PREM 19/1833

PART TWO

MT

Confidential Filing

Correspondence from Sir John Sainsbury on Planning Controls.

General Planning Inquiries.

LOCAL GOVERNMENT

Part One: July 1983

Part Two: May 1985

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
1.5.85.		30.1.86					
2.5.85		21.2.86					
9.5.85		10.3.86					
24.5.85		17.3.86					
19.6.85		15.4.86					
21/6/85		2/5/86					
1/7/85							
11/7/85							
9.7.85.							
12.7.85.							
12.9.85							
26.9.85							
24.9.85							
27.9.85							
8.10.85		PART TWO ENDS.					
6.10.85							
12.11.85							
15.11.85							
25.11.85							
9.12.85							
9.12.85.							
12.12.85							
19.12.85							

PREM 19/1833

PART TWO ends:-

DOE to HB 2.5.86

PART THREE begins:-

SS DOE to PM 23.7.86.

Department of the Environment
2 Marsham Street London SW1P 3EB
01-212 4051

John Delafons CB
Deputy Secretary

Please copy to PW & MA
Time is running short

Hartley Booth Esq
Policy Unit
10 Downing Street
London
SW1

2 May 1986

Dear Hartley

CONSULTATIONS ON PLANNING APPLICATIONS

1. When we spoke yesterday I mentioned the initiative that our Secretary of State had taken in response to the Sainsbury Group's concern about the delay caused by the statutory consultations on planning applications - and the somewhat unhelpful response that we have had from Lord Young. I enclose copies of that exchange of correspondence.

2. We intend to follow this up with the bodies for whom we are responsible - notably the Water Authorities. I think we will advise our Secretary of State to have another go at Lord Young but I fear that his response may influence the response we get from the other Ministers to whom the letter of 4 April was copied - none of whom have so far replied.

3. With friends like this ....

Yours ever

Luke

JOHN DELAFONS

NB. Called JD 10/5/86 - will wait his report of progress - Agt Concern

SG/B8

Principal : Mr Delafons

cc. PS/Cecil Elton
PS/Mr Waldegrave
PS/Mr Tracey
Mr Symmerton
Mr Reason
Mr Rendell
Mr Fuller

Caxton House Tothill Street London SW1 9NF

Telephone Direct Line 01-213.....6460.....

Switchboard 01-213 3000

The Rt Hon Kenneth Baker MP
Secretary of State
Department of the Environment
2 Marsham Street
London
SW1P 3EB

25 April 1986

Dear Kenneth,

Thank you for your letter of 4th April about possible improvements in the procedure for statutory consultations on planning proposals. You refer specifically to the possibility of encouraging statutory agencies to discuss development proposals in the pre-application stage, and to agencies giving certificates that they are content with a proposal, so dispensing with the need to consult them.

The relevant procedures within my Department are those under which local authorities are obliged to seek the advice of the Health and Safety Executive in respect of applications involving hazardous installations. These procedures are to be expanded under the Housing and Planning Bill currently before the House.

For completeness, I should add that under a voluntary scheme local authorities seek HSE's advice before proceeding with applications involving developments, such as houses and schools, in the vicinity of hazardous installations.

I welcome your attempts to speed up the planning system but these precautions are politically sensitive and we would need to proceed cautiously in relaxing them in any respect.

Taking first your proposal for the consultation by agencies with developers in the pre-application stage; it is already HSE policy that this should take place whenever possible. I understand that where local authorities seek HSE's advice either under the statutory or the voluntary agreements it is forthcoming within the 28 days you mention in 80% of cases and in almost all cases within a few days after. In really difficult areas where, for example, a specific risk assessment is necessary, HSE seek to give immediate notice to a planning authority that they need more time. In the absence of any evidence that this situation is unsatisfactory, and because of your deadline, I have not written to Dr Cullen about it.

SECRETARY OF STATE FOR EMPLOYMENT

Your second suggestion was that the statutory agencies should be prepared to issue certificates of consent at the pre-application stage. While at present informal indications are often given by HSE to developers or to authorities that particular developments should be readily acceptable, I would not favour a step that has the potential, in practice, of increasing burdens or reducing the effectiveness of HSE's advice. To obtain a certificate at the pre-planning stage the developer would have to present HSE with formal documentation of what was proposed and HSE would need to ask the planning authority about other developments in the area since these may materially affect its assessment. HSE's position is that of an advisor to the planning authority and it can not operate effectively in isolation. If the proposal was amended after HSE had given a certificate the planning authority would need to ask HSE for advice as at present.

Unless pre-application certification were to involve the public it might deprive local people of the possibility of satisfying themselves as to the advice HSE had given on a formal proposal - it might even smack of decisions taken behind closed doors. For these reasons it would neither be proper nor practicable for HSE to take final decisions without a formal approach from the planning authority.

The current HSE policy of helping developers whenever possible at the pre-application stage seems to be working satisfactorily. Given that and the potential burdens and difficulties certification might cause I regret that your proposal does not seem, at first sight, to provide any advantages in the health and safety field. Further consultations at official level may nevertheless be worthwhile if you still wish to pursue it.

I am copying this letter to Nicholas Ridley, Peter Walker, Michael Jopling, George Younger, Nicholas Edwards, Richard Luce and Malcolm Rifkind.

Yours ever,

David

CONFIDENTIAL

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

4 April 1986

Dear Dominic

As you know, the next meeting between the Prime Minister and Sir John Sainsbury's Group on planning issues is fixed for 30 April. There is one issue which continues to trouble the Group and on which we have yet to make any material progress - the consultations which local planning authorities are required to undertake when certain types of planning application are made. I have some suggestions about possible ways of improving the mechanics of the consultation process.

Most of the statutory consultations are required by Article 15 of the Town and Country Planning General Development Order 1977. The planning authority must notify various statutory bodies (eg water authorities) of certain types of application, and must not take a decision on that application within the next 14 days. Any representations made by the statutory bodies must then be taken into account by the planning authority in reaching a decision - whether or not they are received within the 14 day period. In practice we have endorsed a rather longer period of consultations. In 1980 the National Development Control Forum, representing local planning authorities, issued with our support a Code of Practice under which authorities were asked to notify consultees within 7 days of an application, and consultees were asked to respond within 28 days. The GDO, however, has not been amended.

Sir John Sainsbury's Group are concerned for two reasons. First, they are conscious that many consultations take very much longer, especially in the types of case with which they have experience. Second, they complain about the practice of many statutory bodies of refusing to discuss with applicants development proposals on which they will later be consulted by the planning authority. The Group suggest that the way to make progress on consultations is to provide that all representations received after 14 days shall be ignored. But this will not work, partly because it could offend against natural justice and partly because representations received before the application has been decided could reveal some critical obstacle to the proposed development.

I am however convinced that we do need to take some action. My first proposal concerns the pre-application stage. I was disturbed to learn that some statutory agencies refuse to discuss development proposals at the pre-application stage. We encourage developers to engage in such consultations and expect the agencies to respond. I intend to write to the chairmen of agencies which my Department sponsors to encourage them to take this responsibility seriously. I hope that you and other colleagues concerned will be prepared to follow suit.

CONFIDENTIAL

My second proposal is that the consultations required in Article 15 of the GDO could be dispensed with in an individual case if the planning application were accompanied by a certificate from the revelevant statutory agency that they were content with the proposal, subject to any essential conditions. I should be grateful for the views of colleagues on this proposal.

I would be glad of any early reply to this letter, so that we can report action on this item at the Prime Minister's meeting on 30 April.

Copies of this letter go to Nicholas Ridley, Peter Walker, Michael Jopling, George Younger, Nicholas Edwards and Richard Luce, and, for information, to Malcolm Rifkind.

Yours

KENNETH BAKER

PSO DESPATCH NOTE

CIRCULATE COPIES OF THE ATTACHED LETTER

1. PS/Lord Elton
2. PS/Mr Waldegrave
3. PS/Mr Tracey
4. Mr Delafons (with PS)
5. Mr Summerson
6. Mr Pearson

Miss Brett-Holt

Mr Wakeford

CONFIDENTIAL

KL3BCM

10 DOWNING STREET

From the Private Secretary

30 April 1986

Dear Robin

PLANNING: THE SAINSBURY GROUP

The Prime Minister chaired a meeting this morning to consider the progress made since her last meeting with the Group in December 1985.

Sir John Sainsbury was accompanied by Mr. Christopher Benson (MEPC), Mr. Clifford Chetwood (George Wimpey), Mr. Nigel Mobbs (Slough Estates), Mr. Idris Pearce (Richard Ellis), Mr. John Taylor (Chapman, Taylor & Co.) and Mr. Roger Suddards (Last Suddards, Solicitors). Ministers present, in addition to your Secretary of State, were the Secretary of State for Employment, Lord Elton and Mr. Michael Howard. Mr. Hartley Booth was also present.

The Prime Minister thanked Sir John Sainsbury and his colleagues for coming to the meeting and asked him to open the discussion. Sir John said the Group was very much aware of the efforts being made by the Department of the Environment to improve the appeals procedure, and in particular to speed it up. There had been a change of attitude, and a new impetus for reform. More appeals were being dealt with by written procedures. But there had been too little progress on the time it took to determine appeals. For instance, the median time for decision on cases involving a Secretary of State inquiry had increased from 49 weeks in 1979 to 56 weeks last year and, on an inspector inquiry, from 27 weeks to 32. There had been a slight improvement in the time taken on appeals dealt with by inspectors on written representations from 23 to 20, (though the 1981, 1982 and 1983 figures had been better). Sir John said that the Department had accepted a target that 90 per cent of cases should be resolved within 24 weeks by the last quarter of 1988 (the current figure was 54). It was encouraging that an improvement of that order was agreed to be possible. But 1988 was too far away.

The Prime Minister agreed: a special effort was now needed to effect a significant improvement on the time taken to determine appeals. She accepted some progress was being made, and that the number of appeals being dealt with increased last year by a quarter. But there was much yet to be done.

CONFIDENTIAL

BM

In discussion the following points were made:

(i) Speeding up the timetable for appeals would help create an incentive for local authorities not to turn down applications unless there were sound reasons for doing so. It was suggested that the Secretary of State should be willing to consider taking to task local authorities who lost appeals, particularly in the case of deemed refusals.

(ii) About half of the time taken to resolve appeals elapsed before an inquiry took place. The lack of availability of premises, or of the local authority solicitor, etc. were frequently advanced as a reason for the delay. The Group reaffirmed that it would help to set firm dates for hearings, and to stick to them, as in the courts.

(iii) Some major planning decisions were still taking a very long time. One application cited had taken four years to determine. The Department had agreed to submit to the judgement of the High Court, and even so it took a further year for the Department to decide how to proceed.

(iv) Time limits for the submission of written representations, provided for in the Housing and Planning Bill, should be strictly enforced.

(v) Sharp local political sensitivities, often on the part of Government supporters, meant that local authorities sometimes deliberately in effect referred decisions to Central Government to get themselves off an awkward local political hook. The Housing and Planning Bill would provide for stiffening the regime for the award of costs; this would encourage local authorities to take sensible decisions for themselves. It might also be helpful to publicise cases where local authority decisions had been overturned on appeal. Another option might be to insist that local authorities, where they took no decision on an application, and where the application was therefore deemed to have been refused, should be required to give reasons for their course of action; and that costs should subsequently be awarded against the authority, whether they won or lost the case on appeal.

(vi) The Group was concerned that insufficient consultation with Departments and other interested bodies was taking place before applications were submitted. Some Departments argued that they could give no guidance in response to hypothetical enquiries. There were of course circumstances in which these arguments were sound. But earlier guidance to applicants could help speed up the process, and weed out applications which were unlikely to be successful. Such guidance would

need of course to be offered on a 'without prejudice' basis.

(vii) The insertion of restrictive local user clauses by local authorities, which frequently allowed only local firms to use particular properties, was causing difficulties.

(viii) Your Secretary of State said he would be announcing shortly new advice to inspectors, which would encourage redundant farm buildings to be used more freely, for industrial or residential purposes. The Group welcomed this.

(ix) The Group had proposed extending unitary plans beyond the metropolitan counties to other conurbations. A pilot scheme in say two districts would enable this proposal to be evaluated. The Department might, however, need to provide extra resources, particularly staff support. Your Secretary of State agreed to consider this.

(x) Your Secretary of State also said that, more generally, structure plans had become very cumbersome. Unitary plans were being drawn up, under his guidance, in the metropolitan counties. This would remove one tier in the planning process. But he wanted to go further than this, and he was now looking at the possibility of fundamental reform of the system. He would need, however, to move carefully, and in confidence, at this stage.

(xi) The Group believed a review of the education of inspectors and planning officials was called for, possibly with the help of private funding. Too often they had little grasp of the economic aspects of their work, yet their decisions could have major effects on industry and commerce, development, investment and jobs.

(xii) The dramatic and rapid development of the Enterprise Zone at Dudley was cited as an example of how effective Zones could be in combating backward looking influences on development. The link between reform of the planning system and jobs was clear. Thought needed to be given to extending the concept of Enterprise Zones. Their record of success was generally impressive in rehabilitating run-down and derelict areas.

(xiii) Restrictions on the mobility of labour, particularly skilled labour, was the result in part of a shortage of rented accommodation. Your Secretary of State's decision to extend the arrangements for assured tenancies would help, and was welcomed by the Group.

(xiv) The disposal of unused land was still taking place only slowly. It was re-emphasised that disposal of publicly-owned land, particularly in the Green Belt, would need particularly sensitive handling. There was a case for extending incentives to encourage public authorities to get rid of land which they did not need. Your Secretary of State would take this up with the Departments concerned.

(xv) Your Secretary of State said that he now needed to assume his decisions would be challenged in the courts. The prospect of judicial review inevitably lengthened the time taken to reach decisions, to enable his decisions to be made as legally watertight as possible. The climate of judicial challenge, and what was often a bias against development, also discouraged inspectors and others from taking the tough decisions which were required.

Summing up the discussion, the Prime Minister said that she and her colleagues were grateful to the Sainsbury Group for the important work they continued to do in drawing attention to ways in which the planning system could be improved. She also congratulated your Secretary of State on the progress which had been made. Very much more remained to be done, however, particularly in speeding up the planning process. A major drive was needed to achieve this. Your Secretary of State would also consider the other points which had been made during the meeting, in particular: encouraging local authorities to tackle difficult decisions themselves by imposing a stricter regime on the award of costs, and by other means; encouraging prior consultation with interested authorities before an application was made; and extending the concept of Enterprise Zones. Your Secretary of State would take forward the consideration he was giving to the radical reform of structure plans. With other Departments, he would also be looking at ways of encouraging the disposal of unused public land.

The Prime Minister would hold another meeting with the Group in November to review progress. She would like that meeting to focus on the links between planning and jobs, with special reference to the role of Enterprise Zones. DOE officials concerned might also be invited to the meeting, as well as representatives from other Departments who had a role to play in the planning process, and who were involved in the disposal of public land; your Secretary of State would consider the arrangements for the November meeting and offer the Prime Minister advice in due course.

The Group would let your Secretary of State have a note on their assessment of the impact of the Enterprise Zone; on restrictive user clauses imposed by local authorities; and on the training of inspectors and officials.

I am copying this letter to John Lambert (Department of Employment), Steve Watts (Lord Elton's Office, Department of the Environment), Paul Madden (Mr. Howard's Office, Department of Trade and Industry) and Michael Stark (Cabinet Office).

Yours ever

Mark Addison

(MARK ADDISON)

Robin Young, Esq.,
Department of the Environment

PRIME MINISTER

SAINSBURY GROUP MEETING: 30 APRIL

You have a half hour briefing meeting at 0900 hours with the Secretary of State for the Environment, the Secretary of State for Employment, Lord Elton (Environment) and Michael Howard (DTI).

The Secretary of State for the Environment has provided a note summarising the current position on the key items discussed at the previous meeting on 10 December (Flag B. There is a more detailed annex at Flag C, which you do not need to read). Lord Young's note at Flag D notes the possibility of including a reference to the abolition of structure plans in his proposed May White Paper on deregulation. The note you have already seen from Hartley Booth is at Flag A.

The key points for discussion at the meeting, and at the briefing, are:

(i) the time taken to reach decisions on appeal (the DOE's figures, you will remember, seem to have been carefully chosen to show how the situation is improving but figures supplied to Hartley, through Sir John Sainsbury, suggest (Flag E) that the position on many types of appeal have got worse since 1979).

(ii) Structure plans. The Secretary of State is proposing their abolition, but wants the Sainsbury Group wound up, in its current form, apparantly as a quid pro quo.

On handling of the meeting with the Sainsbury Group itself, which starts at 0930 hours, I agree with Hartley that you should ask the Environment Secretary to report on developments since the last meeting, and then seek Sir John's comments.

Mr. Howard needs to leave the meeting early, shortly after 1000 hours.

pp MARK ADDISON

29 April 1986

SLHAKV

PRIME MINISTER 29 April 1986

SAINSBURY MEETING, 30 APRIL - SUPPLEMENTARY NOTE

Sir John telephoned me today. He enlarged on our point about delay. In many ways he says the system is worse than it has ever been, and DoE is highly selective in showing Kenneth Baker and this office a few rosy figures. I attach extracts from documents revealed to Sainsbury, showing that the overall time for appeals (from start to finish) has lengthened from 49 to 56 weeks. Since 1979, the time inspectors take has gone up from 27 to 32 weeks. It cannot be any excuse that appeals coming in to the Department are 'more difficult'.

Sir John also complains that the DoE circular (July 1985) on large stores is ineffective. He suggests that DoE officials may be pushing for total scrapping of Structure Plans for tactical reasons - he warns, be careful. He also wants more thought given to the training of planners and suggests private sector involvement.

HARTLEY BOOTH

ENCLOSURE 1

S36 Appeals - Median Times for Decision

Weeks

	Secretary of State		Inspector			OVERALL
Year/Quarter	Inquiry	Written	Inquiry	Written	Informal Hearing	
1979	49	38	27	23	-	25)
1980	44	37	27	26	-	27)
1981	44	32	26 86	18 81	-	20) estimate
1982	46	33	27	17	-	18)
1983	48	39	26	19	20	20)
1984	53	42	28	22	25	23
1985	56	41	32	20	28	20
Sept-Dec '84	49	43	29	22	24	23
Jan-Mar '85	55	39	32	21	24	22
Apr-June '85	56	49	30	20	27	21
July-Sept '85	54	37	31	20	30	20
Oct-Dec '85	57	39	32	19	25	20

Table 2: Time Targets for Appeals dealt with by public inquiry

	50% target time (weeks)	75% target time (weeks)	90% target time (weeks)
Current Performance (1985)	32	41	54
1986 2nd quarter (reorganisation of checking and despatch)	28	38	50
1986 4th quarter (tighter targetting of acknowledgement and allocation)	25	32	44
1987 1st quarter (first stage reduction in waiting time for inquiry)	23	28	38
1987 3rd quarter (implementation of word processing complete)	21	26	34
1987 4th quarter (second stage reduction in waiting time for inquiry)	19	22	28
1988 4th quarter (further tightening of target for inquiry waiting time)	15	18	24

MC/A18

PRIME MINISTER

PLANNING: THE SAINSBURY GROUP

1. I have seen a copy of Kenneth Baker's minute to you of 15 April about your meeting with the Sainsbury Group next week.

2. His Department's progress with the issues raised by the Group last December is encouraging. Some of this ground will be covered in the next White Paper on deregulation to which Kenneth refers and I think that it will be well received. The White Paper could also include further measures, such as the complete abolition of structure plans, if these can be agreed in principle by mid-May. This particular suggestion may be controversial, but it would be very welcome if essential policies for housing, transport and employment can be reflected in local plans without a cumbersome second tier of County plans.

3. I also welcome Kenneth's suggestion that the Group might be continued in some form. I am sure that members such as Nigel Mobbs and Idris Pearce have more to contribute and there are surely further ideas that are worth pursuing for another round of improvements in the planning system.

4. I am copying this minute to Kenneth Baker, David Trippier, Michael Howard, Sir Robert Armstrong and Hartley Booth.

DY
25 April 1986

25. IV. PM 5

A

PRIME MINISTER 25 April 1986

MEETING ON 30 APRIL WITH SIR JOHN SAINSBURY'S GROUP

Further to your meeting of 29 April and 9 December 1985 with Sir John Sainsbury's group, the Committee and DoE now report back to you on its proposals to simplify, clarify and expedite Town and Country Planning law. Attending your meeting at 9.30 am will be:

Sir John Sainsbury, Chairman & Chief Executive of J Sainsbury plc

Clifford Chetwood, Chairman & Chief Executive of George Wimpey plc

Mr Christopher Benson, Vice Chairman & Managing Director of MEPC plc, Chairman, London Docklands

Mr Nigel Mobbs, Chairman & Chief Executive of Slough Estates plc, Chairman of the PSA Advisory Board

Mr Idris Pearce, Managing Partner of Richard Ellis, Surveyors

Mr Roger ~~Stoddards~~ Studdards, Senior Partner of Last Studdards, Solicitors

Sir John Taylor, Partner of Chapman, Taylor & Co

Kenneth Baker
Lord Young
~~Mr Trippier~~ Lord Elton
Michael Howard

1. Progress and way ahead

Following your meeting with the Group on 10 December 1984 and your two meetings last year, considerable progress is now reported by Kenneth Baker, which we set out below.

Time taken to reach decisions on appeal.

The DoE report shows they are happy that the time taken to process planning appeals has been reduced from 9 months to 3 months. This is still unsatisfactory and should be reduced to a maximum of 6 weeks.

Stiffening the regime for the award of 'Costs' & 'Time Limits' on written representations

Although this now comes within the current measure the Housing and Planning Bill, the precise details of what the regime of 'Costs', and the actual 'Time Limits', have been left for Ministerial decision after the Bill becomes law. This must be a matter for continued concern for the Sainsbury Committee.

Case for paying urban development grant direct to the recipient

Provision has been made in the Housing and Planning Bill for this to happen.

The disposal of unused public land

Less than 1% of the entries on the register of unused land have been sold by direction of the Secretary of State. While it is true that other land holdings owned by the public sector have been sold or used without the requirement of a direction from the Minister, nevertheless the failure to use the power in the 1980 Act is appalling.

Structure plans

No.

It is proposed that county structure plans should go and that local plans should remain. However, the proposal put forward by DoE - while it is precisely what we want - has two stings in the tail. Firstly, the abolition of structure plans would

not take place until after a General Election and secondly, it is part of the deal to get rid of the Sainsbury Committee which is highly unpopular with the DoE officials. - a very good reason for retaining it.

2. Future of the Group

You will be under some pressure from Kenneth Baker to replace the Group with a new one with appointees that he will nominate. This Group may have a few from the existing Committee, particularly Nigel Mobbs and Idris Pearce. Lord Young reports further thought should be given to a new round of improvements in the planning system. You may feel that the Sainsbury Group has proved its worth and should continue in operation to monitor progress and produce new ideas. As an example of the way Nigel Mobbs develops the argument on reducing planning control further I attach an excellent speech he made last week, (flag 1). Officials at the DoE have certainly moved under the pressure from the Sainsbury Group. The Group have included the best people they know and they do not wish to have others join them. Kenneth Baker might argue that it is inconvenient to have a Group meeting under the cloak of confidentiality. Against this you may feel that a White Paper would be a good time for the public to provide further input.

3. Handling

In the pre-meeting of Ministers between 9.00 and 9.30am, a line can be agreed with Kenneth Baker as to the future of the Group. The issue of the abolition of structure plans can be agreed.

For the meeting with the Sainsbury Group, you may like to ask Kenneth Baker to report on the discussions and for Sir John Sainsbury to comment.

4. Conclusion

We recommend you encourage the Sainsbury Group to continue their good work. Still needing attention are:

a. Much more efficiency in the disposing of planning appeals; down to six weeks?

b. Proposing to abolish structure plans with safeguards for Green Belt, parks and tourist amenities and keeping local plans.

c. A bigger drive to dispose of unused public land.

You might like to add:

d. The listing of appeals. This can take 3-9 months.

e. Whether delay by local authorities in deciding on an initial application should result in deemed consent - after say 8 weeks.

f. Whether applications in the Green Belt should be automatically refused but automatically appealed.

A disgruntled developer said recently we should 'alert the inert'!

HARTLEY BOOTH

Sainsbury file

Last Suddards

Last Suddards
Solicitors

128 Sunbridge Road
Bradford BD1 2AT
Telephone 0274 723466
Telex 51178
FAX 0532 426868
MDX 11723

Mr Hartley Booth
10 Downing Street
LONDON SW1

your ref
our ref RWS/BH

24 April 1986

Dear Hartley

There is no formal paper, except that which John Delafons produced on which we had some comments.

I believe that the major issues are:

(1) Should we drop structure plans? They are getting out of date. We believe that the Unitary Plan is a good workable arrangement and that central government should encourage local government by funding (with financial and possibly manpower resources) a couple of trial UP's as soon as possible to make the planners believe they can work and to show how the Structure Plans can be left to die.

(2) There is some procedural tightening up - eg."pre-consultation", ie. consulting with authorities in the run up to a planning application rather than the seemingly endless waiting for consultation views thereafter.

(3) Delays in planning decisions at departmental level is still a sore point. It is always the big and difficult ones which seem subject to endless delay: we concede garage extensions do go through more quickly. But it is the big ones which are concerned with employment.

I hope this helps. The party was splendid - thank you.

As ever

Roger

Partners: Roger W Suddards LMRTPI FSVA (Hon) Geoffrey A Cawthra LLB John D de Main LLB Barbara W France LLB Peter N Wilbraham LMRTPI Jonathan H Wright Stuart A Verity MA (Oxon) Ian R Shuttleworth ACIArb A Paul Smith LLB Ronald S Drake LLB ACIArb Andrew R Jordan MA (Cantab) Simon R B Stell LLB Richard W Wade-Smith BA LLB (Cantab) John G Beckett MA (Oxon)

Associate Solicitors: Herbert Wilkinson Barbara A Crampton LLB Kenneth Whitaker Emma L Nash LLB John G Featherstone LLB Richard Burns LLB Mark W Hilton LLB

Consultants: Thomas A Last LLB E Hedley Wright Cyril S Reddihough LLB Edward A K Denison TD MA BCL Sir Desmond Heap LLM Hon LLD PPRTPI Ian W Whitson MA (Oxon)

Offices at Bradford (0274) 723466 Leeds (0532) 450845 Ilkley (0943) 601020 Shipley (0274) 585459 Otley (0943) 467208

THE CARLTON CLUB, 21st APRIL 1986

PLANNING - A BARRIER TO ECONOMIC GROWTH

A COMMERCIAL PROPERTY VIEW

Mr. Chairman,

The topic for tonight's discussion is both timely and necessary if Britain is to remain competitive in international trade and an attractive haven for commercial and industrial investment, both domestic and inward. Ever since the war, planning has in various degrees been an impediment to economic growth and the unfettered establishment of industrial development based upon free market forces. The history of planning could perhaps be encapsulated in the proposition that if speculative profit is the unacceptable face of capitalism, then development control is the unacceptable face of socialism.

Having said that, and having been in the past labelled an adversary of the planning system, may I at the outset say that there is little wrong with the fundamental legislative frame-work of planning in this country. What is wrong is the attitude of those who administer the system and the negative interventionist application of the rules. Planners lag events and impose a historic rigidity on change and evolving business needs.

If we go back to the origins of planning, it was clearly conceived by the draughtsmen of the 1947 Planning Act that it was to do with the use of land, the allocation of land between conflicting uses, and control of development which was environmentally intrusive. It was only in the 1960's and 1970's that authorities, backed by the full array of social scientists, modelling techniques and quantitative analysis sought to impose economic and social order on the basic market concepts of commercial life.

May I cite some specific examples.

First is the South Yorkshire Structure Plan submitted in 1978 which stated that, by their very nature, the main planning issues are concerned with the acquisition and distribution of those resources both public and private with which the structural deficiencies in the social, economic and physical fabric can be tackled.

Second, the Hertfordshire Structure Plan contains the remarkable comment as a reason restricting the spread of small businesses that they tend to grow and cause employment pressure.

Third, in some counties surrounding London, plans relating to road improvement give priority only to local use and not industry. This is a solution which it is admitted does not best serve the "national interest".

The consequences of the over-detailed and at the same time abstract approach to the development of planning policies is that elected members of local authorities, aided and abetted by officials, have sought to engineer a destiny which is remote from the harsh reality of commercial and industrial life. In so doing, they destroy sound investment criteria, they deny communities employment opportunities and they impose a social and economic uniformity that defies the laws of social gravity. In addition, as a consequence of the crazy way in which local government finance is ordered, they have no regard for balancing the tax base of their community and encouraging prosperity.

Another disturbing feature of planning control is the resultant waste and blight occasioned by indecision and lack of a consistent application of policy. Dr. Alice Coleman in her very compelling study of 'Land Use, Planning Success or Failure', 1977, suggests that in many urban areas the most prevalent land use change is from a useful form of use to waste.

The problem of blight in the inner cities is also a continuing problem of conflict.

Ian Mikardo aptly defined planning blight as "the most direct and severe example of the perfect being the enemy of the good. Nothing is done because somebody is trying to think out something better.....than everyone is ready will and able to do..... Nothing is being done in bricks and mortar because so much is being done on bits of paper".

Some would argue in favour of revolution which would substitute our structure and local plans by land zoning as known in North America and elsewhere. This to my mind would be a disaster in so far as we would have to accept a hiatus that would go with revolution, even though the ultimate consequences of zoning might be more attractive and might stabilize and de-politicize many of the decisions. Simply we cannot accept the chaos that would be implicit with such a major change in principle.

My main accusation as to the negative impact of the town planning system is that the administration of the law is bad. It is bad because authorities who are given the duty to administer it are ill-informed, narrow-minded and remote from the commercial facts of life. They are also unaware of the urgency of the matters which they have a duty to determine.

Second, they have an excessive and forensic interest in being involved in the detail of applications, even to the point of arguing over colours of bricks and glass and the detailing of windows and doors.

Third, there is agenda congestion in the conduct of planning meetings. I have with me here a copy of a typical agenda of a district in Berkshire, some 70 pages, much of which is devoted to trivial householder applications which should be relegated to officers' decisions.

Finally, the administration suffers because they are working to redundant structure planning policies often conceived on data collected in the prosperous 1970's, whose relevance in the 1980's is about as good as using Christopher Wren's building code for the building of Canary Wharf.

Furthermore, current administrations do not necessarily agree with planning policies formulated by a former and different political regime. This results in confusion, indecision and inactivity.

What then does the future bring? First, the good news.

The Department of the Environment, initially under our chairman's leadership, has grasped the vital elements of these problems and has issued guidance which is included in a number of very significant circulars issued in 1985.

1. There was Circular 1/85 which laid down a frame-work for the use of conditions to planning permissions, their relevance and suitability.

2. Circular 14/85 which re-stated an old principle of planning, namely the presumption in favour of allowing development, unless demonstrable harm would result to important interests.

3. Circular 31/85 repeated, but in a more positive way, advice given by Michael Heseltine in Circular 22/80 in which he was quoted as saying "Far too many of those involved in the system - whether the planning officer or the amateur on the planning committee - have tried to impose their standards quite unnecessarily on what individuals want to do... Democracy as a system of government I will defend against all comers but as an arbiter of taste or as a judge of aesthetic or artistic standards it falls far short of a far less controlled system of individual, corporate or institutional patronage and initiative...".

4. We have currently the review of the Use Classes Order. This has created considerable controversy, particularly from those with vested interests who fail to see the wider ramifications of planning policy and the changing use and demand for buildings. The changes proposed will encourage enterprise.

5. We have the simplified planning zones which are now being leglislated for. I welcome these, though I am deeply suspicious that there are many authorities who will not see the arrival of these zones as simplification but merely an excuse to impose even greater rigidity of control than that which exists under the law. I hope I am wrong in this but I am worried at the attitude of some authorities evidenced in Enterprise Zones.

Now to the bad news.

1. Decisions on important commercial and industrial schemes which will generate both direct and indirect employment still take far too long to be decided.

2. Authorities disregard even the strongest Circulars and meddle in detail which they have no right to do. Such action can only be remedied by Ministerial censure and the award of costs.

3. The appeal system; whilst it has improved in some respects, it has not quickened in respect of those major developments upon which this country's economy and employment prospects depend.

4. The structure and local plans are all too frequently obsolete and irrelevant to the issues of 1986. I hope that, arising out of the abolition of the metropolitan areas and the introduction of unitary plans, these may provide a better frame-work for planning policy control than the current system which inevitably encourages conflict between local and county interests.

5. Far too many authorities still use local user conditions as a means of restraint. These conditions prevent the birth of new business and over a period of time result in the economic decline of an area as has been seen in the West Midlands over recent years.

So finally, Chairman, may I catalogue what I believe to be the needs:

1. Improved administrative procedures for dealing with applications and appeals. This requires greater delegation by elected members to officers, less involvement in inessential detail and a greater discipline upon parties to appeals to ensure that all the detail is made available in good time to avoid abortive and unnecessary work.

2. There needs to be contemporary policy guidance to elected members, planners and applicants which is publicly visible and which is
understandable by both sides.

3. There has to be curtailment of irresponsible fringe objectors. Alfred Smith, who had so much to do with the development of New York in the 1930's, once said: "the thing we have to fear in this country is the influence of the organized minorities because somehow or other the great majority does not seem to organize. They seem to feel that they are going to be effective because of their own strength but they give no expression of it". I believe that the irresponsible fringe objector has had far too much licence to the detriment of development that is productive and valuable to the community.

4. I believe there needs to be a programme which crusades and encourages the view that development is a productive activity for the good of the community and in response to community objectives.

5. There needs to be positive involvement of all the community in planning, not merely the enfranchised minority rate-payer. It must be recognized that development contributes to local and national prosperity and the community's tax base. I am afraid that commercial and industrial interests go by default because they are disenfranchised. Taxation without representation is a tyrany. Therefore is planning a tyrany on commerce and industry? - A tyrany this country and its people cannot afford if we are to succeed in the future.

G.N.Mobbs

GNM/amb/jm
21.4.86

CONFIDENTIAL

Prime Minister

PLANNING: THE SAINSBURY GROUP

You are having a further meeting with the Sainsbury Group on 30 April to continue discussions on the planning system. I am writing to let you know of further progress since the last meeting on 10 December, including discussions that my officials have had with the Group.

Your Private Secretary's note of the last meeting recorded that in your summing up you referred to reducing the time taken to reach decisions on appeal; stiffening the regime for award of costs; time limits on written representations; the case for paying urban development grant direct to the recipient; further efforts to speed up the disposal of unused public land; and the role of the structure plan in planning decisions. I deal with those topics briefly in this minute. Annex A sets out in more detail what has been done to carry forward each of the thirteen items recorded in the note of the last meeting (neither that note nor Annex A to this minute has been circulated to the Group but they have had Annex B).

The Group's main concerns continue to be to promote a positive attitude towards development rather than a negative and restrictive one, and to improve the efficiency of the planning appeal system. I know that they regard the circular that was issued last July on Development and Employment as the most significant result of their work to date.

Planning Appeals

There was an improvement of three weeks last year in the median decision time for written representation appeals (85% of the total), and action is being taken that should secure a further improvement of four to five weeks this year. The number of decisions issued last year increased by 26%. The proportion of appeals allowed increased to over 40% compared to the average of around 30% in recent years. Some cases still take far too long to resolve and members of the Group can cite examples of those. In general, however, the appeals system is showing improved productivity and there is certainly scope for further improvement. It is worth noting that in 1974 appeals dealt with on written representations took on average 39 weeks to decide; now we are down to a median time of 19 weeks and are aiming for 14 weeks by the end of this year and 12 weeks in the following year.

Costs and time limits

The Housing and Planning Bill that is now in progress deals with several of the Group's earlier proposals that required legislation. In addition to Simplified Planning Zones it includes provisions extending and strengthening the award of costs regime for planning appeals, and enabling time limits to be set for written representation appeals. It also provides that representations received after the time limit can be disregarded. I know that the Group is gratified to find that we have been able to legislate promptly on these proposals.

Disposal of unused public land

At your last meeting we also discussed at some length the problems of derelict land and unused publicly owned land. In particular, the Group welcomed the idea of paying urban development grant direct to the developer instead of through the local authority. We have since made provision for this in the Housing and Planning Bill. The note at Annex A deals with other aspects of this topic, including the large amount of publicly owned land that has been sold or brought into use through the Land Register system and the increasing use of my powers of direction for that purpose.

Structure Plans

It was agreed at the last meeting that the Group would have further discussions with my Department on development plans which at present comprise both structure plans prepared by the Counties and local plans prepared by the Districts. The note at Annex B to this minute has been agreed with the Group as a record of their thoughts on the subject to date. This is a topic, however, on which the Group do not appear to have very firm views and they would be open to alternative proposals. They are quite clear that development plans of some kind are an essential part of the planning system since they provide the basis for development control and should serve as a safeguard against arbitrary or irrational use of those powers. The Group are concerned, however, about the scope and content of many county structure plans, the prescriptive authority that tends to be ascribed to the plans, and the length of time required to process them. The latter two factors are due in large part to the fact that structure plans require my statutory approval. The Group have suggested that one

possibility would be to remove the requirement for the Secretary of State's approval, as has already been done in the case of the "unitary development plans" which will be introduced in the metropolitan areas under the Local Government Act 1985. The county structure plans could then follow a process of adoption similar to the local plans prepared by the Districts. They could be referred to as "county plans" or "county advisory plans" rather than structure plans, since the latter term tends to imply a degree of authority and certainty which should not be imputed to them. The Group have also suggested that there could be a provision enabling some of the largest towns outside the metropolitan areas to prepare unitary plans and thus be excluded from the county plan.

I am inclined to think that, if we were to go this far, we might well do better to get rid of county structure plans altogether and retain only the local plans: a one tier system of development plans instead of two tiers. The Sainsbury Group tend in this direction with their suggestion that some of the largest towns might opt out of the county plan and prepare their own unitary development plans. I would certainly not want to cut the counties out of the planning process altogether, since they tend to take a less parochial view than the Districts and there are some subjects (eg Green Belts, policies for the countryside, the distribution of housing provision, minerals planning) that need to be dealt with at the county level. There would be intense opposition to such a move not only from the counties themselves but from the powerful conservation lobby and others (such as the CBI and the Housebuilders), who attach great importance to the county-wide view. But we could retain a strong role for the counties in the planning process without keeping the present system of structure plans, which cover far too many irrelevant

topics and increasingly duplicate the function of local plans. Structure plans would then be phased out as local plans are adopted: local plans already exist or are in preparation for much of the country.

Either of these approaches, the Group's suggestions or the more radical alternative that I propose, would certainly be controversial and would require legislation. But I think that it is well worth exploring the scope for changes on these lines and I propose to have further work done on them by my Department. The necessary legislation would be quite complex and would be post-Election. It will be as well to allow plenty of time for public consultation and for presentation of the case for reform of the system. If the proposals are agreed in principle we may be able to refer to them in the White Paper on deregulation that David Young is proposing to publish in May, but it will take rather longer than that to prepare detailed proposals.

Other Changes

We are making a number of other changes in the planning system and in the public inquiry process, and those arising from the White Paper on Lifting the Burden, including deregulatory measures in the General Development Order and the Use Classes Order. The latter has proved extremely contentious but we have now prepared somewhat modified proposals that would still yield substantial advantages, which I will be putting to David Young shortly. I think, however, that it would be better to present these in terms of simplification and modernisation of a system that has remained substantially unchanged since 1948 (and is based in part on 19.C Public Health legislation) rather than as a major act of deregulation since the potential effect of the original proposals on property values and local amenity has aroused great concern and opposition.

Conclusion

It is my impression that the Group have now discussed with us and with my officials most of their ideas for improving the planning system and that their continuing concern is with progress rather than further changes in the system. They are pleased to find their proposals reflected in current legislation and in administrative improvements. They are bound to continue pressing for improved performance and I am determined that we will be able to demonstrate that this is being achieved.

If we are to go ahead and publish proposals for major change in the development plan system, I think that we should bring our confidential discussions with the Sainsbury Group to a conclusion. So far the existence of the Group has not been made known and they have concentrated mainly on detailed matters concerned with improving the efficiency of the system. But we will need to consult publicly and more widely on the kind of major change that I now have in mind.

I would, however, like to retain the advice of at least some members of the Group in further work on urban regeneration and development. This is a subject in which Nigel Mobbs and Idris Pearce have taken a particular interest. I suggest that we should form a new group representing a rather different range of interests and experience, including some of the entrepreneurial developers who have operated successfully in the older urban areas. If you agree with this suggestion, I think that the existence of this new group should be made known rather than retain the highly confidential character of the Sainsbury Group. There would be advantages in a more open approach to these issues. The new group could certainly include some members of the Sainsbury Group (eg Nigel Mobbs, Idris Pearce, Christopher Benson) although John Sainsbury himself might not have a great interest in this topic.

CONFIDENTIAL

I suggest that at the meeting with the Sainsbury Group on 30 April you may want to run through the progress that I have summarised in this minute and Annex A, and then turn to the subject of structure plans. In conclusion, if you agree with my proposal about forming a new group with a different remit, you might thank the Group for the impetus that they have given over the past year or so to the improvement of the planning system, and refer to the need for a similar input from the private sector to improving our capability in tackling urban regeneration and enlisting the skills and resources of the private sector in this task.

I am copying this minute and Annexes to colleagues attending the next meeting - David Young, David Trippier and Michael Howard - and also to Sir Robert Armstrong and Hartley Booth.

K.B.

K B
15 April 1986

PLANNING SYSTEM: NOTES ON THE ITEMS LISTED IN NO.10's NOTE OF THE MEETING ON 10 DECEMBER 1985

(i) The Group were still concerned about unnecessary delays in reaching decisions on appeals. In some cases, the delays seemed to be getting worse. The target reduction in the time taken to decide appeals under the written presentations procedure of 11 weeks, to be achieved in two or three years, was not enough. A better target might be to aim that 80 per cent of such appeals should be completed within eight weeks.

1. The number of decisions on all appeals issued in the year was increased by 26%, which shows a marked improvement in productivity.

2. The median decision time for appeals dealt with on written representations (85% of all appeals) was reduced by three weeks last year - from 22 weeks in 1984 to 19 weeks in the last quarter of 1985. During the year the system was the subject of an Efficiency Scrutiny which recommends a series of measures that should reduce the median time to 11 weeks. Most of that improvement should be attainable over the next two years, including equipping and training Inspectors in the use of portable word processors on line to their HQ at Bristol. The Inspectorate are shortly introducing changes in the initial stages of the procedure which should save two weeks and further changes later in the year should save another two or three weeks. So in the course of this year median time should be down to about 14 weeks. A target of 80% of such appeals to be decided within 8 weeks is not attainable at this stage and it is better to set a target that the Inspectorate can realistically aim for and be expected to meet. But the Inspectorate are introducing percentage performance targets of this type, in addition to improving the median decision time. The Scrutiny report and Action Plan are to be published in April: some of the recommendations have already been implemented.

3. As was mentioned in the last progress report, following a management review of appeals recovered for decision by Ministers rather than by Inspectors, Regional Offices were set the target of deciding 80% within 13 weeks after receipt of the Inspector's report as from June 1985. In February 1986 86% of such appeals were decided within this target compared to 68% a year ago and 58% in 1984. This applies to all appeals, whether decided on written representations or after a public inquiry.

/4. Even

4. Even more important for appellants than prompt decisions are decisions in their favour, and the rate at which appeals are allowed is now running at over 40% (50% for some categories) compared to around 30% in recent years. This can be attributed to a large extent to the circular issued last July on Development and Employment, which was prepared in conjunction with the Group and to which the Inspectorate have clearly responded.

(ii) The Group suggested that a clear deadline might be fixed for written representations. Proper exchange of information between the parties could be insisted on. A set date should be fixed for hearings.

1. The Housing and Planning Bill which was introduced in January contains (in Schedule 8) powers that will enable time limits to be set for written representations and will also enable a decision to be taken on the appeal taking account only of representations received within the time limit and to disregard those received after that time; it also enables a decision to be taken even if no representations were received within the time limit if there is sufficient material available to reach a decision on the merits of the appeal. There were measures that the Group strongly recommended and they are very pleased to see that they are included in the Bill.

2. The Inspectorate are taking a tougher line on fixing dates for inquiries (or hearings), especially as regards the local authorities. It is worth noting, however, that one of the Inspectorate's problems is that 40% of inquiries are cancelled and the appeals withdrawn because the appellant has reached agreement with the planning authority. The Group acknowledge that it is a common and legitimate negotiating ploy to lodge an appeal while pursuing an alternative or modified application. But it does lead to abortive work for the Inspectorate and makes it difficult to ensure optimum use of Inspectors' time.

/(iii) The

(iii) The Group agreed that a system of awarding costs should be considered whereby the award more closely followed the appeal decision; it was recognised however that there might be difficulties with appeals against deemed refusals, and that the effectiveness of this kind of incentive on local authorities was not certain.

1. The aim is to extend and reinforce the award of costs regime for planning appeals. The proportion of claims for costs that are awarded has increased to nearly 30% compared to 20% before 1979. The Housing and Planning Bill contains provisions extending the award of costs to cases dealt with on written representations and also enabling Inspectors to take decisions on claims for costs rather than only making a recommendation, which will save time. These proposals were also among those put forward by the Group last year.

2. As was recognised at the last meeting, however, it would not be appropriate to provide that costs should be awarded strictly in line with the appeal decision. This would tend to favour local authorities rather than appellants, since 60% of appeals are unsuccessful. It might also discourage those with a good case from appealing. It would be unreasonable to penalise the appellant if he lost his case simply because his interest as a developer was outweighed by other considerations.

(iv) Procedure at present allowed local authorities continually to delay decisions by entering into lengthy correspondence. Reform of procedures to prevent this kind of abuse should be considered carefully. It was important that legislation should minimise the opportunity for challenge in the courts if procedural simplifications were introduced.

1. The strengthening and extension of the award of costs regime (see (iii) above) will provide a sanction on local authorities who delay decisions by entering into needlessly lengthy correspondence, and the introduction of time limits (see (ii) above) will impose the necessary discipline.

2. The point about minimising the opportunity for challenge in the courts is well taken. This is, however, one of the factors that can delay a decision. Reference to Departmental lawyers, and sometimes to Treasury Counsel, is much more common than in the past. The widening scope of judicial review increasingly impinges on Ministers' powers of decision.

/(v) The

(v) The Group believed the abolition of the Metropolitan Counties offered the opportunity of putting more surplus public land to proper use. It would be easier to prise this land out of public ownership if it were passed to the residuary body concerned, rather than to the District Councils. You Secretary of State confirmed that he was already taking steps to identify such land where appropriate, and take the necessary action.

1. The main property transfer order under the provisions of the Local Government Act, 1985 was laid before Parliament on 5 February. It transferred the abolished councils' functional property to the successor authorities on 1 April. But the order also ensured that surplus property belonging to the abolished councils fell outside the definitions of functional property, and passes therefore to the residuary bodies. The residuary bodies are now examining the opportunities for disposal. The London residuary body, who have by far the largest portfolio, are preparing a major programme of property disposal.

(vi) It was proposed that local authorities who wished to hold onto unused land on the grounds that it was needed for a specific purpose might be required to relinquish it after a certain time had elapsed. It might also be possible to provide that the local authority had to discharge the burden of proof when claiming that it had a need to hold onto a particular site.

Prime Minister. You will remember Bennet are challenging the Dog decision.

1. The Land Register powers in the Local Government, Planning and Land Act 1980 enable the Secretary of State to direct authorities to dispose of land on the Register if he is satisfied that its disposal will "not be to the serious detriment" of the authority's functions. In effect the onus of proof is on the local authority to show that it needs to retain the land. Where an authority has held onto a site for a long time without developing it, this is a prima facie reason for the Secretary of State to direct its disposal.

2. In recent months the Secretary of State has made increasing use of his powers to enforce sales by the use of his powers of direction: so far over 100 directions have been initiated.

3. Most sites, however, are sold or brought into use without the need for a direction. Since the Land Registers started, 38,000 acres have been removed from the Registers mainly on being sold

/or brought

or brought into use. In 1985 10,700 acres were removed, of which 6,700 acres were sold. At the same time new sites are added to the Registers, so the system is active not passive. Developers and others are encouraged to ensure that unused sites which they consider should be registered are so registered. The register has been computerised to make public access even easier. A major publicity exercise is planned for the autumn.

(vii) The Group noted that some progress with the disposal of public land was being made by the nationalised industries. A good deal of NHS land around London zoned as Green Belt was likely to become surplus as mental hospitals became redundant following the transfer of patients back to the community; its disposal would no doubt raise sensitive issues.

1. The Land Register system includes unused land owned by Nationalised Industries. In the 12 months ending 31 January 1986 3175 acres of such land was removed from the Registers on being sold or brought into use.

2. Unused land owned by Government Departments and related bodies is also included on the Registers. In the 12 months ending 31 January 1986 3192 acres were removed from the Registers, including 1557 acres sold by New Towns, Urban Development Corporations and other bodies. All Departments are under instructions to plan for the disposal of their surplus land by 31 March 1988. Government Departments and nationalised industries have particular incentives and penalties. Failure to achieve disposal targets has to be made good by savings elsewhere. If the target is exceeded the additional receipts can be used for additional expenditure.

