

Views On Planning Controls On Agriculture In The United Kingdom and Malaysia

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INTRODUCTION

Planning control is often seen as a method of monitoring the development of a country. It provides a mechanism in which the government keeps an eye on the use of land or building so that these usages are in line with the needs of the nation. This paper attempts to look into existing planning controls in the United Kingdom and Malaysia on agricultural matters and to discuss similarities and differences between the two.

BACKGROUND

Agriculture is an activity carried out by man for generations. It is seen by many religions of the world as a means to provide much-needed food for daily consumption. When man began to understand the system of trade¹, this activity gradually developed into a source of income to enable him to participate in the system. Many countries today still rely on the export of their agriculture produce as a source of national income. In some aspects, it is agriculture which acts as a backbone to a country that seeks to achieve what is known as a developed status.

In the United Kingdom, agriculture received special attention after the Second World War as there was an increase in demand for home-grown food produce. In light of this, a strategy was required to place matters into perspective. Hence, in 1942 the Scott Report recommended a long-term planning to ensure that agriculture would remain stable and had proper standards in maintaining the pattern and beauty of the countryside.² However, the vision put forth by Sir Leslie Scott and his committee was pre-industrial where the countryside is to remain as well-kept fields, craft industries and well-fed rustics.³ This was criticised as economically unrealistic. In fact, agriculture should be developed according to contemporary technology and business atmosphere.⁴

Seen by many as the basis from which economy grows towards industrialisation of a nation, the use of machinery appears to be inevitable. In the effort to enhance agricultural yield, numerous factories which manufactured such required machinery were set up. This economic growth in turn has caused agriculture itself to undergo various stages of development over the years to arrive at its present condition. United Kingdom has had its share of agricultural development which unfortunately have caused tremendous destruction to the ecosystems that once existed in the English countryside. According to Sir Richard Body, 130,000 miles of hedgerows have been ripped up, 875 miles of stone walls destroyed, over 95% of the wetlands have been drained, 95% of the southern England downlands is lost, 180,000 acres of moorland has been ploughed up, 40% of ancient woodlands is gone and some 7,000,000 acres of pastureland ploughed up.⁵

All this devastation of habitats has resulted in the loss of invaluable species. For example, the Large Blue butterfly and three or four species of dragonfly have become extinct; and four out of twelve reptiles and amphibians are endangered. Besides the loss of animal species, botanical loss has also been tremendous.⁶ Realising the impact caused by agricultural activities, many have voiced their concern. Hence, this script will endeavour the task of looking at different views on this matter as regards to planning controls and agriculture.

COMMON AGRICULTURAL POLICY AND PLANNING CONTROLS

The development of agriculture in the UK was also influenced by its participation in the European Economic Community. The Common Agriculture Policy (CAP) began its repercussion on British agriculture in 1972. This policy basically called for a common system of pricing throughout Member States. This policy also caused an increase in agricultural productivity, technical progress, optimum utilisation of all factors, increased agricultural earnings, stable markets and certainty of supply.⁷ One important development from this is the formal link to capital grants for farmers. However, this later proved to be a problem since it the consumers who ultimately pay these grants by having to fork out more for food.⁸

In 1992, a reform to CAP was introduced⁹ where it addressed the questions of reducing agricultural pollution, encouraging environmentally favoured extensification of crops and livestock, protecting the countryside, recovering abandoned land, setting-up environmentally beneficial long-term Set-Aside, facilitating public access to land and educating farmers and landowners on agri-environmental matters.¹⁰ For the present purpose, it is interesting to note that it is this new Set-Aside scheme gives farmers the option not to rotate. This means they can leave the same land to fallow year on year.¹¹ These farmers will then receive payments for their participation in the scheme.¹² More importantly for the betterment of the environment, this scheme could bring considerable environmental benefits, especially for the natural habitats.¹³

Coming back to the issue of planning, such system is important for the development of a country as it helps to devise strategies for reshaping the built and natural environment. These strategies may take various forms and have a wide range of objectives. Such objectives may include redistribution of resources, the longevity of the built stock, the conservation of wildlife and the encouragement of urban development.¹⁴

In discussing the local legislation, the statute that is of primary concern in this study is the **Town and Country Planning Act**. The British planning system is seen as one of the most sophisticated systems of land use control.¹⁵ Though it began with a system geared towards **maintaining** public health,¹⁶ it has now developed into a system that incorporates **controls** over land use as well as design and form over the built environment.¹⁷

