the project had been tackled on conventional lines - ie. public provision of the infrastructure followed by sale of the land for development - that would have made no difference to the compensation paid to the original landowners.

Implications Of Development Value Compensation.

16. The major effect of paying development value compensation would be a worsening of the financial viability of a wide range of public sector activities undertaken to facilitate development - most notably the work of the Urban Development Corporations. A note illustrating this by reference to land transactions undertaken by the London Docklands Development Corporation is at Annex I. The Working Group's view is that such a move could have serious implications for the urban regeneration programme, and in any case would not be justified by any genuine grievance on the part of the property owners concerned.

17. The practical difficulties of calculating a development value basis of compensation would also be considerable. On the assumption that what would be paid would be development value net of infrastructure costs, residual valuations would need to be carried out after disposal of land for redevelopment. There would also be the practical point that very frequently some parts of an acquired site would be retained in public ownership, eg for road construction. Should the development value basis of compensation apply only to the former sites or should development value be averaged over the site as a whole? Whilst valuers would no doubt be able to provide some sort of answer to these problems, it seems clear that they would considerably complicate the process of assessing compensation for compulsory purchase.

Development Value And Betterment.

18. One of the landowners'arguments mentioned above (para 9) was the unfairness of a situation in which those whose property is acquired for development may fare much worse than neighbours who find their property enhanced in value by the development, and free to sell it on the open market. But this side-effect of new development on the value of surrounding property is a feature of all forms of development, private as well as public; and the effect can be adverse as well as beneficial. It is part of the general issue of betterment in the planning context, and is not something which could be tackled through the compensation code.

Privatised Utilities

19. Compulsory acquisition by utilities such as gas, water and electricity has features which are different from the type of scheme described above. The justification for allowing utilities access to compulsory purchase powers is that they are under a statutory obligation to provide an essential public service; that that service requires operational installations to be provided in particular places; and that the efficient discharge of their function should not be obstructed by individual landowners.

20. In that sense the justification for access to compulsory purchase powers is more straightforward than in the case of the purely commercial end use. But the issue of the terms of compensation is perhaps more problematic. Privatised utilities are authorised to buy land directly, not through the agency of a public authority. They therefore gain the direct benefit of acquisitions on compulsory purchase terms. This, it may be argued, gives unfair advantage to bodies which are operating for the benefit of their shareholders. On the other hand, the utilities have statutory obligations laid upon them which may cut across the objective of maximising return to shareholders, eg. where services have to be provided at a loss.

21. There is moreover a long standing distinction in this area between 'operational' land - the land required by the utility to discharge its statutory obligations - and other land which may be required for functions which are not tied to particular sites, eg offices and showrooms. Compulsory powers are available only for the former, and the latter must be purchased on the open market.

22. The Working Group's view is that, so long as the use of compulsory powers is confined to cases where it is operationally necessary, there is no obvious injustice to landowners in the present arrangements and no obviously better basis of assessing compensation terms. Since all compulsory purchases have to be confirmed by a Minister, Ministers can ensure that the powers are not used inappropriately.

Conclusion

23. The Working Group"s general conclusion is that the arguments advanced for development value compensation for compulsory purchase are not persuasive and should be rejected. The present compensation terms do not give unfair advantage to commercial developers of land which has been compulsorily acquired by public authorities and then re-sold.

24. Any provision of development value compensation would have major and adverse financial implications for the Urban Development Corporations; for clearance and redevelopment schemes undertaken by local authorities; and for

other public projects such as motorway service areas. Present arrangements quite properly ensure that the difference between compensation terms and development value goes to the public authority, and provides a return on the public investment in infrastructure which itself generates the development value.

25. The Channel Tunnel scheme is not a breach of these general principles, though it may appear to be. The terms of transfer of land to Eurotunnel are part of an overall agreement designed to recognise that Eurotunnel are providing much of the infrastructure which would ordinarily be provided by a public agency.

II. HOME LOSS PAYMENTS AND OWNER-OCCUPIER SUPPLEMENTS

26. In its original report to E (A) Committee a majority of the Working Group recommended that a joint home loss payments scheme applying to both owner-occupiers and tenants should be retained; that payments should be uprated to restore their 1973 value; and that the choice of mechanism to supersede rateable values lay between a flat rate payment and one related to the householder's length of stay in his home.

27. The Secretary of State for the Environment's paper of 22 February (E (A) (88) 15) supported the Group's proposal for a full uprating of home loss payments for tenants, and favoured the flat rate option. But for owner-occupiers, the paper recommended that home loss payments should be replaced by a 10% supplement to market value.

28. Ministers at E (A) expressed doubts about the case for a full uprating of payments to tenants. They recognised that the proposal to treat tenants and owner-occupiers differently raises questions of equity, but they also saw strong arguments in favour of more generous payments to owner-occupiers, based on a percentage of market value. They concluded that in both cases further consideration should be given to costs and cost-effectiveness, and to the possibility of limiting payments to acquisitions for construction projects.

Equity; disparities between owners and tenants

29. In reaching its own conclusions in the February report the Working Group attached importance to the need for consistency in the treatment of owner-occupiers and tenants. They considered that it would be difficult for Ministers to appear to argue that an owner-occupier's home is more important to him than is a tenant's, and that therefore a bigger consolatory payment is justified. Even the fact that an owner-occupier has to find a new home for himself, while a tenant is normally rehoused by his landlord, was not felt to be a wholly convincing argument for different payments, when most tenants would prefer to have the freedom of choice enjoyed by the owner-occupier.

30. In the light of further consideration of the Secretary of State for the Environment's proposals the Group feel it important to draw attention to the disparities in levels of payment which would arise, not only between tenants and owner-occupiers, but also between owner-occupiers in different parts of the country. For instance:-

i. in the London area, one could well have a situation in which compulsory purchase/clearance action relating to the same road scheme could give rise to wide variations in payments to different householders: to 10% payments of £20 - £25,000 on better quality owner-occupied housing; 10% payments of about £5,000 to former council tenants who have exercised the 'right to buy'; and - even on the assumption of a full uprating to 1973 values - flat rate payments to neighbouring tenants of only £2,100;

ii. a 10% supplement would produce similar disparities between owner-occupiers in different parts of the country. Since compensation itself is at market value, and costs of relocation are met by disturbance payments, it is not clear what justification there would be for paying consolatory payments which (on 1988 house prices) would average about £9,000 in London but only about £3,000 in the North of England for a similar 3 bed semi-detached house.

31. Moreover, once the principle of a percentage supplement of market value (within wider limits) is conceded, it would be difficult to argue that it is essentially a solatium (a croft being as dear to some as a mansion to others). That could open the way to wider pressure to increase compensation for compulsory purchase above market value.

Uprating: costs of alternatives

32. Annex II gives updated costings for alternative levels of payment. The main points are:-

i. The Working Group's original proposal for retention of home loss payments for all householders, and full restoration of the 1973 value of payments, would cost £87m (GB) per annum;

ii. The Secretary of State for the Environment's proposal, i.e. fully uprated home loss payments for tenants only, combined with a 10% supplement for owner-occupiers, would cost £94m per annum;

iii. Total costs would be significantly lower if home loss payments to tenants were not fully uprated to 1973 values: a flat rate payment to tenants of £1000 (combined with a 10% supplement for owner-occupiers) would produce a total cost of £55m p.a; a tenants' payment of £1500 (again with a 10% supplement) would give a total cost of £73m p.a.

33. The Working Group's original report recognised that whilst restoration of 1973 values is one obvious basis for uprating home loss payments, there appears to have been no particular rationale underlying the levels of payment originally adopted in 1973. A lesser uprating, eg. to £1000 or £1500, would still represent a very substantial increase on current levels of payment (the current average home loss payment is about £450). Taken together with a reduction in the qualifying period from 5 years to 1 year (which all these costings assume), a less than full uprating could be presented as a reasonable and indeed generous improvement and extension of the home loss payments scheme, without necessarily inviting serious criticism on the ground of failure to restore 1973 values.

34. The present maximum home loss payment is £1500. The introduction of a new flat rate payment lower than that would mean a reduction in entitlement for a minority of tenants in more highly rated property. The Department of the Environment consider that this would be undesirable, and would work against current Government housing initiatives for the refurbishment and disposal of council property, for which tenant co-operation is important. On the other hand, it is not clear that a reduction in the maximum would be of great significance, given that the payments are one-off payments; that few tenants are likely to be adversely affected and even fewer are likely to have cause to compare the new and old rates of payment; and that some reduction in the maximum, to permit more generous flat rate payments to all tenants, could be justified on grounds of equity.

35. A majority of the Working Group concluded that, if Ministers are persuaded of the case for distinguishing between owner-occupiers and tenants, the least-cost option which would meet Ministers' broad objectives would be a flat rate payment to tenants of £1,000 and a 10% supplement for owner-occupiers. The Department of the Environment, for the reason given above, consider that a new flat rate payment to tenants should not be less than the current maximum home loss payment (£1500).

Restricting payments to 'construction projects'

36. Two approaches are possible. One is to restrict enhanced rates of payment to a small number of selected projects of major national importance. This possibility was discussed in part 6 of the Working Group's report. A number of difficulties were identified, the most important being that the offer by Government of enhanced benefits for particular projects might be thought by opponents to pre-judge the outcome of the public inquiry and decision-making process; and that the question of which major projects should qualify for enhanced benefits might itself come to be a cause of controversy and delay. A majority of the Group concluded against such an approach, and this view was shared by the Secretary of State for the Environment.

37. The other approach - which appears to have been more in Ministers' minds at E (A) - would be to try to draw a distinction between all construction projects in the normal sense of the term - roads, power stations, etc - and the public sector housing context, in which home loss payments are made to compensate tenants for the effects of what are essentially housing management decisions. Over 70% of home loss payments arise in this latter context, and from the point of view of reducing delays to construction projects any increase in these payments to council tenants is largely deadweight.

38. In the Working Group's view it would be very difficult to find a sound basis for such a distinction. From the individual tenant's point of view, whether he is moved out of his home because of a housing refurbishment scheme or because of a road construction scheme is likely to be immaterial: the justification for the home loss payment - the distress of involuntary displacement - arises in both cases. Moreover, as was noted in the Group's original report, new housing initiatives themselves need the co-operation of tenants: a two-tier system of home loss payments which distinguished between 'management relocation' and redevelopment could cause an adverse reaction. Some uprating of current levels of payments to tenants for management relocation would certainly be necessary on grounds of equity if payments to other categories of householder were to be increased.

39. As was suggested in E (A) (88) 15, the proposed distinction between owner-occupiers and tenants is likely to be the most practicable way of drawing a broad distinction between construction projects and other contexts in which home loss payments arise. On the whole it is owner-occupiers rather than tenants who object to public projects and cause delay when faced with compulsory purchase, though tenants have represented a formidable body of objectors to some London schemes. Moreover, Ministers may feel that there are grounds for justifying a distinction between owners and tenants which would not apply to any distinction between different types of scheme which in practice have much the same effect on those who are displaced.