3. Mr Idris Pearce, a member of the Group, is advising DHSS on the disposal of NHS land and property, much of which is in the London Green Belt. Present policy allows for the development of Green Belt land in exceptional circumstances and this might provide a solution to some of the mental hospital sites, rather than allowing them to become derelict. It would also relieve some of the pressure for development on green field sites.

/(viii)

(viii) District valuers and local authorities often over-value the unused land in their possession. These high prices themselves had discouraged development, reduced supply, and so have fed back into prices again.

1. The Secretary of State has recently issued 21 formal directions to local authorities to dispose of land register sites at auction without reserve. This should help to establish actual market prices especially where the local land market is not active. Manchester City Council are seeking leave of the High Court to challenge the Secretary of State's decisions.

(ix) The Group thought that consideration should be given to establishing development agencies, with purchasing and planning powers, in some of the areas suffering most from dereliction, following the pattern of the London Docklands Development Corporation.

and

(xi) Your Secretary of State noted that the Government were looking at the possibility of paying urban development grant direct, instead of through the local authority. The Group welcomed this.

1. The possibility of establishing further Urban Development Corporations is being considered. Under present legislation they cannot be set up outside the Metropolitan areas and the method is best applied to well defined areas of extensive vacant dereliction - as in London Docklands and Merseyside - rather than to areas of complex private ownership and dense development.

2. An alternative concept is being introduced in the Housing and Planning Bill which will enable the Secretary of State to pay grant direct to private developers rather than via the local authority as at present. The aim is to provide an incentive to consortia of private developers or trusts to tackle larger areas over a longer period as compared to the single project which attracts Urban Development Grant at present. The new power will enable grant to be paid towards -

(a) the acquisition of land or buildings;

(b) the reclamation, improvement or refurbishment of land or buildings;

/(c) the

(c) the development or redevelopment of land, including the conversion of existing buildings;

(d) the equipment or fitting out of buildings or land;

(e) the provision of means of access, services or other facilities for buildings of land;

(f) environmental improvements.

Assistance can be given by way of grants, loans, guarantees or other benefits for "activities contributing to the regeneration of an urban area".

(x) Even if it did not prove possible to put derelict land to immediate practical use, it was none the less desirable that it should be cleaned up and its appearance improved. The Department of Employment's special employment and training programmes had a role to play here.

1. Derelict land grant (DLG) is available for the reclamation of sites to improve the environment as well as those with an immediate end use. In 1985/86 the PES allocation for DLG was £82m compared to £21m in 1978/79.

2. Many voluntary bodies - such as Groundwork, Community Service Volunteers and British Trust for Conservation Volunteers - make use of MSC schemes to carry out environmental improvement and clearance work. There is scope for expanding this work through the Community Programme. The National Environmental Work Scheme (NEWS) aims to do this and is to be launched shortly by the Secretary of State for the Environment in conjunction with the Secretary of State for Employment and MSC.

(xii) The Group urged that further consideration be given to the place of structure plans in the planning process. The circular on development had been a help, but there was still scope for reducing their negative impact in the hands of some local authorities.

1. The Group have had further discussions with DOE on structure plans and a fuller note on their suggestions is at Annex B. The Secretary of State, however, has put forward a more radical alternative in his covering minute to the Prime Minister - see paras 7-9.

/(xiii)

(xiii) The Group believed that though the demand for housing, and for industrial and commercial property, was generally less in the north than in the south, it was important not to under-estimate the impetus to growth everywhere which could be achieved by making more land available at a lower price, and by simplifying and speeding up planning procedures.

1. These are objectives that the Government and the Group share. While the demand for housing, industrial and commercial development is generally less in the north than in the south, it is also shown by the statistics of planning applications and appeals that development is far more welcomed in the north than in the south. For example, the Northern Region accounts for only 2% of all appeals, whereas the South East and Eastern account for 42%. The planning system reflects the attitudes of those who operate it: it can be effective in facilitating development as well as in restricting it.

Department of the Environment

April 1986

PLANNING SYSTEM: STRUCTURE PLANS

1. This note summarises a discussion between Sir John Sainsbury's Group and officials of the Department of the Environment on 27 February 1986.

2. The Group were concerned about the present system because:

(a) The plans have generally become very detailed, prescriptive and complex, particularly in relation to matters of development control. In some cases, local authorities treat them as vehicles for rhetorical social and economic "policies" that have nothing to do with land use.

(b) They take far too long to process, revise and amend, so that they get increasingly out of date.

(c) Since they are subject to the Secretary of State's formal approval (and modification) they tend to be regarded as having far greater authority and precision than they really warrant, given changing conditions, the need for land-use planning to adapt to a market economy and to be reasonably flexible in implementation. In particular, the Courts increasingly treat the plans almost as though they were statue law.

3. The Group were attracted by the concept of "unitary plans" which will replace the structure plans in Greater London and the metropolitan areas, since these will combine the structure and local plans functions in one plan at the Borough/District level. But unitary plans are intended for single tier local government whereas in the Shires the counties prepare the structure plans and the Districts prepare the local plans. There is validity also in using the unitary plan proposal in large urban areas in Shire counties, and an experiment on these lines should be supported by Central Government by provision of staff seconded to an appropriate local authority to show early on how it could best be done.

4. In the course of discussion, the Group were generally disposed to agree on the following:

(a) Development plans are an essential feature of the planning system and cannot be dispensed with, since they show how the planning authority expects its area to develop and should be a safeguard against the arbitrary inconsistent exercise of development control.

(b) The plans should carry a more limited authority and should be capable of being regularly revised and kept up to date, should be confined to matters of land use, and should be kept reasonably simple and concise.

(c) Outside the metropolitan areas both structure and local plans should be retained, since the counties generally take a less parochial view than the Districts and should not be excluded from the planning process.

/(d) Structure

(d) Structure plans need not, however, be subject to the Secretary of State's approval. They could be subject to local consultation and adoption procedures, as is the case with local plans and will be the case with unitary plans. This will help to avoid the plans being treated as unduly authoritative and prescriptive, and will enable them to be kept up to date and avoid the long delays involved at present.

(e) These structure plans could be renamed "County Advisory Plans" in order to emphasise a changed status.

(f) The larger cities outside the metropolitan areas should adopt the unitary plan system and thus opt out of the county plan for the same reasons as a unitary plan is right for the districts in the former Metropolitan counties.

(g) The Secretary of State should have power to prescribe the general scope and content of all development plans and should have reserve powers to call them in for his own approval or to direct modification to them.

5. It was agreed that changes on these lines could offer advantages, the chief of which was to moderate the apparent status and authority of the present structure plans, and to extend the system of local adoption (rather than Secretary of State approval) to the Shires as well as the metropolitan areas. It was recognised, however, that such changes would be highly controversial since they would be seen by the counties as reducing their status and powers in the planning process, and would be regarded by the planning world as further dismantling of the planning system. There would be demands for the Secretary of State to give extensive "guidance" and to intervene wherever County and District were at odds. It would be necessary for the Secretary of State to deal firmly and promptly in such cases.

6. The Department undertook to prepare a note summarising these possible changes and to report the Group's views to the Secretary of State. The Group would also give further thought to the subject in the light of the note.

LOCAL GOVT: Planning: Pt 2

10 DOWNING STREET

Caroline,

David Trippier's office rang. He regrets he will not be able to attend the planned Salisbury Group meeting on 30/4

CR pl annotate on file accordingly.

What now?

CR

6:4

1813

10 DOWNING STREET

17 March 1986

From the Private Secretary

THE SAINSBURY GROUP

The Prime Minister's next meeting with the Sainsbury Group has now been fixed for 0930 on Wednesday 30 April. There is to be a Ministerial pre-meeting at 0900. We have allocated an hour and a half in our diary for the meeting proper.

I expect that the meeting will follow the same pattern as its predecessors. Your Secretary of State runs through the progress which has been made, with particular reference to those areas identified for further work at the last meeting (see my letter to you of 11 December). Sir John Sainsbury then gives his own assessment of what has been achieved and suggests where further efforts need to be made in the future.

I should be grateful for briefing, by Thursday 24 April. Ministers down to attend the meeting, in addition to the Prime Minister and your Secretary of State include, as before, the Secretary of State for Employment, Mr Trippier at the Department of Employment and Mr Howard from the Department of Trade and Industry.

I am copying this letter to the Private Secretaries of those attending the meeting: John Lambert (Department of Employment), Mr Winn (Mr Trippier's office), Paul Madden (Mr Howard's office) and to Michael Stark.

MARK ADDISON

Robin Young Esq.,
Department of the Environment

cc Mr Boost

MR ADDISON

cc Mr Taylor

SAINSBURY GROUP MEETING

I have set this up for Wednesday 30 April. 0900 for the Meeting of Ministers, to which the Secretary of State for the Environment, Secretary of State for Employment, PUSS Department of Trade and Industry (Michael Howard MP) and the PUSS at Department for Employment (David Trippier MP) will attend. William Waldegrave has to attend a conference with the Duke of Edinburgh that day so is unable to attend.

The Sainsbury Group have requested a separate room that they could meet in at 0900. The main meeting could be in the upstairs dining room or the Cabinet Office.

C.R.

CR
Could I see the file please
MHCH 14/3

CAROLINE RYDER
14 March 1986

LOCAL GOVT

~~RELATIONS~~

PLANNING

PT 2

MRS. RYDER

SAINSBURY GROUP MEETING

The DOE have told me that Thursday 29 April at 1015 would be convenient from the Group's point of view for their next meeting with the Prime Minister. Ministers would need to meet at 0945 for a pre-meeting.

Would you please confirm that the following will be able to come:

* Secretary of State for the Environment
* Secretary of State for Employment
* Minister for Local Government (The Hon. William Waldegrave MP)
  OR PUSS at the Dept of Trade and Industry (Michael Howard QC MP)
* PUSS at the Department of Employment (David Trippier MP)

Thanks.

MEA

Mark Addison

10 March 1986

Sainsbury Group file pt.

MR ADDISON

21 February 1986

SAINSBURY

I have spoken to John Delafons (DoE). We suggest early May would be a suitable date for the next Sainsbury meeting.

HB-H

HARTLEY BOOTH

File

DOE

MR. BOOTH

SAINSBURY GROUP MEETINGS

You will recall that the Prime Minister said she would like to hold the next meeting of the Sainsbury Group in the spring.

I think it would be helpful if you could take soundings through your contacts in DOE, and let me have advice on when we should aim to arrange that meeting.

Mark Addison

30 January 1986

CR

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: B/PSO/19422/85

Your ref:

- 2 JAN 1986

Thank you for your letter of 15 November and for the papers which have been prepared by the Nationalised Industries Chairmen's Group on the subject of Major Public Inquiries.

I fully recognise the Group's concern about the adverse economic effects of very long inquiries, and we certainly wish to ensure that such inquiries are conducted as speedily and efficiently as possible. At the same time, the balancing of economic and environmental interests often raises very difficult issues on which there are strong feelings on both sides, and it is essential to provide a satisfactory framework within which these issues can be resolved.

There are things that can be done to improve the speed and efficiency of the process. Promoters for their part can help by explaining the project to the public at the earliest possible stage, by demonstrating that they have done all they can to moderate its environmental impact, and by presenting their case both effectively and succinctly at the inquiry itself.

We have measures in hand which will help to improve procedures and the management of the inquiry, and we shall continue the search for useful changes which will make for quicker decisions without detracting from public confidence in the process. It would be helpful for my officials to meet those who have been closely concerned with drawing up the papers enclosed with your letter, and I am asking them to get in touch with your secretariat to arrange a meeting for this purpose.

I am sending copies of this letter to the recipients of yours.

KENNETH BAKER

Sir Robert Haslam

03. I.
BM66

Subject cc Master.

EL3AT1

file

cc Mr Watson.

10 DOWNING STREET

From the Private Secretary

11 December 1985

Dear Robin

PLANNING: THE SAINSBURY GROUP

The Prime Minister chaired a meeting yesterday to consider the further progress which had been made as a result of continuing discussions between your Department and the Sainsbury Group.

Sir John Sainsbury was accompanied by Mr. Christopher Benson (MEPC), Mr. Clifford Chetwood (George Wimpey), Mr. Nigel Mobbs (Slough Estates), Mr. Idris Pearce (Richard Ellis), Mr. John Taylor (Chapman Taylor Partners) and Mr. Roger Suddards (Last Suddards, Solicitors).

Ministers present, in addition to your Secretary of State, were the Secretary of State for Employment, Mr. David Trippier and Mr. Michael Howard. Mr. Hartley Booth was also present.

Your Secretary of State reported that significant progress had been made since the last meeting with the Prime Minister in April. The circular on "Development and Employment" had been published in the White Paper "Lifting the Burden"; it had had a marked effect. The PQ Statement in July on superstores had been well received by the major retailers. The time taken for appeal decisions to be reached had been shortened. On the written representations procedure, work was in hand to reduce the median time taken to about 11 weeks. A circular on aesthetic control was to be re-issued that day which would discourage detailed control of design by planners. A consultation document on the Review of Use Classes Order had just been published, heralding a major change.

Sir John Sainsbury said that some further progress had been made. But much more remained to be done. There was a need to ensure that planning procedures themselves were effectively managed, and that proper progress chasing was set in hand. The message contained in "Lifting the Burden", and the circular with its presumption in favour of development, needed constantly to be reiterated if the change in attitudes were to be carried forward. It was important that the impression should not be created that "green" policies and development were irreconcilable; speed and efficiency were in everyone's interest; furthermore allowing development on unused inner city land would relieve

pressure on the green belt, and promote a more attractive urban landscape.

In discussion the following points were made:

(i) The Group were still concerned about unnecessary delays in reaching decisions on appeals. In some cases, the delays seemed to be getting worse. The target reduction in the time taken to decide appeals under the written representations procedure of 11 weeks, to be achieved in two or three years, was not enough. A better target might be to aim that 80 per cent of such appeals should be completed within eight weeks.

(ii) The Group suggested that a clear deadline might be fixed for written representations. Proper exchange of information between the parties could be insisted on. A set date should be fixed for hearings.

(iii) The Group agreed that a system of awarding costs should be considered whereby the award more closely followed the appeal decision; it was recognised however that there might be difficulties with appeals against deemed refusals, and that the effectiveness of this kind of incentive on local authorities was not certain.

(iv) Procedures at present allowed local authorities continually to delay decisions by entering into lengthy correspondence. Reform of procedures to prevent this kind of abuse should be considered carefully. It was important that legislation should minimise the opportunity for challenge in the courts if procedural simplifications were introduced.

(v) The Group believed the abolition of the Metropolitan Counties offered the opportunity of putting more surplus public land to proper use. It would be easier to prise this land out of public ownership if it were passed to the residuary body concerned, rather than to the District Councils. Your Secretary of State confirmed that he was already taking steps to identify such land where appropriate, and take the necessary action.

(vi) It was proposed that local authorities who wished to hold onto unused land on the grounds that it was needed for a specific purpose might be required to relinquish it after a certain time had elapsed. It might also be possible to provide that the local authority had to discharge the burden of proof when claiming that it had a need to hold onto a particular site.

(vii) The Group noted that some progress with the disposal of public land was being made by the nationalised industries. A good deal of NHS land around London zoned as Green Belt was likely to become surplus as mental hospitals became redundant following the transfer of patients back to the community; its disposal would no doubt raise sensitive issues.

(viii) District valuers and local authorities often over-value the unused land in their possession. These high prices themselves had discouraged development, reduced supply, and so have fed back into prices again.

(ix) The Group thought that consideration should be given to establishing development agencies, with purchasing and planning powers, in some of the areas suffering most from dereliction, following the pattern of the London Docklands Development Corporation.

(x) Even if it did not prove possible to put derelict land to immediate practical use, it was none the less desirable that it should be cleaned up and its appearance improved. The Department of Employment's special employment and training programmes had a role to play here.

(xi) Your Secretary of State noted that the Government were looking at the possibility of paying urban development grant direct, instead of through the local authority. The Group welcomed this.

(xii) The Group urged that further consideration be given to the place of structure plans in the planning process. The circular on development had been a help, but there was still scope for reducing their negative impact in the hands of some local authorities.

(xi) The Group believed that though the demand for housing, and for industrial and commercial property, was generally less in the north than in the south, it was important not to under-estimate the impetus to growth everywhere which could be achieved by making more land available at a lower price, and by simplifying and speeding up planning procedures.

Summing up the discussion the Prime Minister said that useful progress had been made, but that more work needed to be done to take forward the reform of the planning system. In particular there was still scope for reducing the time taken to reach decisions on appeal; consideration should be given to stiffening the regime for the award of costs; written representations might be made subject to a time limit; the Secretary of State should take forward his review of the case for paying urban development grant direct to the

recipient; further efforts should be made to speed up the disposal of unused public land; and your Secretary of State would consider further, with the Group, the role of the structure plan in planning decisions. The Prime Minister would hold a further meeting with the Group in the spring of next year.

I am copying this letter to Leigh Lewis (Department of Employment), Paul Madden (Mr. Howard's office, Department of Trade and Industry) and Mike Winn (Mr. Tripper's office, Department of Employment).

Yours ever

Mark Addison

(Mark Addison)

Robin Young, Esq.,
Department of the Environment.

JA1AFN

PRIME MINISTER

SAINSBURY GROUP MEETING

Tomorrow's meeting with the Sainsbury Group takes place at your suggestion, made at the conclusion of the one which took place in April this year. It offers the opportunity not simply of ensuring that the Sainsbury Group's original proposals are being followed up vigorously wherever possible, but also of pressing DOE Ministers more generally to speed up and simplify the planning process, by registering directly with them your personal concerns about it. You made clear at the April meeting that the DOE report drawn up for it should be seen as an interim document.

Half an hour is set aside for the Ministerial pre-meeting, from 0945 to 1015. The meeting with the Sainsbury Group itself will probably not need to go on for more than an hour and a half, up to 1145. You have Mr Shultz at 1200.

The attached briefing consists of:

Flag A - a handling note and progress report from Hartley Booth. This provides a useful summary of where the discussions have got to and identifies some of the weak spots in the DOE report.

Flag B - the Environment Secretary's report and briefing for the meeting. Mr Baker thinks the Sainsbury Group are well pleased with the progress which has been made. He flags up the subjects you may like to discuss at the meeting.

Flag C - a note from the Employment Secretary arguing that the Sainsury Group discussions must not be allowed to lose momentum.

Flag G - a late submission from DTI, for discussion possibly at the pre-meeting.

A number of other papers are attached, including the Deregulation White Paper (Flag D), a worrying note from the

Policy Unit on surplus land sales (Flag E) and a fuller report from the DOE (Flag F). You do not need to look at these unless you wish to.

At the pre-meeting you will need to discuss:

(i) The issues you will wish the Sainsbury Group meeting itself to focus on. (The key points I think are the appeals procedure itself, the reform of use clauses, structure plans and unused land.)

(ii) The future of the Group. You will wish to go along with Lord Young's view that the Group's work is not yet complete. You believe there is more to be done and you would aim to meet the Group again, after the Secretary of State's meeting, in about a year's time.

One point to note. Idris Pearce wrote to you with his proposals for encouraging the speedier disposal of unused public land. You expressed great interest in his paper, and said the DOE now have the task of conducting a policy for disposing of surplus land which is both vigorous and orderly. You have also corresponded with Godfrey Bradman on the same point.

Mark Addison

Mark Addison

9 December 1985

PRIME MINISTER

PLANNING POLICY

I have seen Kenneth Baker's encouraging minute of 2 December, and David Young's minute of 6 December. It might be helpful If I mention in advance a couple of points which I should like to raise at our meeting, in the light of my own experience as a planning lawyer.

2. The first concerns one of the starting points of current planning policy, DOE circular 75/76, which includes an obligation:

> "to ensure that, as far as possible, land of a higher grade agricultural quality is not taken for development where land of a lower quality is available and that the amount of land taken is no greater than is reasonably required for carrying out the development in accordance with proper standards".

3. In correspondence between Patrick Jenkin, Michael Jopling and Norman Tebbit in March and April of this year, it was agreed that there should be a review of present procedures regarding conflicts between different Departments' objectives in the planning process. The details of the case, which concerned an application by Dupont, need not concern us here. What was, and is, important is that the presumption in favour of prime agricultural land inevitably colours the way in which the planning process operates, and to some extent limits the impact of the "presumption in favour of development" which we have recently re-endorsed. It remains most important that the interested Departments do get down to looking at the relationship between agricultural and other economic objectives in the planning process, taking into account the declining importance of agriculture in the national economy, and the objective we all share of minimising the curbs on commercial activity in the economy

4. I understand that this may not be a point to raise with the Sainsbury Group themselves, since they do not seem to have challenged circular 75/76, and the intention to have a review of these matters is,for the moment, an internal one.

MN1AAG

999-49

But it is important that we recognise the existence of this starting point when considering amongst ourselves whether we have gone far enough in deregulating the planning process.

5. My second point relates to the issue of costs. I understand that the intention behind the review which is currently underway is that it should in future be for Inspectors to decide on the award of costs - as well as that the award of costs should be possible for appeals going through the written procedure. My own experience suggests that Inspectors tend to be less robust about matters of this sort than might be desirable. Further than that, my personal view is that the present guidelines on the award of costs are unecessarily restrictive in their reliance on vexatiousness or other unreasonable conduct. It seems to me there is something to be said for introducing into planning procedures the principle that applies in the civil Courts, that costs should follow the result, with the unsuccessful party paying both his own costs and those of the opposition (be it appellant or planning authority). This would obviously apply only to appeals, since the initial planning process is, unlike recourse to the courts, non-optional. It does seem to me, however, that local authorities might think twice about refusing permission on dubious grounds if it were clear to them that there was a real possibility of costs being awarded against them in the event of an appeal being upheld.

6. I recognise, of course, that such a course would have implications for the willingness of developers to go to appeal - bearing in mind that only one third of appeals are successful - in a way which might act against those with smaller financial resources, or potentially less profitable developments. This would to some extent be underlining the market signal, but we should obviously need to consider whether such a course would on balance bring benefits to developers, or would place greater weight on, as it were, the court of first sentence than would be desirable. One might also look at whether such a test would run only for the larger developments, where the financial burdens would be less worrying, and the developer can be assumed to be going into an appeal with his eyes open, on the basis of good professional advice. I hope Kenneth Baker will think this idea worth looking at again, with David Young and my Department.

MN1AAG

999-49

7. I am sending copies of this letter to Kenneth Baker David Young and David Trippier.

M.H.

M.H.

9.12.85

MN1AAG

999-49

PRIME MINISTER 9 December 1985

MEETING ON 10 DECEMBER WITH SIR JOHN SAINSBURY'S GROUP

Further to your meeting of 29 April with Sir John Sainsbury's Group, the Committee and DoE now report back to you on its proposals to simplify, clarify and expedite town and country planning control. Attending your meeting at 10.15 am will be:

Sir John Sainsbury, Chairman and Chief Executive of J Sainsbury plc

Mr Clifford Chetwood, Chairman and Chief Executive of George Wimpey plc

Mr Christopher Benson, Vice Chairman and Managing Director of MEPC plc, and Chairman of London Docklands

Mr Nigel Mobbs, Chairman and Chief Executive of Slough Estates plc, and Chairman of PSA Advisory Board

Mr Idris Pearce, Managing Partner of Richard Ellis Surveyors How much land round the M25?

Mr Roger Studdards, Senior Partner of Last Studdards Solicitors, currently also Chairman of the Trustees of the Bradford Disaster Appeal

Mr John Taylor, Partner of Chapman, Taylor & Co.

Kenneth Baker, Lord Young, Mr Trippier and Mr Michael Howard will also be attending.

1. Progress

Following your meeting with the Group on 10 December 1984 and your meeting in April this year, the White Paper "Lifting the Burden" was published on 16 July, which has been well received (copy of the Paper is attached at Flag 1). This included the presumption of planning permission and Kenneth Baker's note states that the proportion of appeals allowed has risen by 10% directly as a result. DoE's note setting out progress is at Flag 2 together with their report copied to me in September. (Flag 5) Much has been done.

2. Work still to do

The circular of July is only a start. The swing towards greenery and against development will mean that any further deregulation will be hard fought. The performance of the system of planning appeals is far from perfect and the claim by DoE to have reduced the average time for appeals from 23 weeks to 19 weeks during the last year is not nearly enough. DoE admit they could do more about speeding up the time between the end of the Hearing and the decision letter being issued. At the moment, the decision letter, which is on average about 2 pages long, takes 4-6 weeks to be issued. This compares badly when set against time taken by the House of Lords Appellate Committee to issue their 50-100 page judgements at

the end of a Hearing. Time taken for appeal should be reduced to, at the most, 14 days.

Unused publicly-owned land is now on the agenda for the Group at the request of Kenneth Baker. We welcome this, especially in view of the lamentable state of affairs in the part of DoE that deals with this crucial area of policy. You may recall our minute of 8 November (Flag 3) in which we concluded that, at the rate of progress being achieved in the Department, the sale of the backlog of unused public land would take approximately 200 years!

The Use Classes Order is being considered at the moment. We have the interim report of the Property Advisory Group of DoE. There are at present 18 Use Class Orders and they add greatly to the complexity and restrictiveness of planning control. Kenneth Baker's minute implies that all this area of vital simplification is in no need of further work. We believe that these categories of permitted use can be pruned much more drastically than is proposed by the DoE Committee, possibly down to 3 or 4 different categories of use. Can Sainsbury help?

Structure Plans have been downgraded in the 16 July circular. We doubt if this is enough nor has it got through to the public. What do the Sainsbury Group feel? Some movement would help but this is a very politically sensitive area.

3. The future of the Group

You may be under some pressure by Kenneth Baker to allow the Sainsbury Group to retire gracefully, now that he argues that something has been achieved. Lord Young disagrees (Flag 4). On the contrary, we believe on the three points above: a) a simplication system; b) sale of unused land; and c) use class order; there is much the Group could do if they are prepared to continue. Officials at DoE have certainly moved under the pressure from the Sainsbury Group. Now is not the time for the pressure to be withdrawn. It will be said that the Group represents developers and that our green image may be tarnished by them. On the contrary, if the developers help improve Inner City dereliction, they may assist any green image we might wish to have.

4. Handling

In the pre-Meeting of Ministers between 9.45 and 10.15 am, a line can be agreed with Kenneth Baker as to the future of the Group. Lord Young is likely to want the Group to continue.

For the meeting with the Sainsbury Group, you may like to ask Kenneth Baker to report on the discussions and for Sir John Sainsbury to comment. The meeting should then focus on what the Group feel is wrong with our planning system at the moment, now that some changes have begun, and the way ahead.

5. Conclusion

We recommend you encourage the Sainsbury Group to continue their good work. Still needing attention are:

a. much more efficiency in the disposing of planning appeals;

b. radically reducing the use classes of the Use Classes Order;

c. further reducing the status of structure plans with safeguards for Green Belt, parks and tourist amenity;

d. a big drive to dispose of unused public land.

An analysis of the Sainsbury proposals to date is attached (Flag 5).

HARTLEY BOOTH

APPENDIX

PROPOSALS FROM SAINSBURY

Sainsbury Proposal	Topic	Action
a	Presumption in favour of development	Proposal Accepted DoE circular July 1985
b	Circular stating ditto	" " "
c	Reasons to be given for refusal	" " "
d	LA Reports to be released	Squires' Act thought to cover
e	Quick form approval	Some action in forthcoming legislation (see paras 12-14 of attached Report)
f	LA speed or return	Proposal withdrawn by the group
g	More delegated powers	Accepted. It is encouraged in DoE's circular 22/80

h	Inspector to award costs against parties causing undue delay	Proposal accepted. Forthcoming planning legislation will include powers (para 19 of attached Report)
i	Higher echelon of Inspectors	Partly accepted (para 27 of Report)
j	Inspectors controlled by LC's Department	Withdrawn
k	Local Planning Appeals Tribunals	DoE rejects
l	Greater use of ad hoc Inspectors	Accepted (para 28 of Report)
m	Competent Appeals Tribunal	Rejected by DoE
n	Parties to appeal to see draft Inspector's Report	Withdrawn by the Group
o	Mandatory time limit on written submissions	Accepted. Forthcoming Bill will include powers (para 38 of Report)

p	Secretary of State to have power to order a Section 52 Agreement (a type of conditional agreement)	Accepted in rare cases (para 39 of Report.
No Number	Structure plans should be downgraded	Accepted (para 40 of Report put into July's White Paper)
No Number	Sale of unused public land	To be considered by the Group?
No Number	Review of Use Classes Order	To be considered by the Group?

MR ADDISON 9 December 1985

As requested, I attach a handling brief for the Prime Minister for tomorrow's Sainsbury Group meeting. The index of flags are as follows:

Flag 1 - The White Paper "Lifting the Burden".

Flag 2 - Kenneth Baker's Minute.

Flag 3 - Policy Unit minute of 8 November 1985.

Flag 4 - Lord Young's minute.

Flag 5 - The Report from DoE of September stating the progress.

pp HARTLEY BOOTH

DM/B19

PRIME MINISTER

THE SAINSBURY GROUP

I have seen a copy of Kenneth Baker's very encouraging minute to you in advance of the meeting which we are having with the Sainsbury Group on Tuesday 10 December.

The Sainsbury Group has, as you know, been a very valuable source of ideas and experience on planning and provided some very useful material for our 'Lifting the Burden' exercise. As Kenneth says, we are now beginning to see the fruits of this exercise: we have faster appeal decisions, a larger proportion of appeals allowed and proposals for deregulation through the Use Classes Order have been published.

We must not, however, stop here. I am still receiving a good deal of correspondence about the difficulties of the planning system along with numerous suggestions for change. I am sure that this pressure will not go away. Correspondingly, I hope that we would not lose contact with the Sainsbury Group until we are satisfied that we have benefited from the full range of their ideas - some of which may well have developed - as have our own ideas - since they first presented them a year ago.

I hope that at the meeting we can give Sir John and his colleagues a chance to restate or develop their objectives, however radical.

I am copying this minute to Kenneth Baker, Michael Howard, and David Trippier here.

D Y

December 1985

LOCAL GOVT ; Planning : Pt 2

cc HB

PRIME MINISTER

THE SAINSBURY GROUP

You are having a further meeting with the Sainsbury Group on 10 December to discuss progress on improving the planning system, which you last discussed with the Group in April.

PROGRESS

Since that meeting action has been taken forward on all the proposals agreed with the Group. My officials prepared a detailed progress report on implementation in September and have discussed it with the Group. Hartley Booth has had a copy of that report and I need not go over all the items in detail. I met the Group on 4 November and Sir John Sainsbury and his colleagues expressed themselves well pleased with the action already taken and in hand. Their main concerns now are that the emphasis on the positive use of the planning system to facilitate economic development should continue, and that efforts to improve the efficiency of the system, particularly in processing planning appeals, should be maintained.

POLICY

As regards the general policy approach, the Group clearly feel that the circular on "Development and Employment", which was published in July with the White Paper "Lifting the Burden", fully met their main concern and is having a marked effect, not least on the Inspectorate in dealing with appeals. I was able to tell them that since the cicular was issued the proportion of appeals allowed had risen from the average of around 30% in recent years to about 40%, and for major developments (decided by Ministers on Inspectors' recommendations) to nearly 50%.

The PQ statement in July on superstores has also been well received by the major retailers. In a recently published interview Sir John Sainsbury, commenting on the company's experience of planning control,

said that he was pleased to detect "signs that are more encouraging than for many years".

We have also taken steps to keep the Inspectorate better informed of Ministerial policy. Patrick Jenkin addressed their annual conference in July and I have had a useful discussion at a dinner with the Chief Inspector and some of her senior colleagues. My Permanent Secretary is considering with the Chief Inspector proposals for forming a panel of part-time Inspectors drawn from members of the Planning Bar and other professions.

The Group have expressed some concern that the need to demonstrate the Government's commitment to the Green Belt and environmental policies should not be misinterpreted as a swing away from our support for economic development and deregulation. They are well aware of the widespread opposition to large-scale new development in the Home Counties and elsewhere, and, while they recognise the political realities of the situation, they are anxious that the balance should not tilt too far towards the "anti-development" tendency. I have suggested to them that the big developers can do a good deal to counter this hostility by producing good quality buildings, by making full use of derelict and unused land, and by showing themselves ready to modify or improve their proposals in response to local opinion. I suggest that it will be very useful to spend some time at your meeting discussing with the Group how we can best present the positive approach to development, that they want to see maintained, without alienating our supporters.

PERFORMANCE

As regards the Group's other main concern, the performance of the appeals system, there is already a distinct improvement to report in the median times for appeals (from receipt of appeal to decision):

1984		23 weeks
1985	Q1	22 "
	Q2	21 "
	Q3	20 "
	October	19 "

We have just completed an Efficiency Scrutiny of the written representations procedure (which accounts for over 80% of all appeals) and this makes proposals which could reduce the median decision time progressively to about 11 weeks. All these recommendations will be implemented. One of the main proposals is to provide all Inspectors with word-processors on-line to their HQ; this will take two or three years to complete but the system is already being successfully tried out.

Members of the Group, as leading developers, are chiefly concerned with those major appeals (less than 5% of the total) that are decided by Ministers rather than by the Inspectors and which often involve a public inquiry. They can cite cases where the appeal has taken far too long to complete. Large developments that arouse a lot of local opposition inevitably take longer than the run-of-the-mill appeals. But a detailed management review of this work was completed in June and Regional Offices were then set the target of deciding 80% of all such appeals within 13 weeks of receiving the Inspector's report. In the five months since then they have in fact achieved over 90% within the target time, which is a marked improvement on past performance. The aim now is to tighten up the whole process from receipt of the appeal to decision.

AESTHETIC CONTROL

At my meeting with the Group in October the only other important matter that they raised was the question of "aesthetic control", which was also discussed at your earlier meeting with the Group. They asked me to consider re-issuing and re-emphasising the policy guidance on this subject that Michael Heseltine published in 1980 and which strongly discouraged detailed control of design except in very

sensitive conservation areas. I have agreed to do this and the new circular will be issued shortly.

UNUSED PUBLICLY OWNED LAND

I asked the Group what further measures we and they could take to secure the release of unused land in public ownership and the renewal by private developers of badly run council housing estates. They undertook to give some further thought to this and I know that Idris Pearce, who was abroad at the time of my meeting with the Group, is taking a special interest in this subject. He is particularly concerned with land owned by Government Departments and the methods of disposal. I suggest that we could usefully pursue this topic at the meeting on 10 December.

IMPLEMENTATION

The Group are aware that all the proposals in the Planning chapter of the July White Paper are being carried forward, including those that will be dealt with in this Session's Housing and Planning Bill and in the report on the review of the Use Classes Order which I will be publishing shortly. We will be reporting on all these items in the second White Paper on deregulation which David Young plans to publish in May.

The Group have not decided whether they wish to propose any further changes in development plan procedures and there are differing views within the Group on this, but they welcomed what was said in the July circular on this subject - ie that plans should not be regarded as overriding other considerations in deciding planning applications and appeals, especially where the plan does not deal adequately with new types of development or is no longer relevant to today's needs and conditions. This is having a useful effect in reducing the weight attached to development plans in deciding planning applications and appeals.

I believe that the Group are well satisfied with the impetus that they have given to the positive aspects of planning policy and to simplifying the system and improving its performance. They are not concerned to follow all the work on implementation in detail but will be looking to see the results. I have offered to review progress with them at about the same time next year.

I am copying this minute to David Young, David Trippier and Michael Howard.

K.B.

K B

2 December 1985

5F

LOCAL GOVT
SAINSBURY
PTZ

File

D85

10 DOWNING STREET

From the Private Secretary

25 November 1985

Many thanks for your letter of 21 November to Caroline Ryder here, confirming the names of those who will be coming to the meeting on 10 December. Thank you, too, for the car registration numbers.

Mark Addison

Miss Felicity Saunders

File

088

10 DOWNING STREET

From the Private Secretary

25 November 1985

I am enclosing a copy of a letter from Sir John Sainsbury's Office, confirming the names of those coming to the meeting on 10 December.

Mark Addison

Alan Davis, Esq.,
Department of the Environment.

c/f pps.

cc: Mr. Joce
Mr. Taylor
Duty Clerk
Front Door.
Mr. H. Booth.

The Chairman's office

SAINSBURY'S

J Sainsbury plc
Stamford House
Stamford Street
London SE1 9LL

01-921 6000

Telex 264241

Mrs C.M. Ryder,
Personal Assistant to the
Prime Minister,
No 10 Downing Street,
London SW1

21st November, 1985

Dear Mrs. Ryder,

I am writing to confirm that the following will be attending the meeting with the Prime Minister at 10.15 a.m. on 10th December:

Sir John Sainsbury
Mr Clifford Chetwood
Mr Christopher Benson
Mr Nigel Mobbs
Mr Idris Pearce
Mr Roger Suddards
Mr John Taylor

I am attaching a list of car registration numbers to assist your security arrangements.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,

Felicity Saunders

Miss Felicity Saunders
Secretary to Sir John Sainsbury

Att.

CAR REGISTRATION NUMBERS FOR MEETING AT DOWNING STREET

10.15 a.m. 10th December 1985

Sir John Sainsbury	B204 YUV
Mr Clifford Chetwood	A81 SYV
Mr Christopher Benson	HKP 980Y
Mr Nigel Mobbs	A203 XRD
Mr John Taylor	B376 MLO

Mr Suddards and Mr Pearce to arrive by taxi

22. XI.
PM 6 Г.

MCA requested this letter to be kept on the Planning file - for other correspondence with Bradman see GR file.

hle

MJ

cc DOE
JR
HB
Sainsbury GP.

10 DOWNING STREET

THE PRIME MINISTER

15 November 1985

Dear Mr. Bradman,

Thank you for your letter of 6 August with its vigorous proposals for disposal of surplus public sector land. I have delayed replying until now because I wished to have the benefit of Ken Baker's advice following your recent meeting with him.

All of us in government wish to see a more rapid pace of disposal, particularly in inner city areas where new development would be most welcome. As a result of an initiative Patrick Jenkin took with my encouragement, members of the public are now expressing interest in the registration and disposal of particular sites. In addition we are stepping up the pace of directions. Ken Baker will be issuing a number shortly and he will be following those up with further notices under section 99 of the Local Government Planning and Land Act where the owners appear to have been dilatory.

I understand the need to speed disposal where planning and other relevant matters have not been resolved and where they are likely to cause undue delay. You also acknowledge that the public sector has to act fairly between potential

buyers and has to achieve the best price possible, reflecting the current state of the land and its development potential.

Your ideas are now being worked on by officials, following your meeting with Ken. He is very much aware of my interest in these matters and will I know be seeking to bring these discussions to a rapid and fruitful conclusion.

I am grateful to you for your interest and for your perseverance!

Yours sincerely

Margaret Thatcher

Godfrey Bradman, Esq.

hlie. VCHADS

10 DOWNING STREET

12 November 1985

From the Private Secretary

THE SAINSBURY GROUP

As you know, the Prime Minister is meeting the Sainsbury Group, together with the Ministers concerned, on 10 December. There is to be a Ministerial pre-meeting at 0945, and the meeting will began at 1015. We have allocated up to two hours for it in the diary.

I expect the meeting to adopt a similar format to its predecessor earlier this year, which took place on 29 April. On that occasion, after a short introduction by the Prime Minister, your Secretary of State set out the progress which had been made in the discussions he had been having with the Group, with a view to simplifying and speeding up the planning process. Members of the Group then responded and a number of specific issues were discussed. The Prime Minister, in summing up, identified the points on which further discussion and action needed to be taken. I should be glad to know if your Secretary of State would be content with this kind of general structure.

So far as the briefing is concerned, I think it would be helpful to have from you, by Wednesday 4 December, a note setting out the progress which has been made since the meeting on 29 April, including the points identified for follow-up action in my letter of that date to John Ballard. There are, I think, a number of areas which the Prime Minister will be particularly interested to pursue. These include the impact of the circular with its presumption in favour of development (published with the "Lifting the Burden" White Paper), the impact of the July statement on superstores, the Department's work on approaches to speed up the disposal of unused public land and the legislation in the pipeline. I think it would be helpful as well to cover the most recent facts and figures on the time taken to take decisions on appeals.

Ministers down to attend the meeting at present (apart from the Prime Minister and your Secretary of State) include the Secretary of State for Employment, Mr. Trippier at the Department of Employment and Mr. Howard from the Department of Trade and Industry.

RMV.

I should be grateful for any comments you may have on the arrangements we propose for the meeting, and on the material the brief might cover.

I am copying this letter to the Private Secretaries of those attending the meeting: Leigh Lewis (Department of Employment), Mike Winn (Mr. Trippier's Office), and Paul Madden (Mr. Howard's Office); and to Michael Stark (Cabinet Office).

MARK ADDISON

Robin Young, Esq.,
Department of the Environment.

PRIME MINISTER 8 November 1985

SURPLUS LAND SALES

Oliver Letwin and I visited Department of the Environment to see the Register of Unused Land and quiz officials. We found that there were 12,000 parcels of land over 1 acre, owned by public authorities, that were registered as unused under the 1981 Act. With Herculean energy, the Department had issued 50 directions to sell unused land this summer which, after being whittled down, may result in 21 sales. Following this glorious triumph, the Department was about to embark on regular monthly sales of 10 parcels of land. On our reckoning, this will clear the backlog of unused public land in approximately 200 years!

The Department put up the following excuses:

1. Staff. After some hesitation, they admitted they had 30 staff in the DoE and in their 8 regional offices. They did not agree that achieving one order directing sale every 3-4 months per person employed was poor productivity. They claimed that for each parcel of land sold, a number of unsuitable sites for sale had to be vetted.

2. The Department felt there were good reasons why much of the land need not be sold. They took the extraordinary view that one-quarter of the land was totally worthless.

This was the decision of officials, and they would not allow the market to decide whether or not the land had in fact any value.

3. The Department was baffled by bureaucratic manoeuvres by local authorities. For example, if a local authority claimed that a tiny part of any larger piece of land was either going to be used for a genuine purpose, or if part of the land - even two square inches - were not properly owned by the council involved, then on both these instances the whole direction under the Act had to be halted and the whole procedure begun from scratch.

Conclusion

We were appalled by the total failure of the administration to carry out properly your clear guide on this issue. It was hardly any mitigation for the officials to claim that, for each order directing sale, any other sales were precipitated. On the subject of Mr Bradman, there was strong resistance to his alleged claim to have first option on much of the land; but DoE agreed that it was a sensible policy to sell land without planning permission, and allow developers to clear the red tape themselves. They already followed this policy occasionally. We are following this matter, and will report again.

HARTLEY BOOTH

VC

MR HARTLEY BOOTH

I attach a draft letter to Robin Young, DOE, on which I should be grateful for your comments.

On reflection, I decided we should avoid at this stage specifying in too much detail the areas the DOE briefing should cover. However, I am sure it would be helpful for you to pursue this informally with Mr. Delafons, in time for DOE to take the points we discussed into account as they draw their material together.

(MARK ADDISON)

7 November 1985

VC4ADS

10 DOWNING STREET

5 November 1985

From the Private Secretary

THE SAINSBURY GROUP

As you know, the Prime Minister is meeting the Sainsbury Group, together with the Ministers concerned, on 10 December. There is to be a Ministerial pre-meeting at 0945, and the meeting will began at 1015. We have allocated up to two hours for it in the diary.

I expect the meeting to adopt a similar format to its predecessor earlier this year, which took place on 29 April. On that occasion, after a short introduction by the Prime Minister, your Secretary of State set out the progress which had been made in the discussions he had been having with the Group, with a view to simplifying and speeding up the planning process. Members of the Group then responded and a number of specific issues were discussed. The Prime Minister, in summing up, identified the points on which further discussion and action needed to be taken. I should be glad to know if your Secretary of State would be content with this kind of general structure.

So far as the briefing is concerned, I think it would be helpful to have from you, by Wednesday 4 December, a note setting out the progress which has been made, since the meeting on 29 April, ~~passing~~ on the points identified for follow-up action in my letter of that date to John Ballard. There are, I think, a number of areas which the Prime Minister will be particularly interested to pursue. These include the impact of the circular with its presumption in favour of development (published with the "Lifting the Burden" White Paper), the impact of the July statement on superstores, the Department's work on approaches to speed up the disposal of unused public land, and the legislation in the pipeline. I think it would be helpful as well to cover the most recent facts and figures on the time taken to take decisions on appeals.

Ministers down to attend the meeting at present (apart from the Prime Minister and your Secretary of State) include the Secretary of State for Employment, Mr. Trippier at the Department of Employment and ~~one Minister~~ Mr Howard from the Department of Trade and Industry.

I should be grateful for any comments you may have on the arrangements we propose for the meeting, and on the material the brief might cover.

I am copying this letter to the Private Secretaries of those attending the meeting: Leigh Lewis (Department of Employment), Mike Winn (Mr. Trippier's Office), and Paul Madden (Mr. Howard's Office); and to Michael Stark (Cabinet Office).

MARK ADDISON

Robin Young, Esq.,
Department of the Environment.

10 DOWNING STREET

From the Private Secretary

5 November 1985

THE SAINSBURY GROUP

As you know, the Prime Minister is meeting the Sainsbury Group, together with the Ministers concerned, on 10 December. There is to be a Ministerial pre-meeting at 0945, and the meeting will began at 1015. We have allocated up to two hours for it in the diary.

I expect the meeting will adopt a similar format to the meeting with the Sainsbury Group earlier this year, on 29 April. After a short introduction by the Prime Minister, your Secretary of State set out the progress which had been made in the discussions he had been having with the Group, with a view to simplifying and speeding up the planning process. Members of the Group then responded and a number of specific issues were discussed. The Prime Minister, in summing up, identified the points on which further discussion and action needed to be taken. I should be glad to know if your Secretary of State would be content with this kind of general structure.

So far as the briefing is concerned, I think it would be helpful to have from you, by Wednesday 4 December, a note setting out the progress which has been made since the meeting on 29 April, taking up particularly the points identified for follow-up action in my letter of that date to John Ballard. There are, I think, a number of areas which the Prime Minister will be particularly interested to pursue. These include the impact of the circular with its presumption in favour of development (published with the De-regulation White Paper), the impact of the July statement on superstores, the legislation in the pipeline - specifically on simplifying land use clauses and arranging for the disposal of unused public land, and the Department's work on approaches to speed up the putting of derelict land to proper use.

Ministers down to attend the meeting at present (apart from the Prime Minister and your Secretary of State) include the Secretary of State for Employment, Mr. Trippier at the Department of Employment and one Minister from the Department of Trade and Industry.

I should be grateful for any comments you may have on the arrangements we propose for the meeting, and on the material the brief might cover.

I am copying this letter to Leigh Lewis (Department of Employment), Mike Winn (Mr. Trippier's Office), ~~John Mogg (Department of Trade and Industry), John Graham (Scottish Office) and Colin Williams (Welsh Office)~~

MARK ADDISON

Robin Young, Esq.,
Department of the Environment.

hle. EC

MR. BOOTH

SAINSBURY GROUP

As you know, the Prime Minister is meeting the Sainsbury Group on Tuesday 10 December. DOE are lining up the Ministers and members of the Group who will be attending.

So far as I can see from the file, we have not yet commissioned briefing from DOE for the meeting, nor taken their mind as to the structure it might most usefully take. I think it would be helpful for us to have a word about this before I approach DOE.

MA

MARK ADDISON
1 November 1985

EL3ARN

10 DOWNING STREET

From the Private Secretary

16 October 1985

I am writing in the absence of Caroline Ryder, who is away from the office, to confirm that the Prime Minister will meet with members of the Sainsbury Group on Tuesday 10 December at 10.15 am. The meeting will be held at Downing Street. I hope this will be convenient for all members of the Group.

David Norgrove

Miss F.A. Saunders.

File

DN

15/10.

The Planning System

Ministers who met the Sainsbury Group on 29/4/85 were:-

Tuesday 10 December
9.45 briefing
10.15 Planning group
12+.15

PM.

SS/DOE. - told 15/10 AP

Min without Port. (Lord Young) - told 15/10 AP.

PUSS ~~DTI~~ D.E. (Trippier) - told 15/10

+ someone from DTI. - WRG 15/10 ① Howard ② Bulcher.

Martin.

Make sure Howard's office are copied in on correspondence.

10 DOWNING STREET

David -

I have contacted DOE, D. Young's office, Tripper's office + DTI. You have two items outstanding for action.

1) Sainsbury Group are happy to attend on 10/12, but they are holding both dates open until they have confirmation from you in writing. Howard will attend.

2) DTI suggest Howard and Butcher, in order of preference. Suggest you drop Howard's office a line telling about

the Sainsbury Group and inviting him to attend. Only contact Butcher if Howard can't come.

JV

15/10

10 DOWNING STREET

DM

DOE 'phoned re.
the Sainsbury Group
meeting on 19 Nov.
Will there be a
pre-meeting briefing?

CF

Do we usually JB 14/10
have one prior to,
for how long & who attends?

DLW

David - see note at Flap -
1 hr meeting of ministers
before the meeting is suggested.

cf.

I think we have already invited him!

CR.

