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PUBLIC INQUIRIES AND THE PLANNING DECISION MAKING PROCESS

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Submitted as part of the requirements
for Degree of Master of Philosophy
Department of Town & Regional Planning
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Contents

Acknowledgements

List of Abbreviations

Dramatis Personae

Introduction

	<u>Pages</u>
Chapter 1. The Local Planning Context	1-7
Chapter 2. Planning Inquiry Procedure	8-18
Chapter 3. The Case Study	19-56
Chapter 4. Decision Making with Uncertainty	57-68
Chapter 5. Impact Studies	69-81
Chapter 6. Departmental Guidelines	82-89
Chapter 7. The Formulation of Government Policy and Legislation	90-98

Conclusions

Bibliography

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Abbreviations

BUTEC	British Underwater Test and Evaluation Centre
DHSS	Department of Health and Social Security
DoE	Department of the Environment
EIS	Environmental Impact Statements
HIDB	Highlands and Islands Development Board
NSHEB	North of Scotland Hydro-Electric Board
NSO	North Sea Oil
OSO	Offshore Supplies Office
SDD	Scottish Development Department

Dramatis Personae

Individuals referred to in the case study who appeared at the Drumbuie

Public Inquiry:

Mrs J. Balfour	-	Chairman of the Countryside Commission for Scotland
Mr R. Bullock	-	A Deputy Secretary at the Department of Energy
Mr Cheyne	-	A Director of Taylor Woodrow
Mr G. Cox	-	Consultant Economist for Taylor Woodrow
Dr R. Crawford	-	A Consultant Acoustics Engineer for Taylor Woodrow
Mr Dodwell	-	A Director of Mowlem
Mr G. Graham	-	An Architectural Consultant for Taylor Woodrow
Mr Hodgson	-	Traffic Consultant for Mowlem
Mr Martin	-	Planning Consultant for Taylor Woodrow
Prof. R. Nicol	-	Planning Consultant for Taylor Woodrow
Mr D. Ross, Q.C. (Dean of Faculty)	-	Counsel for National Trust
Capt. Stafford	-	Marine Consultant for Taylor Woodrow
Mr Stubbs	-	Chief Design Engineer of Taylor Woodrow
Mr P. Gibson	-	Department of Energy

Introduction

This paper is concerned with an investigation of the effectiveness of a particular mechanism of the planning process which has two main functions: the collection of information and the resolution of conflict. That mechanism is the public inquiry.

The investigation will be undertaken using a particular case study: The Drumbuie Public Inquiry.

The conflict arose in this case when developers applied for planning permission to prepare a site on the North-West coast of Scotland for the construction of concrete oil production platforms. The sort of conflict that arose has become increasingly common over the last few years, highlighted by the requests to exploit copper in Snowdonia and produce aluminium on Anglesey, both in the late sixties. In simple terms the conflict arises in these cases when the need (however defined) for more resources impinges on the less material aspirations which have become to be known as the "quality of life".

The public inquiry is a process which has been developed to facilitate the disciplined clash of views and ideas; conflict regulated by procedures which are set down in law.

The Chairman of a public inquiry (in Scotland known as the reporter) is appointed by the Secretary of State. The developer and the principal objectors in complex cases will often be represented by Counsel, though the principles of the procedure are quite simple. It is usual for the developers' case to be advanced first by means of expert witnesses who are cross-examined by the objectors or their Counsel. When all the parties have been heard, each party is allowed to sum up his case before the reporter submits his report to the Secretary of State.

This system works best if both sides are equally well informed. However, the developer holds the initiative; he may as the system stands

at the moment only choose to release information if and when it will help his case. Forecasts made by the developer who seeks to establish the need for the project may be overly respected because the developer is seen as having a financial interest in accuracy. The public inquiry may be seen as an effective method of establishing and evaluating conflicts caused by developers' proposals but when these proposals raise difficult technical or policy issues the public inquiry may not be able to cope with the broader implications.

The public inquiry thus operates in a political setting - it is part of a process which makes decisions about the uses to which the communities' resources shall be put and it influences the allocation of costs. A developer at a public inquiry is not primarily concerned with the total costs that his project incurs for the community as a whole. His objective is more simply to minimise the private costs that fall upon his own budget and which he himself must bear.

Within this climate the public inquiry based as it is on the principles of openness, fairness and impartiality, can only be part of the decision making process. Its function is to "inform the Minister's mind". It is the Minister, responsible to Parliament, who takes the final decision for or against a proposal on the basis of a value judgment by one or more politicians or more properly by the application of policy to the facts of a particular case.

The Drumbuie inquiry generated recommendations for the improvement of the public inquiry process. Through a review of these proposals, in the light of the case study, the effectiveness of the public inquiry as a process in decision-making will be the concern of this paper.

Ross and Cromarty County Planning Department received formal applications for outline planning permission to construct concrete oil production platforms at Port Cam from Mowlem and Taylor Woodrow on 13th April 1973 and 16th April 1973 respectively.

The concrete oil production platforms they proposed to build were massive and would have a considerable impact on the local environment.

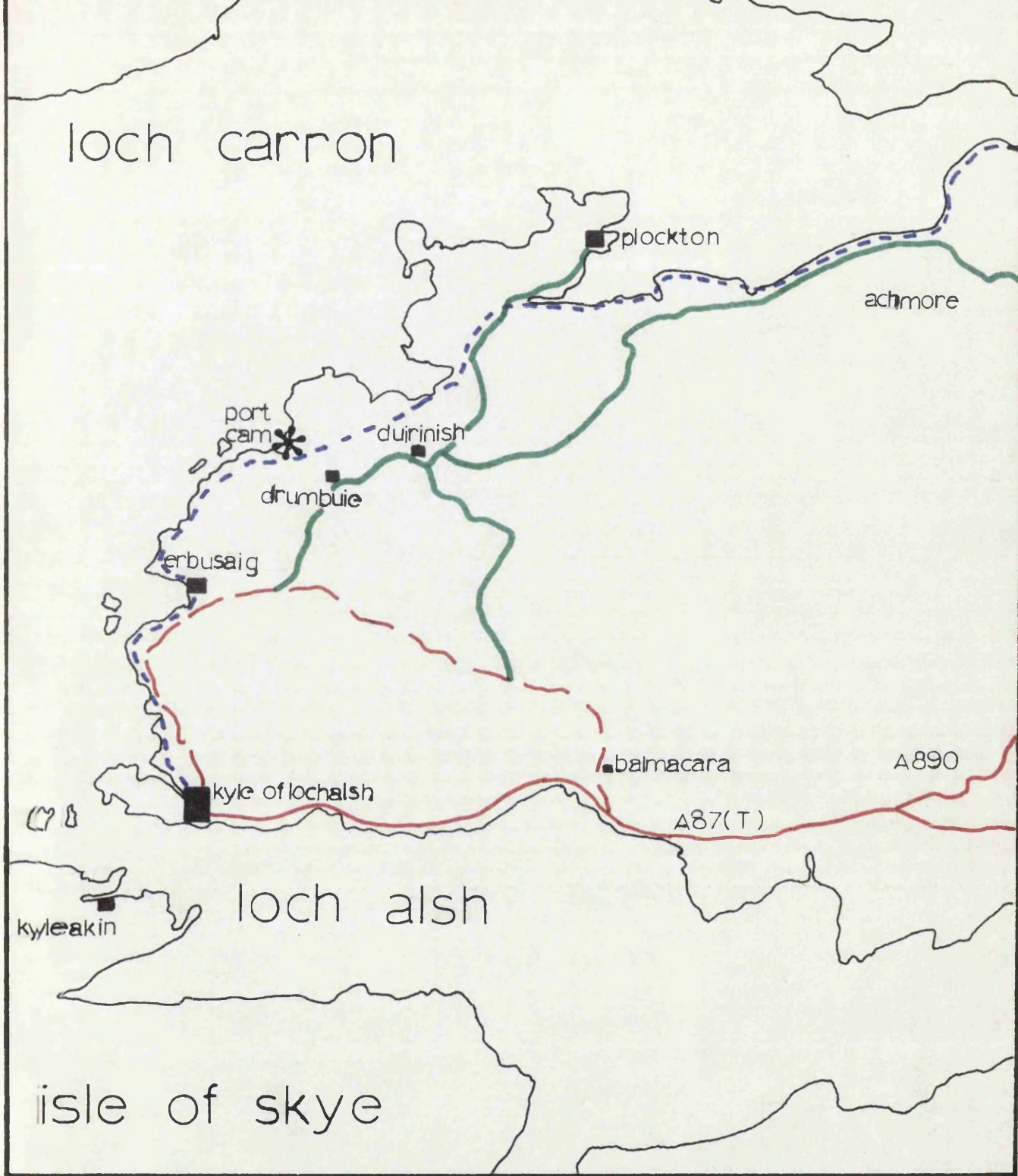
"Condeep" for instance (an abbreviated form of concrete deepwater structure) is a Norwegian design for which Mowlem hold the U.K. licence. "Condeep" uses reinforced and prestressed concrete and consists of 19 base cells each oblong in shape and standing vertically - these cells are joined together in construction and "slipformed" as a complete unit. This process takes about seven months. The cellular base is then towed out of the dry dock in which it has been constructed and anchored in 70-80 metres of sheltered water. At this second stage the base is completed and the concrete towers are fitted. These towers stand on the cellular base and contain the pipes which connect the well head with the production deck of the platform. This second stage of the operation takes approximately eleven months to complete and at the peak of activity the construction programme will require 5,000 tons of aggregate, 800 tons of cement and 500 tons of reinforcing steel, per week. The project involved not only the use of a particular site for which planning permission was sought but also the movement of large quantities of raw materials which would increase the impact of the development. The third and final stage of the construction process involves the towing of the platform from its stage 2 site in 70-80 metres of water to a stage 3 site of 200 metres depth. There

the platform is ballasted down, tested and the prefabricated production deck which sits on top of the concrete towers is installed. The first platform Mowlem estimates will take about 27 months to complete. Thereafter when the site is fully operational the construction time will be shortened to about 24 months. The weight of the platforms will be about 175,000 tonnes and to build structures of this bulk it is estimated by Mowlem that the site will require delivery of about 190,000 tons of aggregate a year 30,000 tons of cement a year and 20,000 tons of reinforcing steel a year.

The planning applications filed independently by the two construction companies indicated site areas which overlapped to a considerable extent. The site at Port Cam (see map) is approximately 300 yards to the north west of the village of Drumbuie and adjacent to the Dingwall-Kyle railway. Mowlem's site occupies 95 acres of which 42 acres is below the High Water Mark and Taylor Woodrow's site is 140 acres of which 50 acres is below the High Water Mark.

The Ross and Cromarty Development Plan had been approved by the Secretary of State on 22nd October 1964; the proposed site at Port Cam was shown as "white land" i.e. it was not zoned for any type of development. The Planning Department would presume that in such a situation the land would continue in its existing use, i.e. crofting land. For the project to gain planning permission the Secretary of State would have to approve an "Article 5" direction which would change the zoning of the site to "industrial use".

However to the local authority in land use terms alone the development was seen as incompatible with the existing situation. On 29th March 1973 the County Planning Officer had submitted a preliminary report on a South West Ross strategy to the planning and development committee. This report stated that the townships



the site
 "A" roads
 ex-"A" road
 minor roads
 railway



↑ north

scale: 1" = 1 mile

of Drumbuie and Duirinish should be designated as conservation areas and that consideration should be given to designating further areas of great landscape value in the South West district.

Since the County Development Plan had been approved the buildings of Drumbuie and Duirnish had been included in the statutory list of buildings of architectural and historic interest and the whole of the townships had been designated Group 'A' category by the Secretary of State.

The site is within an area marked on the county map as being of special scenic attraction. Though the designation appears to cover the majority of the West coast and is not linked to any specific policy in the written statement.

Proposals in the Development Plan for Drumbuie include the provision of mains drainage, increased holiday catering, crofting re-organisation and state forestry, and for the adjoining township of Duirnish, crofting re-organisation and state forestry. A specific proposal to establish a beach picnic area at Port Cam was approved by the County Planning and Development Committee on 16th October 1972 but the proposals are still being reviewed by the Scottish Development Department and the Countryside Commission.

This brief review of the nature of the project and of the local planning authorities' approach to South West Ross serve to show that an application for planning permission for this project would completely alter the scope and context of planning activity in the area.

The County Planning Officer was first informed of the possible fabrication of concrete oil production platforms in Loch Carron, at a meeting convened by the H.I.D.B. in Inverness on 29th November 1972. Also present were representatives of the Countryside Commission,

The crofters Commission, National Trust for Scotland and John Mowlem and Company. The H.I.D.B. had arranged this discussion "with a view to ensuring that the Company were made fully aware of any problems raised by their proposals." (H.I.D.B. press release 8th December 1972) This meeting, held at a very early stage in the formation of the proposals, was the only time that representatives from the local planning authorities, the developers and environmental groups (who were later to come forward as objectors) met before the public inquiry was initiated ten months later.

In early January 1973 the County Planning Officer received from Taylor Woodrow a copy of their letter dated 9th January 1973 to the National Trust for Scotland, indicating that they were interested in fabricating concrete platforms on a site near Drumbuie. In the middle of March 1973 representatives of Taylor Woodrow met officials from the County Planning Department to discuss the proposals.

On 24th March 1973 the National Trust organised a public meeting at Kyle which was attended by the County Planning Officer who indicated that if applications were received there would be further opportunity for public consultation. On 13th April 1973 the County Planning Officer received a copy letter from the National Trust to the County Clerk indicating that the Council and Executive had decided to oppose any application for the use of building sites in the Drumbuie area.

Applications for planning permission were submitted by Taylor Woodrow and Mowlem in the middle of April (as noted above). The applications for planning permission in principle only were submitted on the standard County Council application form. Question

2 on the form asked for particulars of the proposal and was split into 8 subquestions. Mowlems managed to answer this question in less than 50 words. Questions 3 and 4 asked for particular details about buildings and waste discharge etc. In reply Mowlems stated that the applications were for permission in principle only and that details would be supplied later. Question 5 asked for "Any other notes relevant to the application". To which Mowlems replied: "Application is made for permission to use this particular site in view of the unique sheltered deep-water facilities in close proximity to existing rail, road and air communications. The development will comprise a dry basin, workshops, storage areas and accommodation with facilities for approximately 800 persons."

The County Planning Department had sent the developers a standard industrial questionnaire which they received completed from Mowlem on 24th April 1973 and from Taylor Woodrow on 23rd May 1973. The questionnaire included 14 questions which sought more information on particular aspects of the proposal - choice of site, nature of operations, labour force, traffic generation, precautions for fire, water supplies, site expansion and construction, processes and effluents, noise, storage of materials, development below High Water Mark, electricity supply and details about the construction camp. In answer to question 14 on housing Mowlems stated "It is not anticipated that houses would be provided on the site." - a direct contradiction to the information they supplied on the application form (see above).

The receipt of the two applications was reported to the Planning and Development Committee on 24th April 1973. The Committee agreed that the applications should be dealt with in the normal way and that if approved by the County Council as local planning authority

they should be the subject of a formal amendment to the Development Plan for submission to the Secretary of State. (If approved by the Secretary of State the amendment would formally be instituted using an Article 5 direction order).

On 18th May the County Planning Officer attended a meeting in Inverness with S.D.D. and H.I.D.B. A few weeks earlier a firm of consultants, Sphere, had been commissioned by S.D.D. to prepare an impact analysis of the Drumbuie proposals (see chapter 5). The purpose of this meeting was to agree a brief for the impact analysis, Representatives of the National Trust, the Countryside Commission, Taylor Woodrow and Mowlem were not invited to the meeting.

On 11th June responsibility for a decision on the application was removed from the local authority. The application had been called in by the Secretary of State (for more details on the calling in procedure see chapter 2). However the local authority had not concluded their own deliberations on the project. On 26th June 1973 the County Planning Officer submitted to the Planning and Development Committee an interim report indicating the replies to the consultations carried out on the two applications. It is indicative of the quality of the information thus far submitted by the applicants that many of the replies received from other chief officers of the County Council were not definite pronouncements on the applications but requests for further information.

At the beginning of October the County Council received a copy of the Sphere report which was circulated amongst the councillors. On 22nd October 1973 a special meeting of the Planning and Development Committee and the County Council was convened to determine the formal views of the County Council to be conveyed to the Secretary of State. The meeting decided to recommend that the County Council oppose the

proposal. "The County Council are concerned to oppose the applications, inter alia, in consideration of the adverse social, environmental and economic effects on the community. They have also had regard to the impracticality of providing the necessary infrastructure." (letter from County Clerk to the Secretary of State 26th October 1973)

Normally an application for planning permission is decided by the local planning authority on the basis of a proposal's compatibility with the provisions of the Development Plan and to some extent on its compatibility with existing development in the area. From the local authority standpoint these applications were completely foreign to the provisions of the Development Plan for South West Ross and were incompatible in planning terms with existing development. Technically it was perfectly feasible that the local authority could take a decision on this development albeit on an ad hoc basis. However, the intervention of the Secretary of State relieved them of that responsibility when he decided to institute a public inquiry into the applications. This chapter has served as an introduction to the main concern of this paper - an evaluation of the public inquiry process applied to the Drumbuie applications and a consideration of the changes which are being devised to affect the efficiency of that process.

