



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.



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.



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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 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 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  
Benet are challenging  
de JG  
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 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.

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(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;

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- (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.

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(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 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





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a. B. P.

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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

УВЕДОМЛЕНИЕ

ВНИМАНИЕ! В связи с изменением сроков проведения работ по благоустройству территории...

1988 г.