Cost-effectiveness

40. The issue of cost-effectiveness was considered by the Working Group in drawing up its original report. A substantial uprating of payments to displaced householders is overdue on grounds of equity, regardless of any effects which such an increase might have in reducing delays. Equity considerations do not conclusively indicate the appropriate level of uprating; but further consideration by the Group has failed to identify any means of predicting how cost-effective any particular level of payment would be in reducing delays to construction projects. The Department of Transport are inclined to the view that an uprating of home loss payments on the scale envisaged by the Group would be cost-beneficial in reducing delay on highway schemes, but consider that Ministers' final decision on this would have to take account of current budgeting constraints on the road programme and the trade-off between increased rates of compensation and spending on new road construction.

41. The Group's conclusion is that no further useful work can be done at this stage on cost-effectiveness. The issue is essentially one for Ministers' judgement: how the proposed increases in payments are likely to be perceived by those affected - which will of course determine the extent to which opposition is reduced. All that can be said is that, to the extent that this issue has been raised in public discussion, a 10% supplement for owner-occupiers seems likely to be regarded as fair recognition of the distress caused by dislocation.

42. As the Group's original report stressed, the introduction of new levels of payment should be accompanied by monitoring arrangements to ensure that better information about cost-effectiveness is available in future. In particular, a change in rates of payment creates the opportunity for instructive 'before and after' comparisons, though the scope for precise quantification of effects will always be very limited.

Conclusion

43. The Working Group draw attention to the disparities in levels of payment which would result from the proposals put forward by the Secretary of State for the Environment.

44. If new arrangements are to distinguish between owner-occupiers and tenants, a majority of the Working Group recommend a flat rate payment of £1,000 for tenants and a 10% supplement for owner-occupiers. The total cost would be £55 million p.a., compared with £13.5m for the present home loss payments scheme and £87m for a full uprating of that scheme to restore 1973 values.

45. For housing policy reasons the Department of the Environment favour a flat rate payment to tenants not less than the current maximum home loss payment (£1500). The total cost of a £1500 payment to tenants and a 10% supplement for owner-occupiers would be £73 million.

46. The Working Group consider that there is no satisfactory basis on which enhanced payments could be restricted to householders displaced by construction projects. Differentiating between owner-occupiers and tenants comes as near to making such a distinction as is likely to be feasible.

47. The Working Group consider that no further useful work can be done at this stage on assessing the relative cost-effectiveness of alternative levels of payment in reducing opposition and delay to major projects.

ANNEX I

LONDON DOCKLANDS DEVELOPMENT CORPORATION:
LAND ACQUISITION, DISPOSAL AND EXPENDITURE

1. London Docklands Development Corporation (LDDC) was established in 1980 to secure the regeneration of its designated area (2070 ha). Between 1981 and 31 March 1988 the corporation acquired, reclaimed and disposed of 270 ha of land. The land was obtained either by vesting, compulsory purchase or purchase by agreement. The price paid for the land in all cases was determined by compensation code principles. Where land is vested or purchased compulsorily, this is required by statute; if land is purchased by agreement Departmental guidance to UDCs is that they should pay no more than if they used compulsory purchase powers open to them.

2. The accumulated cost to LDDC of acquiring land between 1981/88 plus the expenditure on reclaiming it amounted to £121,611,000. The value of the land, when sold, was £153,251,000 ie a surplus of £31,640,000. As well as the cost of reclaiming particular sites, the UDC also invested in general infrastructure and provision of services. The cost of these over the 1981-88 period amounted to £195m.

3. During the period in question land values in the UDC area have risen substantially, although it is difficult to give an overall average. Two examples however illustrate price movements. In the Isle of Dogs, commercial land has risen from £370,000 per hectare in April 1983 to £7,400,000 per hectare in April '88 (a 20 fold increase). In Southwark, residential land within the Corporation's area has gone up in value from £240,000 per hectare to £8,650,000 ha over the same period. (A 36 fold increase).

4. With land price movements of this magnitude it is clear that a move to pay compensation at full development value would have a serious effect on UDC finances. As it happened, much of the land acquired by LDDC was transferred to the Corporation in the early part of its life, when its establishment had not had much impact on land values. In the 5th and 6th years of the UDC's life however, land values increased rapidly as a result of the Corporation's

activities. If the UDC was required to pay the full development value for land acquired at or after this time then this would have serious implications for the Corporation's budget.

ANNEX II

HOME LOSS PAYMENTS AND OWNER-OCCUPIER SUPPLEMENTS:
COSTING OF ALTERNATIVES

Gt. Britain; 1988 prices

1. Total annual cost of present home loss payments scheme: £13.5m.
   Payments to tenants: £11.5m. Payments to owner-occupiers: £2m.

2. Flat rate payment for all householders.

Payment (£)	Cost (£m)
800	33
1000	41
1200	50
1500	62
1800	74
2100	87

3. Flat rate payment for tenants only

Payment (£)	Cost (£m)
800	28
1000	35
1200	42
1500	53
1800	63
2100	74

4. Percentage supplement for owner-occupiers

%of Market value	Cost (£m)
5%	10
10%	20
15%	29
20%	39

NOTES: 1. The estimates for flat rate payments allow for reduction of the qualifying period from 5 years to 1 year.

2. The estimates for the owner-occupier supplement assume a minimum payment of £2100 and a maximum of £25,000. If the minimum payment to tenants were fixed at less than £2100, the minimum for owner-occupiers, and the total cost of the supplement, would be correspondingly reduced.

3. The comparison is between (2) - universal flat rate payment - and a combination of (3) and (4).

CONFIDENTIAL

CC/6

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

The Rt. Hon. Nicholas Ridley AMICE MP
Secretary of State for the Environment
2 Marsham Street
London SW1P 3EB

21 September 1988

NBPM

Dear Nicholas:

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

You copied to me your exchange of letters with Peter Walker at the end of July in connection with Peter's proposal to issue a Circular to planning authorities in Wales to clarify the position of the Welsh language as a consideration which may properly be taken into account in the formulation of development plans and the exercise of development control. As I understand your letters of 19 and 29 July, you are concerned that such a Circular would not only go beyond established legal principles governing the matters which may properly be treated as planning considerations but would also encourage claims for similar treatment on behalf of minority and other interests outside Wales.

I have now seen a draft of the Circular in question, and am of the view that the issue of legal propriety which you have raised amounts in this context to a matter of presentation rather than one of principle. There can be little doubt that, in circumstances where a planning authority is satisfied that the Welsh language plays an important part in the structure of a community, it may (and indeed should) take account of the interests of the language in the preparation of development plans and the exercise of planning control. That being the case, it would be quite lawful for the Secretary of State for Wales to remind planning authorities by Circular of the need to have regard, where appropriate, to Welsh

CONFIDENTIAL

language considerations, provided that in doing so he recognises that considerations of this kind are in the nature of exceptions to the general body of planning considerations and are to be included only in response to particular local conditions. Accordingly, they may not be recommended as a national policy of general application.

Having regard to these principles, I am confident that the Circular as presently drafted requires only simple modification to minimise the risk of its being interpreted as requiring all Welsh planning authorities to consider the implications for the Welsh language of every development plan or application. This can be achieved by substituting the following sentence for the second sentence of paragraph 2:

> "Where a planning authority have considered it appropriate to take account of the needs and interests of the Welsh language, the Secretary of State expects that they will include in this part of the memorandum an explanation of how their proposals reflect those matters".

Likewise, in paragraph 4 the words "where appropriate" should be inserted in the second sentence after the words "including".

These legal considerations aside, there remains the question whether it is desirable for Peter to issue in Wales a Circular in terms which you consider would be likely to cause difficulties elsewhere in the operation of the planning system. This is purely a matter of policy which the two of you will no doubt wish to discuss at your meeting later this month in the light of these observations on the law. It is not a debate to which I feel that I will be able usefully to contribute.

I am sending a copy of this letter to the Prime Minister, Peter Walker, Malcolm Rifkind and Sir Robin Butler.

Yours ever,

Nicholas

LOCAL GOVT: Planning PTS.

dti

the department for Enterprise

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

Rt Hon Nicholas Ridley MP
Secretary of State for the
Environment
Department of the Environment
2 Marsham Street
London SW1P 3EB

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref LQ3AGB
Your ref
Date 14 September 1988

Dear Nicholas,

DEPARTMENTAL SUBMISSIONS TO PLANNING ENQUIRIES

Thank you for your letter of 31 August.

I am disappointed that you cannot agree to early publication of the guidance to Departments on making submissions to planning enquiries. However, I note what you say about being prepared to provide the guidance if asked.

I am sending copies of this to the Prime Minister and Sir Robin Butler.

Yours

Local Govt: Planning
Pt 5

CP/PV

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon the Lord Young of Graffham
Department of Trade and Industry
Victoria Street
LONDON
SW1

31 August 1988

NBPM
RCG
S/C

Dear David

Thank you for your letter of 16 August reiterating your view that the recently issued guidance to Departments on making submissions to planning inquiries should be published.

Formal inquiry procedures have been in place for nearly 30 years and are generally well-known and understood. The recent changes to the planning rules were accompanied by a lengthy explanatory Circular. I am satisfied, therefore, that the Circular (and an associated booklet: Planning Appeals: A Guide) gives adequate advice to those taking part in the inquiry process.

I agree that there is nothing in the guidance attached to my minute of 28 July to the Prime Minister which could not be made public. Indeed, it is possible that at some future date a party to an inquiry might ask to see it. I imagine that the Inspector would pass this on to us on the assumption that we ought to comply with the request and we should probably do so. Nor, despite its classification, is there anything in my minute to the Prime Minister which I would be concerned about if it were to be made public - since it adds a gloss to the guidance it might be argued that it should be regarded as part of it.

However, there is a great deal of guidance, principally in the Inspector s' Handbook, which bears on the conduct of inquiries but which we have not publicised (though we have placed the Handbook in the Parliamentary Libraries). In the context of the Department of Energy's new rules for electricity inquiries and the Hinkley C inquiry we have been under great pressure to publish the Handbook. We have released certain small extracts but have resisted publicising the whole because the Handbook was drafted for internal use, not for publication, and it would require a major effort to revise it for publication. I am concerned that to publicise the guidance enclosed with my minute of 28 July will encourage further requests for the Handbook. Moreover, there is a danger that items (b), (c) and (d) will be represented by the Press as being an implied criticism by Ministers collectively of the nature of your Department's evidence to the Foxley Wood inquiry.

In these circumstances, I think that the best course would be for us not to give any publicity to the guidance now, but to be prepared to provide it if we are asked and it is reasonable to do so in the circumstances.

I am sending copies of this letter to the Prime Minister and Sir Robin Butler.

Yours ever
Nicholas

NICHOLAS RIDLEY

LOCAL SOVC

PENDING PTS

dti

the department for Enterprise

cc PS

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref PS1BIC
Your ref
Date 16 August 1988

Dear Nicholas,

DEPARTMENTAL SUBMISSIONS TO PLANNING INQUIRIES

I have seen your Private Secretary's letter of 5 August setting out your comments on my letter of 28 July which unfortunately crossed with your minute to the Prime Minister circulating the guidelines to colleagues in formal form.

I accept that now the guidelines have been issued we should not seek to amend them. I am grateful, however, for the clarification of your views on the second point I raised. This meets my concern.

