



THE PRIME MINISTER

1. I understand that you have asked for my advice on whether a Minister may consult his colleagues before taking a decision in a matter where he has to act in a quasi judicial manner.
2. After a planning inquiry the Secretary of State wears a judicial hat until he has announced his decision. He must comply with the Town and Country Planning Inquiries Procedure Rules 1974 and also the rules of natural justice.
3. If he disagrees with the Inspector's recommendations he must give reasons. If he disagrees with the Inspector on a finding of fact he must go back to the parties to enable them to make further recommendations. However, a finding of fact does not include government policy.
4. If he disagrees because of "new evidence" or takes into consideration a "new issue of fact" which was not raised at the inquiry he must re-open it if any party wishes. "New evidence" includes expert opinion on a question of fact but a "new issue of fact" does not include a matter of government policy. Although it could include the application of government policy to the facts if there had been a change in policy since the inquiry which led the Secretary of State to disagree with the Inspector.
5. The Secretary of State must be free to consult his ministerial colleagues on questions of government policy during the course of making his decision. However, the final decision on a planning application in which he may need to balance environmental consideration with matters of government policy, is one he must take on his own.
6. In this respect the Secretary of State is in the same position as I am when asked, for example, to give my consent to the prosecution of a local authority for causing or

Prime Minister

Para 5 of this opinion would seem to permit the S of S to take part in a discussion of issues of policy relevant to Belvoir before reaching his decision. MAP 28/111

/permitting



permitting overcrowding in a council house. I would, and do, of course, consult the Department of the Environment to see whether there are any considerations I should take into account before deciding whether it is in the public interest that such a prosecution be brought. However, once again, the final decision is mine.

M.H.

28th July, 1981