

The consequences of Star Wars on US bases in Yorkshire



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The consequences of Star Wars on US bases in Yorkshire

Held in the Council Chambers,
Leeds Civic Hall

Wednesday 31st October 2001

Convenors: Professor Frank Barnaby and Dr. Dave Webb
Note takers: Rachel Julian and Simon Bowens

Introduction: Professor Frank Barnaby, Just Defence
Welcome: Councillor Frances Jones, Leeds City Council

Contents:

What is NMD? - Nick Ritchie	5
Definitions.....	5
A short history of US missile defences	5
Radars.....	5
So why does the US want extensive missile defences?	6
What concerns are being raised about strategic missile defence? ..	6
The weaponisation of outer space.....	7
To the future: Bush administration policy.....	7
The terrorist attacks.....	7
Conclusion.....	8
Star Wars at Fylingdales - Dave Webb	9
Introduction.....	9
False Alarms.....	10
Past Upgrades.....	10
Environmental Concerns	11
Health Effects	11
International Standards.....	11
ICNIRP Guidelines	12
Challenging the standard.....	12
The NMD Role.....	13
Upgraded Early Warning Radar.....	14
X-band Radar	14
Potential effects	15
Concluding remarks.....	16

Challenging Star Wars at Menwith Hill - Anne Lee 17

Introduction.....	17
Spy Station.....	17
Star Wars Station.....	18
Militarisation of Space.....	19
European Context.....	21
Peace Movement Role.....	22
Women’s Campaign.....	23
Using the Courts.....	23
Legality of Occupation.....	24
The Labour Party and the Left.....	26
Local Council Position.....	27
State Response.....	27
Conclusion.....	28
Appendix.....	29

Planning Considerations - Jamie Woolley 35

US bases and facilities.....	35
Planning Permission.....	35
DoE Circular 18/84 Crown Land and Crown Development Part IV.....	35
Development in a National Park.....	35
Development on the specific sites.....	35
Relevant considerations in considering a planning application.....	36
Environmental Impact Assessment.....	36
Human Rights Act.....	37
Annex.....	37

An Emergency Planning Perspective - Sean Morris 41

Introduction.....	41
Background to Emergency Planning.....	41
The role of local authority emergency planning.....	42
Emergency planning at military sites.....	42
Threats and hazards to the Menwith Hill and Fylingdales bases.....	42
Emergency planning response to an attack/accident on the base.....	43
Other considerations and action.....	44

A National Park perspective - Emma Loat and Geoff Belbin 45

Introduction.....	45
History of National Park Authority/CNP involvement at Fylingdales.....	45
Changes in the MoD and its environmental credentials.....	46
CNP’s & NYMA aspirations.....	47
Role of the National Park Authority.....	47
Appendix.....	48

UK National Political Overview - Mark Bromley and David	
Grahame	51
Blair, Straw and the Special Relationship	51
The Foreign Office and the Ministry of Defence	52
Political Opposition	53
September 11 and the military campaign	54
International Political Analysis - Dave Knight	55
US Security Paradigm	55
Disarmament and Arms Control	56
Post ABM Treaty	57

What is NMD?

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Definitions

A ballistic missile is propelled by a large rocket above the atmosphere and towards its intended target. It then follows a ballistic trajectory and falls back through the atmosphere to strike home. A ballistic missile defence system is designed to detect, track and destroy an incoming enemy ballistic missile at some point along its flight path.

This can be done in one of three ways:

1. A nuclear tipped interceptor missile is fired towards the incoming enemy missile. When it gets close enough the nuclear warhead is detonated. The enemy missile is destroyed through its proximity to the blast. Early Soviet and American missile defence systems employed this technology.
2. A non-nuclear interceptor missile is fired towards the incoming enemy missile. Tracking capabilities are sufficient to allow the interceptor to home in on the enemy missile for a head on collision. The sheer force of the impact destroys the enemy missile. This is cutting edge technology.
3. A high-energy laser is fired at the enemy missile from an aeroplane or space-based battle station. The laser ruptures the enemy missile casing causing catastrophic failure. Air-based laser technology is not thought to be deployable for at least 4 years.

There are many types of missile defence systems. Some are designed to protect small areas and destroy short or medium-range missiles like Saddam Hussein's Scuds. The USA, Russia, Israel, and several European consortiums have developed or are developing such systems.

Other missile defence systems are designed to protect entire countries and intercept long-range intercontinental ballistic missiles. The USA is the only country developing these type of systems.

A short history of US missile defences

Missile defence is not new and political popularity for missile defences is longstanding. The first missile defence system was deployed in 1967 but was immediately taken off line because it didn't work. In the 1980s President Reagan announced the Strategic Defence Initiative, or 'Star Wars' plan, that aimed to place anti-ballistic missiles and lasers in space to destroy thousands of incoming Soviet warheads but financial and technological barriers led to its demise. In 1991 President Bush unveiled the Global Protection Against Limited Strikes, essentially a scaled down version of Star Wars. The latest incarnation, President Clinton's National Missile Defence system, is a further dilution of this, involving only a land-based system to protect only the USA from a very limited number of warheads

Radars

Missile defence systems need radars to detect and track enemy missiles and to guide interceptor missiles to their targets. Current US plans for a comprehensive strategic missile defence system cannot succeed without the use of early-warning and X-Band radars located outside, as well as inside, the USA. Current plans envisage the use of the early-warning and X-Band radar sites at

Fylingdales in Britain and Thule in Greenland, whose foreign policy is administered by Denmark. Britain is therefore involved in US missile defence plans whether it likes it or not.

So why does the US want extensive missile defences?

There are two main reasons why the US wants to build extensive missile defences.

The first reason is the growing threat from nuclear, chemical or biological missile attack from the so-called 'rogue' states, namely North Korea, Iran and Iraq. During the Cold War the USA faced a single massive threat from missiles armed with nuclear, chemical or biological warheads in the form of the Soviet Union. This threat has now changed. The Soviet Union is no more, but nuclear, chemical and biological weapons' technology and ballistic missile technology has proliferated around the world to some undesirable countries. So America now perceives itself to be facing a multiple, diverse, unpredictable missile threat and it no longer believes that the Cold War strategy of nuclear deterrence can be relied upon to protect America in the way that the USSR was deterred. So in order to protect itself from this perceived threat, and so as not to be deterred from protecting its global interests, the USA has decided to develop strategic missile defence systems.

Although the credibility of the threat has been widely questioned, ballistic missile proliferation cannot be ignored. North Korea in particular is a great cause of concern. It tested an intermediate range ballistic missile in 1998 without warning, the debris from which fell close to Alaska, it continues with its clandestine nuclear weapons programme and has pledged to continue its ballistic missile programme. North Korea is also exporting its missile technology to Pakistan and Iran.

The second main reason why the US is developing missile defence systems is the Republican Party. With a 'realist' attitude towards foreign policy and national defence, the Republican Party and has used its majority in Congress for the past six years, and victory in the 2000 presidential elections, to push for extensive missile defences. The result has been the allocation of significant amounts of money to missile defence and the passing in to law of a bill that makes deployment of a strategic missile defence system a constitutional requirement. Deployment is regarded by the Republican right as a matter of principle, regardless of technical difficulties or international repercussions

What concerns are being raised about strategic missile defence?

US missile defence plans are causing concern around the world, particularly with Russia over the fate of the Anti-Ballistic Missile Treaty.

Russia: The deployment of ballistic missile defences is currently limited by the 1972 US-Russian Anti-Ballistic Missile Treaty. The treaty was designed to maintain strategic stability by preventing a further build up of nuclear missiles in response to the missile defences that were being developed by both the US and the USSR in the 1960s.

Washington now wants to renegotiate the ABM Treaty, seen as a relic of the Cold War, to allow development and deployment of extensive missile defences to protect the entire the USA. Moscow says it will not go along with this. In response the Bush administration stated in August that Russia had until November to agree to the necessary changes or the US would unilaterally withdraw from the treaty. It is thought that following close US-Russian cooperation in the 'fight against terror', a compromise may be reached in November.

China: It is causing tension with China where these developments are viewed as aggressive and threatening. China does not believe American intentions are benign, instead Beijing is concerned that US missile defences will eventually be designed to counter its own missile arsenal and is not prepared to let that happen. This rhetoric is given weight by the US quest for 'full spectrum dominance of land, sea, air and space' as outlined in the US Space Command's 1999 document 'Vision 2020'.

Moscow has indicated that it may abandon all previously signed disarmament treaties if its concerns are ignored and, along with Beijing, forgo further dialogue on arms control negotiations and cooperation on non-proliferation.

Europe: European countries are concerned that the international arms control regime will cave in if the ABM Treaty collapses, that international security will take a turn for the worse if there are unresolved tensions around missile defences between America, Russia and China. There is also concern that deployment of missile defences and a weakened arms control regime will spur further ballistic missile and nuclear, chemical and biological weapons proliferation. Finally there is widespread concern that deployment of strategic missile defences will pave the way towards a gradual weaponisation of space.

The weaponisation of outer space

The deployment of strategic missile defences is accepted by the highest levels of US military command as the next step towards the complete domination of space. It makes the prospect of the weaponisation of outer space and the extension of arms racing into this new arena a likely scenario following the deployment of missile defences. In particular this could lead to the deployment of high-energy laser weapons on space battle stations to attack hostile ballistic missiles, and potentially any ground target. The development of the Space Based Laser has been brought forward by about a decade with the first test being planned for 2005-2006.

To the future: Bush administration policy

The shape of a strategic missile defence system, the future of arms control, the size of the US nuclear weapons' arsenal, all of which are intrinsically linked, have yet to be enshrined in policy by the Bush administration. However a number of statements and reports provide a good idea of what the world can expect.

President Bush, Vice-President Cheney, Secretary of State Powell and Secretary of Defence Rumsfeld have stated that this administration will pursue an extensive system that employs land and sea-based missile interceptors, and air-based, and eventually space-based, laser technology.

At present the Bush administration is building a new test site for the land-based NMD system at Fort Greely in Alaska. The Pentagon will build 5 interceptor silos and support infrastructure which, in the event of an emergency could be made operational and constitute a limited missile defence system by 2004-2005. Senior Pentagon officials have acknowledged that this may break the ABM Treaty next year.

The terrorist attacks

The terrorist attacks of 11 September have had a significant impact on the missile defence debate in the USA. Several experts in the US claim the terrorist attacks demonstrate how pointless missile defence systems are when faced with these unconventional attacks. Yet Bush stated on October 11 that "the case is more strong today than it was on September 10". Pro-

missile defence analysts argue that following September 11 terrorists would not hesitate to launch a nuclear, chemical or biological ballistic missile at the US if they had the capability. The chances of this are however, incredibly small. Very few states could do this, let alone a terrorist group. Nonetheless September 11 has hardened the Bush administration's resolve to deploy missile defences and the need for bi-partisan Congressional support against the al-Qaeda terrorist network has quelled Democratic political and financial opposition to extensive missile defence deployments.

Conclusion

To sum up, although missile defence has taken second place to terrorism on the Bush security agenda, it has not gone away. US missile defences to protect troops and defend small theatres of wars *have* been deployed and new systems will continue to be developed and deployed. It looks certain that missile defences to protect the entire USA from long-range strategic missiles *will* be developed and deployed. Whether they work or not is another matter. Nonetheless history has shown that once military contractors and Congress are on board, weapons programmes are rarely cancelled.

If handled badly, these deployments could cause serious friction with Russia and China and precipitate a gradual collapse of the international arms control regime and spur further proliferation. If right-wing US military and political ambitions are not held in check missile defence could easily lead to the placing of weapons in space, ushering in an era of space arms racing and space warfare underwritten by an American quest for absolute security.

Star Wars at Fylingdales

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Introduction

Fylingdales on the North Yorkshire Moors National Park has been the home of a US Ballistic Missile Early Warning System (BMEWS) since the Cold War days of the 1960s. The base is run for the US by the RAF and is one of the 3 stations in a chain linked across the North Atlantic. The other stations are Thule in Greenland - operated by the 12th Space Warning Squadron (or SWS) and Clear in Alaska - operated by the 13th SWS – both components of the USAF 21st Space Wing based at Peterson Air Force Base in Colorado Springs.

The first choice for the UK BMEWS station was in fact Prestwick in Scotland. However, according to a 1959 Report on the State Department negotiations in *Aviation Week*, the British were reluctant to allow it because it was heavily populated area that would become a prime target in time of war. They were concerned about public protest.¹

It is clear that the site at Fylingdales was eventually chosen because it is remote from areas of large scale habitation and also fulfils the stated requirements of:

- a high location with an unobstructed view of horizon;
- being situated in a local depression and away from the sea to reduce the risk of jamming or sabotage.

Under the BMEWS agreement, signed by the then Secretary for Air in 1960, the USAF own and supply the radar, computer and communications equipment and the UK provide the site, power and housing and its own communications requirements and pays for most of the maintenance and operation. Fylingdales was built in 1964 on Ministry of Defence land in the North York Moors National Park. It cost £46 million, £35 million of which was US dollars.

RAF Fylingdales originally consisted of three white spherical radomes (or “golfballs”) 43 metres in diameter. Each radome housed and protected a large radar dish that could be mechanically steered to search for intercontinental ballistic missiles that threatened the North American Continent from the USSR. Two of the dishes tracked from side to side, one at an elevation of 2.5° and the other at 5° above the horizon. Targets found at 2.5° and then at 5° could be a rocket in its boost phase and its trajectory would be tracked by the third radar to determine the point of impact.

At this time an uneasy balance of strategic nuclear weapons was held between the two super powers by setting an agreed limit to each side’s ability to counter a full-scale nuclear attack. In this way, any nuclear first strike would risk Mutually Assured Destruction (a MAD idea in more ways than one). The Anti-Ballistic Missile Treaty (ABMT), signed in 1972 by the US and USSR, set limits on the anti-ballistic systems (missiles and radars) that could be deployed by each side.

Fylingdales operates under the US "Masterplan for tactical Warning and Attack" which lists the aims of BMEWS as being to:

¹ “*The Unsinkable Aircraft Carrier*” by Duncan Campbell, pub Michael Joseph, London 1984.

1. Support and aid the survival of strategic military forces.
2. Provide an accurate basis for (US) national command authority response decisions.
3. Enhance warfighting effectiveness of the strategic nuclear forces.

As well as its Early Warning Function, Fylingdales also forms part of the Space Surveillance Network (SSN), an intelligence network that tracks and maintains a database of space objects (military and civilian satellites and space debris).

Fylingdales is therefore a significant command, control, communications and intelligence installation. Information gathered by the radar installation is fed directly to the North American Aerospace Defense Command (NORAD) in Cheyenne Mountain, Colorado. From there information is passed to the National Command authorities and to Headquarters, Strategic Air Command (SAC). In time of war, it would provide the US President with information on what has and has not been attacked, monitor trajectories of both surveillance satellites and incoming ballistic missiles and allow prioritising and accurate response and targeting on "enemy" satellites and ballistic missiles.

False Alarms

Despite the "state of the art" technology installed at Fylingdales, there have been a number of false alarms. A flock of geese and (on 5th October, 1960) the rising moon (at Thule) have been mistaken for incoming missiles only on last minute checks was the firing of several missiles avoided. On 24th November, 1961 all communication links went dead between SAC HQ and the three BMEWS sites. Was it enemy action, or the coincidental failure of all the communication systems? All SAC bases in U.S. were alerted and B-52 nuclear bomber crews started their engines. Eventually, radio communication was established with a B-52 on airborne alert near Thule. It contacted the BMEWS station by radio and could report that no attack had taken place. The reason for the "coincidental" failure was that the redundant routes for telephone and telegraph between NORAD and SAC HQ all ran through one relay station in Colorado. At that relay station a motor had overheated and caused interruption of all the lines.

In 1979 a full alert was sounded when a 'War Games' simulation tape was loaded by mistake into NORAD computers. Fylingdales warned that a salvo of missiles had been launched against B52 bases from a Soviet submarine in the Pacific. 'Things got very tense'. But no radar targets appeared in the 'threat azimuth' (the angles of the horizon at which a Soviet missile would normally be launched to attack Europe or North America). Details of this error are only known because a reporter witnessed the late stages of alert in a Virginia Air Traffic Control Centre and asked questions.

Past Upgrades

1979 - amendment to the 1960 agreement allowed a further \$1.9 million contract to modernise the tactical operations room to help provide (in conjunction with Defense Support early warning satellites) a Tactical Warning/Attack Assessment directly to the US Joint Chiefs of Staff. The contract was awarded to RCA in June 1979.

