

Leave well alone
not
Prime Minister

Ref. A085/3292

No one seems to be
pressing for change. So
agree with RTA's advice

PRIME MINISTER

Yes, not simply to improve admin
arrangements as at X in § 5
Departmental Responsibility for the Heritage
below?

Mr Butler's minute of 17/December 1984 conveyed your N.C.W. agreement that, following a suggestion by Lord Gowrie, I should 19.12 put in hand a study of the options for a transfer of heritage responsibilities from the Secretary of State for the Environment to the Minister for the Arts.

2. The attached study has been produced in consultation with the Department of the Environment (DOE), the Office of Arts and Libraries (OAL) and the Treasury: I am afraid that it has been delayed by a staff vacancy here; but that has provided an opportunity to take the view of new Ministers at both OAL and DOE.

3. The study makes it clear that there would be major difficulties in any wide-ranging change of responsibilities, and neither DOE nor OAL is now expressing any enthusiasm for such a change. The choice is therefore between making no formal change in responsibilities but improving the arrangements for handling cases as between the two Departments, and a relatively minor formal change, which would end the present joint responsibilities for the Acceptance In Lieu (AIL) scheme and the National Heritage Memorial Fund by allocating lead responsibility for the former to OAL and for the latter to DOE, but still leave the need for close consultation between the two Departments.

4. I understand that the Secretary of State and the Minister for the Arts consider that either option could be lived with, though the Secretary of State has some preference for the minor change and Mr Luce for no change.

X / 5. The arguments for change are essentially arguments of administrative tidiness and management clarity. But the practical benefits would, I believe, be very limited: too limited in my view to justify the Transfer of Functions Order that would be required and the one additional post that would need to be created in the OAL. I therefore recommend no formal change in responsibilities but revised administrative arrangements to improve the handling of AIL casework.

6. I am sending copies of this minute to the Secretary of State for the Environment, the Chief Secretary to the Treasury and the Minister for the Arts.

RA

ROBERT ARMSTRONG

18 December 1985

DEPARTMENTAL RESPONSIBILITY FOR THE HERITAGE

1. This paper considers the present distribution of responsibilities for heritage matters in England, and options for change in that distribution between the Department of the Environment (DOE) and the Office of Arts and Libraries (OAL).

HERITAGE

2. There is no universal definition of the national heritage. The National Heritage Act 1980 embraces land, buildings or objects of outstanding scenic, artistic, historic, aesthetic, architectural or scientific interest; a wide interpretation of heritage might also include outstanding features of the natural environment.

PRESENT POSITION

3. The broad objective of Government programmes is to protect, preserve and present the heritage to the public, and to develop its economic and tourist potential. The main responsibilities for the man-made heritage are divided between DOE (land and buildings) and OAL (works of art and literature). Annex 1 sets out the allocation of heritage work within each Department.

4. DOE is responsible for Government spending (£89m in 1985/86) on

- (i) historic buildings and ancient monuments (£61m), and
- (ii) the Royal Parks and Palaces (£8m plus a further £20m of PSA expenditure).

5. Principal functions relating to buildings and monuments are:

- (a) the physical upkeep of 400 properties;
- (b) the listing of buildings, scheduling of monuments, and designation of areas of archaeological importance; and
- (c) expert advice, particularly on planning applications relating to listed buildings, scheduled monuments and development control within conservation areas.

The bulk of this work is undertaken by some 1200 staff in the Historic Buildings and Monuments Commission for England (HBMCE), a non departmental public body (NDPB) whose grant in aid accounted for £50m (80%) of the total historic buildings and ancient monuments Vote. Fifty staff within DOE are responsible for overall policy, liaison with DOE planning staff and the HBMCE, and sponsorship of the HBMCE and other (much smaller) heritage NDPBs,

such as the Board of Trustees of the Tower Armouries.

6. For the Royal Parks and Palaces DOE is responsible for

(a) maintenance of the occupied Royal Palaces (eg Buckingham Palace, St James' Palace, Windsor Castle);

(b) the maintenance, management and opening to the public of the unoccupied Royal Palaces (eg. the Tower of London, Hampton Court Palace). In 1984 there were some 3.3 million visitors, paying £7.2 million at the gate and spending £1.4m in the shops;

(c) maintenance and management of the Royal Parks.

