

CE 100
2 MARSHAM STREET
LONDON SW1P 3EB

My ref:

Your ref:

18 April 1985

Dear Mark

Following its inquiry into Part II of the Wildlife and Countryside Act 1981, the Environment Select Committee issued a major report on 30 January.

The tenor of the report was generally highly favourable both towards the Government's policies for conservation of the countryside and the Act itself. More particularly, the voluntary approach towards conservation was given a strong endorsement. At the same time however, the Committee called for some amendments to the Act - including the so-called "loopholes" in Sections 28 and 29 - and for the adoption of agricultural policies more sympathetic towards conservation. The tone of the Report proved well in line with the decisions taken at the meeting chaired by the Prime Minister on 23 January about agricultural and environmental policy.

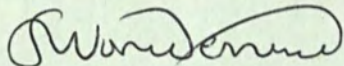
The enclosed draft of what hopefully will be the final version of our response - give or take some last minute polishing - was prepared by an interdepartmental group of officials and finalised by Ministers here. The previous draft was seen by Cabinet Ministers. Mr Waldegrave, in particular, has been very closely involved in shaping the response, which gives the Committee's report a broad welcome, pointing out that the Government is supporting some of the crucial measures to improve the Act in Dr Clark's Private Member's Bill, setting out the Government's considerable record of achievement on conservation and looking forward to our aims and objectives for the future. The response also highlights Michael Jopling's recent successes in Brussels on the new agricultural structures regulation.

Cabinet approval has been obtained for a Government response in the form of a Command Paper. My Ministers have agreed with their MAFF and Welsh Office colleagues that they should be co-signatories of the Paper.

We have promised the Chairman of the Environment Committee, Sir Hugh Rossi MP, the Government's response to their report before the end of May. In fact our aim is to publish the Command Paper on Thursday 9 May. To do this the final text of the response needs to be with the printers on Wednesday 24 April. The Secretary of State has accordingly today written to the Lord President of the Council and colleagues seeking approval to the text by close of play on Tuesday 23 April. Could you please let me know before then whether our proposed publication arrangements are acceptable?

Copies of this letter and the enclosure have been sent to PS/Leader of the House of Commons, PS/Paymaster General and the Chief Press Secretary, No 10. I shall of course let you have a copy of the finalised text of our response as soon as it becomes available.

Yours sincerely



MISS S VANDERVORD
Private Secretary

19 APR 1985





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From the Private Secretary

23 April 1985

You wrote to me on 18 April setting out your Secretary of State's proposals on the publication of the Government's response to the Environment Select Committee's Report on the Wildlife and Countryside Act. The Prime Minister is content with the publication arrangements suggested by your Secretary of State.

I am sending a copy of this letter to David Morris (Lord Privy Seal's Office) and to Alex Galloway (Paymaster General's Office).

(Mark Addison)

Miss S Vandervord
Department of the Environment

Prime Minister.

Consent with the proposal to publish the Government response on 9 May, and with the response itself?

PRIME MINISTER

Wildlife and Countryside Act -
Reply by DOE to Select Committee

Yes
Yes no
M&A 19/4

DOE's reply to a substantially favourable Select Committee report holds no horrors. It is in line with the views expressed by yourself and colleagues at your meeting on 23 January this year.

DOE wish to publish their reply on 9 May and we recommend you consent to this course. We note that the attention and interest generated around this legislation is part of a trend of public concern towards conservation issues. The report supports the voluntary principle and has no new significant resource implications.

no

Hartley Booth

Hartley Booth
19 April 1985



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Hasky Booth will consider,
in particular whether European
instrument is mandatory or optional.

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MEFA 23/4

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DEPARTMENT OF THE ENVIRONMENT

MINISTRY OF AGRICULTURE

FISHERIES AND FOOD

WELSH OFFICE

OPERATION AND EFFECTIVENESS OF PART II
OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

The Government's reply to the First Report from
the Environment Committee

SESSION 1984-85

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INTRODUCTION

1.1 The Government welcomes the Environment Committee's report on the operation and effectiveness in England and Wales of Part II of the Wildlife and Countryside Act 1981. The report is timely. Next year the Wildlife and Countryside Act, which the Government introduced to ^{provide} ~~prove~~ a sound legislative framework for the conservation of our landscape heritage and the wide range of wild animals, birds and plants it supports, will be five years old. We have to judge now whether its basic approach is correct. There is no doubt that it represented by far the most important modern attempt to legislate in these areas. Evidence submitted to the Committee by Friends of the Earth confirms this. They agree that "..... the Act was the first comprehensive attempt to specifically legislate for the protection of wildlife habitats in Britain". But the Committee's report goes further. Broadly, it says the Act was successful in providing the necessary foundation, legislative and philosophical, for policy in the future. The Committee says it is working well in many areas and that it has made a significant contribution to the newly-emerging consensus on the importance of conservation. The Government welcomes the fact that after its examination the Committee has felt able to give the Act this endorsement.

