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A

Avant Policy Unit

Prime Minister

AGRICULTURE AND CONSERVATION

You commissioned further work on this area, especially over the compensation principle underlying management agreements for conservation and on the definition of a back-up "stop" power. I attach / a paper prepared by officials which examines the issues involved.

In general, the Wildlife and Countryside Act appears to have substantially strengthened the well-established voluntary approach to the safeguarding of important sites. This approach is working satisfactorily and reasonably inexpensively in most parts of the country, subject however to some provisos below. Given the encouraging signs of increasing co-operation by farmers, it would, in my view, be quite wrong to abandon the voluntary principle to which we are strongly committed. After our previous meeting, you endorsed the need for us to accept one immediate amendment - namely the blocking of the so-called "3 month loophole". Government time was not available for this, and the achievement of this objective now rests on the fortune of a Private Member's Bill - not all of which we can support, introduced by David Clark MP.

I do, however, share the Chief Secretary's concern, expressed in his minute to you of 27 July, about the costs of site safeguard. Officials have looked carefully at the financial implications both of the present regime and of the main options for change; it is, however, clear that on the basis of the available information it is too soon to



make clear recommendations for cost saving. Although disappointing, this is hardly surprising - the Act has been in effect for too short a time for any firm extrapolation from the relatively few agreements to be made. More work needs to be done on this as the facts become known.

The critics who suggest that it is indefensible to pay out public money for positive conservation to match amounts that would be paid for under the agricultural grants schemes have a valid point. Some tightening of the grants scheme is therefore necessary, though the effect of this would be more in terms of removing an embarrassing anomaly than of saving significant sums of money.

We should also take immediate steps to guard against important landscapes being destroyed wilfully. The inter-Departmental group which has been considering the Countryside Commission's latest report on the uplands is likely to recommend that the Landscape Areas Special Development Order should be amended to control the design and location of farm and forestry buildings and roads in National parks and other sensitive areas; I think we should accept this modest tightening.

I should like also to pursue the proposal for landscape conservation orders, with a view to primary legislation in the 1985/86 session.



As we carry matters forward we will need to see what the Select Committee on the Environment concludes about the operation of the 1981 Act. I think we must accept that whatever we do the costs of site safeguard will rise in the next few years and that we must make appropriate provision for the agencies concerned. The heartland of the natural heritage if lost can never be replaced. (The sums involved are not in themselves overwhelming, peaking at some £35m at the end of the decade compared with the provision of £15.7m which we have now agreed for 1985/86.) We must, however, have a clearer idea of longer term consequences, and how costs could be kept down against a developing situation: and we must also ensure that the expenditure results in adequate protection. I therefore propose:

i. that consultants are employed to examine, by next September in time for the PES round, the expenditure and conservation implications of possible changes in the financial guidelines.

MAFF should also be asked to bring to a head their work on agricultural grants and subsidies;

ii. that a new Landscape Areas Special Development Order should be made to extend control over farm and forestry buildings and roads in sensitive areas, as suggested in paragraph 30 of the Report.



iii. that legislative proposals providing for landscape conservation orders and nature conservation orders with permanent effect should be developed further, for consideration for introduction in the 1985/86 session, as suggested in paragraph 28 of the Report.

iv. that we reach a decision on the proposals for Conservation of the Broads landscape, set out in my paper H(84) 40 which was discussed at H on 13 November. H concluded that it would be preferable to reach conclusions on that specific issue when the report attached had been considered. The matter is becoming very urgent if we are to avoid another year of conflict over Halvergate.

Finally, I should be grateful for your guidance on handling. I hope we shall be able to discuss these matters soon since decisions are now needed on a number of issues. The Report itself has been extensively discussed by the relevant Departments, but if you wish, it would be possible for Ministers collectively (possibly in H) to consider the issues and report before any meeting with you. Alternatively, and following the earlier precedent, if you prefer we could go straight to a meeting with you and colleagues most closely concerned.

// I am copying this minute and the attached paper to colleagues on H, Geoffrey Howe, Michael Jopling and Sir Robert Armstrong.

PJ

P J

30 November 1984

RESTRICTED

AGRICULTURE AND CONSERVATION

REPORT BY THE DEPARTMENT OF THE ENVIRONMENT OF THE FINDINGS OF AN INTER-DEPARTMENTAL WORKING GROUP.

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## INTRODUCTION

1. In July the Secretary of State for the Environment submitted to the Prime Minister a report by officials on agriculture and conservation. Further work was commissioned and the Department of the Environment set up an Inter-Departmental Working Group, on which MAFF, Treasury, DAFS, SDD, the Welsh Office and the Forestry Commission were represented. This report of that Working Group looks first at the general effectiveness of the compensation arrangements under the Wildlife and Countryside Act 1981; then examines ways in which changes might be made; and finally defines a "stop power" under the 1981 Act, describing how compulsory controls could also be introduced under planning legislation. The Group has sought not to shirk possible radical options, while drawing attention to some of the more serious practical and political objections to their adoption. Because the Act has been in operation for such a short time - the financial guidelines, for example, have been in effect for less than two years - and management agreements usually involve lengthy negotiations, there is insufficient data on which to base any costing of some options. The implications of these options can therefore only be described in general terms, making assessment difficult and risky.

EXECUTIVE SUMMARY

The compensation principle underlying management agreements.

(paras 11-17)

2. The protection of key areas of the natural heritage currently relies on "the **voluntary approach**" : the willingness of landowners and tenants to maintain the wildlife or landscape interest of their land, if necessary through entering into management agreements with a conservation agency. The Wildlife and Countryside Act 1981 was a major step forward and has led to a substantial increase in the number of important sites brought under protection. From the demand for agreements and for conservation advice from ADAS and from the public pronouncements of representative organisations, such as the National Farmers 'Union and the Country Landowners' Association, it is evident **that owners and occupiers are becoming increasingly willing to co-operate** with conservation interests.

3. Since the Wildlife and Countryside Act came into effect, interest in environmental issues has grown. These issues have, for example, been debated at all the major Party conferences this year; the Select Committee on the Environment is holding an inquiry into the workings of the Act this autumn; and environmental pressure groups are steadily increasing in size and becoming better informed. Given this background, it is not surprising that there is mounting concern about landscape and habitat protection.

4. Criticism has focussed on two aspects of the present arrangements: (i) the extent to which a policy largely dependent on voluntary co-operation can succeed, particularly in the face of opposition from a minority of farmers; and (ii) **the rising costs of maintaining such a policy**. As one critic of the Act put it: "By

ing on the compensation system, the Government traps itself between a rock and a hard place - either it pays out large sums of public money or it allows nationally important sites to be lost."

