

DRAFT

PS/Secretary of State

WALKER'S MONUMENT, LONDONDERRY

1. Walker's Monument was a 100 ft obelisk sitting on the Walls of Londonderry, overlooking the Bogside. On top was a statue of Rev George Walker who was the Governor of the City at the time of the siege in 1689. In 1973 the monument was blown up by the PIRA, and all that remains is the plinth.
 2. Government is confronted with 3 inter-related issues:-
 - (a) the political and security considerations arising out of the stated desire of the owners of the monument - the Apprentice Boys - to replace it with a replica;
 - (b) the claim for criminal injuries compensation, which has recently been adjourned at the request of the Apprentice Boys who are seeking recoupment on a full replacement basis;
 - (c) the planning considerations; there is outline planning permission to reinstate the monument but approval to the siting, design and external appearance from DOE is needed before building work could commence.
- [Political and security paragraphs - input by NIO]
- [Criminal Injuries Compensation paragraphs - input by NIO]
3. THE PLANNING SITUATION
 - 3.1 The Apprentice Boys require planning permission to rebuild Walker's Monument, and they have applied twice for outline permission (ie permission in principle)

and have received such permission on both occasions. (Outline permissions lapse if not acted upon within a certain time scale; the first permission lapsed, hence the second application.)

- 3.2 The last occasion on which outline permission was granted was in April 1981 and this was done after prolonged consultation with the Secretary of State.
- 3.3 In allowing this permission to issue the Secretary of State was clearly concerned about the political and security implications, and took the view that once matters got to the stage of implementation (ie when approval of details was being sought) consideration could be given to the revocation of the outline planning permission in the light of security considerations. Legal advice was that revocation might be used in these circumstances, but there was no precedent for a revocation on security grounds if these did not amount to material planning considerations and there might well be a challenge in the Courts.
- 3.4 In granting outline permission it was believed that the Apprentice Boys would settle their compensation claim before following through the application for approval of details ("reserved matters"). The Apprentice Boys having entered the court proceedings to settle compensation have now withdrawn so as to seek approval to the reserved matters of siting, design and external appearance before settling their compensation claim, believing no doubt that this would help their case for a higher sum.
- 3.5 The options open to the Department in dealing with this application for approval of reserved matters are as follows:-

- (a) approve it, which would give the applicants authority from a planning point of view to proceed with construction work - subject to the consent under Building Regulation Control; this would be the normal procedure to follow and in visual and land use terms the DOE can see no objections to the approval of the detailed plans;
- (b) approve the detailed plans conditionally, eg by requiring a different finish; this is virtually the same as (a);
- (c) refuse to approve the detailed plans, eg because DOE did not like the design or wished to see only a small, less-elaborate monument; this would be difficult to sustain on foot of an outline planning permission for "re-instatement of the monument";
- (d) revoke the outline planning permission on security grounds as "material planning considerations".

3.6 The Revocation Option

In terms of standard planning criteria there are no grounds for revoking the outline planning permission for re-instatement of the monument. The only ground for revocation, which might succeed, is one related to security on its own which hitherto has not been used in the determination of planning applications or in revocation.

- 3.7 Where security has inevitable land use consequences such as visual amenity, traffic circulation, car parking, those consequences can be taken into account in determining an application. However, if the security reason is that such and such a development would be likely to lead to an exacerbation of community tension or serious public disorder, new ground would be broken in quoting such a reason in a planning case and there would almost certainly be a challenge in the Courts.

3.8 There is a further problem in the revocation option in that evidence on the security issues would have to be argued before the Planning Appeals Commission. If the decision to revoke had been taken (at least partly) on advice from the RUC they would then be subject to cross-examination and would need to confirm that advice in the proceedings before the Planning Appeals Commission.

3.9 The further one goes along the approval road before revocation, the more difficult revocation becomes. If the application for approval of reserved matters is approved - following the outline approval of April 1981 - it makes it all the harder to argue that revocation is an option.

3.10 [The effect of a revocation order on the criminal injuries claim would be ...].

4. AN ALTERNATIVE SITE

4.1 The security/political problem with Walker's Monument is substantially related to its location on the walls overlooking the Bogside. If it were located on the southern side of the walls overlooking the Fountain there would not be anywhere near the same political or security objections. In fact it might be welcomed by the community there.

4.2 However the walls are in State care [input by Historic Buildings Branch].

4.3 There is thus an option of discussing the possibility of perhaps a more modern memorial on a different part of the Walls with the Apprentice Boys.

5.1 [It is understood that opinions amongst the Apprentice Boys may be divided on the possibility of not going ahead with full reinstatement on the present site.]

Conclusion

5.2 [The Secretary of State is invited to note the position and to concur in the view that we should await the next move by the Apprentice Boys but be prepared to use discretely any opportunity to influence opinion on Londonderry towards something less provocative than full reinstatement, preferably on a less sensitive site.]