The British planning laws began with the 1947 Town and Country Planning Act which established urban and rural planning. However agriculture was made an exception.¹⁸ The underlying motives were to regenerate agriculture and to protect

the countryside from urban development.¹⁹ Between the mid-1950s and the mid-1970s, conservationists began to realise several environmental implications caused by agricultural intensification. Examples of this are the appearance of industrialised farm buildings,²⁰ the loss of hedgerows, moorland and heathland reclamation, and the drastic decline in some species of birds caused by the side-effects of synthetic pesticides.²¹

The failure of the planning system is acknowledged as an antecedent to this situation of environmental decline. It had also reflected the limitations of protective measures that exist at that point in time.²² Since then, several other steps were undertaken to curb (if not eliminate) this deficiency. For example, the protection extended to wild creatures by the Wildlife and Countryside Act 1981²³ and the revised provisions of the designation of areas for the protection of habitat by the National Parks and Access to the Countryside Act 1949.²⁴ Perhaps more importantly provisions in the Town and Country Planning Act have also undergone several changes over the years to constitute the present governing system which is more environmentally sound.²⁵

However, these developments in the planning system has brought about different responses from different quarters. There are those who argue that agriculture is still being given a special status where its developments are not controlled by the planning system. On the other hand, there are others who envisage that agricultural developments are now sufficiently controlled which sets it on the same level as other developments.

CONSERVATIONISTS' VIEW

There have been many writings expressing an outcry over the leniency of planning restrictions accorded to agriculture. Among them, the writings of Marion Shoard have managed to attract much attention. In her book, "The Theft of the Countryside"²⁶, she expressed her concern of the rapid changes experienced by the British landscape over a rather short period of time.

She first explained the condition of the countryside in her childhood years and compared that to the transformation she had witnessed. This led her to believe that the planning laws are 'toothless watchdogs'.²⁷ She said that farming is one of two activities which is above the law.²⁸ No doubt that it was once exempted from planning controls in 1947 because at that point it was seen as 'something that needed to be protected rather than as a potentially destructive force'.²⁹

However, nowadays agriculture is an industry that can be equated to manufacturing as it involves massive cash-flows and the usage of machines. She feels that this 'arcadian mystique' is being persistently manipulated by farmers to their advantage.³⁰ Although she finds that it is agriculture which composed one of nature's beautiful vista, she also feels that it has caused enormous destruction with the new farming methods that are being employed.³¹ For example, the removal of hedgerows to make way for new drainage schemes,³² and to provide easier access for machines that are used to grow cereals, carrots, potatoes and bulbs;³³ the removal of woods to acquire more area for farming;³⁴ replacement of rough grassland with

barley and the conversion of rough pasture to chemical ryegrass monoculture designed to produce milk more quickly.³⁵

Marion Shoard claimed that the planning authority is virtually powerless to control changes over farmland since structure plans had little jurisdiction over 70% of the farmed land in England. Although these structure plans can confer priority to conservation, it nevertheless cannot control agricultural changes, since farmers are exempted from planning applications.³⁶

She also stated that although constraints over farmers' activities do exist, they are minor in nature.³⁷ One exacerbating fact to this is it is the taxpayer who pays the farmer to cause the destruction but they hardly receive any share of the profits and land values that the subsidies incur.³⁸

Another conservationist who has spoke out is W.M. Adams. In his book, "Nature's Place",³⁹ he also mentioned the decline in the countryside. He said that the richest wildlife sites in Britain are those maintained by traditional forms of husbandry, which include pastures that have not been ploughed, treated with herbicide and artificial fertiliser and reseeded. It is not man's use of the land that spontaneously destroys wildlife interest, but it is the form, and especially the intensity, of that use which is the force of destruction.⁴⁰

He also believed that planners are able to process applications without much bureaucratic hindrance and are generally well-informed as regards to farming. Since planning laws only govern major changes to land use, planners could easily develop the necessary expertise to deal with conceivable problems. Monitoring the system would be relatively simple as agriculture is no more intricate as the industries and other activities that are already being governed by it.⁴¹