PRIME MINISTER

MEETING WITH THE SAINSBURY GROUP

You agreed at the diary meeting that we would have this on Tuesday 19 November at 0930. Most of the Group can attend. As far as Ministers are concerned, the Secretary of State for the Environment and the Minister for Small Businesses can come, but Lord Young will be in America.

Would you be happy for Kenneth Clarke to come instead? If we delay the meeting it means waiting until December. Yes

Content for Mr. Clarke to come?

Yes
not CR.

Caroline Ryder

8 October 1985

PRIME MINISTER

2

PUBLIC INQUIRIES

H Committee discussed both delays and disruptions at major public inquiries and whether improvements in compensation arrangements might obviate them. Overall the Committee were not impressed by the idea of legislating to restrict the scope of inquiries and preferred instead to encourage the Environment Secretary to proceed with changes to procedural rules such as clarifying the regulatory powers already available to inspectors and better use of the pre-inquiry period. They also encouraged the Environment and Transport Secretaries to look at the possibility of excluding through administrative means repetitive re-examination of general policy issues from the scope of specific inquiries. The Committee ruled out proposals for increasing compensation: they thought that the amount of expenditure was disproportionate to the likely benefit.

Tim Flesher
4 October 1985

MJ2BEU

PS/13

CONFIDENTIAL

THE PLANNING SYSTEM: PROGRESS REPORT

Note by the Department of the Environment

Introduction

1. This paper summarises progress by the Department of the Environment in implementing the various proposals for improving the planning system which were discussed between the Prime Minister and the Group convened by Sir John Sainsbury on 29 April 1985, following the report of the conclusions reached at meetings betwen the Group and officials of the Department of the Environment. The paper follows the structure and item references of the earlier report.

A. PLANNING POLICY

Presumption in favour of development (items (a) and (b))

2. On 16 July 1985 the Government published the White Paper, Lifting The Burden, (Cmnd. 9571), emphasising its commitment to reducing unnecessary constraints on the creation of jobs and enterprise, in particular by reducing burdens imposed on business by administrative and legislative regulations. Copies of the White Paper were sent to members of the Group on the day of publication. Unnecessary burdens imposed by the planning system were a major area of concern in the studies leading to the White Paper. The conclusions are reflected in Chapter 3 of the White Paper and draw strongly upon the outcome of the discussions between the Group and DOE Officials.

3. The White Paper stresses the Government's policy to simplify the planning system and improve its efficiency so as to speed the planning process and facilitate much needed development. Paragraphs 3.4-5 in particular reflect the Group's concern that the presumption in favour of development should be restated clearly and succinctly, and that where it is necessary to refuse permission the reasons given should be precise, specific and relevant to the application.

4. The short circular to local authorities restating these principles, which was drafted by DOE Officials in consultation with the Group, was published on 16 July and was reproduced as Annex 2 to the White Paper.

5. In Scotland the basic principles of development control have similarly been restated to local planning authorities (in Scottish Office circular 17/85).

6. As explained in paragraph 3.9 of the White Paper, the Secretary of State for the Environment has also restated by way of a Written Answer on 5 July, the principle, in particular in relation to major retail developments, that it is not the function of the planning system either to inhibit commercial competition or to preserve existing commerical interests as such.

7. It is important that, as an indirect means of ensuring that local planning authorities and their staff are fully aware of these basic principles, they should be known to those seeking planning consent for commercial and industrial developments. As proposed by the Group, the text of Circular 14/85 and of the Answer on major retail developments will be included in a new edition of the Department's booklet, Planning Permission - A Guide for Industry. The text of the Circular will also be included in a new special guide to the planning sytem for small firms which, as noted in paragraph 3.6(vii)(a) of the White Paper, is to be published in the autumn.

Reasons for refusal or conditions (item (c))

8. The Department has been considering whether S.29 of the Town and Country Planning Act 1971 should be amended in the forthcoming planning legislation to make it clear that in refusing planning permission or imposing conditions on a permission full reasons for the decision must be given. In pursuance of S.31 of the 1971 Act, there are already provisions in Article 7 of the General Development Order 1977 which impose a requirement to give reasons for the refusal of planning consent. Court decisions have made

NOT NECESSARY

clear that such reasons must be proper, adequate and intelligible. Paragraph 8 of the Annex to Circular 1/85 on planning conditions emphasises that reasons must be given for each condition imposed when permission is granted. Paragraph 3.4 of the White Paper emphasises that the reasons for refusal must be precise, specific and relevant to the application; this is amplified for local authorities in paragraph 4 of Circular 14/85.

9. Amendment of S.29 would therefore be of only declaratory effect and because of the structure of the legislation it is doubtful whether it would be appropriate to incorporate such a provision. The Department will however consider whether it is desirable to amplify Article 7(7)(a)(i) of the General Development Order for this purpose when the GDO provisions are consolidated, as it is hoped to do in the next Session.

B. PLANNING APPLICATIONS

Officer' recommendations on applications and delegation of decisions (items (d) and (g))

10. The Local Government (Access to Information) Act 1985 (c.43), promoted by Robin Squire MP with facilities from the Government, requires local authorities to make all committee reports open to inspection by members of the public, except those in a very restricted number of excluded categories (e.g., those containing information about the financial or business affairs of a company). The provision applies to the recommendations included in such reports and the Act also requires that background papers should be available for inspection. It comes into force on 1 1 April 1986.

11. Delegation of planning decisions to officers was encouraged in DOE Circular 22/80 and in the Audit Commission's report of March 1983 on development control, although the Secretary of State has no power to direct delegation. Its value in speeding up decisions is to be re-emphasised in the forthcoming circular on planning and small firms which is to be sent to local authorities in the autumn

when the booklet for small firms is published (see paragraph 7 above). The proposed Code of Practice to be issued by the National Development Control Forum (a body established by the local authority associations for discussion of planning matters - see paragraphs 15-16 below) should also deal with arrangements for delegation to Officers. Further action on the delegation of planning decisions may be possible if recommendations on the subject are made in the final report of the Widdicombe Committee on The Conduct of Local Authority Business, which is expected next spring.

Prior approval from bodies entitled to consultation (item (e))

12. The Department has been examining whether all the present consultations, statutory or non-statutory, are necessary.

13. On statutory consultation, a power is to be taken in the forthcoming legislation for the Secretary of State to relax the present requirements for consultations with local highway authorities. The consultation will also reduce the need for consultation on overhead power lines. MAFF are undertaking a 'Rayner' scrutiny of that Department's arrangements for considering development proposals which would involve the loss of agricultural land; a reduction in requirements for consultation is a possibility. The requirement for consultations with the GLC will cease on abolition on 31 March 1986. The Department is considering relaxing the requirement that it should be consulted on development near any royal park. There is scope for reducing the time allowed to county councils for commenting on development having important implications for the structure plan; at present, they have 28 days, as compared with 14 days normally allowed to consultees. The Department is to propose the abolition of consultations with the Theatres Trust as unnecessary. There is possible scope for reducing the 28 days allowed for statutory consultations with the regional water authority on developments likely to give rise to drainage etc., problems.

14. On non-statutory consultations, the scope for reducing the list of consultees is limited in view of the legitimate interests or responsibilities of the bodies concerned.

The Group also suggested, however, that the developer should be able to clear consultation with the relevant bodies before making his planning application. The Department intends to propose to the NDCF a review of the operation of voluntary Code of Practice on consultations. The review should include the preparation of guidance on ways in which developers themselves can seek the preliminary views of consultees, with the aim of shortening the period of subsequent formal consultation; this would be of value even where it is not possible to remove the statutory obligation to consult (which cannot be discharged until the planning application has been made).

Speedy decisions (item (f))

15. In the light of the Department's comments, the Group did not wish to press its proposal for the return of fees in cases of unjustified delay, but the Department undertook to discuss with the Local Authority Associations and other interests the preparation of a Code of Practice for dealing with planning applications; this would be particularly concerned with expeditious decisions and would disseminate information on the practices of those authorities which consistently decide a high proportion of their applications within 8 weeks. It would also refer to, e.g., consultations (see paragraphs 13-14 above) and delegation (see paragraph 11 above).

16. There have been discussions with the NDCF secretariat which indicate that they may respond positively to this proposal. The subject will be raised by the Secretary of State when he attends the next meeting of the Forum on 24 September.

17. The Department is monitoring closely the quarterly statistics on performance of local planning authorities in handling planning applications. Last year the Department wrote to authorities which have a particularly poor performance and the Department proposes to make further approaches of this kind later this year.

C. PLANNING APPEALS

Award of Costs (item (h))

18. At present costs may be awarded only in cases dealt with by public inquiry and, against a party who behaves unreasonably, vexatiously or frivolously and whose unreasonable behaviour has put another party to unreasonable expense. The Department is preparing a new circular to local authorities, clarifying, reinforcing and adding to the advice in the present circular which dates from 1965. In particular it will set out the grounds on which a party who has acted unreasonably may be ordered to meet the costs of another party. The draft circular will be sent to the local authority associations and other interested bodies for their comments.

19. The forthcoming planning legislation will include proposals for powers

a. to transfer most costs decisions to the Inspector deciding the appeal (at present claims have to be considered subsequently by separate officials); and

b. to extend the award of costs to appeals decided by non-inquiry procedure (mainly by written representations -85% of the total - but also by informal hearings). This proposal has significant resource implications and the timing of introduction will be contingent upon devising economical methods of implementation which will not delay the handling of appeals.

Speed and Quality of appeals decisions (items (i), (j), (l), (k) and (m))

20. The Department is in the process of completing management reviews of each main component of the appeals system with the aim of identifying and implementing measures which will achieve substantial improvements in the efficiency and speed of the system:-

i. a review has been completed of the processing by the Department's regional offices of the 4% (253 in 1984) of appeals cases which are recovered for decision by Ministers;

ii. a review has begun (for completion by Christmas) of the Inspectorate's handling of inquiry cases, i.e. those which are not recovered for decision by Ministers (1,850 cases in 1984 - 16% of all appeals) and the stages of the recovered cases which are the responsibility of the Inspectorate rather than the Regional Offices (see (i) above);

iii. a 'Rayner' scrutiny of the Inspectorate's handling of transferred written representations appeals (82% of all appeals decided in 1984) will be completed this month.

Mininsters are also considering proposals resulting from an interdepartmental review of the procedures for the pre-inquiry and inquiry stages of major public inquiries.

Recovered cases (Regional Office appeals)

21. As a result of the review, the Regional Offices have been set an initial target of deciding 80% of all recovered cases within 13 weeks of the receipt of the Inspector's report. In the first three months 100% of those cases have been decided within this time limit, and the great majority within 8 weeks. The initial target will be reviewed in the course of the Department's MINIS7 round and the possibility of imposing more stringent targets for the simpler cases (e.g. within 8 weeks) is also being considered. Inevitably, there will always be a small number of difficult or sensitive cases that take longer than the target time but these will be more readily identified and monitored under the new arrangements. Other recommendations include improved instructions on procedures; the dissemination of best practice (e.g. eliminating unnecessary handling and checking); shortening Inspector's reports and subsequent decision letters to the extent compatible with legal

requirements; and better training of staff. The Department is also considering reducing the number of cases recovered for decision by Ministers or departmental officials: in particular, the transfer of listed buildings appeals (40% of recovered cases) to the Inspectorate and confining recovery to those cases that need to be referred to Ministers.

Major Inquiries' procedures

22. The great majority of planning inquiries are completed within one or two days and in 1984, in England and Wales only 48 out of a total of more than 3,000 lasted more than two weeks and only 18 of these lasted more than a month; moreover, two-thirds of these longer inquiries were local authorities' inquiries into local plans.* The present Ministerial review is unlikely to result in proposals for radical change, but a considerable number of procedural measures are being considered which cumulatively should enable inquiries to be run more smoothly and quickly. In particular, amended Inquiries Procedure Rules would give the Inspector more explicit powers to control the inquiry; and a code of practice for the pre-inquiry stages of major inquiries is being completed. The latter is designed to encourage the maximum exchange of information between the parties and the Inspector before the inquiry opens, so that he can prepare a firm timetable and resolve secondary issues in advance whenever possible.

Written representations cases

23. The recommendations of the efficiency scrutiny would, when fully implemented, enable the median time for reaching a decision in these cases to be reduced from the present 20 weeks to 11 weeks. Once Ministers have taken a view of the recommendations, an action plan to implement them will be prepared.

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* Figures exclude highway inquiries but include local plan inquiries. (The figures in para 3.6(vi) of the White Paper, Lifting the Burden, are for all public inquiries held by the Government.)

24. The main proposals which the scrutineer is including in his report are:-

(i) a statutory requirement for the appellant to copy his statement to the local authority (saving 2 weeks);

(ii) better communication between authority and appellant, shorter local authority input, more efficient consultations and improved targetting of appeals (saving up to 4 weeks);

(iii) urgent investment in information technology, and devolved responsibility for quality control to speed the issue of decisions (saving up to 4 weeks);

The report will emphasise that the savings will not be achieved without

(1) the co-operation of local authorities and agents acting for appellants;

(2) adequate manpower resources (especially Inspectors);

(3) a statutory power to disregard late representations at the discretion of the Inspector; and

(4) much improved, computerised, management information.

Quality of the Inspectorate

25. Since the earlier discussions with the Group, a research report has been completed on the way in which the appeals system is viewed by the "occasional" appellant - ie. as distinct from developers who have frequent resort to the appeal process. The report concludes that the great majority of appellants find the system 'impartial, instructive and helpful'. Occasional appellants would like speedier decisions, but with more contact with Inspectors and without sacrificing thoroughness or the detailed explanation of the reasoning

behind decisions. These objectives are to some extent incompatible, but the Department is preparing proposals to implement several of the recommendations to achieve a faster and better service for this type of appellant.

26. As proposed by the Group, the Secretary of State had on 26 July the first of what are intended to be regular meetings with all the Inspectors. He emphasised the role of the Inspector as a person appointed by him to decide appeals on his behalf and therefore the need to ensure that Inspectors' decisions properly reflect the Secretary of State's policies.

27. "Higher-echelon" of Inspectors. The Department is considering the establishment of a special panel of Inspectors drawn from Counsel or very senior and experienced solicitors in private practice to conduct inquiries into large and controversial appeals cases. These inspectors would be remunerated per diem at the rates paid to Inspectors engaged from the Lord Chancellor's present panel (which range from £74 per day for simple inquiries to £110 per day for the most complex and contentious). The qualifications for the panel would be: proven ability in holding inquiries, knowledge of the planning system, availability at no more than 12 weeks' notice for a period of 3 times the expected length of the inquiry. When the proposition has been worked out in more detail, the Department will have confidential consultations to assess the feasibility of the proposal and whether the right type of Inspector could be attracted on the proposed conditions and at the proposed level of fees.

28. Part-time inspectors. As at August 1985, the Department had a panel of 91 part-time fee-paid inspectors, of whom 43 were consultants in private practice and the majority of the others were retired Inspectors, engaged on minor written representations appeals. During 1984 these Inspectors dealt with almost half the written representations appeals. 18 part-time Inspectors have been recruited to the recently

established panel for local plans inquiries. 24 full-time Inspectors are required as well but insofar as part-time Inspectors can be used for this work resources of full-time Inspectors do not have to be diverted from appeals.

29. Recruitment of Inspectors. As at 1 August 1985 out of 188 full-time Inspectors England and Wales in post 25 were qualified as surveyors and 15 as lawyers. In recruiting Inspectors efforts are made to attract candidates with relevant qualifications from a wide range of backgrounds and special important is attached to experience of private practice and the development process.

Administrative action to increase performance and productivity

(a) Inquiries

30. Inquiry dates: The charting organisation which arranges inquiries and site visits and books Inspectors has been reorganized to produce a more efficient booking service. The Department is also taking steps in major cases to fix the date of inquiry as soon as possible after the appeal is made; agents are being asked to propose a date for the inquiry before any approach is made to the local planning authority concerned.

31. New criteria have been introduced to identify priority cases on receipt or subsequently. The aim is to reduce the period between the submission of the appeal and the inquiry in these cases and to give priority to such cases at all stages thereafter. Priority must be confined however to relatively few cases if it is to be an effective measure.

32. The Department is continuing to investigate the possibility of offering the parties only one alternative date for an inquiry (or site visit). Appellants and agents are divided as to whether they are prepared to accept this limitation: some are willing to be offered only 2 dates in the interests of speed; others want the flexibility of being offered three dates.

33. Accommodation: The Department considers that it should continue to be the norm for local authorities to provide accommodation for inquiries. Where there are difficulties, alternatives are discussed with the parties, but it is rarely a critical delaying factor: much more frequently the cause is the non-availability of counsel for the appellant, professional witnesses or planning authorities staff.

34. Pre-inquiry stages: The new code of practice for major inquiries provides a timetable for the exchange of pre-inquiry statements. A similar procedure is being introduced in other appropriate cases. More use will be made of existing powers to require advance statements of case from applicants as well as from the local planning authority.

35. Post inquiry stages: A micro-computer is being installed for 1 January 1986 to improve the monitoring of the progress within the Inspectorate of cases after inquiry. Other IT experiments are in hand to improve post-inquiry and site-visit times, and proposals are being prepared to reorganize monitoring and dispatch procedures.

(b) Written representations cases

36. Resulting from decisions on the efficiency scrutiny recommendations, many detailed changes in administrative procedures will be implemented in the next few months. Action has however already been taken

i. to eliminate a reminder stage from the process of obtaining the local planning authority's statement; this should enable the date of the site visits to be accelerated by up to 2 weeks; and

ii. enhanced management statistics are now becoming available which will enable the performance of local planning authorities to be monitored more closely and remedial action to be taken where delay is habitual.

Recent performance on appeals

37. Some of the studies described above are still in train. Many of the measures already identified are in process of being implemented. Improvements in performance should become apparent over the next year or so. The latest

statistics however show an encouraging trend overall. In general, speed of processing has improved despite an increase in appeals and other work received. The intake of appeals in the first half of 1985 was 7% above that in the first half of 1984. In the second quarter of 1985, the median decision time for appeals decided by written representation (85% of all appeals decided in that quarter) was 20 weeks, compared with 22 weeks for appeals decided in 1984. The median time for all appeals was reduced from 23 weeks in 1984 to 22 weeks in the first quarter of this year and 21 weeks in the second quarter. The trend is in the right direction but the Department aims to improve significantly on this performance.

Mandatory time limits on written representations cases (item (o))

38. At present there are no powers available to the Secretary of State which would enable him to make regulations governing procedures for written representations appeals. Since such powers are available (to the Lord Chancellor) in relation to inquiry cases, it is anomalous that they do not exist in relation to the 85% of appeals decided on written representations. The forthcoming Bill will therefore include provisions to give the Secretary of State a power to prescribe by sub-ordinate legislation procedures for appeals under Section 36 (and called-in applications under Section 35), and the Department is considering whether it is necessary to give the Secretary of State power to prescribe time limits for all types of cases proceeding by inquiry or hearing. These new powers would allow the Secretary of State the discretion to disregard representations after a time limit and would allow time limits to be specified either generally or in relation to particular classes of case (and would thus provide a basis for meeting the point in paragraph 24(3) above).

Direction to enter Section 52 agreements (item (p))

39. The proposal that the Secretary of State should be able to direct the planning authority to enter a S.52 agreement with the developer concerns contractual relationships between a developer and a local authority in its capacity as land

owner or provider of statutory services rather than as planning authority. The general powers to impose conditions when granting permission on appeal, in the light of the Grampian judgement, are wide enough to make the need for Section 52 agreement very rare. Conditions, however, cannot deal with reluctance by a local authority to release land which is needed for development. Where land is currently unused or underused, the Secretary of State announced in a speech to the RTPI on 7 June that he would be prepared to entertain requests that he should exercise powers, under the land registers provisions of the Local Government Planning and Land Act, to require the authority to dispose of the land.

OTHER MATTERS

(i) Structure Plans

40. The Group were concerned that structure plans were often first prepared many years ago, were not well related to present economic conditions, did not deal adequately with new types of development, and took to long too revise and keep up to date. They were concerned that such plans could be the dominant factor in deciding planning applications and appeals. Paragraph 3.13 of the White Paper acknowledges this concern and paragraph 5 of Circular 14/85 makes clear that development plans (structure and local plans) are one, but only one, of the material considerations that must be taken into account in dealing with planning applications. This re-emphasises the provisions of Section 29(1) of the Town and Country Planning Act 1971 and the interpretation of it by the Courts. The White Paper (para 3.13) also recognises that the process of reviewing and updating development plans is cumbersome and slow partly because of the procedure and partly because plans include too much detail or material which should be dealt with in other ways. The Department is therefore giving further consideration to whether there should be changes in the content and procedures of development plans and in the relationship between development plans and development control. In the light of the legal position as set out

in paragraph 5 of Circular 14/85 and the possibility of a more extensive revision of the arrangements for development plans, it is not now intended to propose any amendment of Section 29(1) of the 1971 Act in the forthcoming legislation.

(ii) Simplified Planning Zones

41. Paragraph 3.6(i) of the White Paper announced the decision to introduce new legislation to permit the establishment of Simplified Planning Zones. The process of preparing legislation is now in hand and a paper setting out how the proposals will work will shortly be published. This carries forward the proposals from the initial consultation paper published last year and describes the proposed new powers, procedures for the preparation of schemes and the effect of the adoption of such schemes. The Department will also be discussing the technical aspects of the proposals with local authorities, those with experience of EZs, and the private sector.

(iii) Planning Appeals Administration

42. The Department undertook to consider the seven proposals of the Group which were listed in paragraph 50 of the earlier report of discussions with the Group. These have already been referred to above, with the exception of:-

(vi) Ministerial site visits

The Town and Country Planning (Inquiries Procedure) Rules and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules exclude visits to the sites of appeals after the conclusion of a public inquiry by the Inspector unless he announces during the inquiry the date and time of his proposed visit; the rules entitle the parties to accompany him on any such visit. There are no such legislative constraints on the Secretary of State, but it has long been recognised that visits by Ministers to appeal sites can lead to difficulties - the

most obvious being the possibility of lobbying by the appellant or other parties. Even if a Minister visited a site without attracting attention, it may be thought to have been prejudicial if it later became known that he did so. If a Minister wishes to make an unaccompanied visit to an appeal site, and it is possible to do so without notifying the owner it is desirable that his reactions be formally noted in case they create an obligation to go back to the parties; he should not be accompanied by the reporting inspector. It is therefore open to Ministers to visit an appeal site in order to get a better understanding of the Inspector's report but there are legal constraints that have to be observed.

(vii) New reasons upon redetermination following Court decision

The Group's recommendation is based on the tacit premise that, when the High Court quash one of the Secretary of State's decisions they are expressing a view on the merits of the case. This is rarely so: in most cases, the decision to quash is based on a procedural error (e.g., failure to give the parties an opportunity to comment on new evidence). When a decision is quashed, the Secretary of State is obliged to consider the case ab initio, and in some cases it will be perfectly proper for him to conclude that the original decision, and the reasons given for it, were correct, even though the procedure followed in reaching it was defective. If however the court has made its views on the merits of the case clear, considerable weight will be given to these views when the case is redetermined. Nevertheless in the last resort it is for the Secretary of State (and not the courts) to reach a view on merits, and to defend this view politically.

OTHER ACTION BEING TAKEN TO IMPROVE THE PLANNING SYSTEM

43. As chapter 3 of the White Paper, Lifting the Burden, explains the Department has in hand a heavy programme of detailed work aimed at simplifying the planning system and improving its efficiency. Many items in this programme touch on matters raised by the Group, as can be seen from the preceding paragraphs. The following are however the main additional measures which are to be implemented or are being planned:-

(i) General Development Order. The GDO is a mechanism which can be used for simplification and deregulation within the planning system. The following changes to the GDO are in train or are to be made in the next 12 months:-

- An Order was laid before Parliament on 12 July which adds two entirely new classes of permitted development (i.e. development which does not require specific planning permission). These classes deal with telecommunications, including development by British Telecom and other companies, and the installation of microwave and satellite antennae on commercial buildings. The purpose is to facilitate development needed to take maximum advantage of the opportunities offered by information technology.

- At the beginning of the new Session a package of deregulatory amendments is to be introduced. This will reduce the need for specific planning applications by raising the limit on permitted industrial extensions; by giving for the first time similar rights for extending warehouses; by permitting Direct Broadcasting by Satellite aerials of up to 90 cm on houses; by giving permitted development right for some minerals exploration works; and by permitting a variety of other specialised developments without permission, e.g. by the Civil Aviation Authority in connexion with air traffic control. The

package will also reduce the rights of the Department of Transport over development proposed alongside trunk roads, and impose time limits within which that Department and local highway authorities must respond when they are consulted about such developments.

- In the spring it is intended to introduce a consolidation of the GDO. This should in itself be an aid to efficiency as the current terms of the order are not readily available in print. The order has been subject to several amendments since it was last consolidated in 1977.

(ii) Use Classes Order. The Use Classes Order (UCO) is a deregulatory instrument, which stands alongside and works in conjunction with the GDO, because where use of a property is changed within the same class in the UCO, there is no material change of use and therefore specific planning permission is not required. The UCO dates from 1948 and the definition of certain classes is much older. The Department has asked a sub-group of its Property Advisory Group to undertake a fundamental review of the UCO and to make proposals this month for revising it, so as to give the maximum reasonable freedom for change of use without planning permission. Mr Mobbs is a member of the sub-group. The Department intends to publish proposals for revision of the UCO later in the autumn. The Department has it in mind that it should then undertake a similar fundamental review of the companion GDO.

(iii) Control of Advertisements Regulations. The display of outdoor advertisements is controlled under these Regulations. Some types of sign have "deemed consent", but a wide range need "express (i.e. specific) consent" in each case from the local planning authority. It is intended to complete this month an officials' review of the Regulations which is being carried out by a Working Party including representatives of the advertising industry and other interests. The Department will

then draw up proposals for the revision of the Regulations. The aim will be to reduce the need for express consent, wherever possible. Following the publication of Pleasure, Leisure and Jobs, the Department is drawing up, in consultation with the Department of Transport, provisions for "deemed consent" for directional advertisement signs for tourist attractions in rural areas: the aim is to have the scheme in operation by the beginning of the 1986 tourist season.

(iv) Legislation for simplification and efficiency. Some measures to simplify the planning system and to make it more efficient require primary legislation. If the legislative programme permits, it is hoped to introduce next Session planning legislation which will include a package of measures for this purpose. The items to be included are listed in the Annex to this paper. The legislation will also include powers for simplified planning zones and control over the location of hazardous substances.

(v) Enforcement appeals and advertisement appeals: improved procedures. Improved and revised administrative procedures for enforcement appeals are being introduced on 1 October. There will also be two new booklets explaining the regulatory provisions for advertisement control by local planning authorities, and a revised booklet about enforcement appeal procedures, which will help applicants and appellants to understand and use these systems when they need to do so. One of the advertisement control explanatory booklets is specifically designed to give relevant advice to small businesses.

(vi) Road safety standards and planning. The Department is to publish shortly a revision of Development Control Policy Note No.6, which will emphasize the importance of flexibility rather than rigidity in applying technical road safety standards in considering development proposals.

(vii) Design and planning control. The Department is considering whether and how best the Secretary of State could add to the existing advice in Circular 22/80 that local planning authorities should not seek to impose their tastes on developers simply because they believe them to be superior or fashionable, and that control of external appearance (which can be important especially in environmentally sensitive areas such as national parks and conservation areas) should only be exercised where there is fully justified reason. A further draft has been prepared but it may be preferable for the Secretary of State to make this a theme in forthcoming speeches on planning rather than incorporate it in a circular.

CONCLUSION

44. This progress report summarises the action already taken, and now in hand, to ensure that the planning system is responsive to current needs and conditions, and to simplify its procedures and improve its performance. The Government's policy on planning and the planning system has been authoritatively stated in the White Paper "Lifting the Burden" published in July, with the accompanying circular on "Development and Employment". The Department is now concentrating on the legislative and administrative changes that are needed to bring about the required improvement in performance. These will be fully implemented during the coming Session and their effect should become increasingly apparent in the course of the next year. Progress and performance will be closely monitored and the results will be publicised.

Department of the Environment

September 1985

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CC NO

Department of Employment
Caxton House Tothill Street London SW1H 9NF
Telephone Direct Line 01-213 5949
Switchboard 01-213 3000

N3PM

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport
2 Marsham Street
London SW1

30 SEP 1985

Dear Nick,

COMPENSATION ARRANGEMENTS PAPERS WITH TF? WILL REQUEST IF REQUIRED

I have seen the paper you have circulated to members of H Committee setting out proposals for revised compensation arrangments for residents and property owners affected by public sector construction projects. I have also seen your earlier letter of 16 July on this subject.

I have given some thought to the proposals for additional compensation as they affect the owners of small businesses. I can see that, for the economy as a whole, there is a benefit to be gained from more rapid progress with schemes such as major roads. I am not, however, convinced that the proposal set out would achieve this, or that it is right, as you currently appear to suggest, to exclude business premises from it.

Kenneth Baker has drawn attention to the doubt that must exist as to whether the opposition to major road schemes principally derived from those whose homes were directly affected by the plans. I share Kenneth's concerns and doubt whether the proposals would have materially affected the objections to the Archway scheme, to part of the route of the M25 and to the Okehampton by-pass. Before we become committed to the substantial additional cost of these proposals I believe that we should consider carefully whether sufficient benefit would be derived from the expenditure. If additional expenditure is available for the road programme, I would hope it might be expanded on an enlarged programme rather than an increase in compensation for the existing one.

If these doubts could be answered, I would find the proposal to exclude business premises from the additional compensation difficult to understand. Many small businesses, particularly those relying on local trade, will be seriously affected by the compulsory purchase of their premises. Such traders may

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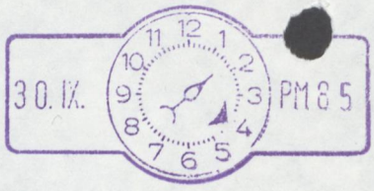
PAYMASTER GENERAL

find it extremely difficult to re-establish their businesses if they have to move to another area and would no doubt point to the loss of goodwill and local contacts as at least equivalent to the social and psychological disturbance of the home owner that you refer to in your letter of 16 July. I would expect the business community to react strongly to any proposal of this sort which appeared to discriminate between their premises and residential premises.

I also foresee a further problem which arises from the proposal to exclude business premises from these arrangements. The cost of compensation payable is one factor taken into account when deciding on the route of a road or location of a project. If an additional sum is to be paid to residents, above the market value of their premises, this would appear to make it more likely, in a choice between alternatives, that the premises affected were business premises than residential premises. This seems to me to be an undesirable bias to build into the planning process.

I note that Kenneth Baker referred to the need to have regard to the interests of small businesses. I would wish to argue that they should not be excluded from any arrangements for additional compensation that were brought forward. I am sending copies of this letter to the Prime Minister, the Lord President, members of H Committee, to Michael Heseltine, Michael Jopling, Peter Walker, Leon Brittan and Sir Robert Armstrong.

KENNETH CLARKE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RPs please

PRIME MINISTER

SAINSBURY GROUP

When you met the Sainsbury Group on 29 April, you said it would be helpful to hold a further meeting of the Group later in the year, to take stock of the progress being made in streamlining planning procedures.

We have provisionally set aside a slot on 19 November at 1000 (as you may have seen from the annual diary). The meeting would last an hour and a half and should, I think, be preceded by a half-an-hour meeting of Ministers concerned. The Sainsbury Group, and DOE, agree that the timing would be all right. If you agree, we shall go ahead and confirm the date.

Content?

Mark Addison

Yes MT

(MARK ADDISON)

27 September 1985

for John Sainsbury
921.6000.

Caroline

Can you round up Sainsbury + Ministers for 19/11 as proposed.

M.

CF. 3pls please.

MR ADDISON

24 September 1985

SAINSBURY GROUP

DoE officials have now seen the Sainsbury Group (13 September) and would be grateful to see the Prime Minister. However, some of the group have informed the DoE that 19th November was not possible (members will be out of the UK).

I also spoke to Sir John's office (921-6000) and it is clear that, although 3 out of 9 cannot attend, that they wish to hold the date and would be grateful for confirmation of the time, etc on the 19th from Private Office.

HPB.

HARTLEY BOOTH

DoE are now chairing this official, so that a note can come to us soon. We should hear by the 27/9, and can then clear the proposed meeting with PM thereafter.

LUCA 24/9

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NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

CC(AB)

SECRETARY OF STATE
FOR
NORTHERN IRELAND

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

16 September 1985

MBPM

Dear Nick,

COMPENSATION ARRANGEMENTS - COMPULSORY PURCHASE OF LAND

I have seen your letter of 16 July to Patrick Jenkin about proposals to revise compensation arrangements for the compulsory purchase of land.

Legislation and practice affecting compensation for land compulsorily acquired in Great Britain and here are broadly similar but Northern Ireland Departments have not experienced such intensity of opposition to land acquisition and, hence, delay in implementation of schemes such as you describe. Most of the resistance in Northern Ireland would appear to be inspired less by compensation matters than by the loss of land and property. I agree however that should improved compensation arrangements become necessary because of circumstances applying in Great Britain our legislation and practice should be similarly amended in order to preserve parity.

The estimated annual cost to Northern Ireland Departments and public bodies of your proposal in relation to residential property is £2$\frac{3}{4}$M, against which there will be fewer savings than in Great Britain. I note that you are seeking an assessment of cost so that Treasury can be informed. I would expect Northern Ireland to be treated on a comparable basis to Departments in Great Britain as far as the financial implications of the proposals are concerned.

A copy of this letter goes to recipients of yours.

Yours

ssd

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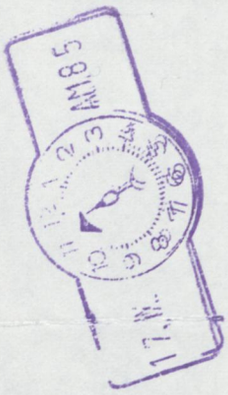
Local Govt Pt 2

Planning



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SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

CONF

My ref:

Your ref:

NBPM.
DRN
13/9.

12 September 1985

Dear Nick,

COMPENSATION ARRANGEMENTS

will request if rec.

Thank you for your letter of 16 July setting out the draft proposals on improved compensation arrangements on which your Department has been working.

I doubt whether some at least of your proposals could or should be confined to transport matters and therefore I have particular interest in them. As my Department has general responsibility for compensation matters it would, I assume, fall to me to present any proposals to Parliament.

I enclose some estimates for the cost of the proposals in the functional areas for which I am responsible.

I am sure that you are right that people feel that the compensation they receive is not an adequate recompense for the disruption and upheaval involved in compulsory purchase. I am also sure that you are right to concentrate on residential interests because that is where the inadequacy of compensation is felt most strongly. But I think we would also need to have careful regard to the interests of small businesses. When it came to working out detailed proposals we would, for example, want to look at the possibility of improving the compensation arrangements in those cases where the residence and the business are on the same premises.

I very much doubt, however, whether it could be shown that the effect of improved compensation would be to reduce the opposition to road schemes to such an extent that the cost of higher compensation would be off-set by a speeding up in the completion of such schemes. I recognise your fear that without any improvements in compensation it will become increasingly difficult to build the roads we need. However your proposals will do little to reduce the opposition to such schemes from organised environmental groups; and there will no doubt continue to be opposition also from other home owners who would not benefit from your proposals and who feel that their property values will be adversely affected or who are concerned by the impact of the road proposals on their local environment. In my own areas of responsibility I have been unable to identify any such off-setting cost reductions. The case for making improvements to compensation is very much a matter of principle, to recompense people more adequately for the real hardship, stress and disturbance that they suffer when

their home has to be taken for some public benefit and for the other costs that they incur which are not fully reflected in market value compensation and the other types of payment provided at present.

There are of course various ways of increasing the compensation paid to residents. There are substantial arguments, however, against making an addition to market value; and I think the better course may well be to improve the system of "home loss payments".

There are two main arguments against adding a percentage to market value compensation. Firstly, a 20% addition to market value would be entirely arbitrary and there is no objective way of relating this percentage to the loss which it is intended to recompense. It might moreover prove difficult to argue such a concession should be restricted to residential property.

Secondly, the proposal would create anomalies between different types of property and property owners. For example, you propose that the enhanced payments should benefit both owner occupiers and tenants, but the benefit to owner occupiers will obviously be much greater because the tenant's interest often has no market value. I doubt whether the exclusion of the tenant is prudent or justified in this context.

If we did decide to add a percentage to market value compensation, it should apply to sale by agreement under the threat of compulsory purchase as well as to compulsory aquisitions. Otherwise home owners would simply hold out for a CPO to be made. (The provision would need to be framed in such a way that the addition is not payable when a public body buys a house that is offered with vacant possession on the open market). There would also have to be provision to ensure that only bona fide owner occupiers benefit and that the addition is not payable in those cases in Housing Action Areas or General Improvement Areas where compulsory purchase is used as a last resort against owners who refuse to take action to improve substandard property.

You also propose improvement to home loss payments. I consider that those payments would offer a fairer, less controversial and more readily defensible basis for securing your purpose. They could, I believe, be designed in such a way that all people living in property which is subject to compulsory purchase would, whatever the form of their tenure, receive a sum in compensation which gives suitable recognition to the upheaval which is inflicted on them. How that sum should be calculated is obviously a question that would require more detailed consideration if colleagues agree that this is an option that should be pursued. You have suggested that the payment should be based on the capital value of the dwelling with vacant possession - its freehold or long leasehold value - rather than its rateable value, and that there should be a generous minimum payment. The relationship to capital value would ensure that the value of home loss payments is not again eroded by the absence of a general revaluation. The generous minimum payment would be in recognition of those factors which are common to all households when they are displaced, whether they are owner-occupiers or tenants. But in addition to increasing the payment I would look too at the rules of eligibility, which, it can be argued,

are too narrow in their present form - in particular the occupier must have been resident in the dwelling for at least 5 years in order to qualify.

I have sympathy with your proposals on advance payment of Part I compensation and the acquisition of off-line properties; clearly they merit further study, though they would have the effect of bringing forward expenditure. Your proposal on traffic management schemes and the possiblity of Part I compensation or even of acquiring property in lieu of double-glazing against traffic noise also requires further study. I am not clear at present whether you would empower the acquiring authority to acquire properties or pay Part I compensation at their discretion or whether the house-owner should be given some power to force the authority to acquire his property.

I agree that there are other elements of the compulsory purchase and compensation code on which legislation is needed including the two proposals you mention, although I think we need to consider special Parliamentary procedure generally rather than just in relation to the definition of "open space". We also need to legislate to enable interest on outstanding compensation for compulsory purchase to be paid in advance of the final settlement. This is a proposal on which we consulted last year and which would be of particular interest to the National Farmers Union. I also have a number of smaller proposals in mind. Together, these proposals could form an attractive legislative package in due course.

If colleagues decide that arrangements along these lines should be introduced, the details including the financial implications will require a great deal of careful working out. It would be desirable to consult the local authority associations since their members would be affected in relation to both highways and housings acquisitions and would pay a significant proportion of the extra cost. However, the timing of such consultations would need careful handling since once any such proposals became known we would come under great pressure to introduce them promptly.

I am sending copies of this letter to those to whom you copied yours.

Yours ever,
Kenneth

KENNETH BAKER

The Rt Hon Nicholas Ridley MP

(E5)

COMPENSATION FOR COMPULSORY PURCHASE

Estimated increased costs in DOE policy areas arising from the proposals set out in Mr Ridley's letter of 16th July 1985

Note

Most of the DOE policy areas which involve land acquisition on a significant scale are carried out by local authorities and other bodies, and not by DOE itself. Information about these bodies' land acquisition programmes is not collected in sufficient detail to enable precise estimates to be made. These estimates have therefore been calculated in part from statistics relating to the number of compulsory purchase or improvement orders made and depend on reasonable assumptions about numbers of dwellings affected and their value. These figures should therefore be taken as indicating no more than an approximate order of cost.

1. Proposed addition of 20% to market value for acquisition of residential property. (It has been assumed that the 20% addition will also apply to acquisitions by agreement, except where purchases are made in the open market of properties offered with vacant possession)	Current annual cost	Total cost under DTp proposal	Cost of DTp proposal
Slum clearance (compensation at present paid on site value basis - see note below).	£20m	£24m	£4m
Other housing acquisitions			
a) by compulsory purchase	£10m	£12m	£2m
b) by agreement	£32m	£38m	£6m
New Towns (anticipated acquisitions over next 5 years on an annual basis)	£ 1m	£0.2m	£1.2m
Other DOE (central) programmes including water authorities and local authorities 'non-housing programmes in DOE field.	Figures not available but not many residential properties involved.		
PSA, including defence lands	£0.5m	£0.6m	£0.1m

	Current annual cost	Total cost under DTp proposal	Cost of DTp proposal
2. Improvement of Home Loss Payments			
Slum clearance and other housing acquisitions	£1m	£5m	£4m
Displacements in the course of housing improvements - see note below.	£10m	£30m	£20m
All other DOE programmes including PSA	Figures not available but unlikely to be large.		

3. Advance payment of compensation under Part I of the Land Compensation Act 1973

4. Advance acquisition of property the enjoyment of which will be seriously affected.

The only programmes in the DOE/PSA field on which these proposals might have significant effects relate to the development of defence establishments and waste disposal sites (including nuclear waste disposal). No figures are available for current expenditure under these heads but it is thought to be small. There would be a once-for-all cost from bringing forward the payments and a continuing small interest cost arising from the need to make payments earlier than would otherwise be the case.

5. Extension of Part I compensation to properties indirectly affected by the development

The effect on programmes in the DOE/PSA field would depend on the provisions eventually adopted. It is unlikely that it would be significant.

Note on slum clearance estimate

The basis of compensation for the compulsory acquisition of unfit houses under Part III of the Housing Act 1957 is site value and not market value. The current annual cost of such acquisitions on this basis is estimated at £20m, and if the 20% addition was made to that amount the additional cost would be £4m. This figure has been included in the above estimate, since it is the Department's view that slum clearance orders could not justifiably be exluded from a general uprating of compensation for the compulsory purchase of residential properties. The Green Paper on Home Improvement (Cmnd 9513) proposes that the basis for assessing compensation for those affected by clearance should be changed from site value to market value. If such compensation were based

on market value the current cost of such acquisitions would increase to at least £40m. In that case the uprating of compensation by 20% would cost an additional £8m, so that the total cost of Part III acquisitions, after changing the basis of compensation to market value and adding 20% would be £48m.

Note on home loss payments for housing improvements

Home loss payments are payable in cases in which a council displaces a secure tenant after having obtained a possession order relying on Ground 8 of Schedule 4 to the Housing Act 1980. When tenants move voluntarily in circumstances in which a possession order could have been obtained, they may receive payments at the Council's discretion. No figures of home loss payments or of tenants displaced for redevelopment purposes are kept, and there is uncertainty about the numbers claiming home loss payment. Tenants offered better accommodation and moving voluntarily may well not claim. Our estimates, depending on various assumptions, indicate that the current cost of home loss payments in this category may be in the range £10m-£17.5m, and that the effect of applying the DTp proposals to the calculation of these payments may increase their cost by £20m-£35m to a total of £30m-£50m. But the likelihood is that the true figures are in the lower part of the range, or below it because home loss payments are not claimed. The lowest figures have therefore been inserted in the table above. It should also be noted that the additional costs in respect of home loss payments that will be attributable to the new ground for possession for which legislation is in preparation, are expected to be small.

3 PM
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SECRETARY OF STATE

MINISTRY OF DEFENCE WHITEHALL LONDON SW1 2HB

MO 10/1 V

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

12th September 1985

Many thanks for sending me a copy of your letter of 16th July to Patrick Jenkin about compensation arrangements

The experience of my Department suggests that there is a case for a more generous approach to compensation, both in relation to compulsory purchase and to the various forms of blight. I therefore welcome the general approach set out in your letter.

As to the proposals relating to compulsory purchase, I think we must beware of the possibility that the introduction of the 20% "restitution" payment may create pressure on public authorities to adopt at least preliminary compulsory purchase action so that owners get a higher payout. The potential financial effect may therefore be greater than present estimates suggest.

The Rt Hon Nicholas Ridley MP

I agree in principle with your proposals to bring forward in time the payments of compensation for loss of value, and the acquisition of properties seriously affected by works. Would it not be equitable, however, to advance the home loss payments too, to benefit all qualifying residential occupiers and not just those with a compensatable interest in their homes? There might also be a case for making home loss payments available in cases of acquisition of property which is, or will be, seriously affected by works. I understand your reasons for not proposing that the 20% "restitution" addition be applied to such acquisition, or to any other advance purchase; in working out details of the schemes, however, officials might consider whether there are any circumstances in which the 20% "restitution" might in equity be justified.

I agree with you that noise insulation of schools and hospitals needs to be considered. As you know, our officials have recently completed a review of noise compensation policy relating to military airfields. As our noise compensation schemes could be extended to upwards of 50 airfields in time, the inclusion of schools and hospitals could have significant implications.

The financial implications are difficult to quantify. The extra cost for home loss payments will be negligible, and my Department rarely exercises its compulsory purchase powers.

However, the noise insulation of schools and hospitals could be expensive, and, as I said earlier, I have some reservations about a knock-on effect from the 20% "restitution" payment.

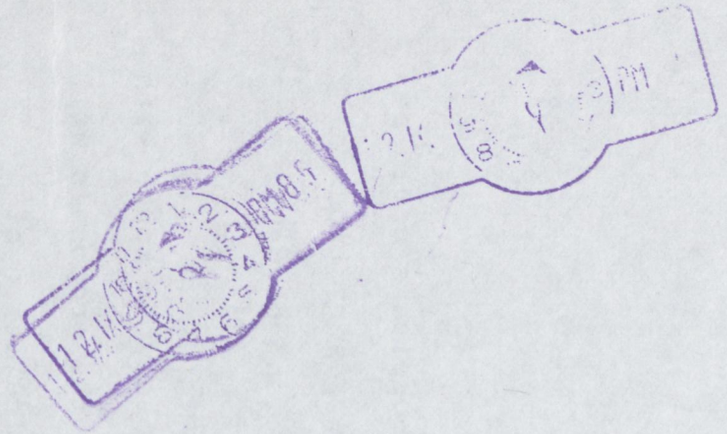
I should like my officials to be kept closely in touch with yours on this. The practical implications of the proposals will need a lot of thought. I have in mind the calculation of predicted depreciation of value, including the definition of the point at which the decision to construct the works is deemed to be taken, for example.

Generally, I may say that my Department too will be aiming for a more generous approach in such compensation cases. It is obviously important, however, to see how the details of the proposed scheme look before we make any announcements or commitments.

I am sending copies of this letter to the Prime Minister, to Willie Whitelaw and other members of H Committee, to Leon Brittan, Peter Walker and Michael Jopling and to Sir Robert Armstrong.

Yours ever

Michael Heseltine



NOTE FOR THE FILE

NEXT MEETING OF THE SAINSBURY GROUP

I put to Sue Vandervord at the Department of the Environment a proposal that the next meeting of the Sainsbury Group, to be chaired by the Prime Minister might be Tuesday 19 November. DOE see no difficulty with that date, though from their point of view they could in fact manage a meeting earlier. DOE officials meet the group on 13 September, and no further meetings are proposed.

DOE also question whether another meeting involving the Prime Minister is necessary. They argue that after the meeting on 13 September it seems likely that all the outstanding issues will be resolved with the group. I explained that this was of course a tune we had heard before, and that, despite the background music, the last meeting had been worthwhile.

Hartley Booth and Mr Delafons will be in touch before the meeting on 13 September. After that their Secretary of State will minute the Prime Minister on the outcome. That will provide an opportunity to confirm with the Prime Minister that a further meeting in November should be arranged. Meanwhile, we shall hold the date.

Mark Addison

Ministers: Environment
Employment? (deregulate)
David Trippier

cc SO
WO
LCD

MARK ADDISON

5 September 1985

10 DOWNING STREET

Caroline.

Would you identify a 2 hour slot for the Secretary of State in the Autumn PM? We had thought early Nov would be best, but it does not matter much if it slips.

Then let me know & I will speak to DoE.

NEA.

~~10~~ 9.30-11.30 NEA 2/5 TUE 19 NOV. Rig SV.

10 DOWNING STREET

Caroline. cf 6/9.

Can we hold the Secretary Cabinet slot for 19 November, but take no further action on setting up the meeting for now.

Environment are writing in next week. We can then confirm, if it is decided to go ahead.

M.

MR ADDISON

17 July 1985

THE SAINSBURY GROUP MEETING

At the last meeting between Sir John Sainsbury and his group and the Prime Minister, it was said that the next meeting should be in September. I have now spoken to John Delafons at DoE and also Sir John Sainsbury, who both confirm that September would be too early for a meeting with the Prime Minister. Sir John's group is meeting privately on 13 September and will then go on to meet DoE. DoE, in the meantime, are working on various proposals.

The follow-up would be timely towards the end of October. By then, all the initiatives that are now under way could be properly reviewed, and certain new proposals on which Sainsbury is working (probably on building regulations) will have been developed. Can I therefore suggest that a meeting be arranged towards the end of October if possible?

