



**Department of the Environment**

London Regional Office  
Millbank Tower 21 - 24 Millbank  
London SW1P 4QU Room 2524

Telephone 071 - 217 3000  
Direct Line 071 - 217 4540

Messrs S J Berwin & Co  
236 Grays Inn Road  
LONDON WC1X 8HB

Your reference

Our reference

LRP43/G5750/01  
LRP219/J9510/017

Date

**26** September 1991

Gentlemen

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 77  
APPLICATIONS BY LONDON CITY AIRPORT LTD**

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 M Astrinsky, DipTP, RIBA, MRTPI, and his assessor, Air Vice Marshal C G Maughan, CB, CBE, AFC, who held a local inquiry into your clients' applications for:-

- (a) planning permission for the extension of the existing 1,030m runway pavement to 1199m, the construction of starter strips of 186m (eastern end) and 75m (western end), the relocation of nav aids and the installation of runway approach lighting on land to the east and west of London City Airport, at King George V Dock, Silvertown, London E16 2PX (Application 1); and
- (b) the variation of conditions nos. 4, 5, 11, 12 and 13 attached to the outline planning permission granted by the Secretary of State on 23 May 1985 for the construction of the airport (Application 2).

The inquiry into the applications was held concurrently with inquiries into the East London River Crossing (ELRC) bridge design and proposed new slip roads and road junctions held by Air Vice Marshal Maughan at which Mr Astrinsky acted as assessor for the design characteristics and aesthetics of the bridge.

2. The Secretary of State directed, in pursuance of section 35 of the Town and Country Planning Act 1971 (now section 77 of the Town and Country Planning Act 1990), that the applications be referred to him for decision instead of being dealt with by the London Docklands Development Corporation.

3. A copy of the Inspector's report is enclosed and a copy of his conclusions and recommendation is annexed to and forms part of this letter. He recommended that the applications be approved and planning permissions be granted subject to the standard conditions relating to the duration of the permissions, and subject to the conditions and limitations indicated in his conclusions at paragraphs 12.66-12.68.



4. The Secretary of State has considered the Inspector's report. That report contains a careful appraisal of the considerations in favour and against the proposals. The Secretary of State agrees with the Inspector's conclusions for the reasons given by the Inspector in the Report. He has only the following comments to add to those contained in the Report.

#### **ENVIRONMENTAL STATEMENT**

5. On a preliminary issue the Secretary of State notes that the Inspector considered an objection relating to European Communities Directive 85/337/EEC of 27 June 1985; the objectors had questioned whether the applicants had complied with the requirements of the Directive. The Directive has been implemented for projects which require planning permission under the town and country planning legislation by the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988. The Secretary of State notes that the applicants submitted an environmental statement (document B4) in accordance with those Regulations. The requirements of the Regulations are the same whether a development proposal is subject to environmental assessment by virtue of Schedule 1 or Schedule 2 to the Regulations. The Secretary of State is satisfied that those requirements have been complied with and that the submitted environmental statement covers all material points. He therefore considers that the Inspector was correct not to take any further action on the query at the Inquiry (IR paragraph 2.1).

#### **DEVELOPMENT PLAN**

6. The development plan provides the starting point for any planning determination. This position is now set out in section 54A of the Town and Country Planning Act 1990, which provides that such determinations shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan for the area in which the LCN is located is the Greater London Development Plan (GLDP) and the Initial Development Plan (IDP). The Inspector records the general strategy of the GLDP at paragraph 12.19 of his Report. Paragraph 5.5.22 of the GLDP is concerned with the development of air services. That policy is generally supportive of the provision of such services from the centre of London provided the environmental effects are taken fully into account. The Secretary of State has taken full account of the environmental effects of the proposals in reaching his decision in this case, particularly the noise implications of the proposals and their effect on the Thames Bridge Design. The change in circumstances since the preparation of the IDP has rendered that plan out of date in its application to the present proposals and clearly indicates that the plan does not provide a suitable policy framework against which to assess the proposals.