Nonetheless, he expressed concern over the effectiveness of the planning controls as the local authorities, who play a major role in the planning system, are dominated by farmers. A more thorough monitoring and effective enforcement of countryside control is required as there have been problems which could have been resolved by planning.⁴² Although there have also been other instances where damage is caused to the countryside, he was of the opinion that they occur due to decisions made at central government level, for example the Coal Board and the Department of Transport. Therefore, the planning system should not be asked to dissolve the matter. As the situation was, at that time, the planning system was doing reasonably well in maintaining the countryside.⁴³

— Another view on agricultural activities that will be considered here is by Matt Ridley. In his book "Down to Earth",⁴⁴ he said that it is true modern farming has caused the gradual improvisment of farmland but he feels that many studies like the one carried out by the Government has led everyone, especially the conservationists to jump to the wrong conclusions.⁴⁵

He asserts that there are still farmers with green tendencies who have not yet ripped out hedgerows.⁴⁶ If a new legal obligation to protect these diminishing hedgerows is imposed on them,⁴⁷ this would only punish the innocent "green" farmers and free those who are actually anti-hedge from their rightful punishment. Similar to this, the Countryside Commission's scheme to help replace the hedgerows that have been cleared away is seen as a bribe which only rewards the guilty. He

believes a better solution would be to adjust agricultural subsidies according to the average size of field on a farm. This would cost less than replanting hedges.⁴⁸

He concedes that planning policies do more harm than good. He said that more intrusive buildings emerge in the countryside due to these planning policies which are easily manipulated by the worst developers with pockets deep enough to push through public inquiries and anything relating to their development. Therefore, he believes that no further planning of this sort is necessary as they would only encourage development in the countryside, hence despoliation.⁴⁹

AGRICULTURISTS' VIEW

The agriculturists meant here are the farmers and landowners who work and cultivate land classified as agricultural land. They are generally represented by the National Farmers' Union and the Country Landowners' Association, respectively. Naturally they, too, have their own opinion on this matter.

Generally, National Farmers' Union (NFU) feel that the rights of development underlined in the planning laws are not 'privileges' as termed by many. They agree that at present agriculture has indeed developed into a commercially orientated activity.⁵⁰ As such, it would require suitable planning policies to enable it to progress, just like any other business venture.⁵¹

The NFU feel that it would be rather unfair to penalise agriculture simply because it functions in the countryside which also happens to be the habitat of many species. They strongly believe that agriculture has a substantial role in maintaining the rural economy and securing countryside conservation. Therefore, the existing flexibility in planning policies are necessary to preserve this situation.⁵² They believe that to introduce more controls over farming would be unpopular. Nevertheless, they agree that some sort of control is sensible and it could actually help to single out those who are not genuine farmers.⁵³

The NFU also realises that the European Union's (EU) agricultural policies have significant impact on UK's own policies on agriculture. Thus, they have outlined three key objectives that should be included in EU agricultural policies for the next ten years : (i) a profitable farming industry generating sufficient resources to sustain and improve its capital assets; (ii) an industry that contributes to the prosperity of all the many varied rural regions of the Community; and (iii) the achievement of a publicly acceptable balance between the intensity with which the land is worked and the protection of the natural flora and fauna.⁵⁴

The other agriculturist's view discussed here is that of the Country Landowners' Association (CLA). The CLA is of the opinion that the planning process should encourage economic growth. Though agricultural development has wide permitted development rights, new policies should not seek to undermine these rights and should not contain unreasonable restricting criteria.⁵⁵

The CLA believes that non-agricultural diversification is a key policy area. Thus, policies should encourage a wide variety of employment opportunities in rural areas and should state that the development of such nature should not have to be ancillary to farming.⁵⁶

Regarding land-use designations, such as Sites of Special Scientific Interest (SSSI)⁵⁷, Special Protection Areas (SPA)⁵⁸ and Special Areas of Conservation (SAC)⁵⁹, the CLA are concerned at the apparent “ratcheting-up” of levels of protection for these areas. For example, many SSSIs are to be designated as SPAs and SACs. They feel that regulations that implement the designations will bring in new requirements for the review of extant planning permission affecting such sites and additional controls over permitted development rights. They are also concerned that these protective designations are being viewed too much as ends in themselves. They believe that the sustainability of many areas with landscape or wildlife value does not depend on mere designations. What is required are measures to secure continued sympathetic management of designation areas. To this end, they welcome the steps taken by English Nature⁶⁰ to introduce positive management schemes to protect SSSIs.⁶¹

As a whole, the CLA is of the view that the planning system must not fail by frustrating appropriate development through the development control process, in terms of both technical and political obstruction. They also conceded that the expensive appeal process that currently exist should only be a necessity in exceptional circumstances. If this appeal process is frequently used, then the planned system and those who operate it will have failed in meeting its objectives.⁶²

OTHER VIEWS

Having accounted the convictions and opinions of conservationists and agriculturists, regard will now be had to what can be said as a more impartial view. This can be procured from those without strong assertions to either conservation nor agriculture.