1.2 It is particularly gratifying that the Committee has expressed such firm support for the voluntary philosophy embodied in the Act. The Act was a conscious attempt to strike a balance between the interests of agriculture and conservation through a process of voluntary co-operation, backed by the selective use of more rigorous measures as necessary. It is clear that the Committee considers that this is the best way forward. The Report calls for a number of urgent measures to make the Act more effective and the Government has been more than happy to respond quickly and positively to some of these concerns by expressing its support for some amendments introduced in a recent Private Member's Bill. In particular the Government supports the proposals to block the so-called loop-holes in S28 and S29; to require National Park Authorities to prepare maps of areas important for conservation; and to place a new duty on the Forestry Commission to aim at a reasonable balance between its primary duties and conservation. The Government is also urgently following up the Committee's call for action to speed up the establishment of marine nature reserves, where it believes that the voluntary approach is far from exhausted.

1.3 The Government agrees with the Committee that wide-ranging statutory controls over the countryside, together with the bureaucracy needed to administer them, should be kept to the minimum necessary. The Report shows that the stories about continuing, unmitigated and wholesale devastation of the countryside are gross exaggerations. The Government believes that countryside policies based on the principles embodied in the

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Act offer the best way of maintaining a ~~play~~ of effective conservation without the creation of an army of new bureaucrats and a jungle of new regulations. It welcomes the Committee's support for this approach.

1.4 As the Report points out, there has been something of a revolution in attitudes to countryside issues in the last five years. Conservation is not now an optional extra with which land use and agricultural policies are decorated but is built into the structure of policy making as it should be. The Wildlife and Countryside Act has undoubtedly played a key role in bringing about this change of mood. The new mood is represented by the growing army of farmers who are leading and experimenting with conservation techniques (for example in the network of Farming and Wildlife Advisory Groups) and of conservationists who recognise that it is not farmers per se who are their opponents but some of the older production incentives to which farmers have responded, and which can be and have been modulated to respect different priorities in the countryside. One of the ironies may be that it is only after attitudes have shifted in the farming industry, and only after the establishment of a new consensus between responsible environmentalists and farmers, that the issue has been raised in public in a heightened way by belated popular concern: it is important that emerging practical concern should not be damaged by this, since a return to polarised positions is exactly what all sides have been seeking to avoid. The Wildlife and Countryside Act and government policy associated with it (together with some other important strands of government policy discussed) have helped to achieve the present better atmosphere and the Government believes it can justly take some credit for this.

1.5 Of course, the Act is not perfect. In many respects it is still young: some of its major provisions have not been in effect for much more than two years. The Private Member's Bill already mentioned deals with some of these problems. Doubtless there will be further evolution of policy in the next years. That this should be so does not invalidate the Act; rather the contrary, it is the basic foundation for the future.

1.6 This response to the Select Committee's Report is in two main parts. Section II reviews the record of recent achievement, looks at how the Government's policies are evolving and sets out aims and objectives for the future. This enables the detailed responses on the individual recommendations in Section III to be set in the broad context of the Government's overall policies.

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THE COUNTRYSIDE AND ITS CONSERVATION

2.1 The World Conservation Strategy published in 1980 took as its key theme economic growth based on a pattern of development that sustains the renewable natural resources of the environment - "development without destruction." This approach - managed in a way which leaves room for wildlife and natural beauty - is one to which the Government is firmly pledged.

2.2 The Select Committee draws attention to a number of issues of special significance which need to be considered in any sensible discussion of countryside policies. They are: the voluntary approach to conservation; the confines within which the Wildlife and Countryside Act should operate; the place of planning controls in the countryside; the special needs of the wider countryside; and the effects of agricultural policies. These issues are discussed more fully in the following paragraphs.

The Voluntary Approach

2.3 Much of the British countryside, with its "traditional" patch-work of pastures, woodland coppices, hedgerows, moor and heathland is the product of many generations of slowly changing agricultural techniques and land holding traditions - sometimes interspersed with periods of relatively rapid change, like the enclosures. Most of what we now think of as most attractive in the farmed landscape is the result of farmers responding to economic and technological pressures in the past. That the result is often so beautiful validates the Government's belief that there is not only no inherent conflict between farming and landscape but that the best guarantee of the future of Britain's landscape lies in the natural feel for it possessed by those who live and work in it. This is why the heart of the Wildlife and Countryside Act is fashioned from a policy of consent. No less now than in the past, flourishing agricultural industry is vital for Britain. There is no reason why we cannot have such an industry while preserving our wildlife and natural beauty. Landowners, farmers, fishermen and foresters - those who live and work in the areas that need to be conserved - should be the natural conservationists and the Government is most encouraged at the way its policies have been winning over allies for conservation.

Increased Resources: the record

2.4 The budgets of the two statutory agencies principally involved - the Countryside Commission and the Nature Conservancy Council - have increased consistently in the last few years at a time when most other expenditure programmes have been more heavily

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restrained. The Countryside Commission's grant in aid increased from £5.6 million in 1979/80 to £13.2 million in 1984/85 and provision has been made for a further increase of £2 million over baseline expenditure in 1985/86. The NCC's grant rose from £7.9 million to £18.1 million in the same period and a further increase to £22.7 million is proposed for 1985/86. This is intended to enable the NCC to make more rapid progress with the programme of re-notifying SSSIs, which extends the full protection of the Act to the sites designated. At the end of 1984, a total of 1311 sites had been renotified and a total of 902 management agreements, covering almost 95,000 hectares, had been, or were in the process of being concluded. The latest intention is for substantial completion of the re-notification programme in Wales by early 1986, in Scotland by late 1986 and in England by early 1988.

