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NON CONFORMING USES

SOCIO-GEOGRAPHIC STUDY

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BA(OU), Dip. Geog.(Lond), FRICS, FRGS

Higher Degree Thesis

Social Science Discipline

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NON CONFORMING USES

STRUCTURE OF THESIS : SYNOPSIS

1. Aims and Objectives To illustrate the following:

The Definition of Non Conformity as a conflict use

e.g. against stated planning policies.

against implemented policies.

against Town Map Zoning.

The Manifestation of Non Conforming use by action of Planning Authorities against offenders.

- (i) Enforcement action to extinguish
- (ii) Exhortation to relocate
- (iii) Compulsory relocation
- (iv) Financial persuasion to relocate

The Type of conflict use derived from records

- (i) National Enforcement Statistics, Department of Environment
- (ii) District Enforcement Notices
- (iii) District Enforcement Files
- (iv) District Opinion of Planning Officers
- (v) Tangential Statistics - Planning refusals and Changes of use.

The Incidence of Conflict Use derived from enforcement records

- (i) National incidence of conflict over time by:
 - (a) Metropolitan Borough
 - (b) Borough
 - (c) District
 - (d) Density of District Population
 - (e) Local Control Area

Aims and Objectives (continued..)

The Hypothesis that planning processes and policy are causal factors of non-conformity

- (a) (i) In stated Government policy - Law
 - (ii) In stated County policy - County and Structure Plans
 - (iii) In stated Local Plans policy - Village and Town Maps
(Control Area)
 - (iv) In implemented Government policy - Enforcement Appeals
(National)
 - (v) In implemented County & Local
District Policy - Enforcement Notices
(Local)
 - (vi) In monitoring processes
(Department of Environment) - Data and Procedures
(Circulars etc.)
 - (vii) In monitoring processes (County) - Computer databank and
surveys
 - (ix) In monitoring processes (District) - Control Studies of
USER Surveys
 - (x) In monitoring into implementation - Conversion into policy
i.e. Feedback
 - (b) (i) By reference to a Case Study related to prime conflict: -
Existing Business/Fisher Case
 - (ii) By reference to other Case Study related to secondary
conflicts.
2. (a) Historical and legal background to land use designation and control
- (a) 1840 to 1980
 - (b) Local Government Act 1972 - Re-organisation and amalgamation
of planning authorities
 - (c) Town & Country Planning Act 1971 - Structure Plan introduction.

2. (b) Designation and Non-Conformity
 - (a) A more detailed examination of factors giving rise to Use Class designation in town maps etc. and creation of non-conforming uses
 - (b) A definition of Non Conforming Use for purposes of the Study.
3. Definitions and Planning Processes with reference to:
 - (a) Structure Plans
 - (b) Local Authority
 - (c) Use Classes Order
 - (d) General Development Order
 - (e) Implemented Discretion
 - (f) Miscellaneous definitions relative to Non Conforming Use
 - (i) Use Class
 - (ii) Material Change of Use
 - (iii) Intensification
 - (iv) Permitted Development
 - (v) General Observations - Machinery of Planning e.g. Refusals, Change of Use approval
4. Survey Constraints
 - (a) Prime Sources
 - (i) Department of Environment Enforcement & Allied Appeals
 - (ii) Local Authority Records
 - (iii) Planning Appeals
 - (iv) Enforcement Decisions
 - (b) Miscellaneous Sources
 - (i) Local Government Association

4. Survey Constraints (continued)
 - (b) Miscellaneous Sources (continued)
 - (ii) Research Register
 - (iii) Educational Establishments
 - (iv) Trade Associations e.g. COSIRA
 - (v) Literature and separate studies
5. Enforcement Surveys (National level)
 - (a) England & Wales 1963 to 1979
 - (i) Analysis relative to Hypothesis
 - (ii) Conclusions
 - (b) Classification of Conflict
 - (c) Incidence of Conflict by type and population density of district.
6. Enforcement survey in a local control area - Horsham District
 - (a) General
 - (b) Analysis
 - (c) Types of Conflict Use by sector
 - (i) Agricultural
 - (ii) Residential
 - (iii) Commercial
 - (iv) Industrial
 - (d) Incidence of Change and Distribution over time:
 - (i) Variance
 - (ii) Constancy
 - (iii) Conclusion as to incidence
7. Hypothesis in relation to a local control area with reference to monitoring of stated and implemented policy by planning authorities
 - (a) Monitored Planning Policy 1953 to 1965
 - (i) Derived from Law i.e. Government
 - (ii) Derived from County i.e. County Written Statement
 - (iv) Derived from District i.e. Town Maps

7. Hypothesis in relation to a local control area with reference to monitoring of stated and implemented policy by planning authorities

(continued...)

(b) Monitored Planning Policy 1965 to 1979

- (i) Government
- (ii) County
- (iii) District

(c) Conclusions

8. Hypothesis observed against case studies of principle conflict within a local control area

(a) Prime Conflict Use Case: Vehicle Repairs (Fisher)

(b) Secondary Conflict Uses

- (i) Established Haulage in Village (Gander)
- (ii) Established Industrial Use - Enforcement (Aerco)
- (iii) Innovatory Industry (Omicron)
- (iv) Innovatory Industry - Space Requirement (Sigma)
- (v) Miscellaneous

9. Analysis and Conclusions

The Hypothesis relative to planning processes and policy

Particular reference to: -

- (i) Interpretation of Law
 - (ii) Appeal Process
 - (iii) Planning Delay
 - (iv) Monitoring
 - (v) Implementation
 - (vi) Attitudes. Assumptions as to ethos of cultural attitudes.
-

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29th August 1980.

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Dear Sir,

Re: F. J. Comerford : Degree Thesis - M.Phil.

Enclosed herewith are three copies of my Higher Degree Thesis, following notification earlier this year, via Professor Learmonth, of my intention to submit.

Also enclosed are the following:-

- a) Four separate copies of the Abstract of the Thesis to comply with H.D.24(ii). Each copy of the Thesis contains its own extract at the beginning, comprising Chapter 1.
- b) For the purposes of H.D.24(iii), I confirm that all of the material offered is my independent work, none of which has been previously published (H.D.25).
- c) For the purpose of H.D.28, I confirm that, if approved, for the purpose of the degree, I am willing for the Thesis to be deposited in the University Library, to be made available at the discretion of the Librarian and photo-copied, also at his discretion.

Also enclosed is my examination fee of £45.00. *

Will you kindly acknowledge receipt of this Thesis and confirm in due course whether I shall be required to attend a viva voce upon the subject.

Yours faithfully,

P.S. * To follow subject to your invoice.
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CHAPTER 1

SOCIO GEOGRAPHIC STUDY OF NON CONFORMING USE.

Abstract of Thesis

"Non Conforming Use" is a term used generally by local and governmental planning agencies to describe uses of land and buildings which do not accord with their planning policies. It appears to have differing quasi-legal overtones as between authorities. The object of this study is to determine the origins of land use designation and those circumstances which give rise to non conformity as interpreted by the planning authorities in England and Wales.

An England/Wales survey and a control area survey were conducted and the incidence of conflict use examined from available local authority recorded enforcement decisions to establish any derived order of use conflict. The ^{estab} published prime conflict was then studied in a more accessible local area by reference to selected case studies. Possible causes of conflict were illustrated from both the view of County and District implemented planning policy and that of the user.

The surveys reveal a widespread order and incidence of "conflict uses" throughout the country. This widespread order and incidence may arise from a common ethos of interpretation. Suddenly increased levels of served enforcement notices show a more efficient system of detection and public participation because of recent changes in the law which give the public more legal opportunity to complain against "pollution". Within these increasing levels, the order of conflict uses stays constant but an increasing number of the "offenders" are being declared innocent by the appeal process (which is in effect an internal process because the Secretary of State, Department of the Environment, is also the Minister

CHAPTER 1 (continued..)

for planning authorities and planning policies). There is a distinction between law and local planning policy, but where land uses are concerned, enforcement notices are served primarily on the basis of legal interpretation of the expression "material change in use". In other words, the law is to some extent able to be interpreted, or used, to suit the local planning authorities' view of their policy. They are also the prosecutors.

Whilst the study does involve examination of quasi-legal issues, it is not intended to be a purely planning critique, although the conclusions may involve such a critique because the study has been made against the assumptions that processes in the planning system, including the element of public participation, are direct causal factors of non-conformity and its apparent increase measured as a use conflict.

CHAPTER 2

Historical background to land use designation and legal control by local authorities

Introduction

A brief examination of the statutes and social background leading to the control of land uses.

General The bulk of planning law is contained in the various acts constituted between 1947 and 1978, including allied orders, regulations and statutory instruments. These acts evolved from legal, social and economic changes over time which need brief examination to set the context and rationale for designation of land uses in the U.K.

Historical Owing to the rural nature of pre-industrial Britain, little legislation except of a very local nature was enacted until after the Industrial Revolution, when requirements developed for controlling problems caused by increasing urban pressures. In 1840 Town Improvement Commissioners had been appointed to control water supplies and drainage. The first Public Health Act was implemented in 1848 following the cholera epidemic created by raw sewage polluting one particular well in Broad Street, Soho. A further act in 1875 established formal Public Health bodies which became the administrators of later planning legislation.

1875 Public Health Act

The main functions of this Act were to provide controlling legislation for the provision of sewage systems and public water supplies. It also included provision for the large

1875 Public Health Act (continued)

scale compulsory acquisition of land and rights needed for local authority recreation grounds, markets, slaughterhouses and street lighting. Powers were included for the creation of byelaws by local authorities to control housing and road construction standards. Both the 1848 and 1875 Acts were recognised to have limitations since they were rigid in character and led to conformity with minimum standards. Both acts were restrictive because they made implementation uneconomic and gave little encouragement to slum clearance. Attempts were made to deal with these problems by the Housing of Working Classes Act 1880 enabling private industry to be encouraged by subsidies to build housing schemes and Councils to secure private redevelopment such as that which produced Bournville and Port Sunlight. It was not until 1904 and following publication of "The Example of Germany" by T.C. Horsfall, that the then Prime Minister and the President of the Local Government Board (predecessor to the Ministry of Health) suggested that planning powers for local authorities were needed. Municipal authorities on the Continent planned the growth of towns in advance, thus securing private development on the lines of a "Key Strategy". It coincided with criticism in the U.K. of existing slum clearance powers and led to the first authorised town planning act - the Housing Town Planning etc. Act 1909.

1875 Public Health Act (continued)

This Act only gave power for local authorities to prepare schemes to be approved by the Local Government Boards and because of many factors, including the lack of compulsion, only resulted in three schemes during the next 10 years, which also coincided with a slump in estate development.

Housing : Town Planning etc. Act 1919

Subsequently the introduction of the above Act altered previous legislation by making preparation of development schemes a compulsory requirement for all Boroughs and urban districts, over 20,000 in population. Consent of the Ministry of Health (former Local Government Board) was no longer necessary for preparation of plans, although ministerial consent was needed to implement them. Joint committees of various authorities were able to combine to create individual planning bodies to control private development.

The Town & Country Planning Act 1925 and the Housing Act 1923

following the Great War, separated the functions of Housing and Planning, but made little difference to previous planning legislation.

The Local Government Act 1929 made changes in highway administration with

County Councils becoming the authority for all main roads in rural districts and all classified roads in non-county boroughs and urban districts. The origin of this may have been in the increasing development of the motor car and suburban railways inducing commuter journeys and decentralised population spread. This changing social situation eventually led to a repealing Act i.e. the 1932 Act.

Town & Country Planning Act 1932 had important features. It created new building controls. It also included for the first time provisions which were later to become regulated by separate Regulations & Orders; namely the protection of trees and control of advertisements but this Act, which became a prelude to current legislation, was superseded by the Town & Country Planning (Interim Development) Act 1933.

Town & Country Planning Act (Interim Development) 1933

All land became subject to interim development control which meant that controls to regulate redevelopment would not be prevented whilst a comprehensive planning scheme, which took time, was being prepared for town development and lodged for approval by the Minister. The simple course of prohibiting development without consent if it was not in conformity with interim development proposals of a Council, is a characteristic of all subsequent control and which marks the area in which future conflict could take place. The final Act, prior to the modern post-war planning Acts, was the Restriction of Ribbon Development Act 1935 which for reasons of amenity and highway safety introduced legislation later absorbed by the major Planning Act of 1947. During the 1939-45 War, certain functions of the Minister of Health were eventually transferred to the first Ministry of Town & Country Planning, set up in 1943 (later to be amended to Ministry of Housing & Local Government in 1951). The Secretary of State for the Department of Environment took over planning functions in the 1970's. The post-war Town & Country Planning Act of 1944 was primarily designed to deal

with bomb and blitz damage but later repealed by the Town Planning Act 1947, still in force and fundamental to subsequent planning. The Uthwatt Committee had been appointed in 1941 to enquire into the whole question of public land use control and the question of compensation for bringing development land into use control. The main recommendations relating to land were that all development rights (as opposed to ownership rights) should be vested in the State, subject to fair compensation being paid for those rights. Later, in 1944, the crucial Government White Paper on "The Control of Land Use" was considered by the then Coalition Government. Not until 1947 did the main recommendations regarding land use control come into full effect with the repeal of the 1932 Act. It contained financial provisions, but more importantly, planning control provisions.

Town & Country Planning Acts 1947 - 1971

Planning Control Provisions

Every local authority was to provide a Development Plan to be approved within a prescribed period by the Minister of Town & Country Planning (1st July 1948). These plans were to be subject to five yearly reviews and no owner was either to "develop" land, i.e. carry out building or other operations or materially * change its use without planning permission, subject to right of appeal to the Minister. Such development could be refused or granted subject to conditions. This basic requirements remains unchanged in 1980 and it is this aspect of law which gives rise to use becoming illegal if continued without planning authority approval, or if commenced without such approval.

- * a legal definition giving rise to much planning conflict described in the Thesis.

Town & Country Planning Acts 1947 - 1971

Planning Control Provisions (continued)

A consideration of the financial provisions does not concern this study or the amending Acts of 1951-53 and later Acts which sought to vary compensation for acquisition of land for statutory purposes (e.g. Land Commission Act 1967, Town & Country Planning Act 1954, Town & Country Planning Act 1959). Further Acts of 1962, 1968 and 1971 endeavoured to consolidate the USE requirements and development control, but basically the control of non-conformity has remained the same since 1962, in spite of consolidated law which largely repeals the old Acts of 1947, 1951, 1953, 1954 and 1959. The Explanatory Memorandum to the 1947 Act, stated that the Act was "to ensure that an owner shall not carry out works or change the use of land, except in accordance with the plan". (The Development Plan). Provision within the Act was to allow for further detailing regulations and orders. Applications for development were to be made to the local planning authority, defined as the Greater London Council, boroughs, cities and councils of counties and county boroughs. Appeal procedures and local inquiry procedures were established to deal with defended contraventions i.e. Town & Country Planning Appeals (Inquiries Procedure) Rules. Similar rules were to apply to appeals against subsequent enforcement action to impose planning control by the planning authorities e.g. enforcement, stop and discontinuance Notices served in respect of unauthorised development and contravention of planning conditions on a previous consent.

Town & Country Planning Acts 1947 - 1971

Planning Control Provisions (continued)

This law is basically unaltered. Subsequent changes in the law e.g. Town & Country Planning Acts 1968 and 1971 introduced the concept of surveys and structure plans involving a continuing duty for the planning authority to survey its area in order to be fully aware of the various factors governing proper planning control. This Thesis sets out to examine one of these factors relative to non-conforming use i.e. use which contravenes local planning policy. "Local Plans" were to become "forward planning areas" after the approval of the structure plans by the Secretary of State (formerly Minister). Subsequently, General Development Orders (1950, 1959, 1963) and the Town & Country Planning (Use Classes) Orders were published (intermittently amended), to give greater clarity to definitions of "development" within the Act (e.g. Section 12 and 13 of 1962 Act) which stated what was development and what was not development (Section 12 (2)) and what changes of use did not require consent (Section 13).

The General Development Order also had other principal effects of great importance to the interpretation of conforming or non-conforming planning uses because it authorised, prescribed and regulated development and planning procedure.

- (i) It authorised certain forms of development where planning consent need not be obtained from the planning authority e.i. "Permitted Development".

Planning Control Provisions (continued)

- (ii) It prescribed rules and regulated rights of appeal against planning decisions.

It will be seen that any interpreted differences of opinion between a user and a local authority as to whether a form of development or a change of use was "Permitted Development" might involve dispute and hence lead to enforcement action. The Use Classes Order i.e. Town & Country Planning (Use Classes) Order as variously amended (lastly in 1972) consolidates and expands the provisions of those uses not regarded as development and specified 18 classes of use, within which planning applications for other uses falling within the same use class would not require consent. Again the scene is set for contradictory interpretation manifested by enforcement action against an alleged contravention.

Finally, in examining enforcement of planning control following breaches of the planning law, it should not be forgotten that planning authorities have discretion to proceed with enforcement action against contravening uses. Once a decision is made the enforcement procedures are similar in essence to lengthy and costly planning appeals and are indeed dealt with by the established Planning Directorate of Inspectors who also hear planning Appeals. Authorities are naturally loath to enter this appeal arena with its loss of valuable time and strain on staff resources. Enforcement notices actually served will therefore be a measure of the

Town & Country Plannings Acts 1947-1971

Planning Control Provisions (continued)

actual point of conflict where relating to non-conforming use. Other enforcement action is taken against unauthorised operations or where conditions imposed by a planning permission have not been complied with. It is however in the area of development carried out without planning permission but specifically relating to uses of land and buildings in which the study will concern itself. To do so will also involve the incidental recording of evidence involving all enforcement notices or appeals (Section 88 Town & Country Planning Act 1971).

The Local Government Act 1972

Whilst not a planning Act, the Local Government Act 1972 is mentioned because its influence on planning processes has been considerable. Its aim was to re-organise a cumbersome and costly local government structure into new and more cost effective districts with new areas and management procedures. Its introduction was related to the new requirements also of the 1968 Town & Country Planning Act which had introduced the concepts of County Structure Plans * and Local Plans * . More emphasis under this latter Act was to be placed on defining local planning issues and to catering for those issues more closely. This meant that there was to be more devolution of planning study from the County Council level of administration to the existing District Council level. It had taken nine years to bring local planning

* An official document of planning policy approved by the then Minister of Housing & Local Government.

re-organisation into being since the recommendations of the Planning Advisory Group Report of 1965 entitled "Development Plans in 1965". Specific local proposals would now be examined in greater depth and the staff establishment at local district level should include qualified planning officers where hitherto there may have been none. Prior to the actual re-organisation in 1974, county planning authorities were responsible for both County and Local Plan preparation. They were also responsible for development control e.g. implementation. In certain districts, including the Horsham District, the control area for this study, delegation of some minor decisions was allowed but usually only within the defined limits of zoning on a Town Map. (e.g. if land was actually spatially allocated for a use such as "residential" then the local authority would be able to approve plans within certain guide lines already laid down by the county policy makers). (Ref. Senior Planning Officer, January 1980, Horsham District Council).

A senior local planning officer, Horsham District Council, stated that prior to re-organisation there were no qualified planners on the staff at district level. (This will be a significant factor in later analysis of the incidence of non-conforming use and the recorded attitudes of the planning authority to non-conformity as reflected in enforcement action against offenders). Policies were somewhat crudely assessed compared with current methods, and because they were determined at county level they tended to be "broad brush"

The Local Government Act 1973 (continued)

policies based on national population and industrial projections whereas now the methods of Survey and Analysis attempt a definition of "Local Issues" i.e. of defining local problems and converting that into planning policy. This change of emphasis is reflected in the numbers of reported staff prior to and after 1974. Prior to 1974 two planning staff dealt with the whole requirements of the existing Horsham District and today there are eleven (seven qualified and four assistant student planners). (Ref. Senior Planning Officer, Horsham District Council.)

The Town & Country Planning Act 1971 evolved from the 1968 Act and gradually introduced the current system embodying Structure and Local Plans. Its final introduction was implemented by Commencement Orders which coincided with the 1974 re-organisation of local government. The prime purpose of the Act was to more readily identify "local" issues by the provision of Local Plans within a structural county framework and to partly ensure this by providing for public participation in the preparation of Local Plans.

The brief historical background to the legislation governing land use control is an essential pre-requisite to the understanding of the hypothesis that planning policy is a causal factor of non-conformity. All land use is now seen to be within the control of the State and some changes in the designated legal uses will involve the planning sanction of

the State. Opposition without approval may lead to legal remedies being taken against the offender. Not all offenders are regarded to be non-conforming uses and because of this, doubt as to the interpretation of the law arises. A working hypothesis for the purpose of this study can be determined after considering the nature of non-confirming use. (See conclusions to Chapter 3 - From Truism to a Working Hypothesis).

CHAPTER 3

Designation and Non Conforming Use

Introduction to Non Conforming Use

INTRODUCTION

An interpretation of what is legally and subjectively understood to be non conforming use. An illustration of the main planning procedures by which policies are determined and how interpretations of non-conforming use are made. A definition of some processes and a reference to discretion in exercising legal action against non conforming use. A definition of a working hypothesis.

CHAPTER 3

Designation and Non Conforming use

Introduction to Non Conforming use

The term non-conforming use is a conceptual if not legally based one which is used extensively by planning authorities. It is used by varying bodies associated with planning matters to define planning "problems" or "issues" which need to be resolved. It used to be frequently applied to "noisy" or * "polluting" activities such as garages or industrial premises which affect residential areas. The separate definition of non-conforming activity is not made in law. There is no statutory reference to the expression in the Acts of 1947 to 1971. It is argued that it is now being extensively used to describe activities which are environmentally offensive not only within residential areas but on an increasingly broader basis than hitherto. Observation of non-conformity is more apparent for example in cases where a Local Plan, showing areas primarily zoned for a particular purpose, includes a building or land which is used for another purpose. The other purpose may be different to the prime zoning e.g. a factory in a housing estate, but it will not necessarily be defined as non-conforming unless it is regarded as being "out of place". A church on the other hand may not be regarded as non-conforming on a housing estate. There is therefore a degree of interpretation in the analysis of non-conformity which indicates that there are official planning levels of tolerance in certain cases as well as a social "ethos" of acceptance or

* e.g. dust, vibration, fumes

Introduction to Non Conforming use (continued)

discretion by the public in interpreting non-conformity. However there are measurable levels of non-conforming use which are not tolerated either by planners or the community at large. This suggests that there is a code against which non-conformity is measured. The conflict use giving rise to this non-conformity is the subject of the following study.

The Law and Non Conformity

The Acts

Development is defined by Section 22 of the Town & Country Planning Act 1971 primarily on the same basis as it was in the original Town & Country Planning Act of 1947.

Development - (a) The carrying out of building operations, engineering operations, mining operations or other operations in, on, over or under land or

(b) The making of any material change in the use * of buildings or other land

The Act also defines uses and operations which are not development and which therefore do not require a need to obtain planning permission. It follows that any commencement in the use of land which is a "material" change will otherwise require a planning application to be made and will be a breach of planning control if not made. In considering non-conforming uses an explanation of building, engineering and mining operations need not be made but

* The writer's emphasis.

The Law and Non-Conformity

The Acts (continued)

a reference to what is defined as material change of use is essential. "Material Change of Use" is a composite of two original expressions in former planning acts. The 1932 Act used the expression "change in use". The 1962 Act employs the same expression but uses the word "material". It is clear that interpretive difficulties will occur because of imprecision. What may be "material change" in the use of land to a planning authority may not be so to an individual user of land. Assistance in interpretation is given by Section 53 of the Town & Country Planning Act 1971, which enables applicants to seek the opinion of the planning authority of the necessity for a planning application. (See also Circular 67/49 Ministry of Housing & Local Government.) There are enforcement powers for planning authorities to require users to remedy what they regard as material change of use in land (Section 88 Town & Country Planning Act 1971) or commencement of uses without planning consent. Planning applications can also be made to obtain a change of use. The Minister takes the view that for a change of use to be a material change of use it must be "substantially" different from the old use. (Heap: Planning Law 1963). The difficulty of quantifying the differences between terms such as "material" or "substantial" in any given case is therefore obvious. Many instances of case law exist to emphasise the difficulty of interpreting the word "material". Palser & Grinling (1948) defined the word as "not unsubstantial" i.e. just enough to avoid the "de minimus" principle. In spite of the existence of case law and

The Law and Non Conformity

The Acts (continued)

recourse to the opinion of the planning authority (with its possible judge and jury overtones) there is an increase in breaches of planning control as recorded by the incidence of enforcement action (see Chapter 5 Enforcement Survey (post)).

The definitions of "Development" and of "Land Use" and its designation are set out in greater detail in the various statutory orders, regulations, articles, circulars and directives associated with the main planning acts. The area of law relating to uses in particular is highly complex but for the simplification of this study a brief explanation of the prime orders affecting use is essential for the understanding of non-conformity.

The General Development Orders, (the latest of which is the General

Development Order 1977) are government orders which have the same legislative authority as acts of Parliament. They are ancillary to them and define development for the purposes of policy implementation and control by planning authorities. They define the extensive range of technical terms as to what development or uses require planning permission to be obtained but they also define what is "deemed" to be development or what circumstances give rise to "permitted" development. They also clarify procedures and in this respect they are read in conjunction with other Articles and Regulations which explain how land development plans are to be made, implemented and enforced. "Permitted" development and uses are classified within the General Development Order (1st Schedule) and because the range of classification is designed to be far-reaching, forms a major source of reference to the general understanding of designated land uses. It is the prime reference of

The Law and Non Conformity

The General Development Orders (continued)

interpretation for land uses and therefore enables conclusions to be drawn as to what does not conform to planning law i.e. non-conforming use.

The Use Classes Order 1972 is a further document which attempts to classify all land uses not just legally permitted uses into 18 broad categories. It is of particular significance to the study of non-conformity because within its terms it also indicates what inter-changes of use may be made legally between one class and another without planning permission. It assists therefore in narrowing the concept of what is a "material" change.

Summary of planning law and Non Conformity

The brief resume of the background law points to the difficulty of defining non-conforming use. There is no specific definition. It is a residual product of the law. As such a working interpretation would involve a detailed knowledge of the most complex of legislations. It has been shown that land use definition is subject to many exceptions and reservations. A brief examination of land use implementation and the processes associated with its designation and control are therefore also necessary. At this stage however, it is argued that the very complexity of interpreting "use" in itself is an explicit indication of a causal base of conflict simply because the word "material" is not, or cannot, be specifically quantified. It will however be seen in later study that "conflict" can be quantified by the incidence of legal action taken against breaches of planning control. This will be measured and classified by conflict type.

The Processes and Non Conformity

Structure Plans

Structure Plans are the strategic policies prepared by local planning authorities and approved by the Secretary of State for the Department of Environment as the statutory document implementing national planning policy at the operational level of county council administration areas. The plans are not necessarily maps defining specific land uses. They sometimes define major policy areas for a particular use such as National Parks or areas of outstanding natural beauty, but as a generalisation, the more detailed allocation of formal designation is left to smaller district studies. Written statements of statutory policy may however have the same effect as if specific land were zoned or shown on a plan as designated for a particular use e.g. if it were stated that agricultural land was to be protected against any other form of development no other use would be permitted without planning consent.

Local Plans are the consequence of the broader Structure Plan. They are written statements of policy as well as documents which may define action areas and specific purposes for land utilisation. They now replace former Town Maps and Development Plans which, as previously illustrated, were required to be provided by planning authorities from 1947 and eventually abandoned by the 1968 Act. It is the local district authority plan which designates the permitted policy use of land. This plan must be examined by any intending planning applicant who wishes to change a use from one purpose to another. Any planning activity continued without consent will be illegal and per se non-conforming, not just because it may be environmentally offensive but because a breach of planning control is implicit in not having planning authority approval.

The Processes and Non Conformity (continued)

Planning Applications

Many applications to the planning authorities are for authorised uses such as building houses on land allocated for residential use within the Local Plan. Others are concerned with the construction of buildings rather than use of land. Assuming that development which it is sought to be undertaken is development within the meaning of the planning acts and if it is not automatically granted by the legislation previously outlined in this chapter, then it will be necessary for a planning permission to be asked for and obtained by prescribed procedures (and on prescribed forms, within prescribed periods). Failure to provide decisions within reasonable periods, or giving refusals not acceptable to the applicant and similarly the conditions attached to a conditional consent, may be challenged by appeal to the Secretary of State within six months of the decision or prescribed period. The initial planning decisions are made by local councillors forming the Planning Committees of the district authority.

Planning Appeals

^{procedure}
An appeal/as laid down by certain rules (Town & Country Planning Inquiries Procedure Rules) has been established which enables the aggrieved party to obtain a review of the adverse decision by the Secretary of State for the Department of Environment. Appeals are heard by an inspector appointed by the Ministry and either by written representations of the parties involved or by public enquiry. Choice of method is at the Secretary of State's discretion according to the degree of seriousness with which he attaches to the matter, although participants are consulted as to their own wishes. The

The Processes and Non Conformity

Planning Appeals (continued)

Public Enquiry involves greater resources than the written statement method and financial cost may therefore be a significant factor in determining the method of appeal.

Enforcement Appeals

If an applicant commences an activity without making a planning application or in contravention of a decision whether a refusal or conditional consent, he runs the risk of enforcement action according to the process set out in the Town & Country Planning Act 1971 (Section 88). A detailed account is given of enforcement actions and of the practice as related to case studies (see Chapter 6). A distinction at this stage is made between the offences for breaches of planning control which do not have permission and those which fail to comply with conditions imposed by planning permission. These represent two differing categories of conflict in planning. These two distinctions may show the difference between uses for which an applicant does not think he needed consent and those which he knows he is deliberately contravening because a decision has been sought and refused or modified by conditions. It will be possible to examine the incidence of recorded breaches of planning control and extrapolate in the light of available information those appeals which are for contraventions relating to land uses and those which are not. By this method a realistic isolation of true non-conformity as interpreted by local authorities at a conflict point can be empirically measured. Supporting statistical evidence may also be made by examining the records of County Planning Departments and Department of Environment relative to conflict appeals and ancillary planning decisions.

The Processes and Non Conformity (continued)

Discretion and Non Conformity

One source which can be factually measured is in the record of enforcement action against offending users. This is isolated for the main purpose of the Thesis and for studying the hypothesis that planning processes are a cause of conflict. The source will be examined against stated and implemented planning policy by reference to national, district, local and case study evidence. Non-conforming uses which might be in existence but which were not acted upon by district authorities were not possible to observe within the local planning process because no records were on file at the date of survey. It is only usual to act against them if complaints were made by the public at large or observed by enforcement Officers on an ad hoc basis. Evidence of actions under consideration and within files was confidential but there appeared to be in existence a policy of discretionary "non action" although the offending use may be both a material change from a former use and contravene local planning policy.

From Truism to a Working Hypothesis

Having briefly summarised the historical and legal background to non conforming use, it is apparent that all uses of land as opposed to its ownership, were legally brought under control of the state in England and Wales by the Town & Country Planning Act 1947. Subsequent acts, orders and regulations modified the legislation but basically a change in the use of land may not take place without government sanction via its own planning agencies, the local district planning authorities. If individual owners or users of land wish to make any material alteration in the use of an

From Truism to a Working Hypothesis (continued)

area of land or building then technically they need the consent of the state to do so unless the use is an allowable one under deemed powers to change from one use to another.