Perhaps one such person is Professor Green⁶³ who is of the opinion that the British countryside had indeed undergone radical changes. Agriculture, he says, has in essence cleared away many invaluable species from much of the rural areas with its modern and intensive method over the period of 40 years. This happened because only the more competitive species are able to adapt to the changes that eventually brought about a new and more moderate environment.

Nonetheless, he feels that man can still help to protect the diversity of species and ecosystems through a moderate amount of intervention. What is required is a proper method of land-management. It is not decorous to restrain the hopes and aspirations of people who wish to participate in the quest for material prosperity of this century. He said that if there is sufficient land which have been set aside as protected areas then species from them may consequently repopulate. This may create numerous opportunities for sustainable land use, and protective and restorative land use.⁶⁴

Ball and Bell,⁶⁵ are of a similar view. They say that the planning system developed in 1947 merely protected the countryside from urban extension. At that time, it was generally perceived that farmers and landowners had maintained the countryside landscape in the best possible manner. As such, it was bestowed

generous exemptions by planning law, much of which still exist today, despite some minor changes.

Due to this, many rural activities like hedgerow⁶⁶ and stone wall removal, ploughing and cultivation of new crops are totally exempted from development control. The definition given in Section 55(2)(e) of the 1990 Act does not include a change from an unused land to agriculture nor a change from agriculture to forestry.⁶⁷

Another point that he puts across is the countryside development control system is mainly a political system that reflects the aspirations of local planning authorities, as well as the economic needs and policy preferences of local people. Though this may be a positive factor, it may also be the reason for the ineffectiveness of site designation system, as the local authorities may underestimate the importance of these sites in national terms.⁶⁸ For example, the designation of Sites of Special Scientific Interest (SSSI). Although planning permission is required for operations and material changes of use that fall within the definition stipulated in Section 55 of The Town and Country Planning Act 1990, many other activities that would likely damage an SSSI, would not require a planning permission. One of such activities is agricultural activities carried out by statutory undertakers. In any case, the local planning authority is not bound by the advice given by the Nature Conservancy Council, and arguments in favour of the development may well outweigh the need to protect the SSSI.⁶⁹

Hughes⁷⁰ is another scholar who also sees agriculture as an industry that is straining the countryside. He also feels that the future of traditional landscape with its habitats for flora and fauna is a question that needs to be properly addressed. The present planning system seems to be somewhat confused. It contains uncoordinated environmental control where responsibility is needlessly divided between central government, local authorities and numerous statutory ad hoc agencies or 'quangos'.⁷¹ For example, in under Section 197 of the Town and Country Planning Act 1990, the planning authority is required to use their power when granting planning permission to preserve trees where appropriate. This, however, may lead to dislocation with the policies of the Forestry Commission who prefer to have the complete freedom of acquiring and afforesting land, even within National Parks.⁷²

Hughes was also of the opinion that a more sophisticated land management is required to ensure that Britain will consistently have the food she needs, occupation for her people, amenities and recreation they need, and habitat for the legion of species who share their land.⁷³

The final view offered here is that given by Howard Newby from his book, "The Countryside in Question".⁷⁴ He stated that agriculture has decisively moved from agriculture to agribusiness, with various changes in techniques. For example the extensive usage of machinery, artificial fertilisers, pesticides and genetic engineering.⁷⁵

He said that it is the Government who is the architect of modern British agriculture and not the market. Thus, it is the deliberate policies of successive governments that cause the mechanisation of agriculture, the exodus of labourers

from the farming industry, the changing population of the countryside and the environmental consequences on the landscape and wildlife of the British countryside.⁷⁶