2.5 At the same time the Government has shown itself ready to use the back-up powers available under the Act when it has proved necessary. For example, as at the end of January 1985, nature conservation orders had been made to secure the protection of 14 nationally - important wildlife sites throughout Great Britain that were under threat. The Government intends to continue using nature conservation orders in those cases where sites of national importance are under threat.

Conserving the Special Areas

2.6 The main provisions of Part II of the Act are aimed at protecting specifically designated areas, such as Sites of Special Scientific Interest, and National Parks. The Committee considered whether the scope of this part of the Act was too limited, but concluded it would be wrong for the scope of the Act to be extended significantly. As the Committee noted, the policies, contained in the Act are primarily environmental. Other policies, such as Agricultural grant policies, price-support systems, and planning policies all have a major impact on the countryside, including the wider countryside: as do industry, housing, road proposals and a host of other policies. The Government is satisfied that these, while needing to remain appropriately sensitive to environmental policy, are not proper matters to be contained within Part II of the Act. In addition, the Act does contain some general provisions which deal with the wider countryside. For example, Section 39 empower local authorities to make management agreements throughout the countryside. Government recognise that the wider countryside has a vital role to play, since, among other things, it provides wildlife "thoroughfares" between protected sites.

2.7 Accordingly, the Government has initiated research projects on matters such as the extent of landscape change; it has responded positively to the Countryside Commission's report "A Better Future for the Uplands"; has promoted or otherwise

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NCC =
Nature
Conservancy
Council

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encouraged a number of positive conservation projects, such as "Operation Groundwork" to assist in regenerating the urban fringe; it has promoted the conversion of worked-out gravel pits into nature reserves; and it has supported a number of successful initiatives to introduce private sector funding into conservation. In one particular area, the Broadland area of East Anglia, which has a unique landscape though not of National Park status, the Government has authorised an experimental grazing scheme to safeguard the landscape and to support a viable agriculture in an environmentally-sensitive area. The Government has also authorised the Countryside Commission to pay an enhanced level of grant-in-aid for management agreements in the Broads, and has announced designation under Section 41 of the Act, and support in principle for legislation for a statutory Broads Authority.

Keeping it Voluntary

2.8 The Committee considered suggestions, notably from Friends of the Earth and CPRE, for the abandonment of the voluntary approach in preference for the widespread use of planning controls. The Committee did not recommend this approach. However, the Committee expressed the hope that DOE would take into account some of the CPRE's more modest suggestions which might be compatible with the voluntary philosophy, although this was not included in the formal list of recommendations. Nonetheless, the Government can respond positively at least in part.

2.9 Amongst these suggestions were a revision of the General Development Order and the memorandum on structure and local plans. The Department issued a consultation paper early in 1984 on proposed amendments to the GDOs which list the types of 'permitted development'. The consultation paper included proposals to amend the permitted development rights for agricultural buildings and works set out in Class VI of Schedule 1 to the Order, as well as to consolidate the various Classes which deal with development by water authorities.

2.10 In its response to the Countryside Commission's Report on the future of the Uplands the Government has already announced an intention to consult on the possibility of giving planning authorities in all the National Parks a discretionary control over the siting and design of new farm buildings and farm and forest roads permitted under Classes VI and VII of the GDO, on the lines of the long established Landscape Areas Special Development Order 1950 (which applies to parts of the original National Parks). This would enable a positive power to be made available for the National Park Authorities to exercise. Any substantial new proposals for amendments to Class VI would need to be the subject of further public consultation, but any extension of planning control would need strong justification in view of the extra

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burden it would impose on both developers and the planning system itself. As explained elsewhere Government policy is to confine those burdens to the minimum necessary to protect our surroundings.

2.11 The Government's response to "A Better Future for the Uplands" also rejected the case for the application of planning controls to the afforestation of land in the Upland areas. It does not accept the CPRE's case for such controls over all areas. Neither afforestation nor clearance of woodland could be subjected to general planning control without amendment of Section 22 of the Town and Country Planning Act 1971, the effect of which is to exclude these uses of land from the definition of development altogether.

2.12 As the CPRE recognised in their evidence local planning authorities are already incorporating guidance in their structure and local plans seeking to prevent or discourage operations damaging to landscape and wildlife conservation objectives. The Memorandum on Structure and Local Plans (accompanying DOE Circular 22/84, WO 43/84) includes advice on Agriculture and Forestry (paragraphs 4.28 and 4.29) and Environmental Protection and Conservation (paragraphs 4.35 and 4.36). More detailed advice on agricultural considerations in preparing local plans is included in Annex A of DOE Circular 75/76 (WO 110/76) (Development involving agricultural land).

Agricultural Policies

2.13 Although the Committee felt unable, within the scope of its Report, to go too far into the details of agricultural policy, the role of the Ministry of Agriculture, Fisheries and Food in relation to conservation can only be fully appreciated in the context of the objectives and mechanisms of that policy.