Many of the problems which arose while the applications were being handled by the local planning authority, lack of accurate information and of policies with which to assess the compatibility of the projects with the existing situation, were to arise when the applications were considered at the higher level.

CHAPTER 2 PLANNING INQUIRY PROCEDURE

On the 11th June 1973 the applications for planning permission for the proposed erection of oil rig construction platforms at Port Cam, Drumbuie, submitted by Taylor Woodrow and Nowlen to Ross and Cromarty County Council were acted upon by the Secretary of State for Scotland. Under Section 32 subsection 1 of the Town and Country Planning (Scotland) Act 1972 the Secretary of State has the authority to "call in" certain types of applications¹, thus relieving the local planning authority of its responsibility to make a decision on those planning applications the Secretary of State feels are more appropriately dealt with at Central Government level.

The exercise of "call in" powers by a Secretary of State is a relatively rare occurrence which adds weight to the realisation that these applications affecting Port Cam were of special significance. There are no figures for Scotland, but in England the number of applications affected by the call in procedure in 1968 was 100 out of a total of 426,286 (DoE 1974a). The kinds of cases which are "called in" were described in evidence to the Select Committee of the Parliamentary Commissioner for Administration as being of six main types:-

- (1) cases of strong political and public interest
- (2) cases of pending disagreement between local authorities as to whether one is allowed to build in another area
- (3) major local controversy, such as the introduction of industry to a small country town, totally altering the character of the place

¹ S32(1) "The Secretary of State may give directions requiring applications for planning permission, or the approval of any local planning authority required under a development order, to be referred to him instead of being dealt with by local planning authorities."

- 4.
- (4) cases affecting a wide area
 - (5) cases involving development in a National Park
 - (6) cases involving an infringement of major policy, such as Green Belt arrangements.

The nature of the proposed development was such that it was already apparent that it fell into categories 1 and 3 above, and as the subsequent public inquiry proceeded it became relevant to category 4 and indeed (though not explicitly because of the nature of planning policy in the area - see Chapter 1) eventually was affected by categories 5 and 6.

When the Secretary of State acts under the "call in" procedure he is bound by the 1972 Act to notify the local authority and the applicants of his reasons for so doing. Essentially he gave his reasons as being firstly that Port Cam may be an area of "environmental sensitivity", and as such "there may arise the question of the balance of advantage in the national interest, of developing particular sites against the environmental cost of so doing"; and secondly that "In this case the proposals are in an area of national recreation and landscape significance. The adjacent water is unusually deep; the site is remote from urban development and the proposals could have an effect on a wide range of the present social, economic and physical features of the area and of the areas adjacent to it including the County of Inverness." As befits a statement which was to precede a public inquiry the reasons given are deliberately phrased in an impartial fashion. The huge significance for National Policy and the inter-Government Departmental conflict which was to become apparent at the inquiry was euphemistically hidden in the bland use of the term "national interest" by the Secretary of State.

The "call in" statement by the Secretary of State does not necessarily initiate the public inquiry procedure, however the extent of the objections to this application were such that the Secretary of State had no option but to set the Public Inquiry mechanism in motion. (387 separate objections)

The Public Inquiry as a way of seeking to resolve conflict in administrative decision making originated in the 19th century and was first applied to planning in the 1909 Planning Act. As life has become more complex the State was compelled to intervene increasingly in the affairs of its citizens and to hold the balance between the public and private good. The Public Inquiry was the method by which it sought to achieve this end.

Parliament has remained sensitive to individual rights and especially sensitive to power exercised through delegated legislation. In order to cope with the tremendous amount of business taken on, parliament must increasingly delegate to Ministers and in turn to the officials. Delegated decision making on the scale that is necessary would only be thought tolerable if those adversely affected were allowed to say their piece. Accordingly the law makes provision to deal with conflict which may arise between an individual or group on the one hand and executive action by a public authority or government department on the other. In the field of public inquiries the emphasis in most cases is on appeal or in this case objection, but the outcome is that the Minister responsible informs himself by investigation on the spot before reaching his decision.

The public inquiry is an important part of the relationship between an individual and authority. Although, as will be seen in this case, they are not the means of decision making; they represent an important step in decision making by attempting to "inform the Minister's mind"

of the arguments, the interested parties are employing to press their / respective cases in as full a way as possible. Theoretically, at the end of the inquiry, the Minister is then able to make an informed decision, Whether the Minister has made a "just" or even acceptable decision depends not only on the effectiveness of the inquiry process but also on the considerations he has to be aware of outside the inquiry - departmental and government policy in particular. In this case government policy was not explicitly clear and the scale of the decision was such that it subsequently affected Government policy (see Chapter 7). The acceptability of the public inquiry process can to a certain extent be ensured by the existence of rules which the inquiry must follow but rules can only be procedural and not substantive. Dissatisfaction is most likely to occur for the interested parties after the Reporter has submitted his recommendations; what happens during this crucial period when the decision is actually made is not made public. When this stage is reached the interested parties no longer have the facilities available to directly influence the Minister.

For Public Inquiries to effectively perform their function it is essential that the public must accept the process and have confidence in it. In 1954 this public confidence was adversely affected; the then Minister of Agriculture, Sir Thomas Dugdale, was forced to resign through the alleged maladministration surrounding the Crichel Down affair and its public enquiry. At that time a barrister wrote "The real complaint in planning inquiries and the like is not that the inspectors fail to make proper reports but that their recommendations are sometimes overruled. The lesson from Crichel Down is rather this; that too many sorts of official action directly affecting the legitimate interests of individual members of the public are taken informally

without use of the machinery of public inquiry and decision upon the ensuing report - and that there is no telling, where decisions are taken informally, whether the material facts were ever considered at all."

Mindful of the damage this incident had done to the credibility of public inquiries, the Lord High Chancellor appointed in 1955 a committee on Administrative Tribunals and Enquiries. Known as the Franks Committee the report they prepared was presented to Parliament in 1957 (Lord High Chancellor 1957).

The Franks report stressed the importance of the procedures laid down for inquiries in that they must promote good administration. "Administration must not only be efficient in the sense that the objectives of policy are securely attained without delay. It must also satisfy the general body of citizens that it is proceeding with reasonable regard to the balance between the public interest which it promotes and the private interest which it disturbs. Parliament has, we infer, intended in relation to the subject matter of our terms of reference that the further decisions or, as they may rightly be termed in this context, adjudications must be acceptable as having been properly made."

The report laid great stress on three characteristics of public inquiries which must be upheld, openness - otherwise the basis of confidence and acceptability would be lacking; fairness - if the objector were not allowed to state his case there would be nothing to stop oppression; and impartiality - otherwise how can the citizen be satisfied unless he feels that those who decide his case come to their decision with open minds?

The report opened up three long-standing debates involving public

13.
inquiries whether the reporters submission to the Secretary of State should be published or not, whether the nature of the provisions for public inquiries made them judicial or administrative and whether the reporters should be independent or drawn from departmental civil servants. There are several other issues which have been or are contentious but the above three are more long-standing and between them bring in the controversial arguments of a wider nature on planning inquiries.

Firstly publication of the reports; Franks was mindful that non-publication meant that the interested parties did not know what the reporter had said, whether they would have agreed with this statement of the facts, what advice he had offered to the Minister and whether the Minister had accepted it or not. The Committee were clearly anxious that appellants, though unable to question policy, should at least be satisfied that policy was being implemented on the basis of agreed facts. There are three principal arguments against publication however, the inspector's report was only one of the considerations that the Minister had to take into account in reaching a decision, the others being concerned with national policy; to publish it, while not publishing evidence of any other kind, would be misleading and might make publication worse instead of better. Secondly it would be embarrassing for the Minister to have to disagree publicly with the inspector's recommendations. Thirdly the inspectors may not be as frank if reports are published. The committee recommended publication of the reports, this has since been implemented and with implementation these arguments against publication appear to have dissipated.

The public inquiry is essentially an administrative process, yet to members of the public it may appear to be a judicial occasion;

14.
especially when they see it as two or more parties appearing before a judge-like reporter and stating their case to him in public. This impression can be heightened in the more important public inquiries involving distinguished "experts" and Q.C.s. The proceedings then tend to become more formal and cross-examination is sharper. It is up to the reporter to ensure that the people involved are not intimidated by the spectacle, and receive a fair hearing. The decision is not made at the public inquiry. When the decision is made it is by a Minister responsible only to Parliament and is involved in the furtherance of the processes of Government. As such the procedure cannot be considered a judicial one.

There has for long been an argument over the merits of independent reporters. In Scotland the volume of work did not justify employing full-time reporters. Reporters are appointed "ad hoc" by the Secretary of State, they are given no training, the financial compensation is low and if the inquiry is prolonged their own business activities may suffer. Franks considered the advantages of an independent reporter would be to increase public confidence, especially if the proposals came from the Ministry initiating the inquiry; that it would be less embarrassing for departments to give oral evidence before an independent reporter than before a Department reporter; and that independence gave the reporter a licence to freer comment in his report.

On the other hand the case for Departmental reporters is that the reporter is more likely to be aware of departmental policy; that the number of inquiries to be arranged make it essential to have full-time reporters (this argument has only recently become a valid one); and technical considerations may be easier for a full time employee constantly concerned with these matters. (Scottish Office has since

set up a full time reporters unit - see 1975 memo).

At Drumbuie an independent reporter, Ron Bennett, Q.C., was aided in technical matters by a technical assessor. (Government policy was not made clear at the inquiry with the result that discussions on it were confused and contradictory.) "Government policies must be known if the reporter is to rely on them as his framework of reference." (Franks report). The case study will attempt to show the difficulty involved in an inquiry when the reporter is not fully informed on Government policy and where separate departments turn in conflicting statements.

The Franks report led to the Tribunals and Inquiries Act 1958 under which many of Franks recommendations were accepted. Inquiry and reporters' reports were to be published and in Scotland a standing committee was set up to review the activities of Tribunals and Inquiries. This legislation led to Statutory Instruments being prepared to regularise the procedures: the Drumbuie Inquiry was affected by Statutory Instrument No 1092 1969 (Town and Country Planning (Inquiries Procedure) Rules 1969).

Within two months of the original application to the local planning authority the Secretary of State must notify the local authority and the applicant if he intends to "call in" the application. He must give at least 42 days' notice to the Local Planning Authority and all section 36 parties (owners and agricultural tenants) if he decides to hold a public inquiry, informing them of the date, time and place of the inquiry.

Not later than 28 days before the inquiry is due to take place the Secretary of State must provide the applicant, the local planning authority and section 36 parties with a written statement of the reasons for his direction.

The local authority is required to provide through the Secretary of State to the applicants a list of the names and addresses of every section 36 party; it is also required to provide the Secretary of State with the same information and the name and address of all persons who have made representations to the local planning authority. The Secretary of State may require the local authority to publish notices of the inquiry in the local newspapers, to serve notices to specific persons and to post notices on the land in question.

Not later than 28 days before the inquiry the Secretary of State may require the local authority to submit a written statement of its proposed submission to the applicant and to the Secretary of State. The authority may be required to make available for inspection documents relevant to the inquiry. Similarly the applicants may be required to make available a written statement of the submissions which he intends to put forward at the inquiry.

Who may appear at the inquiry? The applicant, the local authority, section 36 parties and any person the Secretary of State may require to attend, plus "any other person may appear at the inquiry at the discretion of the appointed person" (Section 36 1972 (Scotland) Act). In practice it is very unusual for a reporter to refuse to give an interested party a hearing at the inquiry.

Representation of Government Departments became a complex problem at Drumbuie. Franks recommended that their evidence should be made available in the statement at the beginning of the inquiry. "The evidence to be required of such witnesses should however be confined to factual matters as opposed to policy matters, and the reporter should ensure the distinction is observed." Departments are generally disinclined to give evidence at inquiries. They fear that once in the witness box, official witnesses might be drawn into major questions of policy, which it is the function of Ministers and not of officials

to discuss and defend. It is further argued that "the collective responsibility of Ministers makes it constitutionally inappropriate for witnesses from one department to give evidence at inquiries conducted by another department." At Drumbuie the activities of the Department of Trade and Industry (and later the Department of Energy) were considered by many to be inappropriate leading with other factors to the call for a Public Inquiry Commission to replace the Public Local Inquiry.

The procedure at the inquiry is a matter largely left to the discretion of the reporter. He determines the order of appearance of those entitled or permitted to appear. He may take into account any written evidence and he may adjourn the inquiry as he sees fit. The Reporter may be requested by the applicant or the local authority to conduct a site inspection but the parties must not make representations to him during the visit.

After the inquiry the reporter submits his findings in two parts. Part I is his summary of the evidence and findings of fact and Part II includes his recommendations. Part I is made available to the objectors, the applicants and the local authority; these parties may if they so desire make written representations to the Minister concerning either disagreement with the finding of fact or to bring forward new evidence. On the basis of such representations the Secretary of State may re-open the inquiry; in the case of Drumbuie this did not happen.

Finally after an unspecified amount of time the Secretary of State is required to notify his decision, and his reasons, in writing to the applicant, the local planning authority, section 36 parties and any person who, having appeared at the inquiry, has asked to be notified of the decision.

This chapter has avoided a critical appraisal of the public inquiry process. It is intended by way of introduction to the case study as a review of the statutorily evolved procedures of the public inquiry mechanism. An evaluation of both the procedural and substantive aspects of the public inquiry can be more effectively dealt with after the case study.

CHAPTER 3 THE CASE STUDY

The purpose of the case study is fourfold:

- (a) To review the evidence presented at the Drumbuie public inquiry by the applicants.
- (b) To assess this evidence in the light of the main objections from the National Trust and Ross and Cromarty County Council.
- (c) To consider the significance of the involvement of the Department of Energy and other quasi-Government Departments. ✓
- (d) In the light of this review of the evidence the final chapters will be concerned with an evaluation of public inquiries as an aid to decision making and of the proposals to improve their quality and efficiency.

Having called in the application the Secretary of State is bound to state his reasons for so doing. He did so in the following terms: "Such sites and adjacent waters in which construction may take place may be in areas of environmental sensitivity of varying degree. Hence there may arise the question of the balance of advantage, in the National interest, of developing particular sites against the environmental cost of so doing. In this case the proposals are in an area of national recreation and landscape significance. The adjacent water is unusually deep; the site is remote from urban development and the proposals could have an effect on a wide range of the present social, economic and physical features of the area..." (letter 11th June 1973 from Secretary of State to the applicants)

Clearly the impact of such a development were it to take place would be far reaching in its consequences. The extent to which these issues can be fully explored in a planning inquiry was questioned as the proceedings evolved.

The stated purpose of a public enquiry is to "inform the Minister's

mind." Clearly the Minister was made aware of the enormity of the task in this case - he commissioned an impact study (see chapter 5) to evaluate the local considerations. The wider aspects of the application concerned with the national interest he decided would be inappropriate for discussion at the inquiry, such matters would be considered at the Scottish Office after the inquiry. In accordance with this attitude the Secretary of State notified the applicants, by letter on the 20th August 1973 of five areas of interest over which the inquiry could range:-

- (a) the extent to which, if any, alternative sites are available for the proposed development and if so what are their comparative advantages or disadvantages in relation to Drumbuie.
- (b) how incoming workers would be accommodated if the project were to go ahead.
- (c) the rate of build up of employment.
- (d) how materials would be transported to the site.
- (e) the source of power and water.

Point (a) is made possible under procedural rules applicable to Scotland only. It has been suggested (Wraith and Lamb 1971) that this facility greatly alters the nature of public inquiries in that it is implied that the purpose of such an inquiry is to consider in general terms how a problem might be solved rather than whether a particular proposal for a particular site is acceptable. In fact the Drumbuie inquiry got seriously bogged down in its attempts to give meaningful consideration to the alternative sites proposed by the objectors and raises the question of whether or not a public inquiry commission (which initiates separate public inquiries for each of the sites proposed) would have been more appropriate. ✓

The other points in the list above add up to a narrow conception of the factors the Public Inquiry should consider. They are wholly

concerned with the characteristics of the requirements of the development at a particular site only. If public inquiries are to be improved this is the sort of information the planning authorities should have access to before the inquiry is instituted. The inquiry should be concerned with an assessment of the likely impact of the developer's proposals on an area and not simply with attempts to reach greater understanding on the scope of the proposed development. It is conceivable that the Secretary of State intended the impact analysis he had commissioned to satisfactorily answer the questions concerned with the effects of the proposed development on physical environment, the social structure and the infrastructure of the site and the immediate area, but again the impact study should provide a basis for discussion at the inquiry and not simply answers to questions concerning such matters (see chapter 5).