Non conforming use is a meaningless term unless there are regulations or land use zoning against which any use does not conform.

To postulate therefore that planning processes are a cause of recorded non-conformity is, on the face of it, a truism because the use is either illegal as defined by the planning acts or it is not. It has been shown however that the acts themselves are in some respects unclear or give rise to considerable difficulties of interpretation of what is a "material" circumstance for legal action. Furthermore the local planning authorities are the sole prosecutors of non-conforming use and make discretionary, i.e. "cost"-effective assessments as to whether it is worthwhile their pursuing an action against an illegal or offending use. Their interpretation of whether a prosecution will be successful and therefore lead to discontinuance of that illegal use must take many factors into consideration in assessing this "cost". There are not just financial ones but others such as the degree of effect on other planning policy which they themselves administer or impose as agents for the Secretary of State for the Department of the Environment.

To this extent their discretionary consideration may be subjective ones leaving some non-conforming users unprosecuted and other prosecuted, e.g. it would seem illogical that a time-consuming and financially costly appeal process would be entered into without

From Truism to a Working Hypothesis (continued)

there being some overall substantial benefit to the other planning policies they control. There are "de minimus" provisions within the planning acts to ensure that flippant or vexacious appeals are not pursued by planning authorities. Costs can be awarded against local authorities who do so. This in itself may lead to the exercise of discretion and the negotiation of settlements to get rid of offending uses. However, it has been argued in discussion with local planning officers that if the element of discretion is used to its fullest extent it is also tempered with the knowledge that recent legislation has brought into being the appointment of the official Ombudsman who has the effect of "monitoring" local authority misconduct e.g. if a member of the general public were to complain about an offending use of land and the local authority were not seen to be investigating or exercising enforcement against that use a claim of negligence could be brought against the local authority by the public via the Ombudsman.

Measurement of the element of discretion could only take place by recording the numbers of negotiated settlements between local authorities and individual offenders. This has been shown to be impossible since the numbers are not statistically represented at any official level nor are they readily available on request because of their confidentiality. It has been observed however that in Horsham District Council area an estimated 400 cases per annum for complaint are currently being investigated (Enforcement Officer 1979) whereas prior to 1974, the estimated numbers of complaints was less than 20 per annum. This participant observation

From Truism to a Working Hypothesis (continued)

was a major reason for this thesis and the cause of an investigation into the assumption that enforcement activity against non conformity had increased because of some significant planning reason or changed process. The verbal opinion of other planning officers supported this assumption in a purely subjective way. It is reported from the same local authority source that there had not necessarily been financial or staff constraints i.e. resource constraints against prosecution in the past because there had been significantly less cause and incidence of complaint. It would not be correct to make the inverse assumption that there was less enforcement activity in the past because of the exercise of greater discretion by planning officers. Complaints from the public were alleged to have been less and it would follow that there was therefore less necessity for discretion. However if the number of complaints and widespread level of enforcement activity had significantly and suddenly increased in relation to normal planning activity then a national ethos of change in attitudes may have taken place for some reason.

In the absence of any existing social study a separate and independently carried out England/Wales survey of the incidence of enforcement action by planning authorities would be necessary to show whether there had been any significant numerical changes in this planning process. It would also be necessary to measure enforcement prosecutions in a local accessible study in order that any generalisations could be examined at the particular level of a county planning authority. Policies for small business and non-

From Truism to a Working Hypothesis (continued)

conformity may not be catered for at the original policy making point of development plan preparation. There may have been changes in policy-making for non conforming users which creates significant change.

In order to finally move from the general to the particular, individual case studies of non conforming uses would need to be made at the micro-level of local offenders. Having determined the national type of prime conflict use (offender) from the above general surveys, it would then be possible to examine the stated reasons for that particular use conflict from both a local users point of view and from the point of view of the planning agency prosecuting the action.

Such suddenly increased levels of incidences in enforcement action against offenders may show a different and/or increased efficiency of detection and of effectiveness of public complaint within the planning system. To that extent the hypothesis may still be a truism that planning processes create non conformity , but the causal factors may become plainer and elicit whether there has been actual change in the process.

If there has been a change in planning processes which create higher levels of detection, the method of assessment by moving from a general examination to a gradually more detailed level of studies may reveal why those processes have changed and whether they are justified. Higher levels of detection and public complaint may arise out of the process of the planning system but if there are increased levels of prosecuted "innocent" users there may be a need

From Truism to a Working Hypothesis (continued)

for a modification of the process. Planning authorities may have become unconsciously more inflexible in interpreting the law in order to protect their policies. If they are to be both the judge and the jury in the planning system process, difficulties could arise for some changes in use, e.g. innovatory business, which usually relies on substandard business premises at low cost rent in its initial stages of operation, may find planning difficulties are a hindrance to development or inception. As the local authorities are the prosecutors and also the formulators of planning policy against which offences are measured and the Department of the Environment Secretary of State, who decides national policy and also prosecution appeals, is the "employer" of the local authorities, there is bound to be a truism in the hypothesis that planning processes cause non conformity measured as use conflict. To this extent the rules of the "game" are whatever the government wants at the time as a policy.

Incidence of non conformity can easily be quantified at the recorded level of legal prosecution i.e. at the point of the service of enforcement notices and the ensuing appeals. An operational definition for the purpose of this thesis will be that a major causal factor of non conformity measured as a use conflict in planning policy lies in increased detection and the difficulty of interpretation of what are legitimate uses. Conviction of "legitimate" users of land may be on the increase because of this difficulty by planning authorities in interpreting the law relating to land use. This hypothesis will be examined against national, county and local case study to elicit whether this is so, and if so for what reasons.

CHAPTER 4

Survey Constraints and Sources of Evidence

INTRODUCTION

A determination of the extent of non-conforming uses based on evidence of conflict with planning policy.

CHAPTER 4.

Survey constraints and sources of empirical evidence

Prime sources of evidence

General A major constraint in the availability of evidence exists to the examination of types of non conformity. There are three prime sources from which information can be gathered.

- (a) Government i.e. Department of Environment Statistical Records of County and interrelated District Information, including planning and appeal decisions.
- (b) Local authority records of enforcement activity and appeals, largely contained in filing systems.
- (c) Case study decisions of planning and enforcement appeals at user level.

Other miscellaneous sources, including planning research institutions, educational establishments and papers from professional journals, are argued to be valid but only as secondary sources. They differ from the prime sources in not being active "parties" involved in the actual planning process. Confirmatory reference is however made to some of these secondary sources and a sample survey conducted among those sources for evidence of discrete study of non conforming land use.

(a) Government Sources

The Department of Environment exchanges a considerable amount of information with County Councils on many facets of local government administration, including planning statistics. Evidence can be obtained of statistics relating to numbers of planning applications for changes of use, as well as new development. The information is kept within a databank system at the Department of Environment Planning Intelligence Directorate and also includes statistics on

Prime sources of evidence

(a) Government sources (continued)

numbers of appeals, both of planning and enforcement actions. They only however keep broad classifications of planning subjects and this is limited to a publication of "Planning Enforcement and Allied Appeals". This is an intermittent rather than regular publication and is both selective and discretionary in the choice of published subject. The document is stated by the Department of Environment representatives to illustrate particular points of legal importance. Its use as a source of evidence relating to the concept of non conforming use is therefore of limited importance. Enforcement statistics including those for numbers of appeals under Section 88 of the Town & Country Planning Act 1971 are recorded for all enforcement notices served by local authorities in respect of development carried out without planning permission or without complying with conditions imposed as part of it. The difficulty of using these statistics is in relation to the lack of record of types of appeal or decisions classified by user. Its importance lies in its comprehensive record of numbers of appeals lodged, withdrawn, squashed and upheld over a long period (including the period of this study 1963 - 1979). It will be later argued that the recently increasing incidence of planning appeals substantiates the claim that planning processes changes have created conflict.

(b) Local Authority Sources

(b)(1) National sources

The only separate records of use type are limited to the District planning authority records which are obtained for this analysis in

(b) Local Authority Sources

(b) (1) National sources (continued)

two ways (i) by direct questionnaire and (ii) by reference to their enforcement files over a control period. The numbers of applications filter through County and then Department of Environment, but there is no collation point for served enforcement notices other than within local authorities filing systems. A survey of this system was therefore undertaken in a local control area for the period 1963 to 1980. A major constraint exists however as to the examination of use types. Many authorities regard the information as personal or confidential because correspondence and files sometimes reveal attempts to negotiate a decision with an enforcee. The only information therefore available is in the original planning register reference if the matter had ever involved a planning application (very often they do not). If there is no original application the legal enforcement notice itself can be made available from the files e.g. in the Horsham District Area which was subject to a control study, no separate group of enforcement Records existed at the time this study was commenced in 1976. Records were available but scattered in 120 files. There was therefore not available any tabular classification of incidence, types of affected use, type of conflicting use, type of premises, location record or record of negotiation by this local authority. More detailed information is now available following the appointment of an Enforcement Officer and a clerk to keep enforcement files in one location. In the previous authority, before amalgamation in 1974, files were kept on an ad hoc basis only. This is reported to be true

(b) Local Authority sources

(b) (1) National sources (continued)

for most authorities and was revealed by survey of all local planning authorities in England and Wales comprising nearly 400 in number. (See next Chapter).

The survey revealed unsolicited remarks in the General Comments column (see Appendix 2 Sheet 2) that staff resources and finance prevented a more detailed reply to the comprehensive questionnaire which had been submitted. It is an important point to emphasise that this remark was coupled with comments that there was also a lack of staff to carry out even normal duties of planning control. As this affects the process of planning implementation and efficient monitoring, it is argued here as a possible causal factor of conflict e.g. if monitoring and ancillary data collection are hampered, the needs of local users may be overlooked for lack of suitable surveys being carried out. Co-operation on a private thesis survey, entirely outside the duties of Chief Planning Officers, was also going to be difficult to obtain in the light of this resource problem. A local pilot study commenced in 1977 had revealed this difficulty in advance (Horsham District). It was revealed that the time of planning officers was also restricted by having to deal with public enquiry for planning information from such bodies as Marketing consultants, Planning consultants and others. Where the purpose is for a specific planning appeal or negotiation with the local authority, there is a statutory duty to provide information; where otherwise the information is given as a concession subject to time, cost and staff availability above normal duty requirements. Consequently many requests are ignored.

Notes on sources of evidence

(a) National sources

To obtain a valid sample, it was going to be necessary therefore to have a broad one if sufficient reaction was to be available for analysis. Furthermore, there was going to be no point in the questionnaire involving more than a very small amount of a planning authority's time because it would immediately be discarded without reply. It would need to be easily dealt with, preferably as it was read. If a proportion of the planning officers were to be persuaded to co-operate it was also to be authoritative and appeal to them professionally. An attempt was therefore made to design a document (Appendix No. 2) which was simple to answer as it was read but which gave the option for co-operation beyond the first reading stage in order than an opinion as to non conforming use might be supported by further action in supplying factual numbers of enforcement activity and even further information on numbers of notices served each year in the survey period 1963 to 1979. The latter was going to impinge into a "secondary" period of officers' time, possibly involving the movement of the questionnaire to a second party if the document had sufficient impact. This was the important area for (empirical) evidence upon which the substance of the survey could be judged. An opportunity for general comment on the survey was also offered for completion after either phase. The survey (post) in fact achieved over 80% return-response and 33% factually supported response.

(b) Local Authority Sources

(b) (ii) Local Sources

An initial start in 1977 on a local planning register survey for

(b) Local Authority Sources

(b) (ii) Local Sources (continued)

comparative purposes was conducted but was abandoned after eighteen months, having been abortive and extremely time consuming. It had involved an attempted extraction from the Planning Register of all planning application, refusals and change of use applications within three control areas. Eventually, by consent of the Horsham District Planning Director, all files on past enforcement action were made available but without reference to confidential correspondence or to background arguments. The survey was limited to the extraction of the information from the official enforcement notices. From these documents, it was possible to locate the position (excluding size, except by presumption), the incidence, the type of affected use and the type of conflicting use which was then tabulated for analysis.

(b) (iii) Case Study

A number of case studies of local business had been carried out during 1977/78 by the issue of small business questionnaires. Later use of these case studies was made to enable a further analysis of the effect of planning processes on actual users at field study level. Two selected case studies were then carried out in depth upon prime conflict uses which had been determined from national surveys conducted during 1979.

(c) Miscellaneous Sources

Other recorded case studies are scattered through articles of professional magazines like The Chartered Surveyor and Royal Town Planning Institute or Town Planning Association house magazines. Such articles will be those submitted by the profession's

(c) Miscellaneous Sources (continued)

members having taken a special interest in the subject wearing the blinkers of the particular profession.

The difficulty of sampling records of decision by reference to magazine or journal indices lies in the broad spread over time of their incidence e.g. an attempt to do so was made through examination of the Chartered Surveyor and the Journal of Planning Law and Environment. The difficulty lies in (a) the diffuse nature of the articles which were often technical and only obliquely referring to non conformity, (b) the reference titles were journalistic and difficult to decipher, (c) the time spread of the articles meant inordinate constraint on time available to analyse by volume.

An examination of these sources is included in this chapter and supported later in the thesis by investigation of minor ancillary sources (e.g. National Commercial and Industrial Statistics, census of industrial distribution etc.)

Finally, miscellaneous sample approaches to British universities with Planning and Geography departments and to other trade and professional sources elicited that no exercise had been carried out in the field of non conforming use (Chapter 4) or allied studies, although from the Department of Environment Research Register certain tangential studies of small businesses and of the public image of planning processes were revealed but totally without content germane to the subject of this thesis.

(d) Surveys, legislation and literature as sources of evidence

(i) District Council surveys

There has been no specific study of non conforming uses by the body representing local planning authorities i.e. the Association of District Councils. (Assistant Secretary, January 1980). The difficulty of obtaining official enforcement statistics and their lack of availability at individual district levels was corroborative evidence of this. However, individual local authorities themselves have carried out related exercises. Havant Borough Council commenced a survey on non conforming use, the basic survey work for which was completed in 1977, with a view to determining priorities for relocation policy. (Department of Environment Register of Survey 1977 p. 97). Similarly a number of authorities monitor their own industrial policies by such studies e.g. Tyne & Wear County Council "The Need and Potential for change and improvement in the older industrial areas of Tyne & Wear" (Orchard Henderson Jarvis, April 1977). Warrington Development Corporation also have conducted surveys to examine user requirements "Grange Industrial Feedback Study" (Smith Gulliver Fenton Sutton). South Yorkshire County Council carried out a Growth Industries Study in June 1976 (Howell & Roberts) as a summary report to identify user requirements and their prospects. The exercise was done in key project areas by individual industry e.g. plastics, pharmaceuticals etc.

The incidence of surveys appears to be spasmodic and related to evident local problems. Examination of the Department of Environment Register of Research for the periods 1975 to 1978 under the categories of Land Use and Sociology revealed an ad hoc

(d) Surveys, legislation and literature as sources of evidence

(i) District Council surveys (continued)

situation of study.

Some broader studies however might have revealed non conformity e.g. Hereford & Worcestershire County and City Councils "Monitoring Land Use Changes" (Davis & Lloyd 1974) (Department of Environment Register of Research 1975 A.3).

Clwyd County Council also reviewed the industrial and employment structure of North Wales in a comprehensive economic review which was carried out in subject research reports with the aim of "relating the County's structure to national pattern and trends to identify declining industries and locational factors that may attract such industries to Wales". Prospect for Rural Industries. An Economic Survey of N. Wales (County of Clwyd) 1975.

The result shows ad hoc nature of research and Clwyd Study epitomises the intentions of local authorities who have a particular problem.

(ii) Educational Establishment Study

In an early review of literature sources for the accompanying studies a circular was sent on a sample basis to a number of educational planning and geography establishments as well as to the headquarters of individual organisations which might have a related interest in the subject of planning (See Schedule below). The object was to elicit the general interest in the subject or tangential studies which might reveal whether specific examination of any non conformity issue had been undertaken.

(d) (ii) Educational Establishment Study (continued)SCHEDULE

INSTITUTION	DEPARTMENT	SOURCE	REMARKS
<u>Universities</u>			
Manchester University	T. & C. Planning	G. Williams	Small study on Clwyd not related.
Liverpool University	Dept. Civic Design.	A. Deminio	North Yorkshire study
Trent Polytechnic	Research	R. Walker	Tangential only.
University of Science & Technology, Kumasi	Land Admin. Research Centre.	M. Avis	Relocation of small industry in Liverpool
London Polytechnic			
Sussex University		P. Dickens	General consensus that no specific study being undertaken
Reading University			Referred to specific study.
Birmingham University		Cherry	Reference to source
University College London	Geography & Planning	Alice Coleman, A. Gilbert & H.D. Clout	Land utilisation surveys and literature references. No studies.
University of Southampton	Geography & Planning	B.S. Hoyle	
Edinburgh University	Geography & Planning	C.T. Coppock	Tangential examples on oil development and tourism.
University of Leeds	Geography & Planning	A.G. Wilson Rees E. Leigh	
Sheffield University	Geography	R.J. Johnson P.E. White	No direct study.
University College, Swansea		D.T. Herbert	No study.
Gloucester College of Art and Design		J. Davidson	Not aware.

Continued....

SCHEDULE

INSTITUTION	DEPARTMENT	SOURCE	REMARKS
<u>Universities</u>			
London School of Economics		I. Hamilton	Not aware.
East Anglia University	School of Environmental Science	T. O'Riordan	No study.
University of Kent	Unit for Urban Regional Study	R. Flynn	No study but tangential interest.
Essex Polytechnic		D. Crouch	Tangential interest. Misc. sources.
University College London	Bartlett School of Architecture	J.M. Simmie	Study of Devt. Contn. Decisions Oxford and effects of ownership.
University of Surrey	Geography	Librarian	Limited material.
University of East Anglia	Editor of "Geo"		Not aware.
Plymouth Polytechnic	Environmental science	B. Chalkley	Displaced Industrial business study.
<u>Other Institutions</u>			
COSIRA	Secretary	M. Hardin	Unaware.
National Council of Social Services	Rural Admin. Dept.	D. Emerson	General sources of possible study.
Clwyd County Council	County Planner	R. Jarvis	Small firms survey. contribution to local economy.
Federation of Sussex Industry	Secretary		General
Civil Services Commission			None known
Council for protection of Rural England	Secretary	Holford Walker	None known
Royal Institution of British Architects	Secretary	Librarian	No study. Suggestion of other sources.
Royal Institution of Chartered Surveyors	Secretary	M. Duffus	Tangential studies on rural settlements.

Continued.....

SCHEDULE

INSTITUTION	DEPARTMENT	SOURCE	REMARKS
<u>Other Institutions</u>			
Royal Town Planning Institution		Librarian	Library facilities. No specific study.
Centre for Environmental Studies		M. Harloe	Suggestion of possible sources. No study.
Department of the Environment Planning Inspectorate			Referred to Dept. of Land Economy.
Town Planners Association		Alison Brown	Reference to Individual Study by District
John Wiley & Sons, Publishers			
Dartington Hall Trust			Individual Example of appeal decision.
Countryside Commission	Research	R. Lloyd	Landscape conservation and recreation - no study.
North Devon District Council		A.J. Ley	Historical Study of local building industry.
Cambridge Information & Research Services Ltd.			Publication Guide.
Planning Exchange	Editor		Not aware.

The conclusion to be drawn from this sample survey of secondary and educational sources was that whilst there were a few studies of land uses, particularly where relative to a local industrial problem or planning "issue", there were no cumulative social or other examinations of enforcement decisions although the impact of large scale problems such as the oil industry in Scotland was well documented. As sources of information for the purpose of

(d) (ii) Educational Establishment Study (continued)

studying small, illegal non conforming planning activity however the ad hoc sources did not cover the subject. Land utilisation surveys such as by A. Coleman, merely reflect the general broad classifications of land use and do not necessarily indicate possible social consequences at the micro-level of the user of land, nor the possible cumulative problems of the small user. Denman's (Cambridge) suggestion of an "ownership" register for all land might assist the research of uses at that micro-level, i.e. of ownership.

(d) (iii) Literature and allied legislation

The main professional institutions such as the R.T.P.I., R.I.B.A. and R.I.C.S. all have their own house magazines for the individual profession. Even so, the recognition of land use subjects was difficult because articles tend to be spasmodic over the years and it was difficult to trace a reference to planning enforcement study let alone group a set of articles into a particular sub-index. An individual study of enforcement decisions for England and Wales was therefore necessary, linked to a local study area in order that generalisations could be related to the particular. Other studies, particularly on rural deprivation, included an examination of declining industry over long periods e.g. Upper Weardale Action Committee report (1979). Again however the studies were of local issue and not broadly based. The corroborative evidence that planning deficiencies were a contributory factor in the long-term decline of employment and housing is implicit in that report. Confirmation of the difficulties in some rural areas is

(d) (iii) Literature and allied legislation (continued)

also given in a number of published reports e.g. The Countryside Review Committee "Rural Communities" discussion paper (Department of Environment 1977) and such other publications as "The Future of the Village" (Council for the Protection of Rural England, 1975). The proceedings leading to the latter publication were recorded at the Council's National Conference at the University of Kent in 1975. V. Bonham-Carter in his paper on jobs and villages emphasised the pressures on farming and forestry and gave a specific indication of the difficulty of encouraging small scale industry into the countryside. In the same proceedings, John Lambe (Peak District National Park) expressed the principle of "self-sufficient rural industrial hamlets", the implication of which was the theme to stop further employment decline in villages. He stated that such non conforming sites as areas from former industry or old army camps might be utilised for that purpose. Such study is however tangential to the present thesis. Other conferences have pursued similar ideas, e.g. at the R.T.P.I. Annual Conference in June 1976 a paper on employment, planning and the problem of deprived areas was presented by Dr. G. Lomas (General Secretary, London Council of Social Service). This theme took a similar issue to job deprivation but related it to inner city areas. He compared unemployment in inner cities with other assisted areas and concluded that there was, among other things, a need for "providing proper intelligence about employment trends.....with much greater attention to the dynamics of local employment change". This observation is of particular relevance to the conclusions

(d) (iii) Literature and allied legislation (continued)

derived from the present thesis on monitoring small firm requirements. "The impact of town planning locally on the level of employment in an area remains largely unexplored" (Lomas).

A. Blowers in his book "The Limits of Power" (Pergamon) outlines some of the difficulties of effecting social policies via the present local government system. A limitation on research resources is one reason, apart from any restrictive political reasons generated by the system.

(Note: The writer's contribution to literature in this field has been limited to the publication of three articles on the specific subject of non conforming use. Two were in trade magazines and the third, entitled "Should non conforming use now be encouraged?" (Chartered Surveyor, January 1980) was drawn from the conclusions to the present study.)

The bulk of the work for the study of the present thesis was conducted in the period 1977 to 1979. Library and other assistance facilities were given for study of the problems of non conforming use by the Deputy Director of Land Economy in conjunction with appropriate departments of the Department of the Environment. Statistical support was made available which had not appeared as updated public information because little relevant literature was available on non conformity. By the end of 1979 the new government under the Secretary of State for the Department of the Environment began to consider the revision of the Town & Country Planning Acts. On 18th October 1979 at a joint conference of the R.I.C.S./R.T.P.I., Tom King the Minister for Local Government and Environmental Services

(d) (iii) Literature and allied legislation (continued)

gave some indication of the government's views on aid to small business and the "attitudes" of planning officers in aiding their inception and growth. Whilst the prime base of the conference was to promote other ideas such as "enterprise zones" where planning codes would be more flexible to avoid delay and assist industry, the Minister also mentioned "non conforming uses". "Had we not taken things too far in clamping down on these? Remember the declining rural areas." On the 14th September 1979 the Small Business Guardian had also published an article about the recent publication by the Smaller Firms Council of the Confederation of British Industry on small firms. The C.B.I. had stated that "detailed planning was primarily concerned with the use made of premises whether existing or new.....Its primary role should be concerned with whether that use is likely to cause a substantial nuisance or danger to neighbouring properties or their occupants." "Success" (for inner city development in particular) "is much more likely to be achieved if a mix is allowed to arise naturally and change continuously. Some grouping of new development is desirable but a pepper pottinq of many small groups of businesses, offices or factories is better for city structure".

The implication for non conforming uses, which by their nature are "pepper potted" by historical accident, of this new political awareness, later led to a Consultation paper on Planning Relations^{xa} for small industrial premises (Planning and Land Use Policy Division 3, Department of the Environment) (See Appendix No. 20.) Replies to that document are due to be returned to the Policy

(d) (iii) Literature and allied legislation (continued)

Division of Department of the Environment by September 1980. This process will in itself generate surveys and studies which are not yet published information, but some will specifically concern non conformity. The Consultation Paper is regarded by the present writer as being the most important government paper to affect the specific subject of non conforming use since the establishment of the Town & Country Planning Act 1947. The Department of Industry published a report entitled "Provision of small Industrial Premises" which was a report by Coopers and Lybrand Associates Ltd., Management and Economic Consultants, with Drivas Jonas, Chartered Surveyors and Planning Consultants. The stated principal conclusion of the report, which was commissioned by the government into demand and supply for small industrial premises, was that a "large and unsatisfied demand for such premises existing throughout the country".

It also concluded that "the shortage of premises had constrained the establishment and development of small firms; but that where premises had been provided this had the effect of stimulating the expansion of existing small firms and the establishment of new ones". The report was mainly concerned with manufacturing industry and its supportive service industries in small premises. Provision of such premises had largely been within the public sector in the past, but with restraint on public expenditure the need to encourage private investment into small factory development was to be encouraged.

A most important factor is the proposal to the Consultation Paper which states "The Government proposes to amend the Town & Country

(d) (iii) Literature and allied legislation (continued)

Planning General Development Order 1977 by the addition of a new class of 'permitted development' in Schedule 1 so that no planning application will be needed to change from use as a light industrial building (Class III defined in the Town & Country Planning (Use Classes) Order 1972, S1 No. 1385) to use as a wholesale warehouse or repository for any purpose (Class X) and vice versa. Eligible units will be premises of 235 sq. metres (2500 sq. ft.) and below....

The new permission would operate on similar lines to Class IIIa of Schedule 1 to the General Development Order which permits changes from general industry to light industrial use".

The eventual conclusions as to whether this government proposal to assist innovatory business will be implemented will post date this Thesis. The industrial uses of small premises are to be interchangeable with storage buildings and should be helpful to reduce the incidence of enforcement action against small manufacturing businesses which start up in older types of buildings hitherto used for a variety of storage purposes. The legislation will need to be modified to protect the environment e.g. such as in historical buildings of environmental merit such as attractive barns. The effect of the proposed legislation will be to assist one of the writer's recommendations in the conclusion to the present Thesis i.e. interpretation of the term "material change of use" will now be assisted by a specific but permitted interchange of uses between a small number of stated uses. In the limited context of light industrial use class and wholesale warehouses class which also reflect minor but significant groups of observed

(d) (iii) Literature and allied legislation (continued)

use conflict within the present study, there will be no necessity to interpret whether a change of use within those classes is required or whether it would have been a "material" change of use.

The recommendations above also may lead to further amendments in legislation to clarify other areas where inter-change may be appropriate. This could arise from future monitoring of small firms' need within County Structure Plan data collection processes. This will no doubt be assisted by the new political climate (1980) in which employment is a vital factor. The sources of reports and literature may now increase as a result of such employment need. At the time of the commencement of the writer's present Thesis in 1976/77 however, little written evidence was available and this led to the study itself.

CHAPTER 5

England/Wales Survey 1963 to 1979

INTRODUCTION

A survey of enforcement activity at national level of England and Wales local planning authorities to determine:

- (a) The incidence of type and recorded non conforming use conflict.
- (b) The determination of prime conflict derived from stated and factually supported replies to a national questionnaire.
- (c) A classification by type of district and affected land use to establish whether conflict is widespread.
- (d) A comparative study of conflict over time to establish whether there is a constant or variable planning "attitude" of conflict interpretation and incidence evidenced by enforcement activity.

This chapter is a prelude to a comparative analysis of general levels of recorded conflict. A control area was therefore selected for examination of non conforming use at an individual district level (Chapter 6) and finally at selected conflict points i.e. field study case levels (Chapter 7).

CHAPTER 5

England/Wales Survey 1963 to 1979

The Survey

369 questionnaires were sent to the District Council authorities of England and Wales in November 1979. (See questionnaire Appendix No. 1). A cut off date of the 30th November 1979 was used and at that time a return response of nearly 80% was achieved where opinions were given by the district Planning Officer as to prime use conflict. 31.7% of the sample survey gave an assessment of numbers of notices served over a period of years and, whilst this percentage was regarded as significant, it would be rash to assume that all those responses offering views of prime use could be taken as facts or were actually based on an analysis of the stated types represented by the stated numbers of enforcement notices served. Indeed generalisations such as "diverse" were often used (i.e. 17.8% of factually based survey cases). However, within the limitations of the survey and bearing in mind the stated constraints as to time, cost and staff resources at local authority level, an assumption was made that where a verbal opinion was backed up by stated numbers of enforcement notices this could be regarded as empirical rather than subjective evidence. The rationale behind such an assumption was that the provision of those numbers had represented a further secondary stage of "effort" in completing the questionnaire and therefore had better chance of being more substantial an assessment than a mere opinion not based on numbers. Therefore, by way of comparison, separate columns have been made to show

The Survey (continued)

the two distinctions with the percentage correlations between opinion-based figures and factually-based ones.

(a) General Analysis

The restrictions to this survey carried out as at the 30th November 1979 are explained in the previous chapter. The prime information came within three categories:

(i) numbers of enforcement notices served by the sample authorities during the survey period 1965 to 1979;

(ii) a factual statement of prime and secondary uses derived from those numbers;

(iii) an opinion as to prime and secondary uses by the Chief Planning Officer where no numbers were quoted in the return.

A further ancillary opportunity for ad hoc comment on the survey was also allowed with no specific lead as to any required information. This revealed a range of comments from those concerning local authority problems in providing survey information, to the more objective level of comments on the attitudes of planning authorities to non conformity. The incidence of "real" non conformity can be evaluated on a national basis and then compared with the local studies. A finding that there is a widespread correspondence between national and local practice could indicate a number of possibilities viz; planning policy could be nationally interpreted by recognised planning rules laid down for assessment of non conformity. In the absence of any rules for such assessment however, it could mean there is a common

(a) General Analysis (continued)

culture in the interpretation of non conformity. There may possibly be a natural planning "criminality" in the types of people who are prepared to evade the planning law; there may alternatively be an ignorance of the planning law, yet the underlying impetus must be a demand or "need" for a particular use in a particular location. The criteria for service of notices served in the first place might be environmental ones and this may indicate the basis by which they are upheld or dismissed on appeal. Numbers may give at least an interpretation as to what is regarded nationally as use conflict if there are any major groups of conflict type.

A total of 235 responses was given in the 78% return of 288. 177 of these related to opinions of prime use and 118 to factual prime use (Appendix No. 2). The numbers are meaningful in that they conclusively establish a limited range of very clearly defined use conflicts. (Appendix No. 3) In those authorities where "estimated" conflict use was made by opinion (declared as such) the 5 main uses out of 26 were in rank order:

Car repairs - 31.1%; "Diverse" (i.e. both uses and non uses) - 18.7%; industry (Class iv and iii - General and light) - 13.5%; business uses - 12.42%; caravans - 10.2%, Where factually supported by actual numbers, the remaining and separate 118 returns showed precisely the same ranking with very strong percentage correlations between opinion based and factually based. No distinction is made in the type of District Council, i.e. between

(a) General Analysis (continued)

urban or rural councils measured by such terms as Metropolitan or Borough.