He mentioned that initial land designations failed because agriculture was exempted. He found it ironic that a system which was designed to protect the landscape for agriculture should have been undermined by farming itself.⁷⁷ He concedes that in order for landscape conservation to be effective, it should not remain in a position where it constantly runs after agricultural change. Therefore, agricultural policies must be formulated in such a way that farmers do not have to choose conservation and profitability.⁷⁸ If this can be achieved it may resolve many conflicts that exist between conservationists and agriculturists. However, this also involves the general public and he is unsure of their reaction as they may be required to reach deeper into their pockets to pay for food.⁷⁹

He asserted that concern for conservation has dominated the thinking of countryside. However, conservation alone cannot provide the social and economic vitality imperative to a thriving countryside. Therefore, rural Britain must be allowed to develop if it is to survive. Although this may involve a progressive shift away from supporting food production and towards promoting appropriate development, he considers it to be a small price to pay for the retention of a beautiful countryside and revitalisation of the rural community.⁸⁰

MALAYSIAN PERSPECTIVE

In Malaysia, the planning system is based on the English equivalent. The governing statute is **The Town and Country Planning Act 1976 (Act 172)**. However the Malaysian version is somewhat limited and with far less provisions. For example, there is no specific provision as regards to trees or matters affecting the amenity of the neighbourhood.⁸¹

The Act sets out two different types of plan for the local authorities to follow. These plans allows a more integral approach in planning. The planning system enables interested parties and individuals to participate in the planning process. At the same time, the judicial system is also able to check upon the discretionary powers of the local authority.⁸²

On the interpretation of 'agriculture' **Act 172** defines it to "include horticulture, farming, the growing of crops, fruits, vegetables and trees, the growing of plants for use as fodder, dairy farming, the breeding and keeping of livestock, fish or bees, and the use of land for the purposes ancillary to any of those activities or to any other agricultural activities; but does not include the use of land as a garden to be enjoyed together with a building attached to the land". This interpretation does not provide the different usage of land such as grazing land, meadow land, osier land, market gardens and nursery grounds; and use of land for woodlands as in the UK Town and Country Planning Act. It generally categorises all this under 'any other agricultural activities'. This would indicate that the scope of agricultural activity is wider in Malaysia.

In relation to planning control, **Act 172** calls for conformity with local plan when using any land or building.⁸³ And once a planning permission is given, only the person to whom permission is granted is allowed to carry out the development of the land in question. Thus each individual who wishes to carry out development on his land must have the planning permission granted in his name. This method of authorising development has been commented to be redundant and burdensome on the administrative machinery as it would have to re-issue permissions to the party who actually carries out the development.⁸⁴

Section 19(2) sets out instances where planning permission is not necessary. Para (c) provides that excavation of any kind including that for wells made in the ordinary course of agricultural operations in areas zones for agriculture would not require planning permission. Here, agriculture is singled out to benefit. Under para (g) the State Authority appears to have sole discretion in determining what material change is and carrying out such material change in the use of land without having to wait for a planning permission. As to what is meant by material change, the Act itself offers no definition. This seems to indicate that the State Authority is at liberty to conduct any change on a piece of land.

Nonetheless, the Act is not fully adopted by all local authorities in Malaysia. Only one-third of the states do so while the rest embrace only parts of it. Fear of radical changes from former planning practices causes this hesitation by states authorities to fully adopt the Act.⁸⁵ According to Mansor Ibrahim et. al., the Town And Country Planning Act in Malaysia is more concerned with land use and controlling development activities. Hence, it fails to give due regard to the actual effects of development itself. The execution of the planning process is too complex, legalistic, bureaucratic and contains major overlaps in function and responsibilities among various agencies within the planning structure. There are too many requirements to be met by a development activity. This leads to confusion among decision-makers thus prevents them from having a clear vision as to the eventual impact on the environment.⁸⁶ The writers also put forth that a new planning system that encompasses use, development and protection of environmental resources be adopted. They also believe that the basis of such system is already in place at present. However owing to difficulties in implementation, a separate legislation that governs all necessary aspects of resources pertinent to Malaysia is required.⁸⁷

Another legislation that needs to be referred to is the **National Land Code 1950**. It sets out agriculture as one of three categories of land. Such alienation of land is endorsed upon the document of title. However the **Land Code** also provides that application may be made to convert such alienation to another category. The process of conversion requires permission from several governmental agencies. Such practice of conversion is prevalent. With the aim of transforming Malaysia into an industrialised country, agricultural land have been converted into industrial and residential land. New buildings, factories, houses and other infrastructure have taken the place where trees and crops used grow. This need of the nation seem to override the betterment of nature itself. Nevertheless, the **Environmental Quality Act 1974** via **Section 34A** allows the Minister concerned, after consultation with the Environment Quality Council, to make orders under the **Environmental**

Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987. As regards to agriculture only three types of development would require an assessment be made. They are : development of forest land of 500 hectares or more into agricultural production; resettlement of 100 families or more due to agricultural programmes; and development of agricultural schemes of 500 hectares or more involving changes in types of agricultural use. It seems that smaller types of development do not require any assessment be made though such development would still have an impact on the environment as a whole.

