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SECRETARY OF STATE FOR THE ENVIRONMENT

PRIME MINISTER

PLANNING: THE SAINSBURY GROUP

In my minute last week I said that I was having a private and informal meeting with Sir John Sainsbury and his colleagues on 22 October and that if it brought out any new points I would report further.

They do in fact want to raise one or two things not mentioned in my earlier minute. The attached paper gives details of them in the order in which I think the points might most conveniently be taken, with some commentary on them.

As before these papers are copied to David Young, Michael Howard, Sir Robert Armstrong and Hartley Booth.

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23 October 1986

PLANNING: THE SAINSBURY GROUP
MEETING ON 27 OCTOBER 1986

1. Planning applications and appeals: progress

The Group wish to discuss progress with speeding up the handling of planning applications and appeals. Basic details were given in the earlier minute to the Prime Minister.

2. Reduction of the numbers of planning appeals

While the productivity of the planning appeals system has increased by 13% since the management reviews were carried out in 1985, there has been a sharp increase in the numbers of appeals received. This increase has prevented the planned targets for decision times from being achieved.

One way of dealing with this problem is to cut down the number of appeals. The Group could be invited to make suggestions to this end. The Department is looking for further ways of freeing development from specific control altogether, which would have the effect inter alia of reducing some appeals relating to minor development. In addition, the Department can help by making its policies clearer where necessary, with the aim of discouraging hopeless appeals. We have done this very recently in the case of out-of-town shopping development by making it clear that large proposals which fly in the face of established Green Belt policy are unlikely to be approved. I have in mind too a new circular which will, among other things, reiterate the circumstances in which housing development in particular is likely to be acceptable and where it is not.

The new circular on award of costs, now issued in draft, should also help to deter hopeless appeals.

There is also the possibility of introducing charging for planning applications as a deterrent, but this was rejected by Parliament in 1980 and raises some far-reaching questions which need thought.

3. Consultations on Planning Applications

Item (vi) of the progress report with my earlier minute refers to this matter. The Group's concern is with delays which result from the statutory requirement for consultation with a number of bodies by the planning authority before it considers a planning application. The water authorities and the Historic Buildings and Monuments Commission (English Heritage) are examples. In particular, the Group is concerned about the present arrangement under which English Heritage are consulted about listed building consents only after the matter has been considered by the planning authority.

Since the meeting on 30 April, Cabinet colleagues and I have written to the bodies which we sponsor to encourage more rapid processing. The response was encouraging. I have written to my bodies again recently, with a number of suggestions of 'best practice' to encourage more rapid handling culled from replies to the first round of consultation.

In addition, we are going to amend the General Development Order, to enable developers to copy their applications to statutory consultees, who would then have 14 days from receipt to send their views to the planning authority.

4. Structure Plans

The Group wish to refer to our consultation paper issued in September, which proposes the abolition of structure plans and the introduction of a single tier of development plan prepared by the districts. This goes further than the Group had itself expected, and they will probably want to welcome the proposals.

Their main concern is over possible delay in introducing the new system. It cannot be done until the next Parliament, and there will need to be a strong power to enable the Secretary of State if necessary to oblige reluctant authorities to prepare the new type of plan.

5. Section 52 agreements

This is a highly technical subject which, I suggest, should be remitted for discussion between the Group and officials.

The Group's concern is that some authorities - of a variety of political persuasions - will not give planning permission unless the developer enters into an agreement with them to provide or contribute towards certain facilities. Sometimes this is legitimate, where the development itself requires new infrastructure, eg access roads. In others, it amounts to the tapping of development profits for quite extraneous benefits for the community. We said in a Circular in 1983 that authorities should not seek to make planning permission dependent on the latter sort of exaction. But covert use of the practice is difficult to stop. One solution is more rapid decisions on appeals against refusal of planning permission. But the Group has other ideas which should now be discussed with officials in detail.

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6. De minimis conditions

This is another technical subject on which there should be prior discussion with officials.

We issued a strong Circular in January 1985 which made it clear that conditions on planning permission should be only those which are necessary, reasonable, enforceable, precise, and relevant to planning and the particular development. Conditions can be appealed against, and we are taking powers in the Housing and Planning Bill to make that easier for developers. But the Group's concern arises in particular from a case in which the conditions were imposed by an Inspector on appeal! The Group wonder whether it would be possible to prevent conditions which attempt to be more restrictive than common or statute law relating to the subject of the condition, eg conditions which seek to confine shop opening more tightly than the Acts relating to shop opening hours. Generally the planning system does not duplicate or overlap with statutory controls, though conditions often deal with matters which once the building is in use could attract action under other provisions, eg statutory nuisance. I shall need to consider on the basis of the detailed discussions with officials whether any changes of policy or approach are needed.

7. Planning controls over external appearance.

Both the Group and I ~~confirm~~ have to be concerned about the extent to which local planning authorities interfere unnecessarily with the details of design and appearance. At the Group's suggestion, in Circular 31/85 the Department reissued the strong advice of 1980 to local planning authorities on this subject which said that authorities "should not .... impose their taste on developers simply because they believe them to be superior", that "only exceptionally should they control design details if the sensitive character of the area or the particular building justifies it", and that, generally, "control of external appearance should only be excercised where there is a fully justified reason for doing so".

I want to consider however whether there are other ways in which local authorities' ability to intervene in design matters can be limited: One such would be to deem planning consent for external appearance, and make the planning authority appeal against it if they were dissatisfied. It may not however be possible to shape planning law so as to distinguish between those matters, which can be left to the developer and the important aspects of design which the public will want to remain within the ambit of control.

8. Urban development corporations

The Group may wish to refer to, and welcome, our proposals for further urban development corporations. They will be particularly interested in the nature of the planning and housing powers which we propose to give to each of the new bodies.