From Appendix No. 1

Incidence %	1st		2nd		3rd		4th		5th		6-22 Various stated cases
	Car Reprs PO PF		Diverse PO PF		Industry PO PF		Gen. Bus. PO PF		Caravans PO PF		
25-30	31.1	30.5									
20-25											
15-20			18.7	17.8							
10-15					13.5	10.2	12.4		10.2		
5-10								8.5		7.6	
0-5											Not assessed

PO - Prime use (opinion)

PF - Prime use (factual)

The "Diverse" column represents comments of the Chief Planning Officer where no prime use was stated and where such comments as "Too diverse to assess" were made. Although this category respectively represents 18.7 and 17.8 per cent of opinion-based and factually-based statements, it is more likely that, given time for Chief Planning Officers actually to examine the types more closely, a definite statistical prime use could be determined. This suggests that in fact there may only be four substantial categories of type, namely car repairs, industry, business and caravans, plus 22 other minor categories with less than 3.4% for any group. Whilst the study depicts very clear categories of uses, it does

(a) General Analysis (continued)

not indicate precisely into what type of sub-classification the general type would be broken. For example, whilst a stated term of "Car Repairs" sounds specific, it appears to be a generalisation for activities which include commercial body repairs to heavy vehicles, domestic car mechanical repairs, servicing of differing types of vehicles such as residential caravans and farm trailers. A sub-classification of affected uses would indicate more clearly the type of small business affected and whether there were categories of activity indicating a possible planning need. The Department of Environment publication * "Selected Enforcement and Allied Appeals", appears to be designed to illustrate only "selected" points of planning law or principle of its interpretation, rather than to isolate possible socially significant matters in the planning decision field. Furthermore, a generalised description also does not illustrate the affected land use. There may well be social consequences which would be illustrated by the pressure of enforcement activity on certain types of land. Since no statistical evidence of this is given in relation to the decision-making process, this will be included in the field surveys of the local control area in Horsham. Taking briefly the four main categories of illustrated conflict use depicted by the England/Wales survey, it is possible to show what problems of definition can be involved.

- * The only Department of Environment publication on enforcement activity other than table of appeal numbers.

(a) General Analysis (continued)

(i.) Car Repairs

Car repairs may generally take place in the residential areas of each District, Borough or Metropolitan Borough. It would seem logical to assume that where a noisy, dusty, vibrating use were involved, the main conflict area would be in places where numbers of people live. An examination of the actual affected land use would support this assumption. If the affected land use is only within populated or residentially zoned areas, then this assumption would be proven. If not, and other affected uses such as agricultural land are significant, then there might be a broader suggestion of inherent need not catered for by the existing planning policies to allocate uses for car repairing. The England/Wales statistical evidence does not answer these more specific questions but only pinpoints a possible area for examination at a local and more accessible level or by reference to a stated and implemented local planning policy. There may be a special need to allocate specific types of land on special locations for this prime conflict use which is not considered by present thinking of planners.

(ii.) Industry

"Industrial uses" is again a very broad generalisation for the multiplicity of specific operations falling within this category. The Use Classes Order 1972 has merely two main definitions for such uses. Namely, Class IV General Industry and Class III Light Industry. Other activities of an industrial nature which involve the use of more obnoxious materials, such as in the chemical

(a) General Analysis

(ii) Industry (continued)

industry, are separately classified within the Use Classes Order but many interpretative difficulties arise in defining some processes. Industry in itself is not a non conforming use any more than motor car repairs, but within certain locations, it becomes one. Again therefore, the need to examine the affected land use would arise. Because the results of the survey distinguish between "Car Repairs" and "Industry" but because Car repairs are sometimes regarded as an industrial use, there may be some overlap in interpretation of these two categories. It is therefore suspected that within the stated Industrial category many planning authorities may well have had some car repairs in mind when describing the survey's use conflict and therefore the impact of the "Car Repair" category might not be fully reflected in the stated figures.

(iii) Business

Commerce or business is variously interpreted by planning authorities. In the Horsham District Southwater Village Plan published in 1969 "General Business Use" in fact included existing coal and wood yards and subsequently became developed as a shopping and light industrial factory and warehousing estate, all under the banner of "Business Use". The difficulty of interpretation is illustrated by this professional interpretation because it involves also the inclusion of Class III Industry and Class I Shopping uses within the meaning of the Use Classes Order. Whilst this may be an

(a) General Analysis

(iii) Business (continued)

exceptional case, it points to a possibility that there may be differing planning "images" of what is Business but, generally speaking, the usual interpretation relates to "office" use. To be a non conforming and undesirable use to planning authorities, office uses would have to be situated without consent in residential areas or in retail areas.

(iv) Caravans

The meaning of unauthorised use of "caravans" or caravan sites seems, on the face of it, to be specific but again there are various forms of caravan use. Mobility may well be an increasing requirement in the economy as far as employment is concerned. If the caravan use was a cheap means of temporary residence in connection with an economic activity, it may illustrate a state of homelessness not catered for in planning or housing policy. On the other hand, the use of caravans may be disguised attempts to establish permanent residential use of a piece of land. The "need" behind the use is an essential ingredient to the understanding of the type of conflict.

(v) Diverse Uses

The above main categories show the clearly defined uses derived from the statements of Chief Planning Officers. The second use in the derived ranking was "Diverse" or mixed enforcement notice activity. This title was allocated where planning authorities thought there was no one defined group of prime use activity. The recorded enforcement notices however are not always against illegal uses but also against conditions on planning approvals which may not have been carried out (i.e. non-uses). The

(a) General Analysis

(v) Diverse Uses (continued)

requirement of Section 88 Town & Country Planning Act 1971 defines the enforcement as being served by local authorities "in respect of development carried out without planning permission or without complying with conditions imposed by planning permission". (See also Table of Enforcement Decisions, Appendix No. 11). For the purpose of the survey, whilst "Diverse" use is applied to these categories it can safely be assumed that of the 21.1% within this "segment" prime use could be determined by omitting the non-uses and analysing the rest. It is argued that the observed order of conflict shown from this survey would largely remain unaffected i.e. if the uses are also too "diverse" to be classified by the professional staff dealing with them, then they will be assumed to be in similar groupings and possibly in similar proportions to the general England/Wales sample. Since no statistical evidence is available from the planning authorities or the Department of Environment, this assumption is made in the survey. They are not omitted, but if absorbed by all the use groups, the distinction between Car Repairs and the next Industrial use group shows an even clearer definition of the prime use conflict for England and Wales.

(b) Conflict Use

(i) Planning authority conflict types (England and Wales)

The survey determined the stated conflict by type of planning authority e.g. by Borough, ordinary District Council or by Metropolitan Borough (Appendix No. 4). The percentage incidence

(b) Conflict Use

(i) Planning authority conflict types (England and Wales) (contd.)

of use conflict types was then observed more specifically by type of district population density (Appendix No. 5). Car repairs formed the largest percentage in both types of analysis, followed in order by "Mixed enforcement", "Industry", "Business" and "Caravan conflict". A graph was prepared from the comparative study of enforcement notices showing recorded totals for each year of the survey period 1965 to 1979 (Appendix No. 6). Only 25 authorities could produce records going back to that period but all were able to produce records from the date of reorganisation. The graph does not therefore show actually served enforcement notices but only the state of records. To obtain a proper guide as to the total incidence of served notices, it is necessary to compare this graph with the Department of Environment list of recorded appeals against enforcement notices (Appendix No. 9 and Appendix No. 11). As previously stated, there are no separate records of all served notices but the appeal record is a good guideline because each enforcement notice served has an important ingredient which assists in assessing the real level of enforcement notice service by local authorities. Each notice must contain a stated period by which (a) the use or operation must cease or be complied with, and (b) the date by which an appeal must be lodged. In the case of (a) the period is required to be of sufficient length for the execution of the works or cessation of the use or activity. More importantly however is the requirement under (b)

(b) Conflict Use

(i) Planning authority conflict types (England and Wales) (contd.)

that an appeal should be lodged within twenty eight days. Failure to do so may result in a loss of the right to appeal, in which case continuing offence then becomes a criminal action. * This latter requirement points to an assumption that as a matter of routine, a very large proportion would automatically be appealed. There is no record as to how many are not appealed. However, within the Department of Environment records of Section 88 Appeals, the incidence of subsequently withdrawn appeals is clearly shown and gives support to this assumption e.g. the general level of withdrawn appeals, having been lodged within twenty-eight days, varied from 1963 to 1979, between 31.9% per annum and 49.5% per annum with one exceptional period, due to "backlog", of 67.3% per annum. The total incidence of all enforcement appeals for England and Wales has dramatically increased since re-organisation of local government. (See Appendix No. 9 - graph of total received, withdrawn, upheld and quashed notices since 1963). Generally, the level of notices appealed i.e. decided, remained relatively constant from 1966 to 1976 within the limits of 669 and 1,186 per annum. Bearing in mind the length of the period of ten years, this was very constant over a period of varying economic activity. In 1973 however, which coincided with local government re-organisation, decided appeals started to increase in series. In 1974 they were 1465 appeals and progressed yearly to 1806, 2758 and 3606. The 1978 records were not available as at 1st January 1980, but the Thesis survey shows that the incidence of

* Note: The Howard Case, High Court 1977.

(b) Conflict Use

(i) Planning authority conflict types (England and Wales) (contd.)

enforcement notices served has continued to go up dramatically. Recorded returns from the survey sample show totals of 704 in 1974 with respective figures to November 1979 being 1247; 1418, 1420, 1440 and 1528. This is a 32% sample. A continuing and significant increase in enforcement activity during that period might indicate a general increase in planning activity with a need for an increased staff allocation for detection of non conformity and breaches of planning control. As far as numbers of planning applications is concerned, the Department of Environment's publication "Commercial & Industrial Property Statistics" (Department of Environment Library, Her Majesty's Stationery Office 1977) Tables 38, 39 and 40 reveal that for all industry, inclusive of changes of use and new development applications, planning applications in England and Wales substantially decreased from the 1972/3 period of local government amalgamation to the end of 1977. In spite of the lack of availability of records for the last two years, the incidence of applications has not increased. The Tables show a declining activity for all applications of 614 thousand in 1972 but a decreasing incidence to 446 thousand by 1977. Change of use applications however remained fairly constant, varying up and down between 43.2 thousand to 39.80 thousand during that period which means that they slightly and "relatively" increased in relation to all planning applications. Change of use applications, as opposed to new development applications, comprise about 9% of total planning activity and are therefore significant in relation to existing buildings and land as opposed to new buildings and proposed land uses.

(b) Conflict Use

(i) Planning Authority Conflict Types (England and Wales) (contd.)

The activity within the non conforming use area which relates primarily to unauthorised uses rather than new development or building is, therefore, unlikely to have increased in proportion to the incidence of enforcement notice service.

Other reasons must exist for the increasing opposition of planning authorities to non-compliance with planning control. Could there be an increase in bureaucracy (or Parkinsons Law)? The questionnaire to the survey gave an opportunity for ad hoc comment by planning Officers on the subject of non conforming use. A number of replies referred to there being no records of enforcement procedure prior to local government re-organisation "when an Enforcement Officer was appointed". The prior lack of information would give one reason for the immediate apparent increase in enforcement procedure from 1972. It would not explain the increasing incidence of enforcement activity since that date. The appointment itself may therefore have created a fulfilment of a work specification laid down for the newly adopted implementation officers i.e. Enforcement Officers.

A local study might determine the assumption. (See Chapter 6 post)

An examination of incidence of enforcement and the level of conflict use by District and Borough might also show whether the increase was widespread and whether the increase was the same for each type of district and in all categories of use.

If there was a correlation between boroughs which tend to be urban authorities and districts which tend to be rural, the assumption could be that there was now a new function in the planning

(b) Conflict Use

(i) Planning Authority Conflict Types (England and Wales) (contd.)

process if not a change in the law to create such change.

Appendix No. 5 indicates the incidence of use conflict (measured by density of population to acreage of district). Some Boroughs have lower densities than rural districts. Appendix No. 4 shows the percentage of recorded enforcement type activity within Boroughs and District and Metropolitan Boroughs (including cities). As there has previously been shown the correlation between opinion based statistics of prime conflict use and factually based is extremely close. The analysis of factual prime use by type of district planning authority shows a significant percentage incidence of conflict uses to prove it is widespread and has pattern of ranking both by district and by population densities (Appendix No. 5). The same order of prime uses prevails as for the whole of the country. In boroughs, car repairs are prime uses in 39% of authorities, 37% in Metropolitan areas and 24% within district council planning authorities. Industry is 11.5%, 10.5% and 12% respectively, whilst business and caravans or specials generally comprise the remaining principal uses.

Therefore, there is the same order within all types of district category. There is a strong correlation for boroughs and metropolitan boroughs with a similar hierarchy for districts, but a closer and less extreme range of percentage differences in the order. The order of uses is the same for the first three prime uses i.e. Car repairs, Industry and Business, but haulage, specials and caravans narrowly compete for fourth place. The low level of statistical

(b) Conflict Use

(i) Planning Authority Conflict Types (England and Wales) (contd.)

evidence at this position however affects the calculation (because one case is more than 6.0% of the density group in each column each representing about one-third of the total numbers).

For population densities of 0 - 0.9% comprising forty authorities, Car repairs show a 22.5% conflict. In the density range 1 - 3.9%, comprising forty-four authorities, the incidence is highest at 38.6% of authorities. At very high levels of population density i.e. 4 - 10+% comprising thirty authorities, Car repairs remain very high at 36.6%. In fact the first four of the prime use conflicts are higher per increase in density of population. The incidence of Industry for example increases from 10% to 16.6% in the 4 - 10+% population density range.

The constancy in order of incidence remains the same through both district and density methods of assessment. Other users with low incidence are difficult to record. They do not show a great impact on society at large, i.e. at the national scale of the survey by district. However uses such as caravans may well show a significant distribution. They show relatively higher incidence in low density areas e.g. 12.5%, but are non-existent in the highest density areas, possibly reflecting shortage of space or better planning control. A similar observation may be made for scrap metal. Other uses may be more significant at local level. At this point it is necessary to stress that the above observations only relate to the prime use conflict in a district.

(b) Conflict Use

(i) Planning Authority Conflict Types (England and Wales) (contd.)

It becomes clear from the correlation between numbers of people and available land (i.e. district acreage) that the greater intensification the greater the "need" for service industries represented by the conflict uses, although there may be other economic and scarcity of supply reasons for this in urban areas. An examination of planning policy needs to be conducted to see to what extent the need is satisfied by implemented policy and whether there is sufficient monitoring of the above observed, widespread organic demand reflected by the prime use activity. Other secondary conflict uses could also be studied separately. If, for example, planning policy is implemented at district level and totally satisfies demand for a use, it is catering for the problem. If it does not, then the fact that other illegal uses continue may reflect a social need. There may however still be conflict against the greater need of the other competing policies e.g. agriculture versus car repairs, and therefore the implemented policy will need to be examined of the "affected land uses" not just the conflict use. If however, upon appeal there is a significant proportion of upheld appeals against enforcements, then there may be an indication of requirement for changing "attitude" to non-conforming use by planning authorities or a need for amendment or flexibility in the law.

CHAPTER 6

Local Enforcement survey Horsham District Council 1963 - 1979

INTRODUCTION

A local district enforcement survey to show levels of incidence, type and hierarchy of conflict over time and by affected land use. An interpretation of the variances and constancy of non conforming use with particular reference to the processes at implementation officer level.

CHAPTER 6

Local Enforcement survey Horsham District Council 1963-1979

(a) General

The Horsham District Council was formed by an amalgamation of the Rural and District authorities under the Local Government reform and re-organisation in 1974 (Local Government Act). The Horsham Area District Consultation Plan (See Appendix) Table A.4, page 186 illustrates the total and predicted populations of the amalgamated areas as being 85,640 on the 1971 census, 95,000 in the 1976 estimate and 103,200 by 1981. This is the District Area in which population growth is anticipated within the same document to increase by 15,000 between 1976-1991 (High Forecast provisions), which, apart from the exceptional case of Crawley New Town, is the highest anticipated growth rate for any District within the Administrative County of West Sussex (Horsham Area District Plan). This broadly represents a controlled growth of over 15% over the next twelve years, with the ancillary incidence of employment need and changes in land use which will arise. The control area selected for this study (Appendix No. 15) represents only a small proportion of the county total but for the purposes of illustrating the objectives of this Thesis, will briefly be related statistically to district and county levels and also nationally. Predictably, evidence of enforcement action until the re-organisation was not grouped into a discrete section. In 1974 the employment for the first time of a separate function for an Enforcement Officer under the jurisdiction of the Director of Planning, led to a separation of "known" enforcement files which had hitherto

Local Enforcement survey Horsham District Council 1963-1979

(a) General (continued)

been held by the two District Councils with other planning application material. Current files from February 1978 onwards are not available for perusal, and only separated evidence from the previous files from 1961 to 1978 was made available for the study. Any exchanges of correspondence between enforcer and the planning authority were regarded as confidential and therefore any possibility of examining the arguments put forward by either side was lost. A specific case study was, therefore undertaken from pinpointed areas of interest using interviews with the Enforcement Department Clerk. One hundred and twenty files were examined between 1978 and 1979. The apparently low number however conceals the "real" effect on some of the enforcers and the general activity of non conforming activity within the control areas as will be shown in later analysis.

Table 1 (Appendix No. 12/1) shows the use activity within the control areas and the typology is a personal interpretation of the classification which might be applied by using the Town & Country Planning (Use Classes) Order 1972 as a guide to the classification. These classes are not in fact ever shown on Enforcement notices themselves, nor are they in any event all-embracing to cover every definition of use, but the general typology was discussed and agreed with two senior Planning Officers within the District Office, prior to incorporating them in the analysis. This interpretation is reinforced by the writer's participant

Local Enforcement survey Horsham District Council 1963-1979

(a) General (continued)

observation experience in dealing with planning appeals as a Chartered Surveyor operating in the district.

(b) Enforcement analysis

Table 2 (Appendix No. 13) clearly shows actual areas of recorded conflict over time in the particular district. Only by other comparative studies of a similar nature in other planning districts would it be established whether planning "attitudes" to non conformity were widespread. Even then difficulties of comparison might be experienced. The study area is rural/provincial whilst other areas will be totally industrial or even more rural. This would involve employing a matrix of definition of the total rural-urban "continuum" to have any semblance of meaning, e.g. planning authorities may be more lenient to non conformity in areas of industrial need if there is greater discretionary use of their powers or greater heed of the limited number of current government circulars to encourage small business (e.g. Department of Environment circulars 109/77, 164/66, 44/78 and 71/77). The evidence of increasing use of enforcement procedure in recent years is clearly shown; from 1963 to 1973 the general rule was one of constant levels of enforcement activity. Rarely were more than ten notices per annum served in the District Council area and there were very low levels of public complaint. The average number of served notices during the ten year period was 6.1 per annum with exceptional cases of 10 and 11 notices in the isolated years of 1964 and 1968. Whether the publication of a

(b) Enforcement analysis (continued)

new Horsham Town Map in 1964 may have influenced levels in that year will be examined in a later study of the stated objectives of planning policy. However, the Horsham District Planning Office state that during that decade the function of enforcement procedure was carried out as a residual duty of the then Planning Officers among other duties of planning control. No specific observation was made as a continuing exercise and the function could have been described as "incidental" to the general function of planning control. A reliance on enquiry into information received from third party complaint was more normal. Not until the amalgamation of the Rural Authority and the Urban District Council in 1973/4 was the function made specific by the appointment of an Enforcement Officer. Up to this point there would therefore have been no record of non conforming activity other than those incidentally observed by the Planning Officers in their normal duties or in complaints received from the general public as to unsocial use. If discretion was exercised it was done so at the individual level of the officer-in-charge of the planning area. From 1969 to 1973 there was in fact a declining incidence of enforcement procedure. This cannot be fully explained in terms of declining planning activity represented by applications. In fact, quite the reverse was true. From examination of total planning applications in the district and study control areas (Computer print-out, West Sussex County Council), it was determined that from the end of 1968 to 1973, total numbers of all planning applications were increasing. (See Diagram (a))

Local Enforcement survey Horsham District Council 1963-1979

(b) Enforcement analysis (continued)

Diagram (a)

	<u>Y E A R</u>					
<u>Total Planning Applications</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>Change-over 19</u>
Henfield Parish	88	91	81	126	124	+ 39%
Horsham Urban	393	387	385	447	387	- 1.5%
Rudgwick Parish	42	52	54	94	82	+ 26%
<hr/>						
Control area totals	523	530	520	667	593	+ 11%
<hr/>						
Horsham District Totals	1767	1689	1926	2584	2293	+ 30%
<hr/> <hr/>						

It can therefore be summed that there was an economic upsurge in total planning activity for the district as a whole, and for the county 1971 - 463,000: 1972 - 614,862: 1973 - 622,650 and 1974 - 414,000. These figures suggest an assumption for similar activity among non-conforming uses but this shown later not to be so when examining national enforcement statistics. However, there may be some current questions raised by these figures.

It can be argued, given greater planning activity generally, that there should logically be a reduction in planning conflict measured by numbers of served enforcement notices. During the period 1971 to 1973 with the impending amalgamation of Urban and Rural authorities in Horsham, there was a difficult period of administrative change and procedural examination of council work. Council officials were attending many management meetings. Questions of future establishment for staff were under consideration, including the question of redundancies for existing staff. From personal discussion at the time there was disillusionment. There was less time available

Local Enforcement survey Horsham District Council 1963-1979

(b) Enforcement analysis (continued)

for routine work and additional duties were often being imposed on planning and other staff which might have led them to consider "incidental" matters of enforcement less important compared with other planning procedures needing statutory attention e.g. applications. This is an important element because it could support the view that discretionary powers were, and may still be, quite strong at the individual decision-making level, if they vary immensely with the workload. By deduction, if there was any substantial change in this situation when amalgamation eventually took place, this could confirm this idea. Taking the available statistics for the years 1974 to 1978, the figures are respectively 1 enforcement notice in 1974: 3 in 1975: 8 in 1976: 33 in 1977 and 16 in 1978. By comparison, the numbers of planning applications for all uses was constant or very slightly reduced from a peak level although not substantially. The planning activity in that "market" was still relatively high. (see Diagram (b) taken from computer print-out, West Sussex County Council)

Diagram (b)

	<u>Y E A R</u>				
<u>Total Planning Applications</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Henfield Parish	98	104	78	80	75
Horsham Urban	332	324	311	286	306
Rudgwick Parish	36	42	48	46	63
Horsham District	1678	1589	1567	1345	1652

Local Enforcement survey Horsham District Council 1963-1979 :

(b) Enforcement analysis (continued)

The vast "overnight" increase in numbers of enforcement notices in 1977 and 1978, compared with this relatively constant planning activity, cannot be explained purely as the backlog of unimplemented notices during the transition to amalgamation. The transition period prior to amalgamation extended over two or three years at the most. This means that there had been an increase from the average rate of notices served during the previous decade of 6.1 per annum, to a rate of over 12 per annum (61 notices in the 5 years 1974-1978 inclusive). If other planning activity was otherwise constant, what factor doubled the rate? The appointment and job specification for an Enforcement Officer had been determined in 1974. A division of labour had taken place in the new establishment of the district Planning Department and that job was by now getting under way. The effect was to ensure the future detection of new infringements at an earlier date. It might also have had the effect of more readily reflecting types of change in non conforming activity and where those changes are taking place. (These will be examined) However, there may be another suggestion that the renewed function involves a more stringent assessment of enforcement situations, i.e. a change in the level of discretion. Whatever caused the change, since 1974 it was substantial.

(c) Types of conflict use

Before examination of the incidence of change from refusal and change of use decisions, an examination over the fourteen year period 1965 to 1979 of the significance of conflict types can be made.

(c) Types of conflict use (continued)

(i) Agricultural sector

The greatest single conflict group came from within the agricultural sector with no fewer than 22 out of 122 i.e. 18% (approximately) of all the enforcement notices being in respect of residential caravans either outstaying temporary consents connected with farming or being totally for residential use but sited on primarily agricultural land. Some examples were in respect of forestry and horticulture which is also defined under "Agriculture" in the Town & Country Planning Acts. The purpose behind the enforcements is reported as being for a number of purposes. Fragmentation of existing agricultural units thus causing intensification would not automatically be granted consent, if at all, because the Ministry of Agriculture, Fisheries & Food is consulted as to viability of size and type of agricultural, forestry and horticultural production. Residential use arises for any dwelling unless granted as ancillary to new consents for a farm. Residential use, which is not ancillary to farming, is non conforming in an agricultural area. Even the use of residential caravans connected or unconnected with farming could be regarded as non conforming e.g. if there was an attempt to fragment a larger area into say, a pig unit using temporary caravans as living accommodation which might create a separate domestic residential use after expiry of the temporary ancillary consent. The contraventions of planning policy reflected by the incidence of enforcement may represent an "innate" demand

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(i) Agricultural sector (continued)

for countryside residential uses and smallholdings (forestry and horticulture also) - agriculture is of course the largest single land use in the study area.

The second largest group, comprising 13.3% of all enforcement notices over the fifteen years (apart from the miscellaneous group coded as Specials), was again related to conflict with agriculture but this time by general industrial infringement Class IV. Of the 16 cases, 14 were offences by motor vehicle repair workshops, 1 by a haulage contractor and coach repair workshop and 1 for builders and engineering workshop. Under the Use Classes Order 1972, light industry, Class III is distinguished from general industry, Class IV as being a use which would not be offensive in a residential area. General industry would be offensive by reasons of "noise, dust, fumes and vibration etc." and therefore, although motor vehicle repairs are not within a specific Use Class, they fall within the general industrial category by interpretation. They are also interpreted to be non conforming in an agricultural area even if located away from residential areas: the rationale behind this is not explained in the planning Acts, other than by the fact that it is incompatible. Very often it is not incompatible where ancillary to a farm and used for, say, a tractor repair workshop. Naturally in certain mixed locations such as villages, there would be environmental impact but often the impact is not related to the proximity of residences. It is argued that the

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(i) Agricultural sector (continued)

impact could be innocuous in a number of other rural situations if such by-products as scrapped cars and waste products were controlled as effectively as in urban locations. Light industry (5) and commercial warehousing (7) were equal contenders for the next significant group of offenders against agricultural land. Very broadly speaking, of the 54 offenders against agriculture, 40% were caravan dwellers and 52% was some form of industrially related activity largely connected with the motor trade, including warehousing. The latter figure, although apparently insignificant in actual numbers of offences, may indicate an underlying pressure for motor repair workshops not catered for in county planning policy and this hypothesis must therefore later be examined against stated and actually implemented policy in the Horsham District and upon which, detailed case studies will be made. Certainly it can be categorically stated at this stage that within the Horsham Town area of the study, no new garage workshops have been granted planning permission during the currency of the old Town Map provisions approved as long ago as 1964, in spite of greatly increased car ownership. (Reference Churchman Burt, Chartered Surveyors, Participant Observation). The need expressed in the above figures will be discussed by examination of the latest proposal amendments to the West Sussex County Structure Plan and the Horsham Area District Plan and examined also against the stated objectives for such use. However, there would seem to be a statistically significant

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(i) Agricultural sector (continued)

correlation between the incidence of enforcement against vehicle repair workshops on rural land and the "personal" observation that for Horsham the planning need for garages has not been satisfied. This is tested in the Fisher case study attaching to this Thesis. This will lead to the very important submission that planning policy itself will actually create certain non conforming activity if it has not catered for growth of an industry in past policy or future stated policy. If there is a planning need, and it is an obvious one, but not surveyed for the purposes of proving a County Policy, there is a logical assumption as to subjective attitudes in adopting an actual policy against that need. The policy is purely one of value judgements not assisted by evidence.

An examination of other use sectors, e.g. residential, commercial or industrial within Table 2, reveals a similar group of enforcement activity against motor vehicle repairs.

Finally, within the agricultural sector of enforcement notices (see Appendices No. 12 and No. 13), some of the 18 cases denoted as Specials reflect other miscellaneous activity. These are sometimes not related to non conforming use of land but include contraventions against such items as advertising regulations, also subject to enforcement procedure, and are not included in this study.

Others relate to individual uses which are not specifically classified under the Use Classes Order on which the typology is based, e.g. construction of fences, buildings etc. without consent, and Dog and Cat Boarding establishments etc. There are however again reflections of the objections against car repairs and maintenance in some of these decisions where a hotel was being used as repair

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(i) Agricultural sector (continued)

garage adding to the significant group already revealed.

(ii) Residential Sector

The residential group in Table 2 (Appendix No. 13) comprises 30 observations as against the agricultural group's 54. The largest non conforming sector is again centred on the 30% of Class IV general industrial users, with 9 out of the 10 being for motor repairs, followed closely by the other semi-industrial offenders e.g. industrial Class III(6) and commercial warehousing Class X(9).

The interesting aspect is that six of these nine warehouse offenders are also directly related to motor repairs and garages because they are for vehicle storage and servicing. Add this to the specific evidence of motor vehicle repair workshops and it is seen that in 50% of all the residential group the non conformity is motor trade activity. The need for this land use might now appear to be proven. The situation should suggest a reaction into new policy by the planners, either to relocate non conforming activity or to at least encourage availability of land for motor trade expansion by stated policy.

Of the remaining 50% within the residential group, the problems of non conformity are less significant e.g. one cannot interpret the 10% (3) residential intensifications as having statistical relevance but since these were primarily related to permanent residential caravans or use of residential gardens by caravans, they can also be

(c) Types of conflict use

(ii) Residential sector (continued)

grouped into the highly significant number of caravan enforceses on agricultural land to indicate a significant area of non conformity. The question arises, is housing need proven against the other rural need?

Residential change to light industrial use is more significant

(6) i.e. 20%, showing the emerging problem of a space requirement for small manufacturers, such as packaging, wood manufacturing, builders, joinery and storage, and light engineering. However, since the incidence of activity of a light industrial nature may be more difficult than general industry to detect in a residential area, (it is so classified because of its inoffensive nature to residential areas) the lack of statistical evidence may not be a reflection of the total activity e.g. it would be easier to detect say a garage activity dealing with visiting customers (Class IV) than a micro-electronic engineer assembling consoles in a back bedroom (Class III).

(iii) Commercial sector

Within the commercial storage sector (Class X), there are few complaints by the District Planning Authority. Over the study period, only five contraventions were recorded, involving changes from warehouse use to new light industry in one case, and a change to general industry in four others. One of these latter cases was quashed on appeal where relating to a commercial block of vehicle garages which was alleged to be used for the maintenance and repair of vehicles. A former bus depot was refused a change of use to an engineering workshop on appeal. A further case was enforced against the parking and repair of commercial motor vehicles and

(c) Types of conflict use

(iii) Commercial sector (continued)

the last case was against an innovatory light engineering firm. In cases where buildings were involved, all were relatively small, under 1,000 square feet in size. In the commercial sector the only significance is in the continuing primacy of the motor trade in enforcement decisions with secondary conflict levels of light industry and innovatory industry.

