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**Dated:** April 2024

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**Thames Water Utilities Limited**

**Operational Land**

**Northern Land at Culham Sewage Treatment Works**

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Technical Note on the Operational Land status of the Northern Land at Culham Sewage Treatment Works, Abingdon Road, Clifton Hampden, Abingdon

## 1. Introduction

- 1.1 Thames Water Utilities Limited ("TWUL") currently owns and operates the Culham Sewage Treatment Works shown edged red on the plan ("Figure 1") below ("the Culham Works"). The site includes the "Northern Land" (the parcel shaded pink to the north west of the site on Figure 1) which is held by TWUL for the purposes of the future expansion of the Works, but currently does not contain any operational equipment on.



Figure 1

"the Culham STW/the Works" edged red

"the Northern Land" shaded pink

- 1.2 The Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate to Collett Roundabout), A4197 Didcot to Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022 ("the Order") seeks to compulsorily acquire *inter alia* the Northern Land.
- 1.3 As explained in this note, the Northern Land is Operational Land of TWUL, as defined in s263(1) of the Town and Country Planning Act 1990 ("1990 Act"). Section 263(1) defines 'operational land' of a statutory undertaker as follows:
- 1.3.1 Land that is used for the purpose of carrying on its undertaking; and
- 1.3.2 Land in which an interest is held for that purpose.
- 1.4 TWUL benefits from permitted development rights (pursuant to part 13 of the General Permitted Development Order 2015) over its Operational Land. As such, TWUL can rely on its permitted development rights in order to facilitate the expansion of the Works on the Northern Land.

## 2. The definition of Operational Land

- 2.1 Section 263(1) of the 1990 Act sets out that land is "Operational Land" if it is used for the purposes of the undertaking concerned, or if an interest is held in it for that purpose. As a matter of principle, it can include land which a statutory undertaker now owns for future use.
- 2.2 Land is Operational Land if:
- 2.2.1 the land was held by the statutory undertaker before 6 December 1968 and was operational then ("Ownership Condition") pursuant to section 264(1) of the 1990 Act; **or**
- 2.2.2 In the case of land acquired after this date, there is, or at some time has been, in force with respect to it a "specific planning permission" for its development

and that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking ("Specific Planning Permission Condition") pursuant to section 264(3) of the 1990 Act; **or**

2.2.3 In the case of land acquired after this date, the land was transferred from other statutory undertakers under any of the reorganisation/privatisation legislation specified in s.264(4) of the 1990 Act (which includes the Water Act 1989 and the Water Industry Act 1991) and was Operational Land of the other operators immediately before the transfer. ("Transfer Condition") pursuant to section 264(4) of the 1990 Act.

2.3 In respect of the Specific Planning Permission Condition in s 264(3) of the 1990 Act, and as clarified in the case of *Adur District Council v Secretary of State for the Environment [1999] 7 WLUK 497*, the land in question would become Operational Land in the hands of the statutory undertaker, notwithstanding that a planning permission is limited in nature or duration.

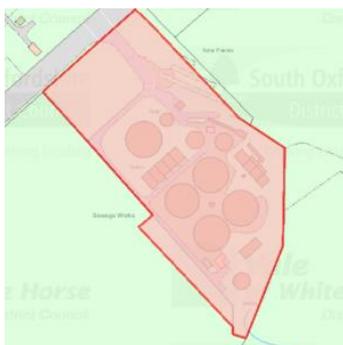
2.4 The statutory provisions require only that such specific planning permission be granted "at some time". The statutory provisions do not require the planning permission to have been implemented in order to satisfy the requirements of s264(3) of the 1990 Act: the mere grant of a planning permission for development for the purpose of the statutory undertaker carrying on its undertaking is sufficient.

### 3. Northern Land

3.1 The Northern Land qualifies as Operational Land, pursuant to ss263 and 264 of the 1990 Act, by virtue of the Specific Planning Permission Condition being satisfied.