I note what you say about publishing the guidelines but I hope you will be prepared to look at this question again. The procedures may be generally well know to those directly involved in the planning process but experience with Foxley Wood suggests that they are not well understood by outsiders, not least local interest groups and the press. Publicising the main points of the guidelines would help reduce the scope for such misunderstanding to be exploited by those who want to make mischief. In particular, it seems to me that we ought to emphasise the longstanding and continuing nature of the procedures and the fact that it is quite normal for departments to give evidence to inquiries.

I am copying this letter to the Prime Minister and Sir Robin Butler.

Yours,

the Enterprise initiative

Local Unit

Planning

RTS

FILE PM

CONFIDENTIAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

11 August 1988

Dear Roger

PLANNING APPEALS - DEPARTMENTAL VIEWS

The Prime Minister was grateful for your Secretary of State's minute of 28 July in which he circulated guidance to Departments who may wish to express views on planning appeals. This she has seen and noted.

I am copying this letter to the Private Secretaries to Ministers in charge of Departments and Trevor Woolley (Cabinet Office).

Yours sincerely

Dominic

Dominic Morris

Roger Bright, Esq.,
Department of the Environment.

CONFIDENTIAL

KK

CF Rue MJ

FRONT DOOR

MR TAYLOR

I attach a note from Sir John Sainsbury's office confirming that the next meeting of the Sainsbury Group will be held here at Downing Street on Monday 24 October.

I should be grateful if Mr Taylor could ensure that a room is made available for the Group from 1500-1530 for them to have a pre-meeting. I think they met in the White Parlour last time. That seems eminently suitable. The main meeting is normally in the Cabinet Room.

Dominic Morris

8 August 1988

cc PV

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

26pm

Neil Thornton Esq
Private Secretary to
The Rt Hon The Lord Young of Graffham
Secretary of State
Department of Trade and Industry
1-19 Victoria Street
LONDON
SW1H 0ET

5 August 1988

Dear Neil

DEPARTMENTAL SUBMISSIONS TO PLANNING INQUIRIES

Your Secretary of State's letter of 28 July reached us after my Secretary of State had circulated to colleagues his minute to the Prime Minister of the same date, following her approval of the guidelines (see Paul Gray's minute to you of 21 July).

Mr Ridley thinks it would be difficult to amend the guidelines now that they have been circulated to Ministers in charge of Departments. The first and third amendments that are suggested are minor drafting points. The second is a major change and is not one to which he can agree. The guidelines advise that Departmental views on a specific application should be related to that application and not made the occasion for expressing views on general policy issues. Mr Ridley considers that this is sound advice, although it need not wholly exclude evidence of a more general character if that is strictly relevant and useful.

Mr Ridley does not think it necessary to publish the new guidelines. They are based on the existing procedures, which are generally well understood by those involved in the planning process. The guidelines are addressed to Departments, and if Departments follow them there should be no cause for difficulty in future.

I am copying this letter to Nigel Wicks and to Sir Robin Butler.

Yours sincerely

Roger Bright

R BRIGHT
Private Secretary

LOCAL GOVT: Planning
PT 5

010 :

CF

The Chairman's office

SAINSBURY'S

J Sainsbury plc
Stamford House
Stamford Street
London SE1 9LL

01-921 6000

Telex 264241

4th August, 1988

Mr. Dominic Morris,
Private Secretary,
10, Downing Street,
London,
SW1A 2AA

Dear Mr. Morris, OF.

Further to our telephone conversation I am writing to confirm the date for the Group meeting with the Prime Minister on Monday 24th October, 1988, from 3.30pm to 5pm. I should also like to confirm with you that it is possible for the Group to meet in an ante-room prior to the meeting, say at 3pm.

For your information I am attaching a current list of the Group members. I look forward to hearing from you nearer the time with further details.

Yours sincerely,

Tracey McMahon

Sir John Sainsbury,
Chairman and Chief Executive,
J Sainsbury plc,
Stamford House,
Stamford Street,
LONDON SE1 9LL

Sir Christopher J. Benson,
Vice Chairman and Managing Director,
MEPC plc,
Brook House,
113 Park Lane,
LONDON W1Y 4AY

Sir Clifford Chetwood,
Chairman and Chief Executive,
George Wimpey plc,
Hammersmith Grove,
LONDON W.6.

Sir Nigel Mobbs,
Chairman and Chief Executive,
Slough Estates plc,
234, Bath Road,
SLOUGH SL1 4EE

Mr. D.N. Idris Pearce,
Managing Partner,
Richard Ellis,
55, Old Broad Street,
LONDON, EC2M 1LP

Mr. Roger W. Suddards CBE,
Hammond Suddards,
Empire House,
10, Piccadilly,
BRADFORD. BD1 3LR

Mr. John Taylor,
Partner,
Chapman Taylor Partners,
96, Kensington High Street,
LONDON, W8 7RE

CCA

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref: nbpm

The Rt Hon Peter Walker MBE MP
Welsh Office
Gwydyr House
Whitehall
LONDON
SW1

29 July 1988

Dear Peter

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

Thank you for your letter of ~~21~~ 21st July about your intention to issue a circular about the Welsh language as a material planning consideration.

I am sure that we must meet to discuss this. I fear that it is not possible for you to proceed as though this can be treated as a self-contained Welsh matter. Planning law as established in legislation and by the courts applies equally in England and Wales. For that reason what is done in Wales would have important implications for the position in England and my understanding is that what you propose presents substantial legal difficulties. I think that it would be helpful if we were to invite Patrick Mayhew to join our discussion to help us with that aspect of your proposal.

I am sending copies of this letter to the Prime Minister, Malcolm Rifkind, Patrick Mayhew and Sir Robin Butler.

Yours ever
Nicholas

NICHOLAS RIDLEY

LOCAL GOVT: Planning R.S

CONFIDENTIAL

Prime Minister 2

Mr Ridley formally circulating to colleagues the guidance now approved following the Foxley Wood issue

DM 19/8

Prime Minister

PLANNING APPEALS - DEPARTMENTAL VIEWS

You agreed that I should circulate the enclosed guidance to Departments who may wish to express views on planning appeals and similar cases. I would be grateful if colleagues could ensure that these guidelines are drawn to the attention of officials concerned in their Departments. I hope that they will be found helpful.

I should add that there is no reason why a Cabinet colleague who is concerned about a particular planning case from his Department's policy interests should not speak to me about it. Collective responsibility extends this far and my predecessors have on occasions sought the views of colleagues on major planning cases, while necessarily reserving the final decision to themselves. This is not "new evidence" that needs to be disclosed - though, if it did produce new factual material that was likely to determine the decision, it would have to be (the only exception being matters related to national security). On the whole, however, colleagues generally expect DOE Ministers to be aware of other policy considerations and are content to leave such decisions to them.

There are long-standing arrangements for Government Departments to give evidence at planning appeal inquiries. These are well understood by those involved in the planning process, and very rarely give rise to any difficulty. My Inspectors take account of such evidence. Inspectors also, of course, have full regard to current policies as expressed in Departmental circulars and other publications.

These long established arrangements generally work well and I do not think that we need to alter them. Planning appeals are subject to procedural Regulations which effectively prevent my

taking account of evidence that has not been made available to the parties to the appeal. If I (or the Inspector if the decision is to be taken by him) receive evidence which is likely to influence my decision, then that has to be disclosed. Certainly the introduction of covert Departmental evidence would cause serious difficulty, since the present procedural Rules do not provide for this. Where a Department proposes to get involved in a very controversial case, it is important that they consult their Minister first and that he should discuss it with me to see if that intervention is likely to be helpful or not.

I am copying this to all Ministers in charge of Departments and to Sir Robin Butler.

N R

28 July 1988

GUIDANCE TO GOVERNMENT DEPARTMENTS IN EXPRESSING VIEWS ON PLANNING APPEALS AND SIMILAR CASES

1. Departments wishing to express views on a matter that is the subject of a planning appeal or similar procedures under the Planning Acts should bear the following guidance in mind:

(a) Both Ministers and Inspectors in deciding planning cases cannot take into account evidence that has not been made available to the parties concerned; ie. Departmental views must be expressed openly.

(b) In general Departments should consider giving evidence only if they have information to provide that is relevant to the case and which might not otherwise be made available.

(c) The content of statements (and any oral evidence) should be confined to matters that are the responsibility of the Department and should be related to the specific application or proposal rather than to general policy issues.

(d) Comments that might be thought to imply criticism of Government policies should be avoided.

(e) The views expressed should always include a statement that they are without prejudice to the Secretary of State for the Environment's duty to take account of all the material planning considerations and of the representations made by other parties.

(f) Any statement or written representations should observe the timetable applicable to an applicant/appellant under the 1988 Inquiries Procedure Rules.

(g) If a view is expressed, or direction given, that permission should not be granted, it should be borne in mind that the applicant/appellant has the right under Rule 12 to require that a Departmental representative appear at any subsequent inquiry.

(h) Even where the views expressed support the proposal, it is highly desirable (unless security or other matters of national interest are at stake) that the Government Department should make a representative available at an inquiry, if requested to do so, so that the views expressed may be tested.

(i) At an inquiry a Departmental representative cannot be required to answer questions directed towards the merits of Government policy (Rule 12(4)), but may do so if he has been authorised to do so by his or her Minister.

(j) In general views on the "planning merits" of the case - ie. the balancing of the case for development against environmental and other material considerations - should be avoided since that judgement is for the Secretary of State for the Environment, or the Inspector acting on his behalf, to decide.

Department of the Environment

July 1988

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

28 July 1988

Dear Nick,

HANDLING OF PLANNING APPEALS

Thank you for your letter of 6 June with your proposals for improving the handling of planning appeals.

Peter Walker, Tom King, Paul Channon and John Major and (in their previous capacities) Kenneth Clarke and John Moore wrote supporting your proposal that local planning authorities should be encouraged to apply for awards of costs against unreasonable appellants.

Except for Peter Walker, they were also content in principle for you to prepare a consultation document proposing the charging of fees to cover the full costs of administering the appeals system. Peter indicated that he would let you know in due course what he proposed for Wales. Malcolm Rifkind also expressed some reservations about charging and suggested that you should circulate your consultation document to colleagues before publication.

No other colleague commented and you may take it, therefore, that you have H Committee's agreement to your proposals, subject to Peter Walker's further consideration of whether the proposed charges should apply in Wales. I should be grateful if, as Malcolm Rifkind requested, you could in due course circulate to colleagues a draft of your proposed consultation document.

I am copying this letter to the Prime Minister, members of H Committee, David Young, Patrick Mayhew and Sir Robin Butler.

Yours ever

JOHN WAKEHAM

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
SW1P 3EB

CONFIDENTIAL

LOCAL GOVT Planning PTS

dti

the department for Enterprise

cc PU

rbpm

The Rt. Hon. Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon Nicholas Ridley MP
Secretary of State for
the Environment
Department of the Environment
2 Marsham Street
LONDON SW1 3PY

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5422
Our ref DW2AMU
Your ref
Date 28 July 1988

Dear Nicholas

DEPARTMENTAL SUBMISSIONS TO PLANNING INQUIRIES

I have now had an opportunity to consider your flag. minute of 20 July to the Prime Minister and the revised guidance to departments attached to it.

I am sure you are right to suggest that colleagues should talk to you before intervening in a controversial case. Certainly I would be happy to give you advance warning of any submission DTI might wish to make to a future inquiry and to consider with you how the submission might best be presented. We would, of course, need to ensure that such consultations did not cut across the principle of openness to which you draw attention but I take it that you see no problems on that score.