These functions give rise to a number of management and policy issues including the control of events in Royal Parks and rallies/demonstration in Trafalgar Square and Hyde Park, the policing of the Royal Parks (the Royal Parks Constabulary is about 150 strong), and accounting for the operation and opening to the public of the Palaces. Royal Parks and Palaces Division employs 918 staff and pays for a further 140 man years of non-industrial work within the PSA London Region, which provides a new works and maintenance service similar to that which PSA provides to the national museums and galleries.

7. OAL is responsible for Government expenditure of £236m (1985/86), also for £365m of local authority expenditure on arts and libraries and £30m of PSA expenditure on the national museums and galleries. Major functions include sponsorship of the Arts Council of Great Britain and other Arts bodies, of national museums, galleries and the Museums and Galleries Commission, and of the British Library, all of which have a heritage element. Other OAL responsibilities include export control of works of art, the Government Art Collection, and developing a policy for the matching of public and private funding for the arts. OAL has a total staff of 52, and pays for PSA staff working on the national museums and galleries (130 non-industrial man years in London Region).

8. DOE and OAL have joint responsibility for two particular heritage related functions:

(i) sponsorship of the National Heritage Memorial Fund (NHMF), an independent body whose Trustees are appointed by the Prime Minister. NHMF makes grants or loans for the purchase, maintenance or preservation of land, buildings, works of art and other items of outstanding importance to the national heritage. DOE and OAL jointly decide annual grant in aid to top up the Fund's capital reserve: the two Departments generally each make an identical Vote provision for 50% of the agreed total. The annual total has normally been £3m but was increased to £8m in 1984/85 by a once-off addition for Calke Abbey, and by £25m in February 1985 to enable the Fund to deal with Kedleston, Weston Park and Nostell Priory.

(ii) the Acceptance in Lieu Scheme (AIL), whereby the Government may accept "pre-eminent" land, buildings or works of art to meet a liability for Capital Transfer Tax.

MANAGEMENT IN CONFIDENCE

Owners approach the Capital Taxes Office; DOE, and the Museums and Galleries Commission on behalf of OAL, decide on expert advice, whether to advise their respective Ministers that the item meets the pre-eminent criterion. If Ministers accept the offer the Inland Revenue is reimbursed for the tax forgone on a 50-50 basis from identical DOE and OAL Vote provisions, generally each of £1m p.a. but increased to £2m each for Calke in 1984/85. Ministers have recently decided that the Vote provision should be supplemented by recourse to the expenditure reserve for around £10m or so a year, taking one year with another.

DOE and OAL each have 4-5 staff a small proportion of whose work is devoted to NHMF sponsorship and the AIL scheme.

9. Other Departments with heritage responsibilities in England are:

- the Inland Revenue which administers conditional exemption from capital transfer tax for objects which expert advice (from the HBMCE or relevant national museums and galleries) confirms to be of national, scientific, historic or artistic interest and whose owners give undertakings on retention in the UK, preservation and public access. Inland Revenue also administers tax exemptions available in respect of private treaty sales to approved museums and galleries.
- the Ministry of Defence which sponsors the Armed Forces Museums.
- the Ministry of Agriculture Fisheries and Food which sponsors the Board of Trustees of the Royal Botanic Gardens, Kew.
- The Department of Education and Science which sponsors the British Museum (Natural History).

In addition the Property Services Agency, Ministry of Defence and Department of Transport are major landowners whose development proposals may have a heritage aspect, and the Department of Employment's responsibility for tourism gives it an interest in the heritage as a tourist attraction. In Scotland and Wales - not covered by this paper - the territorial Departments carry out similar policies but have retained many of the responsibilities which in England have passed to HBMCE.

CASE FOR CHANGE

10. Criticisms of the present distribution of responsibilities have concentrated on the split between DOE and OAL, particularly the operation of the two functions for which DOE and OAL have joint responsibility;

MANAGEMENT IN CONFIDENCE

(i) the Select Committee on Education, Science, and the Arts commented in its 1982 report on "Public and Private Funding of the Arts" that "with regard to heritage, it is desirable to remove the demarcation between OAL and DOE which has been the cause of delays in decisions and a lack of clarity in pronouncements." (The Committee went on to propose a new Ministry to bring together arts, heritage, film, broadcasting and tourism responsibilities, a recommendation rejected by the Government reply.)

