



GOVERNMENT OFFICE
FOR THE SOUTH EAST

PLANNING DEPARTMENT DACULSH BOROUGH COUNCIL							
Ref.					Ack.		
DoP		D.P.	D.C.	S.O.	Admin.	File	
Received 21 JAN 1997							
Comments							
Berkshire, Oxfordshire & Buckinghamshire Area Team							

Norton Rose,
Solicitors,
PO Box 570,
Kempson House,
Camomile Street,
London EC3A 7AN

Bridge House
1 Walnut Tree Close
Guildford
GU1 4GA

Switchboard: 01483 882255
Tel: 01483 882
Fax: 01483 882
GTN: 3011

Your Ref: JEXB/92/T171065

Our Ref: (A) APP/A0400/A/95/249471

(B) APP/M1900/A/95/249472

(C) APP/A0400/A/95/254787

20 JAN 1997

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78
APPEALS BY CASTLE CEMENT LIMITED
APPLICATION NOS. AWD/830/94; 4/0610-94; 94/2293/AMI**

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector, Mr G F Self, MA, MSc(Eng), FRTPI, who held an inquiry into your clients' appeals against:

(A) the decision of Buckinghamshire County Council to refuse planning permission for the construction of a railhead, container handling area and haul road, restoration of Quarry 2 by landfill, together with ancillary works including site offices and facilities, ancillary parking and maintenance of plant, vehicles and waste containers at Quarry 2, to the south of the former Castle Cement Works, adjacent to B488, Pitstone;

(B) the decision of Hertfordshire County Council to refuse planning permission for the same development at the same site; and

(C) the failure of Buckinghamshire County Council to determine, within the prescribed period, an application for planning permission for the extraction of chalk from Quarry 3 for use in connection with the restoration of Quarry 2 by landfill, at Quarry 3, Pitstone, to the south west of the former cement works, adjacent to B489.

2. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that, subject to the reservations and assumptions expressed in his conclusions, the appeals be allowed and that conditional planning permissions be granted. A copy of his report is enclosed.

VALIDITY OF APPEAL A

3. It is noted that in IR 7.3. the Inspector considered the validity of Appeal (A) in view of the unresolved disagreement about the ownership of that part of the site located under B488. The Secretary of State has drawn no conclusions on whether or not the application was valid.

However, valid or not, he is of the opinion that Buckinghamshire County Council, being the planning authority, were apparently not prejudiced by the non-service of the relevant certificate when considering the original application and defending their decision following the subsequent appeal. He has therefore proceeded to consider all three of the appeals on their merits.

4. The Environmental Statement submitted by your clients with the applications the subject of Appeals A and B has been considered by the Inspector and taken into account by the Secretary of State in reaching his decision.

DEVELOPMENT PLAN

5. In deciding the appeals the Secretary of State has had regard to section 54A of the Town and Country Planning Act 1990 which requires him to determine the appeals in accordance with the development plan unless material considerations indicate otherwise. In paragraphs 7.6-7.8 of his report the Inspector has identified the plans which comprised the development plan for the counties of Buckinghamshire and Hertfordshire at the time of the inquiry, and the emerging plans which may be regarded as material considerations in this case. The Inspector refers to proposed modifications to the Dacorum Local Plan, but the Plan was adopted in April 1995. Since the inquiry, the Hertfordshire Structure Plan Review has been placed on deposit, the Waste Local Plan has been the subject of an inquiry. The Secretary of State notes that the whole of the Quarry 2 site (Appeals A and B) falls within the Chilterns Area of Outstanding Natural Beauty (AONB) and that the part of the Quarry 2 site within Buckinghamshire is within the Metropolitan Green Belt. That being so, he accepts that the principal policies against which to consider the appeal proposals are those applying to proposed development in the Green Belt and in the Chilterns AONB.

GREEN BELT

6. Government policy on Green Belts is set out in Planning Policy Guidance Note 2 (PPG2). That policy, as reflected generally in the development plan for Buckinghamshire, is that there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt. The Secretary of State agrees with the Inspector (IR 7.56) that the landfill operation would be inappropriate development. Consequently, it is for the appellants to show why permission for such development should be granted.