2.14 Within the general framework of the Common Agricultural Policy, the overall objective of United Kingdom agricultural policy is to promote an efficient and competitive farm industry making its contribution to the national economy. In broad terms this objective is fully compatible with the objectives of conservation. A general agricultural policy which ignored the need for farming to remain competitive would have serious implications for the rural economy as a whole, and this in turn would be contrary to the national conservation interest. As the Chairmen of both the Nature Conservancy Council and the Countryside Commission have publicly recognised, a prosperous agriculture is essential for effective conservation.

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2.15 The primary mechanisms of agricultural price support are by their nature broad in their impact and ill-suited to deal with the complex and localised requirements of conservation. In individual cases where the interests of conservation and those of agricultural efficiency can conflict, measures are called for which are sensitive to the individual needs of the sites concerned. Management agreements are one such measure. The Countryside Commission/MAFF experimental scheme for the Broads is designed to explore another. More generally, positive conservation practices by farmers can be, and are, encouraged by the Agricultural Development and Advisory Service and by farm capital grants as well as by schemes operated by the conservation agencies.

2.16 The Government's overall objective is thus to secure a satisfactory balance between the needs of agriculture and conservation. The DOE, through its statutory agencies, pursues the task of furthering the interests of conservation. MAFF, in discharging and within the scope of its primary responsibilities towards the agriculture industry and consumers, aims to develop policies and encourage farming practices which take due account of the desirability of conserving the countryside. These policies are continuing to evolve to take account of changing circumstances and priorities. In recent years this has meant major shifts in policy to the advantage of conservation. Many of these have already been brought to the Committee's attention. Since the Committee finished taking its evidence, announcements have been made of further important adjustments of the farm capital grant schemes to favour conservation, of the experimental scheme to conserve grazing marshes in the Broads and of the decision by MAFF to implement those provisions of the new agricultural structures regulation which provide for assistance to environmentally sensitive areas and, in the Less Favoured Areas, to farm tourism and crafts.

2.17 In the Government's view a healthy and balanced countryside policy must continue to rest upon the closer liaison between Departments which has led to these developments.

The Way Ahead

2.18 The Government has already taken a number of important steps to underline its commitment to the conservation of the natural environment. It is determined to build on the sound framework provided by the Wildlife and Countryside Act by:-

- (1) supporting significant parts of the Private Member's Bill to remedy deficiencies in the Act identified by the Committee;

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(ii) making greater efforts - with the interests concerned - to use the Act as it currently stands to press ahead with the designation of marine nature reserves; and

(iii) continuing to monitor closely the operation and effectiveness of the Act - especially in the light of output from the various landscape monitoring exercises - and to take whatever steps it deems necessary.

2.19 In the light of the recently agreed EC Agricultural Structures Regulation, the Government will be seeking the necessary powers to implement special measures to be applied in environmentally sensitive areas. On the wider international front the Government is determined to continue its record as a world leader in conservation. For example, following its earlier ratification of the Paris protocol to the Ramsar Convention on Wetlands of International Importance especially as waterfowl habitats, and of the UNESCO convention for the Protection of the World Cultural and Natural Heritage in 1984, it intends in 1985 to ratify the Bonn Convention on the Conservation of Migratory Species of Wild Fauna. It will continue to pursue all its conservation policies with vigour and determination.

2.20 The Select Committee's Report has been helpful in re-inforcing the main thrust of the Government's policies and for identifying the areas in which more effort or change is required. Policy will continue to develop, but with a re-enforced confidence that the lines so far established have been correctly laid.

Scotland

2.21 As paragraph 5 of the Report indicates, the Committee did not deal separately with Scotland; nor did they take evidence from the relevant Scottish bodies. The Secretary of State for Scotland has, however, considered the recommendations in the Report and will be participating in taking forward the Government's conclusions on the Report insofar as they are appropriate to Scotland.

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III. THE COMMITTEE'S RECOMMENDATIONS

3.1 This Section deals with the Select Committee's detailed recommendations. For convenience, the responses have been cross-referenced to the relevant paragraphs of the Report itself, as well as to the summary of recommendations.

Recommendation 1

3.2 The existing system of prior notification in National Parks (as modified in accordance with Recommendations 11 and 13) should be extended to the whole countryside. (Para 21).

Recommendation 2

3.3 Section 41(3) should be extended to all applications for capital farm grants. (Para 22).

3.4 The Government understands the concern which led the Committee to recommend the extension of the system of prior notification and of Section 41(3) but it does not believe that such a blanket approach is justified in the circumstances. As the Committee itself acknowledged, it would result in modifications to fewer than 5% to 15% of cases which are currently modified under the national parks notification arrangements. Yet to achieve this modest result would require considerable administrative effort with a heavy manpower commitment. Serious consideration of the environmental effects of farm developments cannot be confined to a purely desk exercise. This would do no more than provide an initial sift, leaving a sizeable number of cases which could only be sensibly assessed by means of careful study on location.

3.5 The Government takes the view that within the limited resources available, expenditure related to conservation can be used most effectively by concentrating on areas of high environmental value. It will continue to use existing powers to refuse capital grants with that aim in mind.