Nonetheless, perhaps due regard needs to be given to the fact that Malaysian agriculture, despite having undergone changes, is different in itself from agriculture in United Kingdom. Though farming is done, they are different in types and method as the climate and needs of the population are distinct.

CONCLUSION

Indeed there are different views and convictions relating to this subject of planning law and agriculture. Even within a particular group there seems to be different views as to the actual problem and actions to be taken. For example the conservationists in UK. Shord was of the opinion that planners are helpless in controlling the destruction in the countryside. Even if there are restrictions they are only minor in nature. On the other hand, Adams stated that planning controls that exist are sufficient and planners can easily resolve difficult situations as they have the expertise to do so. However, he did express concern as to the effectiveness of these control since the authority involved is farmer-dominated. He also felt that decisions from the central government should not be destructive to the countryside. Ridley expressed a different view when he said that the countryside does not require anymore planning policies as they only cause more destruction. Although he, too, expressed concern regarding the effectiveness of planning policies, he, however, blames "corrupted" developers for this situation.

The agriculturists seem to have a similar view with Adams only to the extent that the present controls are sufficient. However, since they made no mention of the effectiveness of such controls, it is believed that they are satisfied with the situation. The NFU maintained that the flexibility offered by the existing planning controls is important to the need of agri-business.

The third approach also contain various views. Professor Green felt that a better management of the countryside is required. This would include sufficient area put aside for conservation purposes while other areas are allowed to develop to enable those who depend on agriculture for their livelihood to continue to do so. Ball & Bell were of the opinion that there is still room allocated to agricultural activities to continue its destruction of the countryside. They also expressed concern over the fact that local planning authority may not give due attention to the national importance of designation sites.

Then Hughes said that the existing environmental control is uncoordinated where fragmentation of controls occur between the central government, local authorities and quangos. He believed that a better management of the countryside

is required, similar to that given by Professor Green. But he did not offer any suggestion as to how this may be achieved. Finally, Newby suggested that agricultural policies should be formulated in such a way that is neither too lurching towards agricultural activities nor conservation. He, however, is uncertain as to the extent to which the public's willingness to participate as it would involve additional expenses to them.

In Malaysia the situation seems to be no better, in fact very much lacking in terms of planning control. Though to a certain extent, planning does play its role in controlling the development of the country by making non-compliance with planning permission an offence,⁸⁸ it nonetheless does not provide a more stringent safeguard against bureaucratic actions in terms of usage of land. How far such bureaucratic actions are in tune with the actual needs of the nations has yet to be proven.

According to Mansor Ibrahim et. al., in developing countries such as Malaysia economic reason seems to override other factors particularly when planning itself is a politically motivated subject. Incompetencies and lack of understanding among planners as regards to the actual needs of the nation on environmental issues are also to be blamed. The planning system itself needs to undergo changes to do away with various overlaps in function within multiple agencies. The system also has to adopt the role of being environmental conscious planners instead of mere co-ordinators.

In conclusion, it would appear that many share the view that English countryside has undergone a noticeable change since the old farming days of the early nineteenth century. Perhaps the same can be said in relation to the Malaysian countryside. Paddy fields and other agricultural scenes which once coloured the country have been transformed into blocks of concrete and other modern needs. These changes were brought about by the inevitable change brought about by man himself as he seeks to develop for the betterment of life. Unfortunately, it seems that these same changes which have eradicated and eliminated nature which have existed before man himself. Though man has tried to control the further destruction of nature, inter alia, through planning controls, mixed views of this method have been given. The difficult task of striking the balance between development and preservation of nature is a never-ending episode that man has to endure in his quest for development.