(iv) Industrial sector

Apart from very little non conforming activity by the retail or office users, the only remaining area for investigation is in industry itself. Within the General Development Orders, there is a permitted planning right for Class IV general industry to change use and reduce to less offensive light industry without planning permission. This is obvious on environmental grounds, since Class III industry is defined as being less pollutive than general industry (Class IV). The case for the reverse argument is also obvious. Class III is not transferable to Class IV by reason of it replacing a less offensive use with additional possible "noise, dust, vibration, fumes etc.". Astonishingly there are only three cases in this category within the study. There are however a number of interesting cases (8) which concern changes of use within the general industrial class. In one case, the local authority served an enforcement notice in respect of a material change of use in a builders yard for making metal chimneys. This was a question of

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(iv) Industrial sector (continued)

interpretation as to whether a builders yard was regarded as Class III or Class IV. The legal answer is that BOTH could be since the use of a joinery workshop, because of the use of noisy machinery, may be classified as Class IV of the Use Classes Order. A negotiated settlement was made between the local authority and owner.

In another case, a question of interpretation also occurred over whether a change of use from active coal yard to plant hire and builders yard was necessary. The solution was to serve an enforcement notice which effectively placed the onus for proof on the enforcer and eventually the Secretary of State, Department of Environment by way of appeal. There is, it seems, no presumption as to affirmative consent on questions of marginal interpretation between uses. In a series of enforcement notices against another enforcer, the question of whether intensification of business was "development" became an apparent set of issues over a lengthy period. The case will be examined later as a specific study since it was highly contentious, was subject to a series of enforcement notices served by the local authority many of which were withdrawn or amended but which eventually ended in court action and appeals for contravention of the criminal law and planning legislation. It is also significant because it involves the largest common group of enforcers - the motor trade industry. From this examination, it is hoped that a set of circumstances might be revealed which show

Local Enforcement survey Horsham District Council 1963-1979

(c) Types of conflict use

(iv) Industrial sector (continued)

the difficulties experienced by non conforming users who are legally based and established, when confronted with planning legislation. The respective views of non conformity will be examined both from enforcers and enforcees' positions. The criteria leading to the conflict will hopefully be highlighted to see if socially significant and whether any recommendations might present themselves to avoid similar situations, if possible. The case will also be examined against a set of other local case studies within the three control areas, to elicit planning attitudes. A comparative local examination will be made of the motor trade industry to see if similar trends of enforcement exist and, if so, why. Table 2 (Appendix No. 13) indeed also shows at least one other example in this main conflict area where garages have intensified or diversified their Class IV user.

(d) Incidence of change and distribution

(i) Variance

Taking five yearly comparative periods similar to the statutory quinquennial Town Map Review periods since 1963, i.e. 1963-1968, 1968-1973 and 1973-1978, the average numbers of incidents have varied quite considerably. During the first period, 31 notices were served but during the second period, only 22 and then, finally, a larger increase to 49 again, excluding the Specials group which are excluded because they do not exclusively relate to actual non conforming use. A constant activity should have shown 34 each

Local Enforcement survey Horsham District Council 1963-1979

(d) Incidence of change and distribution

(i) Variance (continued)

year. Assuming this, then the first five years denoted "average" activity (31) but the second period predictably showed a decrease from constant levels, presumably due to lessening activity during the transition period leading to the amalgamation of Rural and Urban District Councils. The last five year period increased over the first period by nearly 60% (49). (This coincides almost exactly with the national increase in enforcement appeal decisions, 62.4% of net received decisions 1973-1978). It has already been observed that total numbers of enforcement notices, although small, are nevertheless highly significant. They can be used to measure conflict areas at their most intense level because they reflect the level at which planning authorities are no longer prepared to exercise discretionary restraint and where they finally resort to their quasi-judicial decision-making process. The discretionary element in enforcement action has previously been observed statistically in the national survey. Whilst the service of enforcement notices is now increasing, discretion may be becoming less. However, because of relatively low active total levels, relatively small incidence of enforcement activity becomes very significant locally.

(ii) Constancy

Even one notice has a statistical weight of about 1.2%. Therefore one would expect a very great degree of annual and quinquennial change in numbers and this is indeed reflected in the Graph of

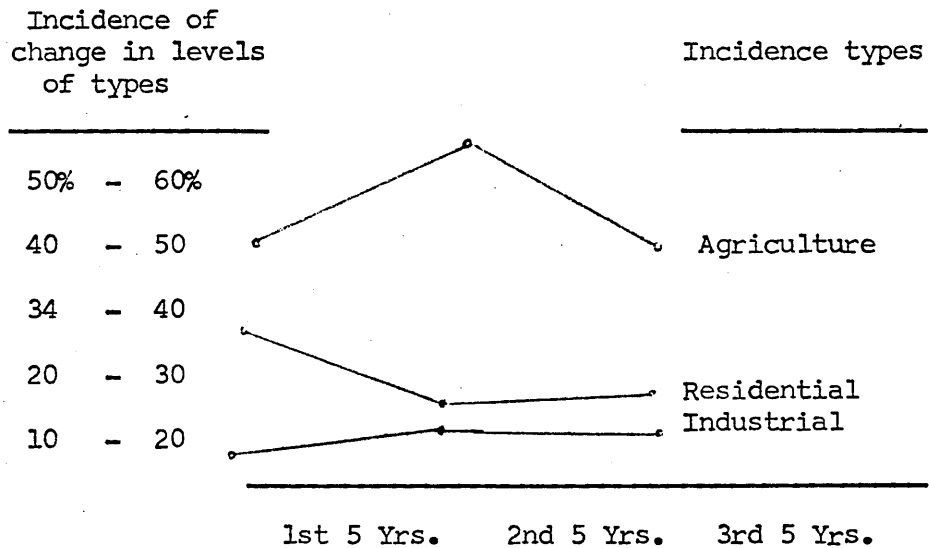
Local Enforcement survey Horsham District Council 1963-1979

(d) Incidence of change and distribution

(ii) Constancy

Incidence as well as in the above observations. (Appendix No. 7). However, an extraordinarily constant level of enforcement types is shown by analysis within these fluctuating figures. During the first five year period for example, agricultural land represented just over 48% of the total affected land use for the period. This level was 50% during the last five year period and did not vary by more than 15% of quinquennial totals during the whole period. This fluctuation is relatively small when noting that the band of incidence for the four main groups of non conforming activity were in clearly segregated percentage activity levels. (Table 1 below) *

Table 1



This "hierarchy" of affected land uses did not vary at all during the fifteen year period with agriculture topping the incidence league, followed by residential use then industrial and commercial

* Commercial group below 10% not shown.

Local Enforcement survey Horsham District Council 1963-1979

(d) Incidence of change and distribution

(ii) Constancy

uses. Retail uses were insignificantly last. (See Appendix No. 14)

If there was any particular trend in change, it was the incidence of industrial Class IV activity. During the first five years, if the "Industrial" activity were deemed to be reflected in commercial use and industrial use conjointly, then the totals represented a ratio of 4:3 respectively for each period. Industry alone was 1:3:9 respectively, a significant variation in actual numbers. A constant bias in the individual choice of enforcement activity may exist or it may reflect the constancy of the activity itself.

(iii) Conclusion as to constancy over time

Only if there was significant reversal within the order since the Enforcement Officer was employed could one make any presumption as to real personal bias against types of use. This observation now suggests a conclusion that whilst actual levels of numbers of notices may reflect an incidence of discretion because of the employment of a specific officer, types on the other hand appear to be only marginally affected (if at all) and other factors must be involved in maintenance of a constant order of incidence levels. Those factors might be in planning policy, i.e. implemented policy itself. Therefore an examination of this implemented policy and its process of monitoring non conforming uses will be made.

Local Enforcement survey Horsham District Council 1963-1979

(d) Incidence of change and distribution

(iii) Conclusion as to constancy over time (continued)

PERIOD 1963 - 1978

Affected Types

<u>1st 5 Yrs.</u>		<u>2nd 5 Yrs.</u>		<u>3rd 5 Yrs.</u>	
Agriculture	48%	Agriculture	64%	Agriculture	50%
Residential	39%	Residential	23%	Residential	22%
Commercial)	9%	Industrial	13%	Industrial)	18%
))	
Industrial)	4%			Commercial)	4%

CHAPTER 7

Monitoring of non conforming use and Industry

INTRODUCTION

A detailed ancillary observation within a local control area of planning processes affecting prime conflict use by reference to local industrial policy. A study of the monitoring of stated and implemented policy toward small business i.e. the hypothesis tested by comparing the recorded conflict between County Council stated strategy and District Council monitoring.

CHAPTER 7

Note:

Monitoring of non conforming use and Industry

In 1976 at the onset of the present study it was known that the West Sussex County Council development plan was about to be reviewed and the new Structure Plan to be drafted. The Horsham District Plan was also under review and due for publication by July 1979. Horsham District was therefore selected as a control area in which to examine both the processes of national planning implementation via a County Agency and the formulation of policy within a District as far as it would affect a study of non conforming use. Participant observation of the evolution of County industrial policy was possible by representation at the West Sussex Structure Plan examination in public.

CHAPTER 7

Monitoring of non conforming use and Industry

Stated and implemented policy within the Control Area

Monitored planning policy 1953-1965 derived from Law, County & District.

Since 1947 all authorities were required to produce Development Plans for their district. Since the initial crude attempts, Development Plans have become very much more sophisticated with experience of implementation and control. Up to 1963, the Development Plan for the district was a brief statement of policy coupled to certain "plans" designating existing and proposed uses on a spatial basis (see Plan 1953 Horsham District Council). In 1963, a document was prepared by the county council to amend the previous inadequacies of the original plan (West Sussex County Council Horsham Town Map First Review written statement). The briefness of such documents compared with the latest presentation for the West Sussex Draft Structure Plan and the Horsham Area District Consultation Draft Plans 1979 is notable. In addition the original inadequacies of research in their briefness and lack of detail, feedback and stated monitoring processes are obvious from their text. (The 1963 review is only now being reconsidered under the Horsham Area District Plan Consultation draft and the West Sussex County Structure Plan (December 1979). . . . It is proposed for amendment after current consideration by the Secretary of State for the Department of the Environment.) For the period of this dissertation - 1965 to 1980 - therefore there has been little review or monitoring, except on an ad hoc basis, although the Town & Country Planning Act 1947 envisaged quinquennial reviews. However, the opening statement of the 1963 review (carried out under the terms of the Town & Country Planning Act 1962) stated (paragraph 1.1 - 7.3):-

Monitored planning policy 1953-1965 derived from Law, County & District (contd)

"The Town Map which was prepared in 1950 and approved by the Minister of Housing & Local Government in October 1953 provided for further development of Horsham up to 1971.

1.2 The Survey undertaken in 1961 reveals the progress of development of the town and rate of growth of population, both of which have been at a greater rate than anticipated in the approved Plan. 1.3 The amended Town Map has been prepared on the assumption that development will continue during the first period of the Plan (5 years to 1966) at a rate similar to that prevailing during the five years preceding the Survey. The second period of the Plan 6-20 years, contemplates a reduction in the speed of development" e.g. from 1971 to 1981.

In fact, this assumption was gross error. (See monitored policy below).

Monitored planning policy derived from Law, County & District 1965-1980

The First Review which had been approved by the Minister of Housing and Local Government in March 1967* (Amendment No. 2) continued in operation until the current revision in 1980. However, although it was a definitive document with a Town Map for the Horsham Town (Urban) area, it was substantially altered both for residential zoning and industrial zoning in the late 1960's and early 1970's, when additional housing land for Greater London Council overspill and railway land for industry were released to cater for greater than anticipated growth and development. Indeed, during the continuance of that Plan, amended observations were made by the West Sussex County Council in the report of the South East Joint Planning team.

* This is the 1963 review which took four years to be adopted after amendments.

Monitored planning policy derived from Law, County & District 1965-1980 (contd)

This latter was a report commissioned only in 1968: i.e. The standing Conference on London & South East Regional Planning (representing the local planning authorities and the South East Economic Planning Council), one year after approval of the Horsham Town Map by the Government. It was published at the end of June 1970. In the West Sussex County Council's observations, under the term of Ref. 13, page 3 on Employment, which is particularly relevant to non conforming use, specific exhortation by the Government is made to "use planning controls with great discrimination to ensure that employment and population growth are kept in step with each other and with other local planning needs." The County Council took the view in their ensuing observation that this was an invitation to take "a restrictive attitude to proposals which could lead to an increase in employment demands until population growth has had time to increase the supply of labour". The Government in the same reference stated that this would "probably lead to planning appeals and it is important that the attitude of the local authorities should be reflected in decisions by the Minister himself and by other Government departments concerned with employment distributions". More importantly from the point of view of any "other local planning needs" was the statement within paragraph No. 14, page 3 of that document "emphasis is placed on the need for continuous monitoring of employment growth and if this is to be possible it will require an improvement in the quality of local employment statistics". It further observed that "at present only employment data from the population census can be related at all to population data".

For non conforming uses and other types of innovatory industry, these

Monitored planning policy derived from Law, County & District 1965-1980 (contd)

words, stating implementation policy intentions, are of extreme significance. Individually the uses may be insignificant in the planning monitoring process but may become recognised as a part of a larger group of planning need. The importance of the monitoring process mentioned in this report is of even greater significance if business processes and change in needs, reflected by feedback from existing and new firms such as non conforming uses, is to be understood. If continuing reliance was made only on the decennial population census, only speculative possibilities for employment trends could be recorded to show predicted "need" for employment. Distribution censuses of industry could, by extrapolation, possibly make such predictions more accurate and sophisticated but it is quite clear that at the time of the Horsham Town Map Review there was no stated machinery for monitoring all actual industry in situ and actual types of companies in situ. It may still be true to say in 1980 that there is no feedback from actual firms to confirm the currently adopted process of prediction. The growth of management sciences since 1965 may have developed a greater awareness in local planning authorities and possibly more so since local government re-organisation under the Local Government Act 1972.

Among management techniques for continual monitoring, the relatively modern science of "Management by Objectives" involves both predictive and feedback processes for information. The process of what policymakers say should happen as against what does in fact physically happen will be examined within the control area by specific reference to the prime use conflict derived from the national and local study. Comparison will be made of proposed policy against implemented policy in the past for car repairs and

Monitored planning policy derived from Law, County & District 1965-1980 (contd.)

vehicle repair garages and other industrial activity shown by case study. This may determine whether the needs of non conforming uses have been met by a continuous monitoring process to evolve a stated policy of assistance and relocation, and whether they were so monitored during the plan period. Future stated policy can also be briefly looked at in the latest Structure Plan statements covering the Horsham control area.

Stated Policy in operation in 1979/80

The Industrial Statement within the Horsham Town Map 1963 Review literally amounts to the following twelve line statement, quoted in full:

Para. 6 P. 1 "The total area of land allocated for industrial use is approximately 80 acres. At the time of the survey (1961) 5 acres of this land were in use. Provision is made in the plan for an additional 22 acres for industrial use."

Para 7. "In addition there is an area of 7.25 acres which lies to the north side of Parsonage Road and which is owned by CIBA and which is at present allocated for residential use. Should the LPA be satisfied that this land is required by CIBA in the future for Light Industrial purposes then favourable consideration would be given to such an Application with permission to be restricted for the benefit of CIBA only and for use conforming strictly to light industrial."

From examination of the published Town Map annexed to the above written Statement, it is noted that the document merely refers to spatial zoning on a map. The above policy statement was to serve the needs of the community for at least eight years to 1971 and then onwards until the next review. The whole plan from 1963 would have involved "continuous monitoring" if it complied with intended i.e. stated, policy.

Monitored planning policy derived from Law, County & District 1965-1980 (contd.)

Stated Policy (continued) (as operative in 1979/80)

It is not the intention of this study to examine the very complex definitions of planning "need" but merely to observe whether the requirements of prime non conforming uses are clearly catered for within the planning process. Hence it is not necessary to examine exactly how population statistics were converted into the above spatial allocation of industrial land. However, an immediate set of questions arises. As the Plan only envisages new spatial allocations, does this imply that existing industry, conforming or non conforming, is not included e.g. existing on-site requirements for small businesses are not shown? This seems to be a basic question not answered by stated policy because it seems logical that it would be existing industry which would cater for the major part of any growth. The only other assumption would otherwise be that the spatial allocation for industrial land was to cater only for newcomer or new factory development. The actual requirements of the existing infrastructure-companies were not separately stated or catered for but perhaps the existing companies were to be encouraged to relocate into the new spatial areas. This however, is not included as part of the Written Policy. A spatial allocation may also imply that newly started industry will compete in a scarce market for the allocated land SHOULD THAT LAND EVER COME ONTO THE MARKET. There was no stated compulsion to make the land available and therefore levels of land supply were to be the market factor which govern the implementation of the plan. Small businesses in areas not zoned for their particular type of use immediately would become non conforming, so also would any minority use in an otherwise differently zoned area. There was however no written statement as to those types of user or what the policy would be if expansion was

Monitored planning policy derived from Law, County & District 1965-1980

Stated Policy (continued) (as operative in 1979/80)

intended. Indeed there appears to have been no "objective" for them by which planning policy could be measured i.e. by which local planning authorities monitor possibly changing organic needs. Unless a recording system of inter-communication with existing actual users exists, then individual user requirements may not in fact be catered for or recognised even at a cumulative level, as a social requirement. Enforcement activity and the prime use conflict can be examined against this revealed lack of policy i.e. implemented policy as related to non conforming use.

The Report of survey is the written analysis to any Town Map or Structure Plan proposal. A more detailed comparison with that document should first be made before finally confirming the above assumptions. As the prime use conflict is for Class IV industrial car and vehicle repairs, the Industrial and Employment report must be quoted. Once again a limited range of analysis is revealed. Employment and industry are linked as one and peremptorily dealt with in six paragraphs which deal with the deficiencies exposed in the approved Written Statement of policy in 1963 (operating 1979/80 Existing industrial requirements were stated as having been surveyed but only of the "major existing industries", paragraph 27, page 4. Those industries were quoted as revealing the following (ibid) :

"a) that most of the existing industries have adequate land for their present purposes and with very few exceptions they also have sufficient for their requirements (as far as can be foreseen) for the period of the Plan (i.e. until 1981), and that

b) the more urgent problem facing certain of the firms (presumably the "major" existing industries referred to above) which wish to expand is the recruitment of suitable labour which is scarce, the position

Monitored planning policy derived from Law, County District 1965-1980

The Report of survey (continued)

being aggravated in Horsham by lack of suitable housing at a price or rent within the means of the potential employee".

Certain clarification of the policy toward the existing industrial infra-structures of the Plan is now revealed. It related only to major industry which presumably would employ the most significant levels of people. No mention is made of those smaller firms which might cumulatively be as large as a "major" company. No mention is made of those major industries surveyed which might have a requirement for an in situ allocation of land. The stated policy is that the majority ("most") ^{of} existing companies have adequate land for the period of the policy. The implication must be drawn that stated policy did not cater for a number of major industrial firms in the locality and did not cater at all for the smaller firms because they were not shown to have been consulted or defined in the plan. This then needs investigation of further Statements of Policy.

The allocation of land for new industry was explicitly surveyed and tabulated as follows:

Table 2, Page 5 Survey of Report 1963

	<u>Net Areas</u>	<u>Acres</u>
(i)	Area of land for Industry at date of survey	58.09
(ii)	Area for extensions to existing (major) industry on:	
	(a) adjacent land (number of firms unquoted)	8.10
	(b) other land (presumably reserved)	1.72
(iii)	Area for new industrial development other than (ii)	25.60
(iv)	Less area to be released from industry	6.46
(v)	Area of land for industry at end of Period "Before" and "After" net additional area approx.	87.05
		<hr/>
		22.00

Monitored planning policy derived from Law, County & District 1965-1980

The Report of Survey (continued)

Later within the Report of Survey the stated "Expected net change" from the date of survey to the end of the next stage of the plan is calculated to show an increase from the 62 acres previously allocated and approved to 78 acres. This shows some slight discrepancy over the 22 acres shown in the Town Map Written Statement not explained. Having allocated such areas, it does not however mean that such areas will be available during the continuance of the plan if reliance is to be put on free market forces to distribute and release the land and therefore some form of compulsory powers or close monitoring of the land availability on a continuing basis will have to be made. Stated policy clearly does not cater for non conforming uses which, by their nature, are implicitly small business.

However, an examination of the stated policy for employment within the Report of Survey might reveal where they could be catered for.

Employment, paragraph 29, Page 5 of the Report of Survey is rather disturbing, measured from existing small business point of view. The opening paragraph of the statement begins:

"Little information is available on which to make a realistic assessment of the employment situation and trends in Horsham: the data to be provided by the 1961 Census is not yet available (i.e. in 1963) and information from the Ministry of Labour refers to the Exchange Area which includes Horsham Rural District. It may well be that there is a transition in the employment of Horsham people from purely local employment to employment outside the town; especially in London. It is therefore difficult to make any estimates of the amount of land for future industrial and office development etc."

Monitored planning policy derived from Law, County & District 1965-1980

Employment (continued)

Apart from a further comment in Paragraph 30 that offices will be allocated to absorb some of the commuters, there is no other report on employment or industry.

A similar lack of information which provides the basis for the planning of this major County town may exist in other local planning areas if similar policies for data collection have not improved since the 1961 censuses. If so, then one can assume that difficulties might arise for growing smaller industry, especially if it is located in a difficult area for expansion also. The monitoring requirement of the South East Regional policy objectives must, therefore, be studied to see if there has in fact been a close monitoring of enforcement and other planning decisions and other data within the control area over the study period from 1965 to 1980, since population based employment statistics cannot alone provide the necessary answer. The case studies of prime use conflict can be used to examine the allocation of vehicle repair workshops and other ancillary industrial land for small businesses and non conforming uses (See Chapter 8 post). Before doing so however a brief survey of stated proposed changes to the above policies (about to take place in the latest County Structure Plan proposals and proposed Horsham Area District Plan *) is necessary. This will indicate whether the problems of significant levels of use conflict have been recognised and will be catered for in future policies by monitoring of affected and conflicting uses. Three documents will be examined for stated policy: (A) the Horsham Area District Plan Review of Approved Policies and Interim Policy Statement published in September 1976, a precursor to the Draft Structure

* now approved, July 1980.

Monitored planning policy derived from Law, County & District 1965-1980

Plan; (B) the West Sussex County Structure Plan Written Statement July 1978, together with the amending provisions of the Report of the Department of Environment panel, and finally (C) the Horsham Area District Plan presented in July 1979 as a consultative document for public comment and participation. These will be reviewed with specific reference to non conforming use and the main conflict uses revealed in the England/Wales and Horsham local study.

(A) Horsham Area District Plan review of policies and interim statement

Population and housing, industry and employment are considered in the first two chapters of the document. The interim document was prepared as a basis for development control pending the preparation of a formal Plan, and recognised the principle of public participation which became the major change in legislative requirements following the 1968 Town & Country Planning Act. This requirement in itself would enable businesses to be "involved" in the planning process. However, the principle only relates to participation in broad strategies i.e. public discussion elements, not to individual requirements. The form of public participation has been largely through meetings and exhibitions portraying planning proposals at which the general public are invited to comment, not necessarily to provide alternative studies. Hence the individual non conforming user would be ineffective unless part of a larger pressure group or industrial committee which had a strong voice to bring to bear on particular issues. Further progress to an individual voice at the Draft Structure Plan enquiry at county planning level would be unlikely since that process is governed purely by invitation, the selection for which is at the discretion of the Department of Environment

Monitored planning policy derived from Law, County & District 1965-1980

(A) Horsham Area District Plan review of policies and Interim Statement (continued)
Inspector conducting the examination in public.

The Review document refers specifically to the two Regional policies governing any review (a) the Strategic Plan for the South East already discussed and (b) the Crawley Gatwick Sub Regional Study, within which area Horsham District is situated and by which it is greatly influenced. This Study was accepted by the West Sussex County Council 1972, the main theme of which was that in view of the influencing factors of the airport at Gatwick, the potential within the Regional area for substantial growth had been extended. (Area No. 6 Strategic Plan for the South East) Horsham itself was shown as "suitable for small scale development" (Page 3, Interim Review). However in 1974 a West Sussex County Council resolution established a relationship between the Sub Regional Study and the County Structure Plan by defining three areas of potential within the County "to take a major share of future growth", subject to more detailed options. Horsham was one. The Interim Policy Statement also referred to three main subjects in which the hierarchy of industrial conflict use and non conforming use would be influenced. Particular comment was made on:

- (a) Industry in Rural Areas, (b) Non conforming Industries, and
- (c) Expansion of Existing Firms

(a) Item ii Interim Policy Industry in Rural areas only related to Statement, W.S.S.P. minerals, agriculture or forestry which would be encouraged having "proper regard to other needs of the community".

Specific mention was made (Page 10) to the suitability, both to the applicant premises and surrounding properties - these factors are particularly relevant to cases where non conforming uses receive Enforcement Notices. However, no mention is made within this sub-section of other small industry or car repairs in rural communities.

Monitored planning policy derived from Law, County & District 1965-1980

(A) Horsham Area District Plan review of policies and Interim Statement (contd)

(b) Item iii Interim
Policy Statement
W.S.S.P.

Non conforming Industries receive special
mention. They "will be encouraged to move to more
appropriate locations, but proposals for expansion

either on the existing site or upon relocation will have to be viewed in the
light of the policy of restricting commercial development" i.e. Policy 2E(i) of
the document. This section is by far the most encouraging for non conforming
uses. It recognises their existence and the term nationally used to describe
them. It does not, however, define them except implicitly as "not being
appropriate to a location". The stated policy to encourage relocation however
will need further analysis after the policy eventually comes into being.

It may mean that premises owned by the Council will be offered or that land
owned by a third party will be zoned for non conforming users. The recognition
of a problem for non conformers is however significant if eventually implemented
in the form of a policy to avoid increasing conflict in the District.

Whether effective monitoring and policies for assisting and relocating
non conforming users exist, is therefore considered at case study level
later.

(c) Item iv Interim
Policy Statement
W.S.S.P.

Expansion of Existing Firms also has
connotations for non conforming users. These
are to be monitored WHEN planning applications

are made from present sites and a presumption in favour will "normally"
(Page 11) be given providing the requirements of local need and other
housing factors can be met.

A general observation needs to be made at this point of the 1976 statement
of policy concerning assistance to relocate non conforming uses. The
statement was made at a time when the enabling provisions of the

Monitored planning policy derived from Law, County & District 1965-1980

(A) Horsham Area District Plan review of policies and Interim Statement (contd)

Community Land Act were in existence which gave power to local authorities and financial backing to acquire land compulsorily for planning purposes at a cost "net of development value" e.g. on very favourable existing use terms disregarding any increased value due to the likelihood of private development. Such a stated policy of assistance, especially where actual provision of land was to be made, would therefore be an effective one and could be positively implemented. However, the Community Land Act provisions have since been suspended prior to being repealed. The local authority can only therefore implement such policy as at today's date (January 1980) by conditions on planning permissions restricting the use of newly allocated industrial and/or premises to use by local firms, and by planning agreements with developers under Section 52, Town & Country Planning Act 1971. It would not be valid to issue consents with restrictions only to "non conforming users" since this is not legally possible to define under the Town & Country Planning Acts. The other prime method to help relocation is in having council premises for such purposes, but this is limiting the interpretation of non conformity to industrial firms and does not take into account the wide range of non conformity reflected in such uses as caravans, offices and other minority conflict uses. As far as prime use conflict is concerned, it would not be possible for compulsory purchase powers outside the Community Land Act to be made available since they involve lengthy parliamentary and planning procedures and considerable resources not available for individuals and problems of a "de minimus" nature. Furthermore, Councils are now unlikely to have

Monitored planning policy derived from Law, County & District 1965-1980

(A) Horsham Area District Plan review of policies and Interim Statement (contd)
resources to develop their own industrial estates except in Regional
Assistance Area where large unemployment exists.

(B) West Sussex County Structure Plan and Department of Environment
Examination Report 1979

The "Context and Philosophy" section of the Written Statement immediately set out certain aims for consultation and discussion, prior to the consideration of the document at the examination in public (now held)(Page 4). There is also an immediate undertaking for "keeping the Plan up to date" (Page 5). An explicit aspect will be "monitoring". The described method is in fact an established "Management by Objectives" technique previously described. This is an entirely new factor and process compared with the previous Horsham Town Map proposals of 1961, when such methods were not employed. Any social or planning requirements will now be more promptly determined by a continuing process of assessment from year to year, paragraph 1.20, Page 5. The deficiencies of the previous process are therefore to be rectified. Review will take place "when the monitoring process shows that a significant divergence is appearing between actuality and the assumptions of the Plan". Paragraph 1.21. In 1976/77, such policies did not exist and no discrete studies of any significant conflict use had been made in the county or elsewhere. The objective of this thesis was to determine conflict use, suggest causal reasons and recommend possible solutions. If the establishment of the type of conflict reveals any significant divergence from stated plans and points to a widespread deficiency in England/Wales in monitoring processes, then new policies such as those envisaged by the West Sussex County Council will quickly be

Monitored planning policy derived from Law, County & District 1965-1980

(B) West Sussex County Structure Plan and Department of Environment Examination Report 1979 (continued)

able to adjust the level of assistance. It is anticipated that other Structure Plans will now adopt similar processes although there is ample evidence that this is only a recent innovation as the results of the local enforcement survey determined. According to the National Association of District Councils however, no discrete evaluation has been made of non conforming uses (Secretary's letter dated December 1979).

The problem of "feedback" is highlighted by Circular 44/79, Department of Environment issued by the Government on Private Sector Land - Requirements and Supply. Earlier Circular 10/70 had highlighted the problem that in respect of residential land, there was a distinction between land "allocated" on plans and actual "availability". (JR Humber Journal of Planning Law, January 1970). The importance of feedback is now realised. Spatial allocations for any purpose are useless unless sophisticated monitoring is made of conditions at user level and of the changes which take place dynamically within those areas. A recently published Study of Availability of Private House - Building Land in Greater Manchester 1978/81 - Joint Report, Department of Environment and Housebuilders Federation 1979, is one step further towards assisting local planning authorities to distinguish more clearly those factors which determine "real" availability. This illustrates a main point of the present Thesis that monitoring, not just in residential fields, must be improved in future plans if significant trends are to be continuously and swiftly pinpointed. Present methods are virtually laissez-faire otherwise and may be (as appears on the face of it) a possible cause of neglect.