1989 - 1992 – it was announced in 1985 that the three giant golfballs were to be replaced by a Large Phased Array Radar (LPAR) in the form of a 40-meter high, truncated pyramid. Each of the 3 faces of the pyramid contains an array of 2,560 aerials, transmitting at 420-450 MHz with a total mean power output of 2.5 Megawatts. It was to cost around £200 million, of which the US would pay 70% (for the radar technology) and the UK 30% (for the operating infrastructure). This contract was awarded to Raytheon - who also upgraded Thule in 1987. Work started August 1989 and the new system became operational in October 1992. Limited by the conditions of the ABMT,

the upgraded radar has a similar output power and the same 3000 mile range as the old one, but is able to operate over a full 360°, rather than 120°.

In addition, CND has always argued that this upgrade was a step towards the implementation of Ronald Reagan's "Star Wars" idea – and that it was in contravention of the ABM Treaty which did not allow the construction of new radars of this type outside the boundaries of the US and USSR.

Environmental Concerns

In a letter concerning the 1989 upgrade sent to the Chair of the Leeds City Council Peace and Emergency Planning Committee on 10th October 1986, M. Webster of the North York Moors National Park states:

".. the present installation at Fylingdales and the proposed modernization are both considered totally incompatible with the National Park, and that Committee deeply regrets the proposal to develop the modernized BMEWS at Fylingdales "

The letter continues, with *"the Committee asks ...[that] ..the government seeks to ensure that in the event of any future modernization being necessary that it is then possible to relocate BMEWS outside the National Park on environmental grounds."*

There is no evidence that any government since then has ever given this any serious consideration.

Health Effects

After the LPAR upgrade, in 1993, an ElectroMagnetic Radiation (EMR) Survey of the area surrounding Fylingdales was commissioned by the Nuclear Free Local Authorities².

The survey was an extension of an earlier report produced in the summer of 1991 and used 23 measurement sites, including moorland paths and tracks, roadside locations and habitations. The survey found maximum field values of about 10Vm^{-1} with typical values around 5Vm^{-1} .

The report concludes:

- *"At no point in the area accessed by the survey is the field strength due to RAF Fylingdales' transmission higher than that recommended in the current UK guidelines for protection against biological hazard from non-ionizing radiation;*
- *In the northerly locations, the new phased array radar has not significantly changed the time averaged levels of field to which walkers and residents are exposed;*
- *South of the transmitter, the levels to which walkers and residents are exposed are now ten times that which they were before the pyramid upgrade became operational;*
- *The threat to vehicles using the A169 from interference to their electronic control systems has been reduced though not eliminated."*

International Standards

Exposure limits for Radio Frequency (RF) fields are developed by international bodies such as the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The ICNIRP is a non-governmental organization formally recognised by the World Health Organisation and has drafted guidelines to protect against RF health effects. They state that: *"Environmental RF levels*

² *"RAF Fylingdales EMR survey: second phase"* by Tim Williams, Elmac Services, August 2, 1993

from radars, in areas normally accessible to the general public, are normally at least 1,000 times below the limits for continuous public exposure allowed by the ICNIRP guidelines.”³

ICNIRP Guidelines

At frequencies in the range 300 MHz to several GHz, there is significant local, non-uniform absorption by the human body – the recommended maximum field levels are shown in Table 1 (where f is the radar frequency).

Table 1 – Reference levels for general public exposure to time-varying electric and magnetic fields (unperturbed rms values)

Frequency range	E-field strength ($V m^{-1}$)	H-field strength ($A m^{-1}$)	B-field (μT)	Equivalent power wave density ($W m^{-2}$)
10-400 MHz	28	0.073	0.092	2
400-2000 MHz	$1.375f^{1/2}$	$0.037f^{1/2}$	$0.046f^{1/2}$	$f/200$
2-300 GHz	61	0.16	0.20	10

A comparison between the survey results and Table 1 indicates that some EMR levels recorded around RAF Fylingdales are in fact quite close to the ICNIRP reference levels – and certainly not “1,000 below the limits for continuous exposure”.

Also, a number of factors significantly alter human exposure to RF generated by radar systems, often by a factor of at least 100:

- Radar systems send electromagnetic waves in pulses and not continuously. This makes the peak pulse power emitted much higher than the measured average or root mean square (rms) power.
- Radars are directional and the RF energy they generate is contained in narrow beams. RF levels away from the main beam fall off rapidly. In most cases, these levels are thousands of times lower than in the main beam.
- Early warning radars are continuously changing the direction of the beam.

Challenging the standard

Some investigation into the accepted international standards is required in order to put these results into some kind of context. A recent report on the Physiological and Environmental Effects of Non-ionising Electromagnetic Radiation for the European Parliament⁴ states:

*“What distinguishes technologically produced electromagnetic fields from (the majority of) those of natural origin is their much higher degree of **coherence**. This means that their frequencies are particularly well-defined, a feature that facilitates the discernment of such fields by living organisms, including ourselves. This greatly increases their biological potency, and ‘opens the door’ to the possibility of frequency-specific, non-thermal influences of various kinds, against which existing Safety Guidelines – such as those issued by the International Commission for Non-ionising Radiation Protection (ICNIRP) - afford no protection. For these Guidelines are based solely on consideration of the ability of radio frequency (RF) and microwave radiation to heat*

³ WHO Fact Sheet N°226, June 1999

⁴ “The Physiological and Environmental Effects of Non-ionising Electromagnetic Radiation”, by G.J. Hyland, Private Treaty No. EP/IV/A/STOA/2000/07/03

tissue, and of extremely low frequency (ELF) magnetic fields to induce circulating electric currents in the interior of the body, both of which are known to be deleterious to health, if excessive.”

The report points out that the frequency-specific sensitivity of living organisms to ultra-low intensity microwave radiation was discovered over 30 years ago in Russia and there the exposure guidelines are approximately 100 times more stringent than those of ICNIRP. It also notes that some symptoms have been reported in epidemiological studies involving humans, animals and plant life connected with a radar operating at 154-162MHz, with a pulse repetition frequency of 24.4Hz - at a location where the intensity of the emitted radiation is *comparable* to that typically found at 150m from a base-station. Additional effects include⁵:

- Depressed nocturnal melatonin levels in cattle⁶.
- Less developed memory and attention span (as well as decreased endurance of their neuromuscular apparatus) of children living within a 20 km radius of the radar, subject to a maximum exposure of 0.00039 W m⁻².
- A six-fold increase in chromosome damage in cows exposed to a likely maximum intensity of 0.001 W m⁻².

(The cited field intensities are estimated from information on the electric field intensity as a function of distance from the radar installation⁷).

The Fylingdales radar operates by emitting a series of pulses and additional, perhaps more serious, problems may arise at frequencies around 17 Hz. As mentioned in the STOA report, this lies in the range of beta brain-wave activity and is close to the frequency of a flashing visible light that can provoke seizures in people with photosensitive epilepsy. It is also the modulation frequency at which *“there is a maximum in the expression of calcium ions from brain cells when they are irradiated with amplitude modulated, low intensity RF radiation over a wide range of carrier frequencies”* and *“any interference ... could well undermine the integrity of the whole nervous system, although the extent to which this actually occurs is, at present uncertain, owing to a lack of the necessary research.”* The pulse repetition frequency of the radar is thought to be 27 pulses per second (at least, this was the documented frequency of the previous system⁸) and it is not known whether there are any similar effects at or around this frequency that need to be examined closely.

The NMD Role

For NMD detection and warning are not enough. Accurate tracking and discrimination between warheads, debris and decoys is required. A "preliminary" architecture published in May 1999⁹ (see Table 2) describes the NMD system as being deployed in two stages. The first stage is to upgrade the current early warning radars – including that at Fylingdales. The second stage includes the installation of an additional radar system – the X-band Radar - at various sites including that of Fylingdales.

We will look at the consequences of each of these configurations in turn.

⁵ Science of the Total Environment; Issue No 180, 1996

⁶ *“Study of Health Effects of Short-wave Transmitter Station at Schwarzenburg”*, by E.S. Altpeter et al., University of Berne, Inst. for Social & Preventative Medicine, August, 1995.

⁷ *“Measurement of the intensity of electromagnetic radiation from the Skrunda radio location station, Latvia”*, by T. Kalnins et al, Science of the Total Environment 1996; **180**: 51-56

⁸ Jane’s Radar and Electronic Warfare Systems, Second Edition, page 62, 1990-1

⁹ *“Inside Missile Defense”*, by M. C. Sirak 19 May 1999, p13 see also The Ballistic Missile Defense Organization web-site - www.acq.osd.mil/bmdo/bmdolink/html and *“NMD Program Fact Sheet”* from BMDO - www.acq.osd.mil/bmdo/bmdolink/pdf/jn9905.pdf

Upgraded Early Warning Radar

Table 2 shows that both NMD configurations involve the US early-warning radars in California, Massachusetts and Alaska and at Thule and Fylingdales. Currently these systems are not able to track targets accurately enough to guide interceptors. The initial configuration involves an Upgraded Early Warning Radar (UEWR) program to give them this capability. This replaces existing computers, graphic displays, communication equipment, and the radar receiver/exciter for NMD. New EWR software would allow the acquisition, tracking, and classification of small objects near the horizon and this data would be passed to other NMD elements using improved communications systems.¹⁰

The UEWRs would be able to search for different types of missiles, distinguish hostile objects such as warheads from other objects, and provide data to other NMD elements using improved communications systems.

The US Ballistic Missile Defense Organisation (BMDO) state that the radiated peak and average power, radar antenna patterns, and operating bands of the UEWRs, is to remain unchanged from current operations.

Table 2 – Preliminary NMD Architecture

	Initial Configuration	Final Configuration
Planned deployment date	2005-7	2011
No. intercepts deployed in Alaska	100	125
No. intercepts deployed in N. Dakota	0	125
Upgraded Early Warning Radars	Beale (Marysville, Calif) Clear (Alaska) Cape Cod (Massachusetts) Fylingdales Thule (Greenland)	Beale Clear Cape Cod Fylingdales Thule South Korea
X-band radars	Shemya (Alaska)	Shemya Clear Fylingdales Thule Beale Cape Cod Grand ForksHawaii South Korea
Satellite based infra-red sensors low-Earth orbit	No	

X-band Radar

The UEWRs will still be extremely limited in their ability to discriminate real warheads from decoys or to deal with other types of countermeasures¹¹. The final configuration of NMD therefore includes the deployment of new high resolution phased-array X-band radars (XBRs)

¹⁰ "Early Warning System Fact Sheet" from BMDO - www.acq.osd.mil/bmdo/bmdolink/pdf/jn0013.pdf

¹¹ See: "Countermeasures" - a report on NMD from The Union of Concerned Scientists at MIT - in pdf format (4.98 Mb) - www.ucsusa.org/arms/CM_exec.html and "Why National Missile Defence Won't Work", by G.N. Lewis, T.A. Postol, and J. Pike, Scientific American, August 1999, pp 36-41 - www.globenet.free-online.co.uk/articles/nmd.htm

which use high frequencies (5.2-8.5 GHz) and advanced radar signal processing technology to improve target resolution. These systems emit a series of electromagnetic pulses over a 50° field of view in azimuth and elevation, and can be rotated to track targets from any direction.

The initial NMD configuration includes an XBR at Shemya in the Aleutian Islands (to cover missile launches from North Korea). The final NMD configuration would include additional XBRs at the current BMEWS sites (including Fylingdales). When fully operational each system will include a radar mounted on pedestal and associated control and maintenance facility, and a power generation facility. It will need approximately 30 to 60 personnel to operate and will encompass an area of approximately 7 hectares (17.46 acres) for the radar alone and would need to be surrounded by a 150 m (500-foot) controlled area (see below).¹²

XBRs have an average power of 170 kW and an antenna area of 123 m², which means a power-aperture product of about 20 million, but they usually incorporate a "thinned" array of only 1/5 of the total possible number of aerial elements (around 81,000) decreases the gain by a factor of 5. In this case more energy goes into radar beam side lobes but does produce a narrower beam and provides greater tracking accuracy.

As mentioned before, these radars are intended for tracking and discrimination. Surveillance would be carried out by the UEWRs which will locate targets within a single XBR beam width - allowing detection and tracking at long ranges (2,000 - 4,000 km) despite the limited power-aperture. The detailed signature analysis for the discrimination of decoys requires a higher signal/noise ratio than that required for tracking and the range at which discrimination is possible would be significantly less than the maximum detection and tracking range

Recently questions have been raised regarding the possible danger to the health of people living close to these installations. The BMDO insists that the microwave leakage from these high power radars is safe – but independent investigations into possible health hazards need to be made.

Potential effects

Health: The XBR BMDO fact sheet¹¹ states that *“The exposure limits established by [the US standard] ANSI/IEEE C95.1 1999 are used to ensure that public health will not be impacted by EMR emitted from the XBR”.*

Two major exposure environments are defined: inside and outside a controlled area of radius 150m. Security personnel would control the area to prevent any unauthorized access. It is claimed that outside the controlled area the EMR will be no higher than the power density levels specified in ANSI/IEEE C95.1 1999. The BMDO provide the following table:

Table 3 – Comparison of EMR exposures (from BMDO¹³)

System	Distance	Power Density (W m ⁻²)	Power Density (mW cm ⁻²)
Microwave Oven	5cm	50	5
X-Band Radar [at fence boundary]	150m	25	2.5
Walkie-Talkie	10cm	25	2.5
Cellular phone	1cm	6	0.6

and state that:

¹² “X band radar Fact Sheet” from the BMDO - www.acq.osd.mil/bmdo/bmdolink/pdf/jn0019.pdf

¹³ “X band radar Fact Sheet” from the BMDO - www.acq.osd.mil/bmdo/bmdolink/pdf/jn0019.pdf

“There is a possibility that EMR may effect television reception out to a distance of 4 kilometers (about 2.5 miles) from the XBR and that occasional static may occur in some radios out to 7 kilometers (about 4.3 miles) from the XBR.”

However, the projected power density level is higher than that recommended by the ICNIRP guidelines for radars (Table 1).

Flight Restrictions: The BMDO claims that *“the XBR does not require any restricted airspace or impose any flight restrictions. However, a radio frequency radiation area notice should be published on the appropriate aeronautical charts notifying aircraft of a 6.7 kilometer (3.6 nautical mile) radius high energy radiation area around the proposed XBR site”*.

Wildlife: The BMDO also claim that wildlife will not be adversely affected. Although there is a potential for higher levels of exposure to birds flying through the main XBR beam, they claim that this exposure would only be for a short time and *“time-averaged power densities would not raise body temperatures or cause adverse biological effects”*. However, this claim is not in agreement with the European report cited earlier.

Concluding remarks

The use of Fylingdales for Star Wars gives rise to a number of concerns. Specifically:

- It would mean changing or abandoning the ABM Treaty – which is seen by many as the “cornerstone of strategic stability”;
- It would enhance its status as a target, especially in times of war or international tension;
- It has associated environmental effects from electromagnetic radiation that need further investigation – a fresh EMR survey of the site is needed to update and re-examine the data collected 8 years ago – especially as the accepted international standards are being challenged; more studies are also needed on the extent and effects due to the low frequencies around the pulse repetition rate (27 Hz) as these may be particularly harmful to biological organisms;
- The introduction of the proposed X-band radar would, according to the BMDO's own figures, mean an unacceptable increase in the EMR, taking levels above those recommended by International Standards and much higher than recent reports indicate as desirable. Such a system could therefore result in an increased danger to local inhabitants and wildlife.

Much more research is required into the extent of EMR pollution at Fylingdales, the effects of these EM fields at the frequencies encountered and a much more in depth study of the health effects of the proposed X-band radar system.

Challenging Star Wars at Menwith Hill

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Introduction

This article scrutinises some of the strategies for developing the campaign of opposition to the USA's National Missile Defense [NMD] popularly labelled 'Star Wars ', in the context of recent campaigning to close Menwith Hill, one of the bases crucial to the NMD project. The article examines firstly an assessment of the objectives, including some of the obstacles to be overcome and secondly, an appraisal of some recently applied methods for achieving the objectives, with some consideration of future approaches.¹⁴

Necessarily this is a subjective examination of the effectiveness or otherwise of a number of courses of action: I can write only about those campaigns of which I have personal experience. My experiences have been gained from 40 years participation, as a left-wing peace activist, in various progressive struggles. In addition to campaigning for nuclear disarmament, I have been involved in support of the miners during the 1984/5 strike, the Greenham Common Women's Peace Camps and the anti-Poll Tax Campaign. Currently I am committed mainly to the women-only non-violent direct action [NVDA] campaign to close Menwith Hill, but also support other campaigns with similar objectives. As a result of my actions I have served 4 short prison sentences. Until 1999, when the peace camp was evicted and some of us were placed under High Court Injunction not to camp near the base, I had lived for nearly 5 years outside Menwith Hill, at the WoMenwith Hill Women's Peace Camp. The caravans have gone, but 'those bloody women ' continue their opposition.