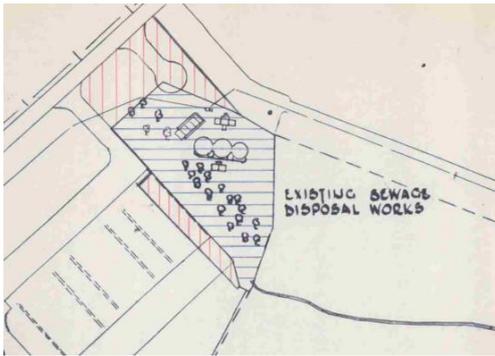
3.2 Section 263(1) of the 1990 Act is satisfied as TWUL holds the freehold interest in the Northern Land under title number ON45202.

3.3 The Northern Land was subject to the grant of planning permission on 22<sup>nd</sup> February 1967 (reference: P67/M0036), for extension to the existing sewage disposal works ("the 1967 Permission"). The plans associated with this consent are not available to view on the local planning authority's planning portal, however, the Council's interactive map clearly identifies that this permission relates to the Works (which incorporates the Northern Land) as is shown on the plan extract below (and appended at Annex 1).



"the 1967 Permission" and appended to this note at Annex 1

3.4 A further planning permission was granted on 15<sup>th</sup> June 1971 (reference: P71/M0333) for the extension to the existing sewage disposal works ("the 1971 Permission"). The plan associated with this permission (extract below) includes both the blue hatched and red hatched parcels of land (therefore covering the entirety of the Works and incorporating the Northern Land). The entire extent of the Works, including the Northern Land, has therefore been subject to the grant of planning permission which, if carried out, would have involved its use for the purpose of the carrying on of the statutory undertaker's undertaking.



“the 1971 Permission” and appended to this note at Annex 2

- 3.5 In accordance with section 264(3) of the 1990 Act, and on the basis of the *Adur District Council v Secretary of State*, as a result of the grant of the 1967 Permission, and the 1971 Permission, the Specific Planning Permission Condition is satisfied as two planning permissions for development have been granted over the entire Works (i.e. including the Northern Land) for development which would have involved its use for the purpose of TWUL’s undertaking.
- 3.6 The Specific Planning Permission Condition is, therefore, satisfied in respect of the Northern Land.
- 3.7 The Northern Land is, therefore, Operational Land pursuant to s. 263 of the 1990 Act.
4. **Conclusion**
- 4.1 The Northern Land is Operational Land as defined in ss.263 and 264 of the 1990 Act.
- 4.2 The Northern Land is Operational Land by virtue of the satisfaction of the Specific Planning Permission Condition, i.e. the requirements of s.264(3) of the 1990 Act, due to the grant of the 1967 Permission and the 1971 Permission which included the Northern Land within their scope.
- 4.3 As the Northern Land is Operational Land, TWUL benefits from permitted development rights in respect of it (pursuant to part 13 of the General Permitted Development Order 2015). These permitted development rights could (subject to the limitations in Part 13) facilitate the expansion of the Works on the Northern Land.

**Eversheds Sutherland (International) LLP**

**April 2024**

## **Appendix 1**

### **The 1967 Permission**

R

Application No. M.36/67.

**OXFORDSHIRE COUNTY COUNCIL**  
*Local Planning Authority*

**TOWN AND COUNTRY PLANNING ACT 1962**  
**TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT ORDER) 1963**

To J. L. Busfield, Esq.,  
Bullington R.D.C.,  
76 Banbury Road,  
Oxford.

*Permission for development*  
*subject to conditions*

The **Oxfordshire County Council** as Local Planning Authority hereby permit the development described in your application dated the ...12th... day of ...January, ...1967... of the land situate at ...Pt. Plot 56, adj. existing sewage disposal works, Clifton Hampden. (Extension to existing sewage disposal works).

as shown on the plan(s) and drawings accompanying your application subject to the following conditions:—

- 1. That the development be carried out strictly in accordance with the specification thereof contained in Parts I and II of your application and in accordance with the plans and drawings accompanying your application.
- 2. That the use of the building, whether as originally erected or as subsequently extended or altered, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds 3,000 square feet.