NOTES

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1. Beginning with the barter system and continuing with the monetary system that still exist to date.
2. *The Changing Countryside*, Kent : The Open University, 1985; at page 117.
3. *ibid.*, at page 31.
4. This view was put forth by Professor Dennison and C.S. Orwin. *ibid.*
5. Sir Richard Body is Member of Parliament for Holland with Boston. See his paper, "Changing Face of Agriculture", *Town and Country Planning Summer School Proceedings*, 1993, at page 29. For further information on destruction of countryside, refer Lowe, P., et.al., 1986, chapter 3.
6. Lowe, P., et. al., 1986, at page 56.
7. Hughes, D., *Environmental Law*, (2nd. ed.), Butterworth, London, 1992, at page 157. He also mentions the fact that the policy was also responsible to set reasonable prices for consumers but this later proved to be quite the opposite.
8. Lowe, P., et. al., 1986, at page 44-45.
9. Under Regulation 2078/92.
10. Hawke, N., et. al., "Set-Aside : its legal framework and environmental protection", *Environmental Law and Management*, October, 1993, at page 156.
11. The previous scheme required them to rotate the land to be set-aside.
12. Such payments already exist under the previous set-aside scheme which was first introduced in 1988.
13. Hawke, N., et. al., 1993, at page 156.
14. Rydin, Y., *The British Planning System*, Hampshire : Macmillan Press Ltd., 1993, at page 1.
15. Ball, S., & Bell, S., *Environmental Law*, (2nd. ed.), London : Blackstone Press Ltd., 1994, at page 179.
16. Mather, A.S., *Land Use*, Essex : Longman Group U.K. Ltd., 1986, at page 227.
17. *op. cit.* Yvonne Rydin states that the British planning system is extraordinarily shaped by the country's commitment to the welfare state and the impact of Thatcherism which sought to free the market from state control and interference. See Yvonne Rydin, 1993, pages 3-4.
18. Another activity that was exempted is forestry.
19. Lowe, P., et. al., 1989, at page 17.
20. These buildings do not seem to blend in with the surrounding landscape, hence an eyesore.
21. *The Changing Countryside*, *op. cit.*, at page 140.
22. *ibid.*, these measures were introduced by the 1949 National Parks and Access to the Countryside Act.
23. There are also other Acts that are more personalised to certain types of animals, for example the Protection of Badgers Act 1992.

24. For further information refer, Ball, S., & Bell, S., (2nd. ed.), 1994, Chapter 16. See also Hughes, D.,(2nd. ed.), 1992, pages 167-171.
25. One example is the amendment in 1971 with the insertion of Section 52 agreements where the local planning authority is empowered to enter into agreements with landowners restricting or monitoring their development or land use. See *The Countryside Handbook*, Kent : The Open University, 1985, at page 18.
26. Shoard, M., *Theft of the Countryside*, London : Maurice Temple Smith Ltd., 1980, pg. 100-110.
27. *ibid.*, at page 99.
28. The other being forestry.
29. Shoard, M., *op. cit.*, at page 101-102.
30. *ibid.*, at page 103. She in fact mentioned that it is the National Farmers' Union that particularly exploits this situation.
31. *ibid.*, at page 104.
32. *ibid.*, at page 34.
33. *ibid.*, at page 36-37.
34. *ibid.*, at page 50.
35. *ibid.*, at page 60.
36. *ibid.*, at pages 107-108.
37. *ibid.*, at page 108-110. She said that there are three types of minor constraints. The first is the tree preservation order which only imposes a fine for cutting down a tree in defiance of the order and has no power to force a replant. Such preservation order cannot be applied to woodland which is subjected to managing schemes to landowners by the Forestry Commission. The second constraint involves farm buildings where farmers may build a garage without having to apply for planning permission. The third planning constraint concerns the requirement for farmers to give a six months notice to the planning authority before they plough rough moorland or 'improve' it in some other way.
38. *ibid.*, at page 108.
39. London : Allen & Unwin, 1986.
40. *ibid.*, at page 3.
41. *ibid.*, at page 189.
42. *ibid.*, one example of such problem is illegal tipping of waste from mining activities. Such act could easily destroy ecosystems detrimental to numerous organisms.
43. *ibid.*
44. London : IEA Environment Unit, 1995.
45. *ibid.*, at page 31.
46. Hedgerows are considered to be the identity of the English countryside, just like the stone walls.
47. This is the proposition of many lobbyists.
48. London, IEA Environment Unit, 1995. For example if a farmer gets a bonus of 10 pounds for an acre if he has an average of 15 acres or fewer, or if he must pay a 10-pound fine if his average acreage is more than 50 acres, then

on a 300 acre farm the difference would be 6,000 pound. This is less than the cost of replanting.