Monitored planning policy derived from Law, County & District 1965-1980

(C) The Horsham Area District Plan Consultation Draft

The Plan was published in July 1979, at a time when the County Structure Plan recently having been examined in public (March) was now with the Secretary of State for approval. It took cognizance of the proposal terms of the County Structure proposals and made reservations to adapt as and when the County Proposals were approved finally by the Secretary of State (Ref. Introduction paragraph 1.2). The Structure Plan's approach to employment and Industry is stated (Paragraph 1.10) to be "one of acting to ensure first that in general the growth of employment is adequate to provide jobs for the many extra people who will be seeking them but not so large as itself to lead to further pressure for housebuilding, and second that the formation and expansion of local firms and especially the smaller ones is encouraged". Paragraph 1.2 then states that the Structure Plan envisages a need for additional industrial land to be allocated in the Horsham area (Horsham or Southwater - Study L, Report 2, Chapter 6). At this stage it is essential to compare the stance of the Horsham District against the County Council on the industrial prognosis for the control area in their respective statements at the examination in public previously held in the March. Briefly, the District Council opposed the County Council on the issue of what land should be allocated for the next three to four years, being the stated minimum period before which an updating process could adjust the industrial allocation in the light of determined change in need. The County Council had assessed an area of 5 hectares as being appropriate. In Paragraph 3.18 of the Secretary of State's Report on the Conducting Panel of the Examination in Public "One participant (FJC) said that the Structure Plan did not adequately cater for the needs of certain

Monitored planning policy derived from Law, County & District 1965-1980

(C) The Horsham Area District Plan Consultation Draft (continued)

minor industry e.g. the motor repair trade and such innovatory business as micro-electronics. Only an additional 5 hectares of industrial land was allocated which was less than the immediate needs of these industries alone and a special study was called for, including nursery units at low rent for the development of new ideas into industrial production.

In the ensuing paragraph of the same Report (Paragraph 3.19) Horsham District Council are quoted by the Examining Report to also "question the adequacy of the additional 5 hectares proposed in the County Structure Plan (W.S. Paragraph 18.41)". For the purposes of this Thesis the conflict of views with a County Council's own District planning authority is emphasised because such conflict in data-collection of this nature is quite exceptional, if not unique. After all, the County Council was the agency of the state responsible for assessing the spatial requirements "for industrial and other land allocation". As the stated objective of the County and adopted by the District was "especially to encourage local firms", how could the two be so apart in assessing the quantity? Whilst the District appreciated that this figure might be revised at a later date in the course of monitoring, this did not help them at the present time when they were considering land allocation in the context of the local plan, i.e. the Horsham Area District Plan. Consequently, they suggested that an area two or three times as large would be appropriate!! (Paragraph 3.19) i.e. 15 hectares. They stressed that this was to cater for local need, not "footloose" i.e. immigrant industry.

Significantly, the Examining Inspector concluded in comments and conclusions (Paragraph 3.22) "We accept the County Council's intention that the precise

(C) The Horsham Area District Plan Consultation Draft (continued)

extent of any further allocations should be settled through the annual monitoring procedures and with the agreement of the district councils concerned. It seems to us to read as a policy (i.e. the 5 hectare statement) even though not identified as such. Because we regard this as a Local Plan matter, we recommend that the paragraph be modified to remove the precision of the wording." Reference to 5 hectares was deleted. Had there been no objection by the District Council, would the questioning of this policy have led to the 5 hectares being deleted from the Structure Plan, or would it have remained to restrain emerging industries for the future of the Plan period? Certainly the Inspector would not have recognised the problem as a problem for the small industry. He had described the evidence of the present writer as being in respect of minor industries, for example, the motor repair trade and micro-electronics. These industries may be minor ones but they may be of much broader significance socially than an Inspector was stating. The attitude here may be important to emphasise since it is on the question of interpretation and subjective treatment of non conformity or mental images of insignificance upon which planning decisions might be made. Reference to the Report's conclusions on this specific issue is important because in Paragraph 3.21, the Inspector states that "the problems raised by the development of specialised industries such as micro-electronics...illustrates a dilemma which faces the nation as a whole...The Structure Plan cannot resolve this problem but, insofar as the District Councils in their detailed control are able to help, we hope they will do so without prejudicing the wider local industrial strategy".

Monitored planning policy derived from Law, County & District 1965-1980.

(C) The Horsham Area District Plan Consultation Draft (continued)

What then was different in the assessment of the land requirements between District and County that they were so vastly apart in their land allocations for industry? If the County figures had been approved by the Government representative, then this would have presumably resulted in unforeseen consequences to emerging industry creating larger groups of conflict use over a period of time, perhaps even for four or five years during the optimum processing time involved by the proposed new monitoring system. The numbers of appeals could, by deduction, have increased and also perhaps could the incidence of enforcement procedure.

At the start of the Plan period such divergence of land assessment suggests that the County Council monitoring system of all data is different to the District Council method. A 300% discrepancy in land allocation does not suggest a high degree of sophistication in methodology or analysis. The determined difference between the two viewpoints was revealed by the District Planning Officer in an interview (December 1979). The differences in assessment between County and District lay in the different methods of survey. Whereas the County had relied on the standard established methods of assessment to give indications of general policy requirements, the District had approached a number (which could not be specified but presumably the "major" industries as described in their Interim Policy Report) of actual companies within the District. The feedback from those companies, adjusted for their own ability to cater for their own land requirements from existing land stock, revealed an even greater need than that postulated by the County method. The consultation and feedback had revealed "real" requirements. As it is the Counties who have adopted monitoring

(C) The Horsham Area District Plan Consultation Draft (continued)

techniques and who generally have the qualified staff and computers to assess data analysis, such lack of information about business requirements shows that there is an obvious area for study. Confidence for the future in examining differing types of social change may also therefore be in doubt. A requirements exists for more detailed analysis and feedback systems involving the actual user in the same manner as previously shown for residential land allocation in the Manchester Study. The objectives of the Structure Plan to cater "especially for the smaller firms" cannot be achieved if this inadequacy persists.

(D) Conclusions

Before an analysis is made of the prime use conflict (Chapter 8) and local methods of catering for it, the specific policy statement at district level will be examined. However to summarise this important section, evidence has now been presented as to the following which would support the hypothesis of deficiencies in planning process.

(i) Horsham District Council's analysis of industrial requirement excludes many companies other than "major" ones but nevertheless within its limitations is able to validly criticise and improve the County Council's data for land allocation.

(ii) Secretary of State's Examining Inspector does not consider the possibility that cumulatively small firms may be involved in "major industry" because he expressly declines to accept individual problems as being the concern of Structure Plan policy.

(D) Conclusions (continued)

- (iii) The County Council's data processing methods do not reveal "real" need for certain uses because they do not examine the individual requirement at user level.
- (iv) By implication there is no compulsion for continuous monitoring and feedback to show such changes as innovatory business requirement or structural change.

Inherent in all these observations is the question of attitudes e.g. degree of recognition of the smaller unit. Horsham District Council at the implementation level goes some way toward monitoring it with their additional local surveys of certain companies but there is still a reluctance to envisage small industry as being a problem or presumably from having problems. They show no comprehensive groupings of business type or group size in their analysis of companies or distribution of types of industry. It is argued that this may reveal planning need, not only for individuals but for types of industry also. The field study of prime use conflict in Horsham may emphasise this attitude or find reasons justifying their approach. It is however revealed from the Enforcement Survey questionnaire (Chapter 5) that Horsham District are outstanding in having a monitoring process of firms' needs. The great proportion of authorities recorded by the survey do not appear to have the resources or possible inclination to measure implemented policy in this way.

The Report of Survey i.e. Study Report which sets out the rationale for the policies and supports the Horsham Area District Plan with survey results, was published alongside the Consultation Draft. It does no more than to

(D) Conclusions (continued)

confirm the above summary. Whilst it illustrates its intentions to help small industry by quoting the County Structure Plan policies to assist local industry, its monitoring of industrial land as evidenced by the stated surveys is in fact inadequate to assess precisely business requirements. The land requirements of local industry are shown in Table VI of the Study Report, Page 15. Two surveys, one in 1977 and the other in 1978, together with a meeting "with local firms wishing to expand" produced the results of the Table which led to the District Council's dispute with the County. In spite of the more specific detail however, it is argued that Table VI lacks the following for effective future monitoring of local firms need: (i) An indication of numbers of firms surveyed (ii) sizes and cohort groups of company size in the survey (iii) type and assessment of industry (iv) a split between in situ size requirement and other new site requirement (v) an allowance for new innovatory firms, small or large, derived from local generation (vi) an assessment of non conformity special requirements.

Appendix No. 10 is the writer's post-Structure Plan analysis of the local industrial survey information subsequently made available by the District Council which post-dated the above findings. It is confirmed by the local authority to be a very limited survey of all employment companies but does show a broader sample than is implicit in the formal presentation to the West Sussex Structure Plan enquiry. The general conclusions above remain unaltered unless a precis or summary of Industrial Requirement surveys of this nature are included in official reports. They would assist monitoring and public observation. Such surveys on a regular updated basis

Monitored planning policy derived from Law, County & District 1965-1981

(D) Conclusions (continued)

will ensure that County Planners responsible for structure policy will not make the same inaccurate forecasts as were evidenced at the West Sussex County Structure Plan Examination in public. The process in a more refined way should be repeated for the country at large if requirements of small business or non conforming use problems are to be detected as a cumulative problem.

CHAPTER 8

HORSHAM CONTROL AREA

Social Case Studies

INTRODUCTION

An examination in depth of selected case studies relevant to non conforming use. An elicitation of alleged conflict caused by planning processes as stated by local users. An analysis of those allegations against enforcement action and stated district council policy. A summary of causal factors from differing case studies.

CHAPTER 8

Horsham Control Area

Social Case Study

Fisher's Garage

The non conforming use Surveys all reveal the prime conflict uses as involving vehicle repairs, followed by industry, commerce and caravans. The incidence of vehicle conflict is so recurrent through every type of district and density of population that an examination of some cases within those conflict areas ought to be made to reveal the users' problems. In selecting the prime conflict use nationally, and by control district, it was considered appropriate to select a case study which was also extreme and of prime conflict itself with the main group of offending uses. Appendix No. 16 reveals a case which has been the subject of more enforcement notices than any of the other cases recorded since 1963 and it falls within the prime conflict group.

The Fisher's Garage Case

An examination will be made of the stated causes of conflict from the users point of view and, if possible, relate the findings to planning policy. Already in the study so far revealed is a possible need for provision of vehicle repair garages or to deal with the inherent problem which makes them planning outcasts if that is not catered for. The principal conflict evolved will presumably apply to other levels of non conforming use.

The history of Fisher's Garage is recorded by the present owner. It was established by his father in 1930. At that time the site areas were the same as the existing site, amounting to approximately 0.6 acres comprising a bungalow at No. 51 North Parade, Horsham, with a small workshop alongside.

Social Case Study

The Fisher's Garage Case (continued)

He sold motors and motor cycles, repaired vehicles and sold petrol from a mobile pump from his garden. No planning permissions were required under the then current legislation which was more concerned with prevention of Ribbon Development and Housing constraints rather than business (see Local Government Act 1929). The period was prior to the radical Act of 1932 (Town & Country Planning Act 1932 - See Chapter 1), which, for the first time brought in the first rebuilding and building controls with similarity of control of uses as in the current planning Acts.

During the 1939-1945 World War the social emphasis locally was on "digging for victory" and as an owner of agricultural machinery, the owner was engaged in agricultural contracting as well as a more limited function as a garage, although even during those years the servicing of vehicles took place. The type of business continued after the war until 1959, when the present owner, the son, joined the firm. This period coincided with a post-war residential and new property boom, which affected the growth of the town. Shortly following this, the motor vehicle population expanded also - not only with the residential expansion but also with the economic prosperity of the country. Legislation for the provision of vehicle spaces at the rate of 1 vehicle or 1.5 vehicles per new dwellinghouse had been introduced by Building Regulations and local bye-laws to comply with the growing need for planning of vehicles in the 1960's. (See also Buchanan Report Traffic in Towns 1964). At this time a new workshop was built at Fisher's Garage (1967) and progressive use of the bungalow, which was already used for joint uses of business and residence, was intensified. More office use was created by the introduction of the Kitchen

Social Case Study

The Fisher's Garage Case (continued)

to business use and clients and customers were interviewed and attended to within the living accommodation. Greater use was made of the existing gardens for open storage in addition to the above workshop construction, and indeed the house itself was partly used for small parts storage. By the end of the decade in 1969, the single person business had grown to seven with three working directors of the firm. The previous old workshop was then converted into a showroom for the sale of vehicles, together with ancillary offices.

Alongside, and in proportion to the growth of housing development, the business also expanded. Mr. R. Fisher, Junior, relates this growth to housing and wealth expansion nationally. Significantly in 1969 the pressure for housing land led to the zoning of land and the publication of the Horsham Town Map (previously mentioned P. 96) in 1963 and amended in 1967. Land was being allocated for new residential development and existing areas of residential development were also zoned in the same category leading to re-development of sub-standard housing at higher density. The land immediately to the south of the Fisher family land was developed with one of the first block of three-storey flats introduced to Horsham. Previously, only two-storey development of traditional nature had ever been built in the Town (R. Fisher). At about this time also, the Fishers bought an adjoining property - 104 Trafalgar Road - which was an adjoining bungalow with agricultural engineering workshop and commercial garage compound used for the parking of local business vehicles (e.g. butchers and taxi service).

With more space the induction of a Volvo franchise was made and the

Social Case Study

The Fisher's Garage Case (continued)

business employed a salesman and full time secretary.

A continuing process of planning applications - approvals and refusals - dated back to 1956. Conflict records start in July 1964 with the refusal by the District Council for the erection of a motor trade showroom, although approvals for the extension of the garage had previously been granted in 1959. Mr. R. Fisher regards the period of the mid 1960's as being the first hint of any opposition to the growth of his business from the planning authority in its 34 years. The 1964 refusal for showroom was not understood by the Fishers since they had adequate land within the original ownership of 51 North Parade, in which to accommodate a considerable extension of covered area. They considered the grounds to be connected with the more recent draft proposals in 1963 to zone the general area for residential purposes. They considered that no cognizance had been taken of their existing business which had been established long before planning legislation or the major Planning Acts of 1947. They had also applied for the showroom before the adjoining residential development of the flats at White Hart Court adjoining (built in 1967/69). At this point they decided that a more comprehensive approach should be made to the planning dilemma in which they might be faced. They therefore made an outline planning application for the extension of existing workshop which was refused. An appeal was made to the Minister of Housing & Local Government and allowed by him in May 1967. Approvals for the matters which had been granted in principle by this Minister's decision were eventually obtained in February 1968 and 1970 in separate "detailed" decisions which must follow "outline" decisions. The Fishers envisaged further problems for the future

Social Case Study

The Fisher's Garage Case (continued)

if a comprehensive right was not established to continue with their anticipated growth. This was to be within their own ownership area which they regarded as being more than adequate to cater for their present and future functions. In 1971 they therefore decided to apply for an Established Use Certificate (a certificate to establish irrevocable use rights based on past history), under the provisions of the Town & Country Planning Acts introduced during that year.

This, according to the Fishers, was the major turning point in the relationship with the planners which, until this time, had remained "reasonable". In spite of legally produced evidence as to ownership and long-user going back to 1930, the local District Planning Authority refused to grant such a certificate without producing any counter evidence or stating reasons. The firm lost the right to appeal due to ignorance of procedure. (Fisher) Subsequent planning applications for minor matters, e.g. change of use from residential to office on part of the bungalow at 51 North Parade was refused; as also was a change of use application to form a small parking area and realignment of rear access enjoyed by the premises since prior to 1930. At this point in time, the relationship with the local planning authority began to deteriorate and the family thought that they were being persecuted since they could not operate their business efficiently to satisfy the Volvo requirements for concessionaires. They also felt that they were now being persecuted by the corporate allegations of newcomers to the planning situation e.g. the adjoining occupiers of the flats now constructed within a few yards of their southern boundary and which, due to planning layout, all looked over the established premises of the garage. The Fishers took the view that the building of this new

Social Case Study

The Fisher's Garage Case (continued)

estate was a planning error of principle as well as layout. They, after all, had been the first user in the locality and the planning authority had taken no account of their existence whilst granting consent for the intensification of multi-storey housing on the boundary with overlooking windows. They considered this to be the beginning of the real point of conflict leading to ensuing enforcement action.

At this juncture it is important to interpose the comments of a number of Planning Officers from the enforcement survey England/Wales conducted for this Thesis. Many authorities state that they exercise considerable discretion before serving Enforcement Notices. In a number of replies to the survey questionnaire a common phrase was that enforcement was the "last resort" and that the service of the Notice merely reflected the "tip of the iceberg". Similarly, there must be situations such as the Fisher Case where, because of doubt in planning law, conflict arises. The question in case is one of unacceptable "intensification". The parameters by which the Council measured the degree of intensification were not stated either as reasons for refusal of the Established User Certificate (alleged) or in the planning refusals for changes of use. The case law examples which have endeavoured to explain what is a "material change of use" run into many thousands.

From 1971 onwards a series of 7 Enforcement Notices were served (listed later). All were in respect of material changes of use, except one for an unauthorised building operation. (Offences under Section 88 of the Town & Country Planning Act 1971). "Material" is a subjective term and no official parameters or construct analysis clearly define the measurement

Social Case Study

The Fisher's Garage Case (continued)

of the term within the Regulations and Orders associated with the planning Acts. It is therefore subject to considerable interpretation. Its existence in a conflict situation can be seen to encourage postures of intransigence by the conflicting parties. The planning authorities regard the service of Enforcement Notices as the last resort whereas the enforcer may be losing his livelihood. The incidence of arbitration between these two extremes is reflected in the increasing number of national appeals lodged and being heard by Planning Inspectors. (Appendix No. 9)

Case law on the question of what is "material" is not the concern of this Thesis other than to illustrate it as a prime area of conflict in itself. The interpretation of "material" is often a matter of interpreting disputed fact and degree of effect. When a business become intensified, especially with overtones of physical increase in the use of a site such as in the Fisher Case, the matter is not a question of pure fact of breach in planning control but an opinion as to the effect on the environment i.e. the "degree" of effect or intensification. This is illustrated in the Department of Environment publication of decided appeal notices 1963 to 1975/6 e.g. of all cases heard during that period, more than 30% were quashed on appeal in any one year and varied between 30.7% to 39.5%. This is a constant level of decision-making which indicates by its very high level the "subjective" nature of the interpretation of "material" particularly at the implementation level of local planning authorities who serve the Notices. Other discussion of this factor will be made in the conclusions to the study but at this stage it raises a secondary question to the prime assumption of the study. If there is a

Social Case Study

The Fisher's Garage Case (continued)

laissez-faire neglect by planning authorities of non conforming uses in the lack of recognition or monitoring of small business requirements, the effect may be to create a feeling among non conforming users of a conspiracy against them by the planning authorities. This argument is supported by the incidence of enforcement and illustrated by quashed appealed decisions. The Fisher Case may also illustrate this by the enforcement notices withdrawn before they actually went to appeal i.e. 5 out of 7 served. The Fishers' interpretation of why they were withdrawn may highlight the social factors behind withdrawal.

Taking each notice in turn, the stated reasons for withdrawal or otherwise are shown:

Enf. 79 (i) Notice No. 1 (20 Dec. 1971). Material change of use of curtilage to dwelling house for parking and maintenance of vehicles.

Answer Erroneous notice since the use was not within the curtilage of a residence but a commercial garage block. Therefore withdrawn by the District Council on a technicality.

Enf. 79 (ii) Notice No. 2 (17 Feb. 1972) Material change of use from use as a forecourt to lock-up garages and store to use for the parking and maintenance of vehicles.

Answer No appeal by Fishers was made within the 28 day objection period stated on the notice, and the notice was therefore deemed to be in operation i.e. upheld. Later on the 3rd April 1973 the Garage was convicted in the Magistrates Court for contravening the valid notice. In other words a breach of planning control had now become a criminal breach of the law.

Social Case Study

The Fisher's Garage Case (continued)

Enf. 82 (iii) Notice No. 3 (23. Mar. 1972) Material change of use from use as dwellinghouse to use for offices, stores and paved area for parking of vehicles.

Answer Withdrawn because it was established that this area had always been used since the inception of the business and was not therefore a breach of planning control (Section 88 Town & Country Planning Act).

Enf. 144 (iv) Notice No. 4 (15. Dec. 1976) Material change of use in land to use as maintenance and parking of vehicles in connection with adjoining garage.

Answer Withdrawn on the same basis as the above. The operations were established old uses and therefore legally acceptable.

Enf. 144 (v) Notice No. 5 (15. Dec. 1976). Building operations, namely the construction of a hardstanding.

Answer Withdrawn as not requiring planning permission to harden an existing parking and access area.

Enf. 151 (vi) Notice No. 6 (11. Jan 1977) Material change of use for repair and maintenance of vehicles including paint spraying.

Answer Withdrawn because the information provided by a third party neighbour had not been checked and was erroneous fact.

(vii) Notice No. 7 (16. June 1977) Material change of use for valeting and preparation for sale of vehicles on 104 Trafalgar Road

Social Case Study

The Fisher's Garage Case (continued)

Answer Upheld by the Inspector on appeal because the intensification was on adjoining property where no established use over a long period had been proven i.e. purchased after the "relevant" legal date of January 1964 (Section 88, Town & Country Planning Act 1971).

Why were the Council so insistent on obtaining evidence to contradict the legally established uses of the firm? The implication from the series of results is that a consistent series of attempts were made until after six years it was achieved but only in respect of the adjoining property more recently acquired for expansion of the firm in the late 1960's. The Council as planning authority should have been aware of the legally established uses of the planning unit at 51 North Parade. It had been there since 1930 i.e. nearly fifty years. There could be no legal doubt as to its established rights. However, continuing yearly notices were served. This is not explained by any produced evidence. The Fishers explain the matter as a "conspiracy" perhaps by local residents complaining to the planning authority. The District Council have automatically had to react in spite of the notices being illegal. The duty of the authority is to safeguard the public and they are sensitive to criticism from the Ombudsman. The emotive analysis by the affected party points to a possible conflict problem. An established businessman who has never changed his mode of activity except to be successful, following the growth of car use, becomes affected by residential intensification. The outcome is that relative to the new set of circumstances, he has "materially" changed the use of the existing premises. Had the adjoining residential development

Social Case Study

The Fisher's Garage Case (continued)

never taken place, would there have been a "material" intensification? The degree of intensification is relative to the effect on adjoining premises. The District Council was unable to comment on the question of withdrawn notices, although sympathy with Fisher's problem was recognised. An examination of Council implemented policy for re-siting or the attempts taken by the Fishers to relocate will be examined next. The relationship with stated and actual policy of the planning authority for vehicle repairs and garages generally i.e. the car service industry, will be compared. If there is no policy, then an assumption will be made that planning policy (or lack of it) is a contributing factor to non conforming uses developing.

Garage and Vehicle repair Workshop

Prime conflict use - Garage provision in Horsham i.e. Implemented policy. The urban area of Horsham in which Fisher's Garage is situated, was taken as the high density high car ownership area for analysis (see Appendix No. 17 for car ownership and growth prospects Fig.D). Two main groups of repair premises were examined for the study period 1963 to 1980 e.g. (a) principal garages with or without petrol sales and (b) vehicle repair workshops. (Appendix No. 16). Apart from the possible exception of one unit at Station Hotel Yard, which is a very clearly defined non conforming use of only 300 square feet in very sub-standard premises, all the premises were in existence in 1963 and continued operations until 1979. No further additions in numbers were made, although the main units estimated on the basis of having covered space in

Social Case Study

Garage and Vehicle repair workshop (continued)

excess of 1,000 square feet (12 out of a total of 21), had all been improved during the study period. Those below 1,000 square feet were, with one possible exception, all older buildings constructed prior to 1963 and often of sub-standard condition (5 out of 9). All had therefore established rights of use in accordance with the planning Acts, even though they might be non conforming in their existing position. 8 out of the 9 were based in residentially zoned areas on the Town Map. Only two had road frontage to classified roads.

There has therefore been a reaction to the undoubted growth of car ownership during the study period by the expansion of the main garages. Vehicle ownership increased from 0.279 cars per head in 1971 in West Sussex to an estimated 0.36 in 1980 i.e. 22.5%. By examination of the Town Plan however it was noted that all the existing garages are constrained as to expansion by the nature of the surrounding properties. Even among the large garages group only one property, Caffyns, North Street, did not adjoin residential property. To that extent all the motor vehicle repair garages in Horsham were pre-1963 properties existing in primarily residential areas and were technically non conforming. None were zoned by the planning authorities and all were in existence prior to the 1st January 1964, which is a crucial planning date by which many uses are regarded as having immunity from enforcement action under Section 88 of the Town & Country Planning Act. It would therefore appear that former industrial or similar premises had been allowed to expand in situ for the absorption of increased vehicle repair demand and that no new allocations of land were

Social Case Study

Garage and vehicle repair workshop (continued)

made specifically to cope with such use. It is observed from physical inspection that not one single vehicle repair workshop exists in any of the three new industrial estates in Horsham constructed since 1963 which suggests that they lack the requirement of such use. The sub-standard location of most workshops and their age and condition may suggest that new industrial estates are too expensive in rental terms for repair workshops to be set up as innovatory business. This in turn may also be supported by the fact that the larger repair workshops are supported by main road positions with petrol sales and oil company revenue. An assumption may be made that these non conforming uses would never have been granted modern planning consents in their present locations unless they had enjoyed legally established use rights. Having regard to the Fisher Case Study and the principle of law over the question of material change of use, it is argued that this must be so. The areas are principally residential ones. They were subsequently zoned as such on the 1963 Review of the Town Map. Had there been no garages in existence at that time, any new applications would have been refused by reason of the potential environmental effect of noise, dust, fumes etc., and the visual impact on the local environment. A valid assumption can therefore be deduced that the presence of non conforming uses has almost exclusively provided the base for garage and motor vehicle repairs in Horsham for the whole of the period 1963 to 1979. The policy of new industrial land allocation has provided no response to this need. Spatial allocations have therefore been of no effect. The conflict in the enforcement procedure may reflect the surplus of need not catered for by these non conforming uses and if,

Social Case Study

Garage and vehicle repair workshop (continued)

as is maintained by some planning authorities, that conflict reflects only a small proportion of similar conflict not reaching the enforcement action level, then it might be concluded that the monitoring provisions of planning authorities have been deficient in the past in relation to the precise needs of this industry, other than to allow an element of in situ expansion of most units. If the extent and effect on non conforming users or their problems is not understood by planning authorities, the implication might be that monitoring of both non conforming and conforming uses is also deficient for want of feedback. There must be a positive assumption that this is so in the case of prime conflict use. A case study of a "secondary" use may therefore be observed.

Henfield Control Area Case Study

R.A. Gander Ltd.

Industrial Haulage is a related vehicle conflict use but only seventh in the England/Wales Prime Conflict Use Table (Appendix No. 3) This is a case however where the non conforming and anti-social activity of a local haulage problem in a particular area was in fact the prime conflict use and documented in the local press and Village Plans. The complaints were of heavy transit vehicles contravening the terms of Mr. Gander's planning consent not to use the premises outside daylight hours. Other firms were also involved. The consent had been granted in 1969 when Mr. Gander had entered the site and was granted permission as a haulage depot in established use class premises at Station Road, Henfield. Whilst no enforcement notice had been served there had been considerable exchanges of correspondence with the Horsham District Council and a threat of enforcement action if remedial alternatives were not forthcoming.

This is a particularly interesting case from the point of view of the objectives of the Thesis. The owner acknowledged his non conformity and there had recently been a publication of the Henfield Village Plan 1975 to 1980 just prior to the appeal in June 1977, which had followed planning applications in January 1976. More importantly however, from the social issue of whether the local planning authority had assisted in the relocation of the non conforming use, was the stated policy of the published document and the history of events as recorded by R.A. Gander Ltd. and as noted from the official documents and correspondence allied to the appeal.

It is reported by R.A. Gander that prior to the publication of the Henfield Village Plan, he had attended the Exhibition and Public Participation

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

meetings arranged by the local planning authority in 1975 which had pinpointed a problem created by the existing preponderance of haulage and heavy vehicle businesses operating from Station Road. The Council acknowledged that these were old established uses remaining since the closure of Henfield Station under the "Beeching Axe" proposals in the early 1960's. In paragraphs 3.10, 3.19, 3.20, 5.8 to 5.9, 6.17 and 6.18 of the Henfield Village Plan, specific reference was made to the problems as follows:

Para. 3.10 "Heavy vehicles are a particular problem especially the timber lorries and contained vehicles using the road from Shoreham Docks."

Para 3.19 "A major problem....is the location of haulage contractors in Station Road. These firms by virtue of the activity they perform depend on frequent access by heavy vehicles. In the past few years they have grown considerably and now generate much activity and nuisance, especially as goods vehicles frequently leave early in the morning and return late at night. The size of vehicles used nowadays are totally incompatible with the village road network that exists. It is argued that to facilitate the passage of vehicles the roads should be widened, but the activity would still remain and continue to cause a nuisance whilst road improvements would tend to further urbanise the appearance of the village. The solution therefore may be to relocate those activities in an area where they will cause no nuisance to residents and where there is room for expansion."

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

Para 3.20 "As far as employment in Henfield is concerned the major problems can be summarised as (i) the need to provide local employment for school leavers and people wishing to work and live in the village, (ii) the need to relocate non conforming industry".

Para 5.8 stated various options open to the local planning authority:

- (i) "To leave them and accept environmental conflict.
- (ii) To take positive action to secure the removal of present uses.
- (iii) To identify alternative sites from which these firms can operate whilst at the same time securing the existing site for more compatible use." These possibilities were then analysed by the district planning authority as follows:

Para 5.8 "Alternative (i) is considered inappropriate as the nuisance caused to local residents is unacceptable whilst alternative (ii) is considered impractical in the current economic climate. For the same reasons it is not possible to provide suitable land in Henfield to relocate these non conforming uses.

Para 5.9 The third alternative is therefore considered the most suitable, whereby the District Council will encourage the non conforming users to move to alternative sites wherever possible, one such being at

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

Henfield Brickworks. The suitability of this will be studied further in a feasibility Study."

Under the separate heading "Non Conforming Uses" they state in paragraph 6.17 "The local planning authority will encourage the relocation of non conforming uses to sites where there will be no detriment to the amenities of residential properties."

Para 6.18 "Unless there are exceptional circumstances, the local planning authority will not allow further expansion or intensification of industrial uses in residential areas of the village in order to safeguard the amenities of existing residents". The authority for enabling this policy was quoted as being "The Use of Conditions in Planning Permission: Appendix Restrictions on Use - Circular 5/68, Her Majesty's Stationery Office 1968).

Mr. R.A. Gander's reaction was one of encouragement to this stated policy and at the participating meeting he was thanked by the local Planning Officer for "publicly expressing his willingness to move". (See paragraph 3(ii) of the Minister's letter quoting main points in support of his appeal dated 15th June 1977). "The original village plan in 1962 had noted the problem of non conforming uses and the new 1976 Plan considers that the problems of non conforming uses has not been resolved."

Mr. Gander's application to move to surplus land owned by Henfield Brickworks was to "promote greater urgency to the stated Feasibility Study

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

and to test the planning reaction of the planning authority to their quoted policy and proposed solution."

Subsequently, when the planning application was refused and an appeal was made, Mr. Gander obtained a written undertaking that should his appeal be successful, the Brick Company would sell him the appropriate land. The application was however on land adjoining the existing tipped area which was to be the subject of the Feasibility Study and therefore in evidence Mr. Gander had produced expert witnesses to assess the total area of non conforming use activity which would need to be relocated under the local planning authority's policy statement. The total land requirement merely to replace the existing was more than the Feasibility Clay Pit Study area and allowing also for expansion in accordance with the Council's own stated policy, an additional acreage could not be provided except by including further Brickwork surplus land like the appeal site. The Minister's Inspector concluded that the value of the improvement to the "traffic conditions and environmental standards in Henfield..... are not so certain or substantial as to outweigh the long term need to safeguard the basic overall planning policy of preserving this area of countryside and its potential for agricultural use. He therefore refused the appeal. The technical planning merits and demerits of the application cannot be considered in depth as to why a negative appeal decision had been made. As from Mr. Gander's viewpoint only he "had endeavoured to assist in the planning process to relocate his business on surplus land as provided in the Statutory Plans". The filling of the clay pit was reported to require a period of at least seven years from the appeal date and a further consolidation period after that, which would have been known by

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

the planning authority. Any feasibility study would therefore "have to take into account" the land surplus to the Brick Company for that reason alone but also because the requirement of the local non conforming uses would be greater than the area of the clay pit when refilled." (R.A. Gander)

Taking the stated policy of the planning authority, a number of questions are raised.