MAIN ISSUES IN THE APPEALS

7. The Secretary of State considers that the main issues in your clients' appeals are:

- a) the extent to which the appeal proposals would cause harm to:-
 - i) the Chilterns AONB in terms of its visual and landscape impact;
 - ii) local ecology;
 - iii) road safety;
 - iv) residential amenities; and
 - v) the surface water system.
- b) whether the arguments in favour of the proposals outweigh any harm that would be caused to those considerations, and

- c) whether there are very special circumstances of the kind referred to in paragraph 3.2 of PPG2 that would justify allowing the proposed development in the Green Belt.

There was considerable debate at the inquiry on whether the landfilling proposal would cause groundwater pollution. The Inspector was of the opinion that although protecting the environment from pollution was a planning matter, it seemed to him that all the related points at issue in this case were fully capable of being addressed by the pollution control authority. No weight should therefore be attached to them for planning control purposes (IR 7.73). The Secretary of State accepts his assessment and, like the Inspector, he has reached no conclusions on the issue.

ISSUE a)

(i) The visual and landscape impact on the Chilterns AONB.

8. The Secretary of State accepts the Inspector's opinion that, from most viewpoints in the Aylesbury Vale, the filling operations would have a fairly limited and intermittent visual impact (IR 7.38-40). He also accepts that the most significant visual impact of the operations would be on the view from Pitstone and Piccadilly Hills, including the Ridgeway path and nearby area open to public access, and that most users of the path and visitors would regard the infill operations as an intrusive, despoiling feature in the view from Pitstone hill (IR 7.44). The main objection to the final landform was the degree of departure from the original contours and the proposed "knoll" or "shoulder" (IR 7.46). The Secretary of State shares the Inspector's view that the landraising element represented by the shoulder would have an unfortunate psychological effect and that that effect would not be so to anything like the same degree if the restored landform were as near as possible identical to the original. He agrees with the Inspector that if the aim of the restoration were to reproduce virtually the same contours, the visual impact of the project would be more acceptable (IR 7.47-48). Low level restoration, as opposed to the appeal proposals, would leave Quarry 2 largely unaltered. The Secretary of State accepts the Inspector's view that it would be an alien, unnatural feature in the landscape and although not ugly or unattractive, the lake in the quarry would not be a typical feature in the Chilterns (IR 7.52-53). It would, nevertheless, avoid the effects of the landfill operations to which the authorities and third parties object. However, the proposed scheme would be in accord with emerging and adopted policies (IR 7.54-55).

9. The Secretary of State agrees that the filling operations would have a substantial adverse impact and would harm the appearance and character of the AONB, in conflict with national and local policies. He also agrees that the final proposed landform would be generally acceptable and would accord with policy aims, but, like the Inspector, has reservations in some respects. Low level restoration would have short-term advantages and long-term disadvantages (IR 7.57).

ii) Local Ecology

10. The Secretary of State sees no reason to disagree with the Inspector's conclusion in IR 7.32 that the chalk grassland proposed for the restoration scheme would have ecological benefits. Like the Inspector, he has placed considerable weight on the support for the proposal from English Nature and the absence of objection on ecological grounds from the local Naturalists Trust. He accepts that there would be disbenefits in terms of nature conservation if quarrying were resumed at Quarry 2. He also accepts that greater ecological benefit overall would flow from the works at Quarry 3 which would be part of the combined proposal than from the situation likely to result from refusing permission for the landfill (IR 7.32). Accordingly, the

Secretary of State is satisfied, for the reasons given in IR 7.24-7.35, that overall the ecological advantages of the appeal proposals outweigh the disadvantages.

iii) Road Safety

11. In this topic the Inspector included road capacity and safety, and traffic noise. The Secretary of State notes that there are no outstanding objections from the county highway authorities, subject to the completion of planning undertakings concerning off-site highway works. Subject to his consideration of the validity of the undertakings (see paragraphs 17 and 18 below) he agrees with the Inspector's summary of this issue in paragraph 7.68 of his report that while traffic would have some adverse environmental effects and there would be noticeable noise impact in places, these do not amount to clear-cut reasons for refusing planning permission.