(ii) joint Ministerial responsibility for AIL funding gives DOE and OAL Ministers the difficult task of agreeing a series of necessarily subjective individual judgements about whether an object or building is sufficiently pre-eminent in quality to accept. In addition processing of AIL cases, inevitably often lengthy because of the need for complex negotiations with owners, can be further delayed by the need for OAL cases to be referred to the Museums and Galleries Commission, and for consultations between DOE and OAL. In a major case negotiations with owners may take a number of months, and interdepartmental consultations may add a number of weeks.

(iii) joint sponsorship of NHMF was criticised in an efficiency and effectiveness review of the Fund produced by Coopers and Lybrand in March. Coopers consider joint sponsorship detrimental to

- accountability (they note the observation in the 1981 Guide for NDPBs that "Ideally Ministerial powers over a body should be placed in the hand of one sponsoring Minister. If two or more Ministers are involved there can be a danger of uncertainty about the precise division of responsibilities and about who should answer in Parliament.")

- agreement of policy guidelines within which the Fund should operate (for example Coopers fund undesirable uncertainty as to the extent to which the Fund should deplete its reserves).

Coopers recommend a single sponsor department, liaising with the other department which would retain an advisory role.

11. In addition there are some more general arguments for change:

(i) the OAL is a small unit within which heritage issues have a prominent place. Although OAL's standing has benefitted from its recent independence, additional responsibility might well enhance its stature both within Whitehall and with the arts lobbies, and improve its ability to attract and retain able staff.

(ii) by contrast the man-made heritage is only one part of DOE's wide ranging responsibilities. The major issues facing DOE in other areas create a risk that time and resources devoted to heritage work may be squeezed. On the other hand, DOE can draw on a wide resource base and a large Ministerial team in tackling heritage issues.

OPTIONS FOR CHANGE

12. This paper considers four options for change, each successively more radical:-

(a) revised administrative arrangements which would leave present statutory responsibilities unchanged but attempt to offer some improvements in the handling of AIL cases;

(b) the allocation of responsibility for NHMF sponsorship and the AIL scheme to a single lead Minister. This could be either the Minister for the Arts or the Secretary of State for the Environments. The Minister not assuming lead responsibility would be consulted on matters affecting his interests, which apart from NHMF and AIL responsibilities would remain as at present, but the lead Minister would be solely responsible for Vote provisions and solely accountable for decisions;

(c) a wider transfer of DOE man-made heritage responsibilities to OAL, so as to make OAL the lead Department for all heritage work;

(d) conversely, the merger of OAL into DOE so that DOE became the lead department for all heritage work.

13. Annex II sets out the functions which would be transferred under option (b). Annex II also details one possible package of transfers under option (c). However, as discussed below, DOE's heritage-related work includes a number of components and the arguments for and against transfer differ for each component. There are therefore a number of possibilities within option (c).

ASSESSMENT

14. Option (a) is concerned only with the difficulties recognised in 10(ii) above as currently inherent in joint Ministerial responsibilities for AIL funding. At first glance the decision process would be simplified and delays slightly reduced if, at least within the basic total provision of £2m, offers were accepted on the sole decision of the Minister whose Vote was to provide the funding. But OAL, DOE and Treasury are agreed that in practice consultation would be required on priorities. It does not therefore appear that revised administrative arrangements would offer any significant improvement, and option (a) boils down to continuing with the status quo.

15. Option (b) would remove the present joint statutory responsibilities for both the AIL scheme and for NHMF sponsorship. This both addresses the difficulties recognised in 10(ii) and meets the recommendation in the Coopers report

referred to in 10(iii), bringing the arrangements into line with the general policy on sponsorship of NDPBs and thereby providing a better basis for implementing Cooper's many recommendations for improved management procedures in relation to the NHMF. The present joint arrangements for Vote funding would be changed so that the Minister with sole statutory responsibility was also solely responsible for Vote provision.