Spy Station

*"...MHS is the largest field station in the Agency & as such represents a multi-billion dollar investment in SIGINT systems."*¹⁵

Protection of its secrecy is of paramount importance to Menwith Hill's spying operations. It is no advantage to the USA if the 'intelligence' gathered is public knowledge. Moreover the NSA is conscious that its COMINT activities contravene UK and International Law, a fact they are anxious to safeguard from public scrutiny. The UK Government, which believes that to do so is in the national interest, countenances the concealment. For years the British public was comfortable with the idea that Menwith Hill functions as an 'Early Warning Station', essential to the defence of the UK. The UK Government did nothing to dissuade such a belief. Later, when questioned, the official government response was:

*"...a communications relay station engaged in research ..."*¹⁶

¹⁴ This is not intended to be a definitive analysis but rather a basis for further deliberation. I would not have the arrogance to presume that I could produce a blueprint, or even guidelines, to tell people what or what not to do - this is not a 'control-freak' ego-trip! - Anyway is it ever possible for 2 people to agree entirely about a policy?

¹⁵ Quote from a 1993 letter found in the base, from Menwith Hill's Director of Installations & Logistics to National Security Agency [NSA] HQ - SIGINT is a combination of communications and electronic intelligence [COMINT & ELINT].

It was Duncan Campbell who, in 1980, first exposed Menwith Hill's US NSA SIGINT operations. He also publicised the Tory government's collusion with the NSA over the '*Zircon Affair*' in 1987 and he produced the 1993 Channel 4 TV Dispatches programme, *The Hill*, which revealed that the NSA's COMINT is for economic benefit of the USA, in addition to its ostensibly military purposes.¹⁷

Star Wars Station

It was in 1993 that the first infrastructure components of the 'Star Wars' programme at Menwith Hill were installed.

It is now over three years since Duncan Campbell recognised that the latest developments at Menwith Hill and their designation as '*European Ground Relay Station*' for the '*Space Based Infrared System*' [SBIRS] are an essential component of the USA's Ballistic Missile Defense [BMD] programme. BMD is part of the USA's planned National Missile Defense System. He attached the label '*Star Wars*' to the latest installations.¹⁸

Much has happened in the intervening period. NMD is designed to be a 'shield' for the United States, from behind which it can attack other nations without fear of any retaliation from Intercontinental Ballistic Missiles [ICBMs]. The suicide attacks on the Pentagon and the World Trade Center in New York on September 11 2001 demonstrate that the USA's aggressive imperialist policies will invite 'terrorist' retaliation from which a 'Star Wars shield' is no protection. It also demonstrates that the MHS COMINT systems failed to detect any 'terrorist' plans.

NMD is in contravention of the Anti-Ballistic Missile Treaty of 1972 & the Outer Space Treaty of 1967. The latter was signed by 91 nations including the USA, forbidding the military exploitation of space. Most of the world's nations have been quick to condemn 'Star Wars'. They can recognise it as an offensive system directed at any nation opposed to US imperialism: directed at any nation 'unfortunate' enough to be endowed with assets desired by the USA, particularly oil. There is international recognition that 'Star Wars' will generate proliferation of nuclear and non-nuclear genocidal weapons. Nations identified as targets will try to protect themselves; a new 'arms race' will develop; there will be increased possibility of 'terrorist threats' and the increased likelihood of accidental nuclear war.

Briefly, the SBIRS component of NMD is part of the surveillance system, which will also include radar stations such as Fylingdales, designed to give early warning of, and track, ICBMs aimed at the United States. SBIRS is planned to consist of constellations of High Earth Orbit and Low Earth Orbit satellites, which would transmit their information via the Ground Relay Stations, such as Menwith Hill, to the USA's 'shooter' systems, which would then respond by launching a 'killer' intercept missile.

The revelation that the 'attack' missile, in the 'successful' BMD test of July 2001, carried a beacon signalling its location to the 'killer interceptor' indicates that the current SBIRS tests are causing

¹⁶ [q.v.] 'research' is actually a euphemistic cover-up for spying. The statement betrays knowledge of the NSA's COMINT collections - but it is not exactly a lie.

¹⁷ Further information about Menwith Hill Station's technology, function & future role, can be found on the Yorkshire CND website www.yorkshirecnd.org.uk, in *What Goes on at Menwith Hill?* [Dave Webb, 2001] and *The UK's Role in Star Wars* [ibid]. The information has been compiled from various first-hand and published sources, which are meticulously annotated.

¹⁸ *Star Wars Strikes Back*, by Duncan Campbell, *The Guardian*, December 3, 1998 - he also acted as consultant to *Uncle Sam's Eavesdroppers*, produced by Richard Saddler & broadcast on BBC2 the same evening.

more problems than anticipated. The proclaimed 'successful' December 2001 test appears to be capable of deployment only in good weather!

The SIGINT systems are part of the surveillance which would provide advance intelligence that a missile was due to be launched. SBIRS would monitor the launch and track the trajectory. All the information would be relayed to NSA's DEFSMAC [Defense Special Missile and Aeronautics Center] at Fort Meade in Maryland. Thus the whole of MHS is a component of NMD.

Militarisation of Space

In the longer term the US Space Command's plans conceive of nuclear-powered laser weapons on orbital battle stations, which could target any orbiting space object, such as a communications satellite, and locations anywhere on the earth's surface. *Vision 2020*, US Space Command's forward planning document, is only one out of a huge number of similar, expensive glossy brochures and Internet publications issued by the US Army, Navy, Airforce and Space Command. US Department of Defense [DoD] contractors such as Lockheed-Martin, Boeing and Raytheon, openly brag about the capabilities of their military space systems. They reveal the extent to which vast resources are being expended and the huge vested interests involved, in constantly developing 'new improved' military support space systems - in developing 'Star Wars'. For example, related to Menwith Hill, DoD contractors construct and control the SIGINT satellites; they build and run the technical side of ground downlink stations such as Menwith Hill; they install and maintain the computers, which select, store and analyse the data. Some of their employees thus engaged have been positively vetted and security cleared for 'access' to Top Secret Sensitive Compartmented Information [TS/SCI].

In *Vision 2020*, US Space Command makes no secret of the USA's imperialist motives: "...in the 21st century the gap will widen between the haves and the have nots ..." Its mission is "... dominating the space dimension of military operations to protect American (i.e. USA) interests and investments..." [my parenthesis].

The US military leaders recognised their dependence on space systems after their use in the Gulf War, 1991. Menwith Hill won an award for the role it played "...in support of Desert Storm/Desert Shield...".¹⁹ The information and communications superiority supplied 'in near real-time' to the NATO battlefield commanders determined that the domination of orbital space is now a priority in the waging of war. US Space Command issued a self-congratulatory Press Release describing the part played by its satellites and ground systems for '*Command, Control, Communications, Computers and Intelligence*' [C4I] in Kosovo. MHS is certainly engaged in supplying information to military leaders for the strikes on Iraq and Afghanistan. Orbital space has become the new arena for future colonialist wars.

UK Government Role

The USA's 'Star Wars shield' is totally dependent on 'early warning' of ICBMs incoming to the USA provided by SBIRS and radar systems at bases located far outside that continent. The UKUSA Agreement of 1947 [part of the price that Britain continues to pay for the US support during the 2nd World War] allows the USA to use facilities in the United Kingdom, Australia, Canada, New Zealand and Diego Garcia for global SIGINT and 'intelligence sharing'. The NATO Status of Forces Agreement, 1951 [q.v.] allows the stationing of US troops in the UK, one of the signatory countries.

The realisation that '*Star Wars*' cannot function without the support of the UK has been a major factor in the development of the grass-roots opposition in Britain. There is now widespread public recognition that the 'shield', which will protect the USA, will provide no such protection to those

¹⁹ *The Station Break*, MHS in-house magazine

elements of the system located elsewhere and that this exploitation makes the host countries vulnerable to retaliatory attack from enemies of the USA. At a public meeting, held in Harrogate on September 7th 2001, Duncan Campbell revealed that those components of the SBIRS system, already constructed on the south side of Menwith Hill ²⁰ are intended for the 1st test stage of SBIRS Low. At MHS they consist of two 'golf-ball' radomes, codenamed '*Grapnel*', Support Buildings, the extension of the 'Steeplebush II' [SB II] Operations' Centre, codenamed '*Castlemaine*' & fibre-optic cables.

The chronology indicates that the Steeplebush II building was erected with the intention of it being used as the control centre for MHS SBIRS. If so then the NMD infrastructure was being installed several years before any member of the UK Parliament was aware of it. In 1994, the Ops Administrative Staff temporarily moved out of the Personnel Center [PC5] and into Steeplebush II, when it was completed. PC5 has been partly demolished to allow erection of a much larger '*Mission Support Building*', the plans for which were submitted at the same time as the SBIRS project. Steeplebush II, a massive, reinforced Operations Building, was never designed as an office block! Amy jogged through the building in 1995 ²¹. After she'd trotted past the offices and the Hardware & Software Engineering Laboratories ²² she discovered that SB II was empty apart from some cardboard boxes, rubbish and bits of wire.

During the previous 10, or so, years of the research and development phases of the USA's NMD plans, the UK Parliament, which we 'democratically' elect to rule, has never been consulted formally about, nor even informed of, the proposals. In 1994, when the first sections of the cable conduit were installed along the A59 road ²³ was any member of the UK Parliament or Government informed about its purpose? Who was 'in the know' about the USA's NMD programme and its implications for the UK? Who was 'in the know' that MHS, which already has 29 'golf balls [soon to be 30] might shortly acquire many more?

Since the December 1998 exposure that the use of USA-occupied bases located in the UK is integral to the US Star Wars programme, the unrelenting pressure of the peace movement and extensive media coverage has forced the debate into the public arena. The Labour leadership has been obliged to make an admission, acknowledging the fact to Parliament.

The UK Government continues to insist that it has not granted permission for NMD because it has not yet been requested and it won't be requested until NMD is passed by the US Congress. There is no doubt that the UK Government is anxious to concede. A compliant majority in Parliament will support it. This begs the question of the legality of such 'permission'. The US occupation of Menwith Hill was agreed in December 1951, under the terms of the NATO Status of Forces Agreement [SoFA] signed in London on 19th June 1951. As the NATO SoFA was not ratified until 1952, even the legitimacy of the original US occupation is in question! [It could very easily be renegotiated?] We are currently seeking a Legal Opinion about the legitimacy of the SBIRS installations at Menwith Hill. We believe that the terms of the NATO SoFA cannot authorise non-NATO projects such as the US NMD. We suspect that this is why 'permission' has to be obtained from the UK Government - since when did the USA seek 'permission' for any other projects at MHS? We believe that the terms of the NATO SoFA would make it unlawful for the UK Government even to grant such 'permission'.

There is also the question as to whether the UK Government is free to make such a decision. Some anti-'Star Wars' peace campaigners and even sections of the Left Wing press, assume that it would be possible to persuade Blair to say "No"; that he personally would respond to reasonable argument and strength of feeling, as if the decision were the prerogative of the Prime

²⁰ And also at Pine Gap in Australia and Buckley '*Mission Control*', Denver, Colorado

²¹ A story recounted elsewhere in the annals of WoMenwith Hill!

²² Now called MOSAIC, i.e. '*Menwith Operations Systems Analysis & Interface Connection*', run by DoD contractors, ManTech International – relocated to Mission Support Building.

²³ Connected to the SBIRS Ops in '*Castlemaine*' in 2000

Minister. It's not that simple. Tony Benn has described the much-vaunted 'special relationship', which exists between the USA and UK:

"...based on the fact that the US supplies us with nuclear weapons and allows us to pretend that we have an independent deterrent...in return the US controls our intelligence services and dictates our foreign and defence policies..."²⁴

Tony Benn has since argued that the UK's inextricable involvement with the USA's military programme, means that the UK Government has no choice but to host 'Star Wars' - unless it were to cancel Trident nuclear-armed submarines! It is obvious that the USA is not going to allow any other nation to purchase its nuclear weapons unless it has total control of them - the guidance system for the Trident missiles is on US satellites. Thus they are unusable without the consent of the USA.

It would appear that the UK Government is in a cleft stick. It cannot lawfully grant, nor can it, in present circumstances, deny, permission to use the US bases for NMD. It is maintaining the pretence that it has the power to make an independent decision, by stalling on the issue that there has been no formal request for the use of the bases.

In early 2000 Anne Lee and Helen John asked the UK Secretary of State for Defence, Geoff Hoon, *why* the 'Star Wars' SBIRS installations had been approved at Menwith Hill.²⁵ The reply from John Spellar, then Minister of State for the Armed Forces, admitted that SBIRS would be a component of NMD, if the USA decided to implement it, but, he stated, if not, then SBIRS would be necessary to NATO and UK national security. When the Planning Application [q.v.] for SBIRS at Menwith Hill was submitted to the Harrogate Borough Council's Planning Department on June 19th 1997, it was accompanied with a statement issued by the UK Ministry of Defence [MoD] welcoming the SBIRS developments.²⁶ It is apparent that the MoD had no concept of the SBIRS NMD implications, nor that there would develop a powerful anti-'Star Wars' lobby.

European Context

The subservience of the UK Government to the USA has been demonstrated recently in connection with the announcement of the closure of the US NSA's eavesdropping station at Bad Aibling in Bavaria, 'partner' base to Menwith Hill, and its proposed transfer to the UK - presumably to Menwith Hill. The move is by no means voluntary, but has been forced on the US NSA in response to the European Parliament's investigation into the ECHELON global COMINT system. In 1999/2000 the European Parliament [EP] acted on revelations that the NSA's SIGINT activities in Europe were not entirely directed at the interception of Eastern European military communications, but that the NSA was eavesdropping on its ostensible 'friends' and by doing so is in contravention of the European Convention on Human Rights [ECHR]. The Committee investigated the allegation that NSA engages in economic espionage, provides 'industrial espionage' information to the advantage of US capitalists, in competition with European business interests.

The EP commissioned a Report: "*Interception Capabilities 2000*", written by Duncan Campbell, which reinforced their suspicions that Bad Aibling is garnering commercial information in addition

²⁴ Testimony to York Crown Court on behalf of Helen John and Anne Lee - appeal against conviction for trespass at Menwith Hill, September 1997

²⁵ In order to bring any matter to the attention of a government Minister, the procedure is to get the enquiry sponsored by an MP: fortunately our constituency MP, Harold Best, is a member of CND and opposed to 'Star Wars'

²⁶ Planning Applications to the local authority are a formality and for information only, although the Planning Department goes through the mockery of a democratic 'public consultation' and consideration by the Council

to its NATO support role. In July 2000 the EP established a one-year Temporary Committee of Inquiry to investigate the allegations about ECHELON. The Committee's Draft Report, which was leaked in May 2001 and widely publicised, confirmed the NSA's commercial spying. It also concluded that the indiscriminate COMINT is a violation of Article 8 of the ECHR [the right to privacy] also incorporated into the UK's Human Rights' Act, 1998. The EP debated the Committee's findings in September 2001. It endorsed a number of recommendations.

The EP's recommendation, that the UK & German Governments establish scrutiny and monitoring procedures to ensure that the US NSA complies with the law, put the German Government under pressure, from e.g. the Greens, to kick out the NSA.²⁷ It is apparent that the USA decided to abandon its Bad Aibling listening post before the row blew up into overt official notice to quit. A letter from the US Embassy to the German Government states that the departure is " *...to maintain good relations...*" It is apparent also that there will be no objection from the UK Government to the transfer of Bad Aibling's COMINT operations to the UK. Now, as part of '*the war on terrorism*', the Pentagon has applied for a reversal of the decision to quit Germany and has been granted a two-year extension of its occupation of Bad Aibling.

