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PRIME MINISTER

PLANNING: THE SAINSBURY GROUP

*- Full with PAB*

You are having a further meeting with the Sainsbury Group on 27 October. I am writing now to report progress on items raised at your last meeting with the Group on 30 April and to comment on other topics that you or the Group may wish to discuss.

The main issues raised at the last meeting were the handling of planning appeals, the radical reform of structure plans and the disposal of unused public land. At the conclusion of the meeting you said that you wanted the next meeting to focus on the links between planning and jobs, with special reference to the role of Enterprise Zones. I comment on these topics in this minute and also enclose a progress report (Annex 1) on the other points itemised in the note of the last meeting.

#### PLANNING APPEALS

Since the Group produced their original report two years ago, the planning appeals system has undergone a major overhaul and many improvements have been made, including those recommended by the Group. Productivity has improved but that has been offset by the overall increase in appeals received, which have increased by 13% since last year's management reviews were carried out. Had the number of appeals received remained at the level that existed at that time, the performance targets set for this year would have been attainable. As it is, there are now some 1400 more appeals in the system, which account for 4 to 5 weeks extra work. Despite this, decision times showed some further improvement in the first half of this year and the overall median decision time for all appeals was 19 weeks compared to 20 weeks in 1985 and 23 weeks in 1984.

The most marked improvement has been in the processing of appeals recovered for decisions by Ministers instead of by Inspectors.

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2

These cases account for only a small proportion of all appeals but include many of those by major developers. After your last meeting, when you asked for a special effort to improve the time taken to determine appeals, it was decided to have a special drive on this key category of case. The Regional Offices were set a new target of deciding 80% of cases within 8 weeks instead of the 13 weeks target set last year (this relates to the time taken after the Inspector's report is received).

e | So far that target has been achieved and 86% of those appeals have been decided within 8 weeks. This contrasts with the position that prevailed throughout 1984 and 1985 when only about 40% of such cases were decided within 8 weeks. Moreover, in the last quarter, 93% of cases were cleared within 13 weeks. This is a creditable achievement and I expect to see further improvement in the decision times for other categories of appeal.

The Group's attention is now focussing on the small number of cases that take much longer than average to reach the decision stage. Members of the Group, and in particular John Sainsbury, can cite cases that have taken far too long to resolve. They have agreed to co-operate in a special investigation that I am setting up to see what are the characteristic causes of delay in these cases and to seek to remedy them. Members of the Group have undertaken to identify a number of such cases known to them and they are to be examined by two "referees", one a leading Solicitor in private practice who was until recently a Council Member of the Law Society, and the other a former Deputy Secretary in this Department. They will have full access to the case files. I hope to have the results of their analysis within about three months.

Finally, one of the Group's proposals was to clarify and reinforce the award of costs regime. A new circular on this has been prepared and has been warmly welcomed by the Group. In particular it makes clear that costs may be awarded against a local authority that has failed to give a decision on a planning application, or has failed to give adequate reasons for its refusal of permission,

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or has caused undue delay to the processing of an appeal. Some local authorities evade the responsibility for deciding applications of refuse permission for badly needed development. We then get criticised for allowing it on appeal. Those authorities who try to pass the buck in this way will find that they have costs awarded against them.

#### STRUCTURE PLANS

At the last meeting with the Group you asked Kenneth Baker to take forward the consideration he was giving to the radical reform of structure plans. As you know, I subsequently concluded that the best course was to get rid of structure plans altogether and to have a single tier of District development plans instead of the present dual tier of structure and local plans. These proposals were published in a consultation paper last month and have been generally well received, except by some county planning authorities that have a vested interest in the present system. The Group helped in the preparation of these proposals and it would be useful to hear from them how the proposals have been received by property and development interests.

These proposals will, of course, require major legislation, which cannot be introduced until after the General Election. When we do legislate we will want to build in strong provisions to ensure that the new system is implemented promptly - unlike the present structure plan system that took 14 years to complete!

#### PLANNING AND JOBS

The circular that we issued last year on Development and Employment, which was published together with the White Paper Lifting the Burden, set out our policy in very positive terms: "New development contributes to economic activity and to the provision of jobs. It is in the national interest to promote and encourage it. The planning system must respond positively and promptly to proposals for development." It also restated the





"presumption in favour of development" which should be overridden by only where "that development would cause demonstrable harm to interests of acknowledged importance". This circular implemented the first and foremost of the Group's original recommendations and they continue to regard it as of central importance.