Recommendation 3

3.6 Conservation should be given a greatly increased priority in the training and work of ADAS staff, with increased formal guidance from MAFF on conservation objectives. (Para 27).

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3.7 The Government is happy broadly to accept this recommendation. Conservation has formed an element of the Ministry's advisory policy for many years, deriving from its duty under Section 11 of the Countryside Act 1968 to have regard to the desirability of conservation in carrying out its statutory functions relating to land. In recent years, principally following the new duty laid on Ministers by Section 41(1) of the 1981 Act, the Ministry has given a greatly increased priority within the activity of the Agricultural Development and Advisory Service to conservation. Although the Ministry's statutory duty in this regard is specifically to give advice to farmers on conservation, in practice its advisory policy extends well beyond this to active promotion of conservation wherever appropriate. The measures involved were detailed in the Ministry's written evidence to the Committee.

3.8 There is broad agreement that farmers generally are showing an increasingly positive attitude towards conservation. Much of the credit for this is due to the painstaking efforts of the Agricultural Development and Advisory Service in bringing home to farmers the conservation message.

3.9 The future scope and direction of the Agricultural Development and Advisory Service was the subject of a report by its Director-General, Professor Bell, published in September 1984. Within the overall resources available to the Service, the Report recommended that a further greater priority should be given, amongst other policies, to advisory effort related to the conservation of the natural beauty and amenity of the countryside. The Minister of Agriculture, Fisheries and Food has broadly endorsed those recommendations and has initiated detailed studies on implementation of the Report's main recommendations.

Recommendation 4

3.10 A working party should be set up to investigate ways in which the duties and administrative structure of MAFF could incorporate a stronger conservation element in all agricultural policy. (Para 28).

3.11 The Government considers that the Committee seems to be under a degree of misapprehension over the extent to which MAFF policies accord priority to conservation objectives. These are now looked upon as being a major part of the Ministry's overall responsibilities in pursuing a fair and balanced approach which takes due account of the needs of conservation, the agriculture industry and the consumer.

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3.12 As far as the Government is aware, the Committee sought no detailed evidence on the internal administrative structure of MAFF. The internal structure of the Ministry, like that of any Government Department, is kept under continual review, and this will continue in the normal way. In the case of MAFF, it is the duty of the Ministry's Management Board to ensure that policy needs are reflected in the structures of the Ministry. It was the Management Board which, after reviewing the Ministry's conservation and other environmental responsibilities, set up last year the Environment Co-ordination Unit, the establishment of which the Committee welcomed. In addition a policy branch within the Lands Group has specific responsibility for the Ministry's conservation policy. Generally, the Ministry considers that, as long as there is proper provision for conservation policy formation and co-ordination, and of specialist knowledge and advice, it is better for those responsible for the various aspects of agricultural policy to have to include conservation elements in their policy consideration rather than to leave those elements to a separate structure.

Recommendation 5

3.13 The Government should urgently undertake a review of the whole use of the rural estate and produce a White Paper. (Para 29).

3.14 The Government agrees with the Committee that spending priorities must be subject to continual review and that possible conflict between Departmental policies should be kept to a minimum. The Government does of course have considerable machinery designed to achieve these ends. Recent evidence of the effectiveness of this machinery is provided by the Government's positive response to the Countryside Commission's report "A Better Future for the Uplands", the launch of the joint Countryside Commission/MAFF experimental scheme in the Broads, and the UK initiative which has been successful in securing the inclusion of more positive conservation provisions in the new Community structures regulation. The Government will continue to respond appropriately to other current issues of public debate affecting agriculture and the rural environment.

[3.15 and 3.16 not used]

Recommendation 6

3.17 MAFF should fundamentally change its approach on financial structures so that resources are redirected away from environmentally - damaging operations and towards conservation-conscious methods. (Para 31).

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18 In making this recommendation the Committee may not fully have appreciated the extent of the constraints on adjustments to the system of agricultural support. On the wider system of support provided under the EC's Common Agricultural Policy, Government policy is to secure a reduction in the level of support for commodities in surplus, such as cereals, and its commitment to this objective has been voiced on many occasions by the Minister of Agriculture. But it is not open to the Government to act in isolation from the rest of the European Community. The Community is, however, beginning to respond to such arguments and the Government will continue to pursue the case for a more appropriate balance of agricultural support. But, as the Committee recognises, adjustments bring their own problems, as the introduction of milk quotas has shown so dramatically. The Government has recently succeeded in securing agreement to a new Structures package in Brussels, including provision for assisting farming in environmentally - sensitive areas.

3.19 On capital grant policy the Ministry has already made considerable adjustments away from support for operations such as hedge removal and land reclamation and in favour of positive conservation measures. These moves are part of a coherent continuing policy of seeking the right balance between the needs of an efficient agriculture and the needs of conservation. The note by Counsel to the Speaker on "Community Competence on Environmental Protection" (First Special Report from the Select Committee on European Legislation) advised that Community legislation bearing on environmental matters should be subservient to the Community's general objectives. Nevertheless, within these legal limitations, those imposed by the obligatory nature of certain agricultural structures provisions and the practical difficulty - acknowledged by the Committee - of identifying "potentially damaging operations" the Ministry is continuing to review its direction of resources. Evidence of this is provided by the changes in the capital grant arrangements to enhance conservation which were made as recently as December 1984. One result of those changes is that works which are most helpful to the environment now receive the highest rates of grant.