CF

We shall go for a meeting end October/Nov. So bf or 1/9 to set arrangements in hand

MEA 17/7

BF

HARTLEY BOOTH

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
Room N16/05
2 Marsham Street
LONDON
SW1P 3EB

16 July 1985

cc HTB.
~~LAT~~
2 NBPM

Dear Patrick

COMPENSATION ARRANGEMENTS

At its meeting on 27 February, H Committee considered the scope for reducing the time and cost of major public inquiries. I recommended that we should also look to improving compensation arrangements. Since then, my Department has been developing draft proposals for compensation which have been circulated by your officials on the Land Transactions Committee network. We have been receiving helpful comments.

This letter sets out my proposals, solely in relation to my experience with highway schemes, for a number of legislative and administrative changes which I believe would help reduce opposition and delay. I intend to put a paper to H Committee soon after the Recess. Some of the proposals will necessarily apply to other forms of public development and Treasury will want to see the cost implications for the whole public sector. I am writing therefore to you, with copies to colleagues, to ask for an assessment of the annual cost which would fall to your, and their Departments' programmes, and to those of local authorities and other public bodies with compulsory purchase powers under their oversight, in respect of each of the main proposals. I need to have the estimates by the end of August, although I recognise that they may at this stage be a little imprecise.

Perhaps I should begin by explaining why it is I think we need to improve compensation arrangements. Objections to public development proposals may come from local authorities; environmental protection organisations; and members of the public, particularly those living in or near the proposed development. The last may object to the proposal as such, or they may resent the prospective compulsory purchase of their land, home or business premises and the associated disruption, or they may believe that the various forms of compensation available are inadequate. They also tend to be apprehensive about the effects of the development of their amenities and on the value and saleability of their property. They will fear that, if they need to sell, they will obtain unjustly low prices.

Objections to highway proposals may also come from people living on roads which, not themselves to be physically altered, will bear heavier and noisier feeder traffic. No set of changes in the compensation arrangements would wholly remove such fears and objections or stifle entrenched opposition on grounds of principle. But there are some injustices and a fairer approach to compensation is called for, which will reduce opposition and delay. I invite colleagues to consider the following proposals.

1. Compensation for Compulsory Purchase

Market value, as assessed for the purposes of compulsory purchase, excludes any allowance for the fact that the acquisition is compulsory. The existing system has been defended on the basis that the dispossessed owner can, with his compensation including disturbance costs, purchase a similar property. The system is alleged to be reasonably equitable between the public and private interest. In practice, like-for-like acquisition is often not possible and the system fails to recognise that our purchase is from a distressed and unwilling seller. Allowance should be made for the costs of compulsion, and for the social and psychological disturbance and upheaval (imposed for the benefit of the community).

I propose a "restitution" payment to residential occupiers at 20% of the market value of the occupier's interest in the land being acquired either by compulsory purchase or by agreement in response to an initiative by the public authority in advance of a CPO. The addition should apply only to the residential part of an interest - for example, only the living accommodation over a shop, or only the farmhouse of a farm. The addition should apply also to compensation for severance and for injurious affection to retained land, but not to disturbance which is separately assessed and is essentially a reimbursement of expenses actually incurred. I accept that disputes about market value and other elements would still occur; but my opinion is that a premium of 20% is likely to make most owners welcome giving up their interest.

Such a payment would make compulsory purchase more expensive. But it is necessary, for the following reasons:

(1) Equity. The present Code does not compensate for the social and psychological trauma which begins on the first announcement of the proposal and continues until after removal to the new dwelling. (In Ontario, for example, owners get a 5% payment for inconvenience and the cost of finding another residence, and an allowance for improvements which are not reflected in the market value.)

(2) Acceptability of Public Development. Public authorities have been managing to implement public development, but with increasing difficulty. Unless improvements to the Compensation Code are made now, we shall probably face increasingly severe opposition as time passes, from

individuals for whom the compensation is, in their view, less than just. Reduced opposition will mean savings on the costs and time taken in preparing a scheme.

Legislation would be required, by amendment of the Land Compensation Act 1961. The annual cost, in relation to highways land, is estimated to be a maximum of £5m for my Department's roads and perhaps about £10m for local authority roads.

2. Home Loss Payments

Home loss payments were introduced by the Land Compensation Act 1973 to recognise the hardship to occupiers and to provide some recompense without altering the market value principle. They are payable both to owner-occupiers and to other persons displaced by compulsory purchase. The value of the payments was set in 1973 at three times rateable value, with a minimum of £150 and maximum of £1,500. The multiplier and the limits are changeable by Order. In England and Wales there has been no subsequent general revaluation so the value of the payments has been substantially eroded. In Scotland, to maintain parity following the recent revaluation, the multipliers were reduced, leaving levels of payment similarly eroded. I propose that home loss payments be retained because they benefit all qualifying residential occupiers whether or not they have any compensatable interest in their homes. But I propose that, in equity, the value of the payments should be restored to approximately 1973 levels. Since rateable values are no longer a meaningful basis, I propose that home loss payments should be set and maintained at 2½% of market value of the dwelling with vacant possession, with a minimum payment of £1,500.

Amendment of the Land Compensation Act 1973 would be required. The estimated annual cost for my Department's highways would be in the region of £0.5-1.0m, the cost for local authority highway land is not known.

3. Advance Payment of Compensation Under Part I of the Land Compensation Act 1973

Owner-occupiers and landlords of property close to highway works from whom no land is taken may claim compensation under Part I of the Land Compensation Act 1973 for depreciation by noise, vibration, smell, fumes etc caused by the use of the works.

Part I compensation may not be claimed until one year after the works are brought into use (unless the property is being sold in the first year). This rule was adopted to give time for values to settle down, but it is unfair to the owner who needs to sell during the construction period, who can attract a purchaser only by accepting a price substantially lower than would have been realised if there had been no scheme.

I propose that Part I should be amended to require the appropriate authority to pay, on application, compensation in respect of property which is contracted to be sold after

the decision to construct the works. The amount of compensation would be the Present Value of the predicted depreciation. The applicants' successors would need to be debarred from claiming Part I compensation. The provision would simply bring Part I payments forward in time. The effect of this amendment would be to restore equity to the owner who needs to sell during the relevant period. Taken together with my next proposal, it would reduce fears of occupiers about the prospective value of their property and reduce or remove a common cause of objection.

4. Acquisition of Off-Line Property

Section 246(2) of the Highways Act 1980 enables highway authorities to acquire by agreement owner-occupied land the enjoyment of which is seriously affected by the carrying out or use of works for the construction or improvement of a highway. The provision is paralleled by Section 26(2) of the Land Compensation Act 1973 in respect of other public works. The power applies only to land which is seriously affected and this works against an owner who wishes to sell before the road is opened. I therefore propose that Section 246(2) be amended to enable acquisition where the authority is satisfied that the enjoyment of the land will be seriously affected. (Treasury have already approved specific purchases in similar circumstances for hardship cases.) The change would simply bring these payments forward in time.

I do not propose that the 20% "restitution" addition should apply to such acquisitions or to any other advance purchase, whether under statutory blight provisions or otherwise, initiated by an owner. The acquisition itself will have rescued the owner from the trap of blight and there is no compelling ground to pay more than the property would have realised in the open market, but for the scheme. Owners would have the choice of advance payment of Part I compensation or of having a willing authority purchase under Section 246(2). These two measures would remove a very common cause of objection at little net cost.

5. Traffic Management Schemes and Feeder Roads

At present, substantial increases in traffic and other nuisance can occur as a result both of traffic management schemes and also in connection with feeder roads leading to newly opened sections of new road. No compensation or noise insulation is provided in such cases and as a result people object to road building and traffic management proposals at the planning stage.

I am under pressure to extend the Noise Insulation Regulations to such cases. I have in mind to pay for secondary glazing where the resultant noise levels are severe. Alternatively, and I would welcome colleagues' views, it might be right to extend the application of Part I of the Land Compensation Act 1973 to such cases. I even wonder whether

purchase at market value might be right in some cases. The cost would depend on which course we took and the relative generosity of the selected proposals. The aim would be to reduce objection to such schemes, which in the case of traffic management are often a very cost-effective way of achieving improved traffic flows and road utilisation.

6. Noise insulation

I am also exploring extending the Noise Insulation Regulations to schools and hospitals.

7. Department of Transport Policy Changes

I propose also to adopt a more generous administrative interpretation than hitherto of the Section 246(2) power to acquire owner-occupied dwellings which are (or, under the proposed amendment, will be) "seriously affected" by the construction or use of new or improved highways. The degree of change in the interpretation will need careful consideration.

I also propose that in future the Department would not normally object to statutory blight notices relating to dwellings with gardens touching, or partly taken by, the line of a proposed highway.

The net costs of these policy changes should not be great, since the loss (if any) on later sale should not be significantly different from the Part I compensation which would otherwise have been paid. There will be some small administrative cost. These changes would help to reduce opposition to road schemes. Our present policies attract compensation which is seen by some to be parsimonious and "bureaucratic".

It would save time and money if people affected by a scheme were given sufficient incentive not to object, and possibly in some cases to support.

8. Other Provisions

It would be opportune to make other changes in compensation law and compulsory purchase procedures, in particular to prevent tactics that can produce years of delay. I have in mind that the legislation should:

- deal with obstruction caused by the deliberate fragmentation of plots prior to compulsory purchase - a tactic which has already caused my Department expense and administrative problems; and

- clarify the definition of "open space" to relate it only to land which is used for public recreation in exercise of formal rights.

Colleagues may have other suggestions for improving the statutory provisions dealing with compensation and blight. As Minister responsible for the Compensation Code, I recognise

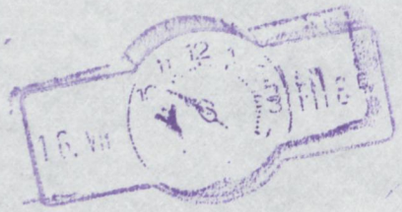
that you may wish also to cover other, perhaps wider-ranging issues, in your reply to me now, or at the subsequent H Committee meeting.

9. Financial Implications

The overall financial costs falling to my Department are in my view small relative to the benefits, especially the benefits which we will obtain in reduced obstruction and reductions in delay over future years. I realise it may be some time before we can enact the necessary legislation: indeed it may be more suitable for our manifesto at the next election. It is difficult to quantify the costs now.

I am copying this letter to the Prime Minister, the Lord President, other members of H Committee, and to Michael Heseltine, Michael Jopling, Peter Walker, Norman Tebbit and Sir Robert Armstrong

NICHOLAS RIDLEY



D10

cc NO.

NEW ST. ANDREWS HOUSE
EDINBURGH EH1 3SX

1. Andrew - to ok
2. Ja.

CONFIDENTIAL

The Rt Hon Patrick Jenkin QC MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

9 July 1985

Dear Patrick,

DOE CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

file with MEA

Thank you for copying to me your letter of ~~18~~ June to Nicholas Edwards about your proposal to publish a new circular on planning policy following discussions with the group led by Sir John Sainsbury.

I entirely support the proposition that new guidance should be issued to planning authorities to reiterate clearly that the planning system should not place unjustified obstacles in the way of development. As you may know, we recently commissioned a research study on development control performance in Scotland which identified a number of ways in which the development control system could be made to operate more quickly and efficiently. As part of the follow-up to this study, my Department have been preparing new guidance for issue to Scottish planning authorities, in consultation with the Convention of Scottish Local Authorities. This guidance, which could be issued to coincide with the publication of your proposed circular, contains the same general message as your circular, in that it indicates that the Government continues to attach importance to the need for a positive attitude to planning applications to be adopted by planning authorities, and that authorities should always grant planning permission, having regard to all material considerations, unless there are sound and clear cut reasons for refusal.

The circular is substantially longer than the one which you intend to issue, but I think it is likely to have no less impact, and indeed the fact that we have secured the agreement of the Convention of Scottish Local Authorities to its terms suggests that there may be a general willingness on the part of planning authorities in Scotland to give it due weight and to be influenced by it in setting their development control priorities. Unlike yours, the circular does not refer specifically to the proposition that development plans are only one

of the material considerations to be taken into account in dealing with planning applications, but Michael Ancram has recently stressed the need for development plans to help create demand, rather than merely react to or allocate foreseeable growth or development, in a speech to the Scottish Society of Directors of Planning, and the text of this speech will be published by the Society in the near future.

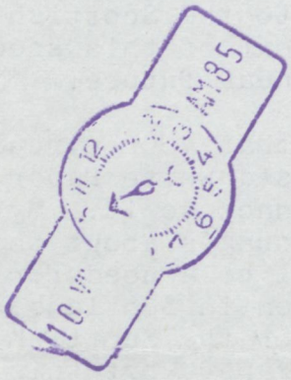
I note that MISC 114 have proposed that your circular should go out on the same day as the proposed White Paper and that the text should be included as an Annex to it. My officials are in touch with yours and David Young's about the drafting of the White Paper, since there will be a need for appropriate references to be made to the position in Scotland. I doubt very much whether there is a need for the Scottish circular also to be reproduced in the White Paper, but this is something which we can no doubt consider when officials have completed the drafting of the chapter on planning and enterprise.

I am copying this letter to the Prime Minister, Willie Whitelaw, Norman Tebbit, Tom King, Michael Jopling, Nicholas Edwards and David Young.

Yours ever,

George

LOCAL GOVT: Planning: Pt 2



MJ2ATJ

MR BOOTH

THE SAINSBURY GROUP

You will remember from the previous meeting of the Sainsbury Group, that the Prime Minister indicated she would like to arrange a further session in September. If we do this, it will be necessary to begin setting up the meeting soon.

It may be, however, that it would be sensible to delay a little until DOE have taken further forward the ideas discussed at the last meeting. I should be grateful for your advice on this after consultation with DOE as necessary.

Mark Addison

9 July 1985

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

JU801
Secretary of State for Trade and Industry

4 July 1985

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London SW1P 3EB

Dear Patrick,

SUPERSTORES AND PLANNING

Thank you for copying to me your letter of 28 June to the Prime Minister with your revised version of the statement on super stores, with which I am generally content.

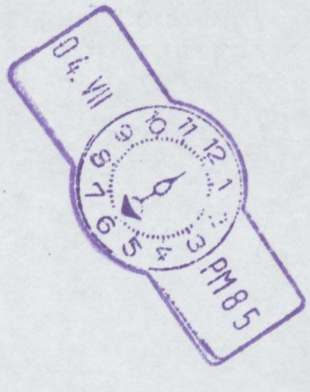
You will, however, recall from my letter of 8 March that I shared David Young's concern at the rather disparaging reference to the stimulation of competition, as if this was something to which the Government were indifferent. I accept, as you said in your reply of 19 March, that we need to tread carefully and to ensure that any reference to competition is correct in the legal sense; but it is not immediately apparent that David's formulation, "it should not be the function of the planning system to inhibit competition", should be beyond the pale. It is certainly much preferable in all other respects. I therefore hope that you will reconsider urgently, with your legal advisers, whether it might not be permissible, with a view if possible to its inclusion in the answer you propose to make.

I also notice that the figures you quote in your final paragraph differ markedly from those in your earlier version of 15 February. The latest figures are presumably the correct ones?

I am copying this letter to the Prime Minister, George Younger, Nicholas Edwards, Michael Jopling, David Young and Sir Robert Armstrong.

Yours ever,
Norman

NORMAN TEBBIT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PM85

CONFIDENTIAL

BA

10 DOWNING STREET

4 July 1985

From the Private Secretary

Dear Sue

SUPERSTORES AND PLANNING

This is to confirm that the Prime Minister is content for your Secretary of State to make the statement on Superstores and Planning this week. She has, however, suggested one small amendment to the draft text, that 'in exceptional circumstances' should be inserted after 'to take account' in line five of paragraph three. You foresaw no difficulties with that.

I am copying this letter to the Private Secretaries to the Secretaries of State for Trade and Industry, Scotland, Wales, the Minister for Agriculture, Fisheries and Food, the Minister without Portfolio and Sir Robert Armstrong.

Yours ever

Mark Addison

(Mark Addison)

Miss Sue Vandervord,
Department of the Environment

CONFIDENTIAL

L

with MEA 8/7 cc HB

PRIME MINISTER

NBPM

SUPERSTORES AND PLANNING

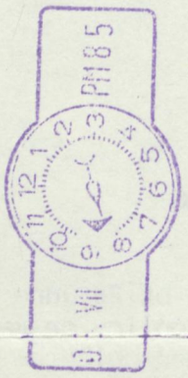
Patrick Jenkin's minute of 28 June proposes an announcement in the House about the Government's policy on major retail developments. I agree that a statement along the lines which he proposes would be useful - although I have no strong views about its timing - and that it matches the approach to these questions which I am continuing to take in Wales.

I am copying this minute to Patrick Jenkin, George Younger, Norman Tebbit, Michael Jopling, David Young and Sir Robert Armstrong.

4 July 1985

RNE

LOCAL GOVT : Planning : Pt 2.



CC(80)

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

From the Minister

nBPM

The Rt Hon Partick Jenkin MP
Department of the Environment
2 Marsham Street
London SW1P 3EB

4 July 1985

CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

Thank you for copying to me your letter of 18 June to Nicholas Edwards enclosing a draft circular you hope to send out on this topic.

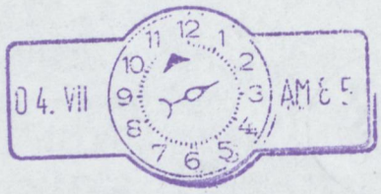
I do, of course, fully understand why you are anxious to issue a circular reiterating that the planning system should not place unjustified obstacles in the way of development. Equally I know you appreciate my concern that the Government's policy for the protection of agricultural land is fully taken into account in the planning process. I was pleased, therefore, to see that, in paragraph 2 of your draft circular, you propose to re-state the Government's commitment to this important policy and am content for the circular, as drafted, to be issued.

I am copying this letter to the Prime Minister, Willie Whitelaw, George Younger, Norman Tebbit, Tom King, Nicholas Edwards and David Young.

Yours

MICHAEL JOPLING

Planning + LOCAL GOV. Pt 2.



Bernard

PRIME MINISTER

SUPERSTORES AND PLANNING

You will remember that Mr. Jenkin deferred his statement on superstores until discussions with the Sainsbury Group had got somewhere. He now proposes that the statement should be issued as soon as possible, to ensure that it remains separate from the policy circular on planning which will form part of the Deregulation White Paper scheduled to go out in the third week in July. The draft statement is at Flag A, Mr. Jenkin's covering minute at Flag B.

Discussions with the Sainsbury Group have made some progress and you will recall meeting the Group on 29 April. It does seem sensible to put out the statement on superstores this week, leaving a respectable gap between it and the Deregulation White Paper. Lord Young agrees this course (Flag C).

Lord Young is also content with the wording of the statement. Hartley Booth has, however, suggested that the statement should make clearer the distinction between competition among traders, which is not a planning consideration, and the sort of massive development which could cause dereliction in an existing town centre. He has agreed with the DOE an amendment, which I have marked on the statement (in manuscript).

Content that the statement should be made this week; in the terms drafted, subject to Hartley's amendment?

Mark Addison

Yes MT

MARK ADDISON

3 July 1985

VC3AFE

CONFIDENTIAL

PRIME MINISTER

SUPERSTORES AND PLANNING

In his minute of 28th June, Patrick Jenkin sought my views on the timing of his written PQ about superstores and planning and its relationship to the Deregulation White Paper which we discussed last Monday.

I agree with Patrick that the suggested draft PQ is not something which needs to be linked with the White Paper and the associated circular on 'Planning and Enterprise' (which will be an Annex to the White Paper as well as a conventional DoE and Welsh Office circular). The relationship between the two issues is somewhat tenuous and, like Patrick, I see considerable advantage in separating the statement on Superstores from the main policy circular.

Given that the White Paper is scheduled to come out in the third week in July, I also agree that the PQ should go out as soon as possible this week. Otherwise, we could run into a timing problem.

I am copying this minute to George Younger, Nicholas Edwards, Norman Tebbit, Michael Jopling, Patrick Jenkin and Sir Robert Armstrong.

DY

3rd July, 1985

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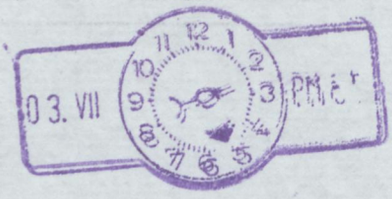
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PRIME MINISTER 3 July 1985

SUPERSTORES

The much delayed policy statement on Superstores hinges around the sensible proposition that it is not the function of land-use planning to interfering in competition in the market place. Yet the proposed announcement by Parliamentary Question states that planners should be to check the "viability" or "vitality" of local town trade to compete with proposed development.

DoE officials wish to make a distinction between competition between traders, which is not a planning consideration, and the sort of massive development which might cause dereliction in an existing town centre. They concede that the second is an exceptional circumstance. I have suggested DoE redraft to make this point.

On this basis, we recommend you take no action.

HARTLEY BOOTH

CONFIDENTIAL

PRIME MINISTER

SUPERSTORES AND PLANNING

In my minute of 15 February I explained my intention to make a statement, by way of written PQ, about superstores and planning. At that time it was decided that it would be preferable to defer this until after the discussions with the Sainsbury Group had been concluded. It is now proposed that the policy circular on planning which was produced in consultation with the Group should be published concurrently with the White Paper on deregulation which David Young is preparing and will be reproduced as an annex to the White Paper.

We have always seen it as important to separate the statement on superstores from the main policy circular, and it had been my intention to defer the superstores statement until 2-3 weeks after the White Paper. If, however, the White Paper issues in the third week of July (or possibly towards the end of the month), it will leave only a week or so before the recess and the superstores statement would have to follow on almost immediately after the White Paper.

I conclude that, if the statement on superstores is to be made before the recess, it would be best to make it before the White Paper and as much in advance of it as possible. It will then be possible to refer to it in the White Paper. There is much to be said for this since what it has to say about commercial competition not being a matter for planning control is relevant to the theme of deregulation; it would be better to be able to refer to this aspect in the White Paper than to deal with it separately shortly after the White Paper has been published.

I enclose a copy of a revised version of the statement on superstores. I believe that it will be generally welcomed by the major superstore developers and that what it says about the need to have regard to the effects on established town centres will also go some way to meet the concern of those of our supporters who have expressed their anxieties on this score. It will certainly be of assistance to my Inspectors who have to cope with public inquiries on major retail

CONFIDENTIAL

developments. There has been continued pressure over the past year or more for a government statement on this subject and I think that it is necessary to make one.

If you agree, and subject to David Young's views on the timing and the relationship to the White Paper (and the circular on planning policy), I would propose to make the PQ statement on superstores within the next week and not later than 5 July. If it is delayed later than this, we run into the timing problem that I have described.

I am copying this minute to George Younger and Nicholas Edwards, who also have to deal with planning appeals of this kind, and to Norman Tebbit, Michael Jopling, David Young and Sir Robert Armstrong.

A Hilditch
for
P J

28 June 1985

Approved by the Secretary of
State and signed in his absence

A

REVISE 26 JUNE

DRAFT PQ: MAJOR RETAIL DEVELOPMENTS

Q. To ask the Secretary of State for the Environment, what is his present policy in relation to planning applications for large new retail developments; whether that policy has recently changed; and whether he will make a statement.

A. After considering the representations that I have received on this subject, I have concluded that it is not necessary to add more detailed advice to that given in Development Control Policy Note 13 ("Large New Stores") and in the Memorandum on Structure and Local Plans published last year. It is important, however, to stress the point made explicitly in the existing guidance that it is not the function of the planning system either to prevent or to stimulate competition among retailers or among methods of retailing, nor to preserve existing commercial interests as such; it must take into account the benefits to the public which flow from new developments in the distributive and retailing fields. The public needs a wide range of shopping facilities and the benefits from competition between them. Local planning authorities must take full account of these various needs, both in framing structure and local plans and in dealing with applications for new shopping developments of all types.

Since commercial competition as such is not a land-use planning consideration, the possible effects of proposed major retail developments on existing retailers is not in this sense a relevant factor in deciding planning applications and appeals. It will be necessary, however, to take account, in exceptional circumstances, of the cumulative effects of other recent and proposed large scale retail developments in the locality, and to consider whether they are on such a scale and of a kind that they could seriously affect the vitality and viability of a nearby town centre as a whole - for example, whether they seem likely to result in a significant increase in vacant properties, or a marked reduction in the range of services the town centre provides, such as could lead to its general physical deterioration and to the detriment of its future place in the economic and social life of the community. Town centres need to

maintain their diversity and activity if they are to retain their vitality, but the range ~~of~~ or variety of shops and services will, change, as they have always done, in response to changing conditions.

I and my Inspectors will decide planning appeals in the light of these general principles and of the extent to which they are adequately dealt with in development plans, and in relation to the land-use planning and traffic consideration raised by individual cases.

As at 1 January 1985 there were 297 hypermarkets and superstores built and open compared with 125 in January 1979 and only 26 in 1973. Planning permission has been given for 68 more. These figures show that the planning system can facilitate the development of these new types of retailing, for which there is clear public demand.

Planning :: Local Govt. PGZ

Department of the Environment
2 Marsham Street London SW1P 3EB

01-212 4051

John Delafons CB
Deputy Secretary

CONFIDENTIAL

PW

Hartley Booth Esq
Policy Unit
10 Downing Street
London

27 June 1985

Kevin Hartley (Ag)

Dear Hartley,

1. I imagine that you are fully au fait with what is afoot on the Deregulation White Paper and the "one page" circular, but in accordance with my promise to try to keep you in the picture I enclose copies of

(a) Our contribution to the White Paper. ✓

(b) Latest draft of the one page circular (now two pages I fear!) which is also to be annexed to the White Paper. ✓ Read etc. ✓

(c) The latest version of the PQ statement on superstores with my covering minute (I am not sure if the Secretary of State will adopt my suggestion on timing - and I now hear that the White Paper may issue in the second week of July rather than the third; but I still see merit in making the superstores statement as soon as possible and then refer to that in the White Paper: it is certainly essential to deal with this special interest separately from the main circular). ✓

2. We are also hoping to put a paper to H Committee very shortly on public inquiries but our Ministers have not yet cleared it. The proposed changes to the Inquiry Rules and the new guidance on disruption are useful but the case for taking new legislative powers to define (ie restrict) the scope of a particular inquiry is far more contentious and there must be doubts as to whether it is worth doing for the sake of the very few inquiries that last for more than a month (the vast majority are over in a day or two). It can be argued that, had it not been for the very full Stansted/T5 inquiry and Graham Eyre's excellent report, it would have been far more difficult to bring that saga to a successful conclusion (I trust that is not tempting fate: we are still in the 6 weeks period for High Court challenge).

3. We have a mountain of other work on hand but we have put most of our goods in the White Paper shop window and our draft chapter says much of what needs to be said on the subject. I hope that these products of my flagging literary skills will not be botched up by those who think they know better than me what is needed (among whom I do not, of course, include yourself - and I much appreciate your help in moving things forward without loss of equilibrium).

JOHN DELAFONS

REVISE 26 JUNE

DRAFT PQ: MAJOR RETAIL DEVELOPMENTS

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From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

27th June 1985

Dear Patrick

CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

Thank you for your letter of 18 June enclosing a draft of a new circular on planning policy.

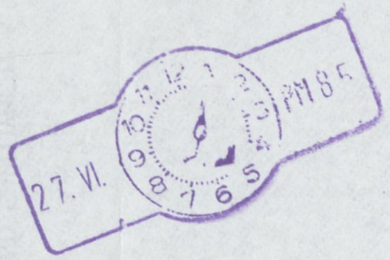
I entirely agree that the time is ripe for a clear re-statement of the Government's concern that the requirements of the planning system must not be allowed to inhibit development which could reasonably be allowed. I am happy, therefore, that the circular should be a joint publication of our two Departments.

If the proposed White Paper on deregulation is ready in mid-July I would be content for the circular to be published on the same day and for its text to be included as an annex. But if there is any possibility of delay in the White Paper, I think that we ought to consider again whether we are justified in delaying the issue of this important circular.

I am copying this letter to the Prime Minister and also to Willie Whitelaw, George Younger, Norman Tebbit, Tom King, Michael Jopling and David Young.

Yours ever
Nick

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB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Denton Hall and Burgin
Solicitors
Denning House
90 Chancery Lane
LONDON
WC2A 1EU

Your reference

Our reference
APP/B3600/A/84/20896 Part 2

Date
26 June 1985

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 : SECTION 36
LAND AT HIGHFIELD COPSE AND POUND FARM LANE, NORMANDY, SURREY
APPLICATION BY CONOCO (UK) LIMITED

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector Mr J Dunlop MA, DipTP, MRTPI, who held a local inquiry into the appeal by your clients Conoco (UK) Limited, under Section 36 of the Town and Country Planning Act 1971, against the refusal of the Surrey County Council to grant planning permission for the improvement of access, construction of access road and the drilling of an exploratory well, and subsequent testing in the event of hydrocarbons being present, on a site of about 1 ha on land at Highfield Copse with access off Pound Farm Lane, Normandy, Surrey (Application No 84/P 0102).

2. A copy of the Inspector's report is enclosed : his findings of fact, conclusions and recommendations are reproduced in an annex to this letter. The Inspector recommended that the appeal be allowed, subject to conditions.

3. The Secretary of State accepts the Inspector's findings of fact and is in general agreement with his conclusions.

4. The Secretary of State agrees with the view of the Inspector that the appeal site, simply by virtue of its inclusion in the Green Belt, is not automatically subject to the special policy considerations which are outlined in paragraph 9 of the Department's Circular 2/85. The Department's Circular 14/84 on Green Belts makes it clear that the objectives of the Green Belt are (a) to check the further growth of large built up areas, (b) to prevent neighbouring towns from merging with one another, or (c) to preserve the special character of a town. The Secretary of State therefore does not dissent from the view of the Inspector that the main purpose of the Green Belt is strategic or the view advanced by your clients that the primary purpose of a green belt is to restrict and regulate the growth of urban areas. The Secretary of State does not necessarily concur with the inference of the Inspector that operations by the oil and gas industry can automatically be regarded as exceptions to the control exercised by the Structure Plan Policy 3 and Local Plan Policy GB3 over development in the Metropolitan Green Belt. In considering the present case however, the Secretary of State, noting that paragraph 20 of Circular 2/85 states that "Each application should be considered on its merits and should not be influenced by any hypothetical future development", is of the opinion that the temporary nature of the work envisaged in the application would not be such as

to conflict with the purpose of the Green Belt. The Secretary of State also notes that, from an environmental point of view, the amount of woodland involved is relatively small and that the proposal incorporates provisions for the land to be replanted.

5. As regards the conditions to be imposed on the grant of planning permission the Secretary of State agrees that the draft conditions which are acceptable to your clients are broadly appropriate. He is also in general agreement with the additional conditions suggested by the Inspector and mentioned in paragraph 223 of his Report. Some of the conditions have been adapted in order to conform with Departmental practice, whilst others have been omitted on the grounds that they are not considered to be necessary. It is felt that draft condition No 3 is superfluous since it merely duplicates the points covered in the actual permission itself as amplified by the relevant further letters amending the original application. The points raised by the Inspector regarding the depth of the turning bay and the storage of plant and equipment would seem to be covered by the amending letter of 20 February 1984.

6. Accordingly, the Secretary of State allows your clients' appeal and he hereby grants planning permission for improvement of access, construction of access road and the drilling of an exploratory well, and subsequent testing in the event of hydrocarbons being present, on a site of about 1 ha on land at Highfield Copse with access off Pound Farm Lane, Normandy, Surrey, in accordance with application No 84/P 0102 dated 20 January 1984 and drawing Nos HFI-B, HFI-Aa, HFI-C, HFI-Hb and HFI-E, and amplified by the further correspondence dated 1 February 1984, 3 February 1984, 8 February 1984, 20 February 1984 and 25 April 1984 subject to the following conditions:-

i) the development hereby permitted shall be begun not later than five years from the date of this permission;

ii) all buildings, plant, machinery (both fixed and otherwise) and any engineering works connected therewith, on or related to the application site (including any hard surface constructed for any purpose) shall be removed from the application site and the site fully restored to its former condition within a period of one year (or such other period as may be agreed in writing by the Mineral Planning Authority) from commencement of drilling operations, or within six months of the completion of flow testing, whichever is the earlier; any plant or equipment required to make the site safe to a specification agreed with the Department of Energy in accordance with the Petroleum (Production) Regulations, 1976, may remain in position;

iii) prior to the construction of the proposed access road hereby permitted the sedge Carex Strigosa to be found growing at the entry to Highfield Copse shall be transplanted elsewhere within the copse to the satisfaction of the Mineral Planning Authority;

iv) prior to the construction of the proposed access road hereby permitted measures shall be taken to the satisfaction of the Mineral Planning Authority to minimise the disturbance to any remaining occupants of the badger set at the entry to Kiln Copse;

v) all top-soil, and sub-soil and overburden shall be separately stripped and stored for subsequent re-spreading in accordance with condition ii;

vi) the rig employed to drill the borehole shall be the Bolden 61 or such other type as may be agreed by the Mineral Planning Authority;

vii) no watercourse shall be incorporated into or be allowed to discharge into any part of the application site nor shall there be any direct connection between the site and any watercourse. All possible steps shall be taken to prevent any suspended matter or material passing into any watercourse from the drilling and subsequent restoration operations. There shall be no discharge of sand, oil, grease or other offensive or injurious matter into any watercourse;

viii) site preparation and reinstatement work shall not be undertaken except between the hours of 0700-1900 on Monday to Friday and 0700-1300 on Saturday. No such work shall take place at any time on Sunday or public holidays;

ix) except in the case of emergency, no commercial vehicle shall enter or leave the site except between the hours of 0700-1900 on Monday to Friday or 0700-1300 on Saturday;

x) all vehicles shall turn right on leaving the site and shall follow the route shown on drawing No HFI-E;

xi) before the development commences, details of arrangements to be made for the disposal of drilling mud at a disposal point licensed under the Control of Pollution Act 1974, shall have been submitted to and approved by the Mineral Planning Authority;

xii) before any other operations are commenced, the proposed vehicular access and sight lines to Pound Farm Lane shall be provided and constructed as shown on the application drawings and the area in advance of the sight lines shall be kept permanently clear of all obstructions;

xiii) the site shall not be occupied until space has been provided, properly laid out and surfaced (in accordance with the scheme indicated on the application drawings) to accommodate

a) parking,
b) loading,
c) unloading and
d) turning

of vehicles clear of the highway and the space shall be kept clear thereafter of any impediment to its designated use;

xiv) before any drilling operations are commenced, space shall be provided within the site (in accordance with the scheme indicated on the application drawings) to accommodate

a) parking of vehicles of site personnel, operatives and visitors (the construction vehicles and operatives cars to be parked on the rig site),

b) loading and unloading of plant and materials, and

c) storage of plant and materials used in constructing the development, and each facility shall, throughout the course of construction of the development be kept free from any impediment to its designated use;

xv) on completion of the drilling operations and any subsequent testing hereby permitted, the site shall be reinstated and restored in accordance with the provisions of the scheme prepared by Environmental Resources

Limited dated 10 January 1985, including the "pre drilling" and "during filling" works referred to therein, such restoration to be carried out to the satisfaction of the Mineral Planning Authority;

xvi) before any operations involving the movement of materials in bulk to or from the site are commenced, facilities shall be provided as may be agreed with the Mineral Planning Authority, after consultation with the County Highway Authority, to prevent the deposition of extraneous matter on the public highway and shall thereafter be used whenever the said operations are carried out;

xvii) the applicant shall notify the Mineral Planning Authority when the work specified in condition xv) above has been completed, and not more than one year from that date there shall be a meeting at the site which shall be attended by representatives of the applicants, the owners or their successors in title, the Forestry Commission and the Mineral Planning Authority, to monitor the success of the scheme. Should it prove necessary, further meetings will be held within the period of five years from the commencement of aftercare;

xviii) in the event of a discovery of hydrocarbons, gas testing or long term oil testing shall not take place except in accordance with a scheme which shall be submitted to and approved beforehand in writing by the Mineral Planning Authority. The scheme shall specify the nature of the work, details of any equipment and structures required, their siting and means of noise control and proof of their ability to achieve specific levels of noise and heat emission. The duration of any programme of flaring of gas approved under this scheme shall be limited to daylight hours on not more than two days per zone and the total duration of any other form of testing shall not exceed six months unless otherwise agreed in writing by the Mineral Planning Authority.

7. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if such consent, agreement or approval is refused or granted conditionally, or if the Authority fail to give notice of their decision within the prescribed period.

8. This letter does not convey any approval or consent which may be required under any enactment, bylaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

9. Your attention is drawn to the annexed memorandum relating to the provisions of Section 245 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

R Middleton

RJ MIDDLETON
Authorised by the Secretary of State
to sign in that behalf

Planning

JS

PARLIAMENTARY UNDER SECRETARY OF STATE

DEPARTMENT OF THE ENVIRONMENT
2 MARSHAM STREET LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

26 June 1985

Dear Michael:

I promised to keep the Prime Minister informed about the appeal by Conoco (UK) Limited against the refusal by Surrey County Council to grant planning permission for the drilling of an exploratory borehole and related works at Normandy, Surrey.

I am now able to send you the enclosed copy of the report of the Inspector who held a local inquiry into the application, together with a copy of the official decision letter issued today. You will see that it has been decided to accept the Inspector's recommendation that the appeal be allowed.

I also enclose a copy of the letter I have sent to Cranley Onslow.

Yours

Neil

NEIL MACFARLANE

The Rt Hon Michael Alison MP

PARLIAMENTARY UNDER SECRETARY OF STATE

DEPARTMENT OF THE ENVIRONMENT
2 MARSHAM STREET LONDON SW1P 3EB
01-212 3434

My ref: M/PSO/1319/85

Your ref:

2 June 1985

Dear Cranley

Thank you for your letter of 27 April about the possibility of the site at Highfield Copse, where Conoco wish to locate their exploratory borehole, being of archaeological significance. I am sorry you have not had an earlier reply.

I have indeed seen the Daily Telegraph article to which you refer and I have also consulted the archaeological experts within my Department. Their advice is that the coins referred to in your letter and in the newspaper article come from a site some distance from the place where Conoco wish to drill. They accept that archaeological remains in this vicinity may be more extensive than is presently apparent, and may extend into the Conoco site, but at the moment there is no evidence to suggest that this is the case.

Under these circumstances I am sure you will understand that I would not be prepared to order the inquiry to be re-opened.

I enclose a copy of the report of the Inspector who conducted the public inquiry into the appeal, together with a copy of the official decision letter issued today. You will see that it has been decided to accept the Inspectors recommendation that the appeal be allowed.

Yours

Neil

NEIL MACFARLANE

Cranley Onslow Esq MP

C/823/DD/P

SURREY COUNTY COUNCIL

APPEAL

by

CONOCO (UK) LIMITED

Inspector: James Dunlop MA DipTP MRTPI

Dates of Inquiry: 29 January to 8 February 1985

File No: APP/B3600/A/84/20869

C/823/DD/P

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

March 1985

To The Right Honourable Patrick Jenkin MP
Secretary of State for the Environment

Sir

I have the honour to report that on 29 January 1985, and on 7 days thereafter, I held an inquiry at the Community Centre, Ash Hill, Ash, Surrey, into an appeal by Conoco (UK) Ltd under Section 36 of the Town and Country Planning Act 1971 against the decision of Surrey County Council to refuse planning permission for the improvement of access, construction of access road and the drilling of an exploratory well, and subsequent testing in the event of hydrocarbons being present, on a site of about 1 ha, for a temporary period, on land at Highfield Copse with access off Pound Farm Lane, Normandy, in Surrey. After closing the inquiry, I inspected the site and its surroundings, unaccompanied, on 11 February and again, accompanied on 1 February. On 20 February I visited a site at Sudbrooke in Lincolnshire where British Petroleum are engaged in drilling a production well.

1. The reasons given by the County Council for its decision are set out at Document 10c. They are:

i. The activity that would be generated by the preparation of the site, the installation of the drilling rig and its ancillary plant, equipment, stores and site buildings, and their subsequent removal, together with the activity involved in the continuous drilling operation itself would, notwithstanding the short duration of such operations, be seriously detrimental to the character of the Metropolitan Green Belt and an intrusion into this quiet rural area. Further, such activity would be damaging to the amenities of residents in the locality.

ii. Although the highway works proposed would appear to meet the need for improvement to allow traffic circulation in the narrow lanes giving access to the proposed site, the effect of introducing heavy goods or specialist vehicles into this quiet rural area would be to substantially diminish the amenities of local residents by reason of increased vehicular activity, and the resultant increase in noise, dust and fumes.

2. My report commences with a description of the appeal site and its surroundings. I then describe the proposed development by reference to the company's application for planning permission, subsequent correspondence with the County Council and certain additional information given to me at the inquiry. Next, I summarise the representations made to me as to the merits of the proposal and the objections thereto. Finally, I set out my findings of fact, conclusions and recommendation. Lists of documents, plans and photographs produced at the inquiry are attached. References in my report to the "represented parties" at the inquiry are to the appellant company, Surrey County Council and, jointly, to the Pound Farm Lane Action Group, Guildford Borough Council and Normandy Parish Council. References to the "Action Group and others" are to the Action Group and the Borough and Parish Council.

THE SITE AND ITS SURROUNDINGS

3. The appeal site comprises 2 areas of land: that required for the drilling of the well and the various plant, equipment, stores and buildings associated therewith, and that required for the construction of the access road leading thereto from Pound Farm Lane. The former, referred to at the inquiry as "the rig site" is shown coloured pink on Plan H. It is a square shaped area of land, measuring approximately 100 m by 100 m, set within and presently forming part of a broad-leaved woodland known as Highfield Copse. Hazel and ash predominate, interspersed with oak and birch. The wood extends to an overall area of some 14 ha and covers the north-east facing slope of a modest spur formation. The site itself lies towards the foot of the slope. A number of paths pass through the woodland, as shown on Plan M, but none cross the rig site. The northern boundary of the wood is defined by a railway line and the southern by a bridleway, known as Beech Lane.

4. The land required for the access road is shown coloured pink on Plan H. Commencing at a fieldgate on the east side of Pound Farm Lane, some 500 m west of the rig site, its route first follows a track along the southern boundary of woodland known as Kiln Copse. It then descends through the woodland in a south-easterly direction, following the line of a "ride" or path to a stream. There is a badger set close to the point of entry to the copse. Beyond the stream, it climbs out of the wood and crosses the open west face of the spur formation already referred to, before dropping down through Highfield Copse to the rig site. Like Highfield Copse, Kiln Copse is made up mostly of hazel and ash, interspersed with oak standards and birch.

5. The surroundings of the appeal site comprise gently undulating countryside, including further woodlands and tracts of open agricultural land. The topography and principal features of the area are indicated on Plan K. The A323 Guildford to Aldershot road runs approximately 1.5 km to the north, on an east-west alignment, and the distinctive natural feature known as The Hog's Back lies some 1.75 km to the south. This is a pronounced ridge of land, again on an east-west alignment, traversed by the A31. The small, mainly inter-war, settlements of Flexford and Ash Green are situated, respectively, about 1 km east and 1 km west of the site. The larger settlement of Ash lies some 3 km to the north-west, on the outskirts of Aldershot. The general location of the rig site, that is to say, the tree covered slope of Highfield Copse, is visible from the direction of Flexford, from a bridleway running parallel with, and to the north of, the railway line and, more distantly, from the northern slope of The Hog's Back.

6. There are a number of residential properties in the vicinity of the site, as shown on Plan 1. They include some 13 dwellings on Pound Farm Lane and Green Lane West, to the west and south of the rig site, and a group of 19 dwellings on the metalled section of Beech Lane, to the north-east. The nearest of these to the proposed borehole are a group of 3 cottages, known as Bushy Lees Cottages, fronting the south side of Green Lane West at a distance of approximately 380 m, and a dwelling known as Woodville, off Beech Lane, at a distance of approximately 400 m. The nearest dwellings to the proposed access road are "Kiln Copse Cottage" and "Schillings", marked on the plan as "Pound Cottages", which front the west side of Pound Farm Lane some 80 m south of the fieldgate at the start of the route.

7. Vehicular access from the A323 to the vicinity of the appeal site is via Wyke Lane and Pound Farm Lane. Wyke Lane leads off the southern side of the main road and proceeds in a generally southerly direction, past a group of dwellings centred on Wyke Avenue, to East Wyke Farm. Here it bends sharply to the south-west before running through the farm. It has a carriageway width, for the most part, of approximately 4 m, but widens to 5.3 m on the bend and then reduces to a minimum

width of 3.7 m as it passes through the farm buildings. A small open sided timber framed barn, with a tiled roof and evidently of considerable age, stands on the roadside at this point. There is a footpath along the east side of the lane between the main road and Wyke Avenue. Thereafter, it is bordered by grass verges and hedgerows.

8. Beyond the farm, Wyke Lane runs into Harpers road. Pound Farm Lane leads off Wyke Lane at this point, bending to the south and then proceeding southwards across the railway line to the fieldgate already referred to, a distance of some 600 m from the farm. North of the railway, the lane has a carriageway width of 3.1 to 3.3 m, again bordered by grass verges and hedgerows. At the point at which it turns off Wyke Lane, it is steeply embanked on the east side. A number of mature oak and ash trees grow in the hedgerow on the inside of the following bend. South of the railway, the carriageway reduces to 2.7 m. Two dwellings, known as Junction Cottages, front the west side of the lane immediately beyond the railway. The east side of the lane borders Kiln Copse.

9. Some 200 m or so beyond the fieldgate, Pound Farm Lane runs into Green Lane West. It is adjoined hereabouts by a duck pond and joined by a bridleway leading to Ash Green. Green Lane West in turn runs into a bridleway at Bushy Lees Cottages, the metalled roadway terminating some 700 m from the proposed access to the appeal site.

THE PROPOSED DEVELOPMENT

10. The present proposal is the subject of planning application No GU/84/0102, made in the first instance to Guildford Borough Council on 20 January 1984 (Doc 7a). The application is stated to be for full planning permission, for a temporary but unknown period, and involves the the alteration of an existing vehicular access and the felling of trees. The application form otherwise indicates that the proposal relates both to the land required for the operation of the rig (OS Field No 0001) and the construction of the access road (OS Field Nos 3000, 4000 and 4688).

11. Particulars of the proposal are detailed on an attached sheet. This states the applicant's intention "to improve the existing access from Pound Farm Lane to OS Field 3000 to the requirements of the Highway Authority" and:

> To construct an access road from Pound Farm Lane to the proposed drilling location and to occupy a 1 ha fenced area to drill a borehole to a depth of approximately 4,500 ft (1,368 m), evaluate results and, in the event of hydrocarbon production, to install the necessary equipment to carry out tests (including flow tests) to establish the commerciability of the discovery.

Further particulars are that:

> i. Whilst the borehole is being drilled and evaluated, the area will contain the drilling outfit, ancillary equipment and temporary services. Upon completion of this phase of the development these will be removed.
>
> ii. If hydrocarbons are encountered, it would be necessary to install well-head valve gear.
>
> iii. In the event that hydrocarbons were present in the form of oil, it would be necessary to install a 12 ft (3.6 m) high surface pump at the wellhead to lift production to the surface, and to erect 2 temporary 12 ft (3.6 m) high storage tanks to contain production prior to its removal for testing and disposal.

iv. It may also be necessary to erect a 2 inch (50 mm) diameter ventilation stack in order to emit a small quantity of associated gas to the atmosphere.

v. Any additional equipment required would form the subject of a further application for planning consent.

vi. Should the borehole be unsuccessful, it will be plugged and made safe in accordance with a specification requiring the approval of the Petroleum (Production) Division of the Department of Energy and the site area and access road restored to its original usage to the satisfaction and requirements of the planning authority.

12. A covering letter submitted with the application (Doc 7b) stated that the company hoped to carry out the operations during the spring and summer of 1984. I was advised at the inquiry that it remains the company's intention to carry out the operations during the spring and summer months, if permission is granted on the present appeal.

13. The application was accompanied by explanatory notes prepared by John R Lawrence Partners Ltd, the company's agents (Doc 7d). These indicate under the heading "mode of operations" that all traffic to and from the site would be routed along Wyke Lane and Pound Farm Lane and that the company would carry out certain works to these roads. Specifically it would:

i. Construct 2 passing bays on Pound Farm Lane between East Wyke Farm and the railway bridge, one on either side of the lane and both within the existing highway boundary.

ii. Batten back the embankment on the east side of Pound Farm Lane, where the lane turns off Wyke Lane, and improve sight lines on the following bend.

iii. Improve sight lines on the sharp bend of Wyke Lane, short of East Wyke Farm.

iv. Protect verges and ditches on both Pound Farm Lane and Wyke Lane.

14. These works are further described in an agreement made by Conoco (UK) Ltd with Surrey County Council, referred to at the inquiry as "a works agreement", signed and dated on 29 January 1985 and supported by a "bond" in the sum of £5,000 (Doc 11). This agreement binds the company to undertake the relevant works upon obtaining and thereafter implementing the planning permission now sought. The company further undertakes, in so far as it is able, to ensure that all vehicular traffic travelling to and from the site shall only use the "permitted routes", that is to say, Wyke Lane and Pound Farm Lane.