#### **INCREMENTAL EXPANSION**

7. The Secretary of State notes that some objectors referred to assurances given by the applicants at the local inquiry held in 1981 that there would be no further expansion of the airport and their fear that an unacceptable position may be reached by a series of steps which taken individually may be relatively modest. The Secretary of State appreciates the concern over the possibility of such incremental expansion. However, for the reasons given in this letter and in the Report, the Secretary of State considers that the additional step now proposed will not result in an unacceptable position. In these circumstances, he does not consider that the present proposals should

be rejected on the ground that, although acceptable in themselves, they could form part of a series of developments which may eventually lead to an unacceptable expansion. Any future proposals for further expansion will have to be considered on their merits at the relevant time.

#### **ECONOMIC BENEFITS OF THE PROPOSALS**

8. The Inspector addresses the economic benefits of the proposals at paragraphs 12.25 to 12.28 of his Report. The Inspector considers that "the profitability of an individual company is not a land use planning matter" and the Secretary of State agrees. However, the economic viability of using the application site as an airport is a land use planning matter, in the Secretary of State's opinion, and it has been argued that his decisions on the present applications will have an important impact on such viability. The Inspector considers that "unless some expansion is permitted the airport is likely to close and the benefits that it could provide to Docklands and the wider economy would be lost". The Secretary of State agrees. He has taken this possibility into account in determining the applications before him.

#### **PHYSICAL EFFECT ON EXISTING AND PROPOSED DEVELOPMENT AND USES**

9. At paragraphs 12.43 to 12.45 the Inspector considers the effect of the proposals on the designs for the proposed ELRC bridge. In 1988 the Secretary of State for Transport set criteria to be satisfied by the ELRC Thames Bridge design, one of which was that the design should keep open options for the future use of London City Airport. In a decision letter issued today in connection with ELRC the Secretaries of State for Transport and the Environment have accepted the box girder design as being a design of high visual quality which meets the 1988 criteria. In these circumstances, the Secretary of State considers that the restriction on the Thames Bridge design required to make it compatible with the expansion of the airport does not constitute an objection to the present proposals of sufficient weight to justify refusing permission.

#### **OVERALL CONCLUSIONS**

10. At paragraph 12.70 the Inspector concludes "on balance I consider that if the airport continued to cater mainly for the business sector and its operations were strictly controlled, the disadvantages of the proposed expansion would be outweighed by the benefits". The Secretary of State has carefully considered the disadvantages of the proposals, the most notable of which in his opinion are the increase in noise levels and the effect on the Thames Bridge design. On the question of noise, the Secretary of State agrees with the Inspector that the noise management scheme to be agreed under the section 106 agreement in conjunction with the conditions suggested by the Inspector will ensure that the effects of the additional noise resulting from the proposals will not be excessive. On the effect of the proposals on the Thames Bridge design, as stated above, the Secretary of State considers that given that there is a compatible bridge design of high visual quality, the proposed expansion of the airport should not be refused on this ground. The Secretary of State agrees with the Inspector that the benefits of the proposed expansion, implemented in accordance with appropriate conditions and the section 106 agreement, outweigh the disadvantages. Accordingly, the Secretary of State accepts the Inspector's recommendation to grant the permissions subject to the conditions he proposes.

## CONDITIONS

11. The additional car park condition imposed on the permission granted on application 1 (condition 3) is based on the condition set out in document B118. Some minor drafting amendments have been made and the requirement on the airport operator to supply passenger traffic figures annually has been replaced with a quarterly requirement. Quarterly reporting will enable the local planning authority to monitor compliance with the conditions throughout the year and to take any enforcement action if and when required.

12. With respect to the permission granted on application 2, the substitution of a new condition 4 and the deletion of condition 5 are consequential upon the permission granted on application 1. New condition 11 is in accordance with the Inspector's recommendations on the time limits on incoming and outgoing flights. New condition 12 is a redrafted version of the condition set out in column 3 of document B80. New condition 13 also follows the condition set out in column 3 of that document (with the references to factored movements following, in substance, the description in paragraph 5.5 of the Report and the restriction in the First Schedule to the planning agreement), except that, following the Inspector's recommendation, the number of air traffic movements on weekends and Public Bank holidays has not been increased.