iv) Residential amenities

12. In this topic the Inspector covered on-site noise, smell and litter. The Secretary of State shares the Inspector's conclusions that whilst there would be some loss of amenity, notably at Northfield Studio, mainly during the early phases of the landfill operation, on the basis of national policy guidance, the impact of noise from the waste tipping operations on nearby residents would not be such as to justify refusing planning permission (IR 7.76-81) and that noise impact from the rail and haul road operations would not be so significant as to breach appropriate standards (IR 7.82). Like the Inspector, he considers that the spoiling effect of noise of the Ridgeway for walkers is rightly of great concern and is a factor to be taken into account when assessing the impact of the development on the rural quality of the area (IR 7.83). He also shares the Inspector's view that whilst some impact from smell and litter is almost inevitable, these concerns do not warrant withholding planning permission and that they could be covered by licensing controls.

v) Surface Water System

13. The Secretary of State agrees with the Inspector, for the reasons outlined in IR 7.86-87, that there are some justified and understandable concerns about the impact of the proposals on the surface water system, but that conditions or pumping licence controls could safeguard any impact, and consequently that these concerns do not warrant refusing planning permission.

ISSUE b)

14. The Secretary of State, having established that the appeal proposal would cause harm in respect of its comparatively short-term - ie 19 years - impact on landscape and amenity in the AONB, on the amenity of recreational users of the Pitstone Hills and the Ridgeway and the loss of amenity at nearby dwellings through noise from the Quarry 2 site, has now proceeded to consider whether the arguments in favour of the appeal proposals would outweigh this harm.

15. One of your clients' main arguments was that the urgent need for voidspace for waste disposal in Buckinghamshire and Hertfordshire justified the appeal proposals. Although your clients argued that full account should be taken of the high likelihood that landfill gas would be produced in commercially useable quantities, the Inspector found that the evidence showed that it cannot be assumed that energy recovery would take place. The proposal has therefore been treated as being at the bottom of the waste hierarchy. The Secretary of State has considered firstly whether, in the light of national policy, additional landfill is acceptable in principle, given its

position in the waste management hierarchy. Whilst the Government's target is to reduce the proportion of controlled waste going to landfill, he accepts that there will remain a need for landfilling in the foreseeable future, and that this is an important method of restoring some mineral workings. Accordingly, he sees no objection to the proposals in terms of waste management policy. He also agrees with the Inspector's overall assessment on the question of need (IR 7.23) that there is a clear need for voidspace to meet regional and local waste disposal requirements, and takes the view that this established need is an important consideration in favour of the proposals.

16. The Secretary of State agrees with the Inspector that the ecological advantages, the risk of harm to the landscape and amenities from resumed chalk extraction, the longer-term benefits of the proposal to the landscape when compared with the low level restoration option, the speeding up of the redevelopment of the cement works site, improvements to Quarry 3 and the prospects of enhancement of local nature reserves and SSSIs all weigh in favour of the appeal proposals (IR 7.126). The other concerns are, as the Inspector concluded, "neutral" or do not amount to clear-cut objections.

17. Your clients sought to secure the benefits of the proposals and to overcome planning objections by completing legal agreements. The Highways Agreement, made between the appellants and the two County Councils, concerns the carrying out and the making of contributions to certain off-site highway works. The Unilateral Undertaking concerns the non-implementation of existing consents for mineral extraction; the restoration of Quarry 3; the maintenance of College Lake nature reserve, the retention of a conveyor tunnel under B489; management and maintenance of Pitstone Fen, the restored Quarry 2, the Buffer Zone of the SSSI and Brook Statnells Wood; dedication of public footpaths; public access; proposals for the undisturbed field to the north of Quarry 2; access improvements; a restoration bond; establishment of a local liaison group, inspection of pipe vents and manhole covers; demolition of existing buildings and monitoring of any necessary improvements to B488.

