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

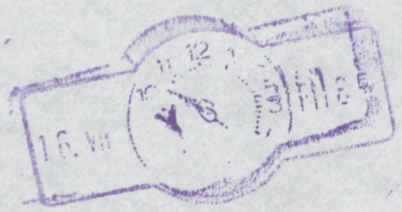
that you may wish also to cover other, perhaps wider-ranging issues, in your reply to me now, or at the subsequent H Committee meeting.

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



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SECRETARY OF STATE FOR THE ENVIRONMENT

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My ref:

Your ref:

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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.


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SECRETARY OF STATE
FOR
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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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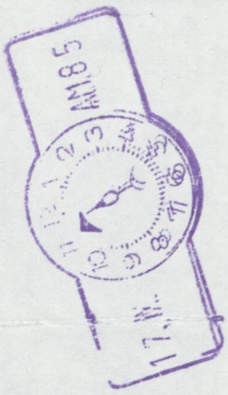
Local Govt Pt 2

Planning



SECRETARY OF STATE

MINISTRY OF DEFENCE WHITEHALL LONDON SW1 2HB

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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.

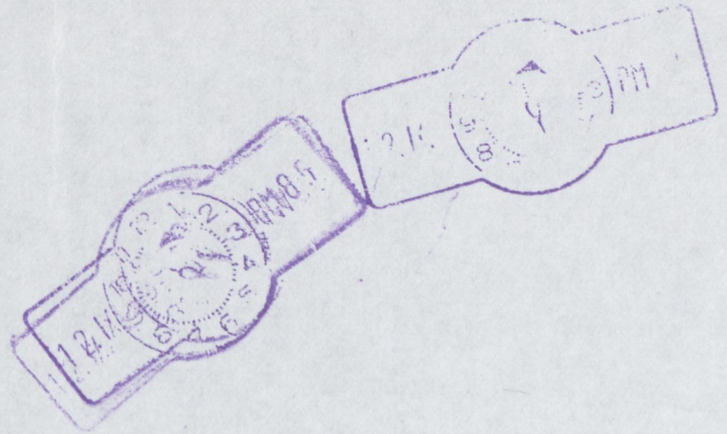
I should like my officials to be kept closely in touch with yours on this. The practical implications of the proposals will need a lot of thought. I have in mind the calculation of predicted depreciation of value, including the definition of the point at which the decision to construct the works is deemed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



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N3PM

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport
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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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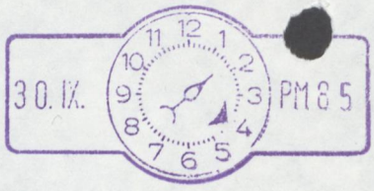
PAYMASTER GENERAL

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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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