15. The explanatory notes otherwise indicate that the site access road would be a private road, the first 15 m beyond its junction with Pound Farm Lane to be tarmacadamed and the remainder constructed with stone. Under the heading "conclusions and recommendations" permission is sought to commence the borehole "not later than three years from the date the planning application is granted" and "to drill and evaluate the borehole for a period of two years from the date that the operation commences".

16. Six plans were submitted with the application (Plans A to F). Plan HFI B showed the location of the site at a scale of 1:10,000. Plan HFI A indicated the area of land involved, at a scale of 1:2,500, and also the proposed works on Wyke Lane and Pound Farm Lane. Plan HFI C showed the layout of the rig site

at 1:500. This indicates that about ⅓ of the site, comprising land at the top of the slope towards its western boundary, would be utilised to store topsoil and for a static water tank and so-called "flare pit". The remainder would be levelled by cut and fill to achieve a general level of 76 m above sea level, 4 m above datum at the lower, eastern end of the site, and surfaced with stone. The borehole would be drilled at the centre of the site, mudpits dug between the levelled area and the stockpile of topsoil and a retaining bund and interceptor ditches provided around the more easterly part of the site.

17. Plan HFI H showed the proposed access road at 1:500. This indicates that the road would lead off the carriageway of Pound Farm Lane on a curved alignment, inhibiting turning movements to and from the south. New fieldgates would be positioned some 5 m beyond the highway verge. Beyond these a 10 m turning bay would be set within Kiln Copse which, in common with the first 15 m of the road, would be tarmacadamed. A security hut would stand within the turning bay. I was advised at the inquiry that trees shown on this plan as "beech" are in fact birch. Plan HFI E shows the permitted route for vehicles travelling to and from the site. The sixth plan, unnumbered, illustrates the typical layout of a drilling site employing a Bolden 61 Rig.

18. Subsequent to the submission of the planning application, the County Planning Officer wrote to the company's agents, on 25 January and 13 February 1984, requesting certain further information (Docs 8a and 8c). In his second letter he advised, inter alia, that the depth of the turning bay should be increased to accommodate an articulated lorry. The company responded to this and other points raised by letters dated 1, 3, 8 and 20 February, 25 April and 4 May (Docs 8b to 8d and 8f to 8h). The letter dated 1 February stated that "it is intended that the Bolden 61 Rig shall be employed to drill the hole, but should this rig for some reason become unavailable, a quieter smaller rig would be used". By letter dated 3 February, the company's on-shore activities manager stated:

> With regard to the drilling of the well, we intend to use exactly the same arrangement of equipment as you have permitted us to use on the Palmers Wood location, in the event that we need to test an oil discovery. Should a gas discovery be made, the arrangements will be very similar but I would need to flare the gas rather than vent it as has been done at Palmers Wood. At this stage it is really impossible to go into this, until a discovery has been made.
>
> With regard to the direction of any testing, you are correct in believing that initial testing (drill stem testing) is normally confined to daylight hours and only lasts for a couple of days per zone of interest (not usually more than 4 zones). Should any of these tests look promising we would then require, once we had more permanently equipped the well, to run a prolonged flow test, such as one being carried out at Palmers Wood now.

19. By letter dated 8 February the company confirmed that specific locations had been identified "for the temporary storage of topsoil and subsoil arising from the earthworks associated with the access road", that "these are to be positioned to avoid any of the mature trees within the area" and that "no further areas shall be used for stockpiling unless specific agreement is reached with yourselves". An accompanying 1:500 plan, HFI-Ha, indicated the various stockpile locations. By letter dated 20 February the company agreed that sight lines at the junction of the access road with Pound Farm Lane should be shown on the drawings and no obstruction over a metre in height above the kerb line permitted in that area, that "the depth of the turning bay shall be increased to 15 metres", that "construction vehicles and operatives' cars shall be parked within the boundary

of the compound" and that "the storage of all equipment and all materials shall be within the confines of the fenced areas as detailed upon the plans within the application". An attached plan, HFI-Hb, showed the sight lines to be achieved at the junction, but did not show any increase in the depth of the turning bay. Trees on the plan identified as "beech" are, again, birch (Plan G).

20. The company's letter of 25 April revised certain figures given under the heading of "traffic generation" in the notes accompanying the application. The letter of 4 May enclosed a further 1:2,500 plan, HFI-Aa, (Plan H) incorporating "all the latest requirements by the County Engineer" and stated that "this plan should supersede earlier editions".

21. In refusing planning permission for the proposed development the County Council referred to "the application...dated 20 January 1984 amplified by letters dated 1 February 1984, 3 February 1984, 8 February 1984 and enclosed plan, 20 February 1984 and amending plan and 25 April 1984". No reference was made to the company's letter and plan of 4 May. It was agreed by the principal parties to the inquiry that, in the matter of plans, the relevant plans to be looked at in conjunction with the application are:

HFI-B	1:10,000	location plan
HFI-Aa	1:2,500	site plan (in substitution for HFI-A)
HFI-C	1:500	engineering and sections (rig site)
HFI-Hb	1:500	access route (in substitution for HFI-H)
HFI-E	1:10,000	prohibited routes

but that plan HFI-Hb should have shown the turning bay extended to a depth of 15 m and the trees marked "beech" as birch.

22. It was further agreed that:

i. The description of the proposed development in the county council's notice of refusal (Doc 10c) represents a fair summary of the company's intentions.

ii. Notwithstanding the reference in the refusal notice to the site as having an area of about 1 ha, the application relates both to the land required for the rig and for the improvement and construction of the access thereto from Pound Farm Lane.

iii. Subject to the information given by the company as to the type of rig to be employed, in its letter of 1 February 1984, the equipment and services to be installed at the rig site, if planning permission were granted on the present appeal, including buildings, would be covered by Classes VIII or XIX of the General Development Orders.

iv. Notwithstanding such construction as might be placed on any reference in the application documents to 'testing', the present application extends to cover drill stem tests and subsequent continuous flow or pumping tests, only, from the exploratory borehole, and does not cover any longer term 'appraisal' of such reserves of hydrocarbons as may be discovered.

23. Further particulars of the proposed development given to me during the inquiry concern the construction and height of the Bolden 61 Rig, the measures for testing any gas which may be discovered and the anticipated duration of the company's operations at Highwood Copse. In common with other on and off-shore rigs, the Bolden 61 is of open lattice construction, apart from the housing from which drill

pipes are suspended during "tripping" (when the drill string is withdrawn to permit replacement of the bit). The mast is 49.7 m high and stands on a drilling platform 5.1 m above ground level, the overall height of the rig structure thus being in the order of 55 m. The platform is enclosed to a height of some 10 m above ground level. The drill pipe housing is located at a height of about 35 m above ground level. Photographs 1 to 3 show the Bolden 61 Rig in position at sites in Surrey and West Sussex.

24. Only small amounts of gas, if any, would be vented at the rig site, via the 50 mm ventilation stack already referred to. Gas encountered in any quantity would be flared from an incinerator positioned in Field No 4688, to the west of the copse. The so-called "flare-pit" shown on Plan HFI C would not be used as such, but as a second tank for static water. The arrangements for flaring are described at Document 16. The appellant company considers that these arrangements would be permitted by Class IV of the General Development Order. This is disputed by the County Council, on the grounds that this would represent an extension of an operational development and is not separable therefrom as a temporary use of land. Be this as it may, the company is content to abide by a condition requiring the Council's approval for any programme of testing, of either gas or oil.

25. The anticipated duration of the company's operations is set out at Document 15. To the completion of drilling, including 2 to 3 weeks for the highway works covered by the works agreement and assuming reasonably dry weather, would take 13 weeks. Actual drilling would take 3 to 4 weeks and be continuous. A further week would be required to dismantle and remove the rig and another 7 weeks to reinstate the rig site and access road, assuming hydrocarbons are not encountered. If hydrocarbons were encountered, securing the well and drill stem testing would occupy 2 to 3 weeks. Longer term flow testing, with the rig removed, could take up to 6 months.

THE CASE FOR CONOCO (UK) LIMITED

LAND USE POLICIES

26. The proposed borehole would be drilled in accordance with the terms of Production License (PL) 202, awarded to the appellant company by the Secretary of State for Energy in 1982 under the provisions of the Petroleum (Production) Act 1934, as amended by section 18 of the Oil and Gas (Enterprise) Act 1982. Although the licensing regime then in force differed from that brought into effect in January of this year, the present planning application clearly falls to be determined in the light of the Department of Environment's Circular 2/85 "Planning Control over Oil and Gas Operations".

27. Circular 2/85 is specifically concerned with the control of on-shore exploration, appraisal and production. Its main thrust is towards the need to carefully assess the environmental implications of particular proposals, with a view to minimising their impact, rather than towards the restriction of on-shore operations. Paragraph 3 states that "in most cases it should be possible to find a solution so that development can proceed in an environmentally acceptable manner" and that only "exceptionally the environmental implications will be so great that the proposed development cannot be permitted on a particular site". Again, at paragraph 14, planning authorities are advised that "it is only exceptionally, and then for relatively small and sensitive areas, that circumstances would justify a presumption against exploration".

28. On a point of interpretation, the company disputes the County Council's view that "special policy considerations" should apply to the determination of this

appeal, in accordance with the provisions of paragraph 9, simply because the site is within the Metropolitan Green Belt. Green belts are not instanced or exampled in the text of the paragraph as "areas given protection for environmental reasons", where such considerations apply. It is evident from the reference in the paragraph to National Parks, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, National Nature Reserves and Conservation Areas, and on reading paragraph 9 in conjunction with the preceding paragraph, that the areas which the Secretary of State has in mind are "those areas where there is a strong national interest in the protection of the landscape and natural environment". In the opinion of Mr Stewart, the company's expert planning witness, the primary purpose of a green belt is to restrict and regulate the growth of urban areas. The inclusion of any particular area within a green belt does not necessarily imply that its environment has any special quality.

29. The company nevertheless recognises that the control of development in the locality is subject to the policies of the approved Surrey Structure Plan and, to the extent to which it is now in an advanced state of preparation, of the Guildford Borough Local Plan, including those pertaining to the green belt, to the protection of the environment generally and to the winning of minerals. However, it is submitted that the present proposal should be treated as an exception to the normally strict control exercised over development in the green belt, because of the national interest in the exploration and discovery of our hydrocarbon reserves, the fact that oil and gas can only be found where they lie and the temporary duration of the activities for which permission is now sought, and that these activities will have no undue impact upon the environment or the amenity of those living in the area. The Council has, in any case, permitted drilling within the green belt, at Palmers Wood and Godley Bridge. It is otherwise submitted that the County's mineral policies do not apply in this case, as they relate only to the extraction of minerals, not to their discovery, and because, alone amongst mineral planning authorities in South-East England, the Council does not have any policies concerned specifically with oil and gas operations.

30. The County and Borough Councils' policies pertaining to development within or adjoining Areas of Outstanding Natural Beauty (AONB), Great Landscape Value (AGLV) and High Ecological Importance (AHEI) are noted. However, although the appeal site lies fairly close to an AGLV and AHEI, it is not within and does not adjoin either area. In any event, the permitted drilling at Godley Bridge is within the Surrey Hills AONB, and Policy CE43 of the Local Plan, which is the only reference to the control of development on land "adjoining" such environmentally sensitive areas, is concerned with the design of development, not its restriction.

31. The company contends that the proposed drilling of an exploratory borehole in Highfield Copse is not in conflict with any of the approved or emerging policies applying to the locality, that its operations will not have any undue impact upon the environment of the area or the amenity of local residents and that, in view of the national interest in the exploration and discovery of our hydrocarbon reserves, the appeal should be allowed. The company readily agrees to abide by the conditions agreed with the County Council, in the event that permission is granted.

THE NEED TO EXPLORE FOR HYDROCARBONS

32. Successive Governments have sought to encourage the full exploration of our mineral resources, including hydrocarbons. The latest expression of Government policy in this respect is found in Circular 2/85. Paragraph 4 draws the attention

of mineral planning authorities to the strategic and commercial arguments in favour of an active exploration and appraisal programme for oil and gas and concludes that "exploration and appraisal activity is therefore a sound preparation for the future, provided that it takes proper account of environmental considerations".

33. The need to balance oil and gas development with environmental considerations is appreciated. However, it is submitted that in any such exercise the national interest in the discovery of our oil and gas reserves should not be in dispute. The company should not be expected to demonstrate that the national interest is any more, or less, pressing in one location than in another. Indeed, in the case of exploration and appraisal, it would be impossible to assess the potential value to the national economy of any hydrocarbons which may be discovered, before their presence and quantity is known.

34. The contrary views of many local residents and of David Howell MP, that the present world surplus of petroleum and recent discoveries in the North Sea obviate the need to exploit our on-shore reserves, and that the national interest could well be better served by delaying, rather than bringing forward, the development of new fields, particularly in a county like Surrey, are noted. So too are the trenchant criticisms of Circular 2/85 by Professors Bowley and Scorer (Docs 4e and 4d). Nevertheless, given that this is an issue upon which the Government of the day has a clear and unequivocal policy, the present appeal must fall to be determined in the light of that policy.

35. The grant of Production Licenses under the then existing legislation was discretionary. The Secretary of State for Energy had to be satisfied that an applicant was "fit" to undertake the work involved in a competent manner. In accordance with schedule 4, clause 14, of the Petroleum Production Regulations 1976-1980, successful applicants could be required to drill a given number of exploratory boreholes within the 4 year term of the license. The boundaries of the company's license PL 202, as also those of adjoining PLs and Exploration Licenses (XLs), are shown on Plan J. They are within the general area of the Wessex Basin, one of the sedimentary basins underlying mainland Britain with hydrocarbon potential. PLs 202 and 203, granted simultaneously, confer exclusive rights on the company to search, bore for and get petroleum in parts of Surrey, Hampshire and West Sussex. The company is required to drill not less than 3 boreholes, in total, in these 2 areas, including at least one in each area, effectively by February 1986. To date it has drilled one borehole, at Godley Bridge, and obtained planning permission for a second, at Dunsfold. Both these locations are within PL 203.

36. Seismic investigations carried out by the company indicate the presence of an anticlinal or mixed anticlinal and fault feature, capable of harbouring hydrocarbons, in the Normandy area. It is believed to extend some 4 km east to west and about 1.6 km north to south. Its existence was known to the County Council's Planning Committee when it considered the present application, though the company had mistakenly advised the Council that it measured some 2.5 km by 1 km (Doc 10a, para 5.1). Further, more detailed, information has since been given to the County's geologist, including the corrected dimensions of the geological feature, and is not in dispute. The structure is unrelated to, and wholly separate from, the structures at Godley Bridge and Dunsfold.

37. The only known method to finally determine whether or not hydrocarbons are present in a structure such as that thought to underlie the Normandy area is to deep drill a borehole which penetrates the structure at its highest point. This is believed to be directly beneath, or in close proximity to, Highfield Copse. Deviated drilling, from a rig positioned at some distance from the copse, would be technically possible. However, direct drilling is always to be preferred,

as this yields geological information which can be more readily compared with the results of seismic investigations. This is of vital importance to the wider search for hydrocarbons, even if the well is found to be "dry". The greater the angle of deviation, the less useful this information will be.

38. Geological data is inevitably the first consideration in determining the most appropriate site for any exploratory borehole. Other considerations are those of environmental impact, access and land ownership. Discussion of the environmental impact of the present proposal follows. The appeal site admits of satisfactory access from the A323 via Wyke Lane and Pound Farm Lane, subject to the works covered by the works agreement with the County Council. Subject thereto, the County Engineer considers that there is no sufficient ground to object to the present proposal (Doc 10a, para 5.6). Indeed, there is no dispute between the represented parties to the present proposal as to the adequacy of the access arrangements, at least in terms of providing for the movement of vehicles between the site and the A323. The land required for the rig site is in the ownership of Lord Taylor of Hadfield, who supports the company's endeavours (Doc 5a). The owners of the land required for the construction of the access road from Pound Farm Lane have not objected to the proposal.

ENVIRONMENTAL IMPACT

39. Conoco is a major international energy company, producing and marketing crude oil, natural gas, coal and a wide variety of petroleum based products. In all its activities, the company prides itself on its awareness of environmental issues and of the need to consult with local communities. In the United States, Conoco has received various awards in recognition of its care for the environment, including the Department of the Interior's First National Safety Award for Excellence for showing "the utmost concern for environmental protection and safety" in 1983 (Doc 13, page 5). To emphasise the seriousness with which the company views environmental protection, an internal award has recently been introduced, known as the Chairman's Award for Conservation.

40. In Britain, where Conoco commenced operations in 1961 and which now represents the company's biggest area of energy investment outside the United States, its concern for the environment is evident in the treatment of the Viking Gas Terminal in Lincolnshire, the Humber Refinery at South Killingholme and the oil supply base and Northern Operations Headquarters at Aberdeen.

41. In south-east England, where the company has been involved in the discovery and appraisal of hydrocarbon reserves since 1979, it has to date drilled 7 wells (Doc 13, pages 3 and 4). The Chairman of Kent County Council's Planning Sub-Committee has written to the company in connection with its exploratory borehole at Iden Green, saying that "if the minerals industry as a whole attained your high standards and level of consultation, then many fewer problems would arise and the task of planning authorities would be much easier" and, regarding the restoration of the site, that he had "every confidence this will be accomplished to a high standard, as at your previous drilling sites in Kent" (Doc 17b). In connection with another borehole, at Wallcrouch in East Sussex, the County Planning Officer has written that:

> I must congratulate your company for the excellent way in which you carried out this development and met the rigorous planning conditions which were attached to the consent. I am quite sure you appreciate that this high standard of performance by your company on-site is most helpful in alleviating concern which both the County Council and the local community may feel in respect of adverse impact of exploratory oil boring (Doc 17a).

A further letter, from the Chairman of Ticehurst Parish Council, thanks the company for its ready co-operation with local residents during the drilling and testing operations at Wallcrouch. The Council was "unable to think how things could be improved". The company's attitude had resulted in "a singular lack of hassle or disruption" (Doc 17d).

42. The present proposal represents the company's second attempt to site an exploratory borehole in the vicinity of Highfield Copse. In January 1983, following meetings with the local community and representatives of Guildford Borough Council, planning permission was sought to drill from a site on open land at the edge of the copse, some 200 m south-west of the present appeal site (Doc 53, Plan L). That application was refused for much the same reasons as has been the application now before the Secretary of State. Despite the fact that Guildford Borough Council offered no objection to the proposal, and the County Council's officers had recommended approval, the company honoured an undertaking given to local residents that it would not appeal against a refusal of permission.

43. The present site has been selected in order to overcome the objections to the previous scheme, in terms of distances from dwellings on Pound Farm Lane and Green Lane West and improved screening, and by re-routing the access road via Kiln Copse, rather than directly to Green Lane West. As previously, and in anticipation of the advice given at paragraph 15 of Circular 2/85, representatives of the company have attended a meeting of Normandy Parish Council, in November 1983, and, in February 1984, a meeting called by the Pound Farm Lane Action Group, to explain and discuss the proposal. Additionally, letters were written to individual residents in the locality (Doc 7f) and various conservation and environmental groups informed of the company's intentions (Doc 7g). The application was accompanied by a report commissioned from Acoustic Technology Limited on background noise in the vicinity of the site and predicted noise levels (Doc 7e) and by a description of the mode of operations and an assessment of their environmental impact by John R Lawrence and Partners (Doc 7d).

44. On receipt of the application, the County Council consulted the Thames Water Authority, the Health and Safety Executive and other authorities. No objections were received from those bodies (Docs 9h-9k). The Council's Officers considered that the proposed site represented an improvement on that previously put forward and overcame the objections thereto (Doc 10a, paras 5.20 and 5.28). Subject to the conclusion of agreements in respect of highway matters and to certain conditions, they recommended that permission should be granted (Ibid, para 7).

45. The County Council appears to have based its decision to refuse planning permission upon the objections of local residents. That is its privilege. However, it should be borne in mind that the Council has not called on any of its own officers to support its decision, nor indeed has the Borough Council sought to call any of its professional staff. There are 2 further points of principle which should necessarily inform the determination of the present appeal.

46. Firstly, the permission sought is temporary, and the effect of the operations and activities involved on the character and amenities of the area will be short lived. Secondly, in accordance with the advice given at paragraph 20 of Circular 2/85, the present application falls to be considered solely on its merits, and should not be influenced by any hypothetical future development. Historically, less than 10% of all exploratory wells drilled in Britain have led to production. Be this as it may and notwithstanding the scope of the company's license, the appraisal of any field discovered would be the subject of a further planning application, as would permission to produce and distribute oil from the field.

47. The submissions on behalf of the Action Group and others, that the advice given in the circular on this point may be ultra vires and that the possibility of future development is a material consideration in determining any planning application, are noted. However, unless and until a successful challenge is mounted in the Courts, the present appeal must be determined by reference to the clear advice given in the circular. The Government's views regarding hypothetical future development were foreshadowed, in almost identical terms, in paragraph 19 of the consultative circular and were well known to the company in preparing its case for the present inquiry. Indeed, its response to the objections of the County Council and local residents in respect of such development is wholly based on the circular's advice. Were the Secretary of State now to decide that this matter was a material consideration, the company would have been seriously misled.

48. Secondly, it is submitted that it is the merits of the proposed site, only, which fall to be considered. It is appreciated that where possible alternative sites for a given proposal are canvassed at an inquiry, due account may be taken of their relative merit. However, none of the parties to the present inquiry have sought to prove that any particular alternative site would be more appropriate than that now proposed. A number of local residents would appear to favour the adoption of the site first identified by the company, rather than the site in Highfield Copse. However, other than that this site is on open land, they have not sought to substantiate their views and the attitude of the Action Group is, in principle, against any drilling operations in the locality. In any event, the Council's officers clearly favour the present site against the former.

49. The County Council has suggested that the Normandy area might be explored from a site to the north of the copse, within the area licensed to Rio Tinto Zinc. Again, the Council has not canvassed the merits, or assessed the likely environmental impact, of any particular site. Furthermore, apart from the disadvantages of deviated drilling which the adoption of such a site would entail, RTZ hold an Exploration License which does not permit deep drilling. The appellant company has sought to identify the best site for its purposes, both from the technical point of view and that of environmental impact. It is not incumbent upon the company to put forward alternative sites.

Rural character and appearance of the site's surroundings

50. Subsequent to the environmental assessment prepared by John R Lawrence and Partners, accompanying Conoco's planning application, the company has commissioned a more detailed study from Environmental Resources Limited (ERL), specialist consultants in the field of environmental impact assessment (Doc 24). The visual impact of the proposed development on its surroundings is discussed at pages 39 to 45 of ERL's report. Mr Dean, a Principal Associate of the firm and previously in charge of the Environmental Planning Department of the British Gas Corporation, considers that the development would not have any significant impact upon the rural appearance of the locality. It may be noted that the Council for the Protection of Rural England, although advised of the proposal by the company, has not chosen to object.

51. The upper part of the rig would be seen above the trees of Highfield Copse from a number of residential properties and various other vantage points in the vicinity, for the 3 weeks or so that drilling would be taking place and prior to its being dismantled and removed. It should not be seen from the AGLV or AHEI to the south of Green Lane West. In any case, the mast is of simple functional design, and not unattractive. From further afield, it would be visible on clear days from The Hog's Back, within an extensive landscape of considerable diversity. Again, its impact would be slight and restricted to the few weeks during which

the rig was on site. Photographs 4 and 5 show the mast superimposed on 2 views from The Hog's Back, at points A and B on Plan P.

52. The mast would not, as some residents suppose, be floodlit. Approximately 3 lights of the fluorescent tube variety would be fixed to the side of the structure and directed towards the centre of the mast framework. The highest of these would be about 40 m above ground level, its illumination equivalent to that of a street light. There would be a small red light at the top of the mast. Photographs 6 and 7 indicate the expected appearance of the rig when seen at night-time from The Hog's Back.

53. All other equipment and buildings at the rig site would be screened by the woodland and, other than from the footpaths through the wood, which are not public rights of way, should only be seen, at some distance, from the superior vantage point of The Hog's Back in the vicinity of Wanborough. The clearing within the woodland would also be visible from this point, as indicated on Photograph 5. The passage of vehicles on the access road to the site would be seen from Pound Farm Lane and Green Lane West and, possibly, The Hog's Back, as they skirt Kiln Copse and, briefly, when crossing the open land between Kiln Copse and Highfield Copse. Again, they should only be noticed during particular phases of the operation, as when stone was being brought in or out, and their movement would be restricted to normal working hours. The track itself should only be seen from the point of access to Pound Farm Lane. It is appreciated that the passage of vehicles would also be observed on the permitted route to the site from the main road. However, even during the build up to drilling, when stone and equipment were being brought in to the site, Mr Forsyth, the company's expert witness on engineering matters, estimates that the number of heavy goods movements should not exceed 2 per hour. In the evenings and on Saturday afternoons and Sundays, when ramblers and riders may be expected to be out on the lanes, no heavy goods vehicle movements would be permitted.

54. The company would expect, and readily accepts, that any grant of planning permission should be subject to a condition requiring the reinstatement of the access track and restoration of the woodland, following the completion of its operations. ERL has prepared a restoration scheme which, it is understood, is acceptable in principle to the County Council (Doc 25). Topsoil and subsoil would be stripped from the track and rig site and separately stored. On completion of drilling and subsequent testing, if required, the stone would be removed from the rig site and track, apart from the short section of the track through Highfield Copse, which the owner wishes to retain. The rig site would be restored to its original contours, the soil replaced and the area stocked with like species. Following planting, the site would be managed for a minimum period of 5 years, with a view to promoting the growth and propagation of the formally characteristic range and density of species, and competing species weeded out. The opportunity would also be taken to monitor progress in varying management situations, to enhance present experience and knowledge of woodland restoration.

55. Soil removed from the access track would be replaced. The route of the track has been designed to minimise any damage to Kiln Copse. However, oak and ash transplants and cuttings would be planted along the route, where it passes through the copse and, where it borders agricultural land, the reinstated surface seeded with a mix of agronomic grasses and fertilised.

56. The proposed improvements to the permitted access route to the site from the A323 make provision for verges to be protected or re-seeded and, in the case of the set back to the eastern side of Pound Farm Lane beyond its junction with Wyke Lane, the planting of a new hedge. Greening up of any exposed soil should

be expected to take place in the course of the summer months following re-seeding, and colonisation sufficient to remove any sign of the works within, say, 2 years. Thus, though roadside vegetation might exhibit a temporary loss of vigour and attractiveness, no permanent effects likely to have an impact on the local landscape are anticipated.

57. The concern expressed by the Action Group and others at the felling of part of Highfield Copse is appreciated. However, this should be viewed in the context of the overall extent of the woodland, of which the rig site represents no more than 7%, and of the considerable extent of the remaining broad-leaved woodlands in the county as a whole (Doc 22, page 35). In any event, Guildford Borough Council granted outline planning permission for a 9 hole golf course on the site of the copse in 1974 and in 1977 the Council's Planning Officer wrote to the owners that he saw "no objection to the felling of the majority of trees in this derelict wood" (Doc 36a). A felling license was subsequently issued by the Forestry Commission (Doc 36b). The Commission has more recently advised the owners of Kiln Copse that it is prepared to issue a license for the felling of trees in part of this woodland (Doc 35a).

58. It is accepted that it would take a good number of years for the rig site to regain a canopy and ground cover which was closely comparable with that of the surrounding woodland, assuming that the surrounding woodland remained undisturbed in the interim. However, by utilising existing stools reserved when the site was cleared mixed with nursery grown trees, the site would rapidly regain a generally wooded character. Once new foliage had appeared on the trees at the margins of the site it should be difficult to identify the site within the local landscape.

59. It is further accepted that, subject to the detailed timing of the drilling operation, weather conditions and the need to test the flow of any hydrocarbons which may be encountered, the restoration of the rig site and reinstatement of the access track might not proceed until the spring of the year following the commencement of operations. Even so, all works should be completed and the company's presence in the area at an end within about a year of its arrival. In sum, the impact of the proposed works upon the character of the locality would be short term and should have no noticeable permanent effect upon its rural appearance.

Ecology of Highfield Copse and Kiln Copse

60. ERL's assessment of the environmental impacts of the proposed borehole (Doc 24) is supported by an ecological survey of Highfield Copse and Kiln Copse, carried out by the same firm in September 1984 (Doc 28). This includes a systematic survey of ground flora at 20 locations on 4 transects through the rig site (Ibid, page 8) and of the upper canopy layers within 6 belt transects across the site (Ibid, page 16). Further investigations record the variety and abundance of vascular plant species elsewhere within the 2 woodlands (Ibid, pages 21-23 and 27).

61. Forty-six vascular species are recorded within the rig site, in varying numbers. This figure is not challenged by Dr Lindley, the expert witness called by the Action Group and others. Investigations elsewhere within Highfield Copse, supplemented by subsequent observations, have identified a total of 92 species (Doc 30). The difference between this figure and the total for the woodland as a whole observed by Mr Hall of Countryside Action and local people (125) is largely accounted for by the fact that ERL did not count plants growing on, and on the margin of, the trackway along the southern boundary of the wood. Many of these

are characteristic of rough grassland, rather than woodland (Doc 31). 45 species were found growing in the ground vegetation on or near the route of the proposed access road through Kiln Copse. This is compatible with the total number of all species found in the copse by Mr Hall and others (72).

62. Of the vascular species found within the rig site only one, Orchis mascula, was not encountered elsewhere in Highfield Copse. It was inconspicuous, being quite dried up, and could easily have been overlooked in other locations. The only relatively rare species likely to be disturbed by the drilling operations is the sedge Carex strigosa, found on the route of the access road at the entry to the copse. This would be transplanted prior to the construction of the road. Carex strigosa is in any case encountered in at least 5 separate clusters in Kiln Copse. The 3 orchids referred to by Mrs Kempster are not protected species. Some specimens might be disturbed by the construction of the roadway. However, others flourish elsewhere in the copse.

63. The company notes the discovery of the non-vascular basidiomycete Sistotrema oblongisporum by Dr Reid, thought to be in the locality of the rig site. Dr Reid writes that, while this is a new British record, "it is probably quite common, but people just do not go round collecting greyish-white films on fallen branches, especially since most mycologists, who are not specialists in the group, find them exceeding difficult to name" (Doc 29, appendix 8). Again, Dr Lindley writes that "if you send a pack of experts into almost any site they will come up with some species of interest" (Ibid, appendix 12). Of the bryophytes recorded by Mr Wright of Royal Holloway College, Mr Wright states that "none...are individually of particular note" (Ibid, appendix 7) and Dr Lindley that "no rare species are recorded" (Doc 33, para 11).

64. The company does not dispute Dr Lindley's finding that the woodlands are "species rich", but would rely upon his conclusion that "of the plant species recorded, none would be regarded as truly rare or endangered in a county or national context" (Doc 33, para 10). The impact of the proposed operations would, in any case, be restricted to the rig site itself, which represents only about 7% of the overall area of Highfield Copse, and to the route of the access road. As already stated at paragraph 54, the company's restoration programme is specifically designed to promote the growth and propagation of the range and density of plant life now found at the site and includes provision for research into woodland restoration. It is envisaged that the site would in due course be colonised by species left undisturbed in the surrounding area. Dr Lindley accepts that the programme is "well designed and would probably achieve the best results possible" (Ibid, para 18).

65. Measurement of coppice poles and ring counts indicate that Highfield Copse was last coppiced some 30 years ago (Doc 28, page 19). It is described by the Forestry Commission as "derelict woodland" and "in desperate need of management" (Doc 29, appendix 5). The Commission nevertheless believes that the copse "can still be brought back into economic and attractive woodland" by thinning, selective felling and re-planting. The present richness of plant life reflects the fact that the copse has been neglected for many years. An active management programme would inevitably have a considerable impact upon both the flora and fauna of the area, whether or not the proposed drilling operations proceed.

66. It is accepted that there is a general absence of species characteristic of secondary woodlands in Highfield Copse and that measurements made of the girth at ground level of oak standards and coppice stools suggest that the copse is of some antiquity. Mr Dean nevertheless disputes the claim made by the Action Group and others that Highfield Copse represents "ancient woodland", that is to

say, that it has been continuously planted since before 1600 if G F Peterken's classification is adopted, or 1700 if Rackham's classification is preferred. Its site is not shown as woodland on the Ordnance Survey of Surrey of 1811 (Plan Q) and as only partly wooded on Greenwood's Map of Surrey of 1823 (Plan R). The present area of the copse first appears as woodland on the 1839 Tithe Map and is there described as "Great High Field Plantation" (Plan S). It therefore seems probable that the copse was first planted during the first 2 or 3 decades of the 19th century. This is consistent with the ridge and furrow patterning of the woodland floor, indicating that the area was under the plough in Mediaeval times. Certainly, the copse is not "primary" woodland, in the sense that its tree cover should be supposed to derive from Britain's primaeval wild woods.

67. Dr Lindley initially took the view that "the woods appear from cartographical evidence to be of comparatively recent origin" (Doc 32). It is submitted that the botanical evidence upon which he has revised his opinion is by no means conclusive, there being nothing exceptional about the range of plant species which has been recorded. Be this as it may, the Nature Conservancy Council has not objected to the proposed development, although consulted by the company and evidently aware that the site might be within ancient woodland (Doc 37a).

68. There is no evidence of unusual fauna in either copse. Any birds or animals disturbed by the operations should be expected to seek refuge in one of the several nearby woodlands. With regard to birds, it may be noted that the nightingale is not listed in the Surrey Bird Recorder as rare, that Dr Lindley considers it unlikely that visiting and passage birds such as hobby and grey heron "will be significantly effected by the proposals" (Doc 33, para 15) and that the Royal Society for the Protection of Birds, although consulted by both the company and the Action Group, has not seen fit to object to the proposal (Doc 29, appendix 15). Regarding animals, Dr Lindley advises that the list of mammals and reptiles recorded by Mrs Wyllyams "is no more than one would expect from any such area of Surrey" (Doc 33, para 14) and that of insect species found in the woodlands "none is particularly rare in the county" (Ibid, para 16). The badger set near the entry of the access road into Kiln Copse appears to have been abandoned.

69. In sum, it is submitted that while Highfield Copse and Kiln Copse harbour a variety of flora and fauna, neither woodland has been designated as an SSSI or is of any exceptional interest. The company's proposal would not, in any case, have any undue impact on the ecology of these woodlands and its restoration programme provides for the site to resume, in due course, its present character.

Local residential amenity and public safety

70. The company is well aware of the need to minimise the impact of any development in the area on residential properties, even for the temporary duration of the proposed works. As already indicated, the choice of the present site was specifically intended to counter residents' objections to that first proposed, by distancing the rig from dwellings, improved screening and re-routing the access road. The borehole would be some 400 m away from the nearest dwellings, on Green Lane West and Beech Lane (Plan I.) and the access point some 80 m from the nearest dwellings on Pound Farm Lane. The visible impact of the on-site operations upon the outlook from properties in the vicinity would be restricted to that of the upper part of the rig, above the surrounding woodland, and the presence of construction and other vehicles on the access road. The re-routing of the access road has effectively relieved properties on Green Lane West, as well as Pound Cottages and Pound Farm House, from possible disturbance by traffic travelling to and from the site.

71. It is submitted that the fears of local residents in respect of possible inconvenience, diminished recreational enjoyment of Pound Farm Lane and other roads in the locality and the likelihood of a vehicle breakdown on Pound Farm Lane coinciding with some domestic emergency, or an emergency at the rig site, are exaggerated. The company readily agrees that the grant of permission should be subject to a condition restricting the hours during which commercial vehicles shall enter or leave the site (Doc 52, condition 7). Pound Farm Lane and Wyke Lane would therefore be free of such traffic on Saturday afternoons, Sundays, and, on the other days, after 7 pm. These are the times at which local people might be expected to be out walking or riding on the lanes in any number. At other times, the number of heavy vehicle movements in or out of the site would generally be no more than 2 per hour. Even during the 3 days over which the rig and other equipment would be imported to the site, Mr Forsyth estimates that there would be an average of not more than 36 heavy goods vehicle movements per day (Doc 26a)

72. The approach route from the A323 is generally straight and of more than adequate width to accommodate the widest loads to be brought into the site. Mr Forsyth has checked that the curve of the only sharp bend, to the north of Wyke Farm, will allow for the sweep of articulated vehicles and that vehicles will be able to pass through the farm without damage to roadside buildings. The works agreed with the Highway Authority will improve forward visibility on bends and permit the passage of vehicles on Pound Farm Lane. The Council's professional officers have concluded that "there would seem to be no sufficient highway reason to object to the proposal", that the agreed highway works "would not change the character of the area but would result in a permanent enhancement of the roads in question" and that "they should also ensure that emergency vehicles are not obstructed from gaining access to Green Lane West throughout the development" (Doc 10, para 5.6).

73. It is accepted that vehicles taking stone to and from the site during site preparation and restoration would be sub-contracted. The company would nevertheless be conscious of its overall responsibility for all activities associated with the development, and that its reputation was at stake. Referring to certain undertakings given by the company to Witley Parish Council in connection with the movement of vehicles to and from its drilling site at Godley Bridge, the Chairman of the Council has written to confirm that:

> These undertakings were adhered to and as a result neither the Parish Council, through the Council Office, or to me personally, were there any complaints about the movements of Conoco vehicles (Doc 17c).

74. It is also accepted that a mishap occurred when the KCA rig was being taken to the company's site at Iden Green. This involved a somewhat larger load than any required to transport the Bolden 61 Rig. The company has nevertheless learnt from the experience. In his subsequent letter the Chairman of the Planning Sub-Committee writes:

> I understand that this was the first time the rig has been deployed and that valuable experience will have been gained...so that similar problems can be avoided elsewhere. Our officers and the police have made recommendations to you in this respect, which I am sure you will take fully into account (Doc 17b).

75. In the unlikely event of any breakdown during site preparation or restoration, a breakdown vehicle would be permanently stationed in the turning bay at the entrance to the site. Special loads during mobilisation and demobilisation of the rig would be preceded by a second traction unit and their movement regulated

in accordance with a scheme to be agreed with the police. Only one vehicle at a time would be allowed access to Wyke Lane and Pound Farm Lane and "holding points" arranged, for example at the M3 Fleet Service Area and North Camp railway station. If, even so, a large vehicle became immobilised on Wyke Lane, alternative access could be gained to Pound Farm Lane via Harpers Road.

76. The possibility of a blockage of Pound Farm Lane coinciding with some emergency at one of the dwellings on this road or on Green Lane West, or at the appeal site, must be regarded as highly improbable. Safety at the site would necessarily be regulated in accordance with the requirements of the Department of Energy and Health and Safety Executive (Doc 19). Conoco has drilled upwards of 1,200 wells in the past 5 years, without serious incident in the form of a "blowout" (Doc 18).

77. With regard to possible disturbance from noise arising either in the course of site preparation or actual drilling, the County Engineer (Environmental Noise) considers that the impact of the present proposal will be little different to that of the company's earlier application, in respect of which he concluded: "I do not feel that it is unreasonable to allow such activity for the limited period involved". More particularly, he considered, again in respect of the earlier application, that "the continuous noise inside bedrooms will not be excessive and is unlikely to cause any disturbance" (Doc 9c).

78. Subsequent to the report by Acoustic Technology Limited (ATL) which accompanied the present application, the company has commissioned a second, more detailed, report from the same firm. This was submitted to the inquiry by Mr Gilbert, an independent consultant on transport and the environment and the author of many technical papers, articles and reports on the subject of noise. His proof of evidence, to which ATL's second report is appended at DAG6, is at Document 39. ATL has measured existing L_{10} and L_{90} noise levels at 4 residential locations in the vicinity of the appeal site, including Bushy Lees Cottages, the nearest dwellings to the proposed borehole, and extrapolated L_{eq} levels therefrom. The results are summarised by Mr Gilbert at DAG3. It is anticipated that noise levels at Pound Farm Cottages, the nearest dwellings to the access point to the site from Pound Farm Lane, will be within the same range.

79. ATL has otherwise predicted noise levels likely to arise as a result of, firstly, drilling and well evaluation activities and, secondly, road construction and site preparation, at the same 4 residential locations and also at Pound Farm Cottages, allowing for their distance from the activities concerned and ground attenuation. The results are summarised, respectively, at DAG4 and DAG5. All predictions are for "free field" noise levels in calm conditions and, in the case of DAG4, based upon the use of the Bolden 61 Rig, including brake squeal and tripping as well as drilling ahead.

80. Mr Riley, representing the Action Group and others on noise matters, finds no reason to question either the measurements made of existing noise levels or the data used to predict anticipated noise levels at residential locations. His reservations as to the predicted figures concern the need to take account of the "facade effect" of the dwellings themselves, which would add 2-3dB(A) to the free field levels, possible wind and atmospheric effects, and variations in the height of the noise source above the points of reception. Mr Gilbert accepts that an allowance should be made for the facade effect, but does not accept that wind and atmospheric conditions might increase predicted levels above existing by as much as 10dB(A). The effects of wind on noise propagation are asymmetric. Typical effects for light to moderate winds are +3dB(A) downwind and -8dB(A) upwind. Furthermore, wind tends to raise the existing continuous noise climate more than it does isolated or intermittent emissions from specific noise sources. ATL has

allowed for variations in topography between the rig site and noise reception points. In particular, an allowance of +1dB(A) has been built into the predicted noise levels at Beech Tree Farm.

81. Comparison of existing noise levels with those associated with well drilling and evaluation activities suggests that the latter would generally be lower than existing levels during the daytime and 7 pm to midnight period. Thus these activities may not be noticed during these periods. The only exception would be the flaring of gas, if required, at the estimated maximum rate. However, such activity would only take place during the day, and for a relatively short time. As already indicated, the company would accept as a condition of planning consent that the testing arrangements for any hydrocarbons encountered, including gas, should be agreed with the local planning authority.

82. Midnight to 7 am levels would generally be higher than existing L_{eq} and L_{90} levels, as summarised below:

Midnight to 7 am				dB(A)
Locations:	Existing		Predicted (max)	
	L_{eq}	L_{90}	L_{eq}	L_{90}
Junction Cottages	36	23	33	30
Pound Cottages	-	-	34	31
Brambles	40	20	38	35
Bushy Lees	38	32	39	36
Beech Tree Farm	33	22	40	37

However, even allowing +2-3dB(A) to take account of the facade effect, these night-time levels would be within the targets set by Circular 10/73 "Planning and Noise" and British Standard 5228, and only marginally above the higher standard adopted by Hampshire County Council for the relatively long term drilling at Humbly Grove, as set out at DAG1. Mr Gilbert concludes that the midnight to 7 am noise levels may not, in practice cause a nuisance. Drilling activities would be, and would be known to be, restricted to an overall period of some 4 weeks. Furthermore, by closing, or almost closing, bedroom windows, occupants of effected properties could reduce indoor noise levels by 20-15dB(A).

83. Comparison of existing noise levels with those associated with road construction and site preparation shows that, for the most part, these activities would not result in L_{eq} levels exceeding 57dB(A) at any dwelling, though work on the construction of the access road near its junction with Pound Farm Lane could result in L_{eq} levels reaching 67dB(A) at Pound Farm Cottages. Mr Gilbert accepts that these levels would be noticeably higher than existing daytime L_{eq} levels. However, because of their short duration and because they would be limited by an agreed condition to the daytime (Doc 52, condition 6), he considers that they would be unlikely to cause significant intrusion.

84. With regard to off-site traffic noise on the permitted route from the A323, it is accepted that the passage of heavy lorries past dwellings at Wyke Avenue, Wyke Farm and Junction Cottages would be clearly heard, giving rise to isolated peak noise levels some 20dB(A) above current L_1dB(A) levels. Mr Gilbert nevertheless considers it unlikely that these vehicle movements would cause significant nuisance. They would be infrequent, confined to daylight hours and limited in duration.

85. In sum, it is submitted that the proposed development would have no undue impact on local residential amenity, either by way of noise or in any other manner, and would not endanger public safety.

THE CASE FOR SURREY COUNTY COUNCIL

LAND USE POLICIES

86. When the present proposal came before the County Council's Planning Committee the advice now contained in Circular 2/85 was not available, either formally or in terms of the consultative draft circulated in August 1984. The provisions of the draft circular have nevertheless been fully reported to the Committee (Doc 71). Councillors Mrs Cecilia Gerrard, Vice-Chairman of the Committee when the application was considered, and Sir Michael Creswell, a member of the Committee, are in no doubt that members would not have wished to determine the application differently had the circular been issued sooner. As it was, the decision to refuse permission was taken by 18 votes to 2.

87. The Government's evident purpose in publishing the circular is to focus the attention of mineral planning authorities on the need to take account of environmental considerations when dealing with applications to explore for, appraise or produce hydrocarbons. Paragraph 1 recognises that:

> There is considerable public concern about the possible effects on the countryside and local communities, and about how far it is possible to strike a balance between the exploitation of this important national resource and the protection of the environment.

Paragraph 8 advises that:

> The commercial and economic considerations that underlie particular investments are...subject to the environmental acceptability of specific projects as determined by the land-use planning system and by other environmental controls. This is true for exploration and appraisal activities as it is for commercial production.

88. The circular is also clear as to the continuing competence of mineral authorities to determine applications from the industry on the basis of their established policies. Nearly a decade ago, the Committee on Planning Control over Mineral Working remitted to the Secretary of State the question as to whether a special planning regime should apply to on-shore oil and gas. Paragraph 12 states that:

> The government believed then that the provisions operative for all minerals provided a sufficiently comprehensive and distinctive framework of control to meet the Committee's concern, and this remains the position.

Paragraph 12 continues:

> The Secretaries of State reaffirm their belief that planning decisions on on-shore oil and gas development should rest as far as is possible with mineral planning authorities...Most authorities have shown both imagination and good common sense in developing policies for hydrocarbons, and in deciding particular cases.

89. In determining the present appeal the Secretary of State will wish to take account of the policies of the approved County Structure Plan which informed the Council's decision. Policy 92, relating to minerals, provides that:

> Permissions for the extraction of minerals will only be granted if the county planning authority is satisfied that both the need for the mineral and the nature and yield of the proposed site justify extraction (Doc 21, page 118).

Policy 93 seeks to ensure that, when permissions for mineral extraction are granted, damage to the environment is minimised.

90. There are no policies specifically relating to the extraction of hydrocarbons. However at paragraph 12.17 under the heading "Silica sand, clay, petroleum and other mineral resources" the plan provides that:

> Where the need for further extraction can be proved, applications will be considered against the background of past and present workings in the area concerned and the general environment policies of the County Council (Ibid, page 120).

91. Under the heading "General Environmental Policies" Policy 70 states that local planning authorities will have regard to the environmental implications of development and that:

> Development will not normally be permitted where it would have a materially adverse impact on the environment notably in respect of its scale and visual appearance, and the noise, effluent or fumes it may emit and traffic it may generate (Ibid, page 100).

92. With regard to development in the green belt, Policy 3 provides that:

> Outside settlements in the green belt, local planning authorities will not normally permit development except for the essential requirements of agriculture or forestry, and any permissions granted will include conditions designed to restrict the use to that purpose for which it was permitted (Ibid, page 33).

93. The appeal site is included within an extension to the Metropolitan Green Belt formally approved by the Secretary of State in 1974 (Doc 22, page 4). Its green belt status is reaffirmed, in principle, in the Structure Plan, subject to the detailed definition of the boundaries of the green belt in local plans (Doc 21, Policies 1 and 2, page 32). The Guildford Borough Local Plan, placed on deposit in September 1983, shows the site as green belt (Plan N) and there have been no objections to its inclusion therein.

94. Policies 82 and 83 establish a further presumption against any new development within an AONB or AGLV "other than that required to meet the essential needs of agriculture of forestry" and permit the winning of minerals in such areas "only where there is an overriding economic necessity" (Doc 21, page 110). The site is not within an AONB or AGLV, but its location is clearly visible from the northern

slope of The Hog's Back, which forms part of the Surrey Hills AONB, while the associated AGLV extends to within 500 m of the proposed borehole. The impact of the development upon the character of these areas is therefore a material consideration.

95. Policy 85 seeks to ensure that "the extent of the tree cover in the county is maintained" (Ibid, page 111). Policy 91 establishes a general presumption against:

> Development giving rise to noise and/or vibration unless measures will be taken as part of such development to maintain the level of noise and/or vibration below that which would significantly affect the environment of neighbouring occupiers (Ibid, page 115).

96. It is submitted that the policies of the County Structure Plan are in line with the objectives of Circular 2/85, in seeking to balance the need to win minerals with environmental considerations, and provide a full and adequate framework for the determination of the present application, as they have for previous applications by the oil and gas industry. The fact that other applications have been approved, including sites within the green belt, indicates that the Council has not set its face against development by the industry, but is concerned to weigh the merits of each case. In the present case, the Council considers that further examination of the impact of the development upon the character and amenity of its surroundings will demonstrate that the grant of planning permission would be contrary to the provisions of Policies 70, 85 and 91, and therefore also of Policy 92, and contrary to the presumption against development in the green belt, as set out at Policy 3.