The Public Inquiry into the applications by Taylor Woodrow and Mowlem for planning permission in principle only was opened at the Balmacara Hotel on November 12th 1973, a full seven months after the original applications had been submitted to the County Council.

The Applicants' Case

Taylor Woodrow and Mowlem had decided to apply for planning permission to develop Port Cam because in their estimation the site was the most suitable for the construction of deep water concrete production platforms in the whole of the United Kingdom. However its suitability, as will be seen, was assessed on civil engineering criteria only. The power and extent of the objections to the proposals had arisen because to many individuals and organisations the application posed a great threat. Port Cam was recognised by the objectors as being on a section of the west coast of the Scottish Highlands which is nationally regarded as an area of great beauty.

The site itself was part of a tract of land which had been bequeathed to the National Trust and was "inalienable" i.e. land which could not be used for any purpose to which the National Trust would object. If the National Trust were to object to the proposals, which they did, the only way the land could be leased to the developers would be for the developers to successfully promote a Private Members Bill for which there is no precedent. The County Council objected to the proposals in principle and in particular because they considered that the extent of the proposed development was incompatible with the existing infrastructure of the South West Ross Peninsula.

From the first day of the inquiry arguments for and against the development were couched in terms of the National interest. The developers considered that it was in the National interest to produce the platforms as quickly as possible. The objectors argued it was in the National interest that this area of North West Scotland should not be open to large-scale industrialisation. The Secretary of State had the difficult task of deciding partly on the basis of the evidence presented to the reporter and partly on consultations with his own staff which conception of the National interest to accept.

A Public Inquiry is designed to assess the evidence for and against a local planning application in local terms. The extent to which the procedure is suitable for the discussion of a case in national terms can be more adequately considered in the conclusion of the paper.

Despite the consideration of alternative sites the developers realised that their application and the primary concern of the inquiry was for one particular site; to be successful the applicants would have to convince the reporter that there was an unquestionable need to produce production platforms of a particular type at Port Cam.

Seeking to make their case more acceptable than if they were merely to consider the planning aspects of the application the applicants sought to stress the importance of their case in national economic terms. If the Port Cam proposal did not proceed, they argued, some of the work would go not to other sites in Britain, but for this type of platform which requires deep water it would go to foreign builders. "The basic assumption is that the Port Cam site has advantages for constructing oil platforms which are not found in combination anywhere else in this country and I assume that the additional costs of producing such platforms at any other location would make it significantly more difficult to compete with overseas producers - that is in effect Norwegian producers.....The platforms might not be lost to Great Britain but this is a very competitive site for the concrete platforms that everyone is demanding.....we may reasonably suppose that every second platform built at Port Cam would have to be made abroad if the project does not go ahead." (Cox - consultant economist for Taylor Woodrow)

Each platform at 1973 prices was estimated to cost £20 millions - Cox estimated that each one would bring £6-7 millions to Scottish suppliers; of this £800,000 at the most (including the revenue from aggregates) would accrue to South West Ross. He also estimated without substantiating that the project would create 1100-1200 jobs including 700 jobs on the actual site and a further 100 jobs through the multiplier effect in South West Ross.

Cox also made rather than evaluated three other points:

- (a) The project is an opportunity to establish a British lead in the technology of deep water concrete platforms
- (b) That the cost of living may be affected by the increased cost of oil production if the project was refused
- (c) That it was in the "country's interest" to get its oil ashore as

quickly as possible.

Evidence led during the inquiry by Gibson of the Department of Energy resulted in the Balance of Payments argument being dropped by the applicants. Gibson stated that Norway had a production capacity of four platforms a year, the majority of which they would require for their own use. Secondly even if all the proposed sites at present without planning permission in Scotland were to receive planning permission he estimated that we would still need to import 25% of the number of deep water platforms we are likely to require within the next few years.

Consequently the developers changed tack in their closing speech - There is a trend for deeper oil fields, oil companies have a preference for this type of platform. Because Norway can only produce one or two platforms a year for British use then there is a need for an assured supply of deep-water platforms in the U.K.

The objectors in their closing speech were quick to point out that the applicants no longer considered the question of Balance of Payments as being as important as they had earlier in the Inquiry. The U.K. could not hope to build all the platforms it required and as Gibson had said 25% of them would probably have to come from abroad.

Perhaps the most glaring omission from the Inquiry proceedings was the complete lack of evidence from the potential buyers of the platforms - the oil companies. If they were keen to purchase British built deep-water platforms constructed in concrete then it is rather curious that they did not appear at the Inquiry to support the applicants' case. The lack of evidence from the potential users detracts from the strength of the evidence on the acceptability of concrete designs in general and the acceptability of the designs involved in the inquiry in particular. Further there was a lack of

quantification of the scope of the penalties the oil industry may incur in terms of delay if this development did not proceed.

The memorandum on procedure in force at the time of the inquiry (St. Andrews House 1958) stated that the reporter should be made aware of Government policy. But what was Government policy? The Department of Energy were to make their position perfectly plain but the overall Government policy remained unclear to other than Governmental participants (see chapter 7). Hodgson, the opening witness for the applicants, could only give his opinion that the oil should be brought ashore as soon as possible - was this Government policy or was it that oil should be brought ashore by a British-based industry and technology as quickly as possible? There is an important difference which was not made clear.

The developers, possibly seeing that on purely planning considerations their proposals were tendentious, had thus sought to bring the discussion of wider issues out into the open and within the scope of the inquiry. In less exceptional cases these issues are reserved for consideration by the Secretary of State.

A source of some confusion at the inquiry was the interchangeable use of two incomplete sets of technical data (one for Mowlem's "Condeep" and one for Taylor Woodrow's design) at a stage when it had not been decided which design would be used if planning permission was obtained. Stubbs, the Chief Engineer for Taylor Woodrow, admitted under cross-examination that Taylor Woodrow were not in possession of the design details of "Condeep" nor had he communicated with Mowlems about the design. The majority of the general technical evidence was provided by employees and consultants of Taylor Woodrow. The bulk of the evidence on platforms, their requirements and characteristics was related to the "Condeep" design. Such situations compounded uncertainty.

If the developers were going to apply to construct a particular type of platform in a site of doubtful suitability in planning terms then they had to establish that the platforms would be attractive to the oil companies; That if they did develop the site, they would attract orders.

The collated advantages they put forward for concrete platforms and "Condeep" in particular:

1. They could be used beyond the maximum depth for steel platforms of 300-450 feet. "Condeep" is suitable for depths up to 600 feet.
2. A steel platform had to be attached to the seabed by piles and the deeper the sea the greater the size of piling and the greater the difficulty of doing so especially in North Sea water, whereas "Condeep" could be placed in the sea-bed without difficulty.
3. Steel platforms are susceptible to corrosion and fatigue. They have a complex jointing system which demands a high degree of skilled workmanship - particularly welders who are in short supply.
4. Concrete is more tolerant to abuse and less complex to work. At greater depth concrete platforms use proportionally less material and are consequently quicker and cheaper to construct.
5. Steel platforms at present depend on special quality imported steel. Reinforcing for concrete is more readily available in this country.
6. "Condeep" design can be modified for either hard-bed or soft-bed conditions. The appropriate design will overcome instability, scour and displacement problems.
7. "Conductors" which carry oil in a steel structure from the seabed to the platform are exposed to the sea and also to fatigue, which is not the case with "Condeep".
8. The concrete spheres in the "Condeep" structure can be used to store 800,000-1,000,000 barrels of oil. Steel structures have no such facility.

9. The concrete platform can be constructed entirely in sheltered water. The superstructure of a steel structure must be attached in open sea at the oilfield.

10. The "Condeep" design is accepted by the Department of Energy as an approved design. It is recognised by "Norske Veritas", a certification authority, and is acceptable to the insurance companies.

The National Trust accepted that Condeep was a good design but stressed that no oil company had come forward to say so. The applicants stressed that implicitly they had been supported by the oil companies - two Condeeps had been bought already. National Trust countered that the two already ordered were of the "hard bottom" variety. Mowlems were proposing to build the first of the "soft bottom" design. National Trust stated that Condeep was not the only design and there was no inherent reason why the U.K. should build the Condeep.

The applicants attempted to establish that their design was superior to others for deep water and soft sea-bed conditions. This was not easy as no Condeep for such conditions had yet been constructed. The objectors stated that steel structures could operate in soft-bottom conditions because they used piling. Other concrete structures could also reach depths of 500 feet. McAlpine with an order after the Brent field had said they could construct at Ardyne Point for 500 feet or more. Taylor Woodrow's designer stated that he could go to 550 feet with the Alness site where the draught was only 60 feet.

How long would it be before a new type of platform which was not so demanding on its construction site was developed? Mr Bullock of the Department of Energy stated that he could not predict

more than five years ahead because of this, yet the applicants, as will be shown later, were anxious to demonstrate the feasibility of such a site for 10-15 years. The National Trust presented an "expert" to the inquiry who was working at the time on a buoyancy rather than gravity structure. Condeep was far from permanent. Yet in the closing submission for Mowlem it was suggested that a Condeep site at Loch Carron was likely to last 30-40 years.

The applicants sought to justify their choice of site. The design had been chosen then a search had been made of those sites which had deep water and provision for relatively easy movement of construction material into the area. They emphasised the choice of Drumbuie was dictated by the requirements of the production platform. The requirements of the Condeep design were about 20 acres of flat land at stage 1, a depth of water of 5 fathoms from stage 1 to stage 2, a depth of 40 fathoms at stage 2 and a depth of 100 fathoms at stage 3. The special requirement of 100 fathoms was to allow a testing of the ballast chambers in a submergence test and to allow the platform superstructure and modules to be fixed into the base. It is also important that the stages should be close together. If the distance between stages 1 and 2 was in excess of 10 miles it was considered that it would be necessary to establish completely separate facilities and this would result in an "unnecessary" duplication possibly adding £200,000 to the cost. The proximity of all three stages at Drumbuie was thought to be crucial if the site was to be competitive with its Norwegian counterparts. The difficult requirement of Condeep was, according to the applicants, the need for a 45 fathom "tow-out" channel - which was found in the Inner Sound of Raasay. There are only two sites in Great Britain which satisfy these requirements: Loch Carron area and

Loch Horn, to the south, but the developers favoured Loch Carron and Port Cam in particular principally because of the railway. Thus when cross-examined by the Dean of Faculty (Counsel for the National Trust) a director of Mowlem said "Our prime consideration in coming to this area is the deep water with the sheltered conditions. That is the only reason we are seeking to operate in this area. The applicants intention to fit the modules onto the superstructure in sheltered water was the factor which caused them to apply for the site at Port Cam. Otherwise a site in the Clyde estuary would have been quite suitable. The other need for deep water, they stated, was the oil companies' stipulation of a submergence test, yet under cross-examination a consultant engineer for Mowlem stated, contrary to a Mowlem director, that no oil company stipulated a submergence test.

Other than more usual planning considerations which will be looked at shortly, the factor which acted as the focus of objection to the proposals for Drumbuie development was the "inalienability" of the National Trust land. The developers' opening statement attempted to avoid opposition on this point by pointing out that "the inquiry was not concerned with the question of ownership" - they only wanted to lease the site.

The National Trust pointed out that precedent (Rainbow Wood Farm case) had shown that ownership was not important. The criterion was whether serious harm would be done to the land. Parliament had never taken away National Trust land that had been declared inalienable. The Trust itself had alienated land for agricultural and housing purposes. This was not the same as alienating it for major industrial development. It was vested in the Trust for preservation and for the benefit of the nation. To take it would be to set a dangerous precedent and discourage future donations.

The lack of precedent on the principle of inalienability and the degree of suitability attached to the Drumbuie site by the applicants encouraged them to counter the proposals of alternative sites by attempting to show that Drumbuie was the only site they could use.

In the opening statement it was said that "so far as is known to the applicants Port Cam is the most suitable site having regard to the physical aspects and every other planning aspect which exists in the U.K." (Hodgson) The same witness under cross-examination the same day on being asked "Might it not be that one approach is to look at the needs of the area and what the area may need - is the growth and evolution of industries appropriate to the area's scale and needs and existing features?" To which the reply was "Our prime consideration in coming to this area, as I think we have stated already, is the deep water with sheltered conditions. That is the only reason we are seeking this consent to operate in the area."

The applicants' attempt to attribute sound planning principles to the development at Drumbuie was shaken. Thereafter this aspect of the case involved the applicants and H.I.D.B. attempting to show the scale of development was appropriate for the development of the area and being challenged by the objectors.

Later Captain Stafford, a marine consultant for the applicants, was asked "From the marine point of view do you know of any better combination of sites for the purpose of the dry construction, the wet construction and the completion of the structure than those referred to?" (in the Inner Sound of Raasay) - "Yes. There is one locality that is more protected for the stages 1, 2 and 3. There is one other locality - that locality is within Loch Hourn".

The applicants subsequently reduced the effect of this admission: there was a lack of rail facilities at Loch Hourn, lack of good roads, no infrastructure provision, depths for stage 3 lower than in Loch Carron and possible towing problems involved in the journey round Skye.

The applicants' early statements confined entirely to Port Cam and its suitability gave the impression that alternative sites had been rejected out of hand as being unsuitable rather than through the use of any "rational" selection process. One witness saying Loch Hourn was suitable, to be followed by another who gave reasons for its unsuitability, did not enhance the quality of their case.

The Clyde Estuary was proposed as an alternative by the objectors. The applicants pointed out that the "soft bottom" design they intended to build had a "skirt" of 25 metres. The channel in the Clyde was 35 metres whereas at Drumbuie channel depth was 42 metres. "The Condeep could be built on the Clyde for "soft bottom" conditions. Doors would have to be added to the underside to increase the buoyancy. The deck would have to be fitted in the Sound of Raasay and the extra arrangements involved in this would amount to a cost penalty of £4.02 million per platform." (Dodwell, a director of Mowlem) The opening witness for the applicants had said that it would be impossible to build Condeeps in the Clyde. The National Trust considered that the Clyde was a more suitable place to build the platforms - there is existing infrastructure and available labour. The extra cost was seen as a penalty which the developers should pay to avoid adversely affecting South West Roas with what the National Trust saw as incompatible development.

The National Trust stressed the fact that Condeep was not the only design for deep water. They exemplified the McAlpine development

at Ardyne Point on the Clyde. The applicants admitted that the platforms built at this site were "designed to operate in a similar depth of water". (Hodgson)

The applicants had attempted to show using the arguments cited above that:

- (a) it was in the national economic interest to build concrete platforms in Britain and
- (b) that Condeep was the most acceptable concrete design
- (c) that Port Cam was the most suitable site.

If the applicants were to be successful in gaining planning permission they had to convince the Secretary of State, through the reporter, that not only was there a pressing need for platform construction at Port Cam but also that the impact of the proposed development on South West Ross would not be intolerable.

If the development was to go ahead at Drumbuie what would be its physical, social and economic impact on South West Ross? The difficulty of assessing environmental impact accurately is one of the main problems facing those who have to evaluate and sanction such development. The Secretary of State commissioned an impact analysis (Sphere 1973) in an attempt to order the issues to be resolved at the inquiry. The study was extensively used by both sides and was found to be of value. But how valuable? The study was designed as an objective assessment of the impact of the proposed development. The two sides of the inquiry with subjective views and opinions for or against the development were utilising those parts of the evaluation which happened to coincide with their general views on the development.

Using the same headings as the Sphere report there follows a review of the evidence presented to the inquiry concerning the impact of the proposed development.

Physical Intrusion

Noise

The Wilson report suggested that acceptable absolute noise levels are 40 dBA in the country during the day and 30 dBA at night and that special processes of short duration (e.g. blasting) should not exceed 70 dBA. Crawford (an acoustics consultant for the developers) after survey testified that at Drumbuie the peak noise from blasting etc. would be 64 dBA and that the average daytime level during construction would be 40 dBA. He disagreed with Sphere's estimate for construction - 50 dBA. The County Council's witness submitted that the applicants' had dealt with a subjective matter in an objective way. This witness had taken readings of the noise level at Drumbuie. They were very low and he pointed out that though the Wilson standards may just be met the noise aspect of the development impact on such a place would be relatively high.

Visual Impact

On visual impact the applicants agreed with the findings of the Sphere report although in their opinion they felt that fears expressed in the report were exaggerated. All the evidence on this subject was supplied by a consultant of Taylor Woodrow who admitted he did not know the relevant details regarding Condeep. The witness gave evidence on the height of the structures envisaged by Taylor Woodrow. At stage 2 close in land the platform would reach a height of 108 metres above sea-level. At the Onshore site the tallest piece of equipment, the derricks, would reach 30 metres above O.D. A witness for Mowlem had given the maximum height at stage 2 of a Condeep as 150 metres, 120 metres higher than the Taylor Woodrow structure. The witness had surveyed the visual impact from four selected viewpoints on the peninsula to the south of Port Cam. In mitigation he thought that such a large scale

development was more acceptable in a large scale landscape, but later said that "Nobody in their right mind would put any structure there unless there was some overriding factor". The County Council and the National Trust concurred in their objections in that such a development was visually intrusive and a "foreign element" in such a landscape.