13. The Secretary of State considers that these conditions are necessary if the proposed expansion of the airport is to be permitted. He agrees with the Inspector that the other conditions suggested by objectors are not necessary.

## FORMAL DECISION

### APPLICATION 1

14. For the reasons given above and by the Inspector, the Secretary of State hereby grants planning permission for the extension of the existing 1,030m runway pavement to 1199m, the construction of starter strips of 186m (eastern end) and 75m (west end), the relocation of nav aids, and the installation of approach lighting on land to the east and west of the airport in accordance with your clients' application dated 15 December 1989 and the plans and documents submitted therewith, subject to the following conditions:-

1. The development hereby permitted shall be begun not later than five years from the date of this letter.
2. During the period of construction of the development, pile driving shall take place only between the hours of 0800 and 1900 from Monday to Saturday inclusive.
3. (1) Unless the local planning authority agree otherwise in writing, passenger traffic shall not be allowed to exceed 700,000 persons per calendar year without the prior approval of the local planning authority to a scheme submitted by the airport operator for the provision of car parking spaces in addition to the current provision of 460 spaces.  
  
(2) A scheme submitted under paragraph (1) shall set out
  - (a) the number of additional spaces to be provided;

(b) the date by which they are to be provided, or the date by which each phase is to be provided, if the additional provision is to be phased; and

(c) the increase in passenger traffic over 700,000 persons per calendar year which will be allowed when the additional spaces have been provided, or when each phase has been provided, as the case may be.

(3) Where a car parking scheme has been approved by the local planning authority, the provision of additional spaces and any increase in passenger traffic shall be in accordance with the scheme, subject to any subsequent variations of the scheme made with the prior approval of the local planning authority.

(4) For the purpose of this condition, passenger traffic for any calendar year shall be calculated by adding the number of passengers who arrive at the airport by air during the relevant calendar year to the number of passengers who depart from the airport by air during that year; and the operator of the airport shall supply the local planning authority with the passenger traffic figure for each quarter of the calendar year as soon as reasonably practicable after the end of the relevant quarter.

## APPLICATION 2

15. With regard to your clients' application dated 1 September 1989, for the reasons given above and by the Inspector, the Secretary of State hereby grants planning permission to continue the present use of land subject to the conditions attached to the outline planning permission granted on 23 May 1985 but varied as follows -

1. For condition 4 of the 1985 permission substitute:

4. No runway designated for the use of aircraft shall exceed 1199 metres in length.

2. Delete condition 5.

3. For condition 11 substitute:

11. The airport shall not be used for the taking off or landing of aircraft at any time other than between 0900 hours and 2200 hours, on Sundays, Bank Holidays and Public Holidays, and between 0630 hours and 2200 hours, from Monday to Saturday, except -

(a) in the event of an emergency;

(b) for the taking off or landing between 2200 hours and 2230 hours of an aircraft, which was scheduled to take off from or land at the airport before 2200 hours but which has been delayed, and where that taking off or landing would not result in there being more than 400 air traffic movements at the airport per calendar year between 2200 hours and 2230 hours or more than 150 such movements in any consecutive 3 months.

4. For condition 12 substitute:

12. (1) No type of aircraft may, save in an emergency, use the airport unless the noise level of that aircraft complies with a category established in accordance with this condition.

(2) Aircraft types using the airport shall be placed in categories and allocated noise factors as set out below:

Category	Noise Reference Level	Noise Factor
A	91.6 - 94.5	1.26
B	88.6 - 91.5	0.63
C	85.6 - 88.5	0.31
D	82.6 - 85.5	0.16
E	less than 82.6	0.08

where the noise reference level is the departure noise level at the four noise categorisation locations shown in figure 1 annexed to this letter, expressed in PNdB and established as set out below.

(3) For each aircraft type a provisional categorisation shall be agreed with the local planning authority and shall be based either on data provided by the aircraft manufacturer or on monitored trial flights from the airport carried out with the approval of the local planning authority.