97. It is further submitted that, in view of the site's green belt designation, the present application should be subject to "the most rigorous examination" advocated at paragraph 9 of the circular in respect of proposed development within National Parks, AONBs and "other areas given protection for environmental reasons". The Council does not accept that the purpose of the Metropolitan Green Belt is merely to restrain the growth of London and other urban areas. Its purpose, at least in part and in common with green belt areas elsewhere in the country, is to protect the character of the countryside which it embraces. Under the heading "Role of the green belt" paragraph 6.6 of the Structure Plan acknowledges its strategic function, then continues:

> It also serves to prevent the coalescence of settlements and to protect the countryside from development. In Surrey, it has retained the character of a largely open area, mainly farmland, woodland and commons, forming a highly attractive landscape of enormous recreational value (Ibid, page 29).

Clearly, the appeal site is within an area designated and given protection for environmental reasons.

THE NEED TO EXPLORE FOR HYDROCARBONS

98. The Council appreciates that exploration for oil and gas is in the national interest. Paragraph 7 of Circular 2/85 nevertheless makes it clear that "particular investment decisions are for the oil and gas industry to justify against economic, environmental and other criteria". Again, at paragraph 8, the Government recognises that "oil and gas reserves may coincide with those areas where there is a strong national interest in the protection of the landscape and the natural environment".

In the case of areas given protection or designated for environmental reasons, paragraph 9 states that:

> It will be for the industry to show in any particular case that the need to undertake the development outweighs the environmental objections, including those arising from the factors which led to the designation of the area in the first place.

The need to explore for hydrocarbons in any particular area is thus by no means overwhelming and must be balanced against the need to protect the environment.

99. The Council does not dispute the geological information upon which the company has based its present application, but contends that this does not represent evidence of any special need to explore for oil in this environmentally sensitive area. The information given to the Planning Committee was, in any case, no more than summary and mistaken in that the size of the geological formation was understated by some two and a half times. The fact that the company has been licensed to drill for oil in the area, and is expected by the Department of Energy to drill at least one exploratory borehole by February 1986, should not be regarded as evidence of need from the planning viewpoint. An applicant for planning permission cannot claim that permission should be granted simply because he has entered into some contractural obligation to do what he wants to do. It makes no difference that this obligation is to a Government Department.

100. The fact that the proposed borehole is on the boundary of the company's licensed area is, however, a matter of concern. Mr Dean concedes that the summit of the formation in question could be penetrated by direct drilling from another site, albeit near to that proposed, and that it could otherwise be explored by deviated drilling from a site to the north of Highfield Copse, within the area licensed to Rio Tinto Zinc. Even if the drilling for oil in the area were supposed to be in the national interest, which is not accepted, there would seem to be no particular need to drill from the proposed site.

ENVIRONMENTAL IMPACT

101. It is appreciated that the present proposal represents the company's second attempt to identify an acceptable site from which to explore for hydrocarbons in the Normandy area. However, while the proposal represents an improvement, in certain respects, on that first put forward, the environmental objections remain substantial. Furthermore, the company has not demonstrated that the proposed site is the best from the environmental point of view, or better than a site to the north of Highfield Copse. The Council is not asking the Secretary of State to consider the merits of any particular alternative site, but would suggest that a site to the north of the copse might be preferable, at least in so far as it would not involve the loss of woodland and could be served from Wyke Lane, rather than Pound Farm Lane.

102. The reasons for refusal highlight the main objections to the proposal, that is to say, the impact of the development upon the rural character and tranquillity of this part of the Metropolitan Green Belt and the impact of the associated traffic upon the amenity of local residents. The Council otherwise shares the concern of the Action Group and others, and of individual residents, on ecological matters and noise and, in particular, in respect of the implications of any blockage of the access to the site from the main road for the welfare and safety of those living in the area. The Secretary of State's attention is drawn to the strength of feeling in the local community against the proposal, evident from the number

of written representations made to him and to Members of Parliament and from the number of people attending the inquiry, not just on the opening day, but throughout the proceedings. In the event that permission is granted, the Council urge that it should be subject to the condition agreed with the company.

Rural character and appearance of the site's surroundings

103. It is submitted that any assessment of the impact of the proposed development cannot be confined to the appearance of the rig while drilling proceeds and noise from the rig site, or to the loss of woodland, but must take account of the overall impact of the activities required to facilitate and sustain the drilling operation. On the company's own estimate these would extend over a minimum period of 21 weeks (Doc 15).

104. In the first instance, and for a period of some 2 to 3 weeks, earth moving and other equipment would be required to effect the necessary improvements to Wyke Lane and Pound Farm Lane, including the battering back of the embankment to Pound Farm Lane at its junction with Wyke Lane. The impact of the improvements, once carried out, upon the essentially rural character of these narrow country lanes would be permanent.

105. The rig site and access route would then be cleared, the site levelled and stone laid to form the access road and working surface of the rig site. This phase of the operations would last 6 weeks, subject the locality to the sound of tree felling and the sight and sound of engineering works involving heavy plant and machinery, and require the delivery of substantial quantities of stone. Mr Forsyth, the company's expert witness on engineering matters, anticipates that up to 126 loads of stone would have to be imported to the site in 34 tonne (gross) lorries to form the access road, and up to 187 loads to surface the rig site (Doc 26b). Bearing in mind that there would be only one permitted route to the site from the A323, over which vehicles would both come and go, and various additional vehicle movements, the preparation of the site would involve a total of some 660 heavy goods and 450 light vehicle movements along Wyke Lane and Pound Farm Lane (Doc 26a).

106. Delivery of the rig and other equipment would take 3 days and involve 108 heavy goods vehicle movements. Continuing light vehicle movements would amount to 120. The majority of the vehicles bringing in the rig assembly, drill pipes, generators and other equipment would be articulated and preceded by a second traction unit, in case of breakdown. Actual drilling would last for 3 to 4 weeks and involve a further 440 heavy goods and 1,620 light vehicle movements. During this period the rig would be seen and heard within its immediate, essentially rural, surroundings, by both day and night, and visible from The Hog's Back and other vantage points further afield.

107. If neither oil or gas were encountered, the rig would be de-commissioned and removed over a period of about a week, involving a repetition of the vehicle movements associated with its arrival. The stone would then be taken away and the land reinstated over a period of 7 weeks. Again, there would be a repetition of the engineering works and vehicle movements associated with the preparation of the site. In sum, in addition to the visible and audible intrusion of the on-site operations into this peaceful rural backwater, the successive phases of the development programme would give rise to upwards of 1,900 heavy goods vehicle movements and 2,700 light vehicle movements along the normally quiet country lanes serving the site. These figures would be augmented by some 200 movements by second traction units preceding articulated vehicles, each of which would have to travel back along the permitted route between escort duties.

108. The foregoing scenario is based upon the irreducible minimum of activities associated with the proposed development, assuming fair weather and that the well proved "dry". If oil was found, drill stem testing would take about 2 weeks and involve another 100 heavy goods and 450 light vehicle movements. Longer term testing could take up to 6 months and give rise to an average of 8 heavy goods and 14 light vehicle movements per day. Adverse weather conditions or testing would be likely to delay the reinstatement of the site until the spring season of the year following that in which operations commenced.

109. Whether the company's presence in the area was confined to the 21 weeks required to merely drill the well and restore the site, or extended over some longer period, the Council contends that the scale and intensity of the activities involved would have a significant and serious impact on the rural character of the area, wholly contrary to the protection from development which its green belt designation is intended to afford. In particular, the Council is concerned at the visual and audible intrusion of so much additional traffic on the country lanes serving the site, including large numbers of heavy goods vehicles.

110. The Council understands and shares the concern of the local residents at the prospect of the company's continuing presence in the area if hydrocarbons are encountered in commercial, or potentially commercial, quantities. It is appreciated that a further planning permission would be required to facilitate the appraisal of such a discovery. In practice, however, permission could well be difficult to resist. The company would no doubt argue that the drilling of additional wells at the site would not entail further loss of woodland, the improvement of roads serving the site, or the formation of an access track, because the woodland would be already lost and the access secured. Indeed, it might also argue that continued drilling would not involve the disturbance associated with the reinstatement of the site, at least for the time being. Again, the identification of commercial reserves would presage their eventual production. It is therefore submitted that the possible long term impact of the company's presence in this green belt location should be taken into account in determining the present appeal.

Local residential amenity and public safety

111. As in the case of the proposal's impact on the rural character of its surroundings, the Council's main concern regarding the amenity of local residents stems from the amount of heavy goods and other traffic which would be generated by the development. While it is accepted that the proposed highway works would facilitate the movement of vehicles to and from the site, it is contended that the narrow and, in places, tortuous, country lanes serving the site are inherently ill-suited to the passage of so much traffic. In their present form and limited use these lanes provide local residents with a sense of seclusion and are valued as much for their pleasant ambience as their service function. The noise, fumes and, in dry weather, dust, of traffic generated by the development would detract from the amenity of residential properties along the route and those beyond the site entrance, for whose occupants the route provides the only means of access and a source of recreation.

112. Mr Gilbert, the company's expert witness on noise matters, acknowledges that properties along the route would be affected by the noise of passing heavy goods vehicles. In fact, such traffic would give rise to peak noise levels in the order of 85dB(A) at a distance of 7.5 m from the road (Doc 39, para 6.10). This represents a quadrupling in loudness of present maximum noise levels experienced in the vicinity of, for instance, Junction Cottages (Ibid, para 7.6).

113. Local residents would not only suffer the inconvenience of having to negotiate the greatly increased volume of traffic on the lanes, but their well-being would be at risk throughout the development from the possible breakdown of one of the many large vehicles travelling to and from the site, and the consequent blockage of the road. This would be a matter of particular concern to people living on Pound Farm Lane and Green Lane West, to whose homes there is no alternative route. Indeed, the fact that these roads form a cul-de-sac is one of the features which distinguishes the present proposal from others by the industry which have come before the Council. The well-meant assurances given by the company, that it would closely supervise all traffic to and from the site, do not guarantee that nothing would go wrong. A driver's error or mechanical breakdown as occurred at Iden Green in Kent, could well block Pound Farm Lane for hours if not days. The possibility that such a blockage might coincide with some domestic emergency, with fire engines, ambulances and police unable to reach the scene, may seem unlikely. But all catastrophes are unlikely and, as often as not, result from some unforeseen coincidence of events.

114. It is submitted that the unsuitability of the access route to the site to accommodate the amount of traffic generated by the development would subject local residents to a significant loss of amenity.

THE CASE FOR POUND FARM LANE ACTION GROUP
GUILDFORD BOROUGH COUNCIL AND NORMANDY PARISH COUNCIL

LAND USE POLICIES

115. Circular 2/85 is unequivocal in the importance which it attaches to environmental considerations and existing land use policies in determining the acceptability of particular proposals by the oil and gas industry. The Action Group and others share the concern of the Secretary of State and the County Council that planning decisions on on-shore oil and gas development should rest, as far as possible, with the local authorities concerned. They note the words of the Minister of State for Energy, speaking to the Landward Oil and Gas Conference that "there is no question of my allowing on-shore oil and gas exploration and production at any price" and that he will not allow a single well to be drilled on-shore "until the full rigour of local planning law has been exercised" (Doc 70).

116. Speaking in the House of Commons, Neil MacFarlane has said that:

> It must be right that decisions on whether particular proposals are environmentally acceptable should be taken wherever possible by those elected to represent the people who stand to be most affected by them (Doc 68, 1357)

Again, in December 1984, Mr MacFarlane wrote to Mrs Virginia Bottomley MP that:

> I have to say that my essential philosophy is to leave as many decisions as possible to the mineral planning authorities for they have far more local knowledge about the environmental advantages and disadvantages of particular sites than I or my officials can possibly have (Doc 69b).

117. In the present case, the merits of Conoco's proposal have been fully discussed at packed meetings of the Parish Council and by the Borough and County Council's. The decision, in each case and therefore at every level of local government, has been to oppose the development (Docs 9f and g and 10a).

118. The approved Structure Plan policies referred to by the County Council are fully endorsed. Further thereto, the Secretary of State's attention is drawn to the relevant policies of the Guildford Borough Local Plan. This plan has been placed on deposit and was the subject of a public local inquiry in the summer of 1984, in respect of which the inspector's report is now awaited. As already indicated, the appeal site is shown as green belt on the Proposals Map. Policy GB3 of the Local Plan provides that, other than within existing settlements, "there will be a strong presumption against any new development" in the green belt, unless required for agriculture, forestry and certain other purposes, which do not include commercial or industrial development (Doc 23, page 17).

119. Policy CEI states that "the Council will resist proposals which adversely affect the characteristic landscape of the Borough" (Ibid, page 83). In explanation, the plan points out that the Borough is renowned for the quality of its landscape, but that it should not be taken for granted and is vulnerable to economic change. The Council will therefore attempt to encourage:

> A greater understanding of countryside matters including the historical and ecological value of woodlands, the value of wildlife habitats, the importance of landscape features and the problems of...agriculture.

120. Policy CE14, relating to nature conservation, provides that in Areas of High Ecological Importance (AHEI) the Council will consider all applications for development "with a view to protecting the features for which such areas are important" (Ibid, page 89). Wanborough Wood AHEI lies immediately to the south of Green Lane West, within 400 m of the rig site. Policy CE30 states that the Council will resist proposals for development which "threaten to significantly reduce the present level of woodland coverage in the Borough" (Ibid, page 96). Policy CE43 provides that the Council will be "particularly critical" of developments in or adjoining environmentally sensitive areas, including AONBs and AGLVs (Ibid, page 100). Again, as indicated by the County Council, the site lies close to the Surrey Hills AONB and associated AGLV.

121. The administrative area of the Borough, much of which is included within the green belt, is particularly vulnerable to development because of its close proximity to London. The Borough Council has therefore consistently resisted development in the green belt, in order to safeguard the rural environment. In recent years, permission has been refused for the erection of 11 dwellings and 1 dwelling on Green Lane East (Doc 60) and for a residential caravan on Green Lane West, even for a temporary period of 3 years (Doc 61). The former decisions were upheld on appeal, the inspector concluding that "the character of the area would be significantly changed with consequent detriment to the immediate area". It is submitted that similarly strict control should be exercised over the present proposals. The Action Group was formed in September 1982 in response to the company's first proposal to drill in the Normandy area. It has widespread public support and its objection to such development is shared by the Ash, Tongham and Wanborough Parish Councils, as well as the Normandy Parish Council. Approval would be contrary to the policies of the Local Plan and to the expectations of the local community and its elected representatives that the rural character of the area should be protected from inappropriate development.

THE NEED TO EXPLORE FOR HYDROCARBONS

122. The Action Group and others share the County Council's conviction that the green belt status of the appeal site brings the present case within the ambit of the advice given at paragraph 9 of the circular. It follows that the company's

proposal should be subject to "the most rigorous examination" and that Conoco should show that "the need to undertake the development outweighs the environmental objections". Be this as it may, it is clear from paragraph 7 that, in every case, the industry is required to justify the need for development against economic, environmental and other criteria. This is in line with the requirements of Policy 92 of the Structure Plan and the advice given to Cranley Onslow MP by Neil MacFarlane that "the question of need for the mineral is one which the mineral planning authority will have to be satisfied has been properly justified when considering the application" (Doc 69a).

123. Mr MacDonald, Chairman of the Action Group, challenges the wisdom of on-shore oil production at the present time, when there is a national surplus. Any oil extracted from the appeal site would therefore have to be exported at a low price. Doubtless at some time in the future demand will begin to overtake supply and the price will rise. In the meantime, it would be prudent housekeeping to leave the oil where it is. He draws the Secretary of State's attention to the recent statement by the Secretary of State for Energy, regarding our North Sea reserves, that "not only are there ample known oil reserves there for the rest of this century but, more important, the rate of oil and gas discovery continues at a truly remarkable pace" (Doc 72). The suggestion at paragraph 2 of the circular that "production of oil and gas from the North Sea is expected to peak around 1985-86" and that "new fields are needed" therefore appears unduly pessimistic. Again, writing to the Surrey Advertiser in November 1974, David Howell MP expressed his view that "in no way can it be maintained that there is a special national interest in on-shore developments or that special considerations of energy policy apply" and that "national energy policy points in the direction of deferral and delay before new on-shore wells are produced" (Doc 29, appendix 22).

124. It is appreciated that Circular 22/85 contains no precise guidelines as to how need for any given proposal is to be established. However, it is submitted that it cannot be enough for the company to rely, merely, on the supposed national need, in general terms, to identify our hydrocarbon reserves. The company has failed to indicate what special need, if any, there may be for exploring for hydrocarbons in the Normandy area.

ENVIRONMENTAL IMPACT

Rural character and appearance of the site's surroundings

125. It is submitted that the sensitivity of the Normandy area to development derives not simply from its green belt designation, but from its natural beauty and peculiar charm. The area, with its woodlands, wildlife and flowers, represents a quiet rural backwater, as yet unspoilt by industrial development or traffic, highly valued both by local residents and those from nearby villages and towns, who gain pleasure and peace of mind from walking its country lanes and bridleways. The present proposal will have a serious impact on the character of the immediate area and significantly reduce the attraction of the nearby AGLV and the Surrey Hills AONB.

126. The rig itself would be almost 50 m in height and visible from various short and longer range viewpoints, including The Hog's Back. While the mast would no doubt be well designed, on its own terms, and might well be perfectly acceptable in another context, its presence upon the appeal site would be an alien and unduly dominant feature in the local landscape, both by day, when it would be seen above the canopy of Highfield Copse, and by night, when it would be lit. The noise and visual intrusion of the associated operations would likewise have a disruptive effect upon the character of the area.

127. The intrusive impact of the large volume of traffic generated by the development, including upwards of 1,900 heavy goods vehicles, is axiomatic. The so-called improvements to the lanes leading to the site might facilitate the passage of traffic for the duration of the company's activities, but would detract from the rural character of these roads and, in environmental terms, would represent a planning loss.

128. The foregoing conclusions are based upon the admitted extent and nature of the company's activities, as described by its witnesses at the present inquiry. The Secretary of State will nevertheless wish to bear in mind that each operation of the kind now proposed is unique. While there are certain standard procedures and forecasts, there is no standard implementation. What may appear to be a precise package of operations is, in fact, no more than a rough measure of what would actually happen. Time on site, vehicle movements and practically every other aspect of the proposal could vary considerably from the company's forecasts. The company admits that its drilling operations at Iden Green were delayed by bad weather (Doc 44a). It follows that while the environmental impact of the development would be unlikely to be less than that foreseen, it could well be greater, and extended over a longer period.

129. Furthermore, and a matter of particular concern to local residents which, it is submitted, should be taken into account in determining the present application, there can be no guarantee that the company will restore the land and leave the area on completion of the presently proposed operation. Despite the need for further planning permissions to appraise and extract any oil or gas encountered in the area, the discovery of hydrocarbons in commercial quantities would be likely to lead to the company's continued presence for upwards of 20 years and to additional development. It is recognised that the company cannot anticipate the exact nature of such future development. However, a broad appreciation of what could be involved may be gained from the description of the proposed oil field development at Humbly Grove in Hampshire (Doc 66). There, Carless Exploration Limited intend to drill 59 further boreholes from 8 well sites and establish a separate gathering station and export terminal. In the event that permission is granted, which is strongly resisted, it should, at least, be subject to a bond in respect of the restoration of the site.

130. The rural character of the Normandy area would be wholly devastated by any further development which even approached the scale of that envisaged at Humbly Grove. Exploration wells should only be permitted in areas which are capable of absorbing further production sites if exploration is successful. If there is, or should be, no possibility of such further development in the Normandy area, then there is no point to the present application. The serious impact of the presently proposed exploratory phase of the company's interest in the area could well be avoided if the much more onerous impacts of the appraisal and production phases were taken into account.

Ecology of Highfield Copse and Kiln Copse

131. The Pound Farm Lane Action Group has commissioned a comprehensive survey of the ecology of Kiln Copse and Highfield Copse under the title "An Environmental Report on Highfield Copse and its Immediate Vicinity" (Doc 29). The findings of the survey have been forwarded to the Nature Conservancy Council, with a view to the area being declared a Site of Special Scientific Interest and to Guildford Borough Council with a view to the inclusion of the area within an AONB or AGLV and the protection of the woodlands under a Tree Preservation Order.

132. Mr Hall, of Countryside Action, has identified 125 vascular plant species in Highfield Copse, of which 28 species are generally regarded as indicators of "ancient woodland". These include the comparatively rare sedge Carex strigosa, found growing on the route of the proposed access road. Seventy-one species were found in Kiln Copse of which, again, 28 are ancient woodland indicators. With regard to Kiln Copse, Mr Webb, District Forester with the Forestry Commission, writes that his main concern is that:

> The proposed access road to Highfield Copse will bisect the southern end of this very fine woodland, and although following an existing footpath, will still necessitate the cutting of a very large swathe through the woodland, especially as the developers wish to include a passing bay...It should be noted that the orchid Orchis mascula although not a rarity abounds along the route of the proposed road. I am sure that if an access road of this size is cut through the woodland, then windblow and wind snap of the remaining trees is likely to occur (Ibid, appendix 5).

Mrs Smith, of the Surrey Flora Committee, believes both copses to be ancient woodland. She writes that these woods "have a high ecological value", that "it is not possible to re-create such habitats with their associated communities within an acceptable time scale" and that the Committee "is therefore opposed to any planning application which would destroy the woodlands or any part thereof" (Ibid, appendix 6).

133. Dr Lodge, of the Department of Botany at Royal Holloway College, has identified 32 species of mosses and liverworts during a 3 hour visit to Highfield Copse. He writes that:

> The marked lushness and diversity of this assemblage of woodland bryophytes is added confirmation of the general ecological value of Highfield Copse. Whilst many of the species recorded would no doubt persist in undamaged parts of the wood for a short time after partial clearance, experience suggests that the reduction in canopy area resulting from the proposed exploratory borehole will inevitably lead to a long-term loss of much of this component of the vegetation (Ibid, appendix 7).

134. Dr Reid, of the Royal Botanic Gardens, collected 47 species of fungi in the 2 woods when he visited the site in December 1984. These include the basidiomycete Sistotrema oblongisporum, a new British record, found in the vicinity of the rig site. He writes that:

> It is significant that one should be able to collect so many fungi in such a short time at such an unsuitable time of year. I feel sure that with so much fallen wood and with such lack of management, that both copses would produce a most interesting and long list of species if they could be monitored regularly throughout the year (Ibid, appendix 8).

135. Mrs Wyllyams, who lives at Junction Cottages, has seen 12 species of mammal in the area, including fox, badger and roe deer, and 5 reptiles and amphibians. The badger set at the point of entry of the access road into Kiln Copse may not be abandoned, but simply dormant. John Guningham, a member of Haslemere Natural History Society, has observed 60 species of birds in the area, including the Nightingale, which has fallen in numbers in Surrey in recent years. He writes that the area constitutes "a most valuable reservoir of wildlife and major

disturbance would be most regrettable" (Ibid, appendix 10). Mr Prater, South East Regional Officer of the Royal Society for the Protection of Birds writes that:

> The fact that there are many warblers, all 3 woodpeckers, Tawny Owl, Sparrowhawk and Nightingale in the area, are all indicative of good quality habitat for birds within these woodlands (Ibid, appendix 15)

and that, while the Society will not be appearing or writing as an objector to the application "we have great sympathy with the particular case here".

136. The area is also frequented by butterflies, of which Mr Freeman has noted 22 species (Ibid, appendix 11).

137. Dr Lindley, who holds a degree in Zoology and a Doctorate of Philosophy for research studies in Ecology, and is the Surrey Trust for Nature Conservation's Conservation Officer, has studied the report commissioned by the Action Group and considered the implications of the proposed exploratory well and access road in the light of the biological data recorded therein. He is personally acquainted with most of the contributors and entirely satisfied as to the accuracy of the information which they have provided. His proof of evidence given at the inquiry is attached at Document 33.

138. Contrary to his initial impression, based on certain cartographical evidence, Dr Lindley now considers that both Highfield and Kiln Copse represent ancient woodland. Of the various maps referred to, only the Tithe Map of 1839 can be relied upon and is likely to be more accurate than the earlier County maps. The fact that the area of Highfield Copse is here referred to as a "plantation" is of little significance, as plantations were often set out on previously wooded sites. The ridge and furrow pattern of the woodland floor is similarly inconclusive, other than as an indicator that the area was in open fields in Mediaeval times. The botanical evidence, on the other hand, strongly suggests that both woodlands have been in existence since before 1600 and are therefore "ancient".

139. Of the 133 vascular plant species recorded by Mr Hall, 35 are regarded as indicators of ancient woodland in Hampshire. Data concerning ancient woodlands in Surrey has yet to be analysed, but it is likely that the ancient woodland indicators will be identical to those applicable to Hampshire. Certainly, 5 of the species recorded by Mr Hall have been found almost exclusively in ancient woodlands in Surrey and hardly ever in recent secondary woods. Again, the diversity of trees and shrubs found in the 2 woods, 28 in Highfield Copse and 22 in Kiln Copse, should be compared with the 25 to 29 species generally found in ancient woodlands in Surrey. Recent secondary woods seldom support more than 20 species.

140. Dr Lindley concludes that the 2 woodlands should be regarded as amongst the richer ancient woodlands in the County and of considerable importance in the local context. Although none of the plant species recorded are truly rare or endangered in a county or national context, Carex strigosa, Epipactis purpurata, Hypericum androsaemum, Orchis mascula and Sorbis torminalis are not only uncommon in Surrey, but declining. These species are virtually restricted to ancient woodland. The significance of ancient woodland for wildlife conservation is also well known, including the Purple Emperor butterfly and Silver Washed Fritillary noted by Mr Freeman. However, it is the ecological integrity and stability of the woods which is important, rather than the habitat which they provide for particular species, and the likely effect of the present proposals upon this carefully balanced system.

141. It is inevitable that woodland taken for the drilling site and access road will suffer virtually permanent damage to its plant and wildlife interest. In addition to the immediate impact of the construction work, the disturbing effects of noise, machinery, human activity and alterations to the microclimate and light conditions would have a secondary impact over a wider area. This would be exacerbated by the fact that the rig site and access route through Kiln Copse are both at the centre of woodland blocks. Conoco's proposals for restoration, assuming that hydrocarbons are not encountered in commercial quantities, may be well designed, but it would be impossible to reproduce the present character of the site, in terms of its soil structure, species composition and age structure, in less than a century. It is appreciated that the woods might, in any event, be brought back in hand by felling and replanting, and that their commercial management would to some extent conflict with the conservation of their ecology. Management is nonetheless greatly to be preferred to the destruction and disturbance now proposed. If the exploratory drilling is successful there will be considerable pressure to make the site permanent, with no possibility of any form of restoration.

142. Dr Lindley is also concerned at the prospective loss of sections of hedgerow along Pound Farm Lane. From the number of hedgerow species recorded by Mrs Wyllyams and Mr Hall, and the frequency of their occurrence, (Doc 74) it would appear that these hedges are of considerable antiquity and could well date from the Norman or early Mediaeval period. He concludes that it would be a pity to lose even small parts of these hedges.

143. The Surrey Trust for Nature Conservation believes that no further losses of, or damage to, ancient woodlands should be permitted. Even though the County is still comparatively well wooded and a reasonable number of ancient woodlands survive, some 41% of ancient woodlands known in Surrey in 1934 have been destroyed in the past 50 years. The loss of a small area of such woodland now has a significant impact on wildlife conservation in the county. Furthermore, the present proposal is the first for a drilling site in ancient woodland. If the company's application is permitted it would set a precedent for further incursions by the oil and gas industry into ancient woodland. Such a precedent would be contrary to the policies of the Nature Conservancy Council and the Forestry Commission and could prove very damaging to the wildlife of Surrey.

Local residential amenity and public safety

144. The great majority of local residents strongly object to the proposed development. Its impact upon the rural character and ecology of the area would represent a loss of amenity to those living there. People have chosen to live in the Normandy area because of its natural beauty and wildlife interest, believing it to be protected from the type of development now envisaged. Mrs Wyllyams moved to the area with her husband 11 years ago. It was and remains an ideal environment for them and their young children. Their greatest concern, as parents and teachers, has been to encourage the growth of their children's awareness of the environment; of how they form part of it and share with others the responsibility to care for it and not exploit it. Both now fear the violation of their security and the sense of responsibility which they have developed.

145. Mr and Mrs Wyllyams are especially concerned for the beauty of the immediate surroundings of their home, at Junction Cottages. In springtime, people from nearby villages and towns expect to be able to stroll down the lane, enjoying the sight of bluebells, primroses and the wildlife. In fact the whole lane, and the linking bridleways to Highfield Copse, provide an important amenity for local people, with its natural beauty, duck pond and woods, which have been left undisturbed for the last 200 years. The very presence and survival of ancient species is proof that people care for their environment. They are also concerned that, in the event of hydrocarbons being found in commercial quantities, the disused

section of railway line, westwards of Junction Cottages, which is a haven for wildlife, would be chosen as the site for a gathering station and separation plant.

146. The utilisation of Wyke Lane and Pound Farm Lane by traffic generated by the development would virtually imprison local residents in their homes. They would be unable to walk the lane in safety or drive to and from the A323 without the inconvenience and delay which would result from their meeting on-coming traffic, or having to follow slow moving heavy goods vehicles. Other roads in the locality would also, doubtless, be affected. Drivers of vehicles sub-contracted to bring stone to and from the site would wish to take the shortest and quickest route possible and cannot be expected to adhere to the permitted route. Harpers Road, beyond the junction of Pound Farm Lane and Wyke Lane, would provide a short cut to The Hog's Back and the A31.

147. An accident or breakdown on the narrow stretch of Pound Farm Lane serving the site would cut residents off from emergency services. Conoco's own experience at Iden Green illustrates how this could happen, despite the company's best endeavours. Referring to the need to bring drilling equipment to the site, the company wrote to local residents that "we will do our best to ensure the operation is conducted as smoothly as possible and with the minimum of disruption" (Doc 44a). Nevertheless, 2 vehicles were immobilised on the access road, albeit somewhat wider than Pound Farm Lane, and could not be moved till the following day (Doc 44b). When the rig was demobilised, the company took the precaution of having a heavy mobile crane on site, in case of a further mishap. None occurred, but when the crane finally left the site it became immobilised and was not moved for 2 days. Unlike the access route to Iden Green, Pound Farm Lane is a cul-de-sac. The consequences of a similar breakdown on Pound Farm Lane could be catastrophic.

148. The Action Group and others are not satisfied that the on-site operations would not cause those living nearby considerable disturbance. Mr Riley, who holds an MSc from the University of Southampton Institute of Sound and Vibration, is a member of the Institute of Acoustics and currently holds the post of Senior Consultant to the Acoustical Investigation and Research Organisation Limited, has examined the reports prepared by ATL and Mr Gilbert's proof of evidence. Mr Riley's proof of evidence is at Document 75. He does not question the measured L_{90} noise levels at the 4 locations chosen, and regards the predicted free field levels at these locations as reasonable for calm weather conditions, albeit they would appear to assume that noise sources will be at the centre of the rig site, and at ground level, whereas the centre of the site is some 10 m above Beech Tree Farm. However, he is concerned that ATL has not taken into account the facade effect of the dwellings themselves, which can heighten noise by up to 3dB(A), nor the effects of wind and atmospheric conditions. These could well raise levels at downwind receiving points by 5dB(A), and under particularly unfavourable conditions by up to 10dB(A).

149. On the basis of ATL's own calculations, predicted L_{eq} would exceed the measured, after midnight, L_{90} levels by between 6dB(A) and 18dB(A). When account is taken of the facade effect, the difference would range between 9dB(A) and 21dB(A) (Doc 75, page 5). Taking into account adverse weather conditions, the difference could be as much as 19dB(A) to 31dB(A). At Beech Tree Farm, facade levels in the order of 48dB(A) could be quite common, with moderate westerly winds. With windows fully open, as they are likely to be in the summer, this would be equivalent to a level of 43dB(A). Bearing in mind that the predicted L_{eq} effectively conceals peak noise levels, which may be associated with brake squeal and tripping, a moderately light sleeper could be caused significant sleep disturbance in this situation.

150. Mr Riley accepts that the drilling operation should take some 4 weeks, rather than the "several months" which he anticipated when preparing his proof, and that over a relatively short period a degree of tolerance is to be expected. He nevertheless considers that the present proposal will give rise to complaints and considerable disturbance.

151. Mr Riley's conclusions are borne out by the experience of people living in the vicinity of the company's exploratory well at Godley Bridge. Mr Whiffin, whose home is some 700 m from the site, writes that he "suffered considerable disturbance from noise, which was intrusive and offensive" and that "noise was considerable during the normally silent hours at night and was frequently interspersed with hammering when lengths of drill etc were being added" (Doc 4e). Mr Gilroy, whose home is at much the same distance from the site as those nearest to the present site, writes that:

> Drilling took place around the clock and we could hear the noise of the rig and the allied noises of activity, including the voices of those working on the site. Although my wife and I sleep on the opposite side of the house from that facing the site, we were constantly being woken up at night. For those sleeping facing the rig at the sides of the house, the disturbance was even greater. When we complained, Conoco made certain modifications to the rig in an effort to reduce the noise level but this did not make a great deal of difference (Doc 4f).

He adds that "the many weeks that Conoco were active on the Godley Bridge site were extremely unpleasant ones for us" and that "we strongly abhor any oil or gas exploration, appraisal or extraction anywhere in close proximity to people's homes".

152. It is submitted that the company has under-estimated the intrusive impact of noise from the site and the general impact of the proposed operations on the amenity of those living in the area, even if the operations are limited in duration.

REPRESENTATIONS ON BEHALF OF HADFIELD (ESTATE AGENTS) LIMITED

153. Representations were made to me by Mr Nicol on behalf of Hadfield (Estate Agents) Limited, the freehold owners of Highfield Copse. His address to the inquiry is at Document 51. In sum, the owners fully support Conoco's appeal. The location, appraisal and exploration of British oil resources is not simply a private matter, but of very real public significance. But for the utilisation of such resources our international balance of payments situation would be far worse than it is now. It is important for us to know what our reserves of this valuable commodity are and where they lie, even though they may not be exploited immediately.

154. The owners are satisfied that Conoco would demonstrate due respect for the local environment and seek to minimise any adverse impact of its activities. Some temporary disturbance should be accepted as in the national interest. It would, in any case, be better for local people that exploration is permitted now, in a carefully regulated manner, rather than thrust upon them in the event of some national emergency.

155. Highfield Copse has proved difficult to exploit either agriculturally or as woodland. Plans for a proposed 9 hole golf course, although approved by the Borough Council, have come to nothing. The owners are only too glad to make part of the land available to the appellant company, to enable this important investigation to be carried out.

REPRESENTATIONS BY DAVID HOWELL MP

156. Mr Howell's statement to the inquiry is at Document 47. His constituency extends to the south side of Green Lane West and therefore includes the homes of those most likely to be effected by the development. He appreciates their concern and is opposed to the development for 3 main reasons. Firstly, the operation as a whole, and in particular the weight and volume of traffic generated thereby, would have a dramatic effect on the lives of local people. Furthermore, the breakdown of just one heavy lorry on Pound Farm Lane would place their safety at risk. Secondly, the site is within the green belt. Whilst he appreciates that minerals can only be exploited where they occur, very great care is needed before any mineral working is permitted in the green belt. Thirdly, the exploration for, appraisal and production of hydrocarbons is unacceptable in a rural area containing so many small communities and individual residential properties. He considers that this is one of those small and sensitive areas referred to at paragraph 14 of Circular 2/85 where a presumption against exploration is justified.

157. He is aware that the circular enjoins mineral planning authorities to consider each application for an exploration well on its merits, without reference to any hypothetical future development. The circular nevertheless recognises, at paragraph 23, that should hydrocarbons be found as a result of exploratory drilling, "it will often be necessary to attempt to delineate the extent of the field by drilling further wells from other sites in the area", and that appraisal wells "may subsequently be required for production purposes". Thus, even if drilling an exploration borehole can in theory be totally isolated from possible future activities, we know that in practice, once there are promising signs of hydrocarbons, we are dealing with a virtually unbreakable chain and sequence of operations. This would have a devastating impact on the area.

158. He regards the idea of rural Surrey as a major oil or natural gas field, with its well-heads, flaring, maintenance, separation plants, gathering stations and, possibly, export termini, as wholly inappropriate and unacceptable. There is no current need for oil or gas which justifies such activities, whether temporary or long lasting, in the attractive surroundings of Highfield Copse. On the contrary, we have a world oil glut and vast surpluses of natural gas. In such circumstances, the national interest could well be better served by delaying rather than bringing forward the development of new fields.

159. For these 2 further reasons, that there is a strong likelihood of subsequent operations and the slender national interest now involved in exploiting fresh discoveries, it would seem that the case for resisting exploration drilling in environmentally sensitive areas is overwhelming.

REPRESENTATIONS BY CRANLEY ONSLOW MP

160. Mr Onslow's statement to the inquiry is at Document 48. His constituency includes the appeal site and much of the surrounding countryside. A large number of his constituents are very concerned at the prospect of exploration for hydrocarbons in this area. Those who live in the immediate area are particularly concerned at the site chosen by Conoco because of the difficult and dangerous access to it. They are fearful of the consequences if the lane should be blocked and emergency services could not reach them. Altogether, over 1,000 people have written to him objecting to the proposal. He submits their letters as evidence of the strength of local feeling against it (Doc 49). He has also had letters from people living further afield, anxious lest the fine view to the north from The Hog's Back should be disfigured by development of this kind. Such development would be very detrimental to what must be one of the finest views in this part of England.

161. He considers it quite unrealistic to ignore the virtual certainty that planning applications for appraisal wells would follow successful exploration, and applications for further development follow successful appraisal. Industrial activity of this sort may be acceptable in some areas, where population is sparse, there are few environmental considerations and development pressures do not have to be resisted in order to maintain the integrity of the green belt. He does not believe that environmentally tolerable sites for appraisal or further development can be found if oil or gas are discovered in the Normandy area and therefore sees no point in inflicting on his constituents, or those of Mr Howell, the noise and disturbance to their peace of mind which would result from approval of the present application.

REPRESENTATIONS BY LOCAL RESIDENTS AND MR CHATER

162. Individual residents strongly support the County Council's decision to refuse planning permission for the proposed development and endorse the case made on their behalf by the Pound Lane Action Group.

163. Mrs Kempster of Mittersill, Green Lane East, Normandy is concerned at the effect which the development would have on flora and fauna in Kiln Copse and Highfield Copse. Three species of orchid grow down by the stream in Kiln Copse, the Early Purple, Early Marsh and Spotted. She understands that these are becoming rare, are protected by law and are not easily transplanted. She presumes that they are in the way of the access road, as nearby trees have been marked with a white cross. The woods are also the home of deer, which require cover and are easily disturbed, and of the Nightingale.

164. Mr Hill of Birch Croft, Glaziers Lane, Normandy, emphasises the natural beauty of the locality. On a summer's day the bridlepaths are the nearest thing to paradise on earth. The area is frequented by ramblers, seeking peace and quiet, and school parties from the towns. The proposed development and the associated traffic, and in particular the passage of lorries along the country lanes, would radically alter the character of the area. It is not enough to assert that such disruption would only be temporary. The likelihood of further development, if hydrocarbons are found, must be taken into account. There is no hope that they would be left in the ground until some future date. Testing and appraisal might continue for 3 years or more, as at Humbly Grove. A commercial find would prolong the company's activities for 20 years.

165. There is no need to exploit our on-shore reserves at the present time. Off-shore reserves have been grossly understated and their production has not, as the Government has suggested, passed its peak. We should learn from West Germany, which with no oil has achieved a £50 billion balance of payments surplus, rather than seek to bail out an ailing economy for a few more years by extracting the last drop of our natural resources.

166. Mrs Ashworth of 20 Orchard Close, Normandy considers that the main objection to the proposed development is the inadequacy of the local road network to accommodate the greatly increased volume of traffic associated therewith, without risk of accident. It is not sufficient to merely make a few minor improvements to the so-called permitted route to the site from the A323. The main road itself is narrow and the scene of frequent traffic hold-ups. In any case, sub-contractors bringing in or taking away stone could not be relied on to follow the permitted route; they would tend to use whichever route best suited them. The Chief Constable has already voiced his concern at the alarming road accident figures in the County (Doc 45, page 16). Furthermore, existing delays to traffic movement

in the area, including level crossings, military vehicles on the main roads and horses on the lanes, could well make it difficult to respond promptly to a blow-out or other disaster at the rig site.

167. Mr Beer, of Corrie, Hazel Road, Ash Green, is the Chairman of the Ash Green Residents' Association. The Association has balloted its members on the proposed development and the majority are opposed to it, for a variety of reasons.

168. People are concerned for the environment in which they live, which they consider most beautiful. Many have made a conscious investment in peace and quiet, by buying homes in the area. Now, with the mere threat of development, houses are becoming difficult to sell. Ash Green is a very quiet village. Passing trains can be clearly heard, although some distance away. The operation of the rig, including the inevitable clanking of pipes during tripping, is bound to cause disturbance. The local lanes are narrow and in places tortuous. It is hazard enough to be confronted by an occasional car, let alone one of the many heavy goods vehicles which will be travelling to and from the site. The presence of the rig will detract from the fine views of the area gained from The Hog's Back.

169. Residents of Ash Green share the anxiety of other local people at the prospect of possible further development. If oil or gas is found this seems inevitable, involving storage and distribution facilities. There would be little difference between such development and any other industrial development. Yet it has hitherto been inconceivable that industrial development would be permitted in this quiet rural area.

170. Mr Dow, of Kiln Copse Cottage, Pound Farm Lane, has lived in the area for 3 years. He believes that the development should not be permitted because of the impact which it would have on the quality of life, because of the strength of local opinion against it and because of the possibility of future development. Pound Farm Lane is a quiet rural road where the passage of a single vehicle attracts attention and children can play unattended. Many people stroll or ride along the lane of a summer's evening. Deer graze in the adjoining fields. The company's operations would have a disastrous impact on this peaceful rural environment. His own home is within 70 yds or so of the right angled access off the lane to the site, where heavy vehicles would be bound to slow down and change gear to negotiate the bend. This would be very noisy. The Secretary of State should respect the strength and virtual unanimity of local opinion. He should also take account of the likelihood of further development in the area if hydrocarbons are found. The size of the structure which the company wish to explore indicates that the impact of such development could well be much more widespread. All the paraphernalia of a productive field would have to be accommodated within a rural landscape to which it would be entirely alien.

171. Mrs Hodgson, of Poyle House, Poyle Road, Tongham, is an American by birth. During the first 30 years of her life she witnessed the devastation of her homeland by insensitive development. After coming to Britain, she and her husband chose to live in the green belt because they believed that their environment would be protected. She did not come to live in the countryside of Surrey in order to be next door to an oil well. If the development were permitted she would not be able to sell up and move, as house prices are clearly depreciating. In any case, she would not know where to move to, as if development is allowed in this area, nowhere in South East England would be safe from depredation.

172. She has personal experience of the results of increased traffic on previously quiet and narrow country roads. Poyle Road used to be much like Pound Farm Lane, albeit not as beautiful. Since the highway authority routed traffic to The Hog's Back along Poyle Road its character has changed completely. Lorries run off the

road into the mud and there are frequent accidents. She is also concerned that the installation of the rig may disrupt the flight pattern of mallard and heron which visit the pond in her garden and that, notwithstanding the declared intentions of Conoco to restore the woodland, the owners might frustrate its endeavours.

173. Mr Howell, of Brambles, Green Lane West has lived in the area many years and for the past two and a half years at his present home. The amount of traffic which the company now admits would be associated with the development is clearly much greater than was anticipated when permission was first sought. Even the latest figures may well prove to be an under-estimate. They take no account of sight-seers. A director of Conoco has said that 500 people went to look at the company's rig at Iden Green which was less noticeable than the proposed rig would be.

174. The supposed improvements to the access route would themselves cause inconvenience and obstruction, particularly the removal of the earth bank on Pound Farm Lane near the junction with Wyke Lane, and would damage the verges. The clearance of the rig site and the construction of the access road would destroy the woodlands. The construction of the road through Kiln Copse would inevitably affect a wider area than its 5 m width. Mr Howell is part owner of Kiln Copse, which is profuse with wild flowers through the spring and summer months. The company accepts that its restoration plan is no more than "experimental". The decision of the elected representatives of the area to withhold planning permission should be supported.

175. Mr Wicks, of Schillings, Pound Farm Lane, questions the supposedly temporary duration of the company's activities, the need for any oil which might be discovered, the company's reliability in adhering to agreed procedures and the suitability of the proposed site.

176. He sees the present proposal as the first step towards the industrialisation of this part of South East England. If oil is found the infrastructure required to support production would include numerous wells, gathering and pumping stations, export facilities, pipelines, rail sidings and special roads and have a wholly unacceptable impact on the area. Even the details of the immediate proposal are in doubt, the company having now indicated that it may require an incinerator to flare gas.

177. There is a world glut of oil, world manufacturing capacity is reducing and with real determination alternative energy sources could be deployed to conserve petroleum reserves. For the people of the United Kingdom it would be sheer folly to consume a natural resource which, when exhausted in say 25 years time, would leave us defenceless against economic or even military depredations. It should be treated as a basic strategic reserve. We need go no further at the present time than to identify possible hydrocarbon bearing structures, by remote sensing and other non-intensive means. Henry Kissinger wrote in the Sunday Times of 3 February this year that:

> The present temporary respite from oil pressures must be used to expand conservation policies and to encourage the development of alternative sources of energy - exactly the opposite of present shameful trends. Otherwise the 1990s, once more facing an energy shortage, may well curse the blindness and lack of foresight of current leaders.

For the people of Normandy there will be no gains in terms of employment or an improved quality of life, only a net cost in terms of the damage done to their environment. The only beneficiaries will be the shareholders of the Dupont Corporation.

178. The company's record in adhering to agreed procedures does not inspire confidence. Woodland on The Hog's Back where seismic investigations have been carried out has been left damaged. At drilling sites at Iden Green and Godley Bridge anticipated noise levels have been exceeded, the duration of drilling has been much longer than expected, passing places have been ignored by lorry drivers, with consequent damage to verges, and vehicles have become bogged down, blocking roads.

179. The company appears to consider that by setting up its rig in a supposedly "derelict" woodland it will not have any harmful impact. In fact, Highfield Copse is not "derelict" in the sense of being ownerless or abandoned, but simply neglected. It is this very neglect which has given it its special character and ecological interest. No weight should be attached to the fact that the company has purchased a production license from the Government. This does not make it an agent of government. It remains, simply, a private company, its main purpose being to make a profit.

180. Mr Bussingham, of 14 Culls Road, Normandy, considers that the local road network is simply not good enough to accommodate the traffic generated by the development. On his way to the inquiry he found himself behind a tractor. There were soon 10 cars behind him. Had they met a heavy goods vehicle coming from the opposite direction, there would have been chaos.

181. Mrs Parker, of 18 Ashville Road, Ash has lived in the area for 21 years. Her home is up the hill from the lower lying land where the development is proposed. She can hear the trains passing through Wanborough Station. She would hear the rig as clearly as those living nearer by. There have been many traffic accidents in the area, some never reported.

182. Mr Gray, of Woodpeckers, Beech Lane, has visited the drilling operations at Humbly Grove. He has no doubt that the amenity of the 20 or so properties on Beech Lane, which lie downwind of the rig site, will be effected by noise and smells. Some dwellings are only 400 m or so from the proposed borehole.

183. Mrs Newman, of Bromble, Westwood Lane, often walks down Pound Farm Lane to enjoy its beauty and tranquility. She and her husband have recorded the song of the Nightingale in Highfield Copse, where it has been a regular visitor for at least the past 5 years. The proposed development would destroy its habitat.

184. Mr Egglestone, of Manor Bungalow, Normandy, is concerned that the appellant company should be able to destroy the amenity of the locality, apparently without having to offer any compensation to local residents.

185. Col Stock, of Christmas Pie Copse, Green Lane East, Normandy, has had 20 years of experience in traffic control, route planning and heavy vehicle convoy control as an officer of the Royal Military Police. He has also acted for over 4 years as a security consultant in the oil and gas industry.

186. He considers that the planned approach to the site from the A323 is wholly inadequate. It is too narrow and fraught with a succession of "critical points", including the housing estate, sharp bends, junctions, the farm and the railway bridge (Plan O). In a number of places it is impossible for 2 moving vehicles, even cars, to pass one another. Particular problems and difficulties arise because Pound Farm Lane is a cul-de-sac. In military terms, an operation equivalent to that envisaged by the appellant company would require 24 hour supervision by 7 to 8 men with radio intercommunication, designated one-way sections and traffic signals. Time is of the essence in drilling operations and, whatever the company's intentions, agreed procedures cannot be expected to be adhered to at all times. He has no doubt that there will be accidents.

187. From the security point of view, he regards the site as an open invitation to vandalism and terrorist attack, set in woodland and with little or no evident security provision. This must be regarded as a serious problem. The inadequate access arrangements would impede prompt response to any attack.

188. He further considers that the present proposal cannot be disassociated from the possibilities of further appraisal and eventual production. The company must be reasonably confident of discovering hydrocarbonsin the area, on the basis of their seismic surveys. Exploration and production represents a single chain of interlinked activities and investment in the oil industry. The area is one of outstanding beauty, where the various facilities required to support production would be entirely out of place, would degrade the environment and destroy the present quality of the countryside. For the time being, at least, there is no need to prospect for oil in Surrey. Major oil companies estimate that the present world surplus of petroleum will continue until, and past, the end of the century. He has personal experience of the impact of Conoco's proposal upon house prices and sales. His house was for sale, and he had a buyer, in 1982. Then, within a few days of exchange of contracts, when the company's intentions became known, he lost the sale (Document 50).