16. Implementing option (b) would require a Transfer of Functions Order subject to negative resolution procedure. Since change would be confined to NHMF and AIL responsibilities there would be little disruption. The 1982 Select Committee report suggests that Parliament might be expected to welcome the move. Although there might be arguments that it did not go far enough in bringing together Government policies on the heritage, it would do nothing to encourage and might to a small extent abate pressure for a "Ministry of Culture".

17. A decision would of course be needed as to which Minister should assume the present joint responsibilities. The Minister for the Arts would appear best placed to assume responsibility for the AIL scheme, consulting the Secretary of State for the Environment as necessary: while the future application of AIL funds is unpredictable, works of art dominated the AIL scheme in the five years to 1984/85, both in terms of expenditure and number of acceptances. (Responsibility would formally be vested in the Lord President of the Council, as Ministerial head of the office in which the Minister for the Arts is a Minister of State.) OAL estimate that they would need one additional post to handle negotiations related to land and buildings; as these are currently handled along with other land-related matters within DOE, there would be no equivalent staff saving.

18. In the case of the NHMF, the Coopers review suggested that DOE was the more appropriate sponsor Department, noting that "DOE items" (land and buildings) had accounted for almost two-thirds of NHMF grants by value. DOE provided an additional £25m from within its overall PES allocation earlier this year - a flexibility unlikely to be available in a smaller department such as OAL - to enable the NHMF to negotiate for land, buildings and works of art at Kedleston Hall, Nostell Priory and Weston Park. On the other hand land and buildings accounted for only one third of the number of cases, and the two-thirds of NHMF grant expenditure ascribed to land and buildings includes sums in respect of works of art contained in the buildings. Given that individual cases are decided by the NHMF not by Ministers (unlike the AIL scheme), the balance of advantage perhaps lies in aligning lead responsibility with the preponderance of expenditure under DOE auspices, with an advisory role for OAL - but the arguments are finely balanced.

19. Option (c), involving a wider transfer of man-made heritage responsibilities to OAL, would create a clear lead responsibility within Government for heritage matters. The 1982 Select Committee report suggests this would be well received in Parliament, and there would be a single accountability, assessment of priorities and allocation of resources across the bulk of Government's heritage activities. This would entail a significant increase in

OAL's role and change in its character: if the package of functions transferred were at the more extensive end of the range of possibilities OAL's staff numbers could rise from around 50 to around 1000, its Vote increase by 30% to over £300m, and managerial and executive tasks, as well as further policy responsibilities, be added to its work.

20. Such a major expansion of OAL in the direction of a "Ministry of Culture" would be seen as a significant change of stance, given the Government's rejection of a Ministry for the Arts, Heritage and Tourism as recommended by the Select Committee in 1982. (The Government noted that a new Ministry was not necessarily the best means of ensuring the articulation of arts interest, that there would be difficulties in some of the transfers of functions proposed, and that the absence of a new Ministry did not preclude progress with recommendations the Committee had linked to a new Ministry.) There would also be risks that a substantial transfer of heritage responsibilities might increase pressure for further transfers so as to bring together all the culture functions under one department, and might arouse expectations of increased public expenditure on the programmes involved (as in fact happened in the wake of the creation of the HBMCE).

21. In addition any transfer of heritage responsibilities from DOE to OAL sufficiently comprehensive to give OAL a credible lead responsibility for heritage matters threatens to create new problems of its own. Annex II part (ii) sets out a minimum set of functions which could sensibly be transferred. These cover:-

- (a) responsibility for NHMF and the AIL scheme;
- (b) sponsorship of HBMCE and other heritage NDPBs; and
- (c) the listing of buildings etc.

22. As Annex III indicates, the main difficulty lies in (c) above. DOE would need to retain a substantial part of the responsibility in respect of listed building protection work because the procedures form part of the general Town and Country Planning framework. Split responsibility for the two stages of listed building work would create a continuing tension between OAL, whose interest would always be in extending the protection afforded by listing, and DOE, whose interest would, in the absence of heritage responsibilities, point always to deregulation.