Some of the anti-'Star Wars' campaigners find the action of the German Government encouraging. If they can force removal of the Bad Aibling base why can't we persuade or pressurise the UK Government into removal of Menwith Hill? As analysed by Tony Benn, the UK Government's relations with the USA are on a very different footing from Germany's. He was in a position to know 'inside information' about the control the USA exercises over UK policies because he was a Cabinet Minister, Secretary of State for Energy, in which position he was responsible for overseeing the nuclear power stations, which also produce the fissile material for nuclear warheads. Although he maintains that members of the UK Government are deliberately kept in ignorance of 'sensitive information' by the Intelligence Services, there are occasions on which such information is unintentionally revealed - such as when his US counterpart discussed confidential matters of which he assumed Tony Benn was aware.²⁸

The 'justification' for the Bad Aibling spy base no longer exists. It was part of NATO's post-war occupation of West Germany and of its COMINT spying on the socialist German Democratic Republic. Germany is in a position to make an independent decision. It is not bound by the UKUSA arrangements, nor has it handed over control of its policies in exchange for Trident. Despite the evidence that the NSA's COMINT is in contravention of UK law, there has been no official objection to the transfer of Bad Aibling to Menwith Hill. Helen John has made approaches to supportive MPs to investigate raising the issue in Parliament and whether the regulations governing entry of asylum seekers to the UK cannot be applied in this case!

Peace Movement Role

There are thus enormous obstacles to achieving a change of UK Government policy on the 'Star Wars' issue. The peace movement needs to consider whether it is realistically possible to effect such a change of policy and - what impact it would have on the USA's decision to deploy NMD. We need to scrutinise what we hope to achieve and analyse how it is possible to do so. We need to examine the traditional methods of campaigning and assess their effectiveness. It is never a total waste of effort and energy to organise demonstrations, petitions, lobbies, publicity stunts, etc, although it is difficult to assess what could be achieved by e.g. waving placards at the Main Gate of Menwith Hill or dressing up in Darth Vader outfits outside Fylingdales. The Greenpeace 'invasion' of Menwith Hill, on July 3rd 2001, was a non-violent direct-action publicity stunt on a large scale, which generated international publicity. The value of such tactics is that they try to

²⁷ The German economy is experiencing retrenchment. There is high unemployment. The euphoria attendant upon the re-unification of Germany is evaporating

²⁸ The evidence Tony Benn presented to the York Crown Court in September 1997 consisted of extracts from unpublished sections of his Diary- contemporaneous notes of events

identify supporters, publicise issues and demands but cannot be effective to influence any government decision unless they mobilise mass opposition [as in the anti-Poll Tax Campaign].

Women's Campaign

A markedly different element was introduced into peace campaigning on September 5th 1981, when women set up the Women's Peace Camp at Greenham Common. The State had no previous experience of uncompromising, principled, women-only, non-violent direct action resistance. There was no doubt that, initially, the Tory Government underestimated the impact of the women's protest. Even today there is still a conditioned male response, which sees women's actions as less significant than male. The women were not, at first, perceived as a 'threat' - not until their presence became a focus for the attention of the world's media because they were women-only. The women put the focus on the effects of genocidal weapons of mass destruction on the lives of women and children. The women also argued that, even if the weapons were not used, the resources expended on them deprived many of the world's women and children of the necessities of life.

The Greenham Women became an inspiration for the peace movement internationally. The women's physical, but non-violent, confrontation of the land-based, mobile, nuclear-armed US Cruise Missiles made it impossible for those weapons to be deployed. The launchers were designed to 'disappear' into the English countryside in the dead of night, so that the 'enemy' [the USSR] would not be able to detect the missile launch and would not have time to retaliate before they were 'wiped out'. Secrecy was essential to the military operation. In practice, each time they tried to 'sneak out' the Cruise convoy on exercise, it left Greenham Common in the glare of publicity. The women made 'Greenham Common' a 'household word'. What most of the women did not anticipate, was the empowerment that Greenham gave, and continues to give, to peacewomen. The USA was very relieved to bargain away their land-based Cruise missiles as part of the Intermediate Nuclear Forces agreement with the USSR in 1987. The women were given no official recognition for their removal!

The WoMenwith Hill Women's Peace Camp, which was initiated in 1993 by Helen John, who was one of the founders of Greenham Common Women's Peace Camp, was based on the same principles of women-only non-violent direct action. It has done much to expose, to lift the lid on the secrecy, which is essential to NSA's eavesdropping operations at Menwith Hill. Some aspects of the women's peace campaign have proved to be very 'successful' in terms of raising the issues and focussing the media's attention on Menwith Hill. These are worth closer examination for two reasons:

- i) We can analyse a strategy's effectiveness and consider its relevance to future actions,
- ii) It is useful to examine how the State responds to high-profile campaigns - and be forewarned!

Using the Courts

One powerful line of argument is to put the State in a position where it has to defend its complicity with the illegal operations at Menwith Hill. The use of the law courts is one platform which can be used to expose the illegality - to 'lift the lid on the secrecy'. The strategy has its limitations - it should be recognised that the Judiciary is an arm of the State and will act to support it.

In his Judgment of 5th September 1997 [q.v.] Judge Jonathan Crabtree could state: *"It is said that wholesale breaches of the Interception of Communications Act 1985 and of the European Convention on Human Rights must be going on ...on the face of it, it rather looks as though Mrs Baird [Helen John's Barrister] may be right in this contention ...as a matter of law, the fact that some sort of illegality may be going on at a military base is not our concern. An illegality of some kind is doubtless going on ... but it does not invalidate the laws governing the places."*

It is possible to effect a change in the law, enacted by Parliament, by amendment or invalidation through High Court precedent and further scrutiny by the Law Lords. The legal process is long, tedious and can be ruinously expensive, except for those who possess nothing.

The WoMenwith Hill peacewomen have been engaged in a number of trials, which have attempted to get the courts to examine the legality of the NSA's operations at Menwith Hill. The following accounts are a representative sample to illustrate the strategy. Resulting from their non-violent direct actions at the base, 18 women from WoMenwith Hill Women's Peace Camp have served prison sentences. Many more have been arrested, spent time in police custody and defended themselves in court. Many women have not been arrested but have acted to support the women who are. The WoMenwith Peace Camp[aign] is dependent on the financial support of many women who have never physically been to the camp. Although, regrettably, limitations on the length of this article preclude an account of all the peacewomen's actions, yet it must be acknowledged that the WoMenwith Women are principled, courageous and have the integrity to foresee and face the consequences of breaking the law.

For clarification a selection of events is presented in the Appendix in chronological order.

Legality of Occupation

The legality of the US NSA's occupation of Menwith Hill has been questioned in the courts. The 2 most recent cases are examined here, for others see the Appendix:

- A. the High Court hearings about Injunction of the peacewomen and 2nd eviction of the camp;
- B. the legality of 'Star Wars' was questioned in the case brought against women who cut the fence erected to protect the SBIRS developments.

A. High Court Hearings

November 17th 1997: North Yorkshire County Council, issued a High Court Writ seeking an Injunction to stop any peacewomen camping near Menwith Hill. A High Court Writ has to be served on the individuals; it cannot be served on an anonymous 'camp'. The names of 13 peacewomen were supplied to NYCC by the MoD police in the base [q.v.]. The MoD police had names only of women recently arrested at MHS, not all those resident at the WoMenwith Peace Camp.

December 13th 1997: Only three of the named women who had been identified appeared in court. The case against the women was brought by the NYCC Highways' Authority, owners of the Kettleing Head lay-by land. They alleged that the camp was causing an obstruction of the highway, was an unlawful encroachment on roadside waste and that it was a danger to users of the highway because it was a distraction to motorists. The peacewomen maintained that the European Convention on Human Rights gave us the right to assemble and protest about the illegal operations of the NSA at Menwith Hill and that legal precedent established that such protest was 'reasonable user' of the highway. The case was adjourned to allow written Affidavits to be prepared.

Between **December 13th 1997** and **July 14th 1999** there were five High Court hearings and hundreds of pages of documents. The case was seen as a 'test case' as it was the first time the Human Rights' Act 1998 was used to support the defence.

June 22nd 1998: Mr Justice Hooper granted the NYCC an Injunction to stop three named women, Jenny Gaiawyn, Helen John and Anne Lee [the only women the NYCC had positively identified for service of Writ] from residing overnight in the vicinity of Menwith Hill. The NYCC had omitted to apply for a Repossession Order for the land! WoMenwith Hill Women's Peace Camp

continued. The camp by this stage consisted of 10 caravans and a 'mobile home' static van. *The Sticky House*, used as a communal kitchen/social area. [The caravans included *The White House* and *The Winter Palace*].

October 29th 1998: The judge adjourned the application hearing to await the November 1998 enactment of the Human Rights' Act, which was relevant to the case. Provisionally he issued a High Court Order giving 28 days notice to remove all caravans but one.

November 27th 1998: The NYCC had maintained in their case that the camp was permanent, so, in order to demonstrate that it could be removed at will, the peacewomen removed all 10 caravans and all paraphernalia for outdoor living, except for *The Sticky House*. We demonstrated that the site was undamaged and unpolluted.

February 5th 1999: It emerged during cross-examination of the NYCC Highways Authority's Chief Maintenance Engineer, who was under oath, that all documentary evidence relating to the local authorities' collusion with Menwith Hill had been deliberately withheld from the peacewomen. The judge adjourned the trial and ordered 'discovery' of all correspondence within one week. The NYCC 'discovered' 61 relevant documents, which revealed that the instigation for the eviction proceedings came from the Menwith Hill authorities. Also exposed was the MHS MoD police 'smear' report, which castigated the peacewomen and had been used by MHS as justification for their application to evict the WoMenwith Hill Peace Camp. The peacewomen submitted a further affidavit arguing that the State is aware of the illegal operations at Menwith Hill and was thus guilty of covert unlawful collusion with the US NSA, which was tantamount to abuse of process.

July 14th 1999: Mr Justice Hooper granted NYCC repossession of the land at Kettleing Head, but he acknowledged that the WoMenwith Hill peacewomen are honest, sincere and possibly raising issues of public concern. He authorised that the peacewomen could have a daily presence in the lay-by, provided that the women do not reside there during the hours of 11 pm to 7 am.

B. Star Wars Legal Challenge

June 19th 2000: On the third anniversary of the submission of SBIRS Planning Applications to the Harrogate Borough Council, three women, Angie Zelter, Helen John and Anne Lee, cut through a gate in the sound-alarmed security fence recently erected to protect the SBIRS developments. The women gained access to the Operations' area of the base before being apprehended by the MoD police. The action was widely publicised as it had been filmed for regional TV news.

October 30th/31st & December 15th 2000: The defendants admitted cutting the fence but in this trial we abandoned our usual 'lawful excuse' defence that we were attempting to prevent the greater crime [i.e. NSA's] under Section 5(2)(b) of the Criminal Damage Act 1971. Instead we used a defence under Section 5(2)(a) of the same Act, and maintained that if the owners of the property [the public] were aware of all the circumstances relating to the offence, then they would have consented to the damage. This defence required that we prove that the fence belongs to the public - the UK MoD holds it in trust for the people in the same way that the Highways' Authority 'owns' the 'queen's highway'. Although the US NSA purchased the fence, paid for its erection and is the user, it does not 'own' it. This is a convenient arrangement for the US military, as, when they no longer have any use for a base, they can merely switch off the systems, walk out and take no further responsibility. Thus, at Greenham Common the US left the UK authorities to foot the bill for the clean up of the pollution they left behind.

We presented evidence of the SBIRS developments and the preliminary findings of the European Parliament's ECHELON investigation as proof that what is going on at the base is being withheld from public scrutiny [it's top secret]. We asserted our sincere and honest belief that the public would support our action if they knew the truth. District Judge Browne, in summing up stated that we had not satisfactorily established that this was our state of mind at the time the damage was committed, but in this case he made a mistake. The 'burden of proof' was on the prosecution to

establish *'beyond all reasonable doubt'* that this was not our state of mind at the time the act was committed! At this point the District Judge had to admit he was in error. He ordered a re-trial, although technically we should have been acquitted.

May 6th 2001: The case was retried before District Judge Joanna Alderson. Angie did not attend the hearing. We were convicted, but sentence was deferred for 3 weeks to permit pre-sentence report.

May 21st 2001: Helen received 3 months and Anne to two months custodial sentences. There is no doubt that Helen John's standing against Tony Blair on a 'No Star Wars' platform in the 2001 General Election was an effective publicity stunt – especially as the campaign was conducted from prison!

November 7th 2001: Angie received 2 months custodial sentence. We decided not to appeal to the Crown Court because we shall want to use the same line of defence in future [Crim. Dam. Act '71, s 5(2)(a)]. If we were now to take it to the High Court a judgment which found against us could set a precedent, which would not allow us to use it again. Since we were convicted in May, however there have been significant developments, which would have a bearing on our defence.

The European Parliament endorsement of the ECHELON investigation's conclusions; the forthcoming closure of Bad Aibling; the concern expressed by the local council that the base might become a target for 'terrorists' and the USA's abrogation of the ABM Treaty are some of the factors which would support the argument that the public would consent to the damage. Currently we are considering what the next 'move' is going to be. Helen John is considering an application to bring an out-of-time Appeal on the grounds that there is new evidence.

The Labour Party and the Left

On a broader front, the immediate campaign objectives must be to work with those institutions that are influential in effecting changes in policy. Thus the impact of the Trades Union Movement on the ruling Labour Party must not be underestimated. Historically the Labour Party was founded by the Unions to represent the interests of the Working Class in Parliament. The fact that the Labour Party leadership has moved to the Right does not mean that its old allegiance no longer exists. The Manufacturing, Science & Finance Union, MSF, for example, which passed an anti-'Star Wars' Resolution at its Annual Conference in May, 2001, sponsors between 80 and 90 Members of Parliament. Prior to the annual Trades Union Congress in September 2001, 18 Trade Union General Secretaries signed an open letter to the press condemning 'Star Wars'. No Resolution was considered by TUC 2001 because it was dissolved on its 2nd day, September 11th, as a consequence of the tragic events in the USA. By the time that Parliament went into Summer Recess in July 2001, 276 MPs has signed the anti-'Star Wars' 'Early Day Motion' tabled by Malcolm Savidge, requesting a Debate in the House of Commons at an early date. Traditionally neither government Ministers, nor Whips, sign EDMs, so the 216 Labour MPs who signed represented 2/3rds of the Parliamentary Labour Party.

The Labour Party Conference in October was overshadowed by events in the USA, nevertheless Labour Action for Peace and Labour CND organised a packed 'Fringe Meeting', at which Helen John from the WoMenwith Hill Women's Peace Camp was able to address Conference delegates on the 'Star Wars'/Menwith Hill issue.

'Star Wars' cannot function without the 'forward bases', nor can the 'forward bases' function without the collaboration of the local authorities. It is possible to identify the support systems on which the bases are dependent and focus some resistance to the provision of essential services. Could a dustmen's strike make Menwith Hill unworkable? The mind boggles! There are, however, many more services supplied by contractors and the local authorities, the withdrawal of which

would make it impossible for the US to occupy the bases. Under the Visiting Forces' Act of 1952, the State, by law, has to provide the services required by NATO bases - but 'Star Wars' is not a NATO project.

Local Council Position

The Harrogate Borough Council, in whose District Menwith Hill is based, is unanimous in its support for the base, as it contributes massively to the local economy. The financial benefit to many people in Harrogate means that MHS is not unwelcome. The base is the 2nd largest employer of local labour and currently is estimated to inject £62million a year into the otherwise near-bankrupt local area.

Recently, however, the council has been subjected to such pressure from objectors, particularly it has been bombarded with objections to 'Star Wars' developments, that it took the unprecedented step of writing to the Prime Minister. The Council demanded information about the implications of Menwith Hill's 'Star Wars' role for the local community. In October 2001, Councillors and Executive Officers from Harrogate Borough and North Yorkshire County Councils were invited to attend a meeting with top MoD Civil Servants in London. They were given assurances that Menwith Hill is considered to be of the highest importance for our national defence. They were certainly briefed on how to respond to objectors, as letters we have since received from the Harrogate Chief Executive testify. Their fears that the locality could become a 'terrorist target' were mollified.

Armed North Yorkshire police have now been assigned to anti-terrorist patrol of the Menwith Hill vicinity. Anybody who is in the area is liable to be questioned and asked to produce identification. The Home Secretary has granted a provisional £1 million to pay for these police. They would be totally useless to counter any 'terrorist' attack on the base!

State Response

In the UK, while acknowledging that circumstances are very different elsewhere in the World, the historic struggle of the Working Class has won a position where it is possible to oppose the State without fear of severe reprisals such as the death penalty, torture or long incarceration. The State, however, has means at its disposal for neutralising opposition & is intending to increase its powers with anti-terrorist measures, which may have serious consequences for all extra-parliamentary activists. Modern technology gives the State considerable powers to counter its opponents. We learned lessons from the tactics used to break the Miners' Strike, discredit the anti-Poll Tax Campaign, harass the Greenham Women and castigate the WoMenwith Hill Women's Peace Camp.