49. *ibid.*, at pages 77-78.
50. In a 1995 document produced by the NFU Economics Department, the turnover obtained from agriculture in 1994 was 15.92 billion pounds, which was 1.4% of UK's Gross Domestic Product.
51. Statement made by Mr. Mark Jones, a Planning Adviser at NFU, as a respondent to this study in an official letter dated 9th August 1995.
52. *ibid.*
53. *ibid.*
54. *Real Choices*, An NFU Discussion Document by The Long Term Strategy Group, March 1994, at page 70-71.
55. "Planning Process Should Encourage Economic Growth", *Country Landowner*, August 1993, at page 11.
56. *ibid.*
57. Designation under the Wildlife and Countryside Act 1981. According to Colin Reed in his book *Nature Conservation Law* (at p.155), the objective of such designation is to identify valuable sites, to notify those responsible for them of their value and to provide a mechanism whereby changes to the land which might harm that value are considered by the conservation authorities before they take place, offering the opportunity for a range of controls to be agreed or imposed at that stage. [Nonetheless, it is not sufficient in itself] to prevent the landowner/occupier from carrying out his wishes however damaging to the nature conservation value of the land.
58. Designation under the Wild Birds Directive (Dir 79/409).
59. Designation under the Habitats Directive.
60. An conservationist group.
61. "Towards a Rural Policy", *Country Landowner*, March 1995, at page 23.
62. *op. cit.*
63. Green, B., *Countryside Conservation* ,(2nd. ed.), London : E & FN Spon, 1994, page 231-233.
64. *ibid.*, at page 232.
65. Ball, S., & Bell, S., 1994, *op. cit.*, pg.428-429.
66. See hedgerow protection under Environmental Act 1995.
67. Green, B., *Countryside Conservation* ,(2nd. ed.), London : E & FN Spon, 1994, page 231-233.
68. *ibid.*
69. *ibid.*, at page 424. One example of such situation is the outline planning permission granted to a large theme park in Rainham Marshes, the largest SSSI in Greater London in 1990. However, the final outcome of *R v. Poole Borough Council* [1991] 192 ENDS Report 40, where the Secretary of State ultimately revoked the planning permission granted by the Poole Borough Council to itself under Section 100 of the Town and Country Planning Act 1990, seem to show that there is still the possibility for conservation interest to come out on top.

70. Hughes, D., *Environmental Law*, 1992, op. cit.
71. *ibid.*, at page 193.
72. *ibid.*, at page 184.
73. Hughes, D., *Environmental Law*, 1992, op. cit.
74. London : Hutchinson, 1988. This book was designed to accompany the television series *The Countryside in Question* produced and directed by Adrian Brenard for HTV, of which Mr. Newby was the script writer and presenter.
75. *ibid.*, at page 6.
76. *ibid.*, at page 9. He later stated that agriculture, by definition, involves disturbance to the natural ecology. See page 87.
77. *ibid.*, at page 72.
78. *ibid.*, at page 81.
79. *ibid.*, at page 85.
80. *ibid.*, at page 151.
81. Sections 197-198 and 215, respectively, of The Town and Country Planning Act 1990 (UK).
82. Mansor Ibrahim, Amran Hamzah, Ahmad Tajuddin Kechik and Mohd. Rafee Majid, "Environmental Management In The Urban And Regional Planning Process : The Challenges in the 1990s", *Akademika 42 & 43 (1993)*, at page 144-145.
83. Section 18(1) of the Act.
84. Lee Lik Meng, "Planning Control : A Comparison of Malaysian And British Town Planning Law", [1990] 3 MLJ cxxvii.
85. Foziah Johar in Mansor Ibrahim et. al., "Environmental Management in The Urban And Regional Planning Process : The Challenges in The 1990s", *Akademika 42 & 43 (1993)*, at page 149.
86. Mansor Ibrahim, Amran Hamzah, Ahmad Tajuddin Kechik and Mohd. Rafee Majid, "Environmental Management In The Urban And Regional Planning Process : The Challenges in the 1990s", *Akademika 42 & 43 (1993)*, at page 150.
87. *ibid.*, at page 149-151.
88. Sections 18(1), 19(1) and 20 of Act 172.