Cost-cutting changes in the compensation arrangements (paras 18-28)

5. The Group has considered the following options:

(i) limiting the number of SSSIs (para 19) Would limit the number of site acquisitions and management agreements. Selection of sites would be difficult and the existing criteria for selection are widely regarded as identifying only those areas which it is essential should remain inviolate as an adequate sample of habitats. NCC unlikely to co-operate. Very controversial primary legislation necessary;

(ii) limiting the funds available to the NCC (para 20) Would lead to considerable criticism initially. Subsequent destruction of a succession of sites would result in repeated bouts of controversy and criticism;

(iii) changes in agricultural subsidies (paras 21-24) Long-term effects unpredictable and difficult to promote conservation-oriented changes. MAFF already pursuing with EC question of support for farming by traditional methods in environmentally sensitive areas;

(iv) changes in the agricultural grant system (paras 25-27) Reductions in capital grant payments could help to reduce pressure for and cost of compensation, especially in the long-term, but any savings are likely to be small in relation to the total costs of site safeguard. Variety of options;



Could lead to discrimination against farmers in designated areas, and consequently to pressure for a right of appeal against designation. Could make farmers hostile to conservation. Would be likely to cause particular problems in upland areas;

(v) replacing annual payments with one-off payments related to net income foregone over a limited period (para 27) Long term savings, but high costs initially. Would reduce the attractions of the voluntary approach. Some valuable landscapes would be lost, with obvious political implications;

(vi) withdrawal of annual payments option (para 28) Simpler and cheaper than option (v) but again high initial costs. Would need compulsory back-up if landowners still to enter into agreements;

#### Definition of "stop" powers (paras 29-32)

6. The Wildlife and Countryside Act 1981 already provides "stop" powers to safeguard sites on nature conservation grounds: damaging operations may be prevented by order for up to 12 months and the NCC can then buy the site. There are two ways of introducing compulsory landscape protection powers:

(1) amending the Wildlife and Countryside Act to enable landscape conservation orders to be made on the same lines as nature conservation orders under section 29 (paras 30-31). Would require primary legislation. Would increase local authorities' administrative costs. Appeal provisions necessary with consequential staff implications for Government departments. Would almost certainly increase the demand for management agreements but threat of compulsion might reduce costs of individual agreements;

(ii) imposing more planning controls on agricultural and forestry uses (para 32) Measures under existing legislation could only bring more building and engineering operations under control. Primary legislation necessary to control the use of land for agriculture and forestry: would be against Government planning policy generally, less flexible than management agreements, involve definitional problems, and might lead to high administrative and compensation costs.

### Conclusions

7. The broad choice before Ministers is whether to:

- continue the present policy mix, which, despite its shortcomings, is not without defenders;
- seek to make relatively modest adjustments under existing legislation, essentially limited to restricting the availability of farm capital grants and extending the planning regime slightly; or
- go for much more sweeping changes.

Any major changes would, undoubtedly prove highly contentious. They would almost all involve primary legislation, quite likely leading to a re-run of the debates over the Wildlife and Countryside Bill. Significant cost savings could not be easily delivered and some changes, given the complex links in the present system, could have untoward effects such as driving upland farmers out of business.

8. If Ministers indicate the general direction in which they wish to move, officials will work up possibilities as necessary. Further work is anyway likely to

needed fairly soon, in response to the Select Committee report on the operation of the Wildlife and Countryside Act or perhaps in the course of preparing a possible MAFF White/Green Paper on agricultural policy. It is certain that the whole question of the relationship between agriculture and conservation - which was too large for the Working Group to consider - will not go away.

### Background

9. The background to the principle of generous compensation for not undertaking environmentally damaging operations is described at Annex A.

### Effectiveness

10. The system of site safeguard under the Wildlife and Countryside Act is, at this early stage, generally proving effective. Unlike many other types of control, management agreements may be positive, **requiring certain activities to be undertaken as well as preventing others.** Habitats usually depend on the maintenance of existing agricultural practices; allowing sites to return to their natural state can be as harmful as more intensive agricultural use, so that some sort of positive encouragement is necessary. The NCC's management agreements already protect over 12,000 hectares and the 600 now under negotiation will cover a further 54,000 hectares; farmers and other landowners are becoming increasingly co-operative. Although some proposed and existing SSSIs have been damaged (156 in the twelve months to the end of March 1984), most of the damage has not been serious. The NCC has requested Environment Ministers to use their "back up" powers to make nature conservation orders to delay potentially damaging operations in only ten cases and the Council has not had to purchase sites compulsorily at all since the Act came into effect. Landscape conservation measures have also been successful: the potential loss of grazing marshes in the Broads, for example, received considerable publicity but most of the sites have been safeguarded, at least temporarily, through management agreements. Perhaps the most important contribution of the Act is **a heightening of awareness** among landowners and tenants of the importance of conservation.

11. In recent years interest in environmental issues has mounted throughout the world. The "green lobby" has grown substantially, into political parties in some countries or, as in the United Kingdom, as responsible and well-informed pressure groups, supported by a significant part of the population. There were debates on the environment at all the Party conferences this year; newspapers have pursued prolonged environmental campaigns; and the Select Committee on the Environment is undertaking a major inquiry this autumn into the operation of the Wildlife and Countryside Act.

12. The site safeguarding provisions of the Act are so significant that they have inevitably attracted attention. Criticism has focussed on two aspects:

(i) the inability of the voluntary approach to protect sites of great landscape value if their owners are unwilling to co-operate There is a danger that owners will refuse to co-operate and will instead completely destroy the landscape value of certain areas. Means of introducing an element of compulsion to prevent damage are described in paras 29 to 32;

(ii) the rising costs of site safeguard Because many more management agreements are being made than was originally expected, the additional costs of site safeguard attributable to the Act are likely to rise well above the £600,000 to £700,000 estimated when the Bill was first presented. The potential costs are described in paras 15 to 17 below and ways of reducing them are examined in paras 18 to 28.

13. Because the NCC does not expect to complete the task of notifying all owners and occupiers of SSSIs until 1988 and because management agreements often involve lengthy negotiations, the costs of site safeguard have not yet risen substantially above those originally envisaged. The NCC's 154 agreements since the Act have cost over £400,000 in lump sum payments and about £70,000 in annual payments. Site acquisitions have cost about £2,750,000. As for agreements made by other authorities, by 1 September National Park Authorities, the Broads Authority and local planning authorities had concluded 19 agreements involving some financial consideration, costing £75,000 in lump sum payments and (with two earlier agreements) £70,000 in annual payments; they were negotiating agreements which would cost a further £100,000. (They had also made more than 30 agreements involving no financial consideration.) Annex B shows the present and forecast costs of site safeguard in relation to the total costs of the main agencies involved.

14. Although the current estimates of the total costs of site safeguard payments are higher than those made when the Bill was introduced, individual agreements have generally not been expensive. Table I below shows, for example, that more than half the NCC's agreements are costing less than £30 a hectare a year in payments. The NCC keeps down costs wherever possible: it is often able to secure the future of important sites without formal agreements and, as already explained, many agreements involve no expenditure. All formal agreements and site acquisitions involving substantial sums of money are scrutinised by the District Valuer; ADAS is consulted, and the District Valuer is often involved in detailed negotiations with owners. A few payments, generally relating to lowland sites, have, however, attracted considerable publicity because of their high costs; in his letter of 30 July, the Prime Minister's Private Secretary drew attention to four of these, of which details are given in Annex C.

## ANALYSIS OF THE COST OF NCC MANAGEMENT AGREEMENTS

ANNUAL PAYMENTS PER HECTARE	£ 0-10	£ 11-20	£ 21-30	£ 31-40	£ 41-50	£ 51-60	£ 61-70	£ 71-80	£ 81-90	£ 91-100	£ Over 100	Total
% OF AGREEMENTS	37	6	10	10	6	6	3	2	0	1	19	100

15. As Annex B shows, costs are not expected to increase indefinitely but to "plateau out" at about £35 m or possibly rather more in the mid 1990s of which about a quarter would be compensation in respect of management agreements. Costs of this order to safeguard key parts of our natural heritage need to be seen in the context of other items of public expenditure. MAFF estimate that CAP price support was worth some £2½ billion to British agriculture in 1982; capital grants cost about £180 million, with some £60 million spent on arterial drainage in rural areas. Private sector forestry is encouraged by favourable tax treatment, while the Forestry Commission receives £60m a year. The Arts Council costs about £100m a year; the Royal Opera House alone receives a grant as large as the NCC's entire budget. Public expenditure on listed buildings (grants and administrative costs) is about £25 m a year.