I am content with the revised guidance subject to the three small drafting changes set out in the attached note. These are all designed to clarify the basic point of substance and will not, I hope, cause you any difficulties.

I am sure that you should publish the revised guidance, or at least its essential features. Participants in future inquiries will then be clear as to what is and is not permissible and the risk of the press presenting departmental submissions as evidence of disagreement between departments will be obviated.

I am copying this letter to the Prime Minister and to Sir Robin Butler.

Yours ever

Norman

the Enterprise initiative

DRAFTING COMMENTS ON REVISED GUIDANCE ON DEPARTM,ENTAL SUBMISSIONS TO PLANNING INQUIRIES

1. Amend the last line of (b) to read: " case and which adds something (eg in weight, content or clarity) to the evidence which might otherwise be made available."

2. Delete the words "rather than to general policy issues" at the end of (c).

3. Amend (d) to read "Comments should be expressed in ways that avoid implying criticism of Government policies."

J01ABS

Local Govt: Planning Act

PRIME MINISTER

Sir John Sainsbury telephoned me today to ask whether you would like to have another meeting with the "Sainsbury Group on Planning Controls" in the autumn.

If you would like to, the afternoon of 24 October looks good (you have the Bhavan's dinner that night, but the Sainsbury Group meeting would be out of the way in plenty of time for you to have last-minute thoughts on your speech and to change, etc).

Content for me to offer Sir John that date?

Yes

Patricia A. Parker. Duty Clerk.

AP DOMINIC MORRIS
26 July 1988

Y S[redacted]DFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel 01-270 3000 (Switsfwrdd)
01-270 (Llinell Union)
Cod wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-270 3000 (Switchboard)
01-270 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Peter Walker MBE MP

CONFIDENTIAL

CT/2082/88

21 July 1988

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

Thank you for your letter of 19 July.

I am afraid that I cannot agree not to issue a circular on the Welsh Language in planning. In my announcement yesterday of the Government's response to advice on the future of the language I referred briefly to the need to remove misunderstanding about the status of the language in relation to planning and said that clarification was needed. In my view this can be done best, as my advisers on the language have recommended to me strongly, by publishing a circular clarifying the position.

As your officials will have told you the circular will say nothing new. The keys points have been established by Parliamentary replies in recent years which most of the rest repeats published planning advice.

I certainly have no wish to extend the use of the planning system into areas in which it is inappropriate. My circular will make it clear that decisions where the language is a consideration must be related to the purpose of planning legislation, to regulate the development and use of the land. Your concern that it may be used as a lever to widen the planning system to embrace social issues such as the promotion of women's interests seems to me to be exaggerated and I am sure that we ought not to be deflected from desirable policies from fear that they be misused or /misinterpreted by

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
2 Marsham Street
LONDON SW1P 3EB

misinterpreted by minority interests whether in Wales or in England. The importance of the Welsh language within Wales is not replicated anywhere in England by language or by any other social or cultural consideration. If it were, you would no doubt feel, quite properly, that you had to reconsider your own position on the implications for land use planning.

I shall be happy to discuss this if you wish. But I have to say that this is very much a Welsh matter and that I wish to proceed quickly.

I am sending copies of this letter to the Prime Minister, Malcolm Rifkind, the Attorney General and to Sir Robin Butler.

Local Govt Planning

A5

CONFIDENTIAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

21 July 1988

Dear Neil

FOXLEY WOOD

The Prime Minister has seen your Secretary of State's minute of 17 June and the Secretary of State for the Environment's minute of 21 July.

The Prime Minister agrees with the Secretary of State for the Environment that the present procedures for Government departments to give their views on planning cases should continue, but that it would be helpful for the Department of the Environment to issue new guidelines along the lines proposed.

I am copying this letter to Roger Bright (Department of the Environment) and Trevor Woolley (Cabinet Office).

Yours,
Paul

(PAUL GRAY)

Neil Thornton, Esq.,
Department of Trade and Industry.

PRIME MINISTER

FOXLEY WOOD

Lord Young's minute of 17 June followed the controversy about the Department of Trade and Industry's submission to the Foxley Wood Inquiry. He suggested considering alternative arrangements for other Departments to intervene in planning inquiries drawing on the analogy with MMC references.

I have delayed putting this note to you until the Department of the Environment response was available. Mr Ridley's minute of 20 July now provides that response, along the lines anticipated in Robin Butler's note of 28 June.

Mr Ridley (supported by Robin Butler) argues that there is nothing wrong with the present arrangements for Government Departments to give evidence at planning appeal inquiries as long as these are operated properly. But, to avoid a repeat of the Foxley Wood problem, he attaches draft guidance to be circulated to Government Departments.

Content to endorse Mr Ridley's approach and the draft guidance?

S. Morris
Duty Clerk

P.P. PAUL GRAY
20 July 1988

DS2AIZ

PRIME MINISTER

FOXLEY WOOD

In his minute to you of 17 June about his Department's submission to the public inquiry on Consortium Development's planning appeal at Foxley Wood, David Young suggested that there needs to be some means of ensuring that the views of other Departments on such cases can properly be taken into account without prejudicing my position in deciding the appeal.

I should explain that there are long-standing arrangements for Government Departments to give evidence at planning appeal inquiries. These are well understood by those involved in the planning process, and very rarely give rise to any difficulty. For example, MAFF have frequently given evidence on the agricultural value of the land or on the effect of the proposed development on the structure of farm holdings. DTI sometimes give evidence in support of a firm's need to expand, its contribution to exports and so forth. My own Department's Agencies, such as English Heritage, sometimes give evidence. My Inspectors take account of such evidence and Departmental witnesses may be called to give evidence. Inspectors also, of course, have full regard to current policies as expressed in Departmental circulars and other publications.

All this works well, and is generally accepted, because it is done openly. Planning appeals are subject to procedural Regulations which effectively prevent my taking account of evidence that has not been made available to the parties to the appeal. If I (or the Inspector if the decision is to be taken by him) receive evidence which is likely to influence my decision, then that has to be disclosed.

The fact that DTI gave evidence to the Foxley Wood inquiry therefore broke no new ground. What proved awkward was the fact that their evidence addressed the whole of the "South East" issue, was expressed in forceful terms and, of course, was pitched into an atmosphere already highly charged and on a very controversial project. They had already given similar evidence to the Examination in Public on the Hampshire structure plan but that was in a general context and did not attract so much attention.

I should add that there is no reason why a Cabinet colleague who is concerned about a particular planning case from his Department's policy interests should not speak to me about it. Collective responsibility extends this far and my predecessors have on occasions sought the views of colleagues on major planning cases, while necessarily reserving the final decision to themselves. This is not "new evidence" that needs to be disclosed - though, if it did produce new factual material that was likely to determine the decision, it would have to be (the only exception being matters related to national security). On the whole, however, colleagues generally expect DOE Ministers to be aware of other policy considerations and are content to leave such decisions to them.

As I have explained, these well established arrangements usually work well and I do not think we need to alter them. Certainly the introduction of covert Departmental evidence would cause serious difficulty, since the present procedural Rules do not provide for this. But where a Department proposes to get involved in a very controversial case, it is important that they consult their Minister first and that he should discuss it with me to see if that intervention is likely to be helpful or not.

My Permanent Secretary has discussed this subject with Sir Robin Butler and the Treasury Solicitor, together with Sir Brian Hayes, and they advise that the present procedures normally operate satisfactorily. But they consider that it would be helpful if my

CONFIDENTIAL

Department issued some new guidance to other Departments on the subject, and I enclose a draft of such guidelines.

I am copying this to David Young and Sir Robin Butler.

pp N R

(Approved by the Secretary of State
and signed in his absence)

20 July 1988

DRAFT

GUIDANCE TO GOVERNMENT DEPARTMENTS IN EXPRESSING VIEWS ON PLANNING APPEALS AND SIMILAR CASES

1. Departments wishing to express views on a matter that is the subject of a planning appeal or similar procedures under the Planning Acts should bear the following guidance in mind:

(a) Both Ministers and Inspectors in deciding planning cases cannot take into account evidence that has not been made available to the parties concerned; ie. Departmental views must be expressed openly.

(b) In general Departments should consider giving evidence only if they have information to provide that is relevant to the case and which might not otherwise be made available.

(c) The content of statements (and any oral evidence) should be confined to matters that are the responsibility of the Department and should be related to the specific application or proposal rather than to general policy issues.

(d) Comments that might be thought to imply criticism of Government policies should be avoided.

(e) The views expressed should always include a statement that they are without prejudice to the Secretary of State for the Environment's duty to take account of all the material planning considerations and of the representations made by other parties.

(f) Any statement or written representations should observe the timetable applicable to an applicant/appellant under the 1988 Inquiries Procedure Rules.

(g) If a view is expressed, or direction given, that permission should not be granted, it should be borne in mind that the applicant/appellant has the right under Rule 12 to require that a Departmental representative appear at any subsequent inquiry.

(h) Even where the views expressed support the proposal, it is highly desirable (unless security or other matters of national interest are at stake) that the Government Department should make a representative available at an inquiry, if requested to do so, so that the views expressed may be tested.

(i) At an inquiry a Departmental representative cannot be required to answer questions directed towards the merits of Government Policy (Rule 12(4)), but may do so if he has been authorised to do so by his or her Minister.

(j) In general, views on the "planning merits" of the case - ie. the balancing of the case for development against environmental and other material considerations - should be avoided since that judgement is for the Secretary of State for the Environment, or the Inspector acting on his behalf, to decide.

0/0

CONFIDENTIAL

cc PU

NBPM yet

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434
My ref:
Your ref:

The Rt Hon Peter Walker MBE MP
Welsh Office
Gwydyr House
Whitehall
LONDON
SW1

19 July 1988

Dear Secretary of State,

THE WELSH LANGUAGE AS A PLANNING CONSIDERATION

I gather from my officials that though you have long resisted the idea that you ought to issue a circular about the status of the Welsh language in relation to development plans and development control, you now intend to issue one very shortly. I have seen your draft circular.

Though I understand the pressures you face, I am bound to say that the proposal gives me and my legal advisers a good deal of concern. We constantly face suggestions that the planning system should be used for purposes other than land-use planning. A circular on the lines which you propose carries the risk that we shall be pressed to say that all sorts of matters which do not normally have any implications at all in terms of land use should be the proper concern of the planning system. These include perfectly worthy objects like promoting ethnic and women's interests, sometimes in specific areas, but I think it most unwise to widen the ambit of the planning system on their account. There are always those who are ready to use the system at the local level for dubious political purposes. We must bear in mind too the widespread desire to restrict access, for example, to housing, to people from the immediate locality. We have rightly set our faces against such a use of the planning system and, while I know that you intend to continue to resist such policies and planning conditions framed to that end, I fear that the circular which you suggest will risk seriously undermining our position. There must be a question too whether the claims made in the draft circular are legally justifiable.

I should like to have the opportunity to discuss this matter with you before you proceed.

Copies of this leter go to the Prime Minister, Malcolm Rifkind, the Attorney General and Sir Robin Butler.