23. In addition there would be a practical difficulty about accommodation: the bulk of the 50 staff in DOE's Heritage Sponsorship Division would need to be transferred to OAL but could not be accommodated in OAL's Great George Street offices. OAL would have to find new accommodation or accept the inefficiencies of geographical dispersion.

24. A more extensive transfer of functions to OAL would include both Heritage Sponsorship Division and the 918 staff in DOE's Royal Parks and Palaces Division. This would make OAL a stronger focus for heritage matters, and avoid leaving a lump of man-made heritage responsibilities in DOE. Against this such a transfer would raise major management and organisational questions (including

an even greater accommodation requirement and the probable need to provide OAL with its own separate Establishment and Finance functions). This would have costly implications. A further potential difficulty in a transfer affecting the Royal Parks and Palaces would be the need for discussions with the Royal Household, which would stand to lose the convenience of dealing with a single Secretary of State whose responsibilities spanned DOE's interest in Parks and Palaces and in wider local authority and planning aspects, and the PSA's responsibility for the provision of works services.

25. Thirdly the transfer of functions under option (c) could be extended to include DOE's present responsibilities for the countryside and wildlife, which are sometimes regarded as part of the natural heritage. However these responsibilities seem remote from OAL's arts base and lie outside the scope of the study agreed by the Prime Minister. Retention of countryside and wildlife responsibilities in DOE would still leave OAL with a potential locus where natural features are considered of heritage relevance - for example woodlands have been accepted under the AIL scheme.

26. Option (c) would require a Transfer of Functions Order subject to negative resolution procedure and appears likely to produce pressure for an increase in overall staff numbers - although quantification would depend on the precise package of functions transferred it seems clear that OAL would need some staff, for example for common services, over and above those transferred with the work.

27. Finally Option (d), a merger of OAL into DOE, would have the same advantages as option (c) in terms of creating a clear lead responsibility within Government for heritage matters. However it would reverse the Government's decision in 1983 to give OAL an independent existence, and would involve transferring OAL's wider arts responsibilities as well as those directly related to the heritage. OAL could survive as a sub-department of DOE or be merged fully into DOE; the latter seems preferable to avoid duplication of heritage work and would require a Transfer of Functions Order subject to affirmative resolution procedure to dissolve OAL and transfer all its functions to DOE.

CONCLUSIONS

28. Option (a) amounts to the status quo. Option (b) is a limited change targetted at the more immediate difficulties arising from joint responsibilities for AIL funding and NHMF sponsorship. Both its benefits and its costs are modest: it offers better accountability, simplified decision processes and a response to the Coopers recommendation on NHMF sponsorship at the cost of a Transfer of Functions Order and one additional post. Whether the benefits justify the costs is a matter of judgement; given that there would be little disruption and no unintended encouragement for expectations in the direction of a wide-ranging "Ministry of Culture", our own view is on balance that option (b) would be desirable. A decision would be required as to which Department should assume sole responsibilities: OAL seems best placed for the AIL scheme and, although the arguments are finely balanced, DOE for NHMF sponsorship.

MANAGEMENT IN CONFIDENCE

29. Options (c) and (d) go much further and meet the less closely argued case for a single Department to have responsibility for all heritage matters. By its rejection of the Select Committee's 1982 recommendation for a new Ministry with all embracing responsibilities in the arts and heritage area and the decision in 1983 to give OAL an independent existence, the Government has effectively ruled out options (c) and (d) in the short term. Even in the long term though these options would pose real difficulties and the likelihood of real benefits emerging to justify the costs, disruption and other problems that would arise has not been established.

4 December 1985
Machinery of Government Division

PRESENT HERITAGE RESPONSIBILITIES

1. DEPARTMENT OF THE ENVIRONMENT

Secretary of State for the Environment (Mr Baker) has overall responsibility.

Minister, Environment, Countryside and Local Government (Mr Waldegrave) deals inter alia with the countryside and conservation.

Minister of State (Lord Elton) deals inter alia with planning, historic buildings, ancient monuments, Royal Parks and Palaces.
Parliamentary Under-Secretary of State (Mr Tracey) assists Lord Elton
Parliamentary Under-Secretary of State (Sir George Young) deals inter alia with PSA.

Parliamentary Under-Secretary of State (Mrs Rumbold) assists Mr Waldegrave.