Range of Options

16. As explained above, the amount spent on site safeguard is determined by the number of sites safeguarded and the size of payments to protect individual sites. Maximum payments are currently determined by financial guidelines which take account of profits foregone so that landowners will be prepared to undertake conservation measures voluntarily. Reductions in the costs of site safeguard might be sought by:

- (i) reducing the number of sites safeguarded This might be achieved either directly, by limiting the number of SSSIs, the main type of protected site, or indirectly, by reducing the funds available to the NCC, the body which spends most on site safeguard;
  
- (ii) changes in the level of payments The profits forgone element in payments under management agreements could be reduced by changes in agricultural subsidies. Alternatively, the financial guidelines might be made less generous by: withdrawing compensation for capital grants foregone; replacing annual payments with one-off payments related to net income foregone over a limited period; or by the withdrawal of the annual payments option.

Each of these options is considered below.

Reducing the number of sites safeguarded: limiting the number of SSSI.

17. There were already 4,000 SSSIs in Great Britain, covering 1.4m ha, 6% of the total land area, when the 1981 Act came into effect, and there are a further 1200



sites, covering some 179,000 ha, which the NCC intends to notify. The NCC considers the damage that has already taken place has reached crisis point and is opposed to letting any more important wildlife habitats be lost. Sites used to be graded according to their importance and the NCC still recognises that some are more significant than others, to be protected by purchase or the threat of purchase if necessary. The Council is, however, opposed to a more detailed grading system since the relative importance of sites varies over time with general changes in habitats. Further, because of the extensive destruction of significant habitats which has already taken place, the NCC argues publicly that it is essential to protect those which remain. DOE Ministers have sympathised with the Council's stance; in June, for example, launching the NCC's nature conservation strategy for Great Britain, the Secretary of State for the Environment said "I accept that the safeguarding of sites is vital". Without the NCC's co-operation on the restriction of sites, which would not be forthcoming, primary legislation would be needed; such legislation would have to be passed against a background of criticism from the conservation lobby in which the NCC would join.

Reducing the number of sites safeguarded : limiting the funds available to the NCC

18. Limiting the funds available to the NCC to a level less than that currently sought (which is above the PES provision) would mean that the Council would be unable to protect as many sites as it has declared is necessary. A reduction of £1m in the annual budget for management agreements would, if the present costs and distribution of agreements were maintained, result in about 250 fewer agreements each year, with an additional 21,100 ha. left unprotected. There would be continuing criticism from the conservation lobby that the NCC was being starved of funds to do its job and as each site was damaged there would be fresh criticism of the Government.

Changes in the level of payments : changes in agricultural subsidies

19. The Common Agricultural Policy (CAP) provides the basic framework within which the agricultural industry operates in this country. The CAP has, since its inception, encouraged **increases in agricultural production** and has thus been a major element in the pressure for more intensive (and sometimes more environmentally damaging) farming. The CAP is beginning to change, and pressure to reduce the level of support given could reduce the pressure for intensive farming. Any major changes will, however, take a long time to negotiate and some of the changes in prospect seem likely to make conservation more difficult (for example, if the livestock sectors are more harshly treated than arable sectors). It is, in any case, by no means certain that an overall downward pressure on farm incomes will be helpful to conservation; the view of both the NCC and the Countryside Commissions is that an efficient and prosperous agricultural industry is essential for effective conservation.

20. EC policy towards agriculture structures is broadly directed towards supporting the family farm and the proposed EC Structures Regulation includes no measures to encourage the current general trend on the continent towards less fragmented and larger units. The UK has proposed **amendments to the draft Regulation** which would allow payments to encourage traditional farming methods in environmentally sensitive areas and permit the withholding of grant on conservation grounds. It is not yet clear whether the amendments will be accepted. An experimental scheme in the Broads (where farmers would be given headage payments for cattle, to maintain existing pasture) is regarded as urgent by DOE and MAFF but Treasury has not so far agreed to it.

. In addition to CAP market support, the Government provides direct assistance to farmers in the United Kingdom through capital grants (an estimated £140 m in 1985/86 following reductions of £30m in last year and £40 m in the latest PES round) and hill livestock compensatory allowances (£100m). In Treasury's view, as a general principle, the continued payment of capital grants conflicts with the objectives of conservation policy. One of the objectives of the capital grants schemes is to encourage additional output; by definition they also increase the incentives towards capital - intensive agriculture and the pressure on the rural environment and landscape which intensive agriculture brings with it. Even the NFU policy document "The Way Forward" and recent work carried out by the Country Landowners Association recognise the need for some reform of the grant system to take more account of environmental factors. Treasury considers that conservation policy strengthens the case for a significant reduction in capital grants generally.

22. The Agriculture Departments take a different view. While accepting that in certain individual cases the availability of grant aid might encourage a farmer to undertake an investment which could have damaging environmental consequences, the capital grant system itself is not in principle hostile to conservation. It can and does produce environmental benefits, for example by encouraging investment to control pollution and assisting measures (such as hedge planting and the building of stone walls) which enhance the landscape and wildlife interests. More importantly, it helps to maintain agriculture in a state which enables it to make its essential contribution to conservation.

#### Changes in the level of payments: changes in the agricultural grants system

23. There has been more detailed criticism of the relationships between capital grants and management agreements: for example, of the provision whereby a farmer who is refused a capital grant on conservation grounds must be offered a management

reement which includes a payment incorporating an element in respect of capital grant foregone. No reliable estimate can as yet be made to the extent of the savings in the cost of site safeguard which removal of this element might produce. Although most NCC agreements which include provision for payments based on capital grant foregone, details are available in only eight cases. Of these, the capital grant element accounts for, an average, about 17% of the total annual payments. Only one of these eight cases relates to an agreement in the uplands, where the capital grant element represented over 80% of the total compensation.

24. A number of ways of removing this element fall to be considered:

i) removal from the grant schemes of items deemed to be environmentally damaging. Certain categories of grant aid expenditure have caused particular adverse comments from the conservation lobby. Over the years changes have been made in the schemes to remove a number of such items (eg grants for hedge removal and more recently for land improvement in the lowlands); but drainage grants remain the subject of adverse criticism. MAFF are about to issue a consultation paper on the future administration and finance of arterial drainage and changes may be in prospect. In respect of field drainage, on which expenditure in 1983/84 is likely to be some £55-60m, the CLA Advisory Group on the Integration of Agricultural and Environmental Policies have recently suggested that schemes should be subject to prior approval. On the other hand, grants for both field and arterial drainage are being substantially reduced (in certain cases by as much as half) following the latest PES round. More generally, few if any of the items currently eligible for grant could be said always to be environmentally damaging. Many could lead to damage in particular cases, but it would be impossible to remove all of these from the schemes without defeating their overall objectives.