As was the case with the noise factor the impact could be objectively assessed and the quantification agreed upon by both sides at the inquiry. The problem for the inquiry stemmed from the qualitative and subjective assessment of this data. It was debate of this type involving opinions on "objective data" which greatly extended the inquiry proceedings at this point.

Infrastructure provision

The applicants devoted only a small proportion (two out of fifteen witnesses) of their submission to considerations of the infrastructural requirements of the proposed development. Their strategy was consistent with a decision to concentrate on convincing the Secretary of State of the need for this particular platform and the unique suitability of Port Cam for its construction. However the Secretary of State had already indicated the issues he felt were within the scope of the public inquiry. The significance of this divergence should not be overlooked. Was it the case that the applicants, being civil engineers, were not aware of the nature of a planning inquiry in the same way that a practising planner might be....or was it the case that the applicants had consciously attempted to influence the decision making process normally undertaken at the post-inquiry stage?

Roads

The consultant engaged by Mowlem had also prepared a report in 1971

for the County Council. (Loch Carron Traffic Study - Jamieson and McKay 1972) He stated that with the increase of tourist traffic the northern coast road from Kyle through Plockton to Achmore (see map) was scheduled to be improved by the County Council at a cost of £415,000. The contractors would undertake to build a road from the old A81 at Erbusaig bypassing Drumbuie village to Port Cam at a cost to themselves of £300,000. The project would generate an increase of traffic (many low weight vehicles including personal and organised transport of employees and delivery vans of local traders) in the order of 10%. This would mean that the Kyle to Erbusaig road and the Erbusaig to Balmacara road would need to be improved by the County Council at an estimated cost of £300,000. The latter improvements he estimated would have to have been carried out within 5 years anyway. He also stated that increased parking provision in Kyle would be necessary. This evidence implied a total capital cost to the country of £715,000.

The County Surveyor agreed with the applicants' witness that the Sphere's estimates on traffic generation were low, amounting to about 50% of their estimates. Because the original estimates for road improvements in the area were at 1972 prices and because the development would generate heavy traffic in the shape of delivery, service and plant vehicles unsuitable to the local roads on account of their peat foundations, the Surveyor estimated a greatly increased cost of road improvements to the area. He stated that the improvements to the Kyle-Erbusaig-Balmacara road would take three years to complete at a cost of £1.05 million. The County Surveyor estimated the total cost of public road provision would be £1.465 million - twice the figure given by the developers. In addition the maintenance cost related to snow and ice clearance alone would increase for the area by £5,000 per annum. In their closing

submission the applicants complained that the figure by the County Surveyor at the inquiry for the improvement to the Drumbuie Erbusaig Balmacara road had been three times higher than the figure he quoted to them in October 1973. Clearly it would help to speed up public inquiries if such "findings of fact" could be agreed prior to the inquiry rather than somewhat unnecessarily adding to the already numerous contentious issues to be reviewed, at the inquiry itself.

Houses

If the work force was to be 700-800 men then the estimated requirement for houses would be 150 which Taylor Woodrow had undertaken to build. It is estimated that the spin-off and multiplier effects of the project would require the County Council to provide a further 100 houses at a cost of £1 million. There are several problems related to the proposals. An existing housing waiting list in South West Ross of 83 persons. BUTEC requires hostel accommodation for 50-55 people and a site has not yet been found. The Hydro-Electric Board cannot provide electricity within 2 years for more than an extra 200 houses. A large proportion of the sites which had been proposed were on crofting land and on land owned by the National Trust. Applications to the Land Court prior to residential development are subject to considerable delay. The availability of water supplies has become a confused issue. The Water Engineer had informed Mowlem that they could be assured of adequate supplies for the construction site. He said elsewhere that there is sufficient water supplies in the Drumbuie area to supply 200 extra houses, only prolonged cross-examination and collation of evidence revealed that the water supplies are sufficient for either the construction site or the houses, not both.

This issue could have been more conveniently resolved prior to the inquiry.

The County Council's policy is to build new council houses on poor quality land near existing settlements. The development is of a scale that would double the existing population. The County Council saw this as undesirable. Crofting land would have to be built on. The tourist trade is likely to be adversely affected - bed and breakfast accommodation used as lodgings by workers.

The H.I.D.B. supporting the applicants used the resources of its planning office to build a case showing necessary extra housing land was available; this was refuted by the County Council. One such site was owned by the National Trust who intended to feu it. Another was reserved for BUTEC. Others were either boggy or the best crofting land in the area. The County Council opposed the use of crofting land for housing on the grounds of the need to preserve the traditional socio-economic system. It is interesting to note that the H.I.D.B. had used its resources to provide information to support the developers' case on an issue that the Secretary of State wished to be discussed but on which the applicants themselves had not provided a detailed submission. (Are the H.I.D.B. acting as unpaid consultants for the applicants?)

Education

The Director of Education based his estimates on the assumption that 300 school children would accompany the incomers. He had in fact no definite indication from the developers of the likely number. The existing primary school accommodation may be adequate according to the distribution of the children. But the local secondary school would certainly require extending. Demountable units would involve a cost of approximately £27,000; a permanent extension would cost between £64,000 and £200,000. The estimated increase in teaching

staff would involve a total cost of £59,000 per annum. He also noted that if the spare housing capacity was not available it would be very difficult to recruit the extra teachers needed.

Police

The Chief Constable envisaged a necessary increase in the local Police Force of two sergeants and ten men in order to give 24-hour coverage. The cost of salaries would be £27,000 per year, housing £72,000 and equipment £7,000. The applicants questioned the intention to increase the force by that amount; citing Invergordon as an example. The County Council recognised Invergordon as a permanent development with a stable workforce well integrated in the local community. Port Cam would be temporary, likely to employ a large number of single men and generally they felt was more analogous to the development at Nigg Bay which had required a similar increase in the local police force.

Medical Services

The local medical services were already used to capacity. The applicants undertook to provide first aid facilities with full time staff and contribute to the expansion of the local hospital at Broadford.

Overall the County Council estimated that the project would require capital investment of £3 million, and over £90,000 a year in running costs. The local authority were concerned that the increased rate revenue accruing from the development would not meet the cost of the expenditure they would be required to make.

Social Impact

The factors considered above are the more quantifiable aspects of what may be loosely labelled the infrastructure impact of the development. The effects of the proposed development on the local community and the "culture" of the area do not lend themselves to

quantitative assessment. The Sphere report reviewed the effects of the development in these areas . However, it could only, or perhaps even should only, be a qualitative assessment; as such it was openly subjective. Discussion on disputed "fact" may more easily be limited by the reporter but discussion of aspects of the development not lending themselves to quantification concurred or diverged depending upon opinion and difference of reference points themselves depending on different values, goals and ideologies. The Sphere reports findings were used in discussion on these matters but only as a starting point. The debate was open ended in fact. A ✓ considerable amount of time was spent at the inquiry on this type of discussion; the parties involved came nowhere near to even agreeing to differ on certain specific points. To avoid lengthy reiteration limiting the discussion to preliminary airing of views the reporter must be prepared to act as an effective chairman. At Drumbuie this was not done. Consequently the inquiry itself was seen by many even some of those participating to be unnecessarily long and repetitive. It is the reporter who must weigh up the arguments at the end of the inquiry rather than allow the parties to attempt to do this for him during the hearing.

The applicants engaged a Professor of Urban and Regional Planning and two planning consultants to present this more elusive qualitative side of their case but there was no consistency and no rigour inherent in their contributions.

The two consultants attempted to divert attention from examining the effects of the development on the immediate hinterland of Port Cam. "The proposals were inappropriate in scale and job diversification for South West Ross if the area was looked at in isolation but we are required to look at the proposal in the context of the Highlands of Scotland as a whole."

One of the consultants attempted to develop an analogy between the proposed development and the North of Scotland Hydro Electric Board capital projects undertaken in remote parts of the Highlands. Several studies had been done on these N.S.H.E.B. projects showing that they had had no adverse impact upon the local community. Objectors pointed out that in these projects the labour force was stable (unlike Nigg for example) and that their stay in the area was for a definite period. This consultant disagreed with the way in which the Sphere reports had set out ways of reducing friction without substantially justifying that friction would occur.

Professor Nicols' evidence was particularly discursive. Early in his contribution he stated that he would "discourage development at Loch Carron except as a last resort." The South West Ross Action Group (organisation of local objectors) stated nine main objections to the proposals. On their first that the project would "trigger industrialisation and subsequent urbanisation of Lochalsh", Nicol replied that this was "rather a modest development unlikely to have this effect and...in scale with the potential of the area." He also offered the opinion that the local culture was not as fragile as these objectors suggested. On this point the only evidence proffered by the applicants were the N.S.H.E.B. reports, Aberdeen University's Study of Invergordon and Stirling University's Study of the Fort William Pulp Mill. The objectors demonstrated that the proposed development was of a different nature and certainly the Chief Constable's evidence related to Nigg seemed to support this assessment.

The Social Development Officer for the County Council, giving evidence on the social and cultural impact of the proposed development described the "gemeinschaftlich" attributes of the local community. Although Tönnies has been largely discredited by

sociologists, within this concept a development of the nature and scale proposed would trigger profound social change.

Employment Impact

The applicants through various witnesses, notably Mr Martin (a "planning" consultant) sought to present the advantages of the development on the employment situation. Mr Martin demonstrated that the population of the area was imbalanced. In Drumbuie in particular although the population was very small 33¹/₃% were over 65 and 33¹/₃% were between the ages of 45-64. They concluded that as with other remote rural areas the younger people were moving away because of lack of opportunity. In this respect, they said, the development would have a beneficial effect in the local community.

The Assistant County Planning Officer using statistics compiled by H.I.D.B. in 1972 countered the applicants' arguments. At that time the potential male labour supply was 22. In January 1974 DHSS statistics showed that there were 33 unemployed in South West Ross with an addition of 10 in Loch Carron district and 23 in Kyleakin area. Of this total of 66, 40 were likely to be employable though not all within daily travelling distance of Drumbuie. The planning department had estimated that over the next few years approximately 170 jobs would be provided in a variety of projects, including BUTEC, an H.I.D.B. advance factory and an experimental fish farm. Although this number of jobs was not guaranteed, the ones that did materialise would be of a more permanent nature than oil rig construction.

Several local businessmen expressed fears of losing their employees to the development because of the wage differential that would exist. The Forestry Commission was worried about the effects on their

operations. They had already been severely disrupted by the loss of foresters to the east coast projects. The Commission had a national wage rate which was unable to compete with the pay-rates offered by the contractors.

The County Council admitted that there was hidden unemployment in South West Ross due to the tendency of youth to move away. But very few jobs would be available at Drumbuie to those with a higher education. Drumbuie it appeared would solve the problem of age imbalance but would probably provide another linked to social polarisation.

The project would induce a doubling of the population of South West Ross. The County Council feared that the local employment structure would become dependent on this one industry and its cessation or even temporary discontinuance would cause severe economic hardship. They were in favour of economic development of South West Ross but preferred to see the introduction of several small scale projects.

In closing their submission Ross and Cromarty pointed to the problem the inquiry and indeed all planning activity concerned with North Sea oil is facing - uncertainty. Thus, "In conclusion the advantage or benefit from the site at Port Cam was speculative. The harm and the cost of it were certain. A certain loss should not be preferred to an uncertain gain."

That concludes a review of the case presented by the applicants and the counterarguments of the National Trust and the County Council.

An important aspect of the inquiry which may have made it unique was the nature of the involvement of Central Government departments and agencies. In the memorandum (St. Andrew House 1958) guiding procedure at inquiries Para. 10 states, "The policy of Government Departments is however a matter for which Ministers are responsible to Parliament and cannot be dealt with by officials appearing as

witnesses at inquiries. This was not adhered to in the Drumbuie inquiry; the partisan nature of the evidence given by the Department of Energy in particular gives some insight into the importance attached to this development in high places, and simultaneously raises questions related to the "openness, fairness and impartiality" (Franks report) of public inquiries.

DEPARTMENT OF ENERGY

The increasing importance of energy policy precipitated a re-organisation at central government level during the period of the inquiry. The responsible ministry now became the Department of Energy in succession to the Department of Trade and Industry. The position of the Department of Energy and its predecessor regarding the matters discussed at the inquiry will be looked at later in the paper. What concerns us here is the way their case was conducted at the inquiry, for it was done so in a way which aroused some controversy.

The opening witness for the Department of Energy stated that the Department had been asked by the Scottish Office to give evidence on the national economic interest to assist the reporter. The Department "saw it as their duty and accepted."

The witness stated that government policy was "to extract the oil as quickly as was commercially practicable....and to ensure through the OSO that British industry got as much of the business of supplying equipment and services for NSO as possible".

The Department of Energy emphasised that during recent months the Balance of Payments had deteriorated and that it was of prime importance to avoid spending money abroad. A subsequent witness for the Department of Energy after visiting Norway had estimated that by 1977 Norway could only build four deep water concrete

gravity platforms on the two sites available. How many of them would be needed for work in Norway's own fields is not known, but it was established that Norway was in no position to supply Britain with more than a couple of platforms by 1980. Norway is ✓ the only other country with natural resources suitable for building this type of platform which seems to indicate that the effects on the Balance of Payments resulting from a refusal to allow Drumbuie planning permission would not be as bad as the Department of Energy's first witness had suggested.

In a Department of Energy memo produced at the inquiry there had been no mention of delay in production having serious consequences. Yet at the inquiry "The National interest required that two deep-water platforms a year should be produced in the U.K. This was not only in order to save foreign exchange but in order to produce oil quickly. The real risk was that if Drumbuie was not available oil would flow less readily". Because of their conception of the Balance of Payments situation the Department of Energy felt that oil should be extracted as quickly as possible with British-made equipment.

The Department of Energy extolled the virtues of Condeep in their memo for deep water conditions to the virtual exclusion of every other type of platform. On what did they base their judgment? A Department of Energy witness admitted, "I cannot pretend that I can answer detailed questions which would imply that we in Government do over again the work which extremely experienced highly specialised members of the construction companies have already done, this is not something that Government can do, but what we can do is to form an informed judgment on the basis of the evidence before it." In other words because of their lack of ✓ technical expertise the Department of Energy was greatly influenced

by what the contractors told them. They appear to have been greatly influenced by Mowlems in this case; and the question arises as to how far the Department of Energy were presenting the applicants' case for the second time rather than the case of National Economic interest.

The Department of Energy's case stated that on the basis of 50,000 barrels a day production per platform to achieve the Government's target of 100 million tons a year by 1980 we would need to build ~~40 more~~ platforms of which 50% would be of the gravity design and 50% of that total, i.e. ten, would be for deep water. They proposed that Drumbuie should become a duplex site capable of producing those ten platforms by 1980. The Department of Energy was not only supporting the applicants' case but attaching greater importance to it than the applicants themselves did. No-one stated whether these ten deep water gravity platforms for 1980 required to be soft bottom or hard bottom designs. This is a crucial question for there is nowhere in Great Britain other than Loch Kishorn Carron Hurn area where it is possible to complete a soft bottomed gravity structure to operate in depths in excess of 500 feet. However it is possible to complete hard bottomed designs on the Clyde. McAlpine can build at Ardyne for that depth. Taylor Woodrow's Chief Designer stated at the inquiry that it was possible to build gravity platforms on the Clyde for operation in 550-600 feet of water. These points are important for they challenge the uniqueness of Drumbuie coupled with the uniqueness of Condeep which is the lynch-pin of the applicants' case.

A recent civil engineering journal tends to challenge the Department of Energy's average platform production of 50,000 barrels a day; for many of the more recent designs production can be increased to 100,000 barrels a day. This higher production figure would increase

the average platform production rate and reduce the estimated number of platforms required by 1980.

To assist in the presentation of their case the Department of Energy commissioned three site selection and feasibility studies (Crouch and Hogg Reports 1-3). These reports were submitted in evidence to the inquiry and it may be useful to note here that the first report concluded that Loch Hourn Loch Carron/Kishorn and Loch Broom were all suitable for production of the Condeep soft-bottom design.

The Department of Energy's case was not well presented at the inquiry. There were several contradictions between the opening witness and his subordinates. Mr Bullock had stated that developers need four times as much land for steel platform sites compared with concrete sites. This was corrected to two times. Similarly Mr Bullock estimated that within the next twelve months 15-17 platforms would have to be ordered, whereas a second assessment from this subordinate produced the figure of 11. They were not on fundamental points but the inconsistencies were exploited by the Dean of Faculty representing the National Trust in a successful attempt to reduce the credibility of the Department of Energy's case. Certainly Mr Bullock gave the impression of having read a brief on the journey north and little else.