(4) The provisional categorisation of each aircraft type shall be reviewed after one year of operation and annually thereafter having regard to the departure noise levels recorded throughout that period in accordance with paragraph (6) below, and to the needs of the local community and of the airport; and the categorisations shall be confirmed or amended in agreement with the local planning authority in the light of the review.

(5) Any such amendment may, with the agreement of the local planning authority, include the introduction of sub-categorisation into narrower bands provided that noise factors appropriate to any such bands are calculated and applied.

(6) The airport shall for the above purposes operate a system of continuous noise monitoring at positions as close as practicable to the four noise categorisation locations shown in figure 1; the details of the system are to be as approved by the local planning authority and the results made available to the local planning authority.

5. For condition 13 substitute:

13. (1) The number of air transport movements at the airport shall not exceed -

(a) 40 per day on Saturdays, Sundays, Bank Holidays and Public Holidays;

(b) 130 per day on other days;

(c) 36,500 per calendar year.

(2) The number of factored movements shall not exceed

(a) in any week, the number of permitted air transport movements for that week by more than 15%;

(b) 36,500 per calendar year.

(3) For the purpose of paragraph (2), the number of factored movements shall be calculated by multiplying the number of air transport movements of an aircraft by the relevant noise factor for an aircraft of that type under condition 12.

16. Attention is drawn to the fact that where any condition imposed upon the grant of planning permission requires any consent, agreement or approval of the local planning authority to be obtained the applicant has a statutory right of appeal to the Secretary of State if the consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period. Attention is also drawn to the enclosed Note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

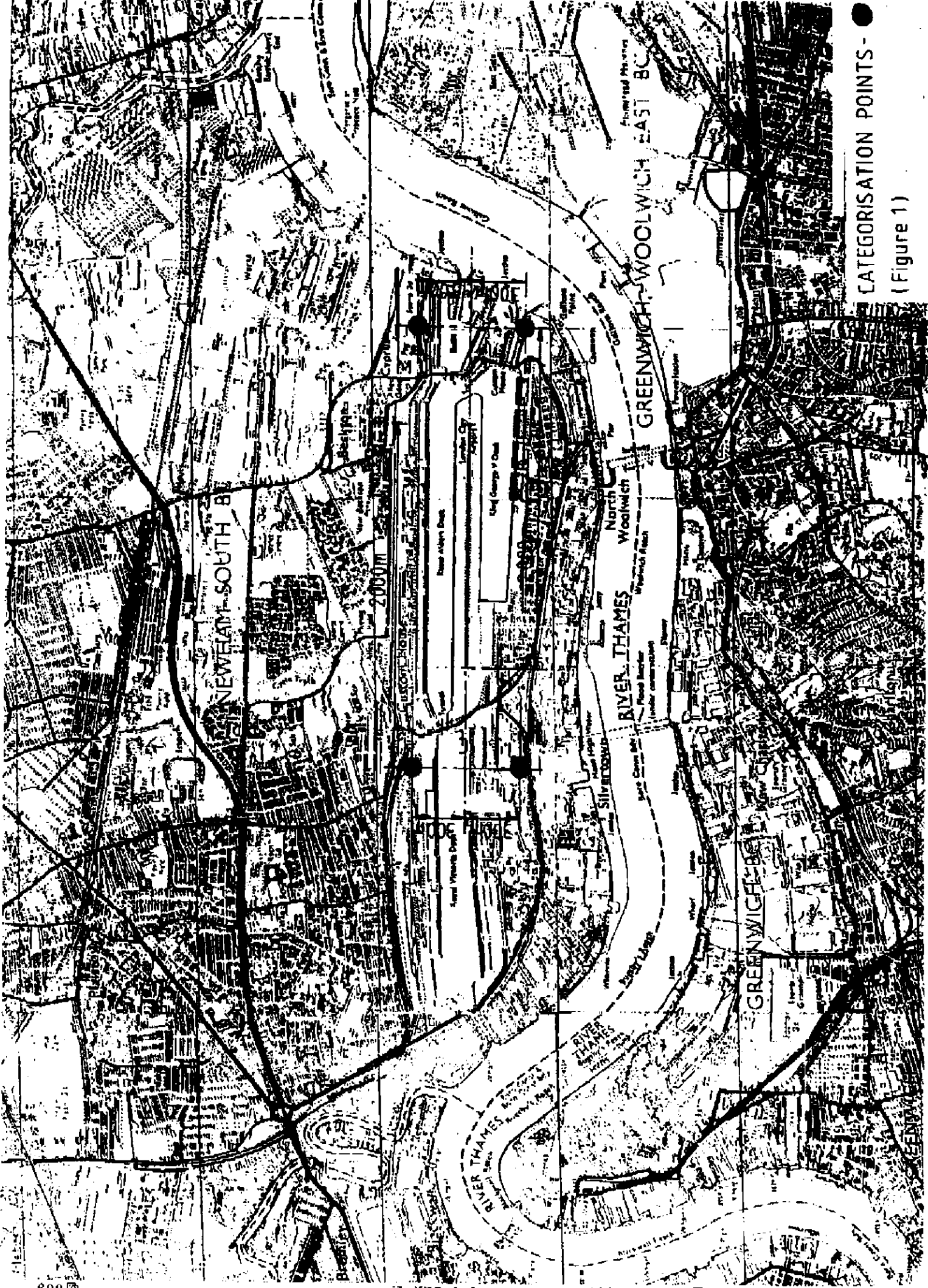
17. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