ii) withdrawal of grant in sensitive environmental areas (eg SSSIs, National Parks, AONBs) The Agriculture Departments' view is that this option would lead to unreasonable discrimination against farmers in these areas, in return for very little environmental gain. Recent figures in National Parks for instance showed out of 2,757 notifications by farmers with intention to claim land, only 6 gave rise to objections by the National Park Authority which could not be satisfactorily resolved between the applicant and the Authority. On the other hand, the Treasury argue that the environmental gains from the withdrawal of grant in sensitive areas cannot easily be assessed from the recent experience in National Parks. Removing capital grants would they feel shift the balance of negotiating advantage between the individual farmer and the National Park Authority. Officials do, however, agree that by discriminating between farmers inside and outside the designated areas, this option could attract pressure for an appeals procedure against the notification of SSSIs. And DOE and the Agriculture Departments believe that it could also seriously affect the viability of farming enterprises in those parts of the less favoured areas which fall within National Parks, AONBs and SSSIs.

iii) withholding grant aid on individual projects following a Ministerial decision In SSSIs, National Parks and AONBs, grant aid could be withheld in those individual cases where, in Ministers' view and following an objection from the NCC, the National Park Authority or the local authority, the environmental cost outweighed the agricultural benefit. This would mean that following such a Ministerial decision, any subsequent management agreement would not take account of the grant element in the assessment of the compensation payable. This change would thus remove one much criticised aspect of the present arrangements: namely, that a farmer should be entitled to receive public money, from one source or another, in respect of work which is environmentally damaging. On the other hand the financial savings arising from this change would be likely to be small in relation to total expenditure on

site safeguard, and the additional administrative cost would be significant owing to the need to consider every case individually (it would be quite impracticable to try and devise criteria for general application). There would also be the risk that the arrangement would lead to greater conflict between farmers and the conservation agencies, and in turn between the conservation agencies themselves and Ministers. In political terms, this could well lead to public disputes between different Governmental agencies.

Changes in the level of payments: replacing annual payments with one off payments related to net income foregone over a limited period

25. Management agreements typically run for 20 years; relating payments under management agreements to profits foregone in a shorter period would inevitably produce savings. The savings would depend on the period chosen which, for agreements to be attractive to landowners and tenants, would have to be fairly long. In practice, for public expenditure reasons and to avoid recipients being heavily taxed on their capital receipts, the lump sum would need to be spread over a number of years. Arrangements would have to be made to "claw back" payments made to tenants if tenancies changed hands. Although there would be overall savings in the long term, this option would not reduce the costs of agreements in the next few years.

Changes in the level of payments: withdrawal of annual payments option

26. The existing lump sum alternative offered to owners and occupiers, under the guidelines, based on the loss in capital value of the land caused by the management agreement, is consistent with the usual principles of land compensation. This is a cheaper option than annual payments for loss of profits because market value takes into account additional factors such as supply of land, yields in property markets

a tax incentives relating to agricultural land. District Valuers have examined twenty (not necessarily representative) agreements on which the annual payments are about £129,000 in total. Lump sum payments for the same agreements would amount to just over £273,000 so that, although initial costs might be higher, there would be substantial savings in a relatively short time if this method were adopted. It would also be a very much simpler system for the NCC and other authorities to operate. In practice, for the reasons given in paragraph 29, the lump sum would need to be spread over a number of years and special arrangements would have to be made for tenants. There is, however, the big drawback that the lump sum is already perceived by owners as the less attractive alternative; if it were the only option, farmers would be less likely to enter into management agreements and, without some form of compulsory back-up, valuable landscape would be destroyed.

## INTRODUCING COMPULSORY MEASURES TO PROTECT SITES ("STOP" POWERS)

27. Rural areas of outstanding landscape value are uniquely vulnerable, dependent on their owners and occupiers for protection. Similar areas of outstanding wildlife interest may, as a last resort, be compulsorily acquired by the Nature Conservancy Council, while important "townscapes" are subject to strict planning controls. Additional safeguarding of country landscapes might be achieved either under the Wildlife and Countryside Act or under planning legislation.

### Extending the safeguarding provisions of the Wildlife and Countryside Act 1981

28. Under Section 29 of the Wildlife and Countryside Act, a nature conservation order may be made to prevent potentially damaging operations being carried out on an SSSI for up to twelve months and the NCC has reserve powers to **compulsorily purchase** sites when no agreement can be reached. **Primary legislation** would be necessary to provide comparable powers to protect sensitive landscape areas. The most suitable pattern would probably be a power given to local planning authorities to make landscape conservation orders prohibiting the carrying out of potentially damaging operations, as previously defined by the authority in consultation with the Countryside Commission. **A right of appeal** to Ministers would be necessary, with Ministerial power to amend or revoke an order following an appeal. Such orders could be made **without any limit to their duration**, subject to provision for compensation to be payable which would obviate the need for any back-up powers of compulsory purchase to be provided. A skeleton framework of the possible statutory provisions is at Annex D. (At the same time, to strengthen the powers to protect SSSIs, section 29 of the Act could be amended to make nature conservation orders applicable permanently.)



29. The advantage of extending the existing "stop" powers under the Act in this way would be that local planning authorities would have the ability to impose safeguarding requirements instead of depending on the co-operation of owners and occupiers. It would avoid, for example, some of the problems which have arisen from well-publicised proposals to plough in the Broads. If the provisions were to be made comparable with those for nature conservation orders, allowance would need to be made for compensation. There would, however, be administration costs for local authorities and appeals and consequent inquiries could be expensive for Departments to operate. Further, the notification arrangements would almost certainly substantially increase the demand for management agreements and hence costs. Finally, "stop" powers do not themselves secure the sympathetic management of land by farmers in the conservation interest. This can only be achieved by positive incentives.

#### Imposing more planning controls on agricultural development

30. Compulsory site safeguarding could also be introduced through the planning system. The existing planning controls on agriculture in England and Wales and ways in which they might be extended are described at Annex E; a separate, but broadly comparable, planning system operates in Scotland. The main options are either to bring, by order, more building and engineering operations under control or to amend the primary legislation to cover the agricultural and forestry use of land. Both options might involve compensation and would run counter to the Government's policy of relaxing planning controls. Again, they would do little to encourage positive, sympathetic land management. A new Landscape Areas Special Development Order to cover the design and location of form and forestry buildings and roads in National Parks would, however, be both popular with landscape conservationists and inexpensive in that compensation rights would be avoided; although National Park Authorities could use their existing powers to pay discretionary grants in suitable circumstances.

## CONCLUSIONS

31. The present principle of compensation for not undertaking operations which would damage sites of wildlife or landscape value is a fundamental part of the voluntary approach to conservation. This approach was adopted in the immediate post-war period, but demand for compensation has grown sharply as a result of the notification arrangements in the Wildlife and Countryside Act. Site safeguarding costs have consequently increased but the voluntary approach has generally been successful in protecting important sites. There could, however, be difficulties if owners of outstanding landscapes are not prepared to reach agreement on reasonable terms and there have been criticisms of the overall costs and individual amounts of compensation. Nevertheless, most agreements so far have been inexpensive and the total costs, although very much higher than expected, are not huge in absolute public expenditure terms. The voluntary approach has widespread support, as well as some critics, and farmers and other landowners are becoming increasingly co-operative. The Government - and individual Ministers - have frequently voiced their commitment to it.

32. There is scope for some action to reduce costs without primary legislation. A limit could be placed on the funds available to the NCC, although this would provoke strong criticism from the conservation lobby. The financial guidelines which determine payments under some management agreements may be readily altered, but to make agreements less attractive without introducing more compulsion into conservation would make the destruction of important landscapes much more likely. Changes in the system of farm capital grants, and in particular a reduction in the overall level and rate of grants, could, especially in the long term, reduce the pressure for and costs of compensation, although the implications for the viability of farms in upland areas would need to be carefully considered. In the long term, changes in the Common Agricultural Policy may reduce costs but these are still

unpredictable. Most compulsory measures to protect landscapes would require primary legislation, although more building and engineering operations carried out on agricultural or forestry land could be brought under planning control by amendments to the General Development Order or the Landscape Areas Special Development Order.