What is the significance of the Department of Energy's intervention? The stated purpose of any public inquiry is to "inform the Minister's mind". Discussion of Government policy is normally conducted by the Secretary of State for Scotland, the Minister responsible, after the inquiry and before he makes his decision. Yet the implications of this development for national Government policy were considered by the Department of Energy to be so important as to warrant their

discussion of such matters at the inquiry. The Department of Energy said they were invited by the Secretary of State for Scotland to present their view of Government policy at the hearing. Whether they were invited to do so or not is a matter for some speculation; for by doing so they encroached upon the Secretary of State for Scotland's responsibility for being the sole determiner of the case in the light of national considerations, thereby significantly changing the nature and stated purpose of public inquiries in this case.

It has been said unofficially by some civil servants that the Department of Energy presence at the inquiry caused some conflict between various offices within the Department. The nature of this conflict is not easy to determine but it appears that various offices of the Department in Glasgow were opposed to the development of Port Cam and that intervention in the inquiry was initiated and carried through by the London office against their wishes.

The Department of Energy's contribution to the inquiry seemed to reflect a feeling that from their consideration of the case the need for the development to go ahead was imperative for the implementation of national energy policy, and that to intervene in this way would add weight to the developer's case and ensure the granting of planning permission. When so much importance is attached to the need to grant planning permission by a government department the impartiality of a public inquiry is seriously impaired and the credibility of an accepted form of decision making adversely affected. ✓
That the quality of presentation of the Department of Energy's case was openly criticised and their admission that technical evidence was supplied by the contractors lends weight to the argument that they were not motivated to appear as a result of independent assessment of the issues involved but rather being uncritically influenced by the information they received from the developers decided to act as advocates for Taylor Woodrow and Mowlem.

H.I.D.B

In a letter to Ross County Council of 18th October 1973 the H.I.D.B. said "We make no attempt to assess the degree of weight which should be given to the national interest in oil related matters. Such a weighting of the balance of urgency and advantage must be the responsibility of Central Government. We confine ourselves to the regional considerations which lie within the scope of our remit."

The speed of development on the Moray and Cromarty Firths had caused the board to formulate new policies for the West Coast. They had decided that a "balance of development" was required. Their plans envisaged an increase in population in South West Ross of 4,000 from 2,000 to 6,000. This new level of population would, they said, act as a "counterweight" to the increased levels of activity on the East coast. There was little evidence to substantiate their assertion that the west coast was like a vacuum. Certainly young people were moving away but the majority were going much farther afield than the east side of the County.

A comparatively large scale development, their Chief Planner said, would close "the credibility gap". Professor Nicol considered that the infrastructure provided for a large scale development would attract smaller industries. However, a local witness with experience of the Dunreay development testified the fact that unemployment was worse there now than before the project was started and that for the first 12-14 years of the reactor's existence no new industry had been attracted to the area. The Chairman of H.I.D.B. stated that "the board thought that small scale industrialisation was appropriate for the area. The Drumbuie project was larger than they had hoped for but they had been unable to set up small industry."

They must use this project as a means of building up small-scale industry. Had the change of policy in South West Ross been precipitated by the application more than by events in Easter Ross? Certainly the growth point policy in the Kyle Peninsula had not been a great success between 1966 and 1973. H.I.D.B. had made grants totalling £58,000 to established businessmen in the area with no resultant increase in employment.

As has been stated earlier the H.I.D.B. surveyed the South West Ross peninsula for land suitable to house the proposed increase in population. The results of this search were very much at variance with the information held by the County Planning Officer.

The H.I.D.B. also proposed the formation of an ad hoc body to have administrative control of the land required for the main projects and for the infrastructure, relating them to the needs of other industry. Cynically this may be construed as an abdication of their stated responsibilities in the area and insurance for continued credibility. If after supporting the idea of the development it should subsequently fail, they then would be in a position to insulate themselves from the failure. This view has been countered by a member of the board's staff who stated the H.I.D.B. wanted to do the job of the organisation they were suggesting should be set up but did not want to be seen as "Empire Builders".

COUNTRYSIDE COMMISSION

This was the third of the Central Government agencies which stayed the course of the inquiry. (The Ministry of Defence backed out early on after they had seen their objections satisfactorily answered.) The Commission's chairman stated that their principal aim was to develop facilities for the enjoyment of the countryside and more generally to "have regard" to balanced social and economic development of the countryside.

The Commission objected to the proposed development on three grounds:

1. its disruption to the landscape
2. disruption to employment, social structure and quality of life
3. disruption caused by such things as the extraction of aggregates and the use of roads.

Commenting on the sites that had been proposed Mrs Balfour said that they opposed development of Loch Hourn - a remote area which should be retained as such. Loch Kishorn was less acceptable from the scenic and environmental standpoint because of the lack of a railway to the site. Loch Hourn and the Crowlin Islands evoked their objection because they thought it wrong to incarcerate the work force. The sites suggested Drumbuie was the most acceptable but they were nevertheless strongly opposed to its development. However the Chairman stated that if the development did go ahead and as the Department of Energy had proposed there was likely to be two sites then the Commission were reluctantly in favour of a duplex site at Drumbuie rather than two separate sites in the area.

The inquiry hearing was concluded in Edinburgh on the 11th April 1974 almost a year after the applications had been formally submitted to Ross and Cromarty County Council. The proceedings had lasted 43 days, involved 76 witnesses and were estimated to have cost a little under £200,000.

The next stage of the inquiry was a formal site visit by the reporter accompanied by the representatives of the parties involved. This took place on May 8th, 9th and 10th.

Thereafter the reporter had to undertake the mammoth task of collating the 7½ thousand pages of evidence into a summary report -

Part I of the inquiry. Part I together with 222 "findings of fact" was made available to the parties to the inquiry on May 29th and on June 17th the reporter held a meeting which gave the parties the opportunity of making representations if they disagreed with the "findings of fact". Issues concerning rateable value were raised at this meeting but there was no dispute over the reporter's "findings of fact".

The reporter then had to present his report (Part II) to the Secretary of State. At no time is there any informal contact between the reporter on the one hand and on the other the Secretary of State or civil servants from the departments concerned- in this case the S.D.D. The inquiry under the chairmanship of the reporter provides the verbatim notes of the inquiry proceedings, the summary of the proceedings Part I, the findings of fact and Part II as the information to "inform the Minister's mind".

In Part II the reporter firstly reviewed the applicants' case - he was prepared to accept that Port Cam was the best site from their point of view: "Port Cam is outstandingly the best owing to the nucleus of available infrastructure, and its consequent relative cheapness both to construct and operate". What he could not accept was that the Condeep design is an essential part of the oil extraction programme. He thought it significant that not one representative of any oil company appeared at the inquiry to state that the programme would be delayed if the Condeep design could not be built in the U.K. or to state how many Condeep-type structures they would require.

He was not satisfied that he was fully informed of Government policy. There was a change of Government during the inquiry and a significant change in the Balance of Payments position due to the increase in the price of crude, but he said that no evidence was led that there was a further change in policy.

It appeared that the reporter had considerable sympathy for the objectors' case. On visual amenity he agreed with Mr Graham, the applicants' expert on the visual impact of industrial development, when he said "No one in their right mind would use the Port Cam site for such a project unless there were overriding factors."

On noise he agreed with the applicants that the standards laid down in the Wilson report might must be met. But these applied, he said, to the public at large. He preferred to apply the standards of the common law of nuisance where noise is measured against the standard of comfort in a particular locality. "I am of opinion that the inhabitants are likely to be subjected to a nuisance at common law as a result of the project."

On assessing the impact of the development on the existing social structure the reporter made no effort to disguise his lack of impartiality. It is worthwhile quoting him at length. "Into this scene of happiness and innocence it is proposed to introduce 700-800 men - twice the number of young men in the Kyle Peninsula - whose background and life style would be totally different. They would largely come from the industrial south and many would be concerned solely with the earning of high wages and in their expenditure upon drink and pleasure of a more primitive kind. In so far as they were interested in the local activities I have described, they would tend to swamp these activities. As events in Easter Ross have demonstrated there would be immorality, crime and drunkenness. Doors would be kept locked and children under restraint. The "caste system" common in industrial communities would conflict with the outlook of the present inhabitants. Sunday working would give offence to many of them." It is difficult to reconcile such a statement with the stated role of the reporter.

In conclusion on the social effects he stated, "The way of life of the present community would not survive the impact of the project and would never be the same again. In my opinion this is too high a price for the nation to ask of South West Ross even if the national interest were more compelling than I have understood it to be."

On the economic effect he concluded that even if the project were to last for 10-15 years its eventual withdrawal would cause a serious drop in local business of all kinds. Moreover it would be unlikely that a replacement industry of similar size would find the area attractive.

On infrastructure he understood that the project would be in full swing within a year whereas the necessary improved infrastructure could not be completed for 2 or 3 years after the project had begun. He came to the conclusion that there was bound to be an intervening period of chaos "when the roads would be inadequate to cope with the traffic, the housing shortage would be serious, secondary education would or might suffer as a result of overcrowding and the hospital facilities would be inadequate."

The reporter regarded the inalienability of the National Trust land to be a speciality of the case. In Scotland there is no precedent for obtaining planning permission in respect of such land. (Perhaps the inquiry itself had created precedents.) However he decided it appropriate to consider fully the alternative sites proposed (despite the fact that the whole decision-making process was concerned with determining planning permission on the Port Cam site alone.)

To assist the reporter in his consideration of the alternative sites S.D.D. had commissioned a second Sphere report which used the "matrix" (developed from the U.S. "leopold matrix"). On this the

reporter said "I regard this system as misleading because the weight put by the assessor on each item is entirely subjective; the assessor can reach any result which he consciously or unconsciously desires. Further a serious omission from the matrix is the element of social and cultural impact. I propose to ignore the matrix system." (The contribution of impact analysis to public inquiries will be looked at in more detail in a later chapter.) He concluded that all of the proposed alternative sites were suitable if the value of the existing situation was increased in the trade off with contractors requirements.

In conclusion the reporter stated "I feel that far more will be lost to the nation by granting planning permission than might be lost by refusing it. A certain loss should not be preferred to an uncertain gain. I recommend refusal of the applications."

What happens after the submission of the reporter's findings and the evidence of the hearing and before the Minister's notification of the decision is a matter for some speculation. The actual decision making process after the reporter has finished his job is not made public. Crossman, Minister of Housing and Local Government, in the 1964 Labour Government has given some insight which is rather disturbing. "Technically every single planning decision is taken personally by the Minister although in fact in nine cases out of ten I do not really deal with them. But when one is important enough for me to deal with, how do I take the decision? There is no law here, no mass of legal precedents - decisions are taken basically in terms of common sense personal judgment." Perhaps it is the case that not every Secretary of State responsible for planning inquiries has the same dilemma but this statement contradicts

the impression given by reports, circulars and memoranda on public inquiries which imply that the Minister on the basis of the relevant goals and objectives (explicitly derived from Government policies) rationally evaluates the evidence presented to him by the reporter.

Drumbuie however was a special case. Two Secretaries of State for Scotland were in office during the inquiry proceedings and they made reference both in the House of Commons and outside it to the progress of a public inquiry the outcome of which was to directly affect the implementation of Government policy on Energy and the Environment. The Secretary of State for Energy took an interest in the proceedings; whether he attempted to affect the decision in his favour after the inquiry as much as he did during it is not known. But overall Crossman's statements point to an extraordinary dichotomy inherent in the decision making process. The inquiry itself is subject to constant scrutiny. The incidence of the Franks Committee and the Dobcy Report (DoE 1975) give some indication of the Government's concern to foster the public trust in those aspects of planning decision taking they have access to. Whereas the actual decision making taking place after the inquiry appears to be at best pragmatic. ✓

The Secretary of State for Scotland in his decision letter stated that he "has had to take account of the national interest as regards the need for oil and the need to secure for the U.K. a significant place in the market for building oil production platforms." ✓

He disagreed with the findings of the reporter on the following points:

1. Effects on Social Structure - did not accept as a general argument that the area as a whole would necessarily be incapable of absorbing incoming population

2. Impact on Local Economy - did not accept that the likely effects on local wage rates and the pattern of economic development was in itself an argument for limiting development

3. Costs of Infrastructure - The reporter had concluded that the capital cost of such provision would be in the region of £3 million and considered that it was not equitable that contractors should be able to acquire such facilities at Port Cam if the ratepayer and taxpayer had to contribute such a large proportion of the necessary costs. Though the Secretary of State pointed out that this is the consequence of any large scale development and would have to be accepted if the development was appropriate in other respects.

Rather ambiguously the Secretary of State seemed to be saying that any one of the specific grounds of objection proposed by the reporter would only become a contribution to an overall objection if the other factors considered by the reporter were accepted as objections!

"After careful consideration of all the aspects of these applications and of the recommendation of the reporter, the Secretary of State has concluded that planning permission should not be granted." This statement came at the end of the Minister's decision letter of 9th August 1974 - sixteen months after the original applications were placed.

Though that statement marked the end of the inquiry its incidence had widespread consequences. The chief criticism of the inquiry had been the delay in decision making. Delay was caused by a number of circumstances which will be the subject of following chapters.

The Majority of individual criticisms of the Drumbuie Public Inquiry were concerned with the amount of time taken by the inquiry to run its course. Before any changes can be made to the inquiry process which might effectively answer these criticisms it is essential to determine the extent to which this delay is due to inadequacies in the procedural provisions for a public inquiry rather than to other factors.

An initial assessment of the Drumbuie inquiry indicates that there are three probable causes of the delay:

(a) Inquiries normally take Government policy as a reference point.

In the Drumbuie inquiry policy itself became a major aspect of discussion. (The significance of Government policy for the inquiry process will be considered in Chapters 6 and 7.)

(b) The quality and amount of available information may have been inadequate, causing prolonged discussion on topics which may otherwise have been more quickly dealt with:

1. The quality and amount of information available, particularly prior to the inquiry hearing, is important

2. The use of impact studies at public inquiries should be considered with a view to making them more effective (see chapter 5)

(c) The established public inquiry procedure may have been unsuitable (see conclusion).

This chapter is concerned with the nature of the information available for public inquiries and the Drumbuie inquiry in particular; and secondly with a review of the suggested reforms to public inquiry procedure. Information is the raw material of a public inquiry. As such information and inquiry procedure are dependent upon each other, for it is unlikely that reforms intended to improve the process

will become effective unless the changes are designed to affect both the information flow and the way it is handled by the inquiry process.

Dr Francis (Church of Scotland 1974) considers that the lack of comprehensive information being available at the Drumbuie public inquiry to be an inevitable situation in the rapidly changing circumstances affected by North Sea Oil developments. "Decisions involving millions of pounds and many people have to be made with incomplete data about the total North Sea potential and its location. Inevitably there are periods of policy gestation where premature publicity would be of benefit to mainly rivals and speculators. It is unfortunate but perhaps inevitable that this periodic reticence is sometimes regarded as prevarication." Dr Francis is referring to the reticence of developers whose reluctance to provide information may stem from the present lack of safeguards in the public inquiry process available to those who feel they hold information which should remain confidential.

For different reasons the Chief Planner in the SDD (Lyddon 1974) appears to have accepted the situation related to North Sea Oil development, where planning is conducted on inadequate information. He has christened this situation "Planning with Uncertainty". This uncertainty is based, he states, on a rapidly changing situation which affects and is affected by:

- (a) the rate of development
- (b) the burden on communities
- (c) the changing economic significance of oil
- (d) the scope of development
- (e) secondary effects

With direct relevance to the Drumbuie applications Lyddon feels that planners working in such a situation have great difficulty in

assessing the balance of effects of depopulation versus industrialisation. The assessment of this balance may be seen to be the hub of the problem dealt with by the Drumbuie inquiry. How can public inquiries be run effectively if this is the state of affairs?

Dobbie (Department of Town and Regional Planning Dissertation 1973) suggests that these characteristics of oil related development require changes in the planning process in an attempt to reduce the uncertainty and improve the quality of decision taking. She suggests:

- (a) Explicit national and local strategy plans
- (b) Flexibility to cope with new demands
- (c) Speed up of decisions including a more positive policy

To some extent (b) contradicts (a) and it is one of the main assumptions of this paper that improvements in explicit Government policy on oil related development will in themselves bring about a speeding up of decisions.

Lyddon also felt that the length of time decision taking involves on oil related development is crucial because "It can be costed directly in terms of adverse effects on the Balance of Payments."

Lyddon, therefore, sees two problems concerning planning decisions related to North Sea Oil development: uncertainty and time taken to reach decisions. If we accept that these two problems are interrelated - in that if uncertainty is reduced then the time taken will be reduced - the problem then becomes one of attempting to understand the components of this uncertainty. With a greater understanding of uncertainty the concept of planning with uncertainty may become less problematical.