(a) In preparing the Village Plan and pinpointing the main problems, what additional powers had the authority obtained since the original plans in 1962 which led them to consider that alternative (iii) (Paragraph 5.20) of the Plan was possible? They had committed themselves to identify sites from which these non conforming firms could operate, although in the appeal decision the Minister's Inspector had commented in his summing up (Appendix No. (a)) that it was the appellant who had not produced evidence of alternative sites when clearly the obligation was on the authority to define them.

(b) In addition to defining the sites, the local authority do have effective power in the form of compulsory purchase legislation and other planning powers to relocate non conforming industry. Presumably some, unlike Gander, would be unwilling to move to any other defined sites. A need was therefore clear either compulsorily to move the offending uses or to induce offenders to move elsewhere. In observing the present situation in Henfield, in spite of further traffic growth and in the size of vehicles, it has been seen that the existing firms, shown on the non conforming use Study (Henfield Plan) are still

Henfield Control Area Case Study

R.A. Gander (continued)

(b) operating in their former locations of 1975 when the Henfield Map was prepared. This could mean that no effective sites have been defined. Furthermore, there has been no relocation and no other evidence of encouragement. In fact from analysis, it would appear that another non conforming user has also endeavoured to relocate itself. (Vinalls, Station Road, Henfield) on land opposite the above mentioned Henfield Brickworks but refused consent.

Separate compulsory purchase powers exist for any authority to acquire land for the purposes of implementing planning policy (Compulsory Purchase Act 1965 and other specific Acts for Highways, Education etc.). The procedure is lengthy and time consuming to authorities which have few staff resources, and not necessarily certain in view of appeal procedures. The Community Land Act is also suspended by the current Conservative government (as at January 1980) and is due to repeal. The positive implementation powers are therefore excluded as a possibility to encourage and assist relocation, especially if there is also economic restraint.

The powers to allocate zones "within the County or Village Plan area are however not outside the ability of the local planning authority nor is the possibility of negotiating a planning "gain" with landowners under Section 52 of the Town & Country Planning Act 1971 i.e. to give more valuable

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R.A. Gander Ltd. (continued)

- (b) zonings to land in exchange for the provision of infrastructure components like roads and sewers by owners (and by the developer who would buy the owners interest). This may become an increasing possibility in the future of development plan preparation if planning authorities are to cater for the economic and employment requirements of their districts.
- (c) If a policy were to be adopted which "encouraged" relocation by whatever means, and a contiguous policy were to be implemented (in Paragraph 6.18) not to allow further expansion or intensification (see the Fisher Case) in residential areas....to safeguard amenities, then the assumption is that the "encouragement" would be of two forms (i) presumably some positive zoning or allocating encouragement if there were no grants, (ii) alternatively a negative encouragement by restricting the growth of haulage firms.

The assumption can now be deduced that in the absence of the use of compulsion, planning gain agreements, zoning or financial assistance, a negative form of encouragement has been adopted. A negative form may be possible if the pressure is so great as to induce an alternative location being obtained by the offender. However, in the absence of defined alternative sites (which are accepted to be at least 4½ acres or more) the causal basis for any future increased use conflict will clearly be shown to be in planning policy. (In 1977 an enforcement Notice in

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R.A. Gander Ltd. (continued)

respect of commercial vehicle storage, maintenance and repair was served in respect of increased use of nursery land nearby as West End Lane (Ref. AF26) which may reflect evidence of such policy). Furthermore in the absence of any "effective" relocation aid there can be no solution to the non conforming use problem in Henfield. The redevelopment in the late 1960's of the dismantled railway line and ancillary station premises with residential development, may also have indirectly been a "negative encouragement" to relocation because it intensified residential development which is regarded as being less offensive than commercial or industrial haulage and therefore exacerbated the residential versus haulage conflict. The station yard, now a housing estate, in fact was immediately opposite the Gander site.

Making a comparison with the Fisher case, the monitoring of conflict would not have helped in solving the problem. The problem was already obvious and had been/^{so}since the closing of the station but more so since the intensification of haulage use. Site investigation indicates the cumulative nature of the haulage industry in fifteen locations along the same continuous route of Lower Station Road, Station Road and Holland Lane, approximately half a mile in extent. These uses were residual elements of the former transport industry associated with the railways. Like the Fisher case however, it is in the lack of exercise of planning policy that the major cause of the pressure lies, i.e. in the lack of industrial zoning outside the village residential area, or effective machinery for assistance. The conflict ~~is~~ is likely to increase in the future if vehicle size and ownership increases. The principle of interpreting the question of "intensification" like the

Henfield Control Area Case Study

R.A. Gander Ltd. (continued)

Fisher Case may again become a planning problem with the offenders having to react to enforcement notice procedure. In these cases, the problem, pinpointed as early as 1962 is physically patent and not latent. The problem of haulage businesses in the location is known to the planning authority and therefore no accusation can be made that the planning authority lack knowledge of the problem because of a deficiency in monitoring facility, although there may be such. Conversion into a solution may not be possible or the solution may lie in waiting for the physical consolidation of the brickwork clay pit when compulsory powers can then be exercised. The existing "established uses" which currently involve valuable industrial user could then either be converted to residential use or a less obnoxious environmental use involving no heavy vehicles. Perhaps this reflects the continuing discretion being exercised by the Horsham District Council in not serving enforcement notices on the prime conflict use. Whilst the original causal base for conflict is historical and not the direct result of spatial zoning, it is the direct result of planning delay which is causing the present use conflict. The proposed feasibility study to define suitable relocation sites in addition to the Brickwork site, has never been conducted (22nd January 1980, discussion with the Horsham District Council Planning Department.)

Further Case Studies

Two other case studies (See Appendices 18 and 19) which were surveyed by interview and questionnaire are merely illustrative of the problems of

Further Case Studies (continued)

industry endeavouring to set itself up by relying upon the open market system in the United Kingdom. Both Sigma and Omicron are microelectronic firms which were first registered as businesses during the last five years and which have reflected the rapid growth of computer technology in communications. They were chosen as examples to illustrate the point already deduced that newly created industry would not be monitored by the traditional methods of analysis. Only regular local surveys and feedback would record their innovation and, more importantly, their land requirements. This type of industry has reflected a very fast growth e.g. Sigma has expanded its physical area three times in three years and its numbers employed by more than ten times in the same period. Both study firms operate from very cheap non conforming premises, Sigma in an old Corn store in a village High Street and Omicron in a mixed commercial and residential area. Their operations would be regarded as Class III light industry. Omicron complain of the lack of guidance and relocation assistance from the planning authority and have had to rely on a series of unsatisfactory operational buildings with dubious legal planning rights in order to exist at all. Similarly, Sigma operate from Class X warehouse premises, although they too are technically Class III light industry. They have intensified their existing use and live under the threat of enforcement action until they move to suitable premises which are not within their ability to obtain at their present stage of innovatory evolution. No policy exists for the assistance of this type of industry by the provision of small nursery units. Low rental value appears to be a pre-requisite of this type of business in the initial innovatory stage. In spite of approaches by both^{*} of the above companies to the local planning

* one since survey date

Further Case Studies (continued)

authority, they record that no positive policy exists, other than negative encouragement to relocate, or to financially assist in obtaining suitable premises in the open market. This is in spite of legislation from central government such as Department of Environment Circular 44 (1978) setting out the basis for such encouragement to small and new industry. Without an initial realisation through regular detailed local surveys, a commencement to such policy cannot take place.

Note:

Other case studies carried out by a small companies survey locally revealed similar problems for innovatory business. A reference was also made to a related micro-electronic business - Aerco - which had been removed by enforcement action from farm buildings. This firm is now self-relocated in other non conforming premises in Horsham and still seeks relocation. Other case studies are omitted to avoid duplication of difficulties illustrated in the above example.

CHAPTER 9

Conclusions

The hypothesis relative to planning processes

INTRODUCTION

A general summary of conclusions with general propositions.

CHAPTER 9

Non Conforming Use

Analysis and Conclusions

Summary of Hypothesis

- Chapter (1) Aims and Objectives. Hypothesis that planning processes cause conflict.
- Chapter (2) The Town & Country Planning Acts brought all land use into State control. The Local Government Act 1972 reorganised local authority administration, including planning and enforcement processes. Enforcement (Implementation) Officers became generally appointed to control illegal planning activity.
- Chapter (3) "Non Conforming Use" was not defined in the planning Acts and was shown to be a residual product of complex interpretations of use and widely "understood as a term". (See British Survey). Precise definition was not possible but its incidence could be recorded when evidenced by enforcement action. Discretionary "non action" against offenders was not measureable from available evidence, but enforcement action was "the tip of the iceberg". (United Kingdom Survey)
- Chapter (4) Major constraints to availability of evidence and other monitoring data exist at the prime sources of government, district and local planning authorities. Apart from limits on land use statistics there is generally a stated lack of staff and financial resources to conduct adequate surveys of behaviour of individuals and firms. Other

Analysis and Conclusions

Summary of Hypothesis (continued)

secondary sources rely on the prime ones and are only supportive.

Chapter (5) A national questionnaire survey revealed a prime conflict use of car repairs followed by other commercial conflict types. It also showed a prime order of conflict with a constant order of incidence measured by districts, population density and affected land types. Confirmatory evidence from Department of Environment records of enforcement appeal numbers showed an increasing tendency of conflict but reasons could not be deduced from these figures other than uncertainty of law interpretation and high levels of "innocently prosecuted" users reflected by upheld appeals.

Chapter (6) The incidence of affected land use and increasing incidence of conflict was measured in a local control area. It indicated proportionately greater activity after local authority reorganisation in 1972, than before. It also revealed problems associated with both vehicles and other industrial uses. Whilst conflict increased it was widespread by affected land use measurement.

Chapter (7) By examining a local control area currently undergoing a revision of both County Structure Plan and Local District Plan proposals, the national implementation process was able to be tested. Deficiencies in monitoring the requirements of local users and difficulty of

Analysis and Conclusions

Summary of Hypothesis (continued)

interpreting law (Fisher Case Withdrawals of Notices), were noted by reference to county stated policy for industrial land allocation which differed substantially from local authority surveys. By implication this monitoring deficiency would also affect "non conforming uses" and be against Government stated policy as evidenced by Department of Environment circulars.

Chapter (8) An examination in depth was made of a number of control area case studies. Significant circumstantial and empirical evidence was argued to illustrate process deficiencies i.e. (i) uncertainty in interpretation of law (ii) little effective assistance by land allocation, finance or relocation policy (iii) a decreasing level of discretion not to impose enforcement, (iv) statistical deficiencies for proper surveys of small business and non conforming uses.

Non Conforming Uses

Proposition and Conclusion

(a) Conclusions

The historical and legal background to land use designation emphasised the spatial allocation of land and state control of land uses as opposed to ownership. The status quo of land uses was to be maintained unless granted consent for change by the State which delegated its powers to the planning agencies of the County Councils and District Councils. In 1968, and evidenced by the new planning Acts, the cumbersome zoning or fixing of statutory land uses by former Town Maps and County Development Plans was to be differently administered by a re-organised structure of local government administration and new methods of assessing planning need. Whilst strategy was to be contained within the new County Structure Plans, implementation and control were to become local matters for assessment. Public participation was for the first time in planning history to be a requirement in the process. Dynamic studies at the micro level of local use behaviour and local need might in this way be more efficiently and effectively carried out with information fed back into the data banking system operated by planning authorities. Constant monitoring and consequent updating of strategy would result because more emphasis would be placed on the "needs of land users" (Nicholls, Cambs. University R.I.C.S. conference 1980). Non-conforming uses generally reflect small business in this study. The lack of detailed understanding of their individual and cumulative requirements is a planning and therefore social deficiency. It is suggested that in a period of "economic" decline the effect

Proposition and Conclusion

(a) Conclusions (continued)

on innovation and re-employment could be counter productive if planning processes restrict the legitimate activity of small business. The incidence of upheld enforcement appeals* at well over 30% of all heard cases, which themselves are also increasing, may be regarded as significant in this respect. It suggests that there is an ethos of nationally similar "attitudes" in the prosecution of "illegal" planning users but when critically examined by the planning "judiciary" either the users are found not to be illegal or they have overriding planning merit in a large number of cases and are upheld by the Secretary of State.

A comparative argument that there may be plenty of "crime" but many are found not guilty is untenable because in planning law proof is a question of planning merit *and alternative solutions. Those who are affected are not necessarily those who have committed crime e.g. evidence is shown that it is the uncertainty of law, or by implication a subjective ethos of interpretation, which has created the original enforcement, and thus the "crime" itself. The appeal process is in fact a quasi-judicial one, not conducted by independent judges but by Inspectors employed by the Department responsible for implementing the planning process. Deduction may therefore be made from evidence presented that if the employment of implementation officers has led to a detailed examination of planning infringement and more appeals are being upheld than hitherto, there may be an unacceptable lack of clarity in the law itself measured by numbers of innocently prosecuted. Monitoring

* Planning appeals must mandatorily take planning merit into account, Section 88, Town & Country Planning Act 1971.

* ie. notices quashed Appendix 11/2

Proposition and Conclusion

(a) Conclusions (continued)

would help to define and prove the planning need implied by this success of appeals and thus reduce "crime".

The policy raises issues of whether efficient economic use is already being made of the existing stock of old buildings if interpretation of "material" change of use is subject to automatic refusal because the change may be "substantial" (case law).

(A study of this assumption is being undertaken at Leeds Polytechnic.)

Whilst data collection was improved by more detailed local surveys, there still appears to be a greater need for examining behavioural aspects of small business by feedback studies. The present enforcement activity is shown to be counter-productive.

(b) General Propositions

The policy of environmental protection is now being applied more strongly within the planning process. Not only are increased levels of enforcement action taking place, but there is now also greater legal public participation in the planning process which has involved strong pressure group activity from conservationists. The reference to a national ethos in the interpretation of non conforming use may implicitly indicate this as a syndrome for society at large and therefore will continue to hamper the encouragement of small and innovatory business. In the absence of a balancing emphasis, increased enforcement conflict is inevitable. This also raises other questions. Apart from financial constraints stated in the study of local users to be a major factor in the early stages of a business life, there is the question of

Proposition and Conclusion

(b) General Propositions (continued)

whether premises or the correct quality of land can become available in a planning climate of restrictive attitudes. Control of land use by government means that the dynamics of its availability and distribution are also controlled. Scarcity can be created deliberately by policies of restraint on growth in a particular area e.g. West Sussex and the South of England, in the hope that this will "cost-push" the development elsewhere into more needy parts of the country. Conversely, scarcity and hence conflict of land use may unwittingly be created by slow or uninformed planning processes which prevent legitimate use of buildings because of doubt over the law. In free market conditions the allocation of private land for a use may mean that it is taken up by the larger concerns outbidding smaller ones. There may therefore also be an urgent need for more direct intervention by Government to allocate specific land to specific small firms or innovatory businesses. The development of "Planning Contracts" may arise whereby industrial developers make an agreement with planning authorities to pay for planning permissions by means of conditions on consents to dedicate part of their land for relocation of non conforming uses and innovatory local business. Successful monitoring of their requirements should also determine their precise needs and allow zoning, if this process is to remain unaltered, of more accurate sizes and types of land use.

Proposition and Conclusion

(b) General Propositions (continued)

In times of failure of large industries like steel and car manufacturing, which provide structural employment for larger regions, the implication of this process is obvious. It will allow a more flexible approach to planning interpretation of law. The existing stock of unused buildings and land in areas of rural deprivation on farms or in villages might then be used to assist the dynamic of business, subject to adequate environmental safeguards. The General Development Orders could then be amended to allow for a presumption in favour of non conforming use instead of the present presumption against which is leading to increasing levels of "wrongful conviction" of legitimate users of land because of inflexibility by planning authorities in the interpretation of law relating to land use. (See also Lewisham Study of Non Conformity and Upper Weardale Action Committee). A broader and more flexible definition i.e. greater clarification in the law and interpretation of "material change in use" will reduce the ability of planning agencies to exercise negative decisions against enforces. It would increase the size of the mesh in the net of subjectivity apparent in the prosecution of innocent land users.

NON CONFORMING USES

SOCIO-GEOGRAPHIC STUDY

A P P E N D I X

A P P E N D I X

Appendix No.

1. Enforcement questionnaire to local authorities England/Wales.
2. Analysis of England/Wales enforcement Survey.
3. Planning authority stated conflict types.
4. Prime use conflict by type of planning authority.
5. Prime use conflict by population density of planning authority.
6. Enforcement notice survey England/Wales.
7. Enforcement survey Summary of opinions and fact.
8. Control Area enforcement survey graph of activity.
9. National enforcement notices graph of activity.
10. Control area industrial survey.
11. Enforcement Appeal statistics: England/Wales.
12. Control area typology of enforcement notices.
13. Control area incidence of enforcement.
14. Control area incidence of conflict.
15. Control area distribution map of enforcement activity.
16. Control area vehicle repair study.
17. Vehicle ownership study and graph.
18. Local case study: Omicron.
19. Local case study: Sigma.
20. Consultation paper on small industry: Department of Environment.

A P P E N D I X

NON CONFORMING USES

SOCIO GEOGRAPHIC STUDY

F.J. COMERFORD

BA (OU), DIP GEOG. (LOND), FRICS, FRGS.

Higher Degree Thesis

Social Science Discipline

Submission August 1980

Survey No.....

URGENT

Blakes Farm,
Southwater Street,
Southwater,
Nr. Horsham,
Sussex.

Date.....

To: Chief Planning Officer
Council.

Dear Sirs,

January 1965 to 30th November, 1979
Enforcement Notices and Non-conforming
Uses - Higher Degree Thesis. F.J.COMERFORD

I am currently researching the above subjects and urgently seek information for THESIS PURPOSES ONLY as to the incidence and types of enforcement activity within your District. A very brief questionnaire is therefore enclosed, together with a stamped return envelope, in the hope that you will kindly co-operate in my analysis, which I trust will only take up the few moments it takes to read the questions.

If further research within your Department would be necessary, do not please create any inconvenience but indicate this in reply to Question (V1) and return the form, IF POSSIBLE BY RETURN.

Even if no records exist or difficulty would be experienced in collating the information, knowledge of this is essential to my research.

I look forward to hearing from you if possible by the end of this month 30TH NOVEMBER, 1979 SURVEY DATE.

Yours gratefully,

F. J. Comerford BA., FRICS., Dip. Geog.

Survey No.....

From: Planning Officer.....Council

.....County

1ST JANUARY 1965 TO 30TH November 1979
Enforcement Notice Analysis

Delete

- (i) (a) Does your Authority employ a full time Enforcement Officer? YES/NO
- (b) Does your Authority keep records of enforcement notices served within it's District? YES/NO
- (ii) If YES are these records kept by any of the following methods:
 - a) filing system only YES/NO
 - b) computer record YES/NO
 - c) microfilm YES/NO
 - d) (i) Other systems YES/NO
 - (ii) If Yes, what system.....
- (iii) (a) Do you submit records to Dept of Environment (DOE) or other Data Bank YES/NO
- (b) if YES which one.....
- (iv) (a) Do your records go back to 1st Jan. 1965 If NO to which date (approx)..... YES/NO
- (v) Would a special analysis be necessary to ascertain the numbers of enforcement notices served in each or some of the years 1965 to 1979? YES/NO
- (vi) (a) Would it be convenient to carry out a count of numbers? YES/NO
- (b) If YES please answer Questions 1X, and X1 then RETURN this form NOW
- (c) If NO please indicate (approx) numbers served if this does not inconvenience you.

1965 66 67 68 69 70 71 72 73 74 75 76 77 78 79

- (vii) Do your records separately show the type of Use which is affected, e.g. Agricultural, Residential, Office, Industry Use, etc. YES/NO
- (viii) Do your records separately show the type of contravening Enforcement Notice Use YES/NO
- (ix) What main uses would you think/know pose the main non-conforming problems within your District in descending order of importance
 - (a).....
 - (b).....
 - (c).....

Delete

(x) (a) Does your Council have a POSITIVE relocation or assistance policy to non-conforming use?

YES/NO

(b) if NO will you add any comments to General Remarks below

(xi) Would you be prepared to assist in a U.K. examination of non-conforming uses and their effects on communities, by completing a more detailed questionnaire

YES/NO

General Remarks (if any).....
.....
.....

Signed.....

For..... Council

I understand that this information will be used for educational THESIS only.

England/Wales Survey 1979
of Prime Conflict Uses by District.

No.	District	Type	Population Density Per Acre.	Prime Conflict	Second Conflict
2	Coventry	Met.	14.6	Shop	Residential Intense
4	Corby	District	2.6	Car Repair	Business
6	Congleton	Borough	1.5	Diverse	
9	Cleethorpes	Borough	1.7	Car Repair	Specials
12	Chilterns	District	1.9	Diverse	
14	Chester	District	3.0	Diverse	
18	Cheltenham	Borough	10.2	Diverse	Diverse
23	Castle Morpeth	Borough	1.0	Industry	Business
30	Cambridge City	District	9.9	Business	
31	Adur	District	5.5	Car Repair	Specials
34	Allerdale	District	0.3	Scrap	Car Repair
39	Ashford	Borough	0.6	Business	General Use
301	Staffordshire	District	1.5	Car Repair	Scrap
44	Barnsley	Metropolitan	2.8	Car Repair	Taxi
○	Bridgnorth	District	0.4	Caravan	General
62	N.Kesteven	District	0.6	Car Repair	Caravan
65	Bracknell	District	2.7	Business	Car Repair
67	Boston	Borough	0.6	Diverse	
68	North Humberside	Haulage	0.4	Haulage	Industrial

No.	District.	Type.	Population Density per Acre.	Prime Conflict	Second Conflict
71	Blyth Valley	Borough	3.8	Taxi	Car Repair
75	Blaby	District	2.4	Car Repair	Caravans
77	Beverley	Borough	0.9	Car Repair	Special
78	Berwick	Borough	0.1	Car Repair	Caravan
82	Basingstoke	District	0.8	Industry III	Car Repair
88	Kennet	District	0.3	Special	Industri- al.
90	Ipswich	Borough	12.3	Diverse	-
92	Huntingdon	District	0.5	Car Repair	Caravan
93	Hove	Borough	15.2	Car Repair	-
95	Holderness	District	0.3	Diverse	-
98	Hertsmere	Borough	4.9	Industry	Business
99	Hereford City	Metropolitan	9.3.	Business	Residen- tial
101	Harrogate	Borough	0.4	Special	Special
104	Halton	District	6.3	Business	Haulage
105	Guildford	Borough	1.8	-	-
108	Gravesham	Borough	3.9	Car Repair	-
113	Medway	Borough	2.3	Car Repair	Haulage
114	Gedling	Borough	3.4	Car Repair	Business
115	Gateshead	Metropolitan	6.3	Car Repair	Scrap
120	Fareham	Borough	4.5	Special	Use
122	Erewash	Borough	3.8	Car Repair	Haulage
123	Epsom & Ewell	Borough	8.5	Car repair	Special
130	Harboro D.	District	0.4	Car Repair	
131	East Lindsey	District	0.2	Diverse	Special
132	Eastleigh	Borough	4.3	Car Repair	Industry
136	East Cambs	District	0.3	Diverse	-
138	Easington	District	3.0	Car Repair	Resid'l

No.	District	Type	Population Density per Acre	Prime Conflict	Second Conflict
142	Doncaster	Metropolitan	2.0	Business	Special
148	Dartford	District	4.9	Haulage	Car Rep'r
150	Dacorum	District	2.4	Slaughterhouse	Haulage
157	Rutland	District	0.3	Industrial	Caravan
162	Wolverhampton	Metropolitan	15.8	Car Repair	Business
166	Rochford	District	1.7	Business	-
168	Richmondshire	District	0.1	Diverse	-
169	Ribble Valley Boro.	Borough	0.4	Haulage	-
172	Rhondda Valley	Borough	3.6	Car Repair	Special
176	Reading	Borough	14.8	Car Repair	Office
181	Portsmouth City	Metropolitan	21.7	Residential	Car Repair
184	Peterboro City	Metropolitan	1.5	Car Repair	Special
187	Oxford City	Metropolitan	13.0	Special	-
189	Oldham	Metropolitan	6.5	Industry	Agriculture.
197	Leics. City	Metropolitan	16.0	Haulage	Industry
201	North Norfolk	District	0.3	Car Repair	Caravan
209	Northampton	Borough	7.2	Car Repair	Residential.
210	Newport	Borough	2.8	Car Repair	Industry
213	Newcastle on Tyne	Borough	10.5	Diverse	-
217	Monmouth	District	0.3	Caravan	Car Repair
218	Montgomery	District	0.01	Caravan	Special
219	Tonbridge	District	1.6	Agriculture	Industry
223	Mid Suffolk	District	0.3	Caravan	-
224	Tonbridge Wells	Borough	0.9	Car Repair	-
224	Middlesboro	Borough	11.4	Business	Caravan
235	Maidstone	Borough	1.3	Caravan	Business
236	Macclesfield	Borough	0.6	Office	Business
238	Lliw Valley	Borough	1.0	Industry	Special

No.	District	Type	Population Density per Acre	Prime Conflict	Second Conflict
239	Llanelli	Borough	1.3	Diverse	-
244	Leoming	District	0.2	Industry	Caravan
247	Langbaurgh	Borough	2.5	Haulage	Scrap
253	Ynys Mon D.	District	0.3	Special	-
258	Wychavon	District	0.5	Sunday Market	Caravan
260	Wrekin D.	District	1.5	Car Repair	Diverse
265	Wokingham	District	2.5	Car Repair	Caravan
267	Wirral	Metropolitan	9.0	Diverse	-
269	Winchester	Metropolitan	0.6	Caravan	Leisure Plots
271	Wigan	Metropolitan	6.3	Diverse	-
277	West Lancs	District	1.4	Industry	Haulage
279	Wellingborough	Borough	1.2	Car Repair	Commerce
281	West Derby	District	0.3	Haulage	Scrap
286	Waveney	District	1.0	Special	Car Repair
288	Warwick	District	1.6	Office Business	Caravan
289	Warrington	Borough	3.9	Diverse	Industry
291	Wansbeck	District	3.8	Diverse	-
293	Wakefield	Metropolitan	3.7	Car Repair	Haulage
295	Vale Royal	District	1.2	Diverse	-
296	Vale of Glamorgan	Borough	1.5	Diverse	-
297	Uttlesford D.	District	0.4	Industry	Car Repair.
298	Tynedale	District	0.1	Diverse	-
302	Stevenage	Borough	11.7	Car Repair	Commercial.
304	Stockton on Tees	Borough	3.4	Car Repair	Business.
305	Stoke on Trent	Metropolitan	11.1	Car Repair	Business.
312	Swansea City	Metropolitan	3.3	Diverse	-
313	Taff Ely B	Borough	2.0	Diverse	-

No.	District	Type	Population Density per Acre	Prime Conflict	Second Conflict
320	Torrige	District	0.2	Car Repair	Scrap
324	3 Rivers	District	3.9	Diverse	Special
330	Tewkesbury	Borough	0.9	Business	Special
337	Taunton	District	6.2	Scrap	Haulage
339	Sedgefield	District	1.7	Industry	Business
340	Scunthorpe	Borough	8.1	Business	Diverse
347	Sandwell	Metropolitan	15.3	Industry	Residential.
350	SouthCambs.	District	0.5	Special	Business
353	Southampton	Metropolitan	18.0	Car Repair	Industry
354	Shrewsbury	Borough	0.5	Business	Caravan
363	Southend	Borough	0.6	Car Repair	Business
368	S. Shrops	District	0.1	Scrap	Caravan
	I.C.W.	Borough	0.7	Diverse	Special

ENGLAND/WALES SURVEY 1979
 Summary of Planning Officers'
 Stated Conflict Types Prime & Secondary

	Nos.	* P.O.	* S.O.	* P.F.	* S.F.	% All Opinions	% Prime Opinions	% Prime Fact
Agric/Retail	2		2			0.4	-	4
Agric(Pig Units etc)	6		2	1	1	1.2	1.1	.84
Agric Leisure Flots	1				1	.2	-	
Agric Caravans	52	18	12	9	13	10.44	10.2	7.6
Agric Waste/ Mining	3	2	1			0.6	1.1	-
Residential Intens	16	1	9	2	4	3.2	0.5	1.7
" Guest Houses	1		1			0.2	-	-
Ind. (Mixed)	54	24	11	12	7	10.8	13.5	10.2
Ind. (Bldrs)	4		3	1		.8		.84
Scrap	22	5	8	3	6	4.4	2.8	2.5
Car Repairs	118	55	15	36	12	23.7	31.1	30.5
Comm.Storage	5		2		3	0.1	-	-
Haulage	24	3	7	7	7	4.8	1.6	5.9
Business	53	22	12	10	9	10.6	12.42	8.5
Office	4		2	1	1	0.8	-	0.8
Taxis	4	1	1	1	1	0.8	0.5	0.8
Mobile/Snacks/Kiosk	2		2			0.4	-	-
Shops	3		2			0.6	-	0.8
Holiday Lets	1	1				0.2	0.5	
Slaughter House	1			1		0.2		0.8
Airport Car Park'g	1					0.2		

Con't....

Nos.	* P.O.	* S.O.	* P.F.	* S.F.	% All Opinions	% Prime Opinions	% Prime Fact
Commercial Hobby	1				0.2		
Sunday Market	2	1	1		0.4		0.8
General Use	7	2	2	2	1.4	0.5	1.7
Diverse Use/Non Use	64	6	21	5	12.8	18.7	17.8
Specials Non Use	47	15	9	14	9.4	5.1	7.6
Total Opinions :	177	117	118	86	100	100	100

Factual & Subjective 498 Opinions

- * P.O. = Prime Conflict based on Planning Officer's stated Opinion.
- * S.O. = Secondary Conflict based on Planning Officer's stated Opinion.
- * P.F. = Prime Conflict based on collected facts of served enforcement notices.
- * S.F. = Second-Conflict based on collected facts of served enforcement notices.
ary

Principal Ranking of Prime Conflict Uses

- ① Car Repairs
- ② Mixed Offences including non-use categories.
- ③ Industrial Uses
- ④ Business Uses
- ⑤ Courteous Uses

Conclusions.

1. There is the same use hierarchy within Boroughs, Districts and Metropolitan Boroughs (including Cities) as in the country as a whole i.e. No change in use Hierarchy between Types of Authority whether Rural or Urban.
 2. There is a very close statistical and percentage correlation between Boroughs & Metropolitan Boroughs.
 3. District Councils show the same hierarchy but a less extreme range of % differences.
-

ENGLAND/MALES SURVEY 1979

COMPARATIVE SUMMARY OF PLANNING OFFICERS' FACTUALLY BASED PRIME USES BY HIERARCHY OF POPULATION DENSITY (GROSS PER ACRE) PER DISTRICT (Persons per acre within the Admin District).