3.20 The Committee expresses doubt about the value of the Minister's initiative in the context of the EC's new agricultural structures regulation and about "the seriousness of MAFF's intentions". The Minister pursued the initiative with virtually no support from other member states and his efforts have now borne fruit. The agreed Regulation now includes provisions for a measure of new support for livestock farming in environmentally sensitive areas. This provision will thus help deal with the "cleft stick" to which the Committee refers in paragraph 30 of its report. Following the agreement in Brussels, the Government will be seeking the necessary powers from Parliament and will be formulating appropriate schemes in consultation with interested

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erties including the statutory conservation agencies. The Government has also obtained a Council declaration committing the Commission to examine, by the end of the year, the possibility of an EC funded scheme on similar lines.

Recommendation 7

3.21 Sections 28 and 29 should be amended to allow positive conservation operations to be included in a notification with the list of PDOs and for sections 32 and 41 to be amended to allow, explicitly, positive measures to be a part of management agreements, in line with Section 39. (Para 44).

3.22 The Government agrees with the Committee on the importance of positive conservation complementing agreed restrictions on potentially damaging operations. Paragraph 5(ii) of the joint Circular issued in January 1983 by the Department of the Environment, the Ministry of Agriculture, Fisheries and Food, and the Welsh Office - "Wildlife and Countryside Act 1981 : Financial Guidelines for Management Agreements" (DOE Circular 4/83; Welsh Office Circular 6/83) - drew particular attention to the potential benefits "in providing for additional measures to be undertaken, to help improve the general amenity of the land". In the Government's view it is mis-reading the Act to construe that as presently worded it discourages the possibility of positive conservation operations. Indeed, there are a number of outstanding examples of agreements which emphasise the positive aspects of management and which illustrate that the Act as it stands covers this point adequately.

3.23 The Committee was clearly influenced in much of its thinking about management agreements by the case of Mr Merricks on the Isle of Sheppey. Paragraph 43 of the Report states that in its dealings with Mr Merricks the NCC "had to use the mechanism of a nature reserve agreement (outside the 1981 Act) to ensure the incorporation of the positive element" (into the negotiations on an agreement). This statement clearly demonstrates the extent of misunderstanding which has arisen over this matter. Management agreements made by the Nature Conservancy Council arising from Section 32 are made under the Council's general powers to enter into management agreements. Agreements can also arise from the notification of potentially damaging operations under Sections 28 and 29. The principal enabling provisions for all NCC management agreements are Section 16 of the National Parks and Access to the Countryside Act 1949 (ie "Nature Reserve" agreements) and Section 15 of the Countryside Act 1968. Subsection 3(a) of Section 15 provides specifically that any agreement imposing restrictions on the exercise of rights over land "may provide for the carrying out on the land of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement." It is this provision that the NCC have employed in their negotiations on a management agreement incorporating a wide range of positive conservation measures.

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3.24 Sections 28 and 29 of the 1981 Act relate specifically to the notification of areas of special scientific interest and of potentially damaging operations (PDOs) which, in the circumstances prescribed, may not be undertaken without the consent of the Nature Conservancy Council. As such the purpose of these provisions is principally preventative and the Government believes it would be inappropriate to extend their statutory scope to encompass positive conservation operations, as the provisions do not preclude the conclusion of management agreements incorporating such operations.

3.25 As the Committee also noted, Section 39 - which provides that relevant authorities may enter into management agreements for the purposes of conservation or amenity - is a wide-ranging provision which enables such agreements to be deployed both to stipulate agreed restrictions on the use of the land concerned, and to provide for positive measures of conservation. Section 39 is the enabling power under which agreements arising from the particular circumstance of Section 41 are made, so there is no bar to such agreements including provision for positive measures.

3.26 The Nature Conservancy Council intends to take increasing advantage of its routine contacts with owners and occupiers as the SSSI re-notification programme proceeds and more PDO notifications are received to promote positive management. The Government will bear in mind the possibility of strengthening the reference to this in any future revision of the Code of Guidance published under Section 33 of the 1981 Act, which gives advice on the statutory provisions for protection of SSSIs.

Recommendation 8

3.27 A joint working party should be set up to review the Financial Guidelines and to consider the increased use of a system of standard payments. (Para 49).

Recommendation 9

3.28 In the course of the review of the Financial Guidelines, the question of the landlord's capital interest may be taken into account and more ready negotiations entered into for an acquisition or outright purchase if he cannot otherwise be properly compensated. (Para 51).

Recommendation 10

3.29 The outright purchase option should be used more readily to achieve long-term economies and Government book-keeping should be adjusted to meet the needs of the situation and not vice-versa. (Para 52).

3.30 The Government agrees that the Financial Guidelines should be reviewed, to take account of the Committee's points. Experience gained in the application of the Financial Guidelines for management agreements since publication in 1983 has been relatively limited. Nevertheless the Government recognises the force of some of the

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criticisms that have been made of the Guidelines, particularly about their complexity, and it accepts the Committee's recommendation that a review of their content and presentation would be timely.