189. Mr Messer, of the Manor House, Hunts Hill Road, Normandy, commented to the Secretary of State on the consultative draft circular on oil and gas operations. In his view the circular, as issued, still does not achieve the right balance between national, commercial and environmental interests. A particular point of concern is the differing approach to possible future development as between proposals for exploration and appraisal. It would seem only logical that when considering an application for an exploratory well the subsequent need for further appraisal wells should be taken into account. Inspection of the site and its surroundings demonstrates that this attractive green belt area is totally unsuited to oil field development, or indeed to any other major industrial development, in the present state of technology and in the absence of any immediate national need. If this is so, then there can be no reason to grant permission for the first stage in this process.

190. Nevertheless, the circular makes it quite clear that environmental interests can prevail over those of the oil and gas industry. They should certainly do so in the present case.

191. Mr Messer is also concerned that the law of compensation has not as yet developed in this country, as it has in the United States, to embrace the damage which may be done to community or individual interests in the course of oil field development. A heavy burden therefore rests on the shoulders of those who must determine particular planning applications, as the only protection available to local people, who must suffer the consequences of any approved development, is through the planning process.

192. Finally, Mr Chater, who lives about 11 km from the appeal site, told me that he is a member of the Institute of Directors and of the Association of Project Managers, is Chairman of Save our Surrey, a conservation group formed as a result of Conoco's activities at Godley Bridge, and of Freedom from Oil, a federation of conservation groups from Kent to Dorset. He shares the concern of local people in the present case, as his own home is several hundred metres from another proposed borehole site, in an area blighted by the threat of hydrocarbon development.

193. Firstly, he considers that possible future development, if the present proposal is permitted, cannot be regarded as "hypothetical". Hypothetical is defined in Fowler's Oxford Dictionary as "of or resting on a supposition made as the basis of forreasoning; ditto of groundless assumptions". There is nothing hypothetical

about the fears and concerns of the local community, nor about the developer's plans. Once a decision is taken to drill an exploratory borehole, hypothesis no longer has a place. The developer is launched upon a single project, and it is his undisputed intention to develop an oil field. Therefore, in assessing the effects of the proposal on the environment, it is the effect of the project as a whole which should be taken into account.

194. Secondly, he doubts that any meaningful balance can be achieved between the interests of the developer and the protection of the environment. The choice is, simply, between an oilfield and unspoilt countryside. There is no prospect that the detailed implementation of the proposed development would other than disrupt the local quality of life.

195. Thirdly if, in the event, permission is granted, it should only be given if Conoco has entered into specific bonds, guaranteeing the company's intentions to abide by any undertakings, either voluntary or imposed, as to its working practices, and providing an immediate source of compensation in the event of mishaps.

FINDINGS OF FACT

196. I find the following facts:

1. The appeal site lies in gently undulating countryside about 1.5 km south of the A323 Guildford to Aldershot Road and 1.75 km north of The Hogs Back.

2. Vehicular access to the vicinity of the site from the A323 is via Wyke Lane and Pound Farm Lane.

3. Wyke Lane has a carriageway width, for the most part, of approximately 4 m, but narrows to 3.7 m where it passes through a farm. It is adjoined by a group of dwellings at Wyke Avenue and by dwellings at the farm.

4. Pound Farm Lane varies in width between 3.3 and 2.7 m. Between Wyke Lane and the proposed site access it is adjoined by a pair of cottages known as Junction Cottages. Beyond the proposed access it runs into Green Lane West and together therewith forms a cul-de-sac off Wyke Lane, some 1,300 m long, serving 13 residential properties.

5. The appeal site comprises 2 areas of land: that required for the drilling rig and associated equipment and that required for the proposed access road thereto from Pound Farm Lane.

6. The rig site consists of a 100 m square of land forming part of a 14 ha broad-leaved woodland known as Highfield Copse. Its general location is visible from bridleways and other vantage points in the area and, more distantly, from The Hogs Back.

7. The route of the access road leads off Pound Farm Lane 600 m south of its junction with Wyke Lane and passes, in part, through a further broad-leaved woodland, known as Kiln Copse.

8. Highfield Copse is made up of hazel and ash, interspersed with oak standards and birch. It was last coppiced about 30 years ago. it shelters a wide variety of vascular and other plan species of which a significant number are indicators of "ancient woodland".

9. Kiln Copse is similarly species rich, including ancient woodland indicators.

10. None of the vascular plant species recorded in either copse are truly rare or endangered in a county or national context, but the comparatively rare sedge Carex strigosa grows on the route of the proposed access road at the entry to Highfield Copse.

11. The basidiomycete Sistotrema oblongisporum has been found in the vicinity of the rig site, a new British record, but is probably quite common.

12. There is no record of unusual fauna in either copse, though the Nightingale is a regular visitor to Highfield Copse and there is an abandoned or dormant badger set beside the route of the access road, at its entry into Kiln Copse.

13. Neither copse has been declared a Site of Special Scientific Interest.

14. There are a number of dwellings in the locality of the site, including the 13 residential properties on Pound Farm Lane and Green Lane West and a group of 19 dwellings to the north-east of the rig site, on Beech Lane.

15. The nearest dwellings to the proposed access borehole are a group of 3 cottages on Green Lane West, at 380 m, and a dwelling off Beech Lane, at 400 m.

16. The nearest dwellings to the proposed access road are a pair of cottages on Pound Farm Lane, some 80 m beyond the point at which the road would lead off the lane.

17. The proposed borehole would be drilled in accordance with the terms of Production Licence 202, awarded to the appellant company by the Secretary of State for Energy in 1982.

18. Seismic investigations indicate the presence of a geological feature in the Normandy area, measuring some 4 km east to west and 1.6 km north to south, capable of harbouring hydrocarbons.

19. The summit of the geological feature is thought to lie below Highfield Copse.

20. The present proposal represents the company's second attempt to obtain planning permission for an exploratory borehole in the Normandy area. A previous application related to an area of open land on the edge of Highfield Copse, at a lesser distance from dwellings in the locality and with access via the head of Green Lane West.

21. Details of the present proposal are given on a sheet attached to the application form and elaborated in subsequent correspondence between the County Council and the company.

22. The company would employ a Bolden 61 or a smaller, quieter rig. The Bolden 61 stands some 55 m high, including the drilling platform.

23. Prior to commencing work on site, the company would undertake certain improvements to Wyke Lane and Pound Farm lane, which are the subject of a "works agreement" with the Highway Authority.

24. The improvements would take 2 to 3 weeks and include the battening back of a section of the embankment to Pound Farm Lane, the construction of passing places and clearance of sight lines on the inside of bends.

25. Assuming reasonable weather conditions, preparation of the rig site and construction of the access road would take 6 weeks.

26. Actual drilling would take 3 to 4 weeks, and be continuous.

27. If hydrocarbons are encountered, drill stem testing would take about 2 weeks and longer term flow testing, if required, up to 6 months.

28. Any gas encountered in other than minimal quantities would be flared via an incinerator set up on open land beyond the confines of Highfield Copse.

29. On completion of drilling and any subsequent testing programme, the rig site and access road would be reinstated. This would take 7 weeks, after which the site would be managed for a minimum period of 5 years.

30. Reinstatement would be in accordance with a scheme designed to promote the growth and propagation of the formerly characteristic range and density of plant species.

31. Site preparation, actual drilling and reinstatement would give rise to upwards of 1,900 heavy goods vehicle movements and 2,700 light vehicle movements on Wyke Lane and Pound Farm Lane, as well as some 200 movements by second, back-up, traction units.

32. Drill stem tests, if required, would involve a further 100 heavy goods and 450 light vehicle movements. Flow tests would give rise to 8 heavy goods and 14 light vehicle movements per day.

33. Comparison of predicted noise levels associated with drilling and evaluation activities with existing levels, at residential locations in the vicinity of the rig site, indicate that the former will generally be below the latter, other than in the midnight to 7 am period.

34. In the midnight to 7 am period, predicted L_{eq} will, in one location, be 43 d B(A), assuming calm weather conditions and allowing for the facade effect of the dwelling itself. This would exceed the measured L_{90} noise level by 21 d B(A)

35. At other locations late night L_{eq} predictions are in the range 36 to 42 d B(A) and exceed existing L_{90} levels by 9 to 21 d B(A).

36. Comparison of existing noise levels with those associated with road construction and site preparation shows that, for the most part, these activities would not result in L_{eq} levels exceeding 57 d B(A) at any dwelling, though work on the construction of the access road near the junction with Pound Farm Lane could result in L_{eq} levels reaching 67 d B(A) at the nearby pair of cottages on Pound Farm Lane.

37. The passage of heavy goods vehicles along Wyke Lane and Pound Farm Lane would give rise to peak noise levels in the order of 85 d B(A) at a distance of

7.5 m from the road. This represents a quadrupling in loudness of present maximum noise levels experienced in the vicinity of Junction Cottages.

38. The County Council's officers recommended that the present application should be approved, subject to certain conditions.

39. The officers consider that, subject to the completion of the improvements to Wyke Lane and Pound Farm Lane covered by the works agreement, there would seem to be no sufficient highway reason to object to the proposal.

40. The County Engineer (Environmental Noise) does not consider it unreasonable to permit the proposed activities for the limited period involved, and does not consider that the continuous noise inside bedrooms of nearby dwellings would be excessive or likely to cause disturbance.

41. The appeal site and its surroundings form part of the Metropolitan Green Belt.

42. The Hogs Back is included within the Surrey Hills Area of Outstanding Natural Beauty and an associated Area of Great Landscape Value extends to within 500 m of the proposed borehole.

43. The control of development in the locality of the appeal site is subject to the policies of the approved Surrey Structure Plan, including those applying to the green belt, minerals, the environment generally, the maintenance of the county's tree cover and development giving rise to noise.

44. The relevant policies of the Structure Plan are amplified in the deposited Guildford Borough Local Plan, the subject of a public local inquiry in the summer of 1984 in respect of which the Inspector's report is awaited.

45. The proposed development is strongly objected to by the great majority of local residents. They are supported by their Parish Councils and Members of Parliament, as well as by members of the Borough and County Councils.

46. If permission is granted on the present appeal, the company would expect and accepts that this should be subject to conditions regulating the character of its activities, including conditions requiring the site to be reinstated in accordance with an agreed scheme and restricting working hours during site preparation and reinstatement.

MY CONCLUSIONS

Bearing in mind my findings of fact:

197. The present appeal clearly falls to be determined in the light of the advice given in Circular 2/85. This is not to say that the general applicability of the approved County Structure Plan and deposited Borough Local Plan to the control of development in the locality of the appeal site should not be taken into account, but that my conclusions must necessarily be informed by the particular considerations applying to development by the oil and gas industry, as set out in the circular. I regard 3 such considerations as being of special relevance to the decision in the present case.

198. Firstly, subject to environmental considerations, the discovery, appraisal and, over time, exploitation of on-shore hydrocarbon reserves is in the national interest. I appreciate that there is a contrary view, as expressed at the inquiry and in written representations. Indeed what may or may not be in the national interest at any given time will doubtless always be open to question, in many spheres of government policy. The Government of the day should nevertheless be expected to have its policies. In the case of on-shore development by the oil and gas industry the policy is clear: development is to be encouraged, subject to its environmental acceptability. I further consider that it is unreasonable to expect the industry to specify or quantify the particular need for a given proposal in every case, and certainly not in the case of an exploratory borehole, where the nature and amount of any hydrocarbons which may be encountered cannot be foreseen. Thus in weighing the national interest against environmental considerations in such cases, the former should be regarded as constant. It is the quality of the environment and the likely impact of the development thereon which will vary from case to case.

199. Secondly, each phase of development by the industry, whether exploration, appraisal or production, represents a separate entity in planning terms. While it may nevertheless be sensible to take account of the long-term suitability of a proposed appraisal well for production purposes, an application for an exploratory borehole falls to be determined wholly on its merits, without reference to possible future development. Given the clear advice of the Circular on this point, I regard the appellant company's reluctance to discuss the likely impact of any hypothetical future development as entirely reasonable. Equally, I consider that the temporary nature and limited duration of the proposed operations are material considerations in any assessment of their environmental impact. It may be that, if permission is granted on the present appeal and hydrocarbons are encountered, the local planning authority will find it difficult to resist further applications to appraise or exploit such a discovery. Alternatively, the likely impact of any future development proposed by the company may militate against further permissions. That is a risk which the company would take, if the present appeal succeeds and it drills an exploratory borehole, as it would risk finding the well dry.

200. Thirdly, while the national interest in exploiting our oil and gas reserves can be in conflict with that of protecting the environment, and a balance must be struck, it should be possible in most cases to find a solution so that development can proceed in an environmentally acceptable manner. Only exceptionally will the environmental objections be so great that the proposed development cannot proceed on a particular site. The emphasis of the circular is thus on the resolution of possible objections to development, by way of discussion, agreement, conditions and the preparation of satisfactory restoration proposals, rather than on restriction. Indeed, as stated at paragraph 16, oil and gas proposals are unlikely to raise wholly new issues of principle and their impact on the environment can be considerably less than other forms of mineral working.

201. Special policy considerations are nevertheless applicable to development in National Parks, Areas of Outstanding Natural Beauty "and other areas given protection for environmental reasons". The parties to the present appeal differ as to whether or not the site's green belt status brings it within the ambit of these special considerations. My view is that it does not. To my mind, the advice given at paragraph 9 of the circular represents a re-affirmation of the Government's concern to safeguard the character of those areas where there is a strong national interest in the protection of the landscape and the natural environment. I share the opinion of the appellant's planning witness that the main purpose of the Metropolitan Green Belt, as of other green belt designations, is strategic, and that the inclusion of the appeal site therein does not, of itself, imply that the local landscape and natural environment are endowed with any special quality or interest. In the event that I am mistaken in my understanding of the circular on this point, I shall add a rider to my recommendation, based upon the assumption that the special policy considerations referred to at paragraph 9 do apply in the present case.

202. I am equally of the opinion that the potential sensitivity of a particular site to development should not depend upon its inclusion within an area designated for environmental reasons. The circular indicates that there may be a presumption against exploration, albeit exceptionally, in relatively small and sensitive areas. Given the intimate scale and frequently changing character of the English landscape, I do not doubt that there will be small areas of great natural beauty or interest beyond the boundaries of specific designations, whose character would be seriously and irretrievably damaged by oil and gas operations. Furthermore, their sensitivity to such development may not be derived only from their natural attributes. In my view questions of local residential amenity are also a material consideration, including possible disturbance by noise and inconvenience or other problems associated with traffic to and from the site.

203. Before proceeding further, I shall address myself to the question as to whether or not the quality of the site's immediate environment warrants a presumption against the grant of planning permission in the present case. The value placed upon a particular landscape is an emotive issue and inevitably subjective. I well understand that appreciation heightens with familiarity. Indeed, I would not doubt that almost any given area of the English countryside is cherished by those who live in it, however planners and other supposed experts may choose to classify it. I therefore appreciate the concern of local people in the present case to protect their environment. Furthermore, I consider that their concern is justified, to the extent that the Normandy area is certainly, in my view, a most pleasant and attractive area which remains essentially rural in character. In my opinion its sensitivity to development demands that the utmost care should be taken to ensure that development by the industry should not be unduly intrusive and does not have any serious lasting impact upon its present landscape character and sense of rural tranquility. However, I am bound to say that I consider the attraction and charm of the site's surroundings typical of much of the English countryside and does not set them apart therefrom. In other words, I find nothing exceptional about the area, which warrants a presumption against any development by the industry.

204. I find myself supported in this conclusion by the fact that neither the County Council nor the Borough Council has seen fit to apply any special classification to the area; nor has the Nature Conservancy Council declared it to be of Special Scientific Interest. As I have indicated, exclusion from, or inclusion within, the boundaries of such classifications should not be regarded as final proof of an area's worth, one way or the other. However, in the present case, the Borough Council has but recently prepared its Local Plan, and should be expected to have considered whether or not, for instance, the area should be included within the

boundaries of the nearby AGLV, or of the Wanborough Woods AHEI, and officers of the Nature Conservancy Council have visited the area.

205. With the advice of Circular 2/85 in mind, I turn now to the merits of Conoco's present application. Firstly, I do not consider that the proposed development, as described by the company when permission was applied for and in subsequent correspondence, is self-evidently in conflict with any of the policies of the approved County Structure Plan or draft Borough Local Plan. In my opinion, the need to explore for minerals in the Normandy area, and hence the provisions of Structure Plan Policy 92, should not be at issue, both because of the national interest in discovering the extent of our hydrocarbon reserves and the promising character of the seismic investigations carried out in the area, which is not in dispute. I am likewise of the opinion that operations by the oil and gas industry can reasonably be regarded as an exception to the normally strict control exercised by Structure Plan Policy 3, and Local Plan Policy GB3, over development in the Metropolitan Green Belt, again because of the national interest in the discovery, appraisal and production of on-shore hydrocarbons, because, as with other minerals, such minerals can only be found where they lie and, in the case of the present proposal, because of its temporary nature.

206. In respect of Structure Plan Policies 82 and 83, and Local Plan Policies CE14 and CE43, I appreciate that the appeal site lies close to an AGLV and AHEI, and not far from the Surrey Hills AONB. However, the presumption against development in these areas should not, in my view, apply to proposed operations beyond their boundaries. The issue raised by the site's proximity to these areas is, rather, that of the compatibility of the development with their special interest and character. I note, in any case, that Structure Plan Policy 82 does not rule out the possibility of mineral workings in AONBs. In respect of Structure Plan Policy 85 and, more particularly, of Local Plan Policy CE30, which represents the detailed application of Policy 85 to the Guildford area, I do not consider that the proposed development threatens to "significantly" reduce the present level of woodland coverage in the Borough. Firstly, the amount of woodland involved is small. Secondly, the proposal incorporates provisions for the land to be re-planted.

207. The further policies referred to by the County Council and the Action Group and others concern the need to ensure that proposed development does not detract unduly from the local environment, or from the amenity of local residents, and are thus in line with the emphasis placed in the circular on environmental considerations. As to whether or not the present proposal is in conflict therewith must depend upon an assessment of its particular environmental impact.

208. Three matters of possible concern have been identified by objectors to the development, both at the inquiry and in the written representations: its impact upon the rural character and appearance of its surroundings, its impact upon the ecology of Highfield Copse and Kiln Copse and the hedgerows along the access route and its impact on local residential amenity and public safety. With regard to the first of these matters, I have already indicated my view that this is an area where great care must be taken to ensure that development by the industry does not appear unduly intrusive and does not have any serious lasting impact upon its present landscape character and rural tranquility. In my opinion, the company has given due consideration to the need to minimise the visual impact of the on-site operations. The choice of site for the rig represents an evident improvement, in this respect, upon the more exposed site first put forward. From my inspection of the site and surroundings, I suspect that the rig and other on-site equipment and buildings would be somewhat more noticeable than the company anticipates from the vicinity of Beech Tree Lane and, possibly, from viewpoints to the north of

the railway. This is because of the site's elevation in relation thereto and the fact that its more easterly half would stand proud of the woodland floor. However, bearing in mind that the rig is only expected to be in position for some 4 to 6 weeks, and that other equipment and buildings would be unlikely to remain on the site for more than, at most, 6 months, I do not consider that this is a matter for any great concern.

209. From other vantage points in the vicinity, only the upper part of the rig should be seen above the woodland canopy. This would be an alien element in this essentially rural landscape but, again, of short duration. I would not expect the rig to be readily visible from the AGLV to the south of Green Lane West, or to have any significant impact on views over the area obtained from The Hog's Back.

210. The consequent loss of woodland, both in Highfield Copse and Kiln Copse, is regrettable. However, this is mitigated by the concealment thereby afforded to the rig site and, in part, the access road, and the company's commitment to replant these woodland areas as soon as possible following completion of its exploration programme. On the basis of the representations made to me, I am not pursuaded that there is any better site in the vicinity from which the geological feature in question could be satisfactorily explored with less impact upon the local landscape.

211. On the subject of the company's restoration proposals, I agree with the Action Group and others that these should encompass the reinstatement of the access road as well as that of the rig site, as indeed is the case so far as ERL's scheme is concerned. As envisaged by the District Forester, the cutting and leaving of an open swathe through Kiln Copse, and no doubt also at the entry to Highfield Copse, might well result in damage to these woodlands as a whole from windblow and wind snap. Notwithstanding the evident wish of the owners that part, at least, of this road should be retained, I consider that, if permission is granted, it should be reinstated in its entirety.

212. Traffic generated by the operations would certainly detract from the rural character of the approach route to the site from the A323 and, when seen on the access road, from the site's immediate surroundings. However, such traffic would seem to me to be an attendant feature of drilling operations in almost any rural area and its amount in the present case is in part a product of the distance of the site from the existing road network and the consequent length of the proposed access road, and of the need to secure the reinstatement of the site and access road when drilling is completed, which have other advantages. Here again, while the immediate impact of such traffic may be considerable, due account should be taken of its limited duration.

213. My only reservation in respect of the routing of the site traffic concerns the proposed improvements to Wyke Lane and Pound Farm Lane. I do not doubt the necessity for these works and for the most part think they would have little impact upon the rural character of the lanes. I am nevertheless concerned lest the clearance of the sightlines on the inside of the bend on Pound Farm Lane, 100 m or so beyond its junction with Wyke Lane, should entail the loss of the trees which I noted in this vicinity when I inspected the site. To my mind, this would be unfortunate and I doubt that their retention would seriously impede the forward visibility of drivers on this section of the lane. Their possible loss arises from the works agreement between the company and the Highway Authority, the import of which is less than clear on this matter, rather than from the terms of the company's planning application. In my view, it is a matter which can be left to the good sense of the company and the Authority, if permission is granted and the works agreement takes effect.

214. In sum, I do not think that the operations now proposed would be unduly intrusive or have any serious lasting impact upon the character of the site's attractive and tranquil rural surroundings.

215. Regarding the impact of the proposed operations on the ecology of Highfield Copse and Kiln Copse, I consider the question as to whether or not these 2 woodland areas were first planted before 1600, or 1700, and should therefore be classified as "ancient", is to some extent academic. What matters is that they have the richness and variety of flora generally regarded as characteristic of ancient woodlands. That is not in doubt and that is why Dr Lindley and others are concerned at the prospect of the proposed development. For my part, I shall consider the impact of this development "as if" the woodlands are ancient, whether or not they should be classified as such as a point of fact.

216. I appreciate Dr Lindley's concern that incursions into ancient woodland habitats should be resisted, as a matter of principle, and lest permission in the present case should be regarded as a precedent for development by the oil and gas industry in ancient woodlands. Nevertheless, there are a number of considerations which, to my mind, mitigate the impact of the operations in this respect, and may well distinguish the present proposal from possible future proposals involving ancient woodland. Firstly, Highfield Copse is believed to be above the summit of the geological formation which the company wishes to explore. It therefore represents the ideal place in which to drill an exploratory borehole, at least from the technical point of view. Secondly, as I have already indicated, siting the rig within the copse has advantages in terms of minimising its impact on the local landscape, and there is no evidently better site from this point of view. Thirdly, by routing the access road through part of Kiln Copse, rather than directly to Green Lane West, the company has considerably reduced the potential impact of traffic on the amenity of residential properties on Green Lane West and Pound Farm Lane. Fourthly, the rig site represents no more than some 7% of the overall area of Highfield Copse, and few, if any, of the plant species found within the site are not found elsewhere in the woodland. Fifthly, and most importantly so far as the ecology of the woods is concerned, none of the flora or fauna recorded are regarded by their finders or Dr Lindley as particularly rare or endangered in either a county or national context. Sixthly, as I have already stressed repeatedly, the present proposal, and hence the company's presence in the woods, is temporary and not permanent. Finally, and again a matter of particular importance, the restoration plan drawn up by ERL has, to my mind, been carefully considered, with an evident understanding of the problems involved, and is, by common consent, likely to achieve the best results possible.

217. I do not doubt that, despite the company's best endeavours, the proposed operations would have some impact on the ecological systems presently supported and sheltered by Highfield Copse and Kiln Copse. Nevertheless, for the foregoing reasons, I do not consider that the severity of their effect thereon, such as it may be, warrants my recommending that planning permission be refused.

218. I have 2 reservations, both of which should be satisfactorily disposed of by the attachment of appropriate conditions to any grant of planning permission. Firstly, although Mr Dean advised me that the fairly rare sedge Carex strigosa, found growing on the route of the access road at the entry to Highfield Copse, would be re-planted elsewhere in the copse prior to road construction works, I find no reference to this in the "pre-drilling" activities set out in the restoration plan. Secondly, there is some uncertainty as to whether the badger set which lies close to the point at which the access road would enter Kiln Copse, is abandoned or simply dormant. I consider that the company should further investigate this matter prior to the construction of the road and, if simply dormant, take steps to minimise possible disturbance to the badgers, and at least to avoid their destruction.

219. I do not consider that prospective loss and cutting back of the short lengths of hedgerow along the approach route, to facilitate the passage of traffic generated by the development, should have any significant or lasting impact on the ecology of the hedgerows along the route, as a whole.

220. Turning, finally, to the impact of the development on residential amenity and public safety, I consider that the evident care taken by the company to minimise adverse impact on the rural character and appearance of the site's surroundings will likewise protect this aspect of local residential amenity. The enjoyment of Pound Farm Lane and Wyke Lane for walking and relaxation will certainly be considerably diminished, if not lost, while operations proceed; but this would be temporary, and limited to the permitted working hours. Some disturbance from noise is also to be expected. However this would, for the most part, be confined to the midnight to early morning period. From this point of view, it is not so much the perceived volume by which the fluctuating sound from the rig site would exceed existing background noise levels which concerns me, as the likelihood of such sound resulting in loss of sleep. Even if Mr Riley's predictions were to materialise, facade levels would only be slightly above those generally found tolerable, and then only in adverse weather conditions and on warm summer nights when residents wished to have their windows open. In my opinion, these levels should not result in undue loss of amenity, given the knowledge that the actual drilling and associated night time noise would be over and done with within a period of some 4 weeks.

221. With regard to public safety, I accept that the access route to the appeal site is well short of the ideal and that, even with the improvements agreed with the Highway Authority, the company will need to control and regulate the movement of its own and its contractors' vehicles with the utmost care, if a mishap is to be avoided. I am satisfied that the company is aware of its responsibilities in this matter and appreciates that it is in its best interests to avoid any occurrence which would endanger public safety or damage its reputation. Similar considerations apply to on-site safety, which would in any case be subject to the requirements of the Department of Energy and the Health and Safety Executive.

222. The foregoing considerations lead me to the conclusion that the drilling of an exploratory borehole in the Normandy area, from the site in Highfield Copse and in the manner proposed, would be unlikely to have any significant or lasting impact on the environment and ecology of the area, or on local residential amenity. I recognise that my conclusion in this respect will profoundly disappoint members of the Action Group and other local residents, the strength of whose objections to this proposal is not in question, and for whose carefully reasoned case and demeanour at the inquiry I have great admiration. Nevertheless, I am bound to say that, having considered all the representations made at the inquiry and in writing, I find no sound and clear cut reason for recommending that permission be withheld.

223. In reaching my conclusions on the various matters raised I have borne in mind the company's readiness to accept and abide by appropriate conditions which would regulate and restrict the scope of the proposed operations. I have nonetheless given thought to the adequacy and relevance of the conditions agreed between the company and the County Council, as set out at Document 52, and now refer to these in turn.

1. No particular reason is advanced by the Council for limiting the duration of the permission to 3 years, rather than the 5 years normally allowed in respect of a full planning permission, other than that the company stated that permission was sought to commence work not later than 3 years from the date on which permission was granted, when its application was submitted. It may be that local residents would prefer that the operations were over

and done with as soon as possible, but they did not make this point to me at the inquiry. I therefore can see no good reason for restricting the duration of the permission to 3 years.

2. I have already indicated my view that the access road, as well as the rig site, should be reinstated on completion of the operations. I therefore consider that the words in brackets "apart from the proposed access road" should not appear in any condition framed along the lines of Condition 2. I further consider, for reasons which I shall elaborate in due course, that the reference to the restoration of the site should be replaced by reference to its restoration "in accordance with the scheme hereinafter referred to".

3. I am concerned that there should be a reasonable degree of certainty as to what is to be permitted and am not satisfied that Condition 3 would achieve this objective. Firstly, I consider that any permission granted should refer, specifically, to the substantive plans which I have listed at paragraph 21 of my report. This would be best done in the preamble to any grant of planning permission, rather than by way of condition. The further details referred to in the particulars of the proposed development which accompanied the application are clear and should be referred to as such. The import of the subsequent correspondence between the County Council and the company, which the Council advised me should be regarded as "submitted documents" is less clear. I consider it better, therefore, that the condition should refer simply to the plans and stated particulars and that other matters covered in subsequent correspondence should be the subject of separate conditions. In sum, the Council advised me that the particular matters of concern in this respect, and not covered by other conditions or detailed in the plans are: (i) that the rig employed to drill the borehole should be the Bolden 61 or some quieter smaller rig (per letter of 1 February), (ii) that the depth of the turning bay at the entry to the site from Pound Farm Lane should be not less than 15 m (per letter of 20 February), (iii) that construction vehicles and operatives' cars should be parked within the confines of the rig site (per letter of 20 February) and (iv) that the storage of all plant and equipment should be within the confines of the fenced areas shown on the plans (per letter of 20 February). The Council further considers that any flaring and testing should be along the lines of that at Palmers Wood (per letter of 3 February). I shall refer further to this matter in due course.

4. The need to separately store and strip topsoil, subsoil and overburden is taken into account in ERL's restoration plan. The sites for such storage purposes are shown on Plan HFI-Hb. I see no reason for these matters to be the subject of a separate condition.

5. I consider that the matters here referred to duplicate existing controls over pollution of watercourses.

6-13. I regard these conditions as relevant to the satisfactory regulation of the company's activities. With regard to Condition 9, I was advised by the Council, and it is agreed by the company, that the choice of disposal point for any mud from the site is a material consideration from the planning point of view.

14. I have attached considerable importance to the restoration plan for the rig site and access road prepared by ERL, subject only to my caveat regarding the badger set and the sedge Carex strigosa. To my mind a certain requirement that the site should be reinstated and restored in accordance therewith

would be generally sufficient, and preferable to the 5 provisos of Condition 14. I recommend that this condition should be reworded along the following lines:

> "On completion of the drilling operations and any subsequent testing hereby permitted, the site shall be reinstated and restored in accordance with the provisions of the scheme prepared by Environmental Resources Limited dated 10 January 1985, including the "pre-drilling" and "during drilling" works therein referred to, and that, additionally and prior to the construction of the proposed access road, the badger set at the entry to Kiln Copse shall be investigated with a view to minimising disturbance to any remaining occupants, and the sedge Carex strigosa, found growing at the entry to Highfield Copse, shall be transplanted elsewhere within the copse."

15. If Condition 14 is reworded in the manner proposed, I consider that the first sentence of Condition 15 becomes superfluous. The further requirements of this condition seem to me sensible.

16. I regard this condition as relevant to the satisfactory regulation of the permitted activities.

224. My only remaining concern in respect of conditions is that there should be certainty that the restoration of the site should proceed immediately following, or soon after, the permitted operations. I would not recommend that the restoration works should be the subject of a bond as canvassed by the Action Group and others, but that their timing should be a further requirement of either Condition 2 or Condition 14. I would suggest the addition thereto of words such as:

> "Within one year of the removal of the buildings, plant and machinery from the site, the site shall be restored in accordance with..."

225. I regard the first 3 "informatives" appended to the list of agreed conditions as helpful. The further informative regarding "reserved" matters would seem to serve no purpose, as the application is, and the permission would be, for full planning permission.

RECOMMENDATION

226. I recommend that planning permission be granted in the terms, and subject to the conditions, which I have indicated.

RIDER, PERTAINING TO MY UNDERSTANDING OF PARAGRAPH 9 OF CIRCULAR 2/85

227. In the event that I have misunderstood the import of paragraph 9 and that the present proposal should be subject to the special policy considerations therein referred to, simply because the site is within the Metropolitan Green Belt, I would not wish to recommend other than I have. The quality of the local landscape has required me to carefully assess the impact of the proposal thereon and I have concluded that it would not have any significant impact on the present character of the site's attractive surroundings. I have otherwise concluded, for the reasons

stated at paragraph 205 of my report, that the proposal can reasonably be regarded as an exception to the strict control normally exercised over development in the green belt. In my view, and for these same reasons, it would not prejudice the continuing protection of this part of the green belt.

I have the honour to be
Sir
Your obedient Servant

JAMES DUNLOP

APPEARANCES

FOR CONOCO (UK) LIMITED

Mr P T S Boydell	- Queen's Counsel, instructed by Messrs Denton Hall and Burgin, Solicitors.
Mr K J Lindblom	- of Counsel.

They called:

Mr R H Stewart ARIBA MRTPI MBIM	- Director of Planning in the firm of RMJM London Limited.
Mr F E Dean BSc ARCS CEng FInstEnergy FInstGas FInstPet	- Principal Associate of Environmental Resources Limited.
Mr M S Forsyth BSc CEng MICE	- Project Engineer with Travers Morgan and Partners.
Mr D A M Gilbert MSc CEng MICE MIHT MITE (USA)	- Independant Consultant on Transport and the Environment.

FOR SURREY COUNTY COUNCIL

Mr D Mole	- of Counsel, instructed by Mr F A Stone, Clerk and Chief Executive to the Council.

He called:

Mr H E H Holmes FRTPI FRICS	- Town Planning Consultant, previously Deputy County Planning Officer, Surrey County Council.
Sir Michael Creswell	- County Councillor, Chairman of Countryside Sub-Committee.
Mrs C Gerrard	- County Councillor, Vice-Chairman of Policy Committee.

FOR HADFIELD (ESTATE AGENTS) LIMITED
SECTION 29 PARTY

Mr H G S Nicol	- Solicitor.

FOR POUND FARM LANE ACTION GROUP
GUILDFORD BOROUGH COUNCIL AND NORMANDY PARISH COUNCIL

Mr B Ash	- of Counsel, instructed by Messrs Penningtons, Solicitors, of Highfield, Brighton Road, Godalming.

FOR POUND FARM LANE ACTION GROUP (Continued)

He called:

Mr W C Thomson MRIBA FRTPI	-	Director of Colin Buchanan and Partners.
Dr A Lindley MA PhD MBritEc Soc	-	Conservation Officer, Surrey Trust for Nature Conservation.
Mr P P Riley MSc MIDA MInstP MInstA	-	Senior Consultant, Acoustical Investigation and Research Organisation Limited.
Mr A W MacDonald	-	Chairman, Pound Farm Lane Action Group.
Mr J B Lockyer Nibbs	-	Borough Councillor and Parish Councillor.
Mrs C Wyllyams	-	Local resident, of 2 Junction Cottages, Pound Farm Lane.

MEMBERS OF PARLIAMENT

The Right Honourable David Howell	-	Member of Parliament for Guildford.
The Right Honourable Cranley Onslow	-	Member of Parliament for Woking.

INTERESTED PERSONS

Mrs J Kempster	-	Mittersill, Green Lane East, Normandy.
Mr R Hill	-	Birch Croft, Glaziers Lane, Normandy.
Mr M Ashworth	-	20 Orchard Close, Normandy.
Mr R Beer	-	Corrie, Hazel Road, Ash Green.
Mr K Dow	-	Kiln Copse Cottage, Pound Farm Lane.
Mrs M Hodgson	-	Poyle House, Poyle Road, Tongham.
Mr B Howell	-	Brambles, Green Lane West, Normandy.
Mr R P Wicks	-	Schillings, Pound Farm Lane, Normandy.
Mr C M Bussingham	-	14 Culls Road, Normandy.
Mrs Parker	-	18 Ashville Road, Ash.
Mr Gray	-	Woodpeckers, Beech Lane, Normandy.
Mrs M Newman	-	Bramble, Westwood Lane, Normandy.

INTERESTED PERSONS (Continued)

Mr R M Egglestone	- Manor Bungalow, Normandy.
Colonel P Stock	- Christmas Pie Copse, Green Lane East, Normandy.
Mr C J Messer	- Manor House, Hunts Hill Road, Normandy.
Mr A G Chater	- Chairman, Save Our Surrey, Chairman, Freedom from Oil.

DOCUMENTS

Document 1 - Lists of persons attending inquiry.

" 2 - Notice of the inquiry and circulation list.

" 3 - Written representations received from organisations

a. Wanborough Parish Council
b. Tongham Parish Council
c. Pound Farm Lane Action Group
d. Ash Green Residents' Association
e. Countryside Action
f. The Benenden Society
g. Surrey Amenity Society
h. Surrey Flora Committee

" 4 - Written representations received from various individuals.

a. Cranley Onslow MP
b. David Howell MP
c. Professor M Bowley
d. Professor R S Scorer
e. Mr A H Whiffin
f. Mr I Gilroy

" 5 - Written representations received from Section 29 parties

a. Lord Taylor of Hadfield
b. Taylor Woodrow Property Company

" 6 - Written representations received from local residents.

" 7 - Documents submitted with planning application GU/84/0102

a. Application form and attached sheet
b. Covering letter
c. Notices and certificate
d. Explanatory notes prepared by John R Lawrence and Partners Ltd
e. Report No. 1423 by Acoustic Technology Ltd
f. Local residents informed of Conoco's proposals by the company
g. Conservation and Environmental Groups informed of Conoco's proposals by the company

DOCUMENTS (Continued)

Document 8 - Post application correspondence between Surrey County Council and applicant dated:

a. 25 January 1984
b. 1 February 1984
c. 3 February 1984
d. 8 February 1984
e. 13 February 1984
f. 20 February 1984
g. 25 February 1984
h. 4 May 1984

" 9 - Replies to consultation by County Planning Officer from

a. County Engineer (Highways)
b. County Engineer (Waste Disposal)
c. County Engineer (Environmental Noise)
d. County Archaeologist
e. Fire Brigade
f. Normandy Parish Council
g. Guildford Borough Council
h. Thames Water Authority
i. Mid-Southern Water Company
j. Health and Safety Executive
k. British Rail

" 10a - Report by County Planning Officer to County Planning Committee on 16 May 1984, together with Committee's resolution thereon.

b - Report of Vice Chairman to County Planning Committee on 20 May 1984.

c - Notice of refusal of planning permission in respect of application GU/84/102.

" 11 - Copy of undertaking given on 29 January 1985 by Conoco with Surrey County Council, together with bond in sum of £5,000.

" 12 - List of exploration wells drilled in Surrey.

" 13 - Particulars of Conoco (UK) Ltd.

" 14 - Paper on radioactive sources on a drilling site, prepared by Mr Dean.

" 15 - Programme for site operations.

" 16 - Note on flaring prepared by Mr Dean.

" 17 - Letters addressed to Conoco (UK) Ltd by

a. County Planning Officer, East Sussex
b. Chairman of Planning Sub Committee, Kent
c. Chairman of Witley Parish Council
d. Chairman of Tilehurst Parish Council

" 18 - Conoco: Worldwide blowout statistics.

DOCUMENTS (Continued)

Document 19 - Departmental responsibilities for certain safety and pollution matters.

" 20 - Summary of on-shore hyrocarbon policies and guidelines, as issued by minerals authorities, prepared by Mr Stewart.

" 21 - Surrey Structure Plan - Written Statement.

" 22 - Surrey Structure Plan - Report of Surrey, Volume 6a.

" 23 - Guildford Borough Local Plan.

" 24 - Assessment of the environmental impacts of the proposed bore-hole investigation at Normandy, prepared by Environmental Resources Ltd.

" 25 - Restoration plan for Normandy site, prepared by Environmental Resources Ltd.

" 26a - Tables of estimated traffic generation prepared by Mr Forsyth.
b - Approximate estimates of material quantities for site preparation.

" 27 - Letter dated 9 August 1984 addressed to John R Lawrence Partners Ltd by the County Engineer.

" 28 - Report on an ecological survey of Highfield Copse and Kiln Copse, by Environmental Resources Ltd.

" 29 - An environmental report on Highfield Copse and its immediate vicinity, Pound Farm Lane Action Group.

" 30 - Vascular plant species lists for rig site and remainder of Highfield Copse, ERL.

" 31 - Plant species characteristic of rough grassland, trackways and waste places not recorded on ERL species lists.

" 32 - Letter dated 8 November 1984 addressed to Chief Planning Officer, Guildford Borough Council, the Conservation Officer, Surrey Trust for Nature Conservation.

" 33 - Proof of evidence given to the inquiry by Dr A Lindley.

" 34 - Application No. 229/84 for a Felling Licence, made by Sherwood Brothers.

" 35a - Letter dated 16 January 1985 addressed to Sherwood Brothers by the Conservator, Forestry Commission.
b - Letter dated 1 February 1985 addressed to Chief Planning Officer, Guildford Borough Council by the District Forester, Forestry Commission.

" 36a - Letter dated 22 April 1977 addressed to Messrs F and C E Taylor by the Planning Officer, Guildford Borough Council.
b - Undated letter addressed to Messrs F and C E Taylor by the Conservator, Forestry Commission.

DOCUMENTS (Continued)

Document 37a - Letter dated 25 January 1984 addressed to Conoco (UK) Ltd by Mr Tinning, Nature Conservancy Council.

b - Letter dated 30 January 1984 addressed to Mr Tinning by Jenny Stephens, Conoco (UK) Ltd.

c - Letter dated 31 January 1984 addressed to Dr Lindley, Surrey Trust for Nature Conservation, by Jenny Stephens.

" 38 - Letter dated 7 February 1985 addressed to Mr Fellingham by Keith Kirby, Nature Conservancy Council.

" 39 - Proof of evidence given to the inquiry by Mr D A Gilbert, together with maps, tables and appendix referred to therein.

" 40 - Extract from BS 5228: Part 1: 1984.

" 41 - Oil and gas development in the South-East - synopsis of a paper by Mr H E H Holmes.

" 42 - Letter dated 18 December 1984 addressed to the Clerk of Normandy Parish Council by the Clerk to Ash Parish Council.

" 43 - Minutes of meeting of Normandy Parish Council on 17 November 1983.

" 44a - Letter dated 2 November 1984 addressed to local residents in the vicinity of Iden Green by Ian Foster, Conoco (UK) Ltd.

b - Extract from The Courier, 9 November 1984.

" 45 - Accident statistics, Surrey 1983-84.

" 46 - Analysis of written representations carried out by Conoco (UK) Ltd.

" 47 - Text of statement made at the inquiry by Right Honourable David Howell MP.

" 48 - Text of statement made at the inquiry by Right Honourable Cranley Onslow MP.

" 49 - Objection slips addressed to Right Honourable Cranley Onslow MP, together with list of signatories.

" 50 - Letter dated 30 July 1982 addressed to Colonel Stock by R D Scott.

" 51 - Statement made at the inquiry on behalf of the owners of land at Highfield Copse.

" 52 - Conditions agreed between Surrey County Council and Conoco (UK) Ltd in the event of permission being granted.

" 53 - Planning application No. GU/83/0019 and related correspondence.

" 54 - Report by County Planning Officer to County Planning Committee on 20 April 1983 and the Committee's resolution thereon.

" 55 - Decision of Surrey County Council in respect of application No. GU/83/0019.

DOCUMENTS (Continued)

Document 56 - Resolution of Guildford Borough Planning Committee on 15 May 1984 in respect of item 1096.

" 57 - Report to County Planning Committee in respect of application No. TA/84/61, and the Committee's resolution thereon.

" 58 - Report to County Planning Committee in respect of application No. WA/82/754, and the Committee's resolution thereon.

" 59 - Notes prepared by Mr Dean on drilling sites shown in photographs 1 to 3 at:

a. Palmers Wood, Surrey.
b. Baxter's Copse, West Sussex
c. Godley Bridge, Surrey

" 60 - Decisions of Guildford Borough Council in respect of application Nos 79P/1509 and 79P/1906, together with the inspector's decisions in respect of appeals made by the applicant.

" 61 - Decision of Guildford Borough Council in respect of application No. 77P/1530.

" 62 - Decision of Guildford Borough Council in respect of application No. GU/R.382/3/72/WAN, and the Secretary of State on appeal.

" 63 - Decisions of North Riding of Yorkshire County Council in respect of proposal exploratory boreholes, dated 10 February 1966 and 11 March 1971.

" 64 - Decision of Dorset County Council in respect of application No. DR/28/2/78.

" 65 - Decision of Peak Park Joint Planning Board in respect of application No. NP/S/582/8.

" 66 - Extract from report to Hampshire County Planning Committee regarding proposed development at Humbly Grove oilfield.

" 67 - Declared Local Nature Reserve and Sites of Special Scientific Interest, Nottinghamshire, including description of SSSI at Redgate Woods and Mansey Common.

" 68 - Extract from Hansard for 24 May 1984.

" 69 - Letters written by Right Honourable Neil Macfarlane MP to:

a. Cranley Onslow MP (dated 22 November 1984)
b. Virginia Bottomley MP (dated 8 December 1984)

" 70 - Department of Energy Press Notice, 28 November 1984.

" 71 - Report of the County Planning Officer to Surrey County Planning Committee on "Planning Control over Oil and Gas Operation".

DOCUMENTS (Continued)

Document 72 - Extract from The Times, 6 February 1985.

" 73 - Extract from Daily Telegraph, 1984.

" 74 - Hedgerow species recorded by Mrs Wyllyams and Mr Hall.

" 75 - Proof of evidence given to the inquiry by Mr P P Riley.

PLANS

Submitted with planning application No. GU/84/0102:

Plan A - 1:2,500 referenced HFI-A.

" B - 1:10,000 referenced HFI-B.

" C - 1:500 referenced HFI-C.

" D - 1:500 showing typical site layout for Boldon 61 rig.

" E - 1:10,000 referenced HFI-E.

" F - 1:500 referenced HFI-H.

Submitted subsequently:

Plan G - 1:500 referenced HFI-Hb.

" H - 1:2,500 referenced HFI-Aa.

Further plans:

Plan I - 1:2,500 showing general locality of appeal site and 100 m radii from centre of rig site.

" J - 1:50,000 showing oil and gas licence areas and well sites in Surrey.

" K - 1:10,000 showing locality of appeal site.

" L - 1:10,000 showing location of site the subject of application No. GU/83/0019.

" M - 1:10,000 showing public rights of way and footpaths in vicinity of Highfield Copse.

" N - 1:50,000 Guildford Borough Local Plan Proposals Map.

" O - Unscaled, indicating critical points on access route as identified by Colonel Stock.

" P - 1:10,000 showing positions from which Photos 4 and 5 were taken.

" Q - Ordnance Survey Map of Surrey, 1811.

" R - Greenwood's Map of Surrey, 1823.

PLANS (Continued)

Plan S - Title Map, 1839.

PHOTOGRAPHS

Photo 1 - Bolden Rig 61 at Palmers Wood.

" 2 - Bolden Rig 61 at Baxter's Copse.

" 3 - Bolden Rig 61 at Godley Bridge.

" 4 - Photomontage of site seen from point A on Plan P.

" 5 - Photomontage of site seen from point B on Plan P.

" 6 - As photo 4, at night

" 7 - As photo 5, at night

JES/P

Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

RIGHT TO CHALLENGE THE DECISION

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given.

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers); or

2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by these Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No 419), which relate to the procedure on cases dealt with by the Secretary of State.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

RIGHT TO INSPECT DOCUMENTS

Under the provisions of rule 13(3) of the Town and Country Planning (Inquiries Procedure) Rules 1974 any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State in writing within 6 weeks of the notification to him of the decision, or the supply to him of the Inspector's report, whichever is the later, for an opportunity of inspecting any documents, photographs and plans appended to the report. Such documents etc are listed in an appendix to the report. Any application under this provision should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days' notice should be given, if possible.

FINDINGS OF FACT

196. I find the following facts:

1. The appeal site lies in gently undulating countryside about 1.5 km south of the A323 Guildford to Aldershot Road and 1.75 km north of The Hogs Back.

2. Vehicular access to the vicinity of the site from the A323 is via Wyke Lane and Pound Farm Lane.

3. Wyke Lane has a carriageway width, for the most part, of approximately 4 m, but narrows to 3.7 m where it passes through a farm. It is adjoined by a group of dwellings at Wyke Avenue and by dwellings at the farm.

4. Pound Farm Lane varies in width between 3.3 and 2.7 m. Between Wyke Lane and the proposed site access it is adjoined by a pair of cottages known as Junction Cottages. Beyond the proposed access it runs into Green Lane West and together therewith forms a cul-de-sac off Wyke Lane, some 1,300 m long, serving 13 residential properties.

5. The appeal site comprises 2 areas of land: that required for the drilling rig and associated equipment and that required for the proposed access road thereto from Pound Farm Lane.

6. The rig site consists of a 100 m square of land forming part of a 14 ha broad-leaved woodland known as Highfield Copse. Its general location is visible from bridleways and other vantage points in the area and, more distantly, from The Hogs Back.