Prime Use.	Density.	%	Density.	%	Density.	%	Density.	%	Density.	Density
	0 - 0.9		1 - 3.9		4 - 6.9		7 - 9.9		10+	
Car Repair	9	22.5	17	38.6	3	33.3	2	33.3	6	
Mixed Use	7	17.5	12	27.2	1	11.1	1	16.7	3	
Industry	4	10.0	4	9.1	2	22.2	2	33.3	1	
Business	3	7.5	3	6.8	1	11.1	1	16.7	1	
Haulage	4	10.0	1	2.3	1	11.1			1	
Specials	4	10.0	1	2.3	1	11.1			1	
Caravans	5	12.5	1	2.3						
Office			1	2.3						
Res intens										1
Slaughterhouse			1	2.3						
Taxi			1	2.3						
Agri Various			1	2.3						
Sun Market	1	2.5								
Shops										1
Scrap	3	7.5								
Other			1	2.3						
Total: -	40	100	44	100	9	100	6	100	15	
	(A)		(B)		(C)		(D)		(E)	

Poll Sample

78% Return (as at December 1979)

22% No Return

31.7% Statistically supported opinions (Factual)

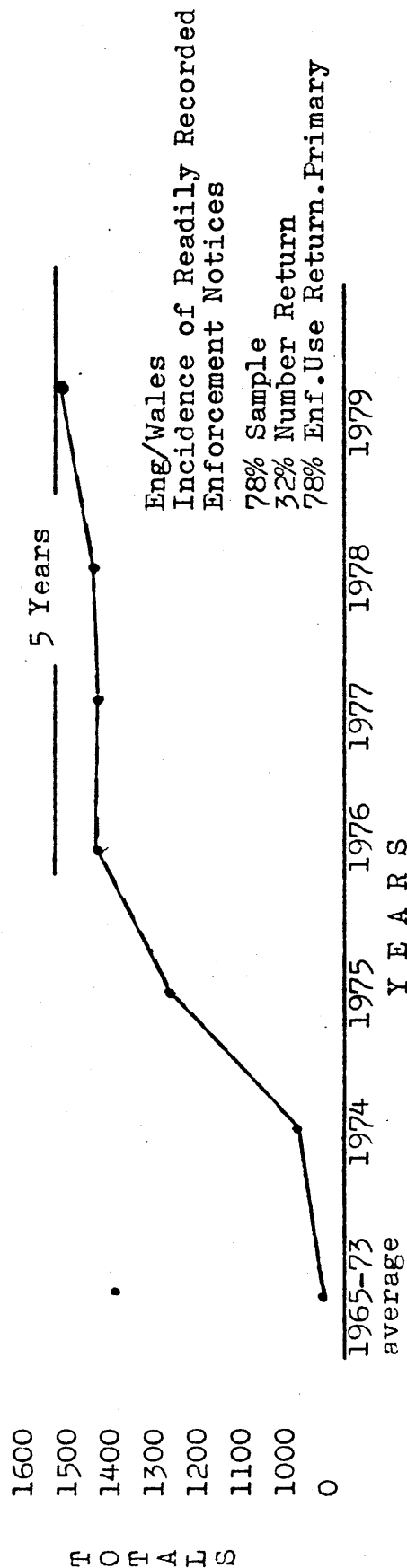
ENGLAND/WALES SURVEY ENFORCEMENT NOTICES 1979 (NUMBERS)

LOCAL PLANNING AUTHORITIES 1965-1979

	<u>1965-73</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
A (61(1) (Col(2))	111 99	78 10	85 70	116 71	133 67	136 61	163 53
B ((1) (2))	252 136	71 84	130 154	103 126	131 133	124 121	139 117
C ((1) (2))	16 101	11 65	74 161	76 153	80 133	77 142	84 176
D ((1) (2))	144 115	71 90	86 134	117 160	140 139	119 150	124 156
E ((1) (2))	93 205	22 105	71 174	57 289	73 253	85 274	86 245
F ((1) (2))	156 11	84 13	103 5	124 26	110 28	110 41	120 62

1,399*
(175 per annum) 704 1,247 1,418 1,420 1,440 1,528

* Note Only 25 returns showing complete records back to 1965.



TOTALS

ENGLAND/WALES ENFORCEMENT SURVEY 1979SUMMARY OF CHIEF PLANNING OFFICERS' INFORMATION- OPINION AND FACT

<u>Survey Percentage</u>	<u>Prime and Secondary Opinions</u>	<u>Conflict Code</u>	
8.84	44	S	= Specials
11.45	57	D	= Diverse
26.70	133	PO1	= Prime Opinion
20.08	100	PO2	= Secondary Opinion
18.07	90	PF1	= Prime fact
13.65	68	PF2	= Secondary fact
1.21	6	NO	= No Opinions
<u>100.00</u>	<u>498</u>		

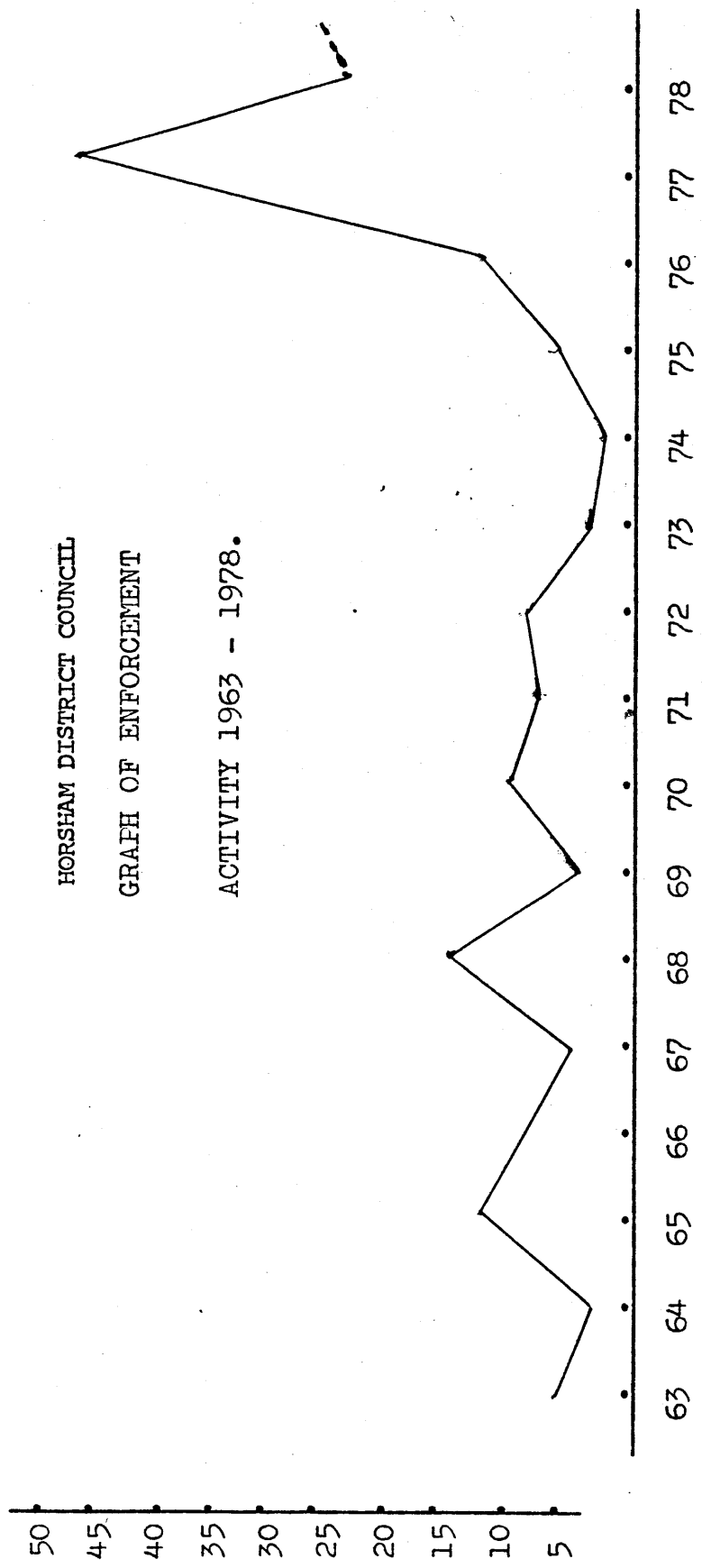
Key:

- S = Specials i.e. Enforcement against other matters NOT USES
- D = Diverse i.e. Vague replies or replies stating "no pattern" or "varied". No distinction showing USES
- PO1 = Stated opinion as to "known" main conflict use.
- PO2 = Stated Opinion of "known" secondary conflict use.
- PF1 = Prime Conflict Use based in supporting statistics.
- PF2 = Secondary Conflict Use based on supporting statistics.
- NO = No Opinion but other information returned.

Note:

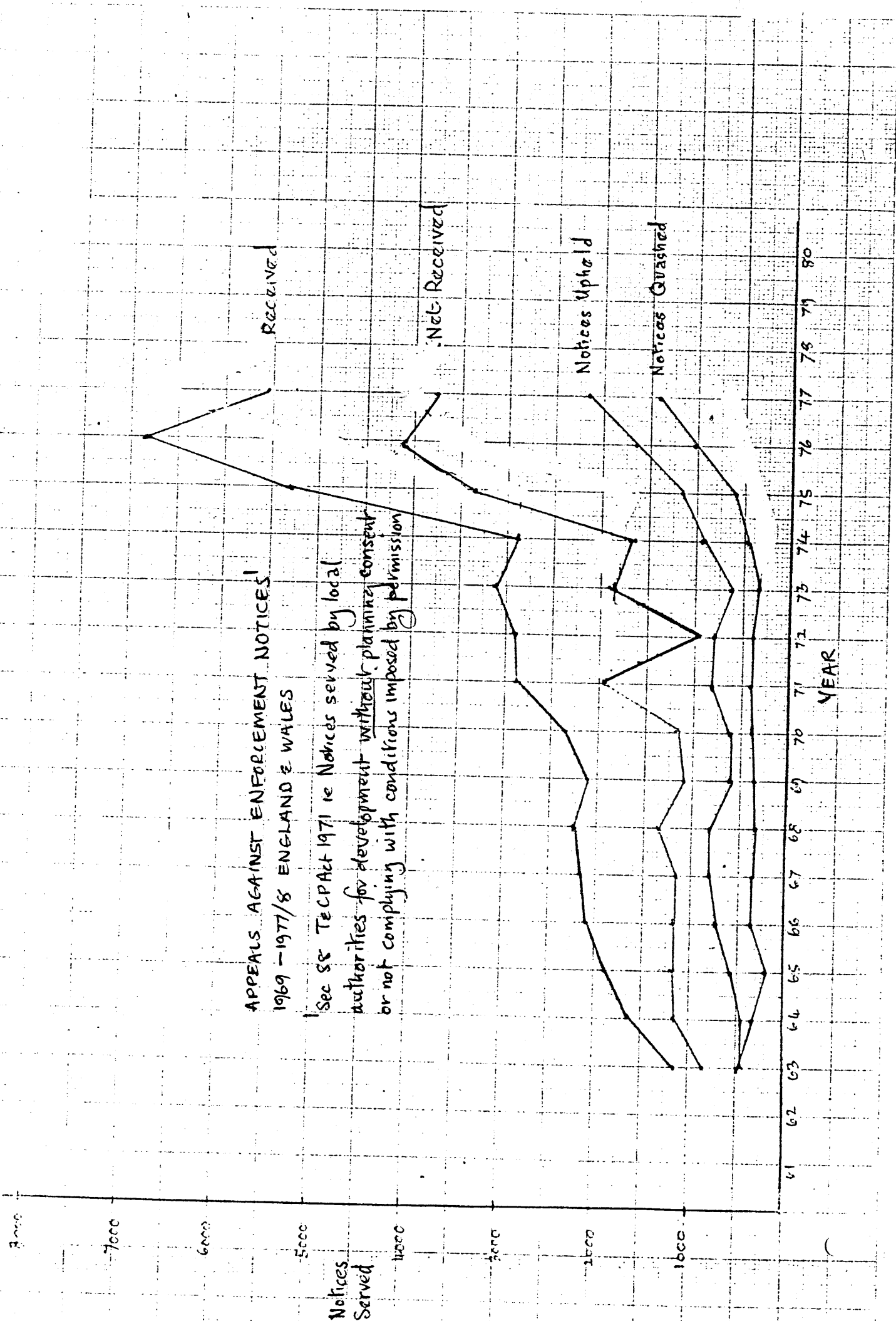
In view of the unavoidable lack of detail in the survey and possible subjectivity of replies, to test validity of opinions the writer separated stated opinions from those supported by statistics. These were then sub-divided into prime and secondary opinions and then tested for close correlation before accepted.

HORSHAM DISTRICT COUNCIL
GRAPH OF ENFORCEMENT
ACTIVITY 1963 - 1978.



Nos.
of
Notices
Secured.

Y E A R S 1963 to 1978



ANALYSIS OF
HORSHAM DISTRICT COUNCIL'S LOCAL INDUSTRIAL SURVEY
 (Postdates W.S.C.C. Structure Plan Information)

No. of Employees	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	20	25	30	40	50	60	70	80	90	100	150	200	
Hire, Domestic Cleaning Service					1			1			1					1										1		
Haulage, Distribution, Marketing, Sales			3	1	4	1	2	2	1	2	3	1		1	2	1	1	1	2		2						1	
Print	1					2					1	1								1								
Manufacturing	1	2	2	1	2	2		2	1	2	2	1	1	1	2	4	1	1	1	1	1	1	1	2		2	2	
Engineering	1		1	1			1								2	2			1	2	1	1						
Sale and Repair of Motors	1			1	1		3		2		1	1	1		2	2		1			1				1			
Estate Agents, Insurance, Finance	4	3	2	3	1	1	1	1	2		1		2		1	4	4	1		1			1		1		1	
Arch. Survey, Profess.	1	2	2	2	1	1	2		2	1				1	1	2	1											
Public Sector	1	1													1			2		1					1	1	1	
Building	1	1	1	1	4	2	2	1	1	1				1			1	2	1	1	1	1						
No. of Firms Total 196	4	7	12	9	17	10	13	8	7	7	9	5	4	4	11	15	7	9	5	7	6	2	3	2	3	4	6	

APPEALS AGAINST ENFORCEMENT NOTICES : 1963 TO 1975/76
ENGLAND AND WALES.

Table 35. Department of Environment
Statistics

	<u>Received.</u>	<u>Withdrawn</u> <u>No. I. %</u>	<u>Net Received</u>	<u>Total Decided</u>	<u>Outstanding</u> <u>at end of ye</u>
1963	1,314	508 38	806	893	973
1964	1,620	517 31.9	1,103	770	1,306
1965	1,895	748 39.4	1,147	669	1,784
1966	2,081	901 43.2	1,180	1,128	1,836
1967	2,160	1,030 47.6	1,130	1,186	1,780
1968	2,274	934 41.0	1,340	1,148	1,972
1969	2,109	1,022 48.4	1,087	973	2,086
1970	2,323	1,150 49.5	1,173	1,026	2,233
1971	2,870	882 30.7	1,988	1,168	3,053
1972	2,886	1,943 67.3	943	1,108	2,888
1973	3,095	1,273 41.1	1,822	1,029	3,678
1974/75	2,853	1,160 40.7	1,693	1,465	4,006
1975/76	5,418	2,075 38.3	3,343	1,806	5,360

1. Appeals under Section 88 T. & C.P. Act 1971 (& corresponding earlier legislation), to the Secretary of State for the Environment or to the Secretary of State for Wales against enforcement notices served by local authorities in respect of development carried out without planning permission or without complying with conditions imposed by a planning permission.

Table 36. Department of APPEALS AGAINST ENFORCEMENT NOTICES DECIDED : 1963 to 1975/76
Environment Statistics

ENGLAND AND WALES.

	Notice Upheld ²		Notice quashed		Total Number
	Number	Percentage	Number	Percentage	
1963	428	47.9	465	52.1	893
1964	466	60.5	304	39.5	770
1965	458	68.5	211	31.5	669
1966	747	66.2	381	33.8	1,128
1967	810	68.3	376	31.7	1,186
1968	796	69.3	352	30.7	1,148
1969	616	63.3	357	36.7	973
1970	639	62.3	387	37.7	1,026
1971	774	66.2	394	33.8	1,168
1972	736	66.4	372	33.6	1,108
1973	674	65.5	355	34.5	1,029
1974/75	966	65.9	499	34.1	1,465
1975/76	1,222	67.7	584	32.3	1,806

1. Appeals under Section 88, Town & Country Planning Act 1971 (and corresponding earlier elgislation), to the Secretary of State for the Environment or to the Secretary of State for Wales against enforcement notices served by local authorities in respect of development carried out without planning permission or without complying with conditions imposed by a planning permission.

2. Include decisions in which the notice was upheld unchanged and those in which the notice was varied.

APPEALS AGAINST ENFORCEMENT NOTICES : 1969 - 1977/78

ENGLAND AND WALES.

Table 41. Department of Environment
Statistics

	Received.	Withdrawn.	Net Received.	Total Decided.	Outstanding at end of year
1969	2,109	1,022	1,087	973	2,086
1970	2,323	1,150	1,173	1,026	2,233
1971	2,870	882	1,988	1,168	3,053
1972	2,886	1,943	943	1,108	2,888
1973	3,095	3,095	1,822	1,029	3,678
1974/75	2,853	1,160	1,693	1,465	4,006
1975/76	5,418	2,075	3,343	1,806	5,360
1976/1977 *	6,836	2,796	4,040	2,758	6,642
1977/78 *	5,537	2,787	2,750	3,606	5,786
1978/9 Not Yet Available.					

* Provisional.

APPEALS AGAINST ENFORCEMENT NOTICES
1969 to 1977/78
ENGLAND AND WALES

Table 42. Department of Environment
Statistics

	Notice upheld ²		Notice quashed		Total Number
	Number	Percentage	Number	Percentage	
1969	616	63.3	357	36.7	973
1970	639	62.3	387	37.7	1,026
1971	774	66.2	394	33.8	1,168
1972	736	66.4	372	33.6	1,108
1973	674	65.5	355	34.5	1,029
1974/1975	966	65.9	499	34.1	1,465
1975/76	1,222	67.7	584	32.3	1,806
1976/77 [‡]	1,746	63.3	1,012	36.7	2,758
1977/78 [‡]	2,192	60.8	1,414	39.2	3,606
1978/9	Not Yet Available.				
[‡] Provisional					

Table No. 1.Typology of Enforcement Notices (Actually Served)1961 to 1978 Horsham District Council (WestSussex County Council.(Based on Interpretation of Town & Country Planning Act 1947 to 1979 and Use Classes Order 1972).

- a) Agricultural Land to Residential (excluding caravans).
- b) Agricultural Land to Residential (including caravans).
- c) Agricultural Land to Commercial (including for various purposes).
- d) Agricultural Land to Light Industrial Use.
- e) Agricultural Land to General Industrial Use.
- f) Agricultural Land to Retail Use (not connected with Agriculture or established Farm Shops).
- g) Residential Use to Residential Use (intensification).
- h) Residential Use to Residential Use (caravans).
- i) Residential Use to Commercial (storage).
- j) Residential Use to Light Industry Use.
- k) Residential Use to General Industrial Use.
- l) Residential Use to Retail Use.
- m) Commercial Use (Storage) to Light Industrial Use (incl. mixed uses).
- n) Commercial Use (Storage) to General Industrial Use (incl. mixed uses).
- o) Light Industrial Use to General Industrial Use.
- p) General Industrial Use to General Industrial Use (excl. intensification).
- q) General Industrial Use to General Industrial Use (intensification).
- r) Industrial Use to Retail Use.
- s) Retail Use to Office Use.
- t) Special Cases.

Class Code.

- | | |
|------------------|-------------------------------------|
| (a) Ag-Res(exc) | (k) Res-Ind.(iv) |
| (b) Ag-Res(c) | (l) Res-Ret.(l) |
| (c) Ag-Comm.(X) | (m) Comm(x)-Ind.(iii) |
| (d) Ag-Ind.(iii) | (n) Comm(x)-Ind.(iv) |
| (e) Ag-Ind.(iv) | (o) Ind(iii)-Ind.(iv) |
| (f) Ag-Ret.(l) | (p) Ind(iv) -Ind.(iii)(ex.-intens). |
| (g) Res-Res. | (q) Ind(iv) -Ind.(iv) (intens). |
| (h) Res-Res(c) | (r) Ind-Ret(l) |
| (i) Res-Comm(x) | (s) Ret(l)-Office (ii) |
| (j) Res-Ind(iii) | (t) Special Cases |

TABLE 2.

15 YEARS

INCIDENCE OF CHANGE (Years 1961 to 1969).

In Uses from Enforcement Notices

<u>CODE.</u>	<u>1963 to 1978.</u>		<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969.</u>
<u>Agriculture.</u>	<u>Nos.</u>								
Ag-Res.(exc).	1 (a)		1						
Ag-Res (c)	22 (b)		1		3			4	
Ag-Com X	7 (c)							1	
Ag-Ind III	5 (d)							1	
Ag-Ind IV	16 (e)		1			1	1	1	1
Ag-Ret I	13 (f)								
<u>Residential.</u>									
Res-Res (intens)	3 (g)					1			
Res-Res (c)	2 (h)						1		
Res-Com X	9 (i)					3		1	
Res-Ind III	6 (j)				1			3	
Res-Ind IV	10 (k)		1	1	1	1			
Res-ret I	? (l)								
<u>Commercial.</u>									
Com X - Ind III	1 (m)					1			
(mixed)									
Com X - Ind IV	4 (n)				2				
(mixed)									
<u>Industry.</u>									
Ind.III to Ind.IV.	3 (o)								
Ind.IV to Ind.IV	8 (p)								1
Ind.(gen) to Ret.I	1 (q)								1
Ind.(gen) to Res.(c)	1 (r)						1		
<u>Retail.</u>									
Ret.I Off.II	1 (s)								
<u>Office.</u>									
Office I to Ret.I	? (t)								
<u>Specials.</u>									
Special (Gen)	18 (u)			1	3	1			
			<hr/>						
	122		4	2	10	8	3	11	3
			<hr/>						

Table 2 (Continued)

Agric.	Nos.	1970	1971	1972	1973	1974	1975	1976	1977	1978	
Ag-Res (Ex c)											
Ag-Res (c)			1	2		1		1	8	1	
Ag-Comm X					1				4	1	
Ag-Ind III		1			1				3		
Ag-Ind IV		2	2	1					5	1	
Ag-Ref I		1		1				1			
<u>Res.</u>											
Res-Res (intens)				1						1	
Res-Res (c)							1				
Res-Comm X								1	2	1	
Res-Ind III							1		1		
Res-Ind IV			2	1			1		2		
Res-Ret I											
<u>Comm.</u>											
Com-Ind (iii) Mixed											
Comm-Ind (iv) Mixed								1	1		
<u>Ind.</u>											
Ind III to Ind IV								2	1		
Ind IV to Ind IV		2							1	4	
Ind.(Gen)-Ret	1										
Ind.(Gen to Res											
<u>Retail.</u>											
Ret 1 to Off II									1		
<u>Office</u>											
Office 1 to Ret	1										
<u>Spec.</u>											
Specials								2	4	7	
TOTAL		122	7	5	6	2	1	3	8	33	16

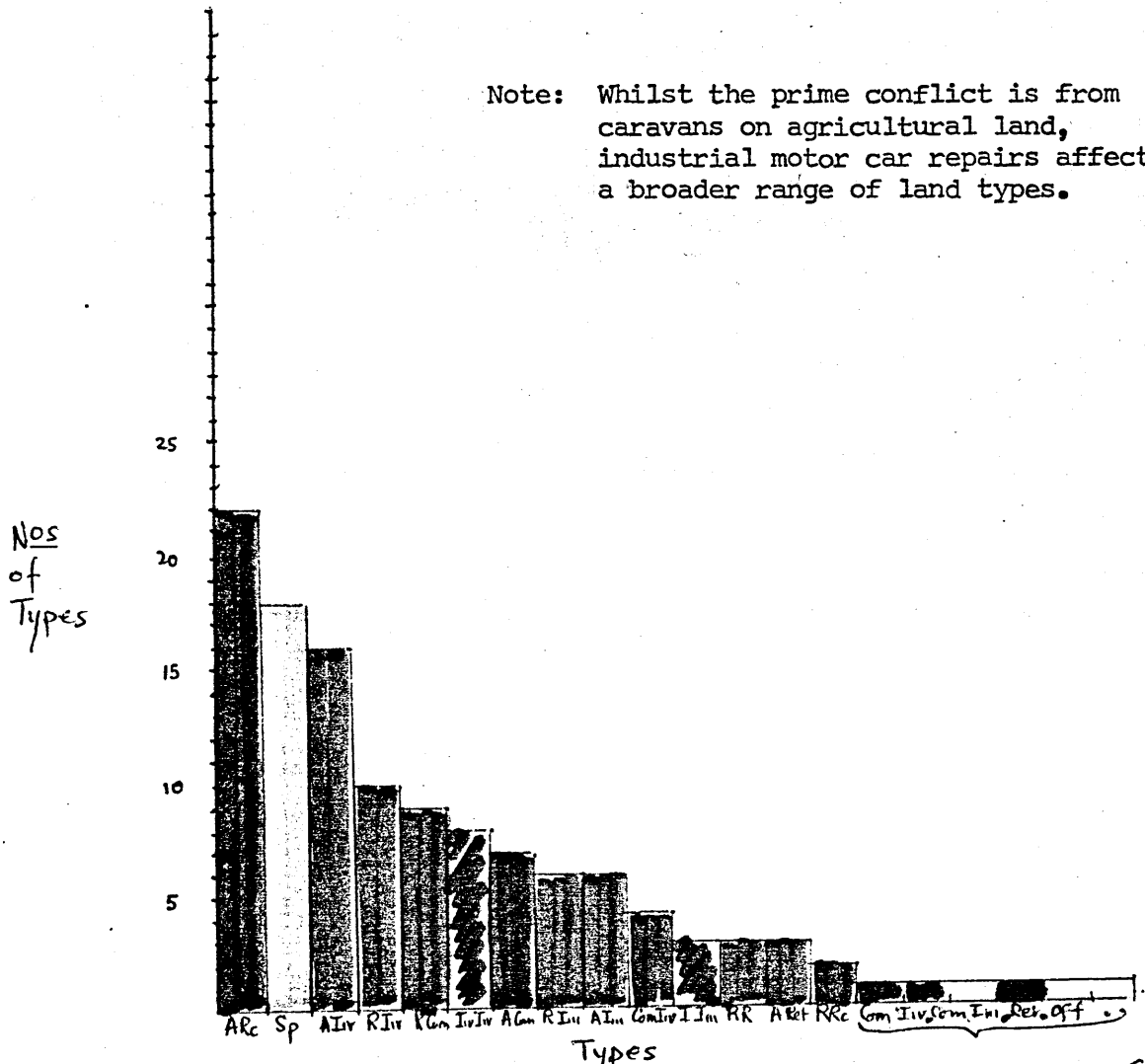
HORSHAM DISTRICT COUNCIL

1963 - 1978

INCIDENCE OF CONFLICT

Affected Land versus Conflict Types.

(Analysed from served enforcement notices.)



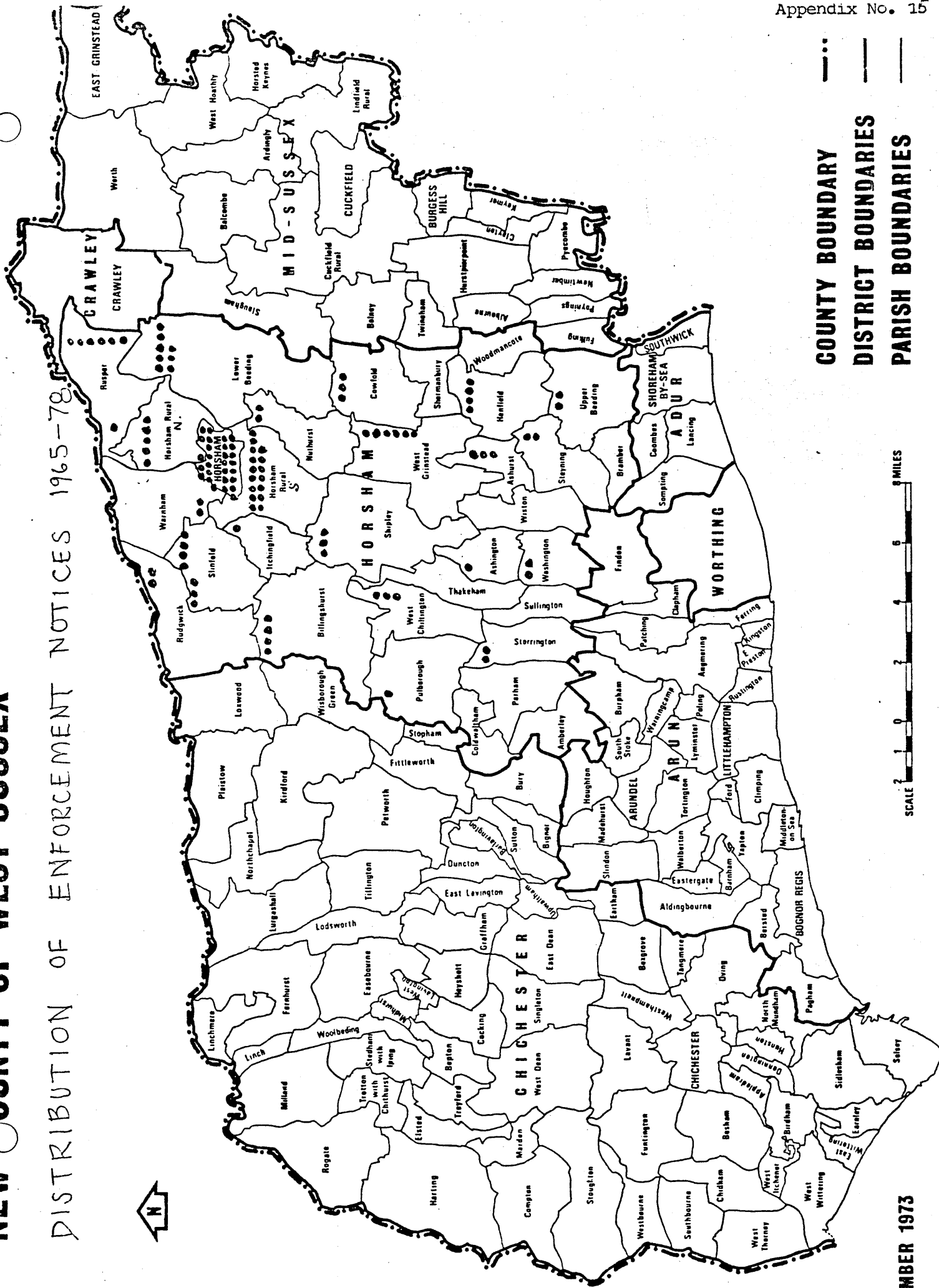
Note: Whilst the prime conflict is from caravans on agricultural land, industrial motor car repairs affect a broader range of land types.