Friend and Jessop (1969) see the concept of uncertainty in strategic decision making as having three components:

"1. Uncertainties in knowledge of the external planning environment including all uncertainties relating to the structure of the world

external to the decision making system in the local government context. This may be seen as including the entire physical, social and economic environment of the local authority concerned, and also all uncertainties relating to expected patterns of future change in this environment and to its expected responses to any future intervention by the decision making system.

2. Uncertainties as to the appropriate value judgments including all uncertainties relating to the relative degrees of importance the decision makers ought to attach to any expected consequences of their choice which cannot be related to each other through an unambiguous common scale - either because the consequences are of a fundamentally different nature or because they affect different sections of the community or because they concern different periods of future time.

3. Uncertainties as to future intervention in related fields of choice including all uncertainties relating to the choices which might in future be taken within the decision making system itself, in respect of other fields of discretion beyond the limited problem which is currently under consideration."

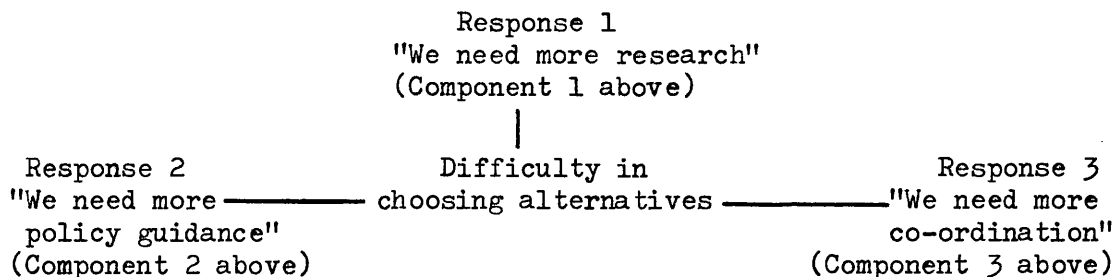


Fig. 1

It has been argued above that delay in public inquiry decision making (especially related to oil development) is caused by a scarcity of information and that the quality of that information is severely

affected by uncertainty. If the components of uncertainty in strategic decision making distinguished by Friend and Jessop are accepted, then it may be seen that if the responses outlined in Fig. 1 (above) are followed there will be at least a containment of uncertainty which will indirectly contribute to a reduction in the time taken by the public inquiry process. Response 1 may involve the commissioning of an impact study (see chapter 5). Response 2 may lead to an improvement of local and central government strategies and policies, and a greater degree of explicitness. So that those who are involved in a public inquiry are clearly aware firstly of the policy guidelines within the context of which the inquiry operates and secondly the criteria to which the inquiry should refer. (see chapter 6). Response 3 within the field of strategic decision making relates to the factors a Secretary of State must take into account when he is faced with a series of public inquiry decisions affecting a particular region. Within the scope of a particular public inquiry, however, this type of uncertainty may be reduced by a full exchange of available information by all the parties to the inquiry. Proposals to effect such change will be the subject of the next part of this chapter.

Well before the Drumbuie inquiry the Government had begun to realise that the changes to the public inquiry system introduced after the Franks report had not answered all the criticisms. The Select Committee on Scottish Affairs 1971-1972 session (Land Resource use in Scotland Volume I paragraphs 192-214) accepted that problems were being exacerbated by the delay in public inquiry procedure. In 1973 a White Paper (Cmnd 5428) recommended that a committee should be set up to examine the existing inquiry procedures and to recommend how they could be strengthened. It continued "Government accepts that inquiries take too long and they are intensifying their

efforts to expedite decisions. In the Government's view the most significant improvement would be achieved by the circulation of written evidence in advance of the inquiry and brevity in all expressions and cross-examination at the inquiry."

The recommendation of the White Paper was taken up in October 1973. Dobry was appointed to conduct a review of the whole of the Development Control System (HMSO 1974). Dobry saw development control as "the most important of all instruments of planning." Dobry's conception of the role of development control drew criticism from those planners who regard development control as a negative aspect of planning - dependent for its effective function on the much more important plan and policy formulation. "He (Dobry) regards the overloading of the development control procedure not as a condemnation of the present state of planning to be urgently remedied by the motivation of its positive instruments but as a given condition to be alleviated by changes in that procedure, some of which would not be necessary and could not be justified if it were required to deal with only cases that fall within its legitimate sphere." (Senior 1974)

Public inquiries are recognised by Dobry as one of the tools of development control thus falling within the scope of the review. Because of the pressure of concern, about delays over applications and appeals, Dobry was asked to provide an interim report by the beginning of 1974. This first report drew further criticism from Senior because it did not concern itself with an evaluation of the role of inquiries in planning decision making. Dobry takes this criticism and in the final report (HMSO 1975) suggests that Central Government should review existing circulars and prepare itself to give clear up to date and prompt guidance to local authorities and to reporters.

Using Friend and Jessop's tripartite typology of uncertainty this chapter is principally concerned with a review of the proposals which will provide greater co-ordination. In more general terms it has already been stated above that uncertainty stems from a deficiency of information. Accordingly Dobry's recommendations on public inquiries will, if implemented, have the effect of increasing the information flow at the pre-inquiry stage.

Policy guidance is supplied to reporters in their pre-inquiry brief. It consists in part of a summary of central Government guidelines (if they are available) applicable to the development under consideration. Dobry suggests this guidance should be made public. This would help the parties to the inquiry to gain some understanding of the policy context within which the development will be decided.

Dobry proposes the use of pre-inquiry meetings in significant cases for the purpose of:

1. Exchange of documents
2. Agree facts and endeavour to agree what the issues are
3. Draft a proposed programme for the inquiry where appropriate
4. Investigate whether the appeal or some form of the outline in dispute can be disposed of consensually.

Such a series of meetings prior to the Drumbuie inquiry may have reduced the time taken but to what extent is difficult to say. To have all the facts relevant to the submissions available before the inquiry may be appropriate in a static situation. But as has been stated above the nature of the North Sea oil development contributes to uncertainty in the planning process and given even the full co-operation of the developers, in such a rapidly changing situation it may not be feasible to have all the information on which the decision is to be based available before the inquiry opens.

In his final report Dobry distinguishes "Class A" and "Class B" type planning applications. "Class A" decisions rarely go to inquiry and are normally the sort to be settled without complication by the local planning authority. "Class B" applications are characterised by :

1. proposals which require an impact statement
2. conflict with scale and character of a site's surroundings
3. provide public concern or controversy on true planning grounds.

Dobry sees the purpose of impact statements as "to ensure that the applicant fully appreciates the environmental consequences of what he proposes and makes it clear to others" (Impact studies which may be seen as a response to Friend and Jessop's first component of uncertainty will be discussed in chapter 5).

Dobry makes six recommendations on the conduct of inquiries into "Class B" applications:

1. The inspector should play a more active role, particularly in bringing out relevant facts and preventing time being wasted on irrelevant and repetitive matters.
2. Inquiries should be less formal and legalistic.
3. Wastage of time for example by cross-examination on matters of opinion should be prevented by the Inspector.
4. There is a need to reconcile the objectives of greater speed with the fullest participation by the public. To this end interested parties should be encouraged to give advance written notice of their case and there should be a power used sparingly to require them to provide and keep to a "Rule 6 Statement" (see chapter 7).
5. Local planning authorities "Rule 6 Statements" should be served five weeks after the appellant's papers are complete and the appellant's statements of submissions three weeks thereafter. The date for the inquiry should be confirmed at the end of a further two weeks.

6. Inspectors should have power to order an exchange of proofs of evidence and to order that an attempt be made to agree a statement of fact before the inquiry starts.

On a relatively minor point it is difficult to reconcile proposal 2 (above) with any of the others. Of more important consideration, taking Dobry's proposals for pre-inquiry meetings and for the conduct of inquiries together, it appears that if implemented they would produce:

1. agreed findings of fact
2. an exchange of proofs of evidence
3. a programme for the inquiry ✓

If these factors could be achieved there is no doubt that comparative time wasting in inquiries such as Drumbuie will be reduced. In practice however it may be rather difficult to satisfactorily achieve these factors. Uncertainty may well be reduced but because of the rapidly changing nature of North Sea Oil development it cannot be eliminated. Dobry's proposals attempt to impose a static system on the public inquiry. If significant new evidence comes to light during the course of the inquiry, credibility will be lost if attempts are made to ignore it for the sake of administrative convenience.

SDD circular 14/1975 on public inquiry procedures was produced (according to newspaper reports) as a direct result of the criticism of the length of time taken by the Drumbuie inquiry. The guidance offered in this circular mirrors some of the proposals in Dobry - they were both published at the same time (late February 1975).

Both the circular and Dobry recommend the advance circulation of written evidence which will be used to lead evidence. The circular mentions the disruption that has been caused in the past by the appearance of "new" evidence after the inquiry has started. SDD is

not entirely innocent in this respect. At Drumbuie they circulated their second consultant's report midway through the proceedings. An attempt is made to overcome the reluctance of the oil companies to release confidential information before the inquiry. The circular suggests that such information should remain confidential until the inquiry is started.

On an issue peculiar to Scotland the circular states that those involved should "bear in mind that an inquiry into a specific proposal for one site cannot turn itself into an inquiry into assumed proposals for other sites." If the reporter feels such information proffered at the inquiry calls for serious consideration then it is up to him to adjourn the inquiry and notify the owner of that site.

Public inquiries are primarily intended to gather evidence to enable the Secretary of State to make a decision on development at a particular site. The consideration of alternative sites as at Drumbuie may have been seen as an unnecessary diversion from the business of considering the development and its relation to the site at Port Cam. If however the reporter has the opportunity to reconvene the inquiry to consider an alternative site when it first becomes significant then the experience of Drumbuie (where five other sites were inconclusively considered) may be avoided.

The circular recommends the use of a procedural meeting (Dobry's pre-inquiry meeting) the purpose of which "will be to identify the issues, to define the areas of agreement and disagreement between the parties and to determine the likely programme of the inquiry." In practice such a meeting may not be so tidy. Disagreement between parties may not be based upon a consensus framework with differences limited to the degree of disagreement. Opposing parties may look at the proposed development from dichotomous conceptual frameworks

seeing completely unconnectable issues as being of importance. For instance stances taken by the Department of Trade and Industry and the Countryside Commission - in such circumstances agreed findings of fact will be rather difficult to achieve.

The circular "hopes" that all concerned will "lend their support to the reporter" to avoid repetitive and irrelevant cross-examination. But if the opposing parties are assessing the applicants' case on the basis of unrelated objectives how is it to be decided when cross-examination is irrelevant? Local and central Government policy guidelines may have an important role to play in such a situation.

Perhaps as a direct result of the Drumbuie inquiry the circular includes a section on intervention by Government Departments. "Any departmental witness may be cross-examined on matters of fact or expert opinion, but the reporter will disallow any questions which in his opinion are directed to the merits, as opposed to the facts, of Government policy, because the proper place to raise such questions is in Parliament." If inquiries are to use Government policy as a reference point then it is important that participants at an inquiry should know what that policy is; in the case-study their only means of acquainting themselves with Government policy was to cross examine the Department of Trade and Industry witnesses.

The objectives of the proposed procedural changes to the public inquiry process may be seen as facilitating speedier and better quality decision making. If we accept that the criticisms of the process were triggered by delay caused by an inadequate information, then changes to the procedures will not in themselves produce improvements which will answer the criticisms. It is important to link the procedural changes with attempts to reduce uncertainty by improving the information flow. Three specific types of changes

(relating to Friend and Jessop's typology) have been identified:

- impact studies (see chapter 5)
 - policy guidelines (see chapter 6)
 - full exchange of evidence prior to the inquiry
- which has been considered in this chapter.

If these comprehensive changes to the information flow are implemented, linked to changes in the inquiry process, uncertainty will be contained and delay reduced.

Dobry's recommendations for improvement of the public inquiry system are intended to affect two distinct but interdependent aspects of the process. Firstly general recommendations for improvement of the procedures; secondly, realising that delay cannot be avoided by alteration to the procedure alone but is to a large extent dependent upon the quality and availability of information, he has made recommendations to effect changes to the information flow.

In particular Dobry proposes that in the case of certain applications (at the discretion of the local planning authority) the developer should be required to prepare an impact study. The purpose is to ensure that the applicant fully appreciates the environmental consequences of what he proposes and makes it clear to others. The impact study would be expected to deal with the proposed development's effect on:

- (a) traffic, roads and public transport
- (b) foul and surface water drainage
- (c) publicly provided services such as schools
- (d) the appearance of the neighbourhood
- (e) employment
- (f) noise and air pollution

"Other aspects might include:"

- (a) whether the development or its location constitute a hazard
e.g. fire risk
- (b) whether it is likely to trigger off other development
- (c) investigation of alternative sites

This study would then be used at the pre-inquiry meeting as a basis for discussion hopefully leading to agreed findings of fact.

These proposals raise one very serious consideration. Should it in fact be the developer's responsibility to prepare the impact study?

1. The applicants for planning permission are likely to know more about the nature of the development but at the same time they would also be likely to take the opportunity of presenting their case as favourably as possible.
2. The local authority will know more about the environmental and planning considerations involved in the proposed development, but it is probable that they will be involved in any subsequent public inquiry. In such a situation will they prepare an impartial impact study?

In view of this potential dilemma and if impact studies are to become a regular feature of the more important inquiries is there a case for the formation of a section in SDD whose function it would be to prepare impact studies? Such a suggestion may itself be open to criticism. The Scottish Office providing the reporter and the assessment of the reporter's report for the Minister would also be ordering the issues to be raised at the inquiry.

If the parties to the inquiry could agree a remit would the criticisms be answered? Impact studies prepared at the request of a particular party to the inquiry will reflect the objectives of that party, particularly if that study attempted evaluation.

The initial impact study for Drumbuie was commissioned by SDD and prepared by a firm of consultants, Sphere. The remit asked Sphere "to analyse the impact of proposals upon the physical environment on the surrounding communities, to indicate any planning or other conditions that would minimise particular adverse impacts; to indicate any matters requiring further study; and to suggest any environmental considerations that should be monitored in the event

of planning permission being granted."

The purpose of the report was to assist Ross and Cromarty County Council and the Secretary of State for Scotland to consider the planning applications with the fullest possible knowledge of the many local implications of the possible developments.

The study, based on information from the developers, the County Council, Government Departments and local survey, included a description of the proposed project, of the existing situation in the South West Ross peninsula under the heads of economic activity, infrastructure and social structure, an analysis of the potential impacts and general recommendations including planning conditions, monitoring, amelioration of adverse impacts and further studies which could be made.

At the time preparation of the study was under way even the developers were unsure as to which of the two proposals would go ahead - Taylor Woodrow to build their design or Mowlem to build the "Condeep" type of platform. The analysis of impact was prepared on the basis of partial information supplied by both applicants.

However as the inquiry progressed the developers were required to provide more information. Parts of the information on which Sphere based their study thus became dated during the inquiry as new evidence was brought forward, with the result that some of their evaluative work appeared to be distorted.

For example, at the time the Sphere report was prepared no details had been supplied by the applicants as to where and in what numbers the men would be housed. Consequently the impact study had only been able to make a rough estimate on traffic generation. On the basis of fuller information on possible housing locations coming to light during the inquiry, the County Surveyor estimated that double the number of daily journeys quoted in the Sphere report would occur. Thus the Sphere estimate on traffic generation appeared inaccurate. If impact studies are to be used effectively in future inquiries it is essential that those preparing the study should have full access to relevant information at the time of preparation. It is often the case however that industrialists are reticent about revealing company "secrets" for fear of disadvantaging themselves to their competitors - the problem of confidentiality must therefore be resolved.

The Sphere report was not linked to a series of meetings between the parties involved prior to the inquiry. Such meetings could have produced agreed findings of fact which would have saved a deal of time at the inquiry. Instead the impact analysis merely became a reference of issues to be raised at the inquiry - which witnesses would acknowledge in their evidence but then proceed to give their assessment of the accuracy of the study. Too often the Sphere report itself became the subject of discussion.

The Sphere report suggested that five other studies may usefully be made:

1. Platform sites - comparative study
2. Social survey - Loch Carron site
3. Economic impact survey of local area
4. Effects of discontinuous operations
5. Local employment potential

If impact studies are to be more effective then there is a strong case for including in the one study a survey of the economic, social, physical and environmental impacts of a proposed development. By broadening the scope of impact studies the quality of decision making may be improved. But at the same time the other objective for instituting impact studies, namely to reduce the time taken by public inquiries, may be frustrated. The Sphere study took 68 man days to complete. Impact studies of broader scope would take even longer (and be proportionately more expensive). If impact studies are in the future to contribute to the two objectives of better quality decision making and a shortening of the public inquiry process, a trade off has to be made at the stage of preparation between the scope and sophistication of the impact study on the one hand and time taken on the other. ✓

The Drumbuie application was for outline planning permission only. In such a case, even given full co-operation on information by the developers, a detailed impact study will be difficult to produce because the applicants themselves may not at the pre-inquiry stage have considered all the details of the development, nor are they at present required to do so for the purposes of outline planning permission. For instance each platform they proposed to build at Port Cam would require about 190,000 tons of aggregate. Such a resource demand may have more environmental impact than the construction site itself but because the developers were undecided about the source of aggregate this issue could not be adequately dealt with by the impact study.