33. If Ministers were prepared to countenance primary legislation - which would undoubtedly prove as highly controversial as the Wildlife and Countryside Bill - there are further options. The number of SSSIs, for example, could be made subject to Ministerial control; compulsory measures to protect sites of outstanding landscape value, comparable to those which already exist for sites important for wildlife, could be introduced; or agricultural and forestry uses of land could be brought within the ambit of planning controls. As well as being contentious, such legislation might, however, give rise to its own substantial compensation liabilities and would be unlikely therefore to produce any overall cost savings. Moreover, it might well fail to secure the sensitive management of sites which is necessary for effective conservation.

34. Ministers will, therefore, wish to consider:

(i) maintaining the existing policy;

(ii) making changes which do not require primary legislation, essentially limiting the funds available to the NCC; reductions in capital grants; other adjustments to the farm capital grants regime; and extending planning controls slightly over building and engineering operations carried out on agricultural and forestry land;

(iii) amending primary legislation, particularly the Wildlife and Countryside Act itself.

35. When Ministers have decided which of these broad options they favour, officials will need to examine the possibilities within it in more detail. Many of the issues involved are already being considered in other contexts; a Government response to the Countryside Commission's report on the uplands is being prepared; discussions on the draft EC Agricultural Structures Regulation raise questions of the effects of agriculture on the environment; and the report of the Environment Select Committee on the operation of the Wildlife and Countryside Act is certain to give rise to more debate and will probably need a detailed Government response. Public interest in the relationship between agriculture and conservation seems certain to grow, so that further work done now will be useful preparation for the future.

## BACKGROUND TO COMPENSATION PRINCIPLE

1. The approach to site safeguarding in the Wildlife and Countryside Bill when it was first presented to Parliament was very similar to that of earlier legislation. The basic principle was already that protection is best achieved through the voluntary co-operation of farmers and landowners. The NCC and National Park authorities had powers to make management agreements, which had not proved unduly expensive; the NCC, for example, was making less than 50 agreements a year. The NCC had back-up powers of compulsory purchase but there were no comparable powers for authorities concerned with landscape conservation. The Bill was, however, substantially amended during its passage through Parliament so that the NCC was given a new duty to notify owners and occupiers of Sites of Special Scientific Interest (SSSIs) on their land and to provide them with full details of potentially damaging operations requiring prior notice. Notification by the NCC has triggered a large number of management agreements: 154 have been concluded since the Act came into effect and another 600 are being negotiated.

2. The 1981 Act required payments under NCC and some other management agreements to be made in accordance with guidance given by Ministers. This guidance is contained in DOE/MAFF Circular 4/83 (Welsh Office Circular 6/83) "Financial Guidelines for Management Agreements". In accordance with the voluntary approach, the compensation arrangements are designed to encourage farmers to enter into management agreements, with the financial guidelines intended to ensure that the conservation option is no less financially attractive than the potentially damaging agricultural operation. An owner-occupier may choose between two methods of compensation: a lump sum based on the difference in the capital value of his land with and without the restrictions imposed, or annual payments related to the amount of profit foregone by accepting

● e restrictions. Tenants are only offered annual payments. National Park authorities are not bound by the financial guidelines except insofar as agreements are offered following a successful objection to an application for farm capital grant (there are no such agreements to date); nor are the Broads Authority or other local planning authorities.

COSTS OF SITE SAFEGUARD 'BASED ON THE AGENCIES' ESTIMATES; COSTS FOR LATER YEARS  
(INEVITABLY HIGHLY SPECULATIVE)

## 1. NCC

	£m CASH PRICES					
	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90
TOTAL EXPENDITURE						
Estimates	15.6*					
Additional	2.55					
Total	18.15	23.69	29.86	35.92	43.2	48.6
of these totals:						
SITES SAFEGUARD						
Site purchase	2.0	2.1	3.7	6.6	9.6	11.5
Grant for land purchase	0.4	1.0	1.1	1.1	1.1	1.2
Management agreements and other leases**	2.1	3.3	4.6	6.1	7.6	9.4
Staff and other						
Revenue costs	7.2	9.5	10.2	10.2	10.8	11.2
Total	11.7	15.9	19.6	24.0	29.1	33.3

\*Includes £1.25m for move to Peterborough

\*\*Estimates based on the costs of agreements currently under negotiation

## 2. NATIONAL PARKS

	£m CASH PRICES					
	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90
TOTAL EXPENDITURE	10.00	10.49	11.05	11.63	12.27	12.98
SITE SAFEGUARD						
Management agreements*	0.15	0.25	0.40	0.55	0.75	1.00
Other conservation expenditure**	1.44	1.50	1.56	1.62	1.68	1.75
Total	1.59	1.75	1.96	2.17	2.43	2.75

\*Based on experience of the special fund for first year, costs estimated by the Countryside Commission. Includes administrative costs at 30-40%.

\*\*Extrapolated from NPAs' forecast outturn for 1984/85, assuming an annual 4% cash increase. Includes administrative costs of about 50%.

## 3. BROADS AUTHORITY

	£m CASH PRICES					
	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90
TOTAL EXPENDITURE						
SITE SAFEGUARD						
Management agreements*	0.05	0.2	0.3	0.4	0.5	0.6

\*Assumes no experimental headage scheme which could lead to higher costs initially but possible long-term savings.

#### 4. LOCAL AUTHORITIES

Negligible expenditure on site safeguard because of public expenditure constraints.

#### 5. FUTURE TOTAL COSTS

Costs are not expected to rise indefinitely. The NCC has recently drawn up a ten-year programme of site protection: the most important sites, which cover about 180,000 hectares, would be bought, leased or made subject to nature reserve agreements, while management agreements are expected to be required on only about one-third of the area of the remaining SSSIs. The expected costs of this programme have been estimated on the basis of current land values and the present average cost of safeguarding the sites (£30/hectare). Agreements will continue to be the subject of consultation with ADAS in each case and to require the agreement of The District Valuer. Expenditure has been phased to take account of a gradual increase in the NCC's staff. There will be a continuing requirement for expenditure on site safeguard beyond the NCC's current programme as agreements come up for renewal and changes in farming practice necessitate the re-negotiation of agreements. By the mid-1990s expenditure on site safeguard, including staff and ancillary costs, is expected to stabilise. Estimates this far ahead are necessarily tentative but on present indications the figure then will be about £35m a year (of which a quarter would be on management agreements). It could be rather more if, for example, the demand for management agreements were to be greater than expected or if the average cost were to increase; on a "worst case" assumption, the cost could be 30-40% higher. Elsewhere, agreements in National Parks are likely to remain relatively inexpensive because uplands have less agricultural potential than lowlands; the costs of agreements made by the Broads Authority may rise to £1m a year.



**BLAR NAM FAOILEAG****SSSI Details**

1. The site covers 4600 ha and in the opinion of the NCC is the most outstanding representative of the eastern type of blanket bog in Northern Scotland and the largest single expanse of actively growing blanket bog in Britain. Its intact site and rich shrub and lichen communities caused the NCC to give it Grade 1\* (internationally important) status in the 'Nature Conservation Review' which identified key sites for conservation in Great Britain. The site was in 3 different ownerships of which Lord Thurso's interest was the most extensive (2,263 ha) and scientifically the most important.