18. Copies of this letter are being sent to the London Docklands Development Corporation, the London Borough of Newham and to all others who appeared at the inquiry or who asked to be notified of the Secretary of State's decision.

I am Gentlemen  
Your obedient Servant



N C ATTWATER  
Authorised by the Secretary of State  
to sign in that behalf



CATEGORISATION POINTS - ●

( Figure 1 )

## **CHRONICALLY SICK AND DISABLED PERSONS ACT 1970**

The above Act requires persons undertaking the provision of certain buildings or premises to make provision for the needs of disabled people. Your development is affected if it would result in the provision of one or more of the following :-

1. a building or premises to which section 4 of the Chronically Sick and Disabled Persons Act 1970 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);
2. any of the following, being in each case premises in which persons are employed to work :-
  - i. office premises, shop premises and railway premises to which the Offices, Shops and Railway Premises Act 1963 applies;
  - ii. premises which are deemed to be such premises for the purposes of that Act; or
  - iii. factories as defined by section 175 of the Factories Act 1961;
3. a building intended for the purposes :-
  - i. of a university, university college or college, or of a school or hall of a university; or
  - ii. of a school within the meaning of the Education Act 1944, a teacher training college maintained by a local education authority in England or Wales or any other institution providing further education pursuant to a scheme under section 42 of that Act.

If your development comes within category 1 above, your attention is drawn to the provisions of sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and to the British Standards Institution Code of Practice for Access for the Disabled to Buildings (BS 5810 : 1979).

If your development comes within category 2 above, your attention is drawn to the provisions of sections 7 and 8A of the 1970 Act and to the BSI Code of Practice (BS 5810 : 1979).

If your development comes within category 3 above, your attention is drawn to the provisions of sections 7 and 8 of the 1970 Act and to Design Note 18 "Access for the Physically Disabled to Educational Buildings", published on behalf of the Secretary of State for Education and Science.

Department of the Environment

## **RIGHT TO CHALLENGE THE DECISION**

Under the provisions of section 288 of the Town and Country Planning Act 1990, a person who is aggrieved by the decision given in the accompanying letter may seek to have it quashed by an application made to the High Court within 6 weeks from the date when the decision is given.

The grounds upon which an application may be made to the Court are :-

1. that the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 288 of the Act; they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include, for referred applications decided following a public inquiry, the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI 1988 No 944).

A person who thinks he may have grounds for challenging the decision is advised to seek legal advice before taking any action.

## **RIGHT TO INSPECT DOCUMENTS**

Under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, any person who has received a copy of the Inspector's report may apply to the Secretary of State in writing within 6 weeks of the date of the Secretary of State's decision for an opportunity of inspecting any documents appended to the report. Such documents are listed in an appendix to the report. Any application under this provision should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days' notice should be given, if possible.

Department of the Environment