Yours sincerely

pp NICHOLAS RIDLEY

(Approved by the Secretary of State and signed in his absence)

CONFIDENTIAL

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref

Your ref

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

14 JUL 1988

Dear Nicholas

HANDLING OF PLANNING APPEALS

Thank you for copying to me your letter of 6 June to John Wakeham about the handling of planning appeals. I support your aim of speeding up the decision process, and I am content with your two main proposals, encouragement to local planning authorities to apply for awards of costs in appropriate cases, and legislation to enable you to make charges for the costs of handling appeals. As you acknowledge, there is bound to be some opposition to this. As I recall, at the time of the Local Government, Planning and Land Bill the Council on Tribunals was opposed to the levying of such charges, and there was some concern whether the relevant enabling provision could be got through the House of Lords.

My own Departmental interest arises on two fronts, first on developments which I sponsor myself (primarily motorway service areas), and secondly developments proposed by the transport industries which I sponsor. On neither count, do I see serious issues arising. So far as motorway service areas are concerned, we already pay the costs of carrying out proposals through the planning process, when local authorities have objected to them. We also pay the full costs of public inquiries into our road proposals and local highway authorities also pay the full costs of inquiries into theirs. So your proposals for charging the costs of handling planning appeals do not really break new ground for us.

There is one respect in which we will be affected. That is where we direct a refusal of planning permission, and that refusal is the subject of appeal. In those rare cases where appeals are allowed against our direction, and it is alleged that we have behaved unreasonably, we could be expected to face a claim for an enhanced amount of costs. The situation is not however intrinsically new as we currently accept a moral obligation to make an ex gratia payment in such a situation.

CONFIDENTIAL

I would be grateful to be kept in touch with the development of your proposals.

I am copying this letter to the Prime Minister, other Ministers of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours,

PAUL CHANNON

Paul

LOCAL GOV'T: Planning
PPS

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

CONFIDENTIAL

The Rt Hon John Wakeham MP
Lord President
Lord Privy Seal's Office
68 Whitehall
London SW1

7 July 1988

Dear Lord President

HANDLING OF PLANNING APPEALS

I have seen a copy of Nicholas Ridley's letter of 6 June and those of Tom King and Kenneth Clarke of 27 and 28 June respectively. Although the number of appeals has been growing less rapidly in Scotland, I also face problems in finding resources to deal with them. Clearly however I would wish to follow suit if fees were introduced for appeals in England and Wales. I agree with Nicholas that the established practice of local authorities charging for the determination of planning applications provides a clear precedent for charging for appeals, and charges are of course levied for civil actions in the Courts. I am however concerned about the basis on which we would justify the introduction of charges, and about some of the practical implications.

Nicholas suggested in his letter that resource constraints are the main reason for introducing charges and that charges would lead to an improved level of service. In my view there remains some discontent about fees for planning applications, particularly among unsuccessful applicants, and they can be expected to object to any proposal that having paid one fee without obtaining planning permission they should have to pay again to have the chance of securing the reversal of the planning authority's decision. I think it would be necessary in any consultation document to set out more fully the arguments of principle for charges, perhaps pointing to other areas in which they are levied, and to avoid giving the impression that charges are simply a response to the increase in appeals. This increase must in some measure be a reflection of our success in promoting economic growth. I would also be wary of promising an improved level of service until we are confident that it can be delivered.

CONFIDENTIAL

EML183F7

I agree with Nicholas that the proposed scale of charges will need careful study. It is not clear to me what our argument would be for proposing full cost recovery, rather than, as with fees for planning applications, 50% recovery of costs. Court fees for civil business are based on full cost recovery excluding judicial costs, which might provide another model. It would also be necessary to consider whether the fees for each type of appeal should reflect the average costs of dealing with that category of appeal, or whether there should be some element of cross-subsidy. My officials' initial calculations suggest that the scale contained in the Annex to Nicholas' letter would only recover about half the costs of administering the appeal system in Scotland. This must partly reflect differences of geography and our inability to achieve the same economies of scale, and I would be most reluctant to agree that for these reasons fees in Scotland should be set at a higher level.

Nicholas refers to the deterrent effect which charges would have. That effect seems to me likely to depend mainly on the value of the proposed development. Where the planning permission will be of great value the proposed fee is unlikely to be much of a deterrent. In the case of larger public inquiries even a fee at the top of the proposed scale would be a fairly small addition to the costs which applicants already face in fielding an inquiry team. The fee is most likely to be a deterrent where the economic case for the development is already marginal. It should also be borne in mind that the planning authority has a right to have an appeal heard at inquiry even if the applicant would prefer written submissions, so that it would be open to a planning authority, where it wished, to force the applicant's minimum fee up to, on the scale proposed by Nicholas, over £200.

While therefore I have some reservations about Nicholas' proposals I would be content for them to be worked up into a consultation document. As I would have to issue a parallel document in Scotland I would want my officials to be closely involved in that further work, and I think that colleagues should consider the consultation document before reaching a final decision to proceed with it.

I am copying this letter to the Prime Minister, the other members of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours Sincerely

MRS Jones
(Private Secretary)

MALCOLM RIFKIND

Approved by the Secretary of State and signed in his absence

CONFIDENTIAL

EML183F7

Local Govt: Planning
Pt 5

Ref. A088/1969

MR P R GRAY

FILE WITH DS

You sent me, under your minute of ~~17~~ June, the minute of the same date from the Secretary of State for Trade and Industry about the role of Government Departments in planning enquiries. This had arisen from embarrassment caused to the Secretary of State for the Environment by a minute put in by the Department of Trade and Industry on Foxley Wood. I have now discussed this question with the Permanent Secretaries of DTI and DOE and the Treasury Solicitor.

2. Sir Terence Heiser has pointed out that it is quite common for Government Departments to submit public evidence to planning enquiries. The most frequent example is evidence from the Ministry of Agriculture about the quality of agricultural land when there is an application for development. The Department of the Environment at official level would not want to adopt the suggestion in Lord Young's minute which would debar Departments from giving such public evidence to enquiries.

3. The trouble on Foxley Wood was the way in which DTI's evidence was expressed. It lacked a statement that the evidence was without prejudice to the Secretary of State for the Environment's quasi judicial role (to which the normal conventions of collective responsibility do not apply) and it appeared to encroach on the "planning merits" of the case instead of confining itself to matters of relevant policy concern to the DTI and statements of general Government policy. This enabled other parties in the enquiry to exploit the evidence to the embarrassment of the Secretary of State for the Environment.

FRBAHZ

4. The Department of the Environment, therefore, are planning to advise their Secretary of State that the existing arrangement under which other Departments can submit public evidence to planning enquiries should continue but that guidance should be made available to them about the proper limits of such evidence. I agree that this is a more defensible procedure than Lord Young's suggestion that colleagues should write to the Secretary of State for the Environment in private. There is no reason why they should not also do the latter, provided that, as Lord Young suggests, they make clear that they are not seeking to prejudice the Secretary of State for the Environment's quasi judicial position and provided that they are careful not to introduce new 'evidence' which ought to be before the enquiry.

5. The DOE propose to make a submission to their Secretary of State, with a reply to Lord Young, on the lines set out above; and to suggest to him that he subsequently circulates notes of guidance for Departments on the submission of public evidence to planning enquiries. I agree with the advice being submitted by DoE officials and I suggest that the Prime Minister waits to see whether the Secretary of State for the Environment accepts the advice before deciding whether to intervene in the correspondence.

F.E.R.B.

ROBIN BUTLER

28 JUNE 1988

FRBAHZ

LOCAL GOVT. Planning Pts

dti

the department for Enterprise

CONFIDENTIAL

The Rt. Hon. Kenneth Clarke QC MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Nicholas Ridley MP
Secretary of State
Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

NSPM

Department of Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147
Our ref
Your ref
Date 28 June 1988

Dear Secretary of State,

HANDLING OF PLANNING APPEALS

Thank you for copying to me your letter of 6 June to John Wakeham on this subject. I am also replying on behalf of David Young.

I fully sympathise with the problems that your Planning Inspectorate is facing in endeavouring to cope with the increasing number of appeals. I am sure that the rise in planning applications at least partly reflects the climate of confidence generated by the success of our economic policies. But we clearly need to explore ways of reducing delays in decision times in order to achieve your December 1988 targets and provide a better service for business. And since business wants a quicker and more efficient appeals procedure, I share your view that it should be prepared to pay for it, so long as there is a clear linkage between the fees to be charged and the costs involved and that we are seen to be improving the system.

I endorse your rejection of the idea of removing the right of appeal in certain cases and of establishing a system of local appeals boards.

I also welcome your intention to remind planning authorities of their right to apply for an award of costs against an applicant who is being unreasonable in taking a case to appeal. I am surprised to note that relatively few authorities, as compared

dti

the department for Enterprise

with appellants, seem to be taking up this option in view of the complaints made about the extra expense caused by appeals, especially those that are the subject of a public enquiry.

I realise that you need to do more work on your proposals, in particular in identifying the costs involved in planning appeals, and in projecting the future level of appeals, before producing a consultation paper. I think it would be helpful if my officials could have an opportunity to comment on this paper in draft, before it is circulated at Ministerial level. We would certainly be looking at that stage for a compliance cost assessment which we can consider against the potential benefits for business from a faster appeals system.

In addition I note that you are at the same time proposing to simplify the scale for fees for planning applications and the arrangements for increasing them. It is not clear to me whether or not this is likely to involve a significant increase in some or all of these fees. I should be grateful for your advice on this point.

Finally I very much welcome your intention to have a Planning Bill ready for the 1989-90 session and to include in it the abolition of structure plans, along with other measures to improve the planning system.

I am copying this letter to the Prime Minister, other members of the Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours sincerely,

Linda Joyce

pp KENNETH CLARKE

(Approved by the Chancellor and signed in his absence)

LS2AAU

LOCAL AUTH : Rating PTS

CONFIDENTIAL

CC PSG

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

NBR

SECRETARY OF STATE
FOR
NORTHERN IRELAND

Rt Hon Nicholas Ridley MP
Secretary of State for
the Department of the Environment
2 Marsham Street
LONDON
SW1P 3EP

27 June 1988

Dear Nick

Flap

I refer to your letter of 6 June to the Lord President in which you requested approval to consult on the proposal for a system of charging for planning appeals.

In Northern Ireland planning appeals are heard and decided by the independent Planning Appeals Commission. The Commission already charge £10 per appeal to cover advertising costs. Any proposal to increase these charges in Northern Ireland would require prior consultation with the Commission, but I cannot see that this should hold up the issue of your proposed consultation document.

You may take it therefoe that I am content with your proposal in principle. No doubt our officials will liaise on the consultation as it progresses.

Copies of this letter are being sent to the Prime Minister, other members of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours

TK

SMN3211

LOCAL GOVT
Planning Controls pt 5

CJBG

DEPARTMENT OF HEALTH AND SOCIAL SECURITY
Richmond House, 79 Whitehall, London SW1A 2NS
Telephone 01-210 3000

From the Secretary of State for Social Services

NRPM

CONFIDENTIAL

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

15 June 1988

Dear Nicholas.

HANDLING OF PLANNING APPEALS cat flap

The proposals in your letter of 6 June to John Wakeham seem to be a very reasonable and practicable way of improving the handling of Planning Appeals.