To improve the effectiveness of the use of impact studies in the public inquiry process there should be:

(a) agreement between the parties to the inquiry on the scope and remit of the impact study

(b) a full exchange of information between the parties at the time of the preparation of the impact study

(c) a series of meetings prior to the Inquiry hearings to establish "agreed findings of fact."

During the week Gordon Cameron was outlining the proposals for the "Land Grab Bill" (week ending 1st February 1974 - see chapter 7), The Secretary of State commissioned a comparative analysis of eight potential sites in the Loch Carron area with the intention of producing a ranking of sites, paying regard to the environmental point of view. The report appeared at the inquiry without warning early in March 1974. This is the sort of situation Dobry wishes to avoid. The "new" evidence disrupted the inquiry which had to be adjourned to give the parties an opportunity to study the report ("Sphere 2"). Its appearance also provoked the objectors to request of the Secretary of State an abandonment of the inquiry in favour of a public inquiry commission.

Following the evidence led by the Department of Energy this second Sphere study was carried out on the assumption that two sites would be required in the Loch Carron area, possibly a duplex site at Port Cam. Such a project they considered would go beyond the threshold of additional infrastructure attached to the existing settlements; it would require a new village, administered in part by a new authority of the type proposed by H.I.D.B.

The analysis included a ranking of the eight sites using a matrix analysis. Sphere admitted "The process of drawing up categories in the matrix involves a number of fairly arbitrary decisions about the relative importance of various factors." Not surprisingly the quality of the second Sphere report attracted adverse criticism. "A matrix system of assessing the impacts in regard to each alternative site was valueless because it could reach any result which the person making the impacts desired The reporter should draw the attention of the Secretary of State to the factors omitted and it should be treated as a dangerous document." (Dean of Faculty in his closing speech) The Reporter in his report was deeply

suspicious of the subjectivity of the matrix system of analysis and decided that he would "propose to ignore the matrix system."

These criticisms raise questions on the methodology employed by an impact study. Some aspects of the impact of a development, social, cultural and environmental, are not readily quantifiable yet there is likely to be an increasing demand for more elaborate assessment of impact to reduce uncertainty in decision making. ✓

If an impact study, whether evaluating or not, is to be of value as the basis for discussion at a pre-inquiry meeting, the techniques it employs must be acceptable to all parties. The use (or misuse) of the matrix in Sphere 2 for instance seriously reduced the credibility and with it the value of this report's contribution to the inquiry. There is increasing pressure in the field of decision making to push the threshold of quantification further and further in attempts to reduce uncertainty. In the preparation of an impact analysis a balance of compromise must be struck between credibility and the desire to attempt quantification of hitherto qualitatively assessed aspects of impact.

There are three main assessment methods open to impact analysis:

- (a) Checklist - but these do not show any interaction between action taken and consequent impact.
- (b) Matrices - As in Sphere 2 indicate that interaction exists but do not adequately indicate the nature or extent of the impacts and do not cope with other than first order interaction.
- (c) Networks - of cause, condition and effect. These are constructed by relating known examples of adverse impact to the condition changes which produced them and then tracing these condition changes back to project actions.

The only assessment method used in the Sphere reports was an adapted version of the Leopold matrix. When used in its full form as it was by the Canadian Joint Federal-Provincial Task Force it identified 100 different types of impact and 88 environmental

characteristics giving 8800 possible interactions which makes assessment a very difficult task. *Sorensen (Sorensen JC 1971) accepts that this method indicates the relationship between an initial action course and its terminal effects but criticises it for its failure to make explicit the whole network of intermediary relationships that exist over this in complex industrial development.

Cost Benefit Analysis has frequently been used in the last few years in the evaluation of planning proposals but it has severe limitations which should be recognised if misuse of the technique is to be avoided. Most importantly it is not satisfactory for the evaluation of alternative courses of action. The objectives under which the costing is being attempted must be made clear. Basically the alternatives are either relative to the goal of maximising economic efficiency or of maximising economic welfare. As Hill (1968) states "cost-benefit analysis is more suitable for the ranking or comparing of courses of action designed to attain roughly the same ends rather than for the testing of the absolute desirability of a project." In the Drumbuie context therefore cost benefit analysis could have been used to evaluate the various sites in the loch Carron area but not to attempt a costing of the two alternative courses of action to build or not to build the platform site. "Cost benefit analysis gets its plausibility from the use of a common monetary standard but the common value of the pound derives from exchange situations. Outside such situations common values cannot be presumed and symbol and reality become easily confused. The greater part of the figures used in this type of analysis represent national values which will never be adequately tested or validated by actual exchanges and which are highly arbitrary in the sense that a very wide range of values can be plausibly

predicted, depending upon innumerable opinions and presumptions."

(Self 1970) In a Scottish planning inquiry where alternative sites are investigated, cost benefit analysis could be used as a form of assessment, but agreement on findings of fact at the preliminary meeting may prove very difficult: the environmental lobby is generally opposed to any attempt at costing of the environment.

Comprehensive cost benefit analysis is hindered by shortcomings in the available information by statistical inadequacies which, leading to minor omissions, reduce the acceptability of the analysis. As with matrices the case for using cost benefit analysis however may be strengthened and not weakened if its limitations are openly recognised and indeed emphasised.

Despite the present inadequacies in cost benefit analysis and matrices for assessment of alternative sites there are no other methods of assessment by quantification. Until they are improved or more satisfactory methods appear they are useful if only to order the issues for consideration and a means of organising the information to assist decision making. They may be seen as attempts to extend the threshold of certainty. If the main obstacle to speedy responsible decision making and to rational planning is uncertainty then the development of techniques for quantification of assessment should not be abandoned.

In the United States "Environmental Impact Statements" have become institutionalised and developed to comparatively sophisticated level. Since early 1970 the National Environmental Policy Act has required that all federal agencies offer evidence that environmental considerations have been taken into account when federal projects are being funded, planned and designed. Planning in this country may be able to draw on their greater experience but a direct application of their approach would present several problems.

- (a) the complexity of the computer based techniques and network matrices in environmental impact statements may be beyond the resources of the local planning authorities
- (b) detailed technical information is an essential part of the analysis in environmental impact statements but how will this information, couched in scientific terms, be of use to the layman involved in a planning decision
- (c) Environmental impact statements on average take eight to nine months to process a statement from initial analysis to a final E.I.S. Dobry's recommendations are made with a view to speeding up the planning process. Impact analyses taking this amount of time would frustrate the attainment of Dobry's objectives.
- (d) The cost of E.I.S.s is usually \$ 10-50,000. How this would be met in the British context is very problematical
- (e) The assessment methods reviewed above and used frequently in E.I.S.s are concerned with evaluation of alternative sites. Such an approach is not easily accommodated within the public inquiry process. Public inquiry commissions were devised for the purpose of assessing alternative sites, but apart from the Roskill commission on which the legislation for instructing public inquiry commissions was modelled, they have not been used.

Summary

Delay in decision making on major planning applications has been identified as a serious problem. The last chapter has shown that this delay may be reduced by changes in the procedure of public inquiries. But these changes will not in themselves reduce delay. A speedier public inquiry is dependent upon the nature, quality and availability of information - the inquiries raw material. Improvements in the information flow are dependent on two separate factors:

1. Explicit government policy and guidance (which will be discussed in chapters 6 & 7)
2. The fullest possible information on the proposed development and its impact.

To achieve the latter, impact studies and pre-inquiry meetings have been recommended by Dobry. But these recommendations raise other questions which must be resolved before a more effective public inquiry procedure can be achieved.

On Impact Studies

1. Who should prepare them? The developer who knows more about the proposals themselves; The local planning authority which knows more about the planning considerations; or should a central government office be established.
2. Impartiality is a major consideration. If an impact analysis is to be prepared a remit agreed by the parties involved may be satisfactory. A study which includes sections of evaluation presents more serious problems. Evaluation has to be based on objectives. If the study is prepared by or on behalf of sectional interests the objectives, if not made explicit and agreed by the parties to the inquiry, are likely to reflect the goals of that sectional interest.
3. Impact studies are expensive. Who should bear the cost?
4. Impact studies are increasingly attempting to quantify hitherto qualitatively assessed aspects of the development. To be effective the impact study unlike the second Sphere report should temper the desire to increase quantification if such approaches reduce the credibility of the study for the non-expert at the inquiry. The quality of the quantification in the second Sphere report was not high. If time and resources are scarce, quality should not be sacrificed in attempts to achieve greater sophistication.

On Pre-Inquiry Meetings

1. Dobry envisages a full exchange of information for the pre-inquiry meeting. Developers are often concerned about confidential information being made available to their competitors. Adequate safeguards should be devised to encourage the developers to overcome their reluctance to provide information.
2. Dobry proposed the pre-inquiry meeting as a method of reducing the delay incurred by traditional public inquiries. If the new approach is to be time saving it is crucial that the impact study be acceptable to all parties. This will be very difficult to achieve.
3. In cases such as the Drumbuie application is it possible to have all the information on which to base the inquiry available at the pre-inquiry meeting? North Sea Oil Development is a rapidly changing situation. New information affecting a proposed development may well come to light during the decision making process and agreement and findings of fact achieved at the pre-inquiry meeting may be invalidated.

As late as the end of 1973 Government Policy on oil development was not explicit. This lack of explicitness led to a relatively unstructured approach to planning in this field and contributed to the delays felt to be inherent in the decision making process.

It can only be inferred that the Conservative Government in power during the initial stages of the Drumbuie inquiry favoured a policy of flexibility and dispersal, permitting contractors to apply for planning permission for sites which they thought desirable for their purpose. This "dispersal" approach argues that oil technology is exploring new ideas and oil companies who are closest to the problem should be allowed to dictate the kinds of design for oil platforms which they think best and, by implication, to dictate the choice of sites which best fit their construction. This approach places the initiative with oil companies and contractors who base their decisions on platform design and cost.

The Central Government Planning agency in Scotland - the Scottish Development Department - however appeared to be increasingly unhappy about this state of affairs. The number of applications for oil platform construction was increasing rapidly during 1973 and there was a strong feeling held by the powerful environmental lobby (National Trust and Countryside Commission) that this "dispersal" approach did not allow for a proper consideration of the environmental issues raised by the Central Government planning agencies continuing to allow apparently unco-ordinated growth in the number of platform sites on the coast of Scotland.

Consequently prior to the crystallisation of explicit Government policy on oil related development in February 1974 (See chapter 7) the S.D.D. began to consider the issues raised by the unco-ordinated

policy on oil platform construction sites and to seek improvements.

In April 1973 the SDD produced a discussion paper (SDD 1973) which sought to achieve four objectives:

- (a) to provide a basis for estimating the number of construction yards required by 1985
- (b) to classify the civil engineering criteria of construction site location
- (c) to identify sites before applications came forward
- (d) to reach a "consensus of opinion" on which locations should be preferred for development.

The paper achieved little more than a collation of the readily available information on the progress of construction site building and forecasts for future demand. The discussion itself was limited to forecasts of the future requirements of the industry. There was no questioning of the principle apparently adhered to by the Government that no consideration should stand in the way of the contractors determining the possible locations of platform sites. At this time before policy was to be explicitly developed it appeared that planning considerations were of secondary importance, principally concerned with the mitigation of the worst effects of a location policy dictated by the contractors' requirements. The circumstances of such a policy made it difficult for the SDD to provide their proper function in this field i.e. advising local authorities through guidelines on location policy for construction sites. The SDD instead limited their activities, at least in the papers they published, to providing information (for instance this discussion paper) and to advising local planning authorities on how to handle oil-related applications (technical advice notes).

Thus the discussion paper was limited to an attempt to identify the extent of future demand for oil platforms. It concluded that

though the estimates of the number of platforms required over the next ten years (1973-1983) range from 20 to 50 it may well be the case that a maximum of 13 platforms a year will be required. Since a platform takes 2 years to construct and since "there should be some extra sites to allow for competition", the paper suggests it would be prudent for forward planning purposes to assume a requirement for sites on which some 30 platforms would be under construction at a time of peak demand. As a result of investigations undertaken during the preparation of the paper some 28 locations were identified which because of their land and sea characteristics might be the subject of proposals by developers. The paper did not consider any strategic planning interrelationships between these locations; they were independently identified using civil engineering criteria. The only rider to this approach was a statement in the conclusions to the effect that because these sites might be suitable to the developers it does not mean that they would be suitable from other points of view.

The paper seemed to accept a need for surplus sites. "It is necessary to keep down costs and maintain keen competition amongst the constructors seeking to gain the oil companies' contracts. For this an adequate supply of sites with planning permission is essential so that a reasonably sized field is bidding at any one time and so that new groups could enter." The paper seemed to be more concerned with the requirements of the industry itself rather than with a consideration of the wider socio-economic and environmental considerations raised by its arrival in Scotland.

Until the Drumbuie inquiry took place this discussion document was the only publication on oil development circulated by the SDD. The important consideration was that at that time there did not exist a widely circulated set of advice notes, interpreting Government

policy on oil related development, which might have given developers some indication of whether or not their application would be acceptable in planning terms.

As the Drumbuie inquiry was getting under way however there were signs that the government was beginning to appreciate the need for a more explicit policy on oil related development. In October 1973 SDD published another discussion paper (SDD 1973a), the Interim Coastal Planning Framework. This paper was exclusively concerned with location policy and stated at the outset that, "there are likely to be significant benefits in grouping oil developments as far as is practicable in order to minimise the environmental impact of schemes on the coast and to facilitate economic provision of supporting infrastructure and services." Not only was the Government beginning to crystallise its policy it also appeared to be moving away from the flexible "dispersal" approach in favour of "concentration". According to Thompson (1974) this "concentration" approach argues that Scotland should decide which sites are to be chosen and insist that only platforms of a design suitable for construction at such sites shall be built. This approach shifts the initiative and places it with the planners who then decide the availability of sites in the light of wider planning considerations.

After survey of the east and south west coasts of Scotland the paper identified 14 coastal areas where developers may be encouraged to search for sites, designated Preferred Development Zones and 23 coastal areas in which development should be discouraged, designated Preferred Conservation Zones. It was suggested that for the Preferred Development Zones the local planning authority may draw up "forward looking development policies and plans for specific areas where development may be acceptable" and that for Preferred Conservation Zones which are agreed the local planning authority in conjunction

with the Nature Conservancy and the Countryside Commission should draw up Development Plan Conservations Policies.

In conclusion the paper conceded that individual developments in Conservation Zones cannot be ruled out and that there will be areas within Development Zones that should be protected. Four broad principles were proposed:

- (a) Developers would be expected to look first at the sites in Preferred Development Zones
- (b) Existence of a Preferred Conservation Zone would put a developer on notice that he might encounter difficulty in obtaining permission to use a site in that area
- (c) Both types of zone would imply that the local planning authority had accepted that development plans were required for these areas, either by zoning land ahead of demand or by drawing up adequate conservation policies
- (d) A framework based on these zones would form a basis for further adjustment as exploration and discovery develop further.

In August 1974 the Labour Government made explicit policy statements on oil related development (see chapter 7). The Drumbuie decision was announced and the SDD published the Coastal Planning Framework (SDD 1974). The "concentration" approach had been chosen and for the first time the SDD had been able to publish definite guidance derived from explicit Government policy. The Coastal Planning Framework stated "the Secretary of State will take his decisions on individual applications which come before him within the context of these guidelines and of the Government's policy for platform sites as put forward in Ministerial statements of 12th August 1974".

This finalised draft of the Coastal Planning Framework based as it was on definite Government policy and on a fuller coastal survey was appropriately a much more positively worded document than the

discussion paper. It emphasised the Government's decision to follow a policy of "concentration" of sites, preferably in or near existing population centres rather than allowing a random proliferation of sites. It cited four advantages of this approach:

- (a) the avoidance of a scatter of industrial development affecting many small communities and numerous rural areas
- (b) full use of existing labour pools, housing and public services
- (c) economic provision of additional services needed for the new developments
- (d) the possibility of diversification to cushion any subsequent decline.

As a result of the fuller coastal survey the number of preferred conservation and development zones was changed slightly (to 22 and 16 respectively). In accordance with the new policy of concentration the central belt was singled out as being especially important amongst the Preferred Development Zones. "The greater part of the Central Belt of Scotland where there is a need to modernise industrial structures and where there is a concentration of resident population and support services should be regarded as a series of Preferred Development Zones of high priority."

The guidelines also seemed to accept the arguments fielded by the objectors at the Drumbuie inquiry. "As such a large proportion of the west coast is of importance for conservation and as the whole area is of international fame for scenery and tourism the entire area has been classified as a Preferred Conservation Zone. This would not preclude small scale carefully sited development in suitable locations; for example service activities and small industry necessary to reinforce the local economy and redress the trends of depopulation. On Conservation Zones in general the paper said "Any intrusion into such areas would have to be justified by compelling arguments

including a demonstration that no suitable site existed outside a preferred conservation zone.