We learned this lesson: that if a movement has any likelihood of achieving success, the State has a strategy to undermine its effectiveness. Its main 'weapon' is a compliant media, which by vilifying the leadership, or making it appear they are dangerously mad [remember 'Barmy Benn of the Loony Left'?), ridiculing or criminalising the participants ['rent-a- mob'], will alienate public sympathy for the objectives of the campaign. The State is capable of exploiting the dirtiest, most dishonest and vicious methods, such as infiltrating informers and 'agents provocateurs' to split the campaign and divide its energies by 'in-fighting'.

We discovered that the Right Wing controlled media is willing to disseminate distortion and generate hysteria with the aim of indoctrinating the public. The State will be presented as justified by high moral principle ['upholding democracy'], while the media attacks the integrity of dissidents. It will thus divert attention away from the issues. The public will then countenance the blatant corruption of the Executive and the Judiciary and will condone illegal measures such as restriction on travel ['flying pickets'] and covert surveillance of activists, including mass telephone tapping.

Nevertheless, the State is not invincible! It has to be conscious that to maintain its sanctimonious image its behaviour must not be identified with that of the worst dictatorships - it must maintain the appearance of 'democracy'. It had no strategy for countering the actions of the peacewomen at Greenham Common. Were the Riot Police to be seen to attack women who were apparently doing nothing but sit and sing? This is one of the reasons why NVDA can be FUN.

Conclusion

A small proportion of the thousands of visitors to the Womenwith Hill Women's Peace Camp called to tell us that we were wasting our time, that our protest was ineffective because we had not achieved closure of Menwith Hill. We never anticipated that it would be quick and easy! Anyway, it would not achieve an end to the 'Star Wars' programme if we succeeded in closing Menwith Hill only to have the SBIRS operations move elsewhere. It is essential for the campaign to be international. The 'Global Network Against Weapons and Nuclear Power in Space' is growing in strength and numbers. Many of the international peace organisations, such as the Women's International League for Peace and Freedom, the Campaign for Nuclear Disarmament, etc, are affiliated. The use of the Internet, a peaceful use of space communications' satellites is a major tool of the global organisation to keep affiliated groups in contact with each other!

Public opinion has changed as a result of the publicity generated by the anti-'Star Wars' campaigns. An opinion poll conducted in the summer of 2001, revealed that nearly 70% of the British people opposed 'Star Wars'. Whether or not the campaign of opposition to 'Star Wars' makes significant progress during 2002, it is evident that it has regained the momentum it lost in the immediate aftermath of September 11th. This was illustrated by the women's gathering at Menwith Hill on December 12th 2001, the anniversary of the 'Embrace the Base' demonstration at Greenham Common. It was exciting, inspiring, empowering and fun. Next year it will be even better!

I do not anticipate that there will be universal agreement with the opinions I have expressed. Unfortunately limitations on space mean that I have had to abbreviate. Contributions to a debate about campaigning strategies would be appreciated.

Appendix

WoMenwith Hill: Some recent historical perspectives

July 1993: Establishment of a regular WoMenwith Hill Women's Peace Camp at 'Windy Comer' [NW corner of the base] on the third weekend of every month. [Steeplebush II, presumed future Control Centre for SBIRS European Ground Relay, was still under construction].

October 1993: TV broadcast of *The Hill* [producer Duncan Campbell] and the US *ABC TV News Report* [producer James Bamford] which showed peacewomen trespassing inside Menwith Hill and finding evidence, which confirms that the NSA runs the base. The objective of collecting documentary proof of NSA's occupation, which could be presented to a court of law, was to support the argument that the occupier of the property is rightfully the body to bring cases of trespass to trial - in which NSA would have to face cross-examination!

Late October 1993: The US Senate Intelligence Committee set up an Inquiry into the major breach of security shown in *The Hill* and made recommendations for dealing with Menwith Hill's security loopholes. The first move that MHS made was to order that all papers being hand-carried from one building to another [they are very distrustful of electronic systems - they can be intercepted!] should be inside opaque folders. They ordered fine shredders [we saw the catalogues and orders]. They initiated '*Security Awareness Training*' [we saw the posters advertising *Morale, Welfare & Recreation is Security Aware*]. After three weeks the main source of the information dried up [padlocked and fenced]. We had anticipated that, but were surprised how long it took them to discover it! By that stage, anyway, after nearly two years, it was yielding almost nothing new.

January 1994: The Women's Peace Camp was held on the weekend of January 30th/31st to coincide, in solidarity, with actions at Waihopi NSA Base in New Zealand [Aotearoa]. On the night of January 30th a spectacular moonbow [a rainbow created by the full moon] gave its name to a second campsite established on the SE corner of the base the following day, '*Moonbow Corner*'.

Although 31 women participated in the blockade of the A59 highway on Monday morning, while others held banners, leafleted or acted as legal observers, only nine were arrested and charged with obstruction. It was evident that the blockade had an impact on the Menwith Hill authorities; it brought the direct action protest into the public arena. The A59 is the main access road to the base for personnel and delivery of supplies. Hand-carried, security-escorted, sensitive materials move back and forth between MHS and, e.g. Bad Aibling, via Leeds-Bradford Airport, which must cross the A59. Blockades could have a serious effect on the MHS administration. Bigger blockades could bring it to a standstill, as had been demonstrated by the women at Greenham Common in the 1980s.

At the trial of peacewomen charged with obstruction of the highway, the defendants argued the justification that their actions were taken to prevent a crime - that is, the NSA's illegal occupation and activities at Menwith Hill. The Stipendiary Magistrate acknowledged the honesty and sincerity of the women and granted them an Absolute Discharge. At subsequent trials for similar blockades the women were granted Conditional Discharge.

Early 1994: A US reporter told us that Denis Deconcini, Chair of the Senate Intelligence Committee, had reported back to Congress. He reassured the House that the peacewomen shown in *The Hill* had "... not compromised the projectsnot jeopardised the mission..." at MHS. We were unofficially, but reliably, informed that measures further to secure the base were being deliberated and implemented. We unofficially but reliably informed the base that the security breaches and the build-up of the women's peace campaign would continue with added zest.

Spring 1994: Mercury Communications [now part of Cable & Wireless] installed a length of cable duct along the A59 highways' verge on the southern boundary of MHS [it went through Moonbow Corner!]. The fibre-optic cable was installed and connected up to the Castlemaine SBIRS Control Centre in 2000. More than three years before any Planning Application was submitted to the Harrogate Borough Council, the infrastructure for 'Star Wars' was being constructed.²⁹

May 1994: The ten-day *Amazon Festival*, which also included another blockade of the A59, held at Moonbow Corner, established a full-time, Greenham Common-style, Women's Peace Camp. Women were now trespassing daily into the base, but could not be arrested for doing so unless they were suspected of criminal damage.

Summer 1994: It was evident that the Women's Peace Camp was seen by MHS as a threat and that they were contemplating further security measures. During the summer of 1994 women witnessed two 'site meetings' when ten or twelve 'men-in-suits', assumed to be lawyers or civil servants, were ferried about by senior MoD police officers. They actually got out of their vehicles to observe and discuss how to eradicate the Women's Peace Camp. They carelessly left copies of the old 1986 Byelaws on display in the vehicles, so we anticipated that this would be one of their future tactics.

Autumn 1994: MHS made attempts to define the base boundary with marker signs, posts and wire fencing, which kept 'mysteriously disappearing'. We realised that this was an attempt to define the base boundary in anticipation of re-introduction of the Byelaws, because the 1986 Byelaws had been invalidated in the High Court in 1992, partly on the grounds that the boundary was imprecise.³⁰

October 1994: By this time it was apparent that Moonbow Camp was well established, with three caravans and two transit vans. North Yorkshire County Council's Highways' Authority first requested peacewomen to remove Moonbow Camp, which was located on the wide verge at the corner. We suspect that this was instigated by MHS, as they certainly did with the 1999 eviction [q.v.]

January 1995: Harrogate County Court granted the NYCC Highways' Authority a Repossession Order for their land.

March 13th 1995: NYCC served Eviction Notice on Moonbow Camp. Women were given 28 days in which to leave.

March 15th 1995: Malcolm Rifkind, Secretary of State for Defence, issued a Public Interest Immunity Certificate to prevent documents obtained from inside MHS being presented in court. This was then the only *prima facie* evidence that NSA is in occupation of MHS.

April 18th 1995: Moonbow Camp was evicted. Rocks and earth mounds were dumped on the site to prevent re-occupation. The peacewomen moved the Women's Peace Camp to the Kettlesing Head Lay-by 1/4 mile east along the A59, which proved to be a better site for visibility and visitor parking.

²⁹ A 'tributary' of this cable running up the E side of the base remains unconnected – but indicates where the next SBIRS development will be located.

³⁰ Byelaws, enacted by Michael Heseltine, Secretary of State for Defence, under the Military Lands Act 1892, were introduced at Greenham Common in 1985 as a measure designed to curtail the activities of the peacewomen. They criminalised activities such as trespass into the base. Following their introduction at Greenham Common they were enacted for a number of other bases, including Menwith Hill, in 1986. The Act of Parliament was used for a purpose for which it was not enacted, an example of the dishonest misuse of the State's powers.

July 1995: US Army's Intelligence and Security Command [INSCOM] ostensibly took over command of MHS. NSA's Chief of Station, Dr N Addison Ball left and US Base Commander, Colonel G Dickson Gribble arrived. [Peacewomen had advance notice from *The Station Break*, so we commemorated the event with placards. The MHS authorities were so furious they complained to the Home Office! [As we were outside the base it was a civil police matter]. This highlights the humorous features of the Greenham Common and WoMenwith Hill women's peace campaigns. They are hugely embarrassing to the US military -who cannot bear to be ridiculed.

Information we acquired in 1995, such as the *Base Commander's Quality of Life Survey*, suggests that the US Base Commander's function is to oversee the administration of the MHS 'community'. The SIGINT activities continue to be administered by the NSA's Director of Operations, who is a 'civilian' US DoD employee. The INSCOM 'command' complies with the term 'Forces' under NATO SoFA.

The legitimacy of the NSA's occupation arrangements was examined in the trial of Lucy Mackey, at Ripon Magistrates' Court in 1995. Lucy is the only person to have faced trial for 'aggravated trespass' into MHS contrary to the Criminal Justice & Public Order Act. At the July 4th US Independence Day celebrations, Lucy listened to Dr N Addison Ball address the assembly with the statement: "...how ironic it is that there is a peace camp outside the station, professing to uphold peace, truth, justice and freedom, when in fact, it is we who are the upholders of peace, truth, justice and freedom." Lucy ran in front of the speakers' platform shouting: "NSA murdering spies!" In her defence she argued that the aggravation had been caused to the US NSA and that properly they, and not the UK MoD, should be bringing the case to trial. The MoD Land Agent, Mr Duke, testified for the prosecution that Menwith Hill is Crown Land held by the UK MoD and that the US NSA is a lawful tenant. The law allows for the tenant or the landlord to bring the case for aggravated trespass. He stated that there is a legal Lease and that the document is in his office cupboard in Catterick Garrison. The three magistrates debated whether to accept Mr Duke's 'hearsay' evidence, or adjourn to allow him to go and get the Lease. Regrettably they decided to accept his testimony. Lucy was convicted. She entered an Appeal to the Crown Court, but later withdrew it in anticipation that there would be bigger publicity if it involved a group of peacewomen, not a single individual. We anticipated future opportunities to bring similar cases, in which peacewomen would be able to pursue the issue of NSA's occupation. The opportunity has not arisen because the MoD police have avoided bringing any further trespass charges under the CJ&PO Act.

September 1995: Notices advertising the proposed reintroduction of Byelaws were published. Representations were invited from the public, to which we responded that as trespass was already covered by Act of Parliament, the CJ&PO Act, it is not possible to have two different Acts for the same 'offence'. We welcomed the opportunity the Byelaws would give us to question their validity in the courts.

January 19th 1996: The 'RAF' title was dishonestly, but officially introduced, when Michael Portillo, then Secretary of State for Defence, enacted the Menwith Hill Byelaws. Squadron Leader Edward ["Ted"] Sumner was appointed 'RAF Commander'.

February 19th 1996: The Byelaws, making trespass into the base a criminal offence, came into effect. The Byelaws presented us with another opportunity to question the legality of Menwith Hill. The MoD apparently did not anticipate that we would get arrested and charged with trespass, deliberately to put the maker of the Byelaws, the UK Government, on trial, by alleging that the Byelaws were illegal because made *male fides* - in bad faith [q.v.].

February 24 1996: Helen John and Anne Lee called at Colonel G Dickson Gribble's house, inside MHS, to enquire when he would be leaving, "as the Royal Air Force is now in command of MHS. Hem! Hem!" We were arrested and charged under the 'RAF' Menwith Hill Byelaws.

April 3rd 1996: Pleas of 'not guilty' to Byelaws' trespass were entered at Ripon Magistrates' Court.

May 16th 1996: Lord Jenkins of Putney, acting for the defendants, tabled a Written Parliamentary Question to the House of Lords, which was answered by Earl Howe on behalf of the MoD. The answer officially acknowledged for the first time that "... *Menwith Hill operates as a field station of the US National Security Agency...*" The stock answer invariably issued by the Commons prior to this date was "... *Menwith Hill is a communications' relay station engaged in research ...*"

June 1996: Helen John applied to Harrogate Magistrates' Court for issue of Witness Summonses, requiring their attendance at court to testify in her defence, for *inter alia* Michael Portillo and his 'boss', the Prime Minister, John Major. The application was rejected as "frivolous" by the Harrogate magistrates.

September 2nd & 3rd 1996: Harrogate Magistrates' Court trial opened of 12 peacewomen from WoMenwith Hill Women's Peace Camp charged with trespass in breach of the 'RAF' Menwith Hill Byelaws. Helen John's and Anne Lee's defence that the Byelaws are invalid would, if the defence won the case, affect the outcome of all the others, so the other women's trials were adjourned to await the outcome of the 'test case'. The unusual aspect of this case was that the 'burden of proof' rested with the defence not the prosecution. The case had to be '*shown on a balance of probabilities*' not '*beyond all reasonable doubt*', which gave us the opportunity to present lots of evidence relating to the NSA's occupation of, and activities at, MHS. Duncan Campbell appeared for the defence as an Expert Witness. The Stipendiary Magistrate, Neville White, concluded that we could not prove our case without the testimony of the Byelaws' maker, Michael Portillo. We were convicted, sentenced to two years' Conditional Discharge and entered an Appeal to the York Crown Court the same day.

September 12th 1996: On behalf of the Menwith Hill authorities, the MoD police at MHS produced a statement [q.v.] signed by Senior Police Officer S Barlow, which misrepresented, distorted and exaggerated alleged criminal activities committed by the WoMenwith Hill Women.

September 23rd 1996: The MoD police 'smear' report was used by Squadron Leader 'Ted' Sumner as justification to support Menwith Hill's application to the North Yorkshire County Council's Executive for eviction of the WoMenwith Hill Women's Peace Camp from their Kettlesing Head site. How to remove the camp and prevent the women from relocating elsewhere, was discussed and agreed at a meeting [q.v.] held between NYCC's Environmental Management Chief Executive, 'Mike' Masterman and 'Ted' Sumner, 'RAF Commander' [in reality Liaison Officer for NSA]. The fraction of the costs of eviction that Menwith Hill would pay NYCC was discussed but not decided. Following the meeting Masterman referred the matter for advice to the NYCC Legal Department and Sumner referred it to the Treasury Solicitors, who act for the MoD. The significance of the timing of the moves to eradicate the Women's Peace Camp indicates that MHS desired the camp removed before they made a public announcement about SBIRS developments. They could not have anticipated that it would take them three years, nor that eviction would not see the end of the women's protest.

Summer 1996: Menwith Hill was given a new, upgraded designation as '*Regional SIGINT Operations' Center*', one of five globally.³¹

March 17th 1997: Delegates from the US-based 'Global Network Against Weapons and Nuclear Power in Space' visited Womenwith Hill Women's Peace Camp to discuss US Space Command's recently published *Vision 2020* and its significance for a revived 'Star Wars' programme. Menwith Hill was recognised as an important factor in the US plans further to militarise orbital space.