We are energetically pursuing the rationalisation of the NHS estate and this includes the disposal and eventual development of surplus property. Undoubtedly this process will be assisted by any simplification and more speedy resolution of Planning Appeals. The scale of fees which you have in mind should not affect this strategy.

I hope I am right in believing that your proposals will not make legitimate appeals more difficult or unreasonably expensive. In one specific area for example we would not wish to place unreasonable obstacles in the way of appeals arising from local authority attempts to use the planning system to control the development of private residential care and nursing homes.

I would have no objection to the issue of a consultation document.

I am copying this letter to the Prime Minister, other members of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours ever,

JOHN MOORE

LOCAL GOV'T: Planning Controls Pt 5

013/4212

CONFIDENTIAL

NBR

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for the Environment
Department of Environment
2 Marsham Street
London
SW1P 3EB

21st June 1988

Dear Secretary of State,

HANDLING OF PLANNING APPEALS

You copied to me your letter of 6 June to John Wakeham inviting colleagues' agreement to the issue of a consultation document proposing a system of charging for appeals.

I am aware of the resource implications for your department of the increased number of planning appeals; it has been the subject of recent correspondence between us. A system of charging should help, and I would support the issue of the consultation document you have in mind.

I am copying this letter to the Prime Minister, other members of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

Yours sincerely,

for JOHN MAJOR

(Approved by the Chief Secretary and signed in his absence)

Local Govt: Planning
Controls Pt 8

CONFIDENTIAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

SIR ROBIN BUTLER

The Prime Minister has been sent the attached minute of 17 June by the Secretary of State for Trade and Industry. Before I put this to the Prime Minister, I should be grateful for your advice on the points he raises.

PAUL GRAY
17 June 1988

CONFIDENTIAL

dti

CONFIDENTIAL

PRIME MINISTER

FOXLEY WOOD

You will have seen the various press reports about my Department's submission to the Foxley Wood inquiry and the criticism it has attracted from the SANE group and Julian Critchley as the local MP.

2. I am sure that the industrial implications of the proposed Foxley Wood development need to be taken fully into account (that is why I decided to put in a DTI submission). But having discussed this with Nicholas Ridley, I realise, in retrospect, the difficulties that such a public intervention created for him. On the other hand, there are obvious difficulties in feeding views in to DoE in private without cutting across Nicholas' quasi-judicial role in the planning process.

3. I have no desire (and indeed I think it would be wrong for me) to withdraw the submission at this stage; as I see it that would do more harm than good. But for the future, I can see that it would be easier for Nicholas if we could avoid the need for DTI and other Departments to intervene publicly in planning inquiries of this kind and give the impression that Government is divided. We need, however, to consider how to ensure that the views of other Departments can properly be taken into account without prejudicing Nicholas' position.

PS5AXW

dti

CONFIDENTIAL

4. One thought which occurs to me is that we might aim to develop arrangements mirroring those which apply in relation to MMC references: in such cases, collegues do occasionally write to me setting out their views but making it clear that this is without prejudice to my quasi-judicial position under competition legislation. The two situations are not exactly parallel but there may be something here on which we can usefully build.

5. I am copying this letter to Nicholas Ridley only.

Stephen Ratcliffe

D Y

17 June 1988
(approved by the Secretary of State and signed in his absence)

Department of Trade and Industry

PS5AXW

CONFIDENTIAL

Prime Minister 2

To note. This seems sensible so long as Policy Unit's further consideration of the work on planning in the Green Belt stays sub rosa. You would not want that aspect to get confused the Ridley's presentation publicity of his 'New Village' proposals outside the Green Belt.

DM 10/6.

PRIME MINISTER 10 June 1988

THE GREEN QUADRATIC

You may have heard the Today programme's typically inaccurate report on the "Green Quadratic" - the Adam Smith Institute's report on planning and congestion in the South East.

nub

In fact, the report makes a useful contribution to the debate concentrating, as ever, on market solutions. Its key points are:

1. Much green belt land is physically unattractive - up to 40% according to some estimates. Well designed buildings in parkland settings built on this sort of green belt land would actually be an improvement. Moreover, one could require developers to set aside part of the profits from such developments to enhance and preserve other green belt sites. A ratio of 9 acres improved for 1 acre developed is suggested.

Comment

People do not readily understand why development is not allowed in ugly Green Belt areas. The result is greater pressure for development both inside and outside the Belts. This is the nub of the issue in the Dartford Northern Marshes case about which Bob Dunn has written to you.

2. Council tenants should be allowed to sell their tenancies. This would improve labour mobility and legitimise a practice that is already widespread (the former Director of Housing in Hackney told me that it

?

CONFIDENTIAL

was certainly widespread there). Alternatively, the Bromley scheme for giving portable discounts to tenants to move into the owner occupied sector should be expanded.

Comment

Flexi-ownership would have much the same effect on mobility as allowing tenants to sell their tenancies with some additional advantages. As to the Bromley scheme, we have already agreed to amend the Housing Bill to enable similar schemes to be established in other areas.

3. Planning decisions should be devolved to a local level - ideally individual towns and villages. Communities should be able to negotiate with developers on the price to be paid for planning permission. The resulting market in planning permission should help to ensure that developments went to areas where the loss of amenity would be least - because in those areas residents would be prepared to charge less for planning permission. The fees paid for planning permissions would either be distributed on a per capita basis to residents (perhaps as a reduction in the Community Charge) or be used to finance improvements to community facilities. There would be safeguards to ensure that communities did not dump all their unsightly developments on their boundaries.

Comment

This market approach is fundamentally different from the present planning system under which local authorities are not allowed to secure unrelated gains in return for giving planning permission although there is the more limited concept of 'planning gain'. It would deal with local

opposition to loss of amenity but would need to be coupled with safeguards for areas of more widespread landscape interest because those who seek leisure and recreation in the countryside would not benefit from the charges for planning permission.

4. **Road pricing should be introduced to reduce congestion in London and improve public transport systems. This could be done cheaply and easily using modern technology.**

Comment

An official group is already considering road pricing as part of a roads review.

Conclusions

1. The report's recommendations on planning are worth further investigation and we shall be considering them further. Do you agree?

2. The ideas we are currently discussing on council housing may have much the same effect as the proposal to allow council tenants to sell their tenancies and we are already introducing powers to enable local authorities to introduce versions of the Bromley scheme.

3. We do not propose to investigate further the issue of road pricing as this is already being considered elsewhere.

Carolyn Sinclair — Peter Stredder

CAROLYN SINCLAIR PETER STREDDER

CONFIDENTIAL

010

cc RG

NBPM.

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Rt Hon John Wakeham MP
Lord President
Lord Privy Seal's Office
68 Whitehall
LONDON
SW1

6 June 1988

Dear John

HANDLING OF PLANNING APPEALS

The number of appeals against refusal of planning permission by local planning authorities has been rising sharply in recent years. In 1983, there were 13,700 such appeals. In the financial year 1987/88, we received about 22,000 appeals. We predict that they will go on rising in the next few years and the indications are that we shall receive 25,000 in the present financial year.

The increase is a reflection of a number of factors. First, the marked increase in the rate of refusal of planning permission by local planning authorities which has occurred since 1984: in 1983 overall 12.6% of applications were refused; that has now risen to over 15% though the latest indications are that it has stabilised at about that level. Secondly, and more recently, there has been a increase in the number of planning applications: in 1987 they were 13% higher than the level in the period 1980-1985. Thirdly, there has been a small increase in the propensity to appeal against refusals - from 29% to 31%.

A large part of the increase in appeals, especially lately, has been attributable to applications for housebuilding development. This probably reflects on the one hand an acceleration in the housemarket where profit margins have increased and land owners naturally see the chance of securing some of those profits in increased land prices; and on the other the growing resistance to house building on the part of many local planning authorities, which reflects local opposition to new "green field" development.

The increase in the number of appeals poses serious managerial problems for the Department. In 1985 and 1986 we undertook a series of detailed management studies of the handling of appeals

in order to secure substantial improvements in decision times. Our published objectives were to achieve by the end of 1988 a median time of 11 weeks for cases decided by Inspectors on the basis of written representations (compared with 20 weeks in mid-1985); and 17 weeks for cases decided by Inspectors following public inquiry (compared with 30 weeks in mid-1985).

Broadly speaking, we would be on track to achieve these targets if the volume of cases had remained as in 1985. The subsequent increases in appeals have swamped progress, though a combination of improved procedures and extra staff have enabled us to hold decision times at about the levels of 1985. I am seeking additional resources so that we can improve on this.

I have been considering ways of enabling us to cope with the continuing volume of appeals, including radical methods of reducing the number of appeals at source. There are one or two possible measures which officials are still investigating, but I have concluded that the other possibilities are impracticable or politically undesirable. For example, I do not think that it is feasible to take away rights of appeal to Ministers (if only for some smaller types of development) and to leave the final decision with the local authority. I do not think that prospective developers would be content to do without the chance to have a second opinion on their proposals. Nor do I think that a system of local appeals boards would be likely to be as economic, effective or as responsive to national policy as the Inspectorate Appeal decisions, and related costs decisions, which are an important way in which national planning policies are applied and discipline is introduced into the planning system.

I have concluded therefore that two related financial measures are likely to prove the most practicable way of enabling us to handle the present load of planning appeals more effectively.

First, we should make it clear to local planning authorities that in inquiry cases they are free to apply for an award of costs against the appellant wherever they consider that the appeal, or the appellant's conduct in the case has been unreasonable - for example, where the developer persists with proposals for major development in the Green Belt, or where a small developer makes repeated applications and appeals for the same site. That is already the formal position and in DOE Circular 2/87 we provided comprehensive guidance on the circumstances in which costs were likely to be awarded against local planning authorities or against appellants. But the figures suggest that 90% of awards are against local planning authorities, and that this is partly because authorities seek an award of costs much less frequently than appellants. A greater rate of application for costs by authorities will probably result in more awards against appellants. That may incline professional advisers more frequently to recommend against appeal, or to recommend decision by written representations (in respect of which an award of costs cannot at present be sought). The latter method of handling is much less expensive for my Department.

Secondly, I have concluded that we ought to legislate to enable a fee to be charged to the appellant for making an appeal. I propose that fees should be charged according to a simple scale related to the main classifications of development which we use for statistical purposes. A basic fee should be chargeable in all cases, and should be non-returnable. For cases proceeding by way of inquiry there would be a standard supplementary fee to reflect the greater costs imposed by that procedure. This would be for inquiries lasting up to two days. For inquiries exceeding 2 days in length there would be an additional per diem charge for each day beyond 2 days, to discourage time-wasting.

The aim should be to cover the full costs to the Department of administering the appeals system. Annex A to this letter sets out the sort of scale which might be introduced on this basis. We believe that fees of this order would be needed to cover the Department's costs, but I emphasise that before publishing any proposals of this kind it will be necessary to study our costs and their apportionment to planning appeals work, to ensure that we do not make a set of proposals which are misleading as to the quantum of charge which might ultimately be levied in real terms.

Charges of this order could be expected to have some useful deterrent effect on the more speculative appeals and in relation to some types of minor development that are of no great value to the appellant. In addition it will produce a source of income that will enable us to increase the resources required to deal effectively with this work, and which will bear a direct relation to the volume of appeals received. Such an income will make it much easier than it is now to provide the staff and other resources needed to handle the prevailing volume of appeals. The Planning Inspectorate is also one of the candidates which I am considering for establishment among the next tranche of agencies under the Next Steps Programme. Charging for appeals on the basis of full cost-recovery would be the most satisfactory arrangement for that purpose; but this consideration is not decisive for the present proposal.