3.31 Accordingly, consultants Laurence Gould / have been commissioned to undertake a wide-ranging review which will include study of the scope for increased use of a system of standard payments; of the case for new arrangements for compensating landlords for any long-term loss of capital value resulting from a management agreement; and of the development of techniques for direct comparison of the financial costs of management agreements - involving either annual or lump sum payments - with the capital costs of outright purchase by conservation authorities.

3.32 Pending completion of this review the Government must obviously reserve its position on the Committee's recommendations on these matters.

3.33 The statutory conservation agencies are grant in aid bodies: this enables them to exercise an effective degree of freedom in determining the manner in which resources are to be utilised within the overall totals determined by the Government and voted by Parliament. It is not the Government's view that book-keeping constraints prevent the NCC from exercising outright purchase of sites as an effective option and, indeed, sites are not infrequently purchased by the Council. The NCC, in common with other grant in aid bodies is, of course, precluded from borrowing as a means of increasing the expenditure (and thereby, public expenditure as a whole) beyond the amount annually approved by Parliament. This is not a book-keeping constraint; it is part of normal expenditure control.

Recommendation 11

3.34 MAFF rules should be changed, if necessary by legislative amendment, so that grants are refused or reduced for operations which have been notified retrospectively (Para 56).

3.35 The Government fully accepts that retrospective notifications in National Parks can pose real problems for the administering authorities, but there can be a variety of circumstances in which such notification may take place. It would not necessarily be equitable or desirable automatically to withhold grant for a purely technical breach not involving environmentally damaging operations even if the Minister had a clear statutory power to do so. Nevertheless, the Government will discuss with the Countryside Commission and park authorities ways of achieving a better degree of compliance with the notification arrangements, especially in the context of the new capital grant provisions which it expects to introduce later in the year.

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Recommendation 12

3.36 National Park Authorities should be enabled to apply for Landscape Conservation Orders to be made, analagous to Nature Conservation Orders under Section 29 as a power of last resort. (Para 57).

3.37 National Park Authorities already benefit from an administrative requirement that they should be notified of any proposed scheme for which farm capital grant will be claimed. Section 41(3)(b) of the 1981 Act further provides that, where such an Authority has objected to the making of the grant on conservation grounds, Agricultural Ministers shall not make the grant except after considering the objection and, in England, after consultation with the Secretary of State for the Environment.

3.38 The Government recognises that these arrangements do not cover proposed operations which are ineligible for farm capital grant or where a farmer is prepared to proceed without grant. In such instances National Park Authorities may not be informed of farmers' intentions and, even if they are, have no means of postponing a proposed damaging operation in the hope that it may be possible to negotiate a management agreement. The Government accepts that, in these circumstances, the powers of the National Park Authorities do not equate with those available to the Nature Conservancy Council and will therefore give further consideration to the Committee's proposition that they should be enabled to apply for Landscape Conservation Orders. Other important considerations, including the resource implications, still have to be evaluated and it is not possible at this stage to announce any decision.

Recommendation 13

3.39 MAFF should clarify and simplify its administrative procedures with respect to farm grant notification and consequent objections by NPAs. (Para 58).

3.40 Neither the Countryside Commission's evidence nor the Committee's report makes entirely clear the ways in which it would like administrative procedures clarified and simplified. The Ministry of Agriculture, Fisheries and Food will, however, consult the Commission about the implementation of the new EC structures regulation and will be glad to pursue the matter in the course of those consultations.

Recommendation 14

3.41 Government should increase central grant aid for management agreements in all National Parks, the Broads and Areas of Outstanding Natural Beauty to 90% and for other areas to 75%. (Para 59).

3.42 Local government has traditionally played a significant role in matters of scenic protection, partly because the canvas is a large one over which national executive

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responsibility must necessarily be limited (more than 20% of the total land surface of England and Wales is designated as National Park or as an Area of Outstanding Natural Beauty) and because of the close relationship with issues of land use planning for which local planning authorities are responsible.

3.43 This is reflected, for example, in the composition of National Park Authorities, to which two thirds of the membership are appointed by the relevant local authorities and, in the majority of cases, have the status of committees of the county council or councils concerned. In the case of Areas of Outstanding Natural Beauty, following confirmation of their designation by the Secretary of State, there are no statutory arrangements for separate administration; while the Broads Authority is a consortium of local and public authorities.

3.44 It is against this background - the perceived importance of the local input - that the pattern of central grant aid towards the cost of management agreements to protect landscape has been established. Indeed it is only comparatively recently that agreements reached in AONBs, and by the Broads Authority, have qualified for assistance from the Countryside Commission at 75%. Previously a rate of 50% applied as it still does elsewhere in the wider countryside, outside National Parks. Exmoor, with its rate of 90% aid for moorland conservation (introduced following the Porchester report on the extent of moorland loss in the Park), has always been regarded as a special case.

3.45 The results of the recently-announced experimental grazing scheme in the Broads may have implications for the future pattern of management agreements, and the Government considers that it would be prudent to assess such results before any further changes in rates of grant aid are contemplated.