This policy directive is being followed through in planning decisions, particularly in relation to small firms. At the end of last year the success rate of planning applications for "minor development" - ie those most likely to involve small firms - was as follows

	% approved
Manufacturing	90
Offices	87
Retail	88

The policy has also been reflected in appeal decisions, where Inspectors have clearly understood the need to allow the balance to top in favour of development, particularly in the case of these "small firm" types of minor development, as can be seen from a comparison of appeal success rates in 1984 and 1985:

	% allowed	
	1984	1985
Manufacturing	45	52
Offices	42	56
Retail	35	42

A similar trend can be seen in appeal decisions on major developments. For example, on major retail developments the success rate increased from 35% in 1984 to 59% in 1985, but the number of cases involved was very small and success rates for large developments tend to fluctuate widely.



CONFIDENTIAL



5

I should add that the fact that the overall success rate on appeals increased sharply from 32% in 1984 to 37% last year (42% in the latter part of the year) has recently been attracting some fairly sharp criticism in the Press and elsewhere on the grounds that local views are too often overridden. But the planning appeal system is our most effective means of policy implementation and I am sure that we must continue to pursue a robust line, where we are dealing with job-creating development in urban areas. The political antipathy to large intrusions into the countryside has reached proportions which must cause us to be more vigilant at protecting the countryside particularly in Southern England. The recent criticism exaggerates the effect of appeal decisions, which account for less than 2% of all planning permissions granted, but nevertheless the perception that we are taking too much virgin land has to be countered.

Thus while our policy on planning and jobs is now well established, we have to moderate it in relation to the countryside because of the risk that it will be misinterpreted as displaying indifference to conservation objectives and local opinion. It will be useful to discuss with the Group how we can best handle public opinion which believes that our commitment to job-creating development is incompatible with our commitment to the maintenance of the Green Belts and conservation of the countryside. This is particularly relevant in the context of changes affecting agriculture and the need to diversify the rural economy.

#### DISPOSAL OF PUBLIC LAND

Our main instrument here is the Land Register system and I have recently secured H Committee agreement to certain improvements in the 1980 Act that will strengthen my hand in using the powers to direct local authorities and others to sell unused land that they own. The new powers will be included in the Local Government Bill next session.

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6

Since the Land Register system was introduced, 42,000 acres of land have been removed from the registers on being sold or brought into use. This compares with the 35,000 acres that Kenneth Baker reported last year. We are also making more use of the powers of direction to compel sales. Since July 1984, those proceedings have been instigated on 144 sites. The new powers now proposed will enable Directions to be made and enforced more readily. These proposals have not yet been announced and the Group will be pleased to hear of them.

The Group have suggested that there should be incentives to sell as well as powers of direction. What they have in mind is that such receipts should be outside the controls on local authority capital expenditure, but that is incompatible with our policy on capital controls. As regards land owned by Government Departments or their sponsored bodies, targets for asset disposal have been set by the Treasury and the aim is that surplus land should be sold by March 1988. If targets are exceeded, the proceeds can be used to increase expenditure.

#### ENTERPRISE ZONES

The Group have now sent me a paper setting out their views on Enterprise Zones. This is largely the work of Nigel Mobbs and I understand that he did not intend it to be circulated more widely. I suggest that you might invite him to summarise his paper and then seek the Group's views.

In brief, the Group now seem to take the view that the creation of an EZ tends not to attract new inward investment, but rather a local transfer of economic activity. Hence they tend to conclude that the disbenefits of EZs probably outweigh the benefits, especially when peripheral effects on the value of property outside the Zone are taken into account.

CONFIDENTIAL



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7

The Group in effect echo the doubts expressed by the Public Accounts Committee on the value for money of EZs. My Department has set up a major research study, which will report in the Spring, to examine the value for money and cost per job of EZs. I think that it would be a mistake to reach conclusions before that study is completed. Moreover it will not be possible finally to assess the success of EZs until the end of their ten year life. Our proposals on Urban Development Corporations and the new Urban Regeneration Grant offer other ways of concentrating resources and focus more sharply on specific renewal projects. The Group also support our new concept of Simplified Planning Zones, and have made some useful suggestions on that, drawing on the EZ experience.

#### CONCLUSION

You may like to take the subjects dealt with in this minute as the agenda for the meeting. I believe that the Group are well pleased with the positive response which they have had to their proposals to date, although they will want to see continuing improvements in appeal decision times. I think that it would be very helpful to discuss with the Group the wider political aspects of our approach to planning, conservation and renewal, whether we are striking the right balance between economic and environmental objectives, and whether we are getting our policies across effectively. These are obviously electorally important and sensitive issues.

I am having a private and informal meeting with the Group on Wednesday evening. If this brings out any new points I can report on them at the meeting that you are having immediately before the meeting with the Group.

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84

I am copying this minute and progress report to David Young and Michael Howard, who attended the previous meeting, and to Sir Robert Armstrong and Hartley Booth.

A handwritten signature in blue ink, appearing to be 'NR'.