(See below for reason for this condition)

The reasons for the Council's decision to grant permission for the development subject to compliance with the conditions hereinbefore specified are:—

- 1. To preserve the amenities of the locality.
- 2. To secure the proper planning of the locality.
- 3. In the case of condition 2 that section 7 of the Control of Office and Industrial Development Act, 1965, requires the imposition of this condition.

Dated the 22nd day of February, 1967.

(SGD.) G. G. BURKITT.

County Hall  
Oxford

CERTIFIED A TRUE COPY  
*[Signature]*  
Clerk of the Council

#### NOTES

(1) **IMPORTANT.** This permission implies no approval under The Building Regulations 1965 and if necessary application for such approval must be made to the Council of the County District in which the land is situated.

(2) If the Applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may, by notice served on the Minister of Housing and Local Government, Whitehall, London, S.W.1, within one month of receipt of this notice, appeal to the Minister of Housing and Local Government in accordance with Section 23 of the Town and Country Planning Act, 1962. The Minister has power to allow a longer period for the giving of a notice of Appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed development are in progress. The Minister is not, however, required to entertain such an appeal if it appears to him that planning permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of subsection (1) of section seventeen, of subsection (1) of section eighteen and of section thirty-eight of the Act, and of the development order and to any directions given under that Order.

(3) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Minister of Housing and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with Part VIII of the Town and Country Planning Act, 1962.

(4) In certain circumstances a claim may be made against the local planning authority for compensation, where permission is refused, or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part VI of the Town and Country Planning Act, 1962.

County Planning Dept. Form 3. Revised Nov. 66.

## **Appendix 2**

### **The 1971 Permission**

R

**OXFORDSHIRE COUNTY COUNCIL**

*Local Planning Authority*

**TOWN AND COUNTRY PLANNING ACTS 1962 TO 1968  
TOWN & COUNTRY PLANNING GENERAL DEVELOPMENT ORDERS 1963 TO 1969**

Ballingdon Rural District Council,  
c/o J. E. Dunfield, Esq.,  
Council Offices,  
London Road,  
WHEATLEY,  
Oxon.

*Permission for development subject to conditions*

The Oxfordshire County Council as Local Planning Authority hereby permit the development described in your application dated the 6th day of May, 1971 of the land situate at Pt. O.S. 56, adj. existing S.D. works, Clifton Hampden.  
(Extension to existing sewage disposal works.)

as shown on the plan(s) and drawings accompanying your application

subject to the following conditions:—

1. That the development be carried out in accordance with detailed plans and elevations first submitted to and approved by the County Council and in accordance with any approval granted in respect thereof and in accordance with any conditions which may be imposed in respect of any such approval.
2. That the development to which this permission relates must be begun not later than the expiration of five years beginning with the date hereof.

The reasons for the Council's decision to grant permission for the development subject to compliance with the conditions hereinbefore specified are:—

To preserve the amenities of the locality.

To secure the proper planning of the locality.

Dated the 15th day of June, 1971

CERTIFIED A TRUE COPY

*G. G. Buckitt* (clerk) C. G. Buckitt.

County Hall  
Oxford

Clerk of the Council

CLERK OF THE OXFORDSHIRE  
COUNTY COUNCIL.