Agriculture	-	Brown	<p><u>Key:</u></p> <p><u>to</u></p> <p><u>Types</u></p>	ARc =	Agriculture	to	Res. Caravan
Residential	-	Green		AIv =	Agriculture	to	Industry IV
Commercial X	-	Blue		ACm =	Agriculture	to	Comm. Store X
Industrial III/IV	-	Purple		AIiii =	Agriculture	to	Industry III
Retail	-	Red		A Ret =	Agriculture	to	Retail
Office	-			RRc =	Residential	to	Res. Caravan
Specials	-	Yellow		RR =	Residential	to	Res. Intensification
				RIv =	Residential	to	Industry IV
				RIiii =	Residential	to	Industry III
				R Com =	Residential	to	Comm. Store X
				I Iv =	Industry III	to	Industry IV
				I Iiii =	Industry I	to	Industry III
				Com Iv =	Comm. Store X	to	Industry IV
				Com Iiii =	Comm. Store X	to	Industry III

KEY
Note: The first letter is Affected Land Use. The remaining letters Conflict Use.

NEW COUNTY OF WEST SUSSEX

DISTRIBUTION OF ENFORCEMENT NOTICES 1965-78



--- COUNTY BOUNDARY
 ——— DISTRICT BOUNDARIES
 ——— PARISH BOUNDARIES

SCALE 1 0 2 4 6 8 MILES

NOVEMBER 1973

Garages & Vehicle Repair
Property HORSHAM 1963 to 1979

* Non Conforming Uses.

Main Garages (1000 sq.ft.+) (With or Without Petrol & Oil Sales).					Dates	
No.	Address	Est'd Size.	Planning Zone	Improved	63/79	
(i)	Horsham Autos: Queen St.	1000+	* Residential	Yes	✓	✓
(ii)	Wilson Purves: Brighton Rd.	1000+	* Residential	"	✓	✓
(iii)	Brighton Rd. Service Stn.	1000	* Residential	"	✓	✓
(iv)	Roffey Serv. Stn. Crawley Rd.	1000+	* Residential	"	✓	✓
(v)	Central Serv. Stn. " "	1000+	* Residential	"	✓	✓
(vi)	Harold Lines (No petrol)"	2000+	* Residential	"	✓	✓
(vii)	Tanfield - Guildford Road	1000+	* Residential	"	✓	✓
(viii)	Caffyns - Springfield Rd.	2000+	* Residential	"	✓	✓
(ix)	Caffyns - North Street	3000+	*	"	✓	✓
(x)	Fishers - London Rd. (No Pet.)	1000+	* Residential	"	✓	✓
(xi)	The Car Clinic: East St. (" ")	1000+	* Residential	"	X	✓
(xii)	Gilbert Rice: Guildford Rd. (No petrol)	4000+	Industrial	"	✓	✓
Small	Vehicle Repair Workshops	Est. Size	Town Map Zone	Improved/Extended		
(xiii)	Swindon Road	900	* Residential	No	/	/
(xiv)	Rushams Road	700	* Residential	Yes	/	/
(xv)	Station Hotel	300	* Business	No	X	/
(xvi)	Station Close	600	* Residential	No	/	/
(xvii)	Littlehaven Lane	800	* Residential	No	/	/
(xviii)	Cambridge Road	600	* Residential	No	/	/
(xix)	Leechpool Lane (private)	N/A	* Residential	No	/	/
(xx)	Harefield Motors	900	* Residential	Yes	/	/
(xxi)	Hurst Court	700	* Residential	No	/	/
Industrial Estates in existence in 1963 and Extended up to 1979.						
(i)	Foundry Close & Jubilee		Industry	New	✓	✓
(ii)	Foundry Lane		"	New	✓	✓
(ii)	Blatchford Road & Close		"	New	✓	✓
(vi)	Redkiln Close		"	New	✓	✓
(v)	Station Yard B.R.		"	New	✓	✓

Note:- Since Survey November 1979, R.J.Green 980 sq.feet has moved to Foundry Close - Vehicle Repair Workshop.

2.6 VEHICLE OWNERSHIP AND USAGE

2.6.1 The greatly increased cost of travel which has resulted from continuing high inflation has led some people to believe that private vehicle usage will decrease. In order to see whether travel habits are, in fact, changing it is essential to monitor vehicle ownership and usage.

Vehicle Ownership

2.6.2 Vehicle ownership in the County has grown since the end of the 1939/1945 war, with each year exceeding the level of the preceding one. The figures for West Sussex have remained above the national average over this period. The latest figures available for West Sussex are for 1974, with 0.314 cars per head, which was in excess of the figures for 1973 of 0.307 cars per head. Thus, limited growth in ownership is being maintained during a period of great economic difficulty. There are many unsubstantiated forecasts of future likely trends, but the only source documents are TRRL report LR650 and Department of the Environment Technical Memorandum H3/75. These both contain forecasts for low, medium and high growth rates based upon different rates of growth of the gross domestic product.

2.6.3 A revised assessment of anticipated growth in the County over the next fifteen years has been carried out on the following basis:-

- (i) That the broad relationship between the West Sussex figures and the National figures will continue.
- (ii) That in the current economic circumstances the trend postulated in the low forecast based on LR650 and H3/75 should be followed.
- (iii) That any forecast should be confined to a fifteen year period.

The forecast is set out in Table 3 and Figure D, and it will be seen that this suggests an average County car ownership of 0.42 cars per head in 1991, a compound growth rate of 1.6% per annum over the period 1976 to 1991. This compares with the national low growth rate suggested in H3/75 of 2.8% over the period 1975 to 1990.

Vehicle Usage

2.6.4 Vehicle usage figures within the County are not known. Nationally, between 1960 and 1972 the average mileage per vehicle per year grew at 1.4% per annum. As yet, it is not known whether the recent economic situation has had any effect on this growth. Future vehicle usage in the County will be monitored by means of home interview data collected for the County Surveyors Society Trip Rate Data Bank. However, it will be 1977 before any useful feedback of information can be obtained.

2.6.5 It is realised that there is considerable criticism of forecasts at the present time and that the Green Paper on Transport Policy may lead to re-appraisal of the national basis. It should be emphasised that none of the policies, in the T.P.P. depend upon growth. In particular, the primary highway network that has been suggested for the County has been assessed against traffic flows measured in 1971, and all the improvements suggested are necessary to carry those volumes. If the above rates of growth of car ownership occur, they will reinforce the need for such improvements.

TABLE 3

Vehicle Ownership

Year	West Sussex (Cars Per Head)	National (Cars Per Head)		
		Low	Medium	High
1971	0.279	0.223		
1972	0.29 ⁴	0.234		
1973	0.307	0.248		
1974	0.31 ⁴	-		
1975/76	0.33	0.25	0.25	0.25
1980/81	0.36	0.30	0.32	0.33
1985/86	0.39	0.34	0.36	0.38
1990/91	0.42	0.38	0.40	0.41

1975/76 onwards are forecasts.

- 34
- 28
6% in
the last
5 years.
+
projected
influence
of Europe

2.7

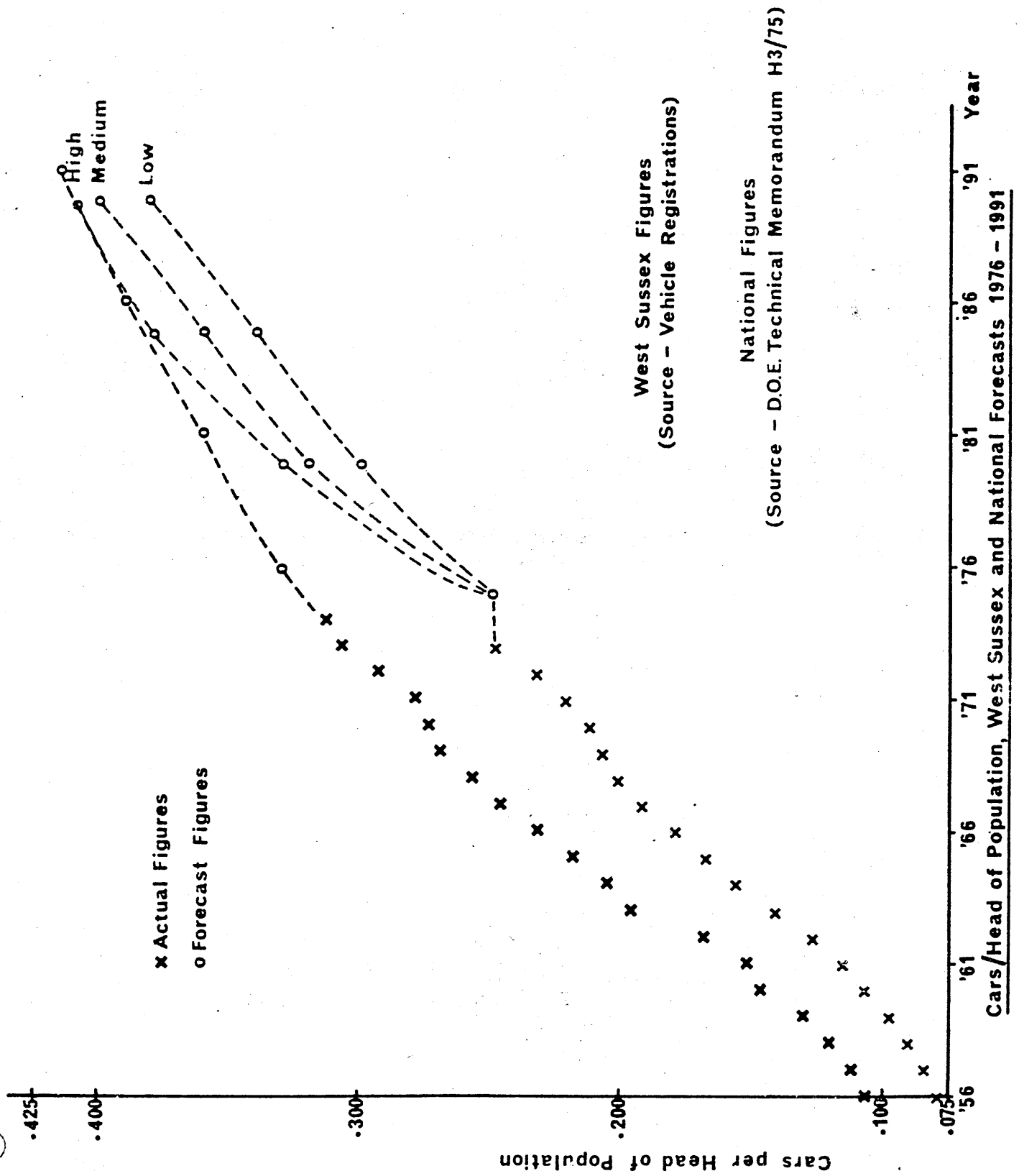
CAR PARKING

Survey of Existing Car Parks

2.7.1 Information on charged On-street and Off-street parking which broadly covers publicly operated car parks, car parks operated by private concerns for public use and certain of the larger private car parking facilities, is given in Appendix A, Table A1. The appendix gives details of on and off-street parking spaces, private non-residential parking spaces and information on charging policies relevant to the centres of each urban area.

2.7.2 Where total town centre capacity is being considered British Rail car parks should be included. Table A3 gives details of the capacity of the British Rail station car parks for town centre stations as well as those in the rural areas. Also indicated is the level of use as measured in November 1975 and scale of charges as at March 1976. British Rail operate their car parking facilities on the basis of market pricing, with the aim that each car park should be financially viable.

FIGURE D



SMALL COMPANIES' SURVEY 1979

	NUMBER
	DISTRICT

	DATE

Name: OMICRON ELECTRONICS LTD
 Full Postal Address: 11-15 DENNE PARADE
MORNINGTON, SUSSEX
RH12 1DL

INSTRUCTIONS: PLEASE COMPLETE THIS QUESTIONNAIRE BY PLACING TICKS IN THE APPROPRIATE BOXES OR WRITING A RESPONSE IN THE SPACE PROVIDED.

Name of Respondent: MRS J. V. LIDDERDALE

Position in Company:
 (please tick appropriate box)
 If "other" please specify.

Owner	Director	Manager	Other
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q1A The Department of Employment's Census of Employment classified your company in Summer 1978 as in the

MICROELECTRONICS Industry

Is this still correct?
 Yes
 No

Q1B Please could you describe the activities carried out by the company at this address

DESIGN, DEVELOPMENT, MANUFACTURING & MARKETING
OF ELECTRONIC EQUIPMENT

Q1C Does the company occupy any other premises in District (as map)

Yes (please give address)
 No

Q1D Does the company occupy other addresses in County?

Yes No (go to Q2A)
 If 'yes' please give town/village etc of these other premises below:

1.
2.

Q2A Is this establishment:-

- (i) a head office/factory?
- (ii) an independent establishment without branches?
- (iii) a branch office/factory?

Q2B If a branch office/factory, please state the location of the Head Office (please give town)

Q3A What is the total floorspace of this establishment? **3,000 sq. ft. (gross)**

Q3B Approximately what proportions are in the following uses?

Production	35
Office	33
Storage (ancillary)	8
TOTAL	100%

(please specify) *
 PARKING/GOODS INWARDS/OUTWARDS 6.5 146 sq ft.
 DEVELOPMENT 3 90 sq ft.
 PRINT ROOM 2-6 80
 LOCKER ROOM 1.3 40
 BREAK ROOM 1.3 40
 KITCHEN/LOOS/STAIRS ETC 4.3 REST GUESTS

Q4A About what proportions of your raw materials/manufactured goods or essential services come from the areas listed below? (Fill in below area "A".)

Q4B What proportion of the value of your trade is with the markets listed below? ("B")

"A" percentage raw materials etc from

"B" percentage of products/services to

25 %
25 %
15 %
15 %
25 %
15 %
5 %
100%

Rest of District
 GLC
 Crawley/Gatwick/Horsham
 Rest of West Sussex
 Rest of SE England
 Rest of UK
 Elsewhere

NIL %
NIL %
13 %
2 %
NIL %
22 %
45 %
18 %
100%

Q5 Please enter in the number of people (including yourself) who work at or from these premises in each of the following categories:

	Males		Females	
	full time	part time (30 hrs per wk or less)	full time	part time (30 hrs per wk or less)
Management/professional	6	NIL	1	NIL
technical & production: skilled manual	6	NIL	NIL	NIL
semi-skilled manual	4	NIL	NIL	NIL
unskilled manual	NIL	NIL	NIL	NIL
administration/clerical	1	NIL	3	2
Other (please specify) PROJECT ENGINEERS / PROGRAMMERS / STRESSTEN	4	NIL	NIL	NIL
TOTAL	21	NIL	4	2

Q6 Where does this company's workforce live? Where possible, please divide the total above in Q5 as follows:

Horsham District
 Rest of District
 Greater London
 Crawley/Gatwick/Horsham
 Rest of W. Sussex
 All other places
 TOTAL

Number

18
NONE
3
3
3
27

Q7A

Please indicate whether you have vacancies for the following types of staff and if you are experiencing problems in recruiting them:

	number of vacancies	difficulties in recruitment	
		Yes	No
Managerial/professional		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Skilled manual		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Semi-skilled manual		<input type="checkbox"/>	<input checked="" type="checkbox"/>
unskilled manual		<input type="checkbox"/>	<input checked="" type="checkbox"/>
administrative/clerical		<input type="checkbox"/>	<input checked="" type="checkbox"/>
TOTAL			

Q7B

If you have had any problems in recruiting staff during the past two years, are you aware of any particular reasons for this? (please describe)

SHORTAGE OF ELECTRONIC ENGINEERING SALESMEN,
 SHORTAGE OF SOFTWARE PROGRAMMERS,
 BOTH SHORTAGES ARE DUE TO DEMAND EXCEEDING SUPPLY

Q8A

Has your company/the group to which your company belongs any definite plans to expand or contract business at these premises during the next 5 years?

	Yes		No
expand	<input type="checkbox"/>	please answer Questions 8B, C & D	<input checked="" type="checkbox"/>
contract	<input type="checkbox"/>		<input checked="" type="checkbox"/> go to Q9

Q8B

If you will require a change in floorspace approximately how many square feet of expansion or contraction is planned?

	Expansion Sq. ft.	Contraction Sq. ft.
Production		
Office		
Storage		
Ancillary		
Other		
TOTAL		
None		

Q8C

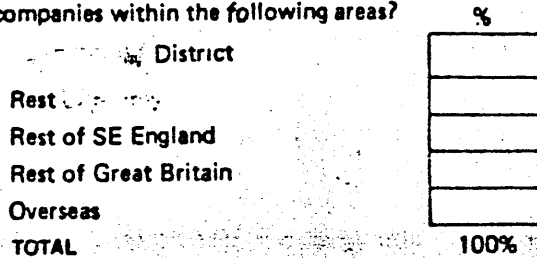
If you will require more or fewer employees please indicate approximately how many (giving occupation type if possible).

	Number Increase	Number Decrease
Managerial/Professional		
Skilled Manual		
Semi-skilled Manual		
Unskilled Manual		
Clerical		
Other (please specify)		
.....		
.....		
TOTAL		

Q8D What are the main reasons for these plans?

Q8E If you are planning to expand please answer this question, if not go to Q9.

What proportion of the increased business you propose from these premises would you expect to be for clients or companies within the following areas?



Q9A Would your plans involve moving from this site or relinquishing part of it within the next 5 years?

Moving away

Yes

No

Relinquishing part

Yes

No

Q9B If you are considering moving please answer this question, if not go to Q10.

In which location would your company prefer to expand?

Please state town/location: HORSHAM, SUSSEX

Q10A *W/S* County Council wishes to assist companies in the County to meet such requirements for land and buildings as are necessary for their efficient operation, where this can be achieved within County planning policies. If you consider that your company may require assistance please suggest the type of service you have in mind.

N.B. For WSEC to do an adequate market survey so that they can consider the needs of the local industrial community in the long term as well as the short term.

Q10B In the event of its being considered useful, would you be prepared to take part in a short interview?

Yes

No

Q11 The British Airports Authority have estimated* that at Gatwick Airport by 1984: *B.A.A. Statement of Case Tables J 2 5

- (a) passenger through-put could double to 16 million passengers per year,
- (b) the quantity of cargo handled could more than double to 240,000 tonnes, and
- (c) the number of on airport jobs may increase by approximately 10,000.

In what ways do you think that this degree of expansion could affect your business?

(a) MORE CONVENIENT FOR OUR CUSTOMERS AND OURSELVES TO BE ABLE TO USE GATWICK INSTEAD OF HEATHROW.

(b) AS ABOVE

(c) MAKE RECRUITMENT MORE DIFFICULT FOR OF SOME TYPES OF STAFF (E CLERICAL SEMI SKILLED)

Supplementary Questions

5(a) In what year did firm commence operations?.....1974..

(b) How many employers were there originally, including directors? THREE

8(d) How many premises did the firm have in 1975?.....ONE.....

8(e) How many now.....TWO.....

8(f) Has the lack of suitable premises caused problems to the growth of the business since 1965?

Yes/No. ✓
Yes

(g) Have any of the following ever been problems:-

i) Availability ✓

ii) High rent or high purchase price.....HIGH RENT.....

iii) Unsuitable areas

iv) Planning. ✓

v) Other?

12 i) Have you ever approached the Local Authority for ~~the~~ premises Yes/No ✓

ii) Do the Local Authority have suitable premises for your purposes YES/No ~~NO~~ DON'T KNOW.

iii) Do the Local Authority have means of assisting in obtaining Premises?

DON'T KNOW.

13 Would you like to be re-located by the Council at an economic rent if this service was available...

Yes/No. ✓

PROVIDED THAT THE PROPOSED

PREMISES WERE SUITABLE WITH REGARD

TO THE PHYSICAL NEEDS OF THE

NATURE OF THE COMPANY TOGETHER

WITH THE MANAGEMENT POLICIES, NOT

BEING INTERFERED WITH BY THE COUNCIL

AND THAT ANY POLITICAL ASPIRATIONS OF THE

COUNCIL WERE NOT IMPULSED BY IT ON

THE COMPANY.

Questionnaire.
Re. Non-Conforming Uses - Horsham District.

Firm.....OMICRON
 Use/Class(.....do not complete)

Please indicate the suitability of your premises and quality from your operational point of view by ticking the appropriate columns below:-

Environmental Impact on Locality	Low.	Low/Medium	Medium	High/Medium	High
Architecture		✓			
Visual Aspect	✓				
Noise	✓				
Dust			✓		
Fumes	✓				
Smoke	✓				
Access	✓				
Vehicle Damage					
Parking	✓				
Traffic Nuisance		✓			
Highway Hazard					
Quality/Location.					
Size	✓				
Access	✓				
Marketing	✓				
Employment			✓		
Airport				✓	
Rail				✓	
Road			✓		
Sea					
Residence			✓		
Compatibility with Area			✓		

SMALL COMPANIES' SURVEY 1979

NUMBER
DISTRICT

DATE

Name: SIGMA ELECTRONIC SYSTEMS LIMITED

Full Postal Address: Church Street, Warnham, Horsham, West Sussex,
RH12 3QWINSTRUCTIONS: PLEASE COMPLETE THIS QUESTIONNAIRE BY PLACING TICKS IN THE
APPROPRIATE BOXES OR WRITING A RESPONSE IN THE SPACE PROVIDED.

Name of Respondent: J R MASSEY

Position in Company:
(please tick appropriate box)
if "other" please specify.

Owner	Director	Manager	Other
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q1A The Department of Employment's Census of Employment classified your company in Summer 1978 as
in the

Is this still correct?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

Industry

Q1B Please could you describe the activities carried out by the company at this address Manufacture
of Computer Graphic EquipmentQ1C Does the company occupy any other premises in District (see map) Yes (please give address)

address(es)

 NoQ1D Does the company occupy other addresses in: County? Yes No (go to Q2A)

If 'yes' please give town/village etc of these other premises below:

1.
2.

Q2A Is this establishment:-

- | | |
|-----------------------------------------------------|-------------------------------------|
| (i) a head office/factory? | <input checked="" type="checkbox"/> |
| (ii) an independent establishment without branches? | <input type="checkbox"/> |
| (iii) a branch office/factory? | <input type="checkbox"/> |

Q2B If a branch office/factory, please state the location of the Head Office (please give town)

Q3A What is the total floorspace of this establishment? 3,500 sq. ft. (gross)

Q3B Approximately what proportions are in the following uses?

Production	45	(please specify)
Office	45	
Storage	10	
(ancillary)		
TOTAL	100%	

Q4A About what proportions of your raw materials/manufactured goods or essential services come from the areas listed below? (Fill in below area "A")

Q4B What proportion of the value of your trade is with the markets listed below? ("B")

"A"
percentage raw materials etc from

"B"
percentage of products/services to

	%
	%
	%
	%
10	%
35	%
55	%
	%
100%	

Rest of District
Rest of GLC
Crawley/Gatwick/Horsham
Rest of West Sussex
Rest of SE England
Rest of UK
Elsewhere

	%
	%
	%
	%
50	%
50	%
	%
100%	

Q5 Please enter in the number of people (including yourself) who work at or from these premises in each of the following categories:-

Management/professional
technical & production: skilled manual
semi-skilled manual
unskilled manual
administration/clerical
Other (please specify)

TOTAL

	Males		Females	
	full time	part time (30 hrs per wk or less)	full time	part time (30 hrs per wk or less)
	7			
	16			
	5		2	7
	6		1	

Q6 Where does this company's workforce live? Where possible, please divide the total above in Q5 as follows:-

District
Rest of Greater London
Crawley/Gatwick/Horsham
Rest of W. Sussex
All other places
TOTAL

30
8
7

Q7A

Please indicate whether you have vacancies for the following types of staff and if you are experiencing problems in recruiting them:

	number of vacancies	difficulties in recruitment	
		Yes	No
Managerial/professional	-	<input type="checkbox"/>	<input type="checkbox"/>
Skilled manual	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Semi-skilled manual	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
unskilled manual	-	<input type="checkbox"/>	<input type="checkbox"/>
administrative/clerical	-	<input type="checkbox"/>	<input checked="" type="checkbox"/>
TOTAL			

Q7B If you have had any problems in recruiting staff during the past two years, are you aware of any particular reasons for this? (please describe)

NO

Q8A Has your company/the group to which your company belongs any definite plans to expand or contract business at these premises during the next 5 years?

	Yes		No	
expand	<input checked="" type="checkbox"/>	} please answer Questions 8B, C & D.	<input type="checkbox"/>	} go to Q9
contract	<input type="checkbox"/>		<input type="checkbox"/>	

Q8B If you will require a change in floorspace approximately how many square feet of expansion or contraction is planned?

	Expansion Sq. ft.	Contraction Sq. ft.
Production	9000	
Office	5000	
Storage	1000	
Ancillary		
Other		
TOTAL	15000	
None		

Q8C If you will require more or fewer employees please indicate approximately how many (giving occupation type if possible).

	Number Increase	Number Decrease
Managerial/Professional	1	
Skilled Manual	2	
Semi-skilled Manual	3	
Unskilled Manual	4	
Clerical	2	
Other (please specify)		
.....		
.....		
TOTAL	10	

Q8D What are the main reasons for these plans?

Increased Sales of Products

Q8E If you are planning to expand please answer this question, if not go to Q9.

What proportion of the increased business you propose from these premises would you expect to be for clients or companies within the following areas?

	%
District	
Rest of Home Counties	10
Rest of SE England	60
Rest of Great Britain	30
Overseas	
TOTAL	100%

Q9A Would your plans involve moving from this site or relinquishing part of it within the next 5 years?

Moving away Yes No

Relinquishing part Yes No

Q9B If you are considering moving please answer this question, if not go to Q10.

In which location would your company prefer to expand?

Please state town/location: within 10 miles of Horsham.....

Q10A County Council wishes to assist companies in the County to meet such requirements for land and buildings as are necessary for their efficient operation, where this can be achieved within County planning policies. If you consider that your company may require assistance please suggest the type of service you have in mind.

Q10B In the event of its being considered useful, would you be prepared to take part in a short interview?

Yes No

Q11 The British Airports Authority have estimated* that at Gatwick Airport by 1984 *B.A.A. Statement of Case Tables 1 & 2

- (a) passenger through-put could double to 16 million passengers per year,
- (b) the quantity of cargo handled could more than double to 240,000 tonnes, and
- (c) the number of on airport jobs may increase by approximately 10,000.

In what ways do you think that this degree of expansion could affect your business?

Not at all

Supplementary Questions

1975

5(a) In what year did firm commence operations?.....

(b) How many employers were there originally,
including directors? 3

8(d) How many premises did the firm have in 1975?..... one

8(e) How many now..... one

8(f) Has the lack of suitable premises caused
problems to the growth of the business since 1965?~~xxxx~~No.

(g) Have any of the following ever been problems:-

i) Availability Yes

ii) High rent or high purchase price...Yes....

iii) Unsuitable areas Yes

iv) Planning. No

v) Other?

12 i) Have you ever approached the Local Authority
for the premises Yes/Noii) Do the Local Authority have suitable premises
for your purposes YES/Noiii) Do the Local Authority have means of assisting
in obtaining premises?13 Would you like to be re-located by the Council
at an economic rent if this service was available..Would consider

Yes/No.

Questionnaire.
Re. Non-Conforming Uses - Horsham District.

SIGMA

Firm.....
 Use Class(.....do not complete)

Please indicate the suitability of your premises and quality from your operational point of view by ticking the appropriate columns below:-

Environmental Impact on Locality	Low.	Low/Medium	Medium	High/Medium	High
Architecture	✓				
Visual Aspect	✓				
Noise	✓				
Dust		✓			
Fumes	✓				
Smoke	✓				
Access				✓	
Vehicle Damage		✓			
Parking					✓
Traffic Nuisance					✓
Highway Hazard		✓			
<u>Quality Location.</u>					
Size	✓				
Access	✓				
Marketing	✓				
Employment			✓		
Airport					✓
Rail					✓
Road					✓
Sea			✓		
Residence					✓
Compatibility with Area				✓	✓

CONSULTATION PAPER

PLANNING RELAXATIONS

FOR

SMALL INDUSTRIAL PREMISES

Responses should be addressed by 5 September 1980 to:-

Planning and Land Use Policy Division 3
Department of the Environment
Room C13/14
2 Marsham Street
London SW1P 3EB

DOE CONSULTATION PAPER

PLANNING RELAXATIONS FOR SMALL INDUSTRIAL PREMISES

INTRODUCTION

A principal conclusion of a report* commissioned by the Government into the demand and supply of small industrial premises was that a large and unsatisfied demand for such premises existed through the country. It also concluded that the shortage of premises had constrained the establishment and development of small firms; but that where premises had been provided this had the effect of stimulating the expansion of existing small firms and the formation of new ones.

The report concentrated mainly on manufacturing but also covered a number of other small firm sectors on which manufacturing industry is becoming increasingly dependent and for whom the shortage of premises is equally acute. It was the view of the consultants who carried out the study that industry-supporting activities when carried on in small premises tend to create the same levels of employment as straight manufacturing and they recommend that where necessary a flexible view should be taken on user restrictions.

A particular activity in support of manufacturing industry is specialist stock holding. Although coming within the definition of the term warehousing, in small premises it does not present the problems normally associated with large scale storage premises. The Government therefore takes the view that a limited measure of flexibility of use as between light industry and warehousing is desirable.

In recent years most of the initiatives to provide small industrial premises have come from the public sector. Severe

*'Provision of Small Industrial Premises'. A report by Coopers and Lybrand Associates Limited, Management and Economic Consultants, with Drivers Jonas, Chartered Surveyors and Planning Consultants. Published by Department of Industry.

restraint on public expenditure has however caused the Government to examine what needs to be done to encourage private investment in small factory developments, without which the present shortage seems unlikely to be substantially reduced.

The Government therefore announced a number of measures in the last budget designed to bring such investment into the small factory market and undertook to issue consultation proposals to relax planning controls over changes of use as between light industry and warehousing for small units.

The proposal set out below is designed to further the Government's objectives of stimulating and expanding the small firm sector; of providing job opportunities; and containing public expenditure by encouraging private sector investment in small industrial premises. It is also a further move to meet the major objective of reducing the extent to which individuals are subject to public sector controls.

THE PROPOSAL

The Government proposes to amend the Town and Country Planning General Development Order 1977 by the addition of a new class of "permitted development" in Schedule 1 so that no planning application will be needed to change from use as a light industrial building (Class III - defined in the Town and Country Planning (Use Classes) Order 1972 SI No 1385) to use as a wholesale warehouse or repository for any purpose (Class X) and vice versa.

Eligible units will be premises of 235 sq metres and below. The new permission would operate on similar lines to Class III(a) of Schedule 1 to the GDO which permits changes from general industrial to light industrial use.

The sorts of uses which could benefit from the new permission would be small factories, craft workshops, warehouse units and specialist stockholding premises. No "light industrial building" is allowed to be detrimental to the amenity of a residential area by reason of

noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The relaxation of planning control would therefore not have a significant impact on amenity, but it would represent the removal of one more restraint on small businesses in particular. This, coupled with the other measures announced by the Chancellor, should help to create a climate in which there will be incentives both to create new premises suitable for small firms, and to ensure that maximum advantage is taken of existing potential in small units.

TIMING

Subject to the views of interested bodies, the Government hopes to implement the proposals before the end of this year.