18. The Secretary of State accepts that the highway works are required in connection with the development and are material considerations. He also considers that there is sufficient connection between the provisions of the undertaking and the proposed development as to make them material considerations. He notes that both the signed agreement and the undertaking state that the appellants (referred to as "the developer" in the former and "the Company" in the latter) are the unencumbered freeholders of the land. However, the Inspector raised the question of their validity in view of the land ownership dispute (paragraph 3 above refers) and this question also formed the basis of his first assumption (IR 7.130). The validity of any planning obligation is ultimately a matter for the Courts, and the Secretary of State accepts that because of the doubts about ownership, the situation is not clear cut. However, he does not consider that such doubts about ownership affect the validity of the Highways Agreement since the County Council are a party to that agreement. So far as the unilateral undertaking is concerned, it has clearly been given with the agreement in mind, and he is prepared to consider the two related. Accordingly, in deciding the appeals, he has taken into account the benefits provided by both documents.

19. In weighing the factors for and against the appeal proposals, the Secretary of State has had regard to the third of the Inspector's three assumptions - that a long-term (more than 20 years) view is taken on the merits of the proposal (IR 7.130). Although the 19 years during which the landfilling will take place is referred to as "the shorter-term", he is of the opinion that this period represents a very considerable number of years. In his view, bearing in mind the importance given to the AONB and Green Belt designations in national and local policies, such a long period

of disruption and adverse impact must be given substantial weight. The Secretary of State takes the view that the impact for 19 years or so on the AONB and on the amenity of recreational users of the Pitstone Hills and the Ridgeway amounts to a very significant objection to the proposals. He recognises that after this time, the land would be restored in line with the objectives of national and local policies. However, he has already taken the view that the resultant landscape, although ecologically favourable, would not be wholly acceptable in landscape terms. The Secretary of State has concluded that the short-term view has to be given precedence over the longer-term in this instance. He is satisfied that the long term situation, notwithstanding the need for additional voidspace and the benefits arising from the development, does not offer advantages sufficient to outweigh the very serious damage caused to the Green Belt and the AONB in the meantime

20. The Secretary of State has next proceeded to consider whether the substantial objections to the appeal proposals on landscape and amenity impact grounds can be overcome. The Inspector's second assumption (IR 7.130) was that a condition could validly be imposed cutting down the Quarry 2 proposal, if not to original contours, at least to a scheme greatly reducing the landraise element. The Secretary of State accepts that some reduction is desirable, in order to reduce the amount of landfill and thus the time taken for restoration, and to lessen the psychological effect created by the landraise element. However, he shares the Inspector's doubts in paragraph 7.115 of his report about the validity of a condition purporting to change the proposal by requiring restoration to original contours. Such a condition would in effect result in a proposal significantly different from that for which permission was sought, would be likely to remove the ecological benefits identified by English Nature and may not achieve the desired result because such restoration may not be feasible.

21. The Secretary of State has considered whether there could be other ways of securing an alteration of the proposals. He has had regard to the Inspector's conclusions about the possible construction of a rail-head in order to reduce both the amount of fill carried by road and the time taken to fill the site. Bearing in mind the cost of the construction of such facilities, he accepts that it may not be reasonable to require by condition that they are in place prior to any landfill operations taking place. He accepts that there is weight in the Inspector's views about possible enforcement difficulties were a rail-head required to be provided at a later stage in the process, and he has also had regard to the potential for transporting waste over longer distances were the rail-head to be in place, contrary to the sustainable waste management principles in "Making Waste Work". On this issue, therefore, the Secretary of State has concluded that a condition linking the landfill operations to the construction of a rail-head would not be reasonable.

22. The Secretary of State further notes the Inspector's comment (paragraph 7.117) that the appellant's acceptance of a condition designed to reduce the amount of fill suggests that there may be some scope for modifying the proposal. He accepts that this is not an unreasonable assumption, but he takes the view that any modification of the proposal would result in development substantially different from that applied for, and that were he to proceed to consider a modified proposal in the context of deciding the appeals, the interests of other parties would be substantially prejudiced. He does not propose, therefore, to invite the appellants to consider submitting a modified scheme.

