



DEPARTMENT OF HEALTH AND SOCIAL SECURITY

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From the Secretary of State for ~~Social Services~~ Health

The Rt Hon John Major MP
 Chief Secretary
 HM Treasury
 Parliament Street
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13/10

10/10/88

Dear John,

HEALTH AND MEDICINES BILL : A COMMERCIAL APPROACH TO NHS PROPERTY

I am writing to you to seek approval for the immediate introduction of an amendment to the Health and Medicines Bill to provide powers enabling us to initiate or participate in property developments through limited liability companies or partnerships; and to delegate such powers to health authorities. Perhaps by way of introduction I might describe some of the developments we have in mind.

We do not think it likely that health authorities will become involved in direct property development other than in conjunction with experienced commercial developers. But it is envisaged that the following options should be available (and some of them already are) subject to clearly defined guidelines to be agreed:

- i. to acquire land, whether adjoining or otherwise, which will facilitate the development of surplus NHS land. The value of the surplus site could be enhanced, for example, by being able to facilitate road access, site lines and road junctions;
- ii. to deal with surplus land by the conveyance of a leasehold interest instead of the freehold. The grant of leases could be particularly useful when commercial development is proposed and there is the prospect of a high growth in values. A developer might be willing to pay the full development costs and pay a percentage of the income throughout the term of lease on completion of the development. If it became expedient to do so the NHS interest in the development could be terminated by disposal of the leasehold on the open market.

It would be necessary to ensure that future service proposals, eg hospital extensions or rebuilding, would not be impaired by the granting of leases, the future disposal prospects and returns would not be reduced and that provisions for access were not impaired for the present use and future disposal possibilities.

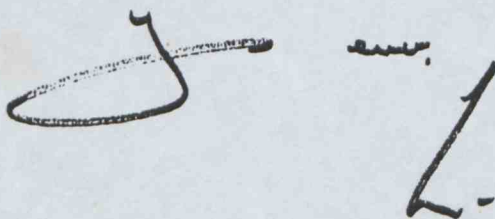
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These proposals reflect a policy that the outright sales of assets may not, in many cases, provide an opportunity for the NHS to maximise the returns available from its property rationalisation programme. We believe that Clause 7 of the Health and Medicines Bill already cover these proposals.

I fully share the view of the Property Adviser to the NHS Management Board that formal partnerships or corporate arrangements provide greater flexibility to land owners, developers and financiers in adjusting to changing market conditions and in dealing with the complications and opportunities that may arise during the development process. In recent years the commercial property market and particularly the most entrepreneurial property development companies and contractors have favoured the formalisation of the commercial arrangements within legal partnerships or joint venture companies. These arrangements seem to be particularly appropriate if one considers the NHS estate, where much of the estate comprises properties of an unusual or expansive nature or which lie within geographical areas where unproven market demand and property market uncertainty exist. The dramatic changes within London docklands and in certain inner city areas suggest that traditional property disposal documentation may be insufficiently flexible to meet changing market conditions. In the event that, in particular, the NHS is unable to form joint venture companies with the private sector an enhanced rationalisation programme will be difficult to achieve other than upon the existing "piecemeal" basis, forsaking the economies of scale, the enhanced availability of development finance and the property development and management expertise which should result from formal partnerships with the private sector.

It is with this advice in mind that I am seeking your approval for the drafting of an amendment to the Bill which would enable us to set up or join in the establishment of limited liability companies or establish legal partnerships in joint ownership with developers. Such a power might also provide for health authorities to set up limited liability companies, with my approval, to promote income generation schemes. You will appreciate that, with Lords Report Stage being on 17 October, we shall have to be in a position to consult Parliamentary Counsel immediately if we are to be able to table a suitable amendment. I am afraid therefore that I must ask for a very rapid response on this question.

I am sending a copy of this letter to the Prime Minister, members of H Committee and Sir Robin Butler.



KENNETH CLARKE