N R

October 1986

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## PLANNING SYSTEM: SAINSBURY GROUP

## PROGRESS REPORT October 1986

(Itemised references are from the note of the last meeting)

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

The most positive sanction against a local planning authority that has unreasonably delayed or refused the grant of planning permission is for the Secretary of State to award costs against that authority and in favour of the appellant. The Housing and Planning Bill contains provisions extending the scope of the Secretary of State's power to award costs. The Department has recently published a draft circular setting out fully and clearly the grounds on which costs may be awarded. These can certainly include "deemed refusal" - i.e. those cases where the local authority has failed, without good reason, to give its decision on a planning application within 8 weeks.

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

The Department has recently published proposals for improving the efficiency of the inquiry process. On fixing inquiry dates the circular says

"The present practice of allowing either party two refusals of a date for the inquiry will be discontinued; in future each party will only be permitted one refusal before the power in the Inquiries Procedure Rules to fix the date, time and place of the inquiry will be exercised. The period allowed for negotiation of inquiry dates will, in normal circumstances, be limited to one month. If the parties to the appeal fail to agree a date within this time the Department will proceed to fix a date. A firm line will be taken against postponement, particularly late postponement, unless it is requested by both parties with good reason, and is accompanied by agreement to place the appeal in abeyance."



These new arrangements are already being implemented. Members of the Group have made it clear that they, as potential appellants, would be prepared to comply with strict enforcement of inquiry dates provided that local planning authorities are also subject to this discipline. This is the intention.

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

Cases sent back from the High Court for redetermination have previously fallen outside the Department's normal monitoring system. Arrangements have now been made for such appeals to be monitored by the Deputy Chief Inspector and the policy Division, who will progress chase individual cases. The propensity on the part of both local authorities and other parties to have resort to judicial review by the Courts is increasing and is a cause for concern.

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

The provisions in the Bill will be implemented promptly after enactment. Time limits cannot be enforced regardless of circumstances since that may lead to breach of natural justice and thus to judicial review (see (iii) above). But the power to prescribe time limits will introduce a new discipline into the appeal process.

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



See comment on (i) above as regards deemed refusals and strengthening the award of costs regime. Costs can be awarded against a local authority that evades its responsibility in this way or refuses planning permission for spurious or inadequate reasons.

Several commercial publishers already issue digests of appeal decisions, and there is no call for the Department to compete with those. Departmental Press Notices can be issued on individual appeal decisions that have particular policy significance.

(vi) The Group was concerned that insufficient consultation with Departments and other interested bodies was taking place before applications were submitted. Some Departments argued that they could give no guidance in response to hypothetical enquiries. There were of course circumstances in which these arguments were sound. But earlier guidance to applicants could help speed up the process, and weed out applications which were unlikely to be successful. Such guidance would need of course to be offered on a 'without prejudice' basis.

Since the meeting on 30 April, the Secretary of State has written to Cabinet colleagues asking them to ensure that their Departments, or the bodies for which they are responsible, respond promptly to statutory consultations on planning applications and also respond helpfully when consulted by developers before an application is submitted. In each case the Minister concerned has taken the matter up personally with those involved, and the response has been encouraging. The Secretary of State has also written to all the relevant bodies for which he is responsible - notably Water Authorities, the Historic Buildings and Monuments Commission and the Nature Conservancy Council. As a result, a number of "best practice" items have been identified and are being promulgated. In addition it is proposed to adopt the Group's suggestion that the General Development Order should be amended to enable developers to send copies of applications direct to statutory consultees (rather than via the local authority) and the time allowed for response would then run from the date of receipt.



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

The Group has provided details of the problems caused by conditions attached to planning permission, particularly those that purport to restrict the use of industrial buildings to "local" firms. This type of condition is strongly criticised in the Department's circular on Planning Conditions (1/85). The message was repeated in Circular (2/86) on development by small businesses.

It is open to developers to appeal against such conditions or to apply to have them discharged. On appeal, costs may be awarded against authorities imposing improper conditions.

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

The Secretary of State announced in reply to a Parliamentary Question on 30 April that

"Redundant agricultural buildings can provide very suitable accommodation for small firms or tourist activities, or can be used for individual residences, without detriment to the Green Belt and to the benefit of the local community, especially where the buildings are of attractive appearance and can be expected with normal repair and maintenance to last for many years.

In deciding planning applications for new uses of redundant agricultural buildings in green belts, I would expect local authorities to have regard to these considerations, as I, and my Inspectors, shall do in deciding appeals."

The Department's circular 2/86 gave similar advice in relation to development in rural areas outside Green Belts.

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



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

The Secretary of State published on 15 September proposals for radically simplifying and improving the development plan system. These proposals are similar in principle to those put forward by the Group but go further in that direction: structure plans are to be abolished and a single-tier system of development plans will be extended to all areas. Primary legislation will be required. The Group have strongly endorsed these proposals.