ISSUE c)

23. The Secretary of State has already established in paragraph 6 above that the proposed development would be inappropriate in the Green Belt. He has weighed the harm that would be caused by reason of that inappropriateness, together with the very serious short term damage that

would result (paragraph 19 refers), against the advantages of the proposals. In so doing he finds that, because of the extent of the harm likely to occur, the advantages do not outweigh the harm. He is therefore satisfied that very special circumstances justifying inappropriate development do not exist in this instance.

OVERALL CONCLUSION

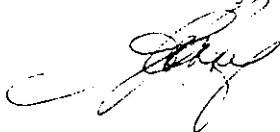
24. The Secretary of State notes that the Inspector's recommendation was made subject to the reservations and assumptions expressed in his conclusions. Having carefully considered all the Inspector's conclusions, the Secretary of State has concluded that the second assumption concerning the reduction, by way of the imposition of a condition, of the Quarry 2 proposal cannot be met. He does not consider that the objections to the development can be overcome by the imposition of any other conditions. He has also rejected the third assumption relating to the long-term view. Although it may be desirable to restore the former quarry, he considers that the long term landscape benefits of the proposals, together with the other benefits, principal among which are the need for voidspace and the ecological advantages, though carrying considerable weight, are not so important as to outweigh the substantial objections. He has taken account of the implications of not allowing the development, chief of which appears to be the possibility of future quarrying at Quarry 2. However, having considered the Inspector's conclusions on this issue (IR 7.98-108), he has concluded that the possibility of future quarrying does not cause him to reach a different view about the merits of the appeal proposals. Given this conclusion, the Secretary of State cannot agree with the Inspector's conclusion (IR. 7.130) that the circumstances are sufficiently special to offset the normal presumption against inappropriate development in the Green Belt. Nor does he consider that the material considerations in favour of the proposal indicate that he should allow the proposals contrary to the development plan.

25. The Secretary of State notes that the general view of all the parties that the proposal for the Quarry 3 site should stand or fall with the Quarry 2 proposal since they are part and parcel of the same project. Given the terms of the application for permission, and in the absence of any reason why chalk extraction should be allowed at Quarry 3, the Secretary of State can see no over-riding reason to grant planning permission for this proposal in isolation.

FORMAL DECISION

26. Accordingly, for the reasons given above, the Secretary of State does not accept the Inspector's recommendation. Therefore he hereby dismisses your clients' appeals and refuses planning permission for each of the proposals, as described in paragraph 1 above.

Yours faithfully,



MISS A GERRY

Authorised by the Secretary of State for
the Environment to sign in that behalf

Planning and Environment
Director of Planning and Environment,
Geoffrey Steeley OBE



Hertfordshire
COUNTY COUNCIL

Town Planning
Ref No : 4/0610-94

Other
Ref No

TOWN & COUNTRY PLANNING ACT, 1990

To: Castle Cement Limited
3160 Park Square
Birmingham Business Park
Solihull, B37 7YN

APPLICATION FOR RESTORATION TO
CHALK DOWNLAND AND AGRICULTURAL
USE BY INFILLING WITH WASTE
MATERIALS

at: QUARRY 2 ON LAND TO THE SOUTH OF
THE FORMER CASTLE CEMENT, PITSTONE
CEMENT WORKS ADJACENT TO THE B488.

DEPARTMENT	
TOWN & COUNTRY PLANNING	
NO	10610-94
Received - 3 NOV 1994	
Brief description and location of proposed development	

In pursuance of their powers under the above Act and the Orders and Regulations for the time being in force thereunder, the Council hereby REFUSE the development proposed by you in your application dated 4 May, 1994 and received with sufficient particulars on 4 May 1994 and shown on the plan (s) accompanying such application. The application as a Schedule 2 project, was accompanied by an Environmental Statement, as required under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.

In reaching the decision to refuse the proposed development, the County Council has taken into consideration the environmental information contained in the Environmental Statement.

The reasons for the Council's decision to refuse permission for the development are :-

See attached Schedule of Reasons numbered 1-9.

Dated: 11. day of 11. 19 94.

Signed


Designation: Director of Planning
and Environment

Contd....