**Negotiations**

2. Lord Thurso notified the NCC in 1980 that he had applied for a Forestry Commission grant to afforest 228.5 ha of the site. He also proposed to begin a peat extraction scheme and additionally had applied to the Department of Agriculture and Fisheries for Scotland for an agricultural drainage grant. Lord Thurso was uncooperative in negotiations, at one time refusing NCC staff access to the site to arrive at a valuation.

**Financial Settlement**

3. Lord Thurso was eventually persuaded to accept an agreement that the site should be managed as a National Nature Reserve in return for a lump sum payment of £250,000 which was the District Valuer's assessment of the losses occasioned by the owner. This sum was based on a notional annual payment of £24,500; the agreement lasts for 99 years, costs £117.59 per acre, and is renewable at no extra cost after that

period. (A contribution of £100,000 was made by the National Heritage Memorial Fund.) The cost attracted attention because of the size of the one-off payment (which cleared the debt immediately and would have aroused much less interest if the compensation had had to be paid on an annual basis). In return, the safety of the site is now guaranteed in perpetuity.

#### Other means of safeguard

4. Negotiations over the site were carried out prior to the passing of the 1981 Wildlife and Countryside Act. The compensation was paid under section 15 of the Countryside Act 1968. The NCC's compulsory purchase powers could only have been used if it had not proved possible to negotiate a voluntary agreement.

## BOULSBURY WOOD

### SSSI Details

1. The site is a large varied area of woodland lying astride a high ridge between Dorset and Hampshire. It is mentioned in the Domesday Book and has 58 plant species associated with ancient woodlands, including several rare tree and flower species. The 121 ha site was renotified in November 1983.

### Negotiations

2. The NCC sent the owners, Viscount Cranbourne and his father the Marquess of Salisbury, notice of their intention to notify the site as an SSSI in December 1982. Parts of the wood had already been felled and replanted with conifer - a policy in direct conflict with the maintenance of the scientific interest - and the owners intended to continue felling and replanting. The NCC offered to enter into a management agreement to preserve the majority of the wood and to ensure that the very limited areas felled were replaced with hardwoods. The company negotiating on Viscount Cranbourne's behalf initially claimed double the amount that was finally agreed after tough negotiation by the District Valuer.

### Financial Settlement

3. The District Valuer agreed a compensation payment of £20,750 per annum for 65 years over an area of 121 hectares. The payment reflects both the value of the standing timber (the felling of which is delayed by the agreement), the potential loss of revenue from growing conifers and an element to pay the estate for positive

conservation measures over and above the growing of hardwood on fallow areas. The District Valuer did not think the payment excessive in relation to the capital value of the woodland.

Other means of safeguard

4. NCC suggested to the estate during negotiations that NCC might lease the wood and purchase the timber, in order to ensure that an ideal management plan would be pursued. That proposal was rejected by the estate who wished to retain control of the wood. Since the estate were (reluctantly) willing to negotiate over the site, there was no case for the imposition of a Nature Conservation Order. The District Valuer advised the NCC that they would in any case achieve better value for money by entering into the management agreement than by any form of site purchase.

## KINGS SEDGEMOOR

### SSSI Details

1. The 1620 acre site is an area of typical wetland within the Somerset levels. The greatest interest of the central portion of the site where the land in question lies is in the overwintering and breeding bird populations; the site is of 'Nature Conservation Review' (NCR) status. The NCC intend to establish a National Nature Reserve (NNR) within the area.

### Negotiations

2. The owner of 88 acres of land within the central part of the site contacted the NCC in July 1983 to discuss plans to drain his holding to establish a vegetable-growing enterprise. NCC explained that to do so would seriously damage the wildlife interest and offered a management agreement. However, they found it impossible to persuade the owner to accept any such agreement; he wanted to farm unfettered or otherwise wished to sell the land. The NCC offered to buy the land to form the core of the proposed NNR.

### Financial Settlement

3. The District Valuer was called in and negotiated an agreed purchase price of £178,000 for the site. An additional payment of £5000 was to be paid as compensation for profits foregone by the owner for his voluntary restraint over the preceeding year. The amount paid represents the 'going market rate' for agricultural land in this area and was the lowest price that could be negotiated.

4. The owner flatly refused to enter into a management agreement, so this was not an option. As an alternative to negotiated purchase, it would have been possible to place a Nature Conservation Order on the site. This would have empowered the NCC to negotiate a management agreement (of no use in this case due to the owner's intractability), to negotiate purchase or to compulsorily purchase the site. There would have been no saving under a compulsory purchase, which would have been subjected to the District Valuer's assessment. The only other possible advantage of an NCO would have been as a delaying tactic since it provides for an extended negotiating period. This would have been pointless, however, as the owner was not prepared to negotiate a management agreement. Moreover the further delay would have led to larger compensation backpayments.

## THE SWALE

### SSSI Details

1. The Swale SSSI is a complex of mudflats, saltmarsh and freshwater grazing marsh. It is particularly noted for the wintering and passage of wildfowl and waders that are present in numbers which are considered to be of national and international importance; the NCC have proposed the site for listing as a Wetland of International Importance under the Ramsar Convention. The SSSI was first notified in 1968 but was renotified this year to exclude 14774 acres that had been agriculturally improved, leaving 6185 acres.

### Negotiations

2. Mr Merricks has been the tenant of some 2000 acres of Elmley Marshes since 1973. He soon started exploring the possibilities of under-draining the land, but improvements to the Internal Drainage Board dykes and outfalls were an essential pre-requisite. These works having been carried out in 1978/79, Mr Merricks sought grant-aid for drainage work on the schemes in February 1980. NCC objected to the part of the scheme relating to the marshland and Mr Merricks refrained from draining the major portion. In the spring of 1982 Mr Merricks indicated plans for substantial further drainage to be carried out over a 3 year period, and in July 1982 the NCC began negotiations for a Nature Reserve Agreement over 1800 acres.

3. Negotiations continued slowly, principally due to disagreements about the amount which could be drained and the speed with which work could have been carried out. MAFF have now said that it would be technically possible to drain all 1800 acres.

## Financial Settlement

4. The terms of the compensation payments to be made to Mr Merricks are based on the Government's Financial Guidelines. The provisional assessment is that the back payments allowed for by the Guidelines will amount to £533,806 by the end of the current financial year. Annual compensation thereafter is calculated at £315,426 (both figures are subject to the District Valuer's approval). The payments are based on a rate of £170 per acre per annum and reflect the high profitability of good quality land in the Swale area.

## Other Means of Safeguard

5. NCC investigated the possibility of purchase, but the owners (Oxford University Chest) were unwilling to sell. Both owners and tenant were willing to enter into a management agreement and have already undertaken voluntary restrictions during the negotiation period. Under the legislation NCC may only use their compulsory purchase powers if an agreement cannot be concluded on reasonable terms. Although the compensation payments to be made may look high, they are a reflection of the value of land if put to profitable agricultural use, and, being based on the Financial Guidelines, cannot be said to be unreasonable. The management agreement was therefore the only way of safeguarding the wildlife interest.