We made proposals for charging for appeals in the Local Government, Planing and Land (No.2) Bill in 1980, in parallel with the proposals to charge fees for planning applications. That Bill had to be slimmed down in order to make its passage manageable in the time available and the provisions on appeals were omitted since they were not of the maximum priority and had encountered some opposition. I think that the climate is now different: planning application fees are now well established and accepted, and more generally there is a much greater recognition that charges for administrative services are perfectly sensible.

The main argument of principle which will be made against the proposal is that it is charging for justice. We do not accept this. It should be borne in mind that under the planning Acts, notwithstanding the presumption in favour of development, the decision on an appeal is essentially a discretionary

administrative decision, rather than a judicial one. The nature of the decision is one of policy determination rather than remedying an injustice. The Acts specifically enable the Secretary of State to deal with an appeal as if the application had been made to him in the first place. A dissatisfied applicant may seek judicial review of the local planning authority's decision if he considers they have erred in law. An appeal to the Secretary of State is in effect a second bite at the cherry since the applicant is free to adduce new evidence and arguments, and the Secretary of State for his part considers the whole application de novo and exercises an independent discretion as he sees fit.

I recognise of course that the great majority of appeals are from business interests of one kind or another and that charges would be an increase in their costs. That is a drawback to the proposals. But we would bear in mind that it is business interests which have been pressing for a much more speedy and efficient appeals system and I believe that they will understand that the kind of service they want will be easier to provide at an appropriate price.

I therefore invite colleagues to agree that we should issue a consultation document proposing a system of charging for appeals.

If we were to make such proposals, I should at the same time wish to propose a major simplification of the scale of fees for planning applications and the arrangements for increasing those fees annually. These are unnecessarily complicated. I do not propose to increase cost recovery in the case of application fees beyond the present target of 50% of total costs.

I already have policy approval for some major improvements to the planning system, including the abolition of structure plans, and certainly hope that we will be able to introduce them in a substantial Planning Bill in the 1989-1990 Session. The proposals on charging for appeals would be an important component of such a bill. The aim would be to introduce the system in the autumn of 1990.

Copies of this letter are being sent to the Prime Minister, other members of H Committee, Patrick Mayhew, David Young and Sir Robin Butler.

NICHOLAS RIDLEY

ANNEX A

SCALE OF FEES REQUIRED TO SECURE FULL RECOVERY OF THE COSTS TO THE DEPARTMENT OF THE ENVIRONMENT OF DECIDING PLANNING APPEALS

Type of development proposal	Fee payable for each appeal	Supplementary fee payable for each appeal to be decided by public local inquiry or hearing
	£	£
Householder	40	215
Minor residential:		
1-4 dwellings	215	535
5-9 dwellings	600	700
Major residential:		
10 or more dwellings	1100	860
Other minor	215	535
Other major	1100	860
Change of use/ conditions	75	215

Notes:

1. Fees would be payable at the time the appeal was submitted and the appeal would not be valid without the appropriate fee (in cases in which it is decided after the submission of the basic fee that an inquiry is needed, the supplementary fee would be payable upon notification of the decision that an inquiry is needed).

2. The total income from the 21,771 appeals submitted in 1987 from fees at the level of the above table would be about £10m.

3. Up to 10 additional administrative staff would be needed to administer fees on these lines; their cost would be included in setting the precise levels of the fees.

4. Where an appeal is withdrawn before inquiry 75% of the inquiry supplement only would be refunded, in recognition of the abortive costs of arranging the inquiry.

5 In addition to the supplementary fee in column 2 there would be a further *per diem* fee of, say, £350 for each inquiry day beyond 2 days.

ANNEX B

PLANNING APPEALS, 1987

	Total number of appeals made	% of total	Total proceeding by inquiry or hearing	Total number of appeals decided	% of total	Total decided by by inquiry or hearing	Appeals with-drawn	% of category withdrawn
Householder	2487	11.4	86	2263	13.3	64	202	8.1
Minor residential: 1-9 dwellings	9931	45.6	902	8133	47.7	561	949	9.5
Major residential: 10 or more dwellings	1602	7.4	709	983	5.8	379	469	29.3
Other minor	3813	17.5	731	3031	17.7	436	751	19.7
Other major	1191	5.5	607	645	3.8	261	428	36
Change of use/ conditions	2747	12.6	409	2006	11.7	250	367	13.7
TOTAL	21771	100	3444	17061	100	1951	3166	14.5

cc to Planning

PRIME MINISTER

MEETING OF E(A): 10 MARCH

The meeting will follow immediately after Cabinet.

On attendance, Donald Thompson will be deputising for the Minister of Agriculture. I have insisted that George Younger should attend for the second item, Offshore Licensing, where there is an important defence dimension. The Ministry of Defence were minded to argue this was unnecessary because they accepted the principles in the Department of Energy paper and would be happy to discuss detailed blocks at official level; I felt you would want Mr Younger to be present to get the general flavour of the discussions. He will therefore be leaving briefly after Cabinet and miss the first item but will return after half an hour for the Oil Licensing item.

You saw the main papers over the weekend. The folder now includes notes by the Policy Unit on both items. In summary, their views are;

(i) On major construction projects, to back Mr Ridley; and indeed to press for more radical proposals and to resist Treasury objections. You will want to consider whether to accept their suggestion to go beyond the immediate issue and commission further work on the role of private companies in undertaking infrastructure projects traditionally in the domain of the public sector. I have some doubts about this.

(ii) On Oil Licensing, to support Mr Parkinson's approach.

One issue the Cabinet Office brings out on the major construction project item is the implications for legislative time. You will, of course, have just considered the legislative programme for the next Session in Cabinet.

PRCG.

PAUL GRAY
9 March 1988

PRIME MINISTER

9 March 1988

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS

Three years ago the Government was being urged from all sides to invest in infrastructure projects in order to create jobs. Now there is a better and more potent driving force behind the current wave of major infrastructure projects - vigorous expansion of the economy and the associated resurgence of enterprise and business confidence. The next decade could well be a period of unprecedented activity - new power stations, new or improved road and rail links (some in the private sector), modernisation of the ports, new airport capacity, etc.

The economy at large and the public will benefit, but for the many winners there are bound to be a minority of losers - those compulsorarily displaced from their homes and properties.

Two principal motives underlie Nicholas Ridley's proposals:

- natural justice; in compensating the dispossessed, the Government and other public sector bodies should be consistently fair - if not generous - and certainly not consistently niggardly;

- recognition that in economic terms time is money and that reducing delays to major projects through more generous compensation of those affected may well be a sound investment.

On both counts we would question whether Nicholas Ridley's proposals go far enough. The consequential costs which alarm the Treasury may look large in absolute terms. In relation to the total value of the projects in question, they verge on the insignificant. Nicholas Ridley's committee was remiss in

not attempting a cost benefit analysis. The fact that there is no assessment of the economic benefits of more generous compensation terms does not mean, as the Treasury imply, that there is no case.

That said, we would agree that the Government and other public sector bodies could not be selective in offering special inducements to remove critical bottlenecks without clear and consistent guidelines.

Recommendations

1 Support the Ridley proposals.

2 Continue the drive to transfer more major construction projects of this kind into the private sector where the economic trade-offs between reduced project delays and generous compensation can be dealt with more readily.

3 To this end, commission the Cabinet Office to examine why there is such a contrast between ministers' encouragement for private companies to undertake projects in traditional public sector areas and the frustratingly difficult and unrewarding experience of attempting to do so in practice.

pp

JOHN WYBREW

GREG BOURNE

RESTRICTED

P 03036

PRIME MINISTER

REDUCING DELAYS TO MAJOR CONSTRUCTION PROJECTS
E(A)(88)15 & 16

DECISIONS

Mr Ridley seeks agreement to a number of proposals which might reduce local opposition - and hence delays - to major construction projects. They are:

i. Departments should write to nationalised industries to encourage them to use the powers, which they already have, to offer community benefits and the discretionary purchase of affected property where they judge this to be justified, within existing financial constraints (paras 12-15 of the Memorandum, section 5 of the report);

ii. home loss payments to tenants should be increased to a flat rate of £1800, and should be payable after 1 year's occupation (not 5 years' as at present). For owner occupiers the payments should be replaced by a 10 per cent supplement to the market value of their homes, subject to minimum of £1800 and a maximum of perhaps £25,000. The Chief Secretary, Treasury, has severe reservations (paras 5-11 of the Memorandum, paras 3.14-3.46 of the report);

iii. provision for the purchase of property adversely affected by road construction should be extended. Here again the Chief Secretary has reservations (para 20 of the Memorandum, paras 4.4-4.11 of the report);

ii. for owner occupiers, by a supplement of 10% of the market value of their homes, subject to a minimum of £1800, and a suitable maximum (Mr Ridley suggests £25,000). Costs would increase from around £2 million now to £16.5 million (England only).

11. E(A) recognised earlier that there was a strong case for bringing payments for loss of home up to date. Higher compensation might reduce local opposition to some construction projects, particularly roads. But there are some substantial issues to be considered:

i. cost-effectiveness. Only a relatively small proportion of the cost of the new scheme is relevant to major construction projects, mainly national or local road construction. 90% of home loss payments to tenants are made to local authority tenants so that their homes can be refurbished. Similarly, 50% of payments to owner occupiers fall on local authority housing programmes. These two elements - which appear to have nothing to do with construction projects - account for perhaps £53 million out of the £66.5 million cost of Mr Ridley's proposals. There may be arguments of equity or housing policy for higher payments when tenants are decanted, but they are not developed in the paper;

ii. equity. The present home-loss payment treats tenants and owner occupiers equally. Mr Ridley's proposal would involve much more generous treatment for many owner occupiers than for tenants. The justification for this would need to be clear;

iii. public expenditure. A substantial proportion of the cost of enhanced payments will fall on local housing accounts and the national and local roads programme. The cost of a 10% supplement for home owners may prove particularly buoyant,

since it will be linked to house prices. this may create pressure for automatic uprating of the flat rate payment to tenants.

12. You will want to consider whether Mr Ridley's proposal is the best way forward, in the light of all these considerations. The alternatives include:

i. a new scheme related only to dwellings purchased for construction projects. This option is not considered in the Memorandum. Is it essential that compensation for construction projects be lumped together with compensation for housing improvement and refurbishment?

ii. a flat rate home-loss payment of £1800 for both tenants and owner occupiers, as recommended in the interdepartmental report;

iii. a smaller uprating of home loss payments, at less cost. Various options are shown in the table at the end of Annex III to the interdepartmental report.

Acquisition of property affected by road construction

13. Mr Ridley supports two proposals put forward by the Department of Transport to extend the provisions for the acquisition of property adversely affected by road projects:

i. a new right for owners to require the purchase of their property (by serving a blight notice) if it is adjacent to the line of a new road as well as if it is actually required for the road;

ii. wider discretionary powers to acquire in advance property which is substantially affected and devalued by the construction or prospective use of a road.