The Government by this time had gained several years' experience in handling oil related applications for planning permission and was beginning to formalise its approach. The formulation of policy and the guidelines were indicative of the Government's move to take the initiative in such development proposals. The comparatively unstructures handling of the Drumbuie application by Central Government had resulted in heavy criticism of the time taken to reach a decision. The Central Government planning authorities were now in a better position to assess a developer's proposals and process any subsequent application more rapidly. The developers now had some indication of which locations may be acceptable to the planning authorities for any particular project they care to propose.

In accordance with the guidelines generated by the Coastal Planning Framework several potential sites were identified on the Firth of Clyde. Being in a Preferred Development Zone developers were now aware that applications for oil rig platform construction sites in this area would be comparatively favourably received. Rather ironically Mowlems applied in the Autumn of 1974 to Argyll County Council for permission to build Condeep platforms on a site near Campeltown. Because of the comparatively shallow depths off Campeltown compared with Loch Carron Mowlems will only be able to build the base of the platform on the Firth of Clyde. This base will then be towed to a deep water site (for instance the Inner Sound of Raasay) where the platform will be floated onto the base before the completed structure is towed to the North Sea. If this project goes ahead then in the long term it may be said that Mowlem's have compromised their self interest for the Government's perception

of the wider planning considerations. Furthermore applications to both build and complete deep water platforms in the Loch Carron area based on the necessity for deep water immediately off the construction site as a "compelling reason" will no longer be tenable.

To assist the reporter to assess the evidence given at an inquiry and produce his recommendations to the Secretary of State, he is given, on appointment, a regional brief prepared by the Scottish Office on information collected from the local planning authority and the planning division of the SDD. In the case of Drumbuie this brief would have three main sections:

- (a) Information on the approved plans of Ross and Cromarty County Planning Department as they affect the Kyle Peninsula (chapter 1)
- (b) Policy guidelines on oil related development prepared by SDD (chapter 6)
- (c) Central Government policy on North Sea Oil development.

It is the job of the Secretary of State and his staff and not the reporter to assess the development in relation to government policy. "Section C" however included in the brief to assist the reporter to more effectively assess the evidence on an initial basis and in particular determine the relevancy of cross-examination.

The reporter's regional brief is not available for public inspection, but the confusion over Government policy in the initial stages of the inquiry and the lack of ministerial statements at that time suggest that explicit government policy on onshore development had not yet evolved and that this third section of the brief was not very substantial.

The Drumbuie application had created a precedent. This was the first application to develop deep water facilities for the construction of a new type of oil production platform. The only potential construction sites with depth of water facilities which would satisfy the contractors are situated on the North West coast of Scotland. The environmental lobby had fiercely resisted the Drumbuie

application and were likely to object to similar applications for sites in an area they regarded as part of the "national heritage."

Until the Drumbuie application, contractors had been able to obtain, without unusual delay in the planning process, the sites they wanted for platform construction. The Government may well have felt that there was no need for explicit policy consideration of onshore development for North Sea oil exploitation if development was proceeding quite steadily without any undue conflict of interest becoming apparent. Two events however stirred the Government into action and induced them to produce explicit policy for onshore development. The first was the huge increase in the price of crude oil towards the end of 1973 which made the Government decide that to avoid a disastrous balance of payments situation they should seek to ensure that oil resources in the North Sea should be exploited as rapidly as possible. Secondly, this new urgency brought to the Government's attention the time taken by applications for major industrial development to be processed by the planning machinery. This length of time became labelled "delay" probably more suitably from the applicants' point of view rather than that of the environmental lobby. Rather ironically some of this "delay" may well have been caused by uncertainty resulting from the lack of explicit policies.

The recognition by the Government that the time taken to process planning applications was a problem resulted in two courses of action. The first was the appointment of Dobry in September 1973 to review the whole of the Development Control process. The second was the development of explicit policy and legislation.

This chapter will be concerned with a review of the development of explicit government policy and legislation from January 1974 to February 1975 and a consideration of the implications for the planning

process as a whole.

In the House of Commons on 31st January 1974, two days before the announcement of a general election, Gordon Campbell, Secretary of State for Scotland, said "The events of last October have completely changed the world situation. The threat to Britain's oil supplies and the effect on our Balance of Payments of the sharp increase in the price of oil have added immensely to the importance of the North Sea oil-fields. It is a matter of extreme national importance that we should procure this oil in quantity as soon as possible."

The Conservative Government decided, in view of this assessment of the situation, to introduce the "Coastal Sites Bill" which would enable the Government to acquire "using an accelerated procedure if necessary" land which they considered to be urgently needed for certain projects related to the production of off-shore oil and gas.

The Secretary of State made it very clear that the Government intended to use the proposed powers to achieve an early start on the construction of concrete platforms in the Loch Carron area. "The only (area) in the Government's mind right now is the Loch Carron area." (Secretary of State, House of Commons, 31st January 1974) Campbell also seemed to have accepted as fact a crucial part of the applicants' case three months before the inquiry had even finished: "I have pointed out that the type of deep water platform in question cannot be constructed in the Clyde area." Such statements by a Secretary of State raise important considerations.

(a) they adversely affect the stated principles of openness, fairness and impartiality which are theoretically the hallmark of public inquiries and thereby reduce the public's confidence in the inquiry process.

(b) more importantly a dichotomous approach to decision making is being evolved. For certain types of planning applications public inquiries are being used and at the same time legislation is being

introduced to cater for such applications by short circuiting the planning process.

These points will be reviewed at the end of the chapter.

Events overtook the Conservative bill. Before it was introduced there was an election and a Labour Government was formed. The first debate in the House of Commons on oil came on 2nd April 1974 when the Minister of State at the Scottish Office said that they would not be proceeding with legislation on acquisition of sites because the Government did not wish to prejudice the Drumbuie inquiry and secondly were not convinced that that type of legislation was necessary.

This Government however changed its mind about the necessity of such legislation though they did avoid prejudicing the Drumbuie inquiry. Three days after the Secretary of State for Scotland, William Ross, had announced his decision on Drumbuie, the new Minister of Energy, Eric Varley, announced the Government's intention to take into public ownership five sites on the Scottish Coast for building oil production platforms.

The main intention behind this announcement seemed to be to remove all possible obstacles to the rapid development of the oil resources. The effects on the balance of payments of oil imports were enormous. The exploitation of the North Sea reserves had become once again a matter of extreme emergency. The 1974 oil import bill was at that time expected to be about £3,300 million, an increase of £2,000 million on 1973.

The Labour party in opposition had criticised the Conservative's proposals on the grounds that they were likely to override Scottish interests and that they were seriously prejudicing the role of public inquiries. Having changed its mind the Labour Government may have been expected to weave a difficult line of compromise between the economic and environmental considerations. Accordingly Mr Varley's announcement

stated that state ownership would provide firm control against damage to the environment and strain on local resources and would also ensure that the sites were used to full advantage.

The Offshore Petroleum Development (Scotland) Bill introduced on the 19th November 1974 as the embodiment of Government policy on onshore development thus had two stated purposes:

1. Short term "to ensure the developments essential to the work of getting the oil ashore quickly can take place without delays and that they are controlled in a planned and co-ordinated way so that their contribution to the national economy is maximised."
2. Long term "it is intended to ensure that developments are regulated and controlled in the interests of amenity and general prosperity of the areas concerned and that land used for such development can be suitably restored when the developments are no longer required."

However the published bill was not concerned with safeguards but purely with the speedy acquisition of land for development. In its original form the significant sections are:

Clause 1 subsection (1) - "The Secretary of State may acquire by agreement or compulsorily any land in Scotland for any purpose relating to exploration for or exploitation of offshore petroleum."

Subsection (5) - "A statutory instrument containing an order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament." (i.e. a negative control over acquisition powers)

Clause 8 subsection (1) - "If it appears to the Secretary of State that any land of which possession has been taken under this Act is no longer needed for the purposes of this Act, he shall, so far as in his opinion is reasonably practicable reinstate it or secure its reinstatement to the condition in which it was before such possession was taken."

Schedule 1.3(c) - "The expedited acquisition order (a form of compulsory purchase) would be advertised - representations in writing may be made within a specified period not ending earlier than 14 days from the date on which the notice is first published."

Schedule 2.2(1) - "The Secretary of State shall be entitled to enter on and take possession of the land specified in the order at any time after the expiration of the period of fourteen days beginning with the date on which the order comes into operation."

If the bill had been passed unamended the Secretary of State would be able to acquire land (including land declared to be inalienable) lease it to contractors and enable them to start site preparations within four weeks. It did not state whether or not planning permission would be required.

In its original form the bill aroused serious political controversy.

1. The bill removed all the procedural safeguards which have evolved to guard citizens and local communities against the ill-considered exercise of public powers. (There will be no obligation to hold an inquiry or even give any person a hearing.)

The bill does not require the Secretary of State to give his reasons for the expedited acquisition at any stage. As Professor Bradley says (Scotsman, 23.11.74) "How can adequate representations be made on a proposal which is not itself explained?"

2. The only safeguard provided by the bill is that an expedited acquisition order must be contained in a statutory instrument subject to annulment upon resolution of either House of Parliament. Such a safeguard is likely to ensure at best a somewhat perfunctory debate in the House of Commons, followed by a vote in which Government whips are applied.

As the bill passed through the Committee and reading stages several important amendments were made. After the report stage of the bill the

clauses and schedules cited above were affected thus:

Clause 1(1) Oil refineries were specifically excluded

- (5) The statutory instrument was now subject to a positive vote in both Houses of Parliament.

Clause 8 The Secretary of State now had to consult local authorities before he decided on the extent of reinstatement.

Schedule 2(1) The period for representation was extended to 21 days.

Additionally it was made clear that land could not be acquired unless it held planning permission for the purpose to which it was to be put. It was also stated that an expedited acquisition order could not be applied to inalienable land.

The processing of the bill has removed some of the more contentious points. In particular the inclusion of a subsection to clause 1 requiring the land in question to have planning permission may introduce some of the safeguards that were missing from the bill in its original form, though it is not made clear how that permission will be obtained.

To return to the points raised for consideration earlier in the chapter: it appears that the Labour Government, unlike its predecessor, was unwilling from the outset to prejudice the outcome of the Drumbuie public inquiry. They reserved their comments on onshore development for North Sea oil generally until after the Drumbuie decision had been announced. This also limited the disruption of the inquiry. Campbell's statements at the end of January 1974 had caused the National Trust to threaten that they would put the case before the Parliamentary Commissioner and in the meantime seek an abandonment of the inquiry. The Labour Government's silence on the matter helped to preserve the principles of openness, fairness and impartiality which are still held to be the hallmarks of the public inquiry process.

The actions of both the Labour Government and its predecessor on North Sea oil development give some indication of the way Government attempts to solve problems. In this case the problem recognised by both Governments at various times was a disastrous balance of payments deficit, caused by a huge increase in the costs of our imported oil supplies. The solution lay in the rapid exploitation of our own resources.

The recognition of the problem and the means of solving it led to the generation of explicit government policy on North Sea Oil development. The development however led to its embodiment in legislation. Thus six months after the installation of the Labour Government there was a dichotomous situation:

(a) The basis for a greatly improved public inquiry system for planning applications related to North Sea oil development because of the formulation of the SDD guidelines (and more generally because of the work of Dobry).

(b) The development of legislation specifically designed to avoid the use of public inquiries.

It would appear that a tripartite situation has arisen in which time is the chief arbiter and the enemy of the public inquiry process.

(a) public inquiries are accepted by Government when decisions have to be made on significant planning applications where time taken to reach the decision is unimportant.

(b) when the time taken over such decisions is felt to be too long by parties to the inquiry and/or Government, ways of speeding the process are considered.

(c) when it is felt by Government that the time taken on such decisions should be as little as possible ways of avoiding the public inquiry are instituted.

Rather paradoxically the safeguards inherent in the public inquiry

process may be considered to be most essential when decisions are being taken on significant developments within a rapidly changing situation.

Conclusion

It must now be apparent that the Drumbuie inquiry was not a run of the mill example of the application of the inquiry process to a planning decision. The significance of this decision for the national interest (however defined); the number of objections; the complexity and scope of the topics discussed; the lack of explicit government policy and the partisan intervention of Government departments - because of these factors the Drumbuie inquiry was perhaps the severest test of the inquiry process for many years. ✓

Despite the complexity of the problems the inquiry had to consider the only major criticism of this type of decision making was the length of time the process involved. To the developer time is of the essence. Having made a decision to apply for planning permission he feels that the time taken to satisfy the statutory planning process involves a severe financial penalty. In such circumstances the word delay is attributed by the developer to the inquiry process. Delay is not a concept the environmental lobby would attach to the Drumbuie inquiry - their primary concern is for the "right" decision, however long it takes. ✓

If public inquiries are to retain the credibility and respect they enjoy in the eyes of the public it is important that attempts should be made to answer the more significant criticisms of the inquiry system. The later chapters of this paper have shown that the time a public inquiry takes could be considerably reduced if uncertainty inherent in this non-structured form of decision making could at least be contained. To this end recommendations for the improvement of the system have been outlined:

- (a) improvements in the flow of information
- (b) procedural change which will take advantage of the more comprehensive information available and thereby provide the facilities for a more responsible decision.

In the field of north sea oil in particular, the development of explicit government policy and guidelines derived from that policy has progressed during 1974.

Government policy provides the criteria and the context for the decision about which the public inquiry is concerned. The policy guidelines derived from that policy will enable all parties to the inquiry to gain a greater appreciation of the issues involved and the subjects to which the inquiry may refer. These guidelines and the proposed pre-inquiry meetings will also give the developer a clearer indication of the degree of acceptability of his proposal in planning terms and may in certain instances (if for example the developer decides to withdraw) avoid the holding of a public inquiry altogether.

There appears to be little indication of any widespread feeling that in situations such as Drumbuie the appropriate form of decision making is not the public inquiry - most effort seems to be towards improving the system rather than devising a new one. A public examination of a developer's proposals is a safeguard against arbitrary action and when these proceedings are open to participation by members of the public they guarantee the right of individuals to participate in significant planning decisions.

One criticism of the public inquiry process however is that it does not by its very nature encourage the layman or local resident to participate. The procedural rules it is said have caused public inquiries to become over judicialised and have taken on the form of a court of law, but the procedure is only there to provide a necessary

framework of order to the proceedings. The criticism gains some validity however at these inquiries where "experts" and Counsel are present; for then the procedure becomes stricter and more formal and cross-examination is sharper. In such cases the inquiry will have attracted the attention of national groups who see the significance of the subject of the inquiry in national terms. The local laymen may be intimidated by the presence of the "big guns" and decide against participation. In that sense the Drumbuie inquiry may be considered to have been a public national inquiry rather than a public local inquiry.

The problem of adequate local representation at a public inquiry which has gained national significance is further compounded by the time factor. Such inquiries, as the case study has shown, can be lengthy. The local layman may not be able to afford a prolonged absence from work. However if as suggested in chapter 4 an agreed programme for the inquiry can be settled, then an individual will know exactly when he will be required to attend, rather than having to be there for most of the time just in case he is called.

Over recent years public inquiries have tended to range wider and deeper; public opposition has become more sophisticated and it is becoming increasingly more difficult to confine the subject matter of public inquiries within predetermined boundaries. Whereas an inquiry would once have examined the objections to a plan, there is now a tendency for objectors to attack assumptions underlying a plan. If delay is a criticism to be answered then the reasons for improving the procedures and strengthening the guidelines are re-inforced by these developments.

Two major drawbacks of the Drumbuie inquiry can be identified in the light of the case study:

(a) its inability to give satisfactory consideration to alternative sites ✓

(b) the lack of technical expertise which made the discussion and appreciation of technical matters rather difficult. ✓

The 1972 Town and Country Planning (Scotland) Act provides for the setting up of a planning inquiry commission modelled on the pre-legislative Roskill Commission. Although the procedure is not set down in detail the Minister may set up a Commission consisting of 3-5 members who will evaluate the developers' proposals. If more than one site is to be considered a series of individual public inquiries ✓ may be held. Technical matters may be dealt with by the Commission's own research staff. The purpose of a public inquiry commission is to consider in general terms how a problem should be solved. Very different from the public inquiry which is limited to considering whether a particular proposal for a particular site is acceptable. Unfortunately the public inquiry commission is likely to be a very time-consuming process.

Perhaps the neatest aspect of the public inquiry is that it helps to stimulate incremental change in government policy over time. The feedback to the Department of the Environment and the Scottish Development Department keeps them in touch with public opinions and thus influences future policies. The influence as in the Drumbuie ✓ case may be obvious and specific, but more often the gradual accruing of reports and ministry decision letters will help to form an overall appreciation on which future action may be based. The effect is to extend the area of Government by the consent of the governed.

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