³¹ *The Workbook*, Loring Wirbel, Autumn 1996

April 1997: Helen John was granted York Crown Court Witness Summonses, requiring their court attendance to testify in her defence, for John Major [Prime Minister], Michael Portillo [Secretary of State for Defence], Malcolm Rifkind [formerly Secretary of State for Defence], Michael Howard [Secretary of State for Home Affairs - and the only person authorised to issue warrants for interception of communications]. Colonel G Dickson Gribble [US Army Base Commander MHS], Squadron Leader 'Ted' Sumner [RAF Commander] and the Chief Executives of the telephone companies, British Telecom, Vodaphone and Mercury Communications. All the Witness Summonses, apart from Michael Howard's, **were served personally** on the people summoned.

May 1997: The Tories lost the General Election. John Major and his Cabinet were thrown out of Office. Michael Portillo was not re-elected to Parliament and ought not to be able to claim exemption on grounds of '*Parliamentary Privilege*', from testifying in Helen John's defence.

June 1997: Planning Applications were submitted to the Harrogate Borough Council Planning Department for Menwith Hill's new additional role as European Ground Relay Station for SBIRS. The plans consisted of the two 'Grapnel' radomes Support Buildings, a Battery House³², 'Castlemaine' Ops extension to Steeplebush I I and the Mission Support Building. They omitted to put in application for the battery chargers! By the stage when a Planning Application is submitted, the decision has been made; the research and development is completed; the funding has been allocated by the US House Appropriations' Committee; the rockets carrying the satellites are due to be launched; some of the infrastructure for the down-link will be in place [such as the 1994 cable-duct installations]. It is *a fait accompli*.

July 31st 1997: This was the final day before the High Court went into Summer Recess. Our Appeal was due to start at York Crown Court on the first day of the new Term, in September. In a flagrant abuse of process, Helen John was summoned at extremely short notice to attend the High Court. Just before the hearing opened, she was given [and with no time even to read them] some of the arguments from the lawyers, representing those who were applying for the striking out of Witness Summonses. There was also an application for the striking out of the Witness Summons for Michael Howard, which had not been served. We took this as evidence that we were under covert surveillance. Twelve 'men-in-suits', in addition to the MoD and NSA legal teams, sat behind us in the court. We detailed the abuse of process in our submissions to the European Parliament's Temporary Committee of Inquiry into the ECHELON Interception System, 2000 - 2001.

September 1997: Appeal by Helen John and Anne Lee against conviction for trespass under the 'RAF' Menwith Hill Byelaws, heard by Judge Jonathan Crabtree for five days at York Crown Court. In support of our defence that Michael Portillo had enacted the Byelaws *male fides* we had to establish that Menwith Hill is a US NSA civilian base [engaged in unlawful interception of communications contrary to the Interception of Communications Act 1985] and is not a military base, to which the Byelaws, enacted under the Military Lands' Act 1892, could apply. We presented as evidence:

- a) Copies of documents obtained from inside the base - but did not forewarn the court that we intended to do so!
- b) The House of Lords PQ by Lord Jenkins of Putney,
- c) Duncan Campbell's testimony as an Expert Witness,
- d) Tony Benn's testimony as an Expert Witness.

The Witness Summonses served on the Chief Executives of BT, Vodaphone and Mercury were not rescinded by the High Court. BT's lawyers responded with a letter outlining their services to

³² The electronic equipment requires a '*true uninterruptible power supply which can be supplied only by batteries*' and requires a large separate building.

Menwith Hill, which revealed far more information that they realised.³³ BT sent an Expert Witness to court. The judge heard an application 'in Chambers' that he should not be allowed to testify as it would be '*breach of confidential information and not in the public interest*'. The judge agreed and ordered the letter from BT withdrawn from evidence and its contents kept confidential. Too late! Duncan had published it on the Internet three weeks previously. We won the Appeal, not on the *male fides* defence, but on an *ultra vires* argument that 2/3rds of the land in the base is not used for military purposes, so it falls outside the scope of the Military Lands Act. It is used for grazing sheep. The Byelaws were pronounced invalid. The Judgment is posted on the Yorkshire CND website.³⁴ We now recognise that the 'victory' was disastrous for this attempt to make the UK Government answerable in the law courts! Judge Crabtree's *ultra vires* ruling was overturned, on Appeal by the MoD, in the High Court on **January 22nd 1999**, but our contention that the UK Government was guilty of *male fides* was buried in the Crown Court proceedings. There was no point in pursuing an Appeal to the House of Lords on the argument of sheep pasture! Had we lost the Crown Court Appeal on the *male fides* line of argument, we would have pursued it to Appeal in the higher courts.

We informed the MoD lawyers that we should be starting another *male fides* challenge to the Byelaws in the Magistrates' Court. By this stage there were about 100 charges for Byelaws' trespass, involving over 30 women, awaiting the 'test case' decision. The Crown Prosecutor, acting for the MoD, has refused to give us the opportunity to revive the *male fides* challenge to the UK Government.

On **September 10th 1999** the CPS successfully applied to the Harrogate Magistrates for dismissal of 74 outstanding charges against 34 women. [This figure did not include charges that had not yet come to court]. Several women have since been arrested and 'reported with a view to prosecution', for Byelaws' trespass in an attempt to get a trial. Anne Lee informed the Crown Prosecutor, David Tucker, that there were new arguments and evidence to support the *male fides* defence. In **March 2000** he replied to Anne Lee explaining why he will not allow her to bring any further 'test case' on the 'RAF' Menwith Hill Byelaws. [The decision is not his - he takes instruction from the MoD lawyers].

[Further information about the WoMenwith Hill Women's Peace Camp[a]ign is available on the Yorkshire CND website – at <http://www.gn.apc.org/cndyorks/wpc/wpcmhs.htm>]

³³ From the description of the cables, Duncan Campbell was able to extrapolate that they had the capacity to carry c. 2 million messages an hour - out of Menwith Hill. That is, the fraction of the intercepts, which is considered important enough for further consideration, is forwarded on to NSA HQ at Fort Meade in Maryland.

³⁴ <http://www.gn.apc.org/cndyorks/mhs/crabt.htm>

Planning Considerations

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US bases and facilities

The UK Government retains legal ownership and control of all sites made available to the United States Visiting Forces in the UK. The US personnel stationed at e.g. RAF Menwith Hill are there at the invitation of the Government, and are members (or dependants of members) of a visiting force or the civilian component of a visiting force to which Part 1 of the Visiting Forces Act 1952 applies.

Planning Permission

The Government does *not* need to obtain planning permission before allowing a site it owns to be used or developed by the US in a particular way. Removal of Crown Exemption was announced in March 1994 by the Conservative Government but no action was or has been taken by that or the current administration. If however environmental assessment was legally required (see 7 under) then so would a permission: EU law would override the Crown exemption.

DoE Circular 18/84 Crown Land and Crown Development Part IV

This commits the Government to consult planning authorities before proceeding with a development that would otherwise require planning permission. The MoD do this by sending in a "Notice of Proposed Development" which the authority then treats broadly speaking like an ordinary planning application but it has no power to refuse consent. "In any case where strong objections are received ..the ..authority must decide whether...they should be supported..". (para 21) If the authority objects, the MoD must notify the Department of Transport, Local Government and the Regions which seeks to resolve the dispute and can set up a non-statutory inquiry.

Development in a National Park

Government policy is that "major development should *not* take place in (a National Park) save in exceptional circumstances. ...applications for such developments must be ..rigorous(ly) examin(ed) ..". (para 49 Circular 12/96) This involves consideration of "need.., national considerations, cost, scope for developing elsewhere, meeting need in some other way..". See paragraphs 3 – 10 of opinion obtained by Council for National Parks attached.

Development on the specific sites

Fylingdales: Between 1989 and 1992 the three giant 'golfballs' were replaced by a Phased Array Radar in the form of a 40-meter high truncated pyramid. Presumably planning "permission" was obtained. The US Missile Defence system is likely to involve the construction of an X-band radar alongside the existing radar at RAF Fylingdales: prototype already constructed in Hawaii is 14 storeys high.

The Planning Authority is North York Moors National Park Authority.

Menwith Hill: in March 1997 the UK granted the US permission to construct the the European Relay Ground Station (RGS-E) for the new Space Based Infra-Red System (SBIRS) at Menwith as part of a world-wide satellite based system that will provide early identification of ballistic missile launches. Construction was to include a one-storey 10,000 square feet concrete and steel building and up to four new radomes approximately 60 feet in height and similar to the existing radomes. Two radomes have been built. Planning "consents" have been sought by MoD from Harrogate District Council.

"Planning" applications from 1975 until the end of last year are listed at <http://www.gn.apc.org/cndyorks/caab/newsletters/mhprog.htm> .

Relevant considerations in considering a planning application

A planning authority will only take account of "material considerations": these are not defined but have evolved over time: they include e.g. what the development plan says, environmental impact (e.g effects of artificial lighting or electro-magnetic radiation), habitat protection, alternative sites, planning policies, visual amenities, public concerns about safety e.g. if the proposed development would introduce or increase a risk of danger, etc. "Public opposition per se is not a material consideration, even though it may be a powerful background consideration in a democratically based planning system."³⁵

Environmental Impact Assessment

EIAs can be for projects, decisions, programmes and legislation: so far in the UK they are confined to physical projects. Since 1988 the relevant UK regulator must ensure that the environmental impacts of certain physical projects must be assessed and that they must be made subject to a formal consent which cannot be granted without the prior assessment. The principal document will be the developers' statement which others then comment on. Part of the process grants the public rights to comment on the statement. Commonly (but not always) the regulator is the planning authority and the relevant consent is planning permission

The European Directive that creates our UK requirements specifically excludes " projects serving national defence purposes": Article 1(4). This is carried over into regulation 2(1) Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 which refers to "exempt development" as "development which comprises or forms part of a project serving national defence purposes or in respect of which the Secretary of State has made a direction under regulation 4(4)"

Does Menwith or Fylingdales serve UK national defence purposes or only USA defence purposes: see Opinion para 13 The UK exemption is also wider than permitted as a project that serves both military and civil purposes is not necessarily excluded: see Opinion para 15. EU law interprets exemptions restrictively which would favour these arguments.

If the exemption does apply, DETR Circular 02/99 on EIA, para 157 says "... the MOD will, in appropriate circumstances and subject to considerations affecting national security, provide Environmental Statements in respect of major defence projects." This extra-statutory concession needs exploring.

How are EIAs applied to existing, but developing sites?

If a site was given planning permission before 1988, then no EA has been necessary. However where a project described in the list which was in existence or consented to (before or since

³⁵ see Planning Encyclopaedia 2-3262 to 3288, esp 2-3282 to 3284

1988) is subsequently "modified" and the modification creates significant environmental impacts then an EA is necessary.

US Environmental Law: National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality regulations (40 CFR Parts 1500-1508) implementing the procedural provisions of NEPA

The US National Environmental Policy Act (NEPA) requires an EIA before a federal decision with significant environmental effects. (In passing, how was the X-band radar in Hawaii dealt with under NEPA?) Non US citizens have relied on this to sue in the US arguing that the legislation has "extra-territorial effect" i.e. applies to US overseas projects. For example:

Environmental Defense Fund v. Massey, 986 F.2d. 528 (D.C. Cir. 1993)

FACTS: Plaintiffs challenged the National Science Foundation's plans to incinerate waste at McMurdo Station in Antarctica, arguing that NEPA applies extraterritorially and thus that NSF should have prepared an EIS. Plaintiffs further alleged that NSF violated Executive Order 12114, requiring the preparation of environmental assessments for US actions which have an impact overseas.

FINDINGS: The Court of Appeals overturned the earlier decision in *Environmental Defense Fund v. Massey*, 772 F.Supp. 1296 (D.D.C. 1991) which had held that, despite NEPA's broad mandates, there is no clear congressional intent that NEPA should apply beyond the borders of the US and that NEPA did not apply to NSF's decision to build waste incinerators in Antarctica. In this case, the Court of Appeals held that the application of NEPA to federal actions is not limited to actions occurring or having effects in the United States. Rather, NEPA is designed "to control the decision-making process...not the substance of agency decision" that takes place almost exclusively in the United States. The court found that the presumption against extraterritorial application did not apply in this case and held that NEPA did apply to NSF actions in the Antarctic. The court relied upon Antarctica's unique status as a place which was not a sovereign territory.

Human Rights Act

see Opinion (below) paras 16 – 20

Annex

**Opinion obtained by Council for National Parks
IN THE MATTER OF FYLINGDALES
OPINION**

1. You have asked me to advise on the "planning" procedures which would need to be followed in relation to proposals to build new radar installations at Fylingdales in the North York Moors National Park.
2. I assume that the development would take place under the auspices of a government department. The ordinary requirements of the 1990 Act (i.e. for planning permission) do not bind the crown: see, for example, *MAFF -v- Jenkins* [1963] 2 QB 317.

The requirements of Circular 18/84 and Paragraph 56 of Circular 12/96

3. Circular 18/84 describes (in its part 4) the arrangements by which Government Departments consult local planning authorities about their developments. It establishes the Notice of Proposed Development (NoPD) regime and makes it clear (para 25) that the precise procedures will

depend on the circumstances of the case (some will be dealt with by written representations, others through a non-statutory public inquiry). Those arrangements have been promoted by the Secretary of State for the Environment as providing, and (subject to any new arguments under the Human Rights Act 1998, below) accepted by the Court as providing, the same protections to objectors as does the statutory planning system: Hillingdon -v- SSE 30th July 1999 (unreported).

4. Given that the development would be in a National Park the provisions of paragraph 56 of Circular 12/96 would also be in play. That paragraph states that:

"...the Government ...is ...committed to ensuring that new, renewed or intensified use of land in the National Parks for defence purposes should be subject to formal consultation with the National Park Authorities and the Countryside Commission and to an environmental impact assessment, and should be tested against any provisions set out in planning policy guidance."

5. That in effect makes clear that the NoPD process applies to new, renewed or intensified military use of National Parks. It would apply here. It embraces three elements:

- a. consultation
- b. environmental impact assessment
- c. application of PPGs

6. As to b, the language of the circular does not directly tie the "environmental impact assessment" in question to the formal requirements of an ES under the EIA Directive or the domestic implementing regulations.

7. However (in relation to a, b and c), the statement in the circular is expressly a commitment on the part of government to behave in a particular way (either in process terms or in terms of the tests to be applied in deciding whether to proceed).

8. Its effect, in combination with Circular 18/84, has been demonstrated recently in relation to the proposals to build infrastructure for MLRS and AS90 training in the Northumberland National Park. In that case, the MOD produced an ES which complied with (or at least purported to comply with) the formal requirements of the statutory EIA regime. Moreover, the MOD proceeded on the basis that the policy tests under, for example, PPG 7 would be in play.

9. In my opinion, the Circulars and their operation in practice give rise to a "legitimate expectation" that (1) an ES which complied with the requirements of the formal EIA regime would be produced, (2) that the policies of (say) PPG 7 would be applied, and (3) at least the written representations, and probably public inquiry, process would apply.

10. In my opinion, a failure on the part of the Secretary of State to follow that approach in relation to the proposals at Fylingdales would be an unlawful failure to give effect to that legitimate expectation (see, thus: R -v- North and East Devon Health Authority ex parte Coughlan [2000] 3 All ER 850). In my opinion, such a failure could be challenged by way of a judicial review which would have a good prospect of success.

The EIA Directive

11. In any event, in my opinion, the formal requirements of the EIA Directive would appear to apply directly to this case (i.e. regardless of the effect of the Circulars, above). In particular, the Directive applies to all projects unless they are specifically excluded from its terms. The only potentially relevant exception is that in Article 1(4) of the Directive:

"Projects serving national defence purposes are not covered by this Directive"

12. If the Article 1(4) exclusion does not apply, then an EIA would be needed. The fact that the domestic regime (1990 Act and EIA regs) would not require an EIA is irrelevant because the EIA

Directive is "directly effective": see *Aannemersbedrijf P.K. Kraaijeveld BV -v- Gedeputeerde Staten van Zuid-Holland* [1996] E.C.R. I-5403, E.C.J. ("the Dutch dykes case"). In other words, its obligations bite independently of the domestic regime. See thus, for example, *R -v- North Yorkshire ex parte Brown* [1999] 2 WLR 452 in which the requirement for an ES under the EIA Directive was held to apply to the application of conditions on IDO mineral consents (even though not required by the applicable domestic rules).