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

The Department has introduced new training seminars for Planning Inspectors which draw on practitioners from the private sector and are designed to improve Inspectors' understanding of the economics of development and the market process. The Group are aware of this innovation and warmly support it. They now wish to pursue the question of the education of planners on a wider front and are preparing proposals to put to the Secretary of State.

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

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

These two items are dealt with in the Secretary of State's minute to the Prime Minister.



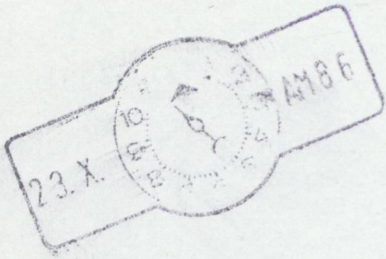
(xiii) Restrictions on the mobility of labour, particularly skilled labour, was the result in part of a shortage of rented accommodation. Your Secretary of State's decision to extend the arrangements for assured tenancies would help, and was welcomed by the Group.

This has been implemented.

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

See comment on (iii) above. The Treasury Solicitor has issued guidance to Departments on the scope of judicial review and what steps can be taken to minimise the risk of challenge.





condemned

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PRIME MINISTER

PLANNING: THE SAINSBURY GROUP

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1. I have seen Nicholas Ridley's minute to you about next Monday's meeting with the Sainsbury Group, which I shall attend.

2. I am naturally concerned about the main issue that he refers to in his conclusion, namely, the balance between economic and environmental objectives in planning policies. Elsewhere in his minute he reports progress in the handling of planning appeals, the increased number of these and an increased proportion of those allowed. He also refers to the good results of the policy set out in 'Lifting the Burden' that urges local planning authorities to respond positively and promptly to proposals for development in order to promote economic activity. I do not believe that we can afford to backtrack on this approach even if there is dissent from some environmentalists. There is also some continuing dissatisfaction on the business side, as Sir John Sainsbury may point out.

3. I appreciate the sensitivity required in establishing the right balance, not the least for the political reasons, but I would like to emphasise, as I did in my minute to you of 29 September on alternative uses for agricultural land, that there is still scope for some relaxation in planning policies, albeit presented with the greatest of care. On this last point, it may be that individual members of the Sainsbury Group could have a role to play in developing public awareness of the issues involved.



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4. I am copying this minute to Nicholas Ridley and Michael Howard and to Sir Robert Armstrong and Hartley Booth.

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DY

23 October 1986



Local GOVT Planning PT3





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PRIME MINISTER

PLANNING: THE SAINSBURY GROUP

*In meeting  
folder!*

David Young kindly sent me a copy of his minute to you of 23 October, which commented on my minute of last Wednesday about the forthcoming discussion with the Sainsbury Group.

I do understand David's concern about what I said in my minute about the need to give full recognition in implementing our planning policies to conservation objectives and local opinion. I am at one with him in the wish to allow and encourage development wherever it can be properly accommodated. We must never, however, underestimate the extreme political dangers which will result from appearing indifferent to the concerns of people in Southern England, and in the Green Belt in particular, about the effects of unrestrained development on their lifestyles. For these people, most of whom are our supporters, there is often no more important political issue than the preservation of the quality of their living environment. I am constantly engaged by Members of Parliament from the Southern Counties with this message. So is the Chief Whip. We must be able to deal with this potential political storm through sensible handling of the planning system. No amount of "preservation" will mitigate that storm once it breaks.

In plain economic terms there is also a good argument for firm planning guidelines for the boom that has developed in the South. Much of its impetus in fact derives from the economic benefit of what investors see as the attractive environment in the South. Southern success economically will continue to be interlocked with careful management of the environment. Equally it is one of the comparative advantages of the Northern and Midland older industrial areas that we can be more relaxed about planning. We should not undermine that advantage.





I am sure that we can go a long way to improve the way in which the planning system operates, to the benefit of all aspects of economic and domestic development, without abandoning the essential core of conserving the environment wherever that is reasonably justified and is demanded by local opinion. In my subsequent minute to you, of 24 October, I set out the list of important detailed issues on which I have already had helpful discussion with Sir John Sainsbury and his colleagues, and which I expect to be pursued further at your meeting. I am sure we can make some real progress on these matters in a way that can attract a wide support.

I am copying this minute to David Young and Michael Howard and to Sir Robert Armstrong and Hartley Booth.

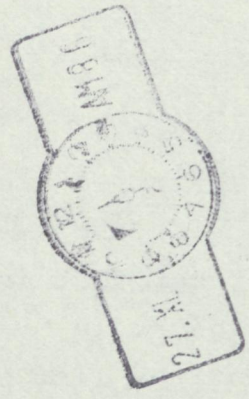
A handwritten signature in blue ink, appearing to be 'NR', is written above the typed name 'NR'.

NR

27 October 1986



LOCAL GOVT: Planning: Pt 3



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