14. The first-year cost of those proposals for trunk-roads would be about £10 million, falling to nil after 3 years as disposals of property rose to cover new acquisitions (DTp already has to compensate owners for any fall in the value of such properties once the road is in use). These seem sensible proposals, which should help to prevent some of the difficult cases which have attracted publicity in the past. The Sub-Committee will probably want to endorse them.

Minor proposals

15. A number of minor proposals are listed in Annex VII to the interdepartmental report. Mr Ridley proposes to issue a consultation paper on these, subject first to detailed costing. You may want to suggest that he prepares such a paper in consultation with colleagues, particularly at the Treasury, for clearance in correspondence.

"National projects" and "development value"

16. Mr Ridley accepts the interdepartmental report's conclusion against two proposals:

i. the designation of key national projects, which would attract enhanced compensation, community benefits, etc. The report argues that it would be difficult to select such projects, that there would be aggressive lobbying for national project status, and that equity and consistency would suffer;

ii. compensation on the basis of development value where property is taken for a commercial purpose (eg in connection with the channel tunnel). The report concludes that "development value" has no real meaning in cases where compulsory purchase is justified. Mr Ridley also points out that such a change could undermine the basis on which Urban Development Corporations have been financed, because existing

land owners would get the benefit of the extra value generated by UDC schemes. But he warns colleagues that this conclusion may be controversial.

The Sub-Committee will want to consider whether to accept these conclusions, or to ask for further work to be done.

Legislative implications and timing

17. Legislation would be required to introduce a different basis for home-loss payments as between tenants and owner occupiers; to take wider discretionary powers to purchase property affected by road schemes; and for some minor changes in the compensation code on which Mr Ridley proposes to consult. The Sub-Committee was worried earlier that the announcement of an intention to increase compensation for home-loss could itself blight major projects, as objectors sought to delay approval until they could benefit from the new terms. To counter this, Mr Ridley proposes that home-loss payments should be increased to £1800 for both tenants and owner occupiers later this year, under existing powers and those being taken in the Local Government Finance Bill. This might remove the incentive for delay on the part of tenants. But owner occupiers might still want to delay projects in the hope of getting the much more generous 10% of the market value of their homes. You may want to ask Mr Ridley how he believes this problem can be overcome. The business managers will also want to know what legislative vehicle he has in mind, and the timing he proposes.

VIEWS OF OTHER MINISTERS

18. The Chief Secretary, Treasury is chiefly concerned about the costs of the proposals on home-loss payments. He questions whether they will make a significant contribution to reducing delays, and doubts their cost-effectiveness. But if they are agreed, he is likely to press for assurances that the costs will be contained within existing PES provision. The Transport Secretary is likely to support most of Mr Ridley's proposals, and accept the costs for

the roads programme. But he may oppose the proposal for more generous treatment for owner occupiers compared to tenants. The Scottish Secretary is likely to take a similar line. Both these two Ministers and the Energy Secretary are likely to support the proposal on the provision of community benefits by nationalised industries, although the Transport Secretary may argue that it should be restricted to exceptional projects.

HANDLING

19. You will want to ask the Environment Secretary to introduce his Memorandum. The Energy Secretary, the Transport Secretary and the Secretary of State for Scotland will all want to comment on the implications of his proposals for their responsibilities. The Chief Secretary, Treasury will want to comment on the expenditure implications.

R T J WILSON

Cabinet Office
4 March 1988

MR. HAMILTON

You will remember that I agreed to get details from the DOE of the points on land in the South East which had been raised at the drinks with MPs. You may find this copy letter useful for background information.

P. A. Bearpark

1 March 1988

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

1 March 1988

Thank you very much for your letter of 25 February about the availability of land in the South East. The Prime Minister was most grateful for this.

P. A. Bearpark

Alan Ring, Esq.,
Department of the Environment.

CF

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

P A Bearpark Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

Prime Minister 2

25 February 1988

This arose out of your meeting at Ch. H. Edward

Dear Andy,

Thank you for your letter of 10 February about the availability of land in the South East and the landholdings of parastatals (which we take to mean most types of Government agencies and Nationalised Industries but not local authorities).

It is certainly true that Green Belts, Areas of Outstanding Natural Beauty and other specially protected areas limit the amount of land available for housebuilding, but there is little evidence that they are unduly restricting the supply of new housing in the South East as a whole. This is borne out by the high housebuilding rates of recent years. Last year saw the highest level of private sector housing completions in England since 1973. The South East Region has maintained at least its share of this increased output, and indeed its share of the national total has been higher in the 1980s than in the 1970s.

While the price of housing land has risen sharply in recent years, particularly in the South East, land prices are primarily a consequence (not a cause) of high house prices. The price that builders pay for housing land reflects the prices at which they think they can sell houses; that price is determined principally by the price of second hand houses which form the very great majority of sales.

At the end of January, the land Registers of publicly owned unused and underused land contained details of 3,400 acres in London and the South East Region owned by nationalised industries, publicly-owned statutory undertakers, the Post Office, development corporations, the Commission for New Towns, the Housing Corporation, and the London Residuary Body. Since 1981, when the first land registers were introduced, 5,600 acres of land owned by these bodies have been removed from the registers for this part of England, mostly because the land has been sold or brought into use. The Land Register remains active, with new sites being added and others removed as they are sold or brought into use.

The 1980 Act Land Registers relate only to publicly-owned land. It is often suggested that there ought to be a National Land Register identifying all private land holdings. A private Peers bill

introduced by Lord Templeman would enable any person to inspect entries on the register of land maintained in HM Land Registry. This would greatly assist the identification of the ownership of land, insofar as land has been entered on that register on change of ownership. The Government has expressed support for the Bill.

We have no information about any Government landholdings at Tilbury Docks, which are owned by the Port of London Authority.

My Secretary of State has also asked me to mention that he has been considering the opportunities that exist in East London for new housing development on some large derelict sites that are now becoming available for redevelopment. There is potential here for at least 20-30,000 houses. In some cases developers are already showing interest in these sites and market forces may bring about their development without any intervention by Government. In others the costs of reclamation and infrastructure may deter developers or mean that the full potential of this land is not realised unless the Government takes a hand in making it available. He will be discussing this with Sir Christopher Benson, the Chairman of LDDC, possibly but not necessarily with a view to extending the LDDC's remit, but also to hear his views on the extent to which private developers may be willing and able to undertake development in these areas without the need for public expenditure. It seems clear that there is land available here that could make a major contribution to meeting housing demand in London.

Yours

A D RING
Private Secretary

MJ2B2C

c/f to file

10 DOWNING STREET

LONDON SW1A 2AA

10 February 1988

From the Private Secretary

In the course of a meeting with backbench MPs and others earlier this week the Prime Minister was told that there were significant constraints to development in the South and South East because of the lack of availability of land. And when land was available it was prohibitively expensive. It was suggested that parastatals and nationalised industries still held considerable amounts of land, particularly in the inner cities, which could be released for development. One problem was the absence of a National Land Register to enable the ownership of land to be discovered.

It was also claimed that central government might be in possession of surplus land, and the example of Tilbury Docks was quoted.

These issues have I know been looked at in the context of the Sainsbury Group, but the Prime Minister did agree to check the position. I should be most grateful for a short note.

P.A. Bearpark

Miss Deborah Lamb
Department of the Environment.

CCBG

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

My ref C/PSO/783/88

Your ref

Paul Gray Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

NFA.
RRCG
7/2

2 FEB 1988

Dear Paul

REDUCING DELAYS FOR MAJOR CONSTRUCTION PROJECTS

Thank you for copying to us your letter of 21 January to Alan Ring. /at flap

I note your request to circulate a paper without fail by the week beginning 15 February. We in Transport are doing all we can to help our Environment colleagues to meet the deadline.

Yours sincerely

Jenny McCusker

JENNY McCUSKER
Private Secretary

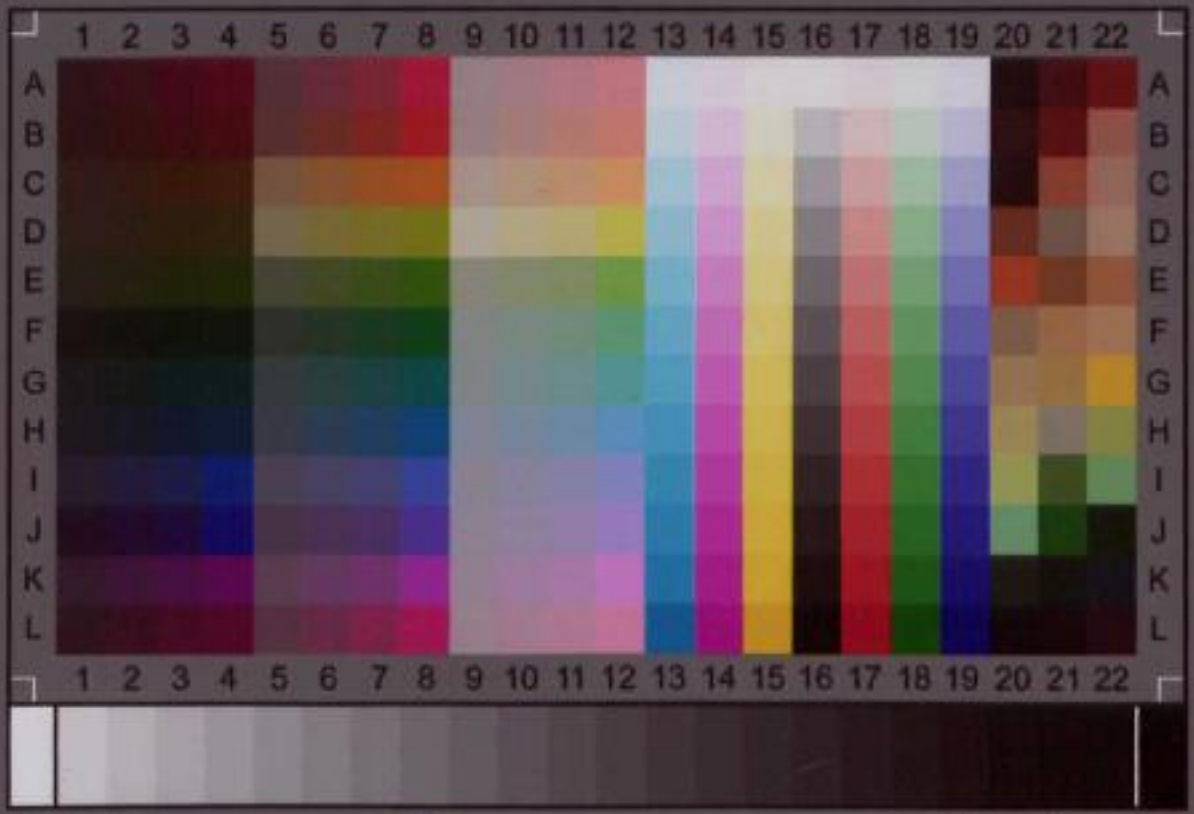
Local Govt: Planning 84

PART 4 ends:-

PG to DENVIRONMENT)
(Ring) - 21.1.1988

PART 5 begins:-

TRANSPORT TO PG - 2.2.88



IT8.7/2-1993
2009:02

Image Access

IT-8 Target

Printed on Kodak Professional Paper
Charge: R090212