7. The route of the access road leads off Pound Farm Lane 600 m south of its junction with Wyke Lane and passes, in part, through a further broad-leaved woodland, known as Kiln Copse.

8. Highfield Copse is made up of hazel and ash, interspersed with oak standards and birch. It was last coppiced about 30 years ago. it shelters a wide variety of vascular and other plan species of which a significant number are indicators of "ancient woodland".

9. Kiln Copse is similarly species rich, including ancient woodland indicators.

10. None of the vascular plant species recorded in either copse are truly rare or endangered in a county or national context, but the comparatively rare sedge Carex strigosa grows on the route of the proposed access road at the entry to Highfield Copse.

11. The basidiomycete Sistotrema oblongisporum has been found in the vicinity of the rig site, a new British record, but is probably quite common.

12. There is no record of unusual fauna in either copse, though the Nightingale is a regular visitor to Highfield Copse and there is an abandoned or dormant badger set beside the route of the access road, at its entry into Kiln Copse.

13. Neither copse has been declared a Site of Special Scientific Interest.

14. There are a number of dwellings in the locality of the site, including the 13 residential properties on Pound Farm Lane and Green Lane West and a group of 19 dwellings to the north-east of the rig site, on Beech Lane.

15. The nearest dwellings to the proposed access borehole are a group of 3 cottages on Green Lane West, at 380 m, and a dwelling off Beech Lane, at 400 m.

16. The nearest dwellings to the proposed access road are a pair of cottages on Pound Farm Lane, some 80 m beyond the point at which the road would lead off the lane.

17. The proposed borehole would be drilled in accordance with the terms of Production Licence 202, awarded to the appellant company by the Secretary of State for Energy in 1982.

18. Seismic investigations indicate the presence of a geological feature in the Normandy area, measuring some 4 km east to west and 1.6 km north to south, capable of harbouring hydrocarbons.

19. The summit of the geological feature is thought to lie below Highfield Copse.

20. The present proposal represents the company's second attempt to obtain planning permission for an exploratory borehole in the Normandy area. A previous application related to an area of open land on the edge of Highfield Copse, at a lesser distance from dwellings in the locality and with access via the head of Green Lane West.

21. Details of the present proposal are given on a sheet attached to the application form and elaborated in subsequent correspondence between the County Council and the company.

22. The company would employ a Bolden 61 or a smaller, quieter rig. The Bolden 61 stands some 55 m high, including the drilling platform.

23. Prior to commencing work on site, the company would undertake certain improvements to Wyke Lane and Pound Farm lane, which are the subject of a "works agreement" with the Highway Authority.

24. The improvements would take 2 to 3 weeks and include the battening back of a section of the embankment to Pound Farm Lane, the construction of passing places and clearance of sight lines on the inside of bends.

25. Assuming reasonable weather conditions, preparation of the rig site and construction of the access road would take 6 weeks.

26. Actual drilling would take 3 to 4 weeks, and be continuous.

27. If hydrocarbons are encountered, drill stem testing would take about 2 weeks and longer term flow testing, if required, up to 6 months.

28. Any gas encountered in other than minimal quantities would be flared via an incinerator set up on open land beyond the confines of Highfield Copse.

29. On completion of drilling and any subsequent testing programme, the rig site and access road would be reinstated. This would take 7 weeks, after which the site would be managed for a minimum period of 5 years.

30. Reinstatement would be in accordance with a scheme designed to promote the growth and propagation of the formerly characteristic range and density of plant species.

31. Site preparation, actual drilling and reinstatement would give rise to upwards of 1,900 heavy goods vehicle movements and 2,700 light vehicle movements on Wyke Lane and Pound Farm Lane, as well as some 200 movements by second, back-up, traction units.

32. Drill stem tests, if required, would involve a further 100 heavy goods and 450 light vehicle movements. Flow tests would give rise to 8 heavy goods and 14 light vehicle movements per day.

33. Comparison of predicted noise levels associated with drilling and evaluation activities with existing levels, at residential locations in the vicinity of the rig site, indicate that the former will generally be below the latter, other than in the midnight to 7 am period.

34. In the midnight to 7 am period, predicted L_{eq} will, in one location, be 43 d B(A), assuming calm weather conditions and allowing for the facade effect of the dwelling itself. This would exceed the measured L_{90} noise level by 21 d B(A)

35. At other locations late night L_{eq} predictions are in the range 36 to 42 d B(A) and exceed existing L_{90} levels by 9 to 21 d B(A).

36. Comparison of existing noise levels with those associated with road construction and site preparation shows that, for the most part, these activities would not result in L_{eq} levels exceeding 57 d B(A) at any dwelling, though work on the construction of the access road near the junction with Pound Farm Lane could result in L_{eq} levels reaching 67 d B(A) at the nearby pair of cottages on Pound Farm Lane.

37. The passage of heavy goods vehicles along Wyke Lane and Pound Farm Lane would give rise to peak noise levels in the order of 85 d B(A) at a distance of

7.5 m from the road. This represents a quadrupling in loudness of present maximum noise levels experienced in the vicinity of Junction Cottages.

38. The County Council's officers recommended that the present application should be approved, subject to certain conditions.

39. The officers consider that, subject to the completion of the improvements to Wyke Lane and Pound Farm Lane covered by the works agreement, there would seem to be no sufficient highway reason to object to the proposal.

40. The County Engineer (Environmental Noise) does not consider it unreasonable to permit the proposed activities for the limited period involved, and does not consider that the continuous noise inside bedrooms of nearby dwellings would be excessive or likely to cause disturbance.

41. The appeal site and its surroundings form part of the Metropolitan Green Belt.

42. The Hogs Back is included within the Surrey Hills Area of Outstanding Natural Beauty and an associated Area of Great Landscape Value extends to within 500 m of the proposed borehole.

43. The control of development in the locality of the appeal site is subject to the policies of the approved Surrey Structure Plan, including those applying to the green belt, minerals, the environment generally, the maintenance of the county's tree cover and development giving rise to noise.

44. The relevant policies of the Structure Plan are amplified in the deposited Guildford Borough Local Plan, the subject of a public local inquiry in the summer of 1984 in respect of which the Inspector's report is awaited.

45. The proposed development is strongly objected to by the great majority of local residents. They are supported by their Parish Councils and Members of Parliament, as well as by members of the Borough and County Councils.

46. If permission is granted on the present appeal, the company would expect and accepts that this should be subject to conditions regulating the character of its activities, including conditions requiring the site to be reinstated in accordance with an agreed scheme and restricting working hours during site preparation and reinstatement.

MY CONCLUSIONS

Bearing in mind my findings of fact:

197. The present appeal clearly falls to be determined in the light of the advice given in Circular 2/85. This is not to say that the general applicability of the approved County Structure Plan and deposited Borough Local Plan to the control of development in the locality of the appeal site should not be taken into account, but that my conclusions must necessarily be informed by the particular considerations applying to development by the oil and gas industry, as set out in the circular. I regard 3 such considerations as being of special relevance to the decision in the present case.

198. Firstly, subject to environmental considerations, the discovery, appraisal and, over time, exploitation of on-shore hydrocarbon reserves is in the national interest. I appreciate that there is a contrary view, as expressed at the inquiry and in written representations. Indeed what may or may not be in the national interest at any given time will doubtless always be open to question, in many spheres of government policy. The Government of the day should nevertheless be expected to have its policies. In the case of on-shore development by the oil and gas industry the policy is clear: development is to be encouraged, subject to its environmental acceptability. I further consider that it is unreasonable to expect the industry to specify or quantify the particular need for a given proposal in every case, and certainly not in the case of an exploratory borehole, where the nature and amount of any hydrocarbons which may be encountered cannot be foreseen. Thus in weighing the national interest against environmental considerations in such cases, the former should be regarded as constant. It is the quality of the environment and the likely impact of the development thereon which will vary from case to case.

199. Secondly, each phase of development by the industry, whether exploration, appraisal or production, represents a separate entity in planning terms. While it may nevertheless be sensible to take account of the long-term suitability of a proposed appraisal well for production purposes, an application for an exploratory borehole falls to be determined wholly on its merits, without reference to possible future development. Given the clear advice of the Circular on this point, I regard the appellant company's reluctance to discuss the likely impact of any hypothetical future development as entirely reasonable. Equally, I consider that the temporary nature and limited duration of the proposed operations are material considerations in any assessment of their environmental impact. It may be that, if permission is granted on the present appeal and hydrocarbons are encountered, the local planning authority will find it difficult to resist further applications to appraise or exploit such a discovery. Alternatively, the likely impact of any future development proposed by the company may militate against further permissions. That is a risk which the company would take, if the present appeal succeeds and it drills an exploratory borehole, as it would risk finding the well dry.

200. Thirdly, while the national interest in exploiting our oil and gas reserves can be in conflict with that of protecting the environment, and a balance must be struck, it should be possible in most cases to find a solution so that development can proceed in an environmentally acceptable manner. Only exceptionally will the environmental objections be so great that the proposed development cannot proceed on a particular site. The emphasis of the circular is thus on the resolution of possible objections to development, by way of discussion, agreement, conditions and the preparation of satisfactory restoration proposals, rather than on restriction. Indeed, as stated at paragraph 16, oil and gas proposals are unlikely to raise wholly new issues of principle and their impact on the environment can be considerably less than other forms of mineral working.

201. Special policy considerations are nevertheless applicable to development in National Parks, Areas of Outstanding Natural Beauty "and other areas given protection for environmental reasons". The parties to the present appeal differ as to whether or not the site's green belt status brings it within the ambit of these special considerations. My view is that it does not. To my mind, the advice given at paragraph 9 of the circular represents a re-affirmation of the Government's concern to safeguard the character of those areas where there is a strong national interest in the protection of the landscape and the natural environment. I share the opinion of the appellant's planning witness that the main purpose of the Metropolitan Green Belt, as of other green belt designations, is strategic, and that the inclusion of the appeal site therein does not, of itself, imply that the local landscape and natural environment are endowed with any special quality or interest. In the event that I am mistaken in my understanding of the circular on this point, I shall add a rider to my recommendation, based upon the assumption that the special policy considerations referred to at paragraph 9 do apply in the present case.

202. I am equally of the opinion that the potential sensitivity of a particular site to development should not depend upon its inclusion within an area designated for environmental reasons. The circular indicates that there may be a presumption against exploration, albeit exceptionally, in relatively small and sensitive areas. Given the intimate scale and frequently changing character of the English landscape, I do not doubt that there will be small areas of great natural beauty or interest beyond the boundaries of specific designations, whose character would be seriously and irretrievably damaged by oil and gas operations. Furthermore, their sensitivity to such development may not be derived only from their natural attributes. In my view questions of local residential amenity are also a material consideration, including possible disturbance by noise and inconvenience or other problems associated with traffic to and from the site.

203. Before proceeding further, I shall address myself to the question as to whether or not the quality of the site's immediate environment warrants a presumption against the grant of planning permission in the present case. The value placed upon a particular landscape is an emotive issue and inevitably subjective. I well understand that appreciation heightens with familiarity. Indeed, I would not doubt that almost any given area of the English countryside is cherished by those who live in it, however planners and other supposed experts may choose to classify it. I therefore appreciate the concern of local people in the present case to protect their environment. Furthermore, I consider that their concern is justified, to the extent that the Normandy area is certainly, in my view, a most pleasant and attractive area which remains essentially rural in character. In my opinion its sensitivity to development demands that the utmost care should be taken to ensure that development by the industry should not be unduly intrusive and does not have any serious lasting impact upon its present landscape character and sense of rural tranquility. However, I am bound to say that I consider the attraction and charm of the site's surroundings typical of much of the English countryside and does not set them apart therefrom. In other words, I find nothing exceptional about the area, which warrants a presumption against any development by the industry.

204. I find myself supported in this conclusion by the fact that neither the County Council nor the Borough Council has seen fit to apply any special classification to the area; nor has the Nature Conservancy Council declared it to be of Special Scientific Interest. As I have indicated, exclusion from, or inclusion within, the boundaries of such classifications should not be regarded as final proof of an area's worth, one way or the other. However, in the present case, the Borough Council has but recently prepared its Local Plan, and should be expected to have considered whether or not, for instance, the area should be included within the

boundaries of the nearby AGLV, or of the Wanborough Woods AHEI, and officers of the Nature Conservancy Council have visited the area.

205. With the advice of Circular 2/85 in mind, I turn now to the merits of Conoco's present application. Firstly, I do not consider that the proposed development, as described by the company when permission was applied for and in subsequent correspondence, is self-evidently in conflict with any of the policies of the approved County Structure Plan or draft Borough Local Plan. In my opinion, the need to explore for minerals in the Normandy area, and hence the provisions of Structure Plan Policy 92, should not be at issue, both because of the national interest in discovering the extent of our hydrocarbon reserves and the promising character of the seismic investigations carried out in the area, which is not in dispute. I am likewise of the opinion that operations by the oil and gas industry can reasonably be regarded as an exception to the normally strict control exercised by Structure Plan Policy 3, and Local Plan Policy GB3, over development in the Metropolitan Green Belt, again because of the national interest in the discovery, appraisal and production of on-shore hydrocarbons, because, as with other minerals, such minerals can only be found where they lie and, in the case of the present proposal, because of its temporary nature.

206. In respect of Structure Plan Policies 82 and 83, and Local Plan Policies CE14 and CE43, I appreciate that the appeal site lies close to an AGLV and AHEI, and not far from the Surrey Hills AONB. However, the presumption against development in these areas should not, in my view, apply to proposed operations beyond their boundaries. The issue raised by the site's proximity to these areas is, rather, that of the compatibility of the development with their special interest and character. I note, in any case, that Structure Plan Policy 82 does not rule out the possibility of mineral workings in AONBs. In respect of Structure Plan Policy 85 and, more particularly, of Local Plan Policy CE30, which represents the detailed application of Policy 85 to the Guildford area, I do not consider that the proposed development threatens to "significantly" reduce the present level of woodland coverage in the Borough. Firstly, the amount of woodland involved is small. Secondly, the proposal incorporates provisions for the land to be re-planted.

207. The further policies referred to by the County Council and the Action Group and others concern the need to ensure that proposed development does not detract unduly from the local environment, or from the amenity of local residents, and are thus in line with the emphasis placed in the circular on environmental considerations. As to whether or not the present proposal is in conflict therewith must depend upon an assessment of its particular environmental impact.

208. Three matters of possible concern have been identified by objectors to the development, both at the inquiry and in the written representations: its impact upon the rural character and appearance of its surroundings, its impact upon the ecology of Highfield Copse and Kiln Copse and the hedgerows along the access route and its impact on local residential amenity and public safety. With regard to the first of these matters, I have already indicated my view that this is an area where great care must be taken to ensure that development by the industry does not appear unduly intrusive and does not have any serious lasting impact upon its present landscape character and rural tranquility. In my opinion, the company has given due consideration to the need to minimise the visual impact of the on-site operations. The choice of site for the rig represents an evident improvement, in this respect, upon the more exposed site first put forward. From my inspection of the site and surroundings, I suspect that the rig and other on-site equipment and buildings would be somewhat more noticeable than the company anticipates from the vicinity of Beech Tree Lane and, possibly, from viewpoints to the north of

the railway. This is because of the site's elevation in relation thereto and the fact that its more easterly half would stand proud of the woodland floor. However, bearing in mind that the rig is only expected to be in position for some 4 to 6 weeks, and that other equipment and buildings would be unlikely to remain on the site for more than, at most, 6 months, I do not consider that this is a matter for any great concern.

209. From other vantage points in the vicinity, only the upper part of the rig should be seen above the woodland canopy. This would be an alien element in this essentially rural landscape but, again, of short duration. I would not expect the rig to be readily visible from the AGLV to the south of Green Lane West, or to have any significant impact on views over the area obtained from The Hog's Back.

210. The consequent loss of woodland, both in Highfield Copse and Kiln Copse, is regrettable. However, this is mitigated by the concealment thereby afforded to the rig site and, in part, the access road, and the company's commitment to replant these woodland areas as soon as possible following completion of its exploration programme. On the basis of the representations made to me, I am not pursuaded that there is any better site in the vicinity from which the geological feature in question could be satisfactorily explored with less impact upon the local landscape.

211. On the subject of the company's restoration proposals, I agree with the Action Group and others that these should encompass the reinstatement of the access road as well as that of the rig site, as indeed is the case so far as ERL's scheme is concerned. As envisaged by the District Forester, the cutting and leaving of an open swathe through Kiln Copse, and no doubt also at the entry to Highfield Copse, might well result in damage to these woodlands as a whole from windblow and wind snap. Notwithstanding the evident wish of the owners that part, at least, of this road should be retained, I consider that, if permission is granted, it should be reinstated in its entirety.

212. Traffic generated by the operations would certainly detract from the rural character of the approach route to the site from the A323 and, when seen on the access road, from the site's immediate surroundings. However, such traffic would seem to me to be an attendant feature of drilling operations in almost any rural area and its amount in the present case is in part a product of the distance of the site from the existing road network and the consequent length of the proposed access road, and of the need to secure the reinstatement of the site and access road when drilling is completed, which have other advantages. Here again, while the immediate impact of such traffic may be considerable, due account should be taken of its limited duration.

213. My only reservation in respect of the routing of the site traffic concerns the proposed improvements to Wyke Lane and Pound Farm Lane. I do not doubt the necessity for these works and for the most part think they would have little impact upon the rural character of the lanes. I am nevertheless concerned lest the clearance of the sightlines on the inside of the bend on Pound Farm Lane, 100 m or so beyond its junction with Wyke Lane, should entail the loss of the trees which I noted in this vicinity when I inspected the site. To my mind, this would be unfortunate and I doubt that their retention would seriously impede the forward visibility of drivers on this section of the lane. Their possible loss arises from the works agreement between the company and the Highway Authority, the import of which is less than clear on this matter, rather than from the terms of the company's planning application. In my view, it is a matter which can be left to the good sense of the company and the Authority, if permission is granted and the works agreement takes effect.

214. In sum, I do not think that the operations now proposed would be unduly intrusive or have any serious lasting impact upon the character of the site's attractive and tranquil rural surroundings.

215. Regarding the impact of the proposed operations on the ecology of Highfield Copse and Kiln Copse, I consider the question as to whether or not these 2 woodland areas were first planted before 1600, or 1700, and should therefore be classified as "ancient", is to some extent academic. What matters is that they have the richness and variety of flora generally regarded as characteristic of ancient woodlands. That is not in doubt and that is why Dr Lindley and others are concerned at the prospect of the proposed development. For my part, I shall consider the impact of this development "as if" the woodlands are ancient, whether or not they should be classified as such as a point of fact.

216. I appreciate Dr Lindley's concern that incursions into ancient woodland habitats should be resisted, as a matter of principle, and lest permission in the present case should be regarded as a precedent for development by the oil and gas industry in ancient woodlands. Nevertheless, there are a number of considerations which, to my mind, mitigate the impact of the operations in this respect, and may well distinguish the present proposal from possible future proposals involving ancient woodland. Firstly, Highfield Copse is believed to be above the summit of the geological formation which the company wishes to explore. It therefore represents the ideal place in which to drill an exploratory borehole, at least from the technical point of view. Secondly, as I have already indicated, siting the rig within the copse has advantages in terms of minimising its impact on the local landscape, and there is no evidently better site from this point of view. Thirdly, by routing the access road through part of Kiln Copse, rather than directly to Green Lane West, the company has considerably reduced the potential impact of traffic on the amenity of residential properties on Green Lane West and Pound Farm Lane. Fourthly, the rig site represents no more than some 7% of the overall area of Highfield Copse, and few, if any, of the plant species found within the site are not found elsewhere in the woodland. Fifthly, and most importantly so far as the ecology of the woods is concerned, none of the flora or fauna recorded are regarded by their finders or Dr Lindley as particularly rare or endangered in either a county or national context. Sixthly, as I have already stressed repeatedly, the present proposal, and hence the company's presence in the woods, is temporary and not permanent. Finally, and again a matter of particular importance, the restoration plan drawn up by ERL has, to my mind, been carefully considered, with an evident understanding of the problems involved, and is, by common consent, likely to achieve the best results possible.

217. I do not doubt that, despite the company's best endeavours, the proposed operations would have some impact on the ecological systems presently supported and sheltered by Highfield Copse and Kiln Copse. Nevertheless, for the foregoing reasons, I do not consider that the severity of their effect thereon, such as it may be, warrants my recommending that planning permission be refused.

218. I have 2 reservations, both of which should be satisfactorily disposed of by the attachment of appropriate conditions to any grant of planning permission. Firstly, although Mr Dean advised me that the fairly rare sedge Carex strigosa, found growing on the route of the access road at the entry to Highfield Copse, would be re-planted elsewhere in the copse prior to road construction works, I find no reference to this in the "pre-drilling" activities set out in the restoration plan. Secondly, there is some uncertainty as to whether the badger set which lies close to the point at which the access road would enter Kiln Copse, is abandoned or simply dormant. I consider that the company should further investigate this matter prior to the construction of the road and, if simply dormant, take steps to minimise possible disturbance to the badgers, and at least to avoid their destruction.

219. I do not consider that prospective loss and cutting back of the short lengths of hedgerow along the approach route, to facilitate the passage of traffic generated by the development, should have any significant or lasting impact on the ecology of the hedgerows along the route, as a whole.

220. Turning, finally, to the impact of the development on residential amenity and public safety, I consider that the evident care taken by the company to minimise adverse impact on the rural character and appearance of the site's surroundings will likewise protect this aspect of local residential amenity. The enjoyment of Pound Farm Lane and Wyke Lane for walking and relaxation will certainly be considerably diminished, if not lost, while operations proceed; but this would be temporary, and limited to the permitted working hours. Some disturbance from noise is also to be expected. However this would, for the most part, be confined to the midnight to early morning period. From this point of view, it is not so much the perceived volume by which the fluctuating sound from the rig site would exceed existing background noise levels which concerns me, as the likelihood of such sound resulting in loss of sleep. Even if Mr Riley's predictions were to materialise, facade levels would only be slightly above those generally found tolerable, and then only in adverse weather conditions and on warm summer nights when residents wished to have their windows open. In my opinion, these levels should not result in undue loss of amenity, given the knowledge that the actual drilling and associated night time noise would be over and done with within a period of some 4 weeks.

221. With regard to public safety, I accept that the access route to the appeal site is well short of the ideal and that, even with the improvements agreed with the Highway Authority, the company will need to control and regulate the movement of its own and its contractors' vehicles with the utmost care, if a mishap is to be avoided. I am satisfied that the company is aware of its responsibilities in this matter and appreciates that it is in its best interests to avoid any occurrence which would endanger public safety or damage its reputation. Similar considerations apply to on-site safety, which would in any case be subject to the requirements of the Department of Energy and the Health and Safety Executive.

222. The foregoing considerations lead me to the conclusion that the drilling of an exploratory borehole in the Normandy area, from the site in Highfield Copse and in the manner proposed, would be unlikely to have any significant or lasting impact on the environment and ecology of the area, or on local residential amenity. I recognise that my conclusion in this respect will profoundly disappoint members of the Action Group and other local residents, the strength of whose objections to this proposal is not in question, and for whose carefully reasoned case and demeanour at the inquiry I have great admiration. Nevertheless, I am bound to say that, having considered all the representations made at the inquiry and in writing, I find no sound and clear cut reason for recommending that permission be withheld.

223. In reaching my conclusions on the various matters raised I have borne in mind the company's readiness to accept and abide by appropriate conditions which would regulate and restrict the scope of the proposed operations. I have nonetheless given thought to the adequacy and relevance of the conditions agreed between the company and the County Council, as set out at Document 52, and now refer to these in turn.

1. No particular reason is advanced by the Council for limiting the duration of the permission to 3 years, rather than the 5 years normally allowed in respect of a full planning permission, other than that the company stated that permission was sought to commence work not later than 3 years from the date on which permission was granted, when its application was submitted. It may be that local residents would prefer that the operations were over

and done with as soon as possible, but they did not make this point to me at the inquiry. I therefore can see no good reason for restricting the duration of the permission to 3 years.

2. I have already indicated my view that the access road, as well as the rig site, should be reinstated on completion of the operations. I therefore consider that the words in brackets "apart from the proposed access road" should not appear in any condition framed along the lines of Condition 2. I further consider, for reasons which I shall elaborate in due course, that the reference to the restoration of the site should be replaced by reference to its restoration "in accordance with the scheme hereinafter referred to".

3. I am concerned that there should be a reasonable degree of certainty as to what is to be permitted and am not satisfied that Condition 3 would achieve this objective. Firstly, I consider that any permission granted should refer, specifically, to the substantive plans which I have listed at paragraph 21 of my report. This would be best done in the preamble to any grant of planning permission, rather than by way of condition. The further details referred to in the particulars of the proposed development which accompanied the application are clear and should be referred to as such. The import of the subsequent correspondence between the County Council and the company, which the Council advised me should be regarded as "submitted documents" is less clear. I consider it better, therefore, that the condition should refer simply to the plans and stated particulars and that other matters covered in subsequent correspondence should be the subject of separate conditions. In sum, the Council advised me that the particular matters of concern in this respect, and not covered by other conditions or detailed in the plans are: (i) that the rig employed to drill the borehole should be the Bolden 61 or some quieter smaller rig (per letter of 1 February), (ii) that the depth of the turning bay at the entry to the site from Pound Farm Lane should be not less than 15 m (per letter of 20 February), (iii) that construction vehicles and operatives' cars should be parked within the confines of the rig site (per letter of 20 February) and (iv) that the storage of all plant and equipment should be within the confines of the fenced areas shown on the plans (per letter of 20 February). The Council further considers that any flaring and testing should be along the lines of that at Palmers Wood (per letter of 3 February). I shall refer further to this matter in due course.

4. The need to separately store and strip topsoil, subsoil and overburden is taken into account in ERL's restoration plan. The sites for such storage purposes are shown on Plan HFI-Hb. I see no reason for these matters to be the subject of a separate condition.

5. I consider that the matters here referred to duplicate existing controls over pollution of watercourses.

6-13. I regard these conditions as relevant to the satisfactory regulation of the company's activities. With regard to Condition 9, I was advised by the Council, and it is agreed by the company, that the choice of disposal point for any mud from the site is a material consideration from the planning point of view.

14. I have attached considerable importance to the restoration plan for the rig site and access road prepared by ERL, subject only to my caveat regarding the badger set and the sedge Carex strigosa. To my mind a certain requirement that the site should be reinstated and restored in accordance therewith

would be generally sufficient, and preferable to the 5 provisos of Condition 14. I recommend that this condition should be reworded along the following lines:

> "On completion of the drilling operations and any subsequent testing hereby permitted, the site shall be reinstated and restored in accordance with the provisions of the scheme prepared by Environmental Resources Limited dated 10 January 1985, including the "pre-drilling" and "during drilling" works therein referred to, and that, additionally and prior to the construction of the proposed access road, the badger set at the entry to Kiln Copse shall be investigated with a view to minimising disturbance to any remaining occupants, and the sedge Carex strigosa, found growing at the entry to Highfield Copse, shall be transplanted elsewhere within the copse."

15. If Condition 14 is reworded in the manner proposed, I consider that the first sentence of Condition 15 becomes superfluous. The further requirements of this condition seem to me sensible.

16. I regard this condition as relevant to the satisfactory regulation of the permitted activities.

224. My only remaining concern in respect of conditions is that there should be certainty that the restoration of the site should proceed immediately following, or soon after, the permitted operations. I would not recommend that the restoration works should be the subject of a bond as canvassed by the Action Group and others, but that their timing should be a further requirement of either Condition 2 or Condition 14. I would suggest the addition thereto of words such as:

> "Within one year of the removal of the buildings, plant and machinery from the site, the site shall be restored in accordance with..."

225. I regard the first 3 "informatives" appended to the list of agreed conditions as helpful. The further informative regarding "reserved" matters would seem to serve no purpose, as the application is, and the permission would be, for full planning permission.

RECOMMENDATION

226. I recommend that planning permission be granted in the terms, and subject to the conditions, which I have indicated.

RIDER, PERTAINING TO MY UNDERSTANDING OF PARAGRAPH 9 OF CIRCULAR 2/85

227. In the event that I have misunderstood the import of paragraph 9 and that the present proposal should be subject to the special policy considerations therein referred to, simply because the site is within the Metropolitan Green Belt, I would not wish to recommend other than I have. The quality of the local landscape has required me to carefully assess the impact of the proposal thereon and I have concluded that it would not have any significant impact on the present character of the site's attractive surroundings. I have otherwise concluded, for the reasons

stated at paragraph 205 of my report, that the proposal can reasonably be regarded as an exception to the strict control normally exercised over development in the green belt. In my view, and for these same reasons, it would not prejudice the continuing protection of this part of the green belt.

I have the honour to be
Sir
Your obedient Servant

JAMES DUNLOP

CONFIDENTIAL

cf. PL bf on 27/6 Issue of OOPS will chip in first.

MR ADDISON

21 June 1985

CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

The circular now produced by Patrick Jenkin to Nicholas Edwards (letter dated 18 June) is the same as that attached to his minute of 19 March to the Prime Minister. This was considered by the Prime Minister and the Sainsbury Group on 29 April and, as you have seen, your letter stated that the Secretary of State for the Environment would now complete the draft circular, taking account of the points made in the discussion.

I have now spoken to John Delafons, the Deputy Secretary at DoE. He says that all 12 points made in your letter of 29 April have been taken on board and are being studied. In respect of suggestion 7 (that it would be helpful if the Secretary of State had to publish reasons for delays in reaching decisions, and that there might be a presumption that an appeal should be settled in 3 months or less), this is contained in a survey, the results of which are expected at the end of this month. This survey has gone to the Regional Planning Offices, and it is hoped that internal administrative changes will cope with this point. It was not thought necessary to hold up the issue of this circular while this research is going on.

DoE are of the view that planning applications go through too many hands and might be improved by early case

conferences. They feel it is probably going to be impossible and unwise to insist on a 3 month period in all planning applications. This is because, occasionally in a small number of cases, there are good reasons for delays over the 3 month period. These reasons would include County Council elections, pending court actions, and the finalisation of structure plans. I am doubtful about these reasons, particularly the first and the third, and I have not seen any instance of a court action that could delay new planning applications that had not yet been fully considered. However, it is not possible to refute DoE until their research comes through.

I recommend the circular is permitted to come out as suggested in Patrick Jenkin's letter, namely at the end of July with Lord Young's White Paper. It should not be delayed anymore. We will keep this matter under close review. There is considerable force in not insisting that this circular be enlarged to a point where it loses its unusual characteristic of being a "one pager".

HARTLEY BOOTH

165/6

HB
19/6/85

MR. BOOTH

CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

I should be grateful for your advice on the letter which came in recently from Patrick Jenkin to Nicholas Edwards dated 18 June. It covered a further version of the circular which was discussed at the meeting in April with the Sainsbury Group. This looks to me to be very similar to the earlier draft we saw; in particular it includes no mention of a presumption that appeals should be settled in three months or less. Perhaps your note could cover the reasons why the Department of the Environment apparently decided not to pursue the idea?

MBTA

19 June, 1985.

CONFIDENTIAL

cc MO

CF
Planning file please.

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

18 June 1985

Dear Secretary of State

CIRCULAR ON DEVELOPMENT AND EMPLOYMENT

As you know, David Young's group MISC 114 have been considering the planning system in relation to the general theme of deregulation. I had already had it in mind to publish a new circular on planning policy following discussions with a group led by Sir John Sainsbury. MISC 114 have recommended that this circular should be issued when the proposed White Paper on deregulation is published in mid-July. MISC 114's proposal is that the circular should go out the same day and that the text should be included as an Annex to the White Paper. Your officials have already seen copies of the circular in draft and I attach a copy of the latest version.

The main purpose of the circular is to reiterate clearly that the planning system should not place unjustified obstacles in the way of development. Paragraphs 1 and 2 are a succinct restatement of the message of our key circular on development control (our 22/80, your 40/80). The circular points up the links between speedy, positive planning and jobs; set out the general presumption in favour of development; stresses the need to give precise reasons for refusals; and makes it clear that policies in outdated development plans should not be allowed to override other material considerations, particularly the encouragement of employment and economic growth.

Although the message of the circular is not new, I expect that its brevity and clarity will have a considerable impact and may well prove controversial. It is worth noting, however, that the main message is expressed in very similar terms to a circular issued as long ago as 1953, which was cancelled along with a number of obsolete circulars, because parts of it were out of date. I enclose a copy and I hope you will agree that it is well worth restating these basic policies.

Circulars of this kind on planning matters are usually issued jointly by our two Departments and I hope that you will be willing for this one to be a joint publication.

Copies of this letter and of the draft circular go to the Prime Minister and also to Willie Whitelaw, George Younger, Norman Tebbit, Tom King, Michael Jopling and David Young.

Yours sincerely
Alf Dain
for
PATRICK JENKIN

Approved by the SofS and signed in his absence

The Rt Hon Nicholas Edwards MP

CONFIDENTIAL

12

DEVELOPMENT AND EMPLOYMENT

1. New development contributes to economic activity and to the provision of jobs. It is in the national interest to promote and encourage it. The planning system must respond positively and promptly to proposals for development. Delay adds to the costs of development.

2. Development proposals are not always acceptable. There are other important objectives to which the Government is firmly committed: the need to preserve our heritage, to improve the quality of the environment, to protect the green belts and conserve good agricultural land. The planning system, however, fails in its function whenever it prevents, inhibits or delays development which could reasonably have been permitted. There is therefore 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.

3. Authorities are obliged, under Articles 7 of the General Development Order 1977, to give reasons whenever they refuse planning permission. Those reasons must be precise, specific and relevant to the application: they must demonstrate clearly why, in the local planning authority's view, the proposed development cannot be permitted. Without such a clear demonstration the developer will not know whether or not his proposal can be made acceptable, or the grounds on which he can base an appeal against refusal. As a result, valuable investment and new jobs, in construction, in commerce and in industry, may be delayed or lost.*

4. In dealing with applications for planning permission, Section 29(1) of the Town and Country Planning Act 1971 requires that the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Development plans are therefore one,

---

* More detailed advice on the positive operation of development control is given in Circulars 22/80 and 16/84, and in relation to the use of conditions in Circular 1/85; advice on green belts is given in Circular 14/84.

but only one, of the material considerations that must be taken into account in dealing with planning applications. Many structure plans were approved several years ago, often several years after they had been prepared and 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.

5. The Secretary of State and his Inspectors will have regard to the terms of this circular in dealing with planning appeals and with any application that may be made to them for the award of costs.

Cancelled by 26/79.

Crown Copyright Reserved.

Circular No. 61/53.

Local Planning Authorities
(England).

MINISTRY OF HOUSING AND LOCAL GOVERNMENT,
WHITEHALL, S.W.1.

26th October, 1953.

SIR,

PLANNING APPEALS

1. I am directed by the Minister of Housing and Local Government to say that in recent months the number of appeals has been increasing. This is due to a variety of reasons, which for the most part are outside the control of planning authorities. There has in particular been a gratifying increase in the amount of development undertaken generally, and the Government is anxious to encourage this. But appeals in general mean delay.

2. The Minister has accordingly been reviewing the experience of the past few years and, although there are no major new steps which he can ask authorities to take, there are a number of points on which advice has already been given to which some authorities could with advantage pay more attention. These points were dealt with in Circular 69, issued by the Ministry of Town and Country Planning in March 1949 (when the number of appeals had been rising) and I am to ask that your Council will study that Circular again. Not all of it is appropriate to present circumstances (e.g. paragraph 7, on permissions granted for a limited period) but in substance the advice given still stands. The main points the Minister desires to emphasise are:—

(*a*) Where there is no clear and specific reason for refusing permission or attaching conditions, the applicant should be given "the benefit of the doubt" (paragraph 5 and paragraph 9; paragraph 6, on the degree of significance to be attached to precedents, is also relevant). Development should always be encouraged unless it will cause demonstrable harm to an interest of acknowledged importance.

(*b*) Where permission is refused, or conditions imposed, the reasons should be clearly explained to the applicant: these should be stated in language which anyone can understand (paragraph 4, (*a*) and (*b*)). Many authorities make a practice of explaining what they have in mind in discussion with the applicant in advance of issuing the formal decision, and those authorities who have not adopted this practice are invited to do so. This should be particularly valuable where some modification of the proposal, or a shift to an alternative site, would meet the objection.

3. I am also to remind you of the memorandum accompanying Circular 58/51, issued by the Ministry of Local Government and Planning on 10th September, 1951, about the drafting of planning permissions. Attention is drawn in particular to paragraphs 10 to 14 of the memorandum, dealing with the imposition of conditions; appeals frequently arise from the use of conditions which are inappropriate to the case or are badly expressed.

I am, Sir,

Your obedient Servant,

J. H. WADDELL.

The Clerk of the Authority.
(91642/46)

LONDON: HER MAJESTY'S STATIONERY OFFICE
1953
TWOPENCE NET

21819 (1)) Wt. 3439—567 K100 10/53 D.L. 75-9999

(2)

CF - pl. p.c.

PRIME MINISTER

You may recall taking an interest in the case of C J (Southern) Limited and their planning appeal.

The Inspector has now reached a decision, dismissing the appeal (Flag A).

I raised with the Department of the Environment the impression I had from the Inspector's decision that he had, indeed, weighed in the balance competitive factors as well as others. The DOE's response is at Flag B. They believe that the Inspector's decision in the end was reached on legitimate traffic safety grounds.

It is to be hoped that the new policy guidance which Environment will be issuing, together with the other action they are taking on planning will ensure that Inspectors avoid being tempted to act as competition watch-dogs.

Mark Addison

24 May 1985

10 DOWNING STREET

From the Private Secretary

9 May 1985

PLANNING CONTROL: THE CASE OF C J (SOUTHERN) LTD

Many thanks for your letter of 9 May.

Before I let the Prime Minister know the outcome of the appeal, I should be grateful for your thoughts on one point. The letter from Andrew Allberry to David Barclay, dated 15 February, set out the issues which the Inspector would have to consider. Andrew made the point that protecting nearby shopkeepers from competition would be no part of the Inspector's brief. I see, however, that the Inspector's report, in paragraph 6, suggests that the impact on other local trade of C J (Southern)'s retail activities was one of the points he needed to consider (although it turned out, of course that this was not the issue which clinched his decision). There seems to be an inconsistency here, and I would be grateful for your comments.

MARK ADDISON

Miss Sue Vandervord
Department of the Environment

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

9 May 1985

Dear Mark

PLANNING CONTROL: THE CASE OF C J (SOUTHERN) LTD

In your letter of ~~19~~ See PT 1 February to Andrew Allberry, you asked to be informed of the outcome of the planning appeal by C J (Southern) Ltd.

I am enclosing a copy of the Inspector's decision letter, which was issued on 2 May. You will see that he decided to dismiss the appeal, although he took full account of the provision of employment opportunities and the need to assist small businesses. In paragraph 7 of his letter, he explains that he found the traffic arguments against allowing the retail use to remain overwhelming.

The Secretary of State remains satisfied that this case is not evidence that the planning system is having an adverse effect on employment. As the Inspector points out, this retail use was not stimulating economic activity, but diverting it to a location where there is a higher risk to traffic safety.

Yours sincerely

Sue Vandervord

MISS SUE VANDERVORD
Private Secretary

Mark Addison Esq

A

Department of the Environment and
Department of Transport
Common Services
Room 1406 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321
Direct line 0272-218 915
Switchboard 0272-218811

C J (Southern) Limited
Unit 3
Rotunda Estate
High Street
ALDERSHOT
Hants
GU11 1TG

Your reference

Our reference
T/APP/P1750/A/85/26534/P6

Date
-2 MAY 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- RSH 04269

1. I have been appointed by the Secretary of State for the Environment to determine your appeal. Your appeal is against the decision of the Rushmoor Borough Council, to refuse planning permission for change of use of part of unit from light industrial to retail use at Unit No 3, Rotunda Estate, High Street, Aldershot. I have considered the representations submitted by yourselves, by the Council and by another firm. I inspected the site and its surroundings on Monday 25 March 1985.

2. Rotunda Estate occupies an area of about 0.32 ha bounded by High Street, Victoria Road, Albert Road and the railway in the central part of Aldershot. It comprises 10 small light industrial units constructed in blockwork and external facing brick with aluminium sheet cladding to the top section of elevations. Numbers 1 to 4 front on to the western side and just north of the railway bridge over High Street. The first two are set immediately behind and parallel to the highway boundary, but Nos 3 and 4 are set back respectively some 2 m and 6 m from the building line of Nos 1 and 2. Nos 5 to 7 present a staggered elevation to Victoria Road. No 8 adjoins the western wall of No 7 and is set back from that frontage. Its north western wall is truncated parallel to Albert Road. Nos 9 and 10 are a semi-detached pair of units on their own south of the access to the estate which is from the bend in Albert Road, some 30 m from and south west of its junction with Victoria Road. The rear of the 3 blocks of units thus formed have access on to a large car park which completes the development to the southern (railway) boundary.

3. The appeal premises, like Units 1 and 2 south of it, has a frontage of some 10 m and a total depth of about 16.5 m. The front of the building is separated from the rear section by an internal wall across the full width. This front section, shown as "office" on the Plan B attached to the Council's statement, is divided into 3 parts. The central part has a glass front containing a counter, some shelves and wall displays of small tools and other items of hardware. It is about 4 m wide x 3 m deep and there are doors on either side leading to an office about the same size to the north, occupied by yourself, and another to the south about half that size, occupied by your wages clerk. Both offices have brick front walls unlike the central section.

4. The dispute between you and the Council concerns this central section and its use as a small retail outlet for some of the items which you store in and despatch from the large rear portion. The latter is equipped with a number of shelves and

racks stocked with more tools and hardware. These items are for the most part sorted in packets and other containers. There is an "up and over" rear door for vehicular access to facilitate deliveries and despatch and a separate emergency door alongside it, both leading on to the car park.

5. I noticed that all the other units on the Rotunda Estate incorporate glazed fronts used as office/reception areas and for display purposes. None appear to include retail use. Your unit and No 4 are situated at the corner of High Street and Victoria Road which is marked by double yellow lines restricting parking. On the opposite side of the junction to the north is a public house and opposite to the east, behind an enlarged pavement area, is Aldershot football ground with 2 ticket kiosks and turnstiles. Traffic on Victoria Road travels one way westbound. There is a triangular traffic island at the road junction with light-controlled zebra crossings to the pavements.

6. Having regard to the prevailing policies and to the features of the site I am of the opinion that the main issues are whether the continuing use of the premises for retail purposes would be likely to be seriously detrimental to trade in other shopping areas or to traffic safety.

7. It is on this second issue that I find the case against allowing the use to remain to be overwhelming. Traffic speeds and volumes seemed to be high in the vicinity of the junction, underlining the need for the parking restrictions. Although you consider the large car park at the rear to be available, it is not readily apparent to cars stopping outside the shop. Facing onto this busy section of High Street as the shop does, cars would be far more likely to pull up outside it than to use the car park. I consider the risk of an accident in these circumstances would be high. Whereas that in itself would endanger traffic safety in normal circumstances the risks of an accident to cars and pedestrians, particularly at busy times when, for example, a football match was to be played, would be significantly increased if the use were to remain.

8. The Council's policies for the Town Centre are set out in a Local Plan which has recently been the subject of a Public Inquiry and is about to be adopted. These policies clearly encourage the growth of industry and employment, but are also concerned to contain shopping in the established shopping areas.

9. I note that there is some flexibility in the Plan for the smaller type of corner shop and for specialist shops outside the main shopping areas, but the retail outlet you have established does not fit into either category so that there would need to be good grounds for allowing it as an exception to the Council's policy.

10. The arguments you have raised about employment opportunities and the need to assist small businesses I regard as very important, particularly in view of the current need to help any project that will contribute to the Country's economy. However, to my mind, the retail enterprise you propose would have the effect of diverting potential trade from the shopping locations which are planned for the purpose to an industrial area which has not been designed to cater for retail use. Overall the proposal would not so much stimulate economic activity as divert it from its proper location to another. In view of this the effect of the proposal on the proper implementation of Local Plan policies and the traffic objections explained above, I consider there to be specific and convincing planning reasons why it needs to be disallowed. I have considered all the other matters raised but I remain

firmly convinced that it would not be in the public interest to permit the proposed change of use for retail purposes.

11. In exercise of the powers transferred to me and for the reasons given above I dismiss your appeal.

I am Gentlemen
Your obedient Servant

H Brinkworth

H BRINKWORTH BA DipTP MRTPI
Inspector

Loddon Govt : Planning Ptr

9 MAY 1985

File Note This point encompassed within brief for Lord Young meeting.

HP 7/5

CONFIDENTIAL

PRIME MINISTER 3 May 1985

SAINSBURY - MISC 114 - PLANNING

From the attached letter, we are most concerned that the Sainsbury grievances may not get aired in MISC 114. You may care to write to ensure all of these outstanding important issues are fully explored by MISC 114.

HP-H Booth.

HARTLEY BOOTH

Seen agreed. Are you satisfied
(i) that MISC 114 is dealing
(ii) the Sainsbury initiative will be adequately followed up

CONFIDENTIAL

CONFIDENTIAL

5/5

1.30

CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 01-233 3299

1. ~~HS~~
2. ~~PHS~~

2/5/85

From the Minister without Portfolio
The Rt Hon Lord Young of Graffham

John Ballard, Esq.,
Private Secretary to the
Secretary of State,
Department of the Environment,
2 Marsham Street,
London, S.W.1.

2nd May, 1985

Dear John

MISC 114 - PLANNING

As you know, your Secretary of State met Lord Young this morning to discuss the recent exchange of correspondence between them on the handling of planning issues within MISC 114.

Although the bulk of their discussion was private, I was asked to be present to record that, amongst the items which our Ministers agreed should be brought before MISC 114 for consideration, were the following:

(1) the draft booklet and circular to planning authorities referred to in para 3 of Annex A to MISC 114(85)5;

(2) the review of the Use Classes Order referred to in para 9 of Annex A to the paper;

(3) the statement on the relevance of market conditions in determining planning applications referred to in para 13 of Annex A to the paper; and

(4) the terms of reference of the 'Rayner' scrutiny referred to in para 4 of the paper.

I am copying this letter to Mark Addison (No. 10), Paul Madden (Mr. Trippier's office) and Richard Hatfield (Sir Robert Armstrong's office).

Yours ever

Leigh

Leigh Lewis
Private Secretary

CONFIDENTIAL

OFFICE OF THE MINISTER WITHOUT PORTFOLIO

With the compliments of the Private Secretary

Cabinet Office
70 Whitehall, London SW1A 2AS
Telephone 01 233 3299

CONFIDENTIAL

CCNO

NPPM

AF 2/5

CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 01-233 3299

From the Minister without Portfolio

The Rt Hon Lord Young of Graffham

John Ballard, Esq.,
Private Secretary to the
Secretary of State,
Department of the Environment,
2 Marsham Street,
London, S.W.1.

2nd May, 1985

Planning Legislation

MISC 114(85)5

Dear John

MISC 114 - PLANNING

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Although the bulk of their discussion was private, I was asked to be present to record that, amongst the items which our Ministers agreed should be brought before MISC 114 for consideration, were the following:

AF 1

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Yours ever

Leigh

Leigh Lewis
Private Secretary

CONFIDENTIAL

Local Govt Pt 2
Planning Controls

-2 MAY 1985

PRIME MINISTER

NOTED

PLANNING

You will remember that Lord Young and Patrick Jenkin have been in correspondence arguing about whether the proposals on planning which DOE have under consideration should be looked at by MISC 114, the group chaired by Lord Young on deregulation. The correspondence is attached.

Lord Young believes his view must prevail on this if MISC 114 is to fulfil its remit to consider and coordinate the reduction of burdens on business. He sees the issue as a key test of the group's credibility. He will be raising the point with you at tomorrow's meeting.

You will not wish to try and remove from DOE their responsibility for planning policy. But equally, it is difficult to see how MISC 114 can work if DOE simply tell it, from time to time, of what they are up to.

You may therefore like to indicate that you take the view that, while DOE must clearly retain its proper responsibility for planning, it is important that MISC 114 is kept closely informed of any changes in the planning regime which they have under consideration, so that the group has an opportunity to comment on the implications of any such proposals for the rest of the group's work.

If you agree, we could indicate as much to Lord Young tomorrow, and I shall then write round setting out your views on the issues raised in the correspondence.

Mark Addison
1 May 1985

10 DOWNING STREET

MEA.

This seems to indicate a substantial measure of agreement on planning between DoE and MoD(A) the Burden secretary.

AT
11/5

AT.

Yes, but DIY wants to be able to consult in MISC 114 the way PdE plans to implement some of the proposals, as well as to discuss other policy energy, eg, nuclear Sizewell Crag discussions.

We need to watch Annex C. PJ was going to think about it after Monday's meeting. But it has yet to be amended MEA 11/5

PART 1 ends:-

misc 114(85) 5 30.4.85

PART 2 begins:-

AT to MEA 1.5.85.

Inches 1 2 3

Centimetres 1 2 3 4 5 6 7 8

Colour Chart #13

Blue Cyan Green Yellow

A 1 2 3 4 5 6 M 8 9 10 11 12 13 14 15 B 17 18 19

Grey Scale #13

C Y M