## POSSIBLE STATUTORY PROVISIONS FOR LANDSCAPE CONSERVATION ORDER POWERS

1. To be applied in primary legislation to all National Parks, AONBs and any other areas to be specified by Ministers (Secretary of State for the Environment and Minister of Agriculture, Fisheries and Food acting jointly in England) by Order subject to negative resolution.
2. Local planning authorities (lpa's) to be under a duty to prepare and publish (within 12 months of enactment or subsequent Order in the case of any other specified area), after consultation with the Countryside Commission, lists of potentially damaging operations (pdo's) in those parts of each area that they regard as particularly important to conserve (chosen areas).
3. Lpa's to be under a duty to inform owners and occupiers of all properties within chosen areas of list of pdo's.
4. Owners and occupiers to be required to notify lpa if they propose to carry out a pdo within chosen area.
5. It is to be an offence to begin such a pdo without such notification or within 3 months of notification without the consent of the lpa. No compensation to be payable for the delay imposed by this requirement.
6. Lpa's to have power, following notification, to make Landscape Conservation Order (LCO) prohibiting carrying out of pdo indefinitely without their consent.
7. Right of appeal to Ministers against making of LCO.

8. Power for Ministers to revoke or amend LCO following an appeal, after consultation with the Countryside Commission.

9. Provision for compensation to be payable where LCO is made or amended to anyone with interest in the land at time of making of the Order. Payment to be limited to the difference in value of the land with and without the Order but to include compensation for any abortive expenditure.

10. Powers of entry to be provided to Ministers and lpa's for purposes of ascertaining whether an Order should be made, the compensation payable and whether an offence has been committed.

**EXISTING PLANNING CONTROLS OVER AGRICULTURE AND WAYS IN WHICH THEY MIGHT BE  
EXTENDED**

**EXISTING CONTROLS**

1. This Annex describes the major features of the planning system in England and Wales as it affects agriculture. There is a separate, though generally similar, system in Scotland. Under the Town and Country Planning Act 1971 all building, engineering, mining or other operations in, on, over or under land, or the makings of any material change in the use of any buildings or other land, constitutes 'development', and as such requires planning permission. However, S22(2)(e) of the Act excludes the use of land for agriculture or forestry or the use of buildings occupied together with agricultural/forestry land, from the definition of development, thus exempting such land and buildings from planning controls.
2. The erection of new buildings for agriculture or forestry does, however, constitute development. Many such buildings benefit from the general planning permission given by the General Development Order 1977 (the GDO) and therefore do not need a specific application. Class VI of the GDO gives permitted development rights to building and engineering operations carried out on agricultural land of more than one acre, comprised in an agricultural unit, and which are 'requisite' (a notoriously contentious phrase) for the use of that land for agricultural purposes. It does not cover dwellings. Further qualifications on the GDO permission are that the building erected under it must not be more than 465 sq m in ground area, and that buildings/works must not be higher than 12m, or within 25m of a trunk road or classified road. Buildings or works exceeding these limits require planning permission. Extraction of minerals for use on the farm is also covered by the GDO. Other forms of development besides agricultural ones enjoy GDO rights although Class

VI is somewhat unusual in permitting erection of new buildings without specific permission. Industrialists, by contrast, may extend their premises (up to 20%) under the GDO but cannot erect new buildings.

3. There is thus an important distinction between activities exempted from the definition of development, which cannot be brought into planning control under the Planning Acts as they stand (eg bringing unfarmed land into agricultural use; changing crops, agricultural practices, or intensifying existing uses), and the developments which are within the scope of the Planning Acts but enjoy permitted development rights (ie creation of buildings, and engineering operations eg constructing hardstandings, roads, lakes, reservoirs, drains etc).

#### Article 4 Directions

4. Under the GDO a local planning authority may, if it considers it expedient to do so, make an 'Article 4' direction to remove permitted development rights from a particular class or classes of development, so that specific planning applications are required. But directions relating to most GDO classes (including agriculture and forestry) must be confirmed by the Secretary of State before they can take effect. The Secretary of State also has power to make Article 4 directions himself, but this is only used very exceptionally. If, following an Article 4 direction, a planning application is made to the local planning authority and is refused, the applicant is entitled to compensation. The Department of the Environment generally takes the view that directions removing permitted development rights from a wide area are undesirable: directions should only be imposed where there is a specific threat to the amenities of an area.

5. Article 4 directions can be imposed only on activities controlled by the GDO (eg building or engineering operations): they cannot be imposed on activities which do not constitute 'development' (ie the use of land for agriculture).

#### Landscape Areas Special Development Order 1950 (LASDO)

6. This order applies only to specified areas in part of the original National Parks (the Lake District, the Peak District and Snowdonia National Parks). Within these areas it requires developers who wish to erect buildings under Class VI and VII (agriculture and forestry) to give notice to the local planning authority before they do so; and the authority are then entitled to require the developer to obtain their approval of design and external appearance before the building is started. LASDO thus acts, in effect, as a condition upon the GDO permission in the areas which it covers but it does not remove GDO rights.

#### The National Parks, Areas of Outstanding Natural Beauty and Conservation Areas Special Development Order 1981 (the SDO)

7. This SDO came into force at the same time as amendments to the GDO in 1981 which relaxed planning controls on dwelling-houses and industrial buildings, mainly by increasing the size of extensions permitted under GDO rights. The SDO however disapplied these relaxations from those National Parks, AONBs and conservation areas in existence on the date when it came into force. Nothing in the SDO bears on Class VI development.

#### Development Control Policy

8. With the limited exceptions of LASDO and the 1981 SDO, the range of permitted development is the same throughout England and Wales. Development not covered by

The GDO requires a specific planning application to the local planning authority, who will assess the application on its merits and in the light of Government policies (as set out in DOE circulars) and the development plan for the area. Government policy, as set out in DOE circular 22/80, is that planning permission should always be granted, having regard to all material considerations, unless there are sound and clear cut reasons for refusal. But the same circular also specifically states the Government's commitment to the need to conserve and improve the countryside, natural habitats and areas of natural or scientific interest: to policies on national parks, AONBs and conservation areas; stresses the importance of the green belt; and reiterates that the Government will not allow more than the essential minimum of agricultural land to be diverted to development, nor allow land of higher quality to be used where land of lower quality could reasonably be used instead. The aim of all these policies, and the major function of the planning system, is to strike a balance between the protection of the natural and the built environment and the pressures of economic and social change.

#### POSSIBLE EXTENSIONS

##### Amendments to the General Development Order and Landscape Areas Special Development Order

9. Under existing legislation, it would be possible to bring more building and engineering operations carried out on agricultural land under planning control by amending the General Development Order 1977. This might be done nationally or in certain designated areas, extending the restrictions in the present Landscape Areas Special Development Order. For example, permitted development rights for farms and forestry buildings, farm and forest roads and other engineering operations for agriculture and forestry purposes could be removed in National Parks, Areas of Outstanding Natural Beauty, National Nature Reserves, and Sites of Special

Scientific Interest. This would enable local planning authorities to fully control such development and their additional administration costs would be partially offset by planning application fees. The net costs to local authorities would depend on the extent of the changes. Further, the removal of permitted development rights could give rise to compensation liabilities.

10. A less draconian measure would be to continue the permitted development rights under the General Development Order for farm and forestry buildings and roads in sensitive areas but to make a new Landscape Areas Special Development Order applying only to their design and siting. This half-way house would enable local planning authorities to influence details without preventing construction, and appeal against the reasonableness of conditions imposed would be available. Discretionary payments for extra costs incurred would be possible but there would be no compensation as of right.

11. Extensions of the restrictions under either the General Development Order or the Landscape Areas Special Development Order would be popular with conservationists. Such changes could not, however, enable the agricultural or forestry uses of land to be controlled and it is these uses which give rise to the bulk of complaints on conservation grounds.