Directorate of Ancient Monuments and Historic Buildings

Grade 3 (who also leads Directorate of Rural Affairs)

Heritage Sponsorship Division
(50 staff)

Royal Parks and Palaces Division
(918 staff)

Grade 5

Grade 5

Four Principals dealing with (1) sponsorship of HMBCE, NHMF and 2 other heritage NDPBs, international heritage work, heritage aspects of local government Bill, (2) resurvey of listed buildings, spot listing, AIL, (3) protection policy and consent applications on historic buildings and monuments, Redundant Churches Fund, (4) sponsorship of Nature Conservancy Council, grants to Zoological Society, and related finance work.

Bailiff of the Royal Parks Office - management of the Royal Parks and Palaces and other operational management. Parks Palaces and Presentation - policy, financial management, presentation of Parks and Palaces plus some management of Palaces. Over 400 industrial grades providing day-to-day services eg. gardening.

Related DOE Directorate: The Directorate of Rural Affairs is responsible for the countryside and wildlife, including matters relating to the natural heritage.

Planning staff in DOE Regional Offices liaise with Heritage Sponsorship Division on the handling of listed building consent applications.

Property Services Agency: the London Region Directorate (Grade 3) services a number of clients including the Royal Parks and Palaces.

Historic Buildings and Monuments Commission for England: Directed by a Board of 8-17 Trustees appointed by the Secretary of State. 1,200 staff including some 600 in the regional organisation for ancient monuments and historic building works, some 150 in the Inspectorate of Ancient Monuments and Historic Buildings (whose responsibilities include expert advice on the resurvey of listed buildings, listed buildings consent, and advice to NHMF) and some 40 in the urban conservation and historic buildings division (whose responsibilities include casework on listed building consent and taxation matters including AIL).

II OFFICE OF ARTS AND LIBRARIES

Minister of State, Privy Council Office and Minister for the Arts
(Mr Luce) has overall responsibility.

Grade 2

Division A

Division B

Division C

Grade 5

Grade 5

Grade 5

Arts Council and other performing arts. Crafts, film, National Heritage and export of works of art. Government Art Collection.

National and local museums and galleries. Central and local government finance for arts.

Libraries and information services British Library, public libraries in England.

Note includes NHMF sponsorship and AIL cases. Executive work on AIL transferred to Museums and Galleries Commission April 1985.

POSSIBLE TRANSFERS OF FUNCTIONS

Part (i) OPTION (b): SINGLE RESPONSIBILITY FOR AIL AND NHMF SPONSORSHIP

AIL : transfer to Lord President of the Council of sole responsibility for the following functions under Part II of the National Heritage Act 1980:

section 8: payments to Inland Revenue where property accepted in satisfaction of capital transfer tax liability.

9: directions as to disposal of such property

10: receipts and expenses in respect of such property.

NHMF : transfer to Lord President or to Secretary of State for the Environment of sole responsibility for the following functions under Part I of the National Heritage Act 1980:

section 2: payments into the Fund

section 4(3): permission for Trustees to retain property

section 5(3): permission for Trustees to retain property

section 7: receipt of annual report, publication, laying before Parliament.

Schedule 1, para 5: approval of allowances for trustees

para 6: approval of staff members and terms

para 7(4): determination of quorum

Note: if AIL and NHMF responsibilities were both transferred to the same Minister functions under section 17 (expenses and receipts) would also be transferred to that Minister alone.

MANAGEMENT IN CONFIDENCE

Part (ii) OPTION (c): WIDER TRANSFER OF MAN-MADE HERITAGE WORK TO OAL

Transfer to the Lord President of the Council of the statutory functions under option (b) plus

(a) National Heritage Act 1983

sections 17-22 and: the Secretary of State's functions in
Part III of relation to the Armouries.
Schedule 1

sections 32-38 and: the Secretary of State's functions in
Schedule 3 relation to the Historic Buildings and
Monuments Commission for England (HBMCE)

(b) Town and County Planning Act 1971

section 54: listing of buildings of special architectural or
historic interest.

section 58: consideration of local authority building preservation
notices.

section 96 and 100: directions as to listed building enforcement
notices.

sections 114 and 115: compulsory purchase and repair notices
relating to listed buildings.

section 277: directions on designation of conservation areas of
special architectural or historic interest.