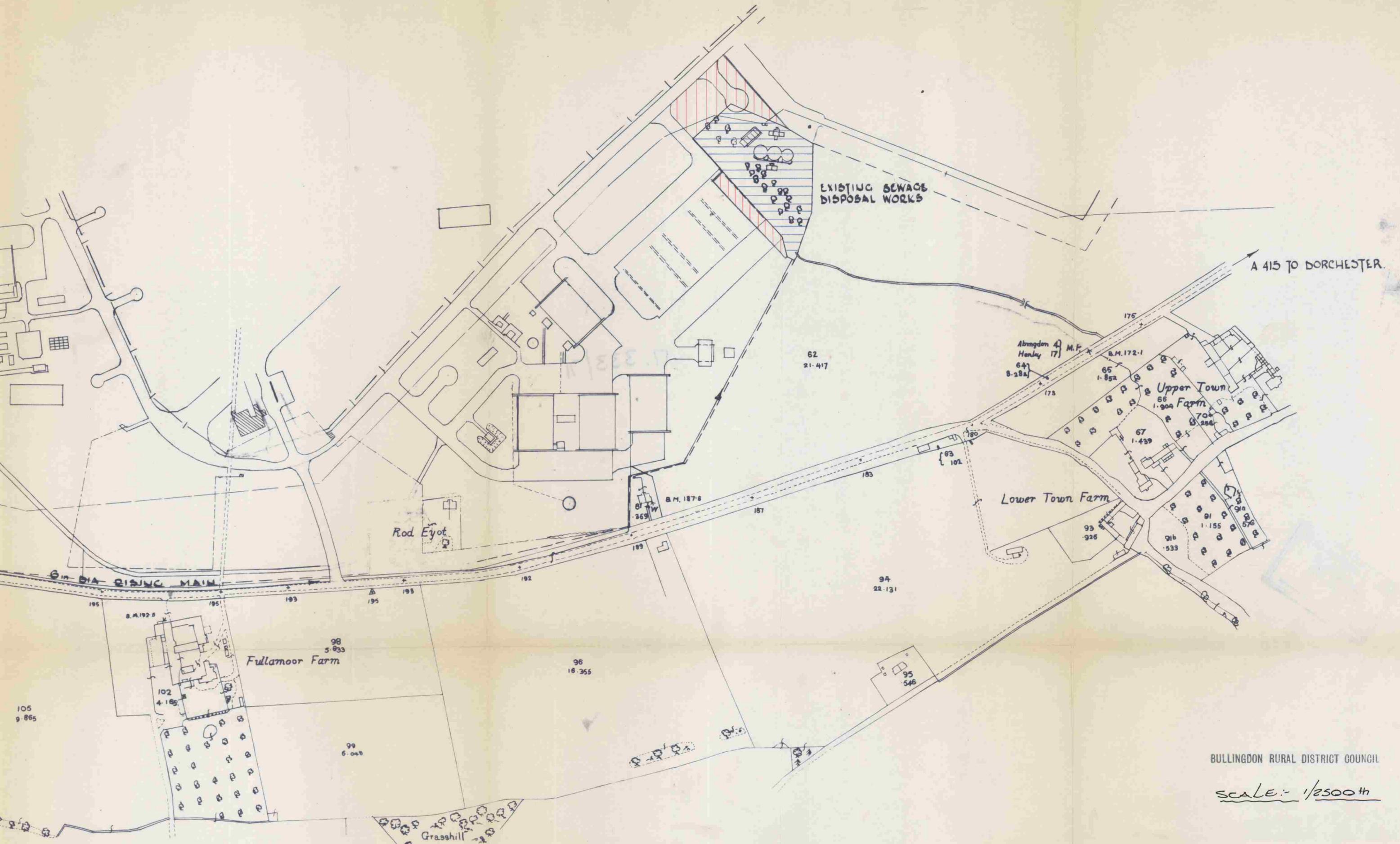
NOTES:

(1) **IMPORTANT**—This permission implies no approval under the Building Regulations 1965 and, if necessary, application for such approval must be made to the Council of the County District in which the land is situated.

(2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Minister of Housing and Local Government, in accordance with section 23 of the Town and Country Planning Act 1962, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Minister of Housing and Local Government, Whitehall, London, S.W.1.) The Minister has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Minister is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. (The statutory requirements include section 6 of the Control of Office and Industrial Development Act 1965 and section 23 of the Industrial Development Act 1966).

(3) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Minister of Housing and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VIII of the Town and Country Planning Act 1962 (as amended by the Town and Country Planning Act 1968).

(4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 123 of the Town and Country Planning Act 1962.



BULLINGTON RURAL DISTRICT COUNCIL

SCALE: - 1/2500th