13. The question then is whether this project serves national defence purposes. My understanding is that the project involves the construction of radar installations by the US which would then be run by the US and form part of the early warning elements of a missile defence system which protects the US but not the UK. As such, although the project clearly serves a "defence interest", it is not a "national defence interest". Clearly, it would be for the applicable Secretary of State (who was considering permitting the project) to justify reliance on the Article 1(4) exclusion by demonstrating that the defence interest served is a "national" (i.e. UK) interest.

14. On the information presently available to me, in my opinion, a judicial review challenge to a failure to comply with the requirements of the EIA Directive (through the production of a compliant ES) would have a reasonable prospect of success.

15. There is also a high chance that, in such a judicial review, I consider that the court would feel itself unable to resolve the question of whether the Directive applied with "complete confidence"; accordingly, per *R -v- International Stock Exchange ex parte Else* [1993] QB 534 at 545, the "appropriate course" would be to refer that question to the European Court of Justice in Luxembourg for consideration. Indeed I note that, in *WWF -v- Bozen* [1999] ECR I-5613, the similar question of whether Article 1(4) excluded from the Directive a project to develop an airport which had joint military and civilian use. The effect would be a delay of several years while the ECJ considered the matter.

The Human Rights Act

Section 6(1) of the Human Rights Act 1998 requires public authorities, including therefore the Secretary (Secretaries) of State involved in this matter to act compatibly with "Convention rights".

16. The Convention right potentially in play here is Article 6 of the European Convention on Human Rights which, so far as is relevant, states:

"In the determination of his civil rights and obligations ...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ..."

17. The first question is whether a decision to allow the US to proceed with the project would determine civil rights. Clearly, it would not determine CNP's civil rights. However, there is a strong case for saying that it would determine the civil rights of neighbours given that (as I understand the position) the project would be likely to have environmental and property price impacts: *Ortenberg -v- Austria* (1994) 19 EHRR 524.

18. Such neighbours could thus rely on section 6(1) of the 1998 Act to say that the Secretary of State would act unlawfully if he did not provide an Article 6 compliant procedure for deciding whether or not to permit the project.

19. The House of Lords has recently considered the implications of Article 6 ECHR for "call in" applications and appeals in the planning (and other land development) regimes in *Alconbury* [2001] UKHL 23, 9th May 2001. The House of Lords held that the Secretary of State was entitled to determine such matters; indeed, that it was appropriate for matters of policy and planning judgment embraced within such cases to be determined by the Secretary of State. However, critically for present purposes, in each of those cases, a public inquiry had been held, or would be

held, under the auspices of a Planning Inspector who would determine factual disputes and made recommendations on policy and discretion matters. Whether or not that inspector would be sufficiently "independent" in dealing with issues arising from government policy, he or she would be, so the House of Lords held, sufficiently independent for dealing with factual contentions. See thus, Lord Hoffman at paras 108-110, 122 and 128; also Lord Clyde at para 157; also Lord Hutton at para 189. The effect of this for the present case is clear: the Secretary of State could decide to permit the development of Fylingdales, as contemplated. However, he could not do so unless factual disputes (which are inevitable) had first been considered and determined by an inspector following a public inquiry. That process of inquiry and inspector must thus now be seen as a legal prerequisite to a lawful determination by the Secretary of State, particularly where (as here) the applicant for development is another government minister/department, or the land is owned by such a person/department.

20. Thus, in my opinion, there are strong arguments for saying that the Fylingdales project must, at the very least, be subject to the NoPD and the subsequent process (written reps or a public inquiry). In my opinion, on the present state of the law, a judicial review challenge made by a neighbour materially affected (as above) in relation to the Secretary of State's failure to subject the project to at least those processes would have a good prospect of success.

Overall

21. Overall, in my opinion, for the reasons above it would be unlawful for the proposals at Fylingdales to go ahead:

- a. without being the subject of an ES within the formal terms of the EIA directive; or
- b. without being assessed by reference to the relevant parts of PPGs including, in particular, PPG 7; or
- c. without a public inquiry being held under the auspices of an inspector who would determine factual disputes.

David Wolfe
MATRIX

An Emergency Planning Perspective

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Introduction

This paper will give a brief overview of the following:

- The role and organisation of emergency planning in England and Wales;
- The types of plans that local authorities are responsible for providing;
- How emergency planning at military sites differs from local authority planning arrangements;
- The main threats and hazards to the military bases at Menwith Hill and Fylingdales;
- Other considerations and further action that could be taken.

Background to Emergency Planning

Until April 2001, emergency planning was under the jurisdiction of the Home Office. 'Emergency planning' was governed under the auspices of the 1948 Civil Defence Act. The 1948 Act required local councils to draft emergency plans for protecting communities in the event of a nuclear attack. This led to a long-running dispute with a large number of local authorities (who went on to form Nuclear Free Local Authorities) who felt that such plans were unrealistic, due to the devastating nature of a nuclear attack.

With the end of the Cold War, the Home Office (in 1993) amended the Act to permit local authorities to develop 'peacetime emergency plans', including the production of major peacetime disaster plans for dealing with the major hazards affecting the civil population.

In February 2001, the Home Office initiated a thorough review of the nature and organisation of emergency planning in England and Wales. Shortly afterwards the government responsible department for emergency planning was transferred to the Cabinet Office by the Prime Minister following a spate of major incidents (fuel crisis, flooding, train crashes, foot and mouth disease) where it was felt the emergency response was found wanting.

A new legislative duty for emergency planning is likely to result from the review and will hopefully enhance the role and influence of emergency planning officers. However, the whole process may take between 3 and 5 years.

Emergency planning for military sites (which both Menwith Hill and Fylingdales come under) comes under the jurisdiction of the Ministry of Defence (MOD). It is understood that the MOD undertakes risk and hazard assessments and produces appropriate emergency plans. There is usually some limited discussion between military sites and local authorities where off-site plans exist, but often issues of 'national security' and 'crown immunity' ensure that MOD plans remain secret.

Both Menwith Hill and Fylingdales bases do have some discussion with the Health & Safety Executive and the Environment Agency about hazards on-site.

The role of local authority emergency planning

Local authorities are expected – through emergency planning units – to provide robust, agreed and exercised plans to ensure an effective response to a range of emergency incidents for the safety of the local community.

Local authorities are **not** an emergency service, but provide a wide range of services which may be called upon by other agencies as part of an emergency response. Examples of these include providing temporary accommodation, road closures, cleaning, feeding, and specialist services, such as Building Control and Environmental Health.

The main role of emergency planning units is to ensure a swift and co-ordinated response to a request from the emergency services, and the mobilisation of council resources at short notice.

Local authorities – in their role as community leaders (a key part of their likely future legislative duty) – play an important public information role during and after an emergency incident.

The responsibility for planning a response to a major terrorist, conventional military or nuclear attack remains with central government in the form of the Home Office, MOD, intelligence and security services. The role of local authorities is solely to prepare plans for the civil population.

Emergency planning at military sites

For the Menwith Hill and Fylingdales sites the overall responsibility for emergency plans on the bases lies with the RAF Base Commander. This could include plans for dealing with bomb threats, suspicious packages, actual attacks on the base and fire evacuation procedures.

It is likely that specific plans are in place at the Menwith Hill and Fylingdales bases to deal with radio hazards, the creation of an exclusion area around radomes (for the health and safety of operational staff), and to back-up computer files in case of fire or technical difficulties with the equipment within each radome.

All military bases with American personnel have been on a state of ‘amber alert’ since the terrorist attacks in the United States. ‘Amber alert’ means that all visitors to the base are stopped and searched, and additional armed MOD Police have been stationed by all entrances with sniffer dogs to check all vehicles. Security at Menwith Hill had already been increased after the embarrassing Greenpeace ‘invasion’ of the base shortly before the terrorist attacks.

There are usually no statutory off-site plans at military sites, unless chemical or nuclear materials are kept in the base. As a result bases have little contact with local authority emergency planning units. In contrast, Menwith Hill and Fylingdales bases have regular contact with the local authority planning and highways departments over planning applications and works around the base.

A direct request for any local authority assistance (in the case of a larger attack or incident on the base that could go beyond normal planning arrangements) is likely to come through the Police.

Threats and hazards to the Menwith Hill and Fylingdales bases

The most likely hazard to occur at either base are accidents on or near a base caused by human error. Both bases (particularly Menwith Hill) are quite complex locations. The amount of electrical equipment, potentially hazardous chemicals, and other industrial processes (it is difficult to say which due to the secrecy of the sites) could potentially create situations where major problems

arise on the base necessitating evacuation or external help from the likes of a resource intensive local authority.

The likelihood of various other hazards and threats have clearly increased since the terrorist attacks of 11th September. A direct hit from a plane into a radome would have a devastating effect on the entire US intelligence service. Similarly, an attack from another type of vehicle such as a petrol tanker, is clearly now not outside the realm of possibility. The sheer scale of the terrorist attacks in New York and Washington mean no potential American target can be seen as completely 'low risk'.

A chemical, biological or conventional bomb attack on either base is also possible. Academic studies on terrorist groups have often stated that a small-scale attack (the bomb in the suitcase) is much more likely than the set-piece military attack. The history of IRA activity has emphasised how straightforward it has been for a well-organised cell network to launch an effective attack on what it considers are 'legitimate' targets.

A nuclear attack on either base (and from which the 'Son of Star Wars' system is designed to protect) remains unlikely. Recent intelligence reports cited by the media suggest terrorist groupings and 'rogue states' have been attempting to obtain nuclear materials for such weapons, but have so far been unsuccessful. However, it is quite possible for such groupings to obtain enriched or depleted uranium through crime cartels). Such 'dirty' bombs could spread a considerable amount of radioactivity into the atmosphere and have a devastating long-term effect on the environment. Research by the Nuclear Free Local Authorities suggests that a strike on a nuclear power station (such as BNFL Sellafield's High Level Waste Tanks) could be much more devastating and would be a more obvious target for such an attack.

The French government has recently placed surface to air missiles around nuclear sites to protect them from a terrorist attack. UK nuclear and military sites have not gone as far as this, though 'no flying zones' have been created around them. If the UK government receives a credible threat (and publicly it says there is no such threat) to military and nuclear sites then such protection is likely to be put in place.

Emergency planning response to an attack/accident on the base

Both Menwith Hill and Fylingdales lie within the boundaries of North Yorkshire County Council. If a major attack or accident occurred at the base, then the Council's emergency planning unit could invoke its Civil Emergency Scheme in order to mobilise specific resources.

North Yorkshire County Council does not have a specific emergency plan for dealing with different types of hazard surrounding the bases.

It is important to note that there are no major urban centres directly adjacent to either base which could accommodate large numbers of people requiring treatment or shelter. Menwith Hill is around 6 miles from Harrogate and 8 miles from Otley, while Fylingdales is about 8 miles from Whitby. Relevant councils in these areas may have to become involved to provide resources should the attack or accident be large scale, though it is likely that North Yorkshire County Council's resources will be sufficient.

A terrorist attack of a nuclear, chemical or biological nature would also require a central government response. A national response plan and Radiation Incident Monitoring Network (RIMNET) is initiated by the Department of the Environment for radioactive hazards which involves local authorities providing public information under the REPPPIR or Radiation (Emergency Preparedness and Public Information) Regulations 2001. Guidelines are also in place for dealing with CBW hazards which would again involve local authorities in a public information role. How such a role would be carried out with all the secrecy that surrounds both base is unclear.

Other considerations and action

The Menwith Hill Forum – an independent campaigning group seeking more transparency and accountability of the base - has been considering the commissioning of a full planning assumptions study. An academic expert would consider all the potential hazards relating to the base and relevant emergency plans needed to deal with them.

Both the Forum and the Fylingdales Action Network could contact the base to seek more clarity on the emergency planning arrangements within each base and how this may change with development of the National Missile Defence system. Similar contact with key agencies like the Health and Safety Executive and Environment Agency may also allay fears over emergency planning concerns.

These groups and other organisations could publicise its concerns over how each base makes the wider area a target for attack. At public meetings held by the Menwith Hill Forum in Harrogate it is clear there is widespread public concern about this, reiterated by the local media.

Fundamentally, an increase in the transparency of both bases' operations could assist greatly in emergency planning arrangements, regardless of how they develop. Much of what I have written is based on judgement of what is the norm with military bases. The secrecy that surrounds their operations prevents the public and professional officers feeling confident that they could assist in a response to an emergency incident at either base.

A National Park perspective

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Introduction

The Council for National Parks and the North Yorkshire Moors Association are interested in the future of RAF Fylingdales because of the impact it has on the special qualities and statutory purposes of the North York Moors National Park. It is beyond the remit of bodies concerned with the protection of the National Park, including the National Park Authority, to question the rights and wrongs of Missile Defence, nuclear proliferation or indeed early warning radar.

National Park purposes³⁶ are

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park; and
- To promote opportunities for the understanding and enjoyment of the special qualities of the National Park

The current structures at RAF Fylingdales have an adverse impact on the special qualities of the North York Moors National Park, particularly on the landscape and natural beauty of the National Park. Any further development of the site with even more intrusive buildings would perpetuate existing impacts and cause greater unacceptable damage to the National Park landscape.

History of National Park Authority/CNP involvement at Fylingdales

The original golf ball structures were built in the early years of the National Park when the Park Authority was a sub-committee of North Yorkshire County Council and before the Parks had made their mark on the national culture. The whole culture of Government was different while Britain and the USA were involved in the Cold War. Despite the obvious negative impacts on the National Park, it was almost unthinkable to challenge an MoD decision to develop a particular site for defence reasons. Since the 1950s, attitudes have changed substantially, with increasing expectations of society on the accountability of Government and the role that National Parks play in the life of the UK.

³⁶ Section 61, Environment Act 1995

It is clear in retrospect that technically there were other alternative places to site the structure. However, at this time the least political resistance to such a development was perceived to be away from centres of population at established, albeit disused, military sites such as at Fylingdales, hence the decision to build it there.

The first real opportunity for anyone to challenge the location of the facility within the National Park came in 1986 when the golf ball radomes were replaced. The Notice of Proposed Development put forward by the MoD to develop the site was severely deficient with no rigorous Environmental Impact Assessment or consideration of alternative ways of meeting the stated defence need. At the time CNP strongly objected to the proposals and raised its concerns with the relevant ministers of the day in both the Department of the Environment (DoE) and in the Ministry of Defence (MoD).

The National Park Authority was in a difficult position because the MoD was not prepared to present information on alternatives which would satisfactorily have demonstrated the need for the development to take place at Fylingdales. The Park Authority was forced not to object to the proposals for the redevelopment of the site on the basis that the DoE Secretary of State was the only body with access to information that would enable it to satisfy itself that there were no possible alternative sites to Fylingdales.

Since the 1980s National Park legislation has changed with the creation of independent National Park Authorities, the revision of National Park purposes and the imposition of a duty³⁷ on all public bodies, including the MoD, to have regard to National Park purposes in their operations and in their decision-making processes.

Changes in the MoD and its environmental credentials

The MoD has historically had a poor record of properly taking into account the impact of its activities on the environment. There is an inherent conflict between military activities and National Park purposes. Until very recently it has been difficult to challenge MoD development proposals, as the culture within Government has been to accept the claimed overriding military need without questioning it too closely. The MoD is outside the formal planning process because of crown immunity and has successfully avoided having to justify the need for its developments by claiming overriding national need on the basis of very little evidence. CNP and other organisations have considered this to be unacceptable and for years have campaigned for a much more transparent decision-making process. The forthcoming Planning Green Paper offers an opportunity to revisit the principle of crown immunity and to attempt to bring the MoD within the formal planning process both for physical developments i.e. new buildings as well as potential change or intensification of use e.g. Early Warning System to NMD?

CNP recently participated in a long public inquiry involving the MoD's proposed development of the Otterburn Training Area in the Northumberland National Park for training with heavy artillery. This was the first case where a military proposal was examined so rigorously in public and sets a useful precedent for the way that other major military proposals are to be dealt with in National Parks.

In July 2000 Geoff Hoon MP, Secretary of State for Defence, issued a policy statement committing the MoD to various things including to *'carry out environmental policy appraisals of all new or revised policies and equipment acquisition programmes and environmental impact assessments of all new projects and training activities...*

Importantly the policy statement commits the MoD to following the planning system as closely as possible - *'Where the Ministry has been granted specific exemptions, disapplications or*

³⁷ Section 62, Environment Act 1995

derogations from legislation, international treaties or protocols, Departmental standards and arrangements are to be introduced which will be, so far as is reasonably practicable, at least as good as those required by the legislation. I will only invoke any powers given to me to disapply legislation on the grounds of national security when such action is absolutely essential for the maintenance of operational capability.'

