

Mr. P...

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- c.c. PS/SOS (L)
- PS/Ministers (L & B)
- PS/PUS (L & B)
- ~~Mr Bell~~ *Blomfield*
- ~~Mr Stowe~~
- Mr Hannigan
- Mr Burns
- Mr Gee
- Mr Marshall
- Mr Cowan
- Mr Barry
- Mr Davidson
- Mr McIlmoyle
- Mr Cummings
- Mr Huckle*

PRIVATE SECRETARY/SECRETARY OF STATE
(BELFAST)

REPUBLICAN MONUMENT IN CROSSMAGLEN

1. Extensive publicity has been given during the last few days to the appearance of a monument in the town centre of Crossmaglen. The monument is a 15 foot bronze statue of a man astride a phoenix and is inscribed in English and Gaelic with the following words
 "Glory to all praised and humble heroes who have willingly suffered for your unselfish and passionate love of Irish freedom".
2. The erection of the statue has provoked considerable comment and Mr Harold McCusker MP has now written to Mr Goodhart asking for the statue to be removed.
3. The planning background to the matter is as follows. An application from a body calling itself the Crossmaglen Memorial Committee to erect an 11 ft grey granite monument was received by the then planning authority, Armagh County Council, on 24 November 1972, and planning permission for this was given on 10 July 1973. Consideration was given by the then Ministry of Development in 1973 to possible revocation of the planning authority's permission, but this was not considered to be appropriate on planning grounds.
4. What is clear is that the structure now erected cannot be considered to be covered by any existing planning permission, and that it is therefore in breach of planning control. Where such a breach comes to the notice of the Department it is our practice to seek the submission of a planning application covering the development only if there is a prospect of our being able to give permission for it. It would

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clearly be a pointless charade to seek an application for permission, and go through the thorough administrative procedures including statutory consultation of the local district council, in any case where the development clearly could not be accepted, eg an offensive commercial activity in the midst of an area residentially zoned.

5. This, of course, is a less clear cut case. Planning is not an exact science. Normally the Department's concern is with such issues as whether an application is in conformity with an area or other plan, the impact on land use and visual or other amenity, road traffic consequences and so on. But I hold the view that in the last resort the Department is entitled to decide whether or not a development is, in the broadest terms, in the public interest. Thus it seems to me too restrictive a view to refuse a development if it represents a risk of road accidents, but to allow it if it could have emotive and potentially serious security implications.
6. Normally, individual routine planning cases are dealt with by the professional officers of the Department's Town and Country Planning Service. Nevertheless planning decisions, like all other Departmental decisions, are taken under Ministerial authority, and it would clearly be appropriate in this case, with its emotive political and security undertones, to take the mind of Ministers as to how we should proceed.
7. If we were to decide that planning permission, if sought for the development, would not be given, we would have discretion to serve upon the owner and any other person having a sufficiently material interest in the land on which the monument is erected an Enforcement Notice requiring remedy of the breach of planning control (presumably by having the monument taken down). That, of course, would in itself be an emotive step, and it would be well to seek advice from the security forces as to its possible consequences. It is entirely possible that those who erected the monument did so without the approval of the owners of the land (I am taking steps to have ownership established).
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8. Failure to comply with an Enforcement Notice is an offence, and could be followed by a request to the DPP to initiate a prosecution. On summary conviction the maximum fine is £400, with a per diem fine not exceeding £50 for continuing failure to comply. One could perhaps anticipate a court case of this kind becoming something of a propagandist cause celebre, with defendants possibly ready to accept imprisonment rather than to pay any fines imposed upon them.
9. The current options, therefore, seem to be
 - 9.1 to ignore the incident altogether. This is made very difficult by Mr McCusker's intervention. We have had to agree that the structure is not covered by a valid planning permission, and while the law does not compel us to take any action, either by way of Enforcement Notice or by seeking the submission of a planning application, there are obvious political and presentational risks in doing nothing.
 - 9.2 to decide that we would not be prepared in any circumstances to give planning approval for such a development, and therefore to proceed at once to the issue of an Enforcement Notice. Those upon whom such a Notice was served could respond either by submitting a planning application on their own initiative (in which case further action would be "stayed" pending its determination) or by appealing against the Notice on any one of a number of stated statutory grounds, including "that the steps required by the Notice to be taken exceed what is necessary to remedy any breach of planning control". It might be argued in any such appeal that we had not concerned ourselves with valid planning factors, but had rather sought to use our powers of planning control to censor unacceptable sentiments.
 - 9.3 to seek the submission of a planning application. There is, of course, no reason to be confident that any such advice would be accepted. If it were to be, we would then be committed to a full statutory process, including consultation with the Newry and Mourne District Council, where an emotive debate would no doubt ensue.

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Our Planning Officer attending the Council meeting would be expected to give his professional view as to whether or not the development should be allowed.

10. I would propose, when Mr Goodhart returns from his current short period of leave, to make a submission to him on the matter. In the meantime we will pursue the question of ownership of the site, and I think it would be useful if Mr Burns were to feed in any security forces advice and Mr Gee to offer any views on the political implications.

K.P. Bloomfield

K P BLOOMFIELD

20 September 1979

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