

ECNO

B BF 30/3 B



PRIME MINISTER

ABOLITION OF GOVERNMENT CONTROL OVER PORT DEVELOPMENT

I am grateful for the comments in your Private Secretary's letter of 6 March and for those of the Chancellor of the Duchy of Lancaster, about the implications for the planning system of my proposal to abolish the "section 9 control" of harbour development. I think I can reassure you and colleagues on this point, which Neil Macfarlane has agreed with David Mitchell presents no difficulty.

Section 9 of the Harbours Act 1964 is essentially a quantity control over investment in national terms. It obliges me to approve or veto any proposed additions to the country's port capacity which cost more than £3 million. It has never been used as an instrument of local or environmental planning. Nor is it well suited to that role; for example, it makes no provision for objections to be lodged or for any public inquiry. The way in which the planning system applies to port development is explained in the enclosed note by officials of my Department and the Department of the Environment. No part of these existing planning controls will be altered. I am satisfied that they are adequate to deal with the occasional environmentally sensitive port development.

Turning to the Secretary of State for Employment's letter of 12 March, of course the abolition of section 9 will not silence the voices of protectionism. But it will stimulate investors to be hard-headed and realistic in assessing proposals for new development. While the control remains,



my consent inevitably conveys the impression of Government backing. This in turn implies a measure of protection against competition from other schemes which might otherwise lower costs. That is not a healthy position if we are to encourage genuine competition and greater efficiency.

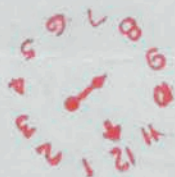
Creating the conditions for freer competition may indeed lead to hard decisions on the allocation of Customs staff. That is something for prospective port developers to resolve with Customs & Excise. But I find it hard to believe that we should allow this factor to determine trading patterns and inhibit commercially desirable developments which port users and the financial market are prepared to back.

I am copying this to the recipients of my earlier minute.

NICHOLAS RIDLEY

23 March 1984

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Post Devt



26 MAR 1984

PLANNING ASPECTS OF HARBOUR DEVELOPMENT

NOTE BY DEPARTMENT OF TRANSPORT

1. This note relates to the planning system in England and Wales; the position is substantially similar in Scotland, though subject to separate legislation.

GENERAL

2. Harbour development requires planning permission under the Town and Country Planning Act 1971, but such development is often "permitted development" by virtue of the town and Country Planning General Development Order 1977. The GDO effectively grants planning permission directly without the necessity of a specific permission from the planning authority. There are administrative arrangements for consultation between harbour and planning authorities which appear to work well.

PERMITTED DEVELOPMENTS

3. The GDO authorises permitted development for:-

(a) Class XII - any development specifically authorised by an enactment.

(b) Class XVIII - any development by a statutory harbour authority, or its lessees, of the authority's operational land for harbour purposes.

4. These permissions are available only to harbour authorities who are statutory undertakers, ie most port authorities but not operators like the London Wharfingers, who need to seek specific planning permission in the usual way for their developments. This would also apply, for example, to the Company which proposes to develop a new container port at the Isle of Grain, where no specific harbour works powers are needed.

5. The proposal to develop a container port at Falmouth, referred to in the Secretary of State's minute of 29 February to the Prime Minister, was specifically authorised by the Falmouth Container Terminal Act 1971. It therefore has "permitted development" status under Class XII of the GDO, though the local planning authority still have control over detailed aspects.

MEANS OF ASSESSING ENVIRONMENTAL ASPECTS

A. Development of new ports and major expansion of existing ports

6. In practice the developer has to seek statutory powers or specific planning permission. These procedures provide full opportunity for consideration of environmental issues. In the case of a local or Private Bill any Secretary of State may report against the proposal; other objectors can petition. If works powers are sought in an Order under the Harbours Act 1964, the decision is in the hands of the Secretary of State for Transport who will arrange an inquiry if there are objections; Parliament has the final say if the Order goes to SPP. A planning application will be considered in the light of relevant environmental issues; major developments may be called-in for decision if the Secretary of State for the Environment so determines. Appeals by statutory port undertakers against refusal of permission and called-in planning applications are determined jointly by the Secretaries of State for Environment and Transport.

B Incremental development of existing ports

7. Statutory port undertakers are free to develop their existing undertakings under the GDO "permitted development" powers - but both the local planning authority and the Secretary of State for the Environment have power to direct that the GDO shall not apply in particular cases. (This power does

not however apply to developments expressly authorised by Parliament since 1948.) The effect of any such direction is to require planning permission to be sought. If the local planning authority then refuses permission, or grants it subject to conditions, it is liable for compensation.

Structure plan procedures also enable a periodic overall view to be taken.

✓ CC NO

B/F with Treasury response of
4/4. unless earlier AT 28/3



DEPARTMENT OF TRANSPORT
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Andrew Turnbull Esq
Private Secretary
10 Downing Street
LONDON SW1

26 March 1984

Dear Andrew,

I am sorry that the note by officials was accidentally omitted from my Secretary of State's minute to the Prime Minister of 23 March about abolition of Government control over port development.

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/ I enclose a copy, which I am also circulating to the Private Secretaries to the members of E(A) Committee and to Sir Robert Armstrong.

Yours,

Denah

MISS D A NICHOLS
Private Secretary