#### Primary legislation to control agriculture and forestry uses

12. To control the use of land for agriculture and forestry, primary legislation would be needed to amend the definition of development in the Town and Country Planning Act 1971. At the same time, development orders would have to be made to give permitted development rights to such uses and in such areas as seemed

appropriate. In theory, this would give local planning authorities powers to give full consideration to proposed uses of land and to serve 'stop notices' when there were breaches of planning control. There would, however, be serious drawbacks. First, the Government is committed to a relaxation of planning controls generally and a significant extension would be highly controversial. Second, it would be very difficult to define and classify agricultural land uses. Third, depending on the extent of permitted development rights, there could be a substantial increase in bureaucracy. (On various crude assumptions, the extra administrative costs for local authorities could range between £80,000 pa and £12.5m net in England and Wales with consequential costs for central government although these would not be excessively onerous). If sufficient additional staff were not obtained by local authorities, agricultural operations and other planning applications could be seriously delayed. Fourth, the biological interest of Sites of Special Scientific Interest depends on the detailed control of operations which it would be difficult to bring within the scope of planning, without enormous problems of enforcement. Finally, the precedents would point generally to compensation being paid for the loss of development rights although the primary legislation could be drawn up to avoid this.

13. Some - but not all - of the problems of introducing full controls over the agricultural and forestry uses of land could be overcome by selective controls. For example, new primary legislation could empower the Secretary of State to designate areas within which selective controls might be applied and the possible scope of these controls; local authorities would then be able to prepare schemes to apply such controls in particular areas. Such changes would take considerable time to implement. Selective controls would allow more flexibility than blanket controls but would introduce additional complexity into the planning system by treating activities as development only in some parts of the country. Again if precedent were followed, compensation would be payable. In practice, amendment of the definition of development in the 1971 Act, with carefully tailored development orders, could achieve as much selectivity as a special new scheme, but within a coherent planning framework.



## COSTS OF EXTENDING PLANNING CONTROLS TO AGRICULTURAL USES

1. Any estimate of cost must be highly speculative as much will depend upon the extent of activities controlled and the numbers of applications and their complexity. The figures below attempt to give a very broad brush assessment of the possible effects on costs in England and Wales and many figures have been rounded for simplicity. Extension of the planning system to forestry, and the application of either change in Scotland, would increase the costs further from those suggested here.

### Effect on local authority staff.

2. This paper assumes that if planning controls were extended to agricultural uses the district council would normally be responsible for determining them (in line with the normal allocation of most development control responsibilities). Special arrangements might apply in National Parks but the question of who determines the application should not significantly affect the overall costs.

3. CIPFA provide information about actual numbers of development control applications decided and estimates of budgetted numbers of employees for development control functions. These show that the non-metropolitan districts in England decided some 300,000 applications in 1982/3 and budgetted for 3432 development control staff in 1983/4. Leaving aside the slight discrepancies involved by using figures from different years this implies that non-metropolitan districts generally considered that 1 development control officer is needed for every 87 applications. Metropolitan districts have been ignored; they would be unlikely to deal with agricultural applications on any significant scale and generally seem to have a higher ratio of staff to applications (perhaps reflecting the greater complexity of urban proposals).

Districts in mainly rural areas require fewer staff per application: eg in Lincolnshire the ratio equalled 1 staff member per 100 applications; in Norfolk, 1 member per 115 applications. But in non-metropolitan districts in Wales 325 staff were budgetted as against some 25000 applications in the previous year: 1 staff member for every 77 applications.

Overall then 1 member of staff needed for every 90-100 applications per year in rural areas.

5. Extending planning controls to agriculture would require (a) handling of more planning applications (b) consultation with appropriate bodies eg the NCC and ADAS (c) enforcement and monitoring effort eg to ensure that activities requiring planning consent do not take place without it. It might be argued that complex agricultural proposals would require more staff effort (including enforcement effort) than, eg proposals for building of dwelling-houses or changes of use. Figures below therefore postulate two staffing assumptions: a high one, whereby 1 member of staff is needed for 75 applications, and a low one, whereby 1 member of staff can cope with 100 applications.

#### Costs to local authority

6. These again are difficult to assess because so much will depend upon the complexity of the applications. The paragraphs below give ranges of different assumptions about the possible number of applications which would result from planning applications and the number of extra staff needed to cope with them over the country as a whole. Likely effect on local authority costs has been estimated assuming a flat-rate cost of £13,500 per additional member of staff to cover salary and overheads.

The results are shown in the table at the end of the paper.

How many farmers would be involved:

7. Agricultural census for June 1982 shows:

England - 155608 agricultural holdings on 9.4 m hectares

Wales - 29508 " " " 1.5 m hectares

Agricultural land represents about 72% of the total land area of England: probably a greater proportion in Wales.

8. Designated areas (National Parks, AONBs, NNRs, SSSIs) now cover approximately  $\frac{1}{4}$  of the country. On the very broad assumption that the designated areas will also cover approximately  $\frac{1}{4}$  of the farmers in England and Wales, some 46500 holdings might be involved.

9. SSSIs alone cover approximately 6% of the country; on the same broad assumption, they might affect 11,000 farmers.

How many planning applications

10. This depends entirely upon what kind of controls were introduced and in which areas they applied. This paper assumes that, even if S22 of the TCPA 1971 were amended to bring agricultural uses into the definition of development, wide GDO permitted development rights would be granted so that controls would in practice be selective in their application. The assumptions below give a range of options relating to the geographical application of controls and the number of applications

needed. It concentrates on applications needed following amendment of S22, and ignores applications needed for eg agricultural buildings which could be controlled by amendment of the GDO under present legislation.

11. Assumption I: Planning applications required for agricultural activities on all designated areas (NPs, AONBs, NNRs, SSSIs): 46500 farmers potentially affected in England and Wales. Within this might be different orders of magnitude:

A. Assume each farmer needs to make three applications per year on average for eg the following operations on his land:

- bringing new marginal land into cultivation
- ploughing of wetlands
- change of land from predominantly livestock to predominantly arable cultivation.

It seems unlikely however that except in very environmentally sensitive area controls over use of agricultural land would need to be such as to require all farmers to make that number of applications. Alternative assumptions might be:

B. Assume that each farmer need make only planning application each year for one of the activities covered by control.

C. Assume that each farmer needed to make only one application every 5 years for new activities covered by control, and that these applications were received in equal numbers every year.

12. Assumption II: Planning controls bite only on SSSIs, but in those areas activities are controlled in more detail. 11000 farmers in England and Wales

potentially affected: but since SSSIs are generally small in area only half those farmer's operations might be affected, and this might halve the number who needed to make applications to say 5500.

Within this framework the ranges of applications might be, depending on the activities controlled and the extent to which those activities were carried out:

A. Farmers need to make 4 applications per year on average to cover ploughing of wetland; planting or removal of hedges; planting of moorland; conversion of pasture to arable.

B. Similar range of activities controlled, but only 1 application needed per year on average.

C. Only 1 application needed every 5 years.

13. Estimated effects of these assumptions in terms of numbers of applications in non-metropolitan districts, numbers of additional planning officers, and consequential staff cost are shown on the attached table. The consequential burden on the appeals system is also covered on the assumption that 80% of planning applications will succeed and that 30% of those which are rejected will be followed by appeals; and that each appeal might cost £1000 to process (these assumptions are necessarily very crude: although the 80%/30% figures reflect the present position for planning applications in general, it is possible that refusals of agricultural applications might produce a higher appeal rate, at least until new controls had settled down. And appeals will of course vary widely in complexity and cost.)