[Note: the following functions would remain with the Secretary
of State for the Environment:

sections 55 and 56: grant of listed building consent or
planning permission.

section 97: appeals against listed building enforcement notices.

section 125: consent to appropriations and disposals of land
including listed buildings by local authorities, and
local authorities would retain liability to pay
compensation on refusal of listed building consent
(sections 171-173) and to be served with a purchase
notice (section 190). 7

(c) Local Government, Planning and Land Act 1980

Schedule 15, para 5: power to issue certificate of immunity
from listing

(d) Ancient Monuments and Archaeological Areas Act 1979

section 1: scheduling of monuments

sections 2, 3 and 4: grant of scheduled monument consent

section 5: power to execute urgent preservation works

section 6: power of entry for inspection

section 7, 8 and 9: compensation for refusal of scheduled
monument consent

sections 10 and 11: acquisition of monuments by compulsory
purchase, agreement or gift

sections 12, 13 and 14: guardianship of monuments and the other
provisions of Part I insofar as they
relate to England

section 33: designation of areas of archaeological importance
and the other provisions of Parts II and III insofar
as they relate to England including the power to make
grants to the Architectural Heritage Fund (section 49).

The Transfer of Functions Order would need to ensure that the Lord
President was a body corporate (and thus able to make effective use
of powers of compulsory purchase)

The transfer could also include certain functions relating to the
ownership and management of certain Crown properties transferred
from the Minister of Public Building and Works by the Secretary
of State for the Environment Order 1970, insofar as these relate
to Royal Parks and Palaces.

LISTED BUILDING AND TOWN AND COUNTRY PLANNING

1. Option (C) would involve transferring to OAL the bulk of DOE's Heritage Sponsorship Division, whose responsibilities currently include liaison on listed buildings, scheduling of monuments and designation of areas of archaeological importance. The statutory procedures relating to scheduled monuments and areas of archaeological importance are largely self contained, and therefore capable of transfer, though in addition to transferring the executive staff there would be a need to provide legal staff to advise on inquiry procedure and judicial processes. However the procedures relating to listed buildings are part of the general Town and Country Planning framework, and complications arise in considering a transfer of listed building responsibilities while preserving the Secretary of State for the Environment's overall planning responsibility.

2. At present the Secretary of State is responsible for identifying lists of buildings of special architectural or historical interest; in practice this is done in consultation with local authorities and the HBMCE. The owners of the buildings concerned are not involved at the listing stage; however they may subsequently apply to the local authority for consent to demolish, undertake works, etc. The Secretary of State may call in such applications, acting in practice through DOE Regional Planning Officers who operate within a policy and legislative framework determined at DOE Headquarters. The Secretary of State's decision is final, but before reaching it he must if requested grant a hearing to the applicant and local authority. Where an application is not called in, but rejected by the local authority, the applicant may appeal to the Secretary of State and again can require a hearing.

3. The initial listing process could be transferred as a self-contained unit, but it would be much more difficult to disentangle from the general run of planning decisions the subsequent stages of calling in and hearing appeals. These involve striking a balance between conflicting pressures - to promote industry and employment, to improve regional infrastructure, to protect architectural heritage and conserve the best features of a townscape, to ensure that decisions are consistent and any conditions reasonable and intra vires. Integrating heritage protection with wider policies requires an understanding of local government structure planning, planning law and regional economical policies, and close links with local government and with other Departments who are major landowners or who have a major input into regional policies. A transfer to OAL of the calling in and appeal functions would

- not achieve a clean break: a major planning application frequently involves simultaneous decisions about planning permission, listed building consent, and confirmation of a compulsory purchase order.

- involve OAL either in heavy reliance on the DOE Regional Planners who currently handle the casework, or in expensive duplication of that regional capability.

- separate decisions on listed building consent from the wider planning context.

4. It would therefore seem best to confine any transfer to OAL to the initial listing process, leaving with the Secretary of State for the Environment his present responsibilities for calling in applications and hearing appeals.

Govt. Mäen DBC 84.
HBRIT AOS.