**SCHEDULE OF REASONS 1-9 FOR REFUSAL OF PLANNING PERMISSION
FOR RESTORATION BY LANDFILL TO CHALK DOWNLAND AND
AGRICULTURAL USE AT QUARRY 2, PITSTONE QUARRY
REF NUMBER 4/0610-94**

1. The proposal is contrary to Policy 2(i) of the Hertfordshire County Structure Plan Approved Alterations 1991 and Policy 89 of the Dacorum Borough Local Plan Deposit Draft 1991 which states that the preservation of the beauty of the Chilterns Area of Outstanding Natural Beauty will be the prime consideration. The proposal would lead to a major landfill operation in the Chilterns Area of Outstanding Natural Beauty (AONB) which by its nature and scale would damage the special intrinsic character and appearance of the AONB.
2. The proposal would have a detrimental effect on the high landscape and recreational value of the Chilterns Area of Outstanding Natural Beauty and as such is contrary to the landscape and recreational aims of the Chilterns Area of Outstanding Natural Beauty, as contained in the Approved Chilterns Management Plan 1994.
3. The proposal is contrary to Policy 2(v) of the Hertfordshire County Structure Plan Approved Alterations 1991 which states that within the Chilterns Area of Outstanding Natural Beauty the interests of wildlife conservation will be fully considered, and in the most ecologically most important areas will be given high priority, and contrary to Structure Plan Policy 11 which says that Local Planning Authorities will seek to avoid development likely to harm habitats of importance. The proposal would first, result in the loss of a valuable habitat complex already colonising within the quarry, and secondly, due to the unacceptable risk of pollution of the chalk aquifer would pose an unacceptable threat to surrounding sites of ecological importance.
4. The proposal is contrary to Policy 6 of the Hertfordshire County Structure Plan Approved Alterations 1991 which states that development which would have a detrimental effect on the landscape will not normally be acceptable. The proposed landfill operation by virtue of its nature and scale would detract from the high value landscape setting of the area.
5. The proposal is contrary to Waste Disposal Criterion 8 (iii) of the Waste Disposal Criteria 1987, in that the proposal would lead to an unacceptable risk of pollution of the chalk aquifer, creating in turn an unacceptable risk of pollution to groundwater resources, supplies and the water environment. In the event of a water pollution incident, a licence for the abstraction of water for remedial pumping would be unlikely to be forthcoming due to the likely unacceptable effect on the surrounding water resources and water environment.

6. The proposal is contrary to the County Council's rural roads policy as set out in the Hertfordshire County Structure Plan, Approved Alterations 1991, intention No. 96 and the Transport Policies and Programmes 1995/96 in that the proposal would increase the volume of traffic on local rural roads to the detriment of road safety, the local environment and the rural character of those roads and the residential properties along them.
7. Traffic arising from the proposal would interfere with the free and safe flow of traffic on the B488 Upper Icknield Way, particularly at the Bulbourne Canal Bridge and the Wingrave Road Junction.
8. The proposal is contrary to Structure Plan Policy 23 (iii) and (iv) which states that permission for the handling and disposal of waste will be permitted provided that disposal does not give rise to unacceptable effects on the local environment or adversely affect the interest of landscape conservation and nature conservation, and that screening and landscaping of the site is carried out in advance of and during operations and there is prompt and effective restoration of the all disposal areas. The proposal would create an unacceptable impact on the environment and have a detrimental visual effect on the locality of the area during operations for an unacceptable period of time.
9. The proposal is contrary to Policy 9 of the Hertfordshire County Structure Plan Approved Alterations 1991, and Waste Disposal Criteria 8 (iv) and 9 of the Waste Disposal Criteria, 1987 which states that planning permission for waste disposal will not normally be given unless the land concerned can be restored within a reasonable timescale and that it can be demonstrated that suitable materials are available. It has not been demonstrated that rail borne contracts are probable and that the site could be restored within a reasonable timescale.


1.11.84.

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State, Department of the Environment, Tollgate House, Houlton Street, Bristol BS2 2DJ. The completed Appeal form, together with a copy of the Environmental Statement must be sent to this address.) The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.