Recommendation 15

3.46 Consideration should be given to extending Section 43 to include areas in addition to moor and heath. (Para 61).

3.47 The Government accepts this recommendation and recognises that there is a growing body of opinion in favour of broadening the scope of maps prepared under section 43 of the Act to include areas in addition to moor and heath. The Committee's recommendation in this respect has been paralleled by the inclusion of a clause to that effect in the current Wildlife and Countryside (Amendment) Bill. That Bill seeks to amend section 43 so as to place a duty on National Park Authorities to prepare maps of any areas of natural beauty which they regard particularly important to conserve

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and to consult the Countryside Commission and other interested bodies on the criteria to be adopted and on the areas proposed for inclusion.

3.48 Although the Government has indicated its support in principle for this measure, the view is taken that it would be preferable to restrict to open country the areas that would be mapped under the provisions of the new Bill and an amendment has been accepted which would achieve that. This amendment would also require the Countryside Commission to publish guidance on the criteria to be used in drawing up the maps, after consultation with interested national organisations; and require National Park Authorities to prepare and review the maps in accordance with such guidance.

Recommendation 16

3.49 The criticisms made to us in evidence, particularly about the performance of Internal Drainage Boards, should be taken into account in the revision of the DOE guidelines for water and drainage authorities (Para 67).

3.50 The Government agrees that the guidelines when revised should take on board the need for IDBs to consider the special requirements of conservation and is pleased that the Committee has recognised the significantly improved attitude of the land drainage industry towards conservation and that it is premature to consider modification of the Wildlife and Countryside Act 1981. Many of the points raised in evidence to the Committee had already been put to the Department during consultations on the review of the guidelines. The Committee's view that water authorities have responded reasonably well to the requirements of S.48 of the Act is noted. Nevertheless, it recognises, as the evidence from the NCC underlined, that some IDBs have not done all they might in meeting the requirements of the Act. The Act and the Guidelines covering Section 22 of the Water Act 1973 are recent and the industry has needed time to react.

3.51 The administrative structure relating to land drainage is covered in the Consultation Paper which was issued recently on the administration and financing of land drainage, flood protection and coast protection. This will enable the issue to be thoroughly discussed. However, the fact that the picture currently is not so black as is sometimes painted is illustrated by the history of the 3 proposals which the RSPB gave as examples in their evidence. The proposal relating to North Duffield Carrs has been withdrawn following rejection of grant aid, on environmental grounds, by the Minister of Agriculture; the West Sedgemoor scheme seems unlikely to be proceeded with, in the light of conservation objections; and no application for grant aid has been received by MAFF relating to the River Brue scheme.

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Recommendation 17

3.52 A provision, analagous to section 48 (which gives Water Authorities explicit duties towards nature conservation and the countryside), should be extended to the Forestry Commission. (Para 68).

3.53 The Government accepts the aim of the Committee's recommendation. It is pleased to note the Committee's appreciation of the efforts of the Forestry Commission with regard to conservation, and their acknowledgement that the Commission has been introducing new policies in line with the changing climate in which forestry now operates. The Committee recorded its belief, however, that there was still some cause for concern and recommended that a statutory duty be placed on the Commission in order to clarify its responsibilities towards conservation.

3.54 Because of the impact that forestry can have on the countryside, the Government accepts that a new duty should be added to Section 1 of the Forestry Act 1967 which sets out the duties with which the Forestry Commissioners are charged. A replication of the duty placed on Water Authorities in Section 48 of the Wildlife and Countryside Act would not be appropriate since the activities of the Forestry Commission and the Water Authorities are very different; a duty on the Commission will have to be framed in such a manner as to take proper account of the way in which it operates. This would appear to be what the Committee had in mind when it recommended that such a provision should be analagous to - rather than the same as - Section 48 of the Act.

3.55 The Government already requires the Forestry Commission in undertaking its Departmental duties - both in relation to its Forestry Authority and Forestry Enterprise roles - to pursue policies and practices that represent a reasonable balance between forestry and conservation. The Government is therefore supporting a clause in the Wildlife and Countryside (Amendment) Bill designed to give statutory effect to this.

Recommendation 18

3.56 As a matter of urgency, DOE and MAFF should take action to break the deadlock in negotiations, if necessary by amending Section 36 and 37 of the Act, so as to give the NCC or the Secretary of State adequate powers to enable the NCC to set up Marine Nature Reserves. (Para 72).

3.57 The Government shares the concern expressed that the Nature Conservancy Council has not so far been able to achieve agreement to specific proposals for Marine Nature Reserves. It does not, however, believe that the possibilities offered by the present

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legislation for resolving such difficulties have by any means been exhausted. It believes that the voluntary principle embodied in the present legislation is important, not least because the co-operation of local people as well as of relevant authorities is especially important to the effective policing of conservation bye-laws in a marine environment.

3.58 Negotiations and discussions are proceeding well in respect of certain areas proposed for designation. Where this is not the case the Ministry of Agriculture, Fisheries and Food, together with the Department of the Environment and the NCC, are urgently examining how best to overcome the difficulties encountered in giving effect to the existing statutory provisions.

3.59 In these circumstances the Government considers amendments to Sections 36 and 37 Act to provide stronger powers neither necessary nor desirable at present.

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