



Department of the Environment
2 Marsham Street London SW1P 3EB

01-212 4051

John Delafons CB
Deputy Secretary

Hartley Booth Esq
Policy Unit
10 Downing Street
London
SW1

*Please to PW
Copy of MA
This is wrong
MHT JB*

2 May 1986

MA

Dear Hartley

CONSULTATIONS ON PLANNING APPLICATIONS

1. When we spoke yesterday I mentioned the initiative that our Secretary of State had taken in response to the Sainsbury Group's concern about the delay caused by the statutory consultations on planning applications - and the somewhat unhelpful response that we have had from Lord Young. I enclose copies of that exchange of correspondence.

2. We intend to follow this up with the bodies for whom we are responsible - notably the Water Authorities. I think we will advise our Secretary of State to have another go at Lord Young but I fear that his response may influence the response we get from the other Ministers to whom the letter of 4 April was copied - none of whom have so far replied.

3. With friends like this

*Yours ever
John*

JOHN DELAFONS



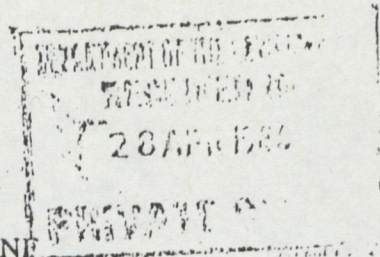
*N/S. Called JD 10/5/86 - will wait
his report of progress - Agt Concern*

(G)

SG/B8

Attn: Mr Delafus

- PS/Carl Epton
- PS/Mr Waldegrave
- PS/Mr Tracey
- Mr Summerton
- Mr Teason
- Mr Rendell
- Mr Fuller



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The Rt Hon Kenneth Baker MP
 Secretary of State
 Department of the Environment
 2 Marsham Street
 London
 SW1P 3EB

25 April 1986

Mr Rendell

Thank you for your letter of 4th April about possible improvements in the procedure for statutory consultations on planning proposals. You refer specifically to the possibility of encouraging statutory agencies to discuss development proposals in the pre-application stage, and to agencies giving certificates that they are content with a proposal, so dispensing with the need to consult them.

The relevant procedures within my Department are those under which local authorities are obliged to seek the advice of the Health and Safety Executive in respect of applications involving hazardous installations. These procedures are to be expanded under the Housing and Planning Bill currently before the House.

For completeness, I should add that under a voluntary scheme local authorities seek HSE's advice before proceeding with applications involving developments, such as houses and schools, in the vicinity of hazardous installations.

I welcome your attempts to speed up the planning system but these precautions are politically sensitive and we would need to proceed cautiously in relaxing them in any respect.

Taking first your proposal for the consultation by agencies with developers in the pre-application stage; it is already HSE policy that this should take place whenever possible. I understand that where local authorities seek HSE's advice either under the statutory or the voluntary agreements it is forthcoming within the 28 days you mention in 80% of cases and in almost all cases within a few days after. In really difficult areas where, for example, a specific risk assessment is necessary, HSE seek to give immediate notice to a planning authority that they need more time. In the absence of any evidence that this situation is unsatisfactory, and because of your deadline, I have not written to Dr Cullen about it.

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Your second suggestion was that the statutory agencies should be prepared to issue certificates of consent at the pre-application stage. While at present informal indications are often given by HSE to developers or to authorities that particular developments should be readily acceptable, I would not favour a step that has the potential, in practice, of increasing burdens or reducing the effectiveness of HSE's advice. To obtain a certificate at the pre-planning stage the developer would have to present HSE with formal documentation of what was proposed and HSE would need to ask the planning authority about other developments in the area since these may materially affect its assessment. HSE's position is that of an advisor to the planning authority and it can not operate effectively in isolation. If the proposal was amended after HSE had given a certificate the planning authority would need to ask HSE for advice as at present.

Unless pre-application certification were to involve the public it might deprive local people of the possibility of satisfying themselves as to the advice HSE had given on a formal proposal - it might even smack of decisions taken behind closed doors. For these reasons it would neither be proper nor practicable for HSE to take final decisions without a formal approach from the planning authority.

The current HSE policy of helping developers whenever possible at the pre-application stage seems to be working satisfactorily. Given that and the potential burdens and difficulties certification might cause I regret that your proposal does not seem, at first sight, to provide any advantages in the health and safety field. Further consultations at official level may nevertheless be worthwhile if you still wish to pursue it.

I am copying this letter to Nicholas Ridley, Peter Walker, Michael Jopling, George Younger, Nicholas Edwards, Richard Luce and Malcolm Rifkind.

Caro
David



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

4 April 1986

J. Smith

As you know, the next meeting between the Prime Minister and Sir John Sainsbury's Group on planning issues is fixed for 30 April. There is one issue which continues to trouble the Group and on which we have yet to make any material progress - the consultations which local planning authorities are required to undertake when certain types of planning application are made. I have some suggestions about possible ways of improving the mechanics of the consultation process.

Most of the statutory consultations are required by Article 15 of the Town and Country Planning General Development Order 1977. The planning authority must notify various statutory bodies (eg water authorities) of certain types of application, and must not take a decision on that application within the next 14 days. Any representations made by the statutory bodies must then be taken into account by the planning authority in reaching a decision - whether or not they are received within the 14 day period. In practice we have endorsed a rather longer period of consultations. In 1980 the National Development Control Forum, representing local planning authorities, issued with our support a Code of Practice under which authorities were asked to notify consultees within 7 days of an application, and consultees were asked to respond within 28 days. The GDO, however, has not been amended.

Sir John Sainsbury's Group are concerned for two reasons. First, they are conscious that many consultations take very much longer, especially in the types of case with which they have experience. Second, they complain about the practice of many statutory bodies of refusing to discuss with applicants development proposals on which they will later be consulted by the planning authority. The Group suggest that the way to make progress on consultations is to provide that all representations received after 14 days shall be ignored. But this will not work, partly because it could offend against natural justice and partly because representations received before the application has been decided could reveal some critical obstacle to the proposed development.

I am however convinced that we do need to take some action. My first proposal concerns the pre-application stage. I was disturbed to learn that some statutory agencies refuse to discuss development proposals at the pre-application stage. We encourage developers to engage in such consultations and expect the agencies to respond. I intend to write to the chairmen of agencies which my Department sponsors to encourage them to take this responsibility seriously. I hope that you and other colleagues concerned will be prepared to follow suit.

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My second proposal is that the consultations required in Article 15 of the GDO could be dispensed with in an individual case if the planning application were accompanied by a certificate from the relevant statutory agency that they were content with the proposal, subject to any essential conditions. I should be grateful for the views of colleagues on this proposal.

I would be glad of any early reply to this letter, so that we can report action on this item at the Prime Minister's meeting on 30 April.

Copies of this letter go to Nicholas Ridley, Peter Walker, Michael Jopling, George Younger, Nicholas Edwards and Richard Luce, and, for information, to Malcolm Rifkind.

Banner

KENNETH BAKER

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PSO DESPATCH NOTE

CIRCULAR COPIES OF THE
SHOULD BE MADE

- 1 PS / Lord Elton
- 2 PS / Mr Waldegrave
- 3 PS / Mr Tracey
- 4 Mr Deacons (197/1)
- 5 Mr Sumner
- 6 Mr Pearson
- Miss Brett-Holt
- Mr Wakeford