A copy of the full statement is attached to this paper for information.

The MoD's Estate Strategy 'In Trust and on Trust: the strategy for the Defence Estate' (2000) which came out of the Strategic Defence Review also has commitments to undertake Environmental Appraisal of new or renewed military activity/construction. The document marks a sea change in the MoD's attitude to its responsibility to the environment.

CNP's & NYMA aspirations

At this stage our main focus is to try and ensure that the right process is put in place to ensure that a full and proper assessment is made of the impact of any further development Fylingdales on National Park purposes. This process must also include a rigorous examination of alternatives.

The legal opinion referred to by Jamie Woolley was prepared for CNP by its honorary barrister David Wolfe and has been sent to DTLR and the MoD, in order to provide clarity on the expectations of the environmental voluntary sector. CNP believes that there should be a public inquiry to ensure that it is as transparent a process as possible and to enable the rigorous examination of the proposals, as required by PPG 7, to take place.

From our combined perspective the best outcome of any proposal for NMD involving Fylingdales would be the complete removal of the existing EWS from the National Park and restoration of the site.

A public inquiry based on the issues required by policy relating to development in National Parks could possibly provide a mechanism for the wider issue of the need for NMD to be explored. This would be beyond the remit of CNP or NYMA.

The inquiry would need to examine whether the proposal is in the public interest and whether there is a national need and no alternatives, as required by PPG7. Major developments such as any further development of Fylingdales are only allowed in National Parks in exceptional circumstances.

Role of the National Park Authority

The National Park Authority is the planning authority and therefore is restricted in the extent to which it can comment in advance of any formal application for development. It would be beyond the remit of the Park Authority to challenge the overall need for NMD. However it is well placed to challenge the need for it to be in the National Park. The Park Authority has a crucial role to play in ensuring that a rigorous process is followed once the British Government makes clear that it wishes to accede to US requests to further develop the site for missile defence purposes.

Appendix

FRAMEWORK FOR THE MANAGEMENT OF HEALTH, SAFETY AND ENVIRONMENTAL RISKS

THE MANAGEMENT OF SAFETY AND ENVIRONMENTAL PROTECTION IN THE MINISTRY OF DEFENCE - A Policy Statement by the Secretary of State for Defence

Responsibility for all safety and environmental matters within the Ministry including health and safety at work, equipment and materiel safety, environmental protection and fire safety is vested in me by virtue of my appointment as Secretary of State for Defence. This Policy Statement, which is to be observed throughout the Ministry, reflects the importance which I attach to protecting the environment and to the health, safety and welfare of all members of HM Forces, civilian employees of the Ministry and other persons who may be affected by the Ministry's activities.

It is my policy that, within the United Kingdom, the Ministry will:

- comply with the requirements of the Health and Safety at Work etc. Act 1974 (HSWA) or the Health and Safety at Work (Northern Ireland) Order 1978 as applicable and with subordinate legislation and other relevant statutory provisions;
- comply with the Environmental Protection Act 1990, the Environment Act 1995 and other relevant statutory provisions and any additional requirements arising from international treaties and protocols to which the UK is a signatory;
- comply with the Fire Precautions Act 1971 and all other applicable fire safety regulations;
- comply with the Government's strategy for sustainable development;
- maintain a corporate Environmental Management System based on ISO 14001;
- maintain fire safety management plans and fire risk assessments;
- carry out environmental policy appraisals of all new or revised policies and equipment acquisition programmes and environmental impact assessments of all new projects and training activities;
- maintain accident prevention plans and emergency procedures on all sites presenting a risk of a major accident to individuals or the environment.

Overseas, the Ministry will apply UK standards where reasonably practicable and in addition comply with relevant host nations' standards.

Where the Ministry has been granted specific exemptions, disapplications or derogations from legislation, international treaties or protocols, Departmental standards and arrangements are to be introduced which will be, so far as is reasonably practicable, at least as good as those required by the legislation. I will only invoke any powers given to me to disapply legislation on the grounds of national security when such action is absolutely essential for the maintenance of operational capability. Where there is no relevant legislation, internal standards will aim to optimise the balance between risks and the benefit to the Ministry and employees.

I require the Parliamentary Under Secretary of State to act as the Department's Green Minister and to chair the Defence Environment and Safety Board which will provide direction, set objectives, monitor, review and report on performance. The members of the Board will include

senior representatives from each Service, the Centre, the Permanent Joint Headquarters (UK), the Defence Procurement Agency, the Defence Logistics Organisation, the Defence Evaluation and Research Agency, Surgeon General and, to ensure coherence with the Defence Estates Strategy, the Chief Executive of Defence Estates will be members in their own right. The Defence Environment and Safety Board will be supported by relevant functional safety boards which will develop policy, set standards, measure performance and define the extent to which independent scrutiny and regulation is to be applied in their area of interest. To ensure that an integrated approach to safety and environmental management is applied throughout the Ministry, the individuals chairing these functional safety boards will also be members of the Defence Environment and Safety Board. Additionally, the Second Permanent Under Secretary of State will be a member of the Defence Environment and Safety Board and will be responsible for establishing Departmental policy, standards and, where appropriate, regulations. This responsibility will be delegated, personally and in writing, to the post-holder chairing the relevant functional safety board.

Safety and environmental protection are line management responsibilities. I delegate the task of discharging my personal responsibilities in their management areas to the Vice Chief of the Defence Staff, the Chief of Defence Procurement, the Chief of Defence Logistics, the Chiefs of the Naval, General and Air Staffs, the Chief of Joint Operations and to the Chief Executives of Defence Trading Fund Agencies. I expect them to delegate further as necessary and on a personal basis to Commanders, Directors and Chief Executives of Defence Agencies (who should also delegate as appropriate through the line management chain) the task of applying my policy in their areas. I further expect them to ensure that managers at every level receive appropriate training and have at their disposal adequate resources to discharge their health and safety at work, environmental protection and fire safety responsibilities.

Managers must ensure that adequately detailed statements laying out the organisation and arrangements for discharging their duties with respect to this Policy Statement are in place. They must also have in place procedures for monitoring the effectiveness of these arrangements. Taken together with my Policy Statement, these statements will meet the legal requirement for a health and safety policy statement to be in place in each management area. In both Service and civilian areas the relevant statement is to be brought to the attention of all employees and others to whom it applies.

I expect managers to foster by positive leadership a culture which encourages employees to take responsibility for achieving my safety objectives and to act, as far as possible, in compliance with best environmental practice. All members of the Ministry are required to take reasonable care of their own health, safety and welfare; that of others who may be affected by their acts or omissions at work; and of the environment. This includes reporting through the management chain, any work situation giving rise to serious or immediate danger to individuals or the environment or of any shortcoming in arrangements that may create danger.

In the acquisition of materiel and equipment of all kinds, safety and environmental management is to begin at the requirement definition stage and is to be carried forward through service to disposal. All aspects of maintenance and operation (including military service) are to be taken into account and particular care is to be taken in assessing risks and environmental impacts where there is no appropriate statute or equivalent civil practice.

The Second Permanent Under Secretary of State will appoint a Chief Environment and Safety Officer (MOD) who will;

- monitor and review the application of arrangements under this Policy Statement within all areas of the Ministry;

- advise the US of S on health (in conjunction with the staff of the Surgeon General) and safety, environmental protection and fire safety matters;
- report annually to the Defence Environment and Safety Board on performance and the results of audits of compliance with this Policy Statement.
- sponsor the publication of detailed health and safety at work, environmental protection and fire safety policy, standards and guidance in Joint Services Publications;
- report directly to me any evidence of significant failure in any part of the Ministry to discharge my responsibilities.

This Policy Statement will be reviewed depending on changes in legislation and within the Ministry, as should the local statements detailing organisations and arrangements.

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UK National Political Overview
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The National Missile Defence debate in the UK is influenced by a number of contradictory elements and groups. Political judgements jostle with national security concerns and the realities of the 'special relationship', including differing transatlantic perceptions on multilateralism and deterrence. The confusion surrounding Labour's stance on NMD is a result of the variety of forces in play which make a clear decision very difficult.

Blair, Straw and the Special Relationship

Since the arrival of the Bush administration in the White House, there have been increasing signals from the upper echelons of government that British support for NMD is increasingly likely.

This represents a marked change in thinking. During the Clinton presidency the UK Government was not averse to allowing ministers to raise doubts about the wisdom of the scheme. In March 2000, Peter Hain, the then UK Minister of State for Foreign and Commonwealth Affairs stated "I don't like the idea of a Star Wars programme, limited or unlimited. . . Any decision it [the US] makes must be done in close co-operation and agreement with the Russians." Again in December 2000 Hain stated "We have made it clear that any means to go down the road of the National Missile Defence System (NMD) must be, as an absolute pre-condition, by an agreement with the Russians. An agreement to amend the Anti-Ballistic Missile Treaty would be required. We don't want to see that abrogated unilaterally by the Americans. If this happened, it would be extremely dangerous and could unleash a world arm's race involving Russia, China and so on."

Since the Bush administration came to power, however, there have been various reports of the enormous pressure being placed on the UK Government to abandon this ambiguity and come out in favour of NMD. An article in February 2001, for example, indicated that US administration officials were furious with the UK position. It quoted one as saying "you're either with us or you're not." In the face of these efforts, the UK government has taken a progressively more receptive tone.

In May 2001, Tony Blair's Press Secretary, Alistair Campbell, told reporters that he views missile defence as a "good idea." Meanwhile, in August, an adviser to Foreign Secretary Jack Straw sent out a briefing paper on NMD. The paper gave the clearest indication yet that the UK Government was prepared to support US proposals. The paper argues:

"Missile Defence is not an alternative to our wider non-proliferation effort, but part of it. Proliferators are not irrational. All our non-proliferation instruments – the multilateral Treaties, national and international export controls, interception/disruption operations etc are ultimately aimed at affecting the cost/benefit calculation that all proliferators must make, however crudely. Effective Missile Defence can do the same, by reducing the likely benefit of developing WMD-armed missiles (or by raising the cost, through the need to build more, or more sophisticated, systems). It therefore complements, not replaces, the other tools in the non-proliferation toolbox."

On 30 September, *The Observer* reported that Blair had given the green light to NMD, telling his colleagues it was “inevitable”. He has hinted recently at such views in public. During Prime Ministers’ Questions on 24 October, he stated “*I do not agree with those who are opposed to it [NMD]. During the summit with President Bush in February, we made it clear that we were prepared to look at defensive as well as offensive systems.*”

The political reasons for responding to US pressure and voicing support are twofold. First, the Labour Party’s damaging debates on unilateral nuclear disarmament in the 1970s and 1980s left the impression that Labour was weak on defence issues, and were widely attributed to having contributed to its electoral defeats in the 1980s and early 1990s. Blair is keen to avoid a recurrence of these debates and deny the Conservatives a potent political weapon. Central to this agenda is the need to convince the public that Labour is committed to the ‘special relationship.’

Secondly, the close ties between the US and the UK affords Britain political, military and strategic advantages that Blair is keen to preserve. The UK often enjoys unique technology-sharing agreements with the US. Examples include the Trident system, the Tomahawk Cruise missile and the Joint Strike Fighter. Britain also enjoys favourable access to US intelligence operations, particularly through specialist imagery and signals intelligence such as the Echelon system, partly based at Menwith Hill. These benefits guarantee the UK Government a level of international prestige and influence that it might not otherwise enjoy. All of this would be at risk should the UK fail to allow the US the use of radar bases for NMD.

It is therefore something of a surprise that the UK Government has yet to openly support the proposals. While in private the Government is keen to placate its American allies, in public it is still sticking to the line it has held since Bush came to power. This line was again reiterated during defence questions on 29 November. Geoff Hoon stated:

“We share US concerns about the proliferation of weapons of mass destruction and their means of delivery, and that we shall continue to work together to tackle the potential threat with a comprehensive strategy. However, it remains the case that the US has not decided how it wishes to proceed with missile defence and has made no request for the use of facilities in the United Kingdom.”

This ongoing reticence reflects the fact that there are still strong forces at all levels of government arguing against NMD. These pressures remain potent and leave the question over the use of UK-based radars wide open.

The Foreign Office and the Ministry of Defence

There are strong concerns in Whitehall policy circles that NMD is a dangerous political exercise, which will be ultimately damaging to Britain’s national security. The Foreign and Commonwealth Office are deeply worried about the strategic instability the project could bring and the threat it poses to multilateral arms control. David Clark, Robin Cook’s special adviser from 1994 till the last election, wrote in July 2001 that Cook never supported NMD and that the Foreign Office remained heavily opposed. Clark wrote that the British Government knows “there is no strategic rationale for NMD” and views the project as “sledgehammer designed to crack a walnut”.

The Ministry of Defence is similarly afraid of NMD fearing that funds and attention will drift away from other important defence procurement projects. These concerns were clearly expressed by the Chief of the Defence Staff, Sir Michael Boyce, in an interview on 28 July:

“There’s no point in completely impoverishing ourselves in order to provide ourselves with a defence against one particular system and not being able to do anything else ... As far as I’m

concerned there is no way I'm in the position to suggest we can pay for any missile defence technology from within the existing defence budget and carry on doing what we are doing at the moment. We must make sure we don't leave out the Russians or indeed the Chinese... We must be sensible about how we work with them, we - the West in general - and the Americans in particular."

This deep unease with NMD from within the Whitehall establishment reflects the challenge that NMD poses to long-standing UK security thinking. UK security thinking has, for the last fifty years, been based on three tenets; nuclear deterrence, multilateral arms control and national security. US NMD plans represent a full frontal attack on all three of these beliefs. Deterrence is undermined by the possibility that the US could launch a nuclear attack without fear of reprisal, multilateral arms control is being destroyed by challenges to the Anti Ballistic Missile Treaty and UK national security is threatened as British involvement makes it a target for attack from enemies of the US.

NMD poses a huge threat to conventional thinking both within the FCO and the MoD, but rather than confront the issue head on and risk the anger of the Americans, officials are instead hoping that due to issues of cost and technology, the problem will simply disappear. As David Clark noted *"The strategy of the Foreign Office was ...to play for time in the hope that events would conspire to get the Government out of its hole; technological failure, spiralling costs, a deal with Russia or even the collapse of North Korea."*

Political Opposition

This deep unease at the highest levels of the UK Government is matched by increasingly vocal opposition from the rank and file of the Labour Party; its backbench MPs, the Trade Unions and its constituency members.

Parliament as a whole appears averse to the idea of NMD. Hence, an Early Day Motion tabled by Malcolm Savidge strongly questioning the wisdom of NMD has collected 280 signatures - a vast number considering that government ministers and whips are not allowed to sign and that very few EDMs collect more than 100 names. The motion:

"expresses concern at President Bush's intention to move beyond the constraints of the Anti-Ballistic Missile Treaty in developing missile defence; and endorses the unanimous conclusions of the Foreign Affairs Select Committee, which recommended that the Government voice the grave doubts about NMD in the UK, questioned whether US plans to deploy NMD represent an appropriate response to the proliferation problems faced by the international community and recommended that the Government encourage the USA to explore all ways of reducing the threat it perceives."

This EDM has been supported by the Liberal Democrats who have declared in their manifesto that it was *"a threat to international stability and arms control agreements."*

Political opposition has also arisen from outside of Parliament with both Trade Unions and local Labour groups bringing pressure to bear. On 14 June 2001 eighteen trade union General Secretaries wrote to the *Guardian* arguing that NMD would do *"immense damage to international treaties covering weapons of mass destruction"* and that it would be *"wholly inappropriate for our Government to support this initiative and [we] strongly urge it not to do so."* Likewise, at the last Labour Party Conference there were 17 motions, mostly from Constituency Labour Parties, voicing concern over Blair's support for NMD. These were thrown out on the grounds that they were not "contemporary" prompting anger in Labour ranks and charges that Blair was trying to "gag" his party.

September 11 and the military campaign

Given the current international crisis it is difficult to determine how these different pressures will play out. Prior to September 11th there were clear indications that pressure was building, leading towards an uncomfortable confrontation between the Government and its backbenchers and supporters. Given the present need to sustain a unified coalition, it would seem that such a confrontation is unlikely in the near future. However, as the current military action draws on this may not last. Increased civilian casualties and a possible expansion of military action to Iraq will erode public support for the war and again raise doubts about the direction of US security policy. In this environment, NMD will inevitably return to the fore, again placing the Government in a difficult position.

In addition, there are some indications that the Government believes that the current crisis offers it the opportunity to be more strident in raising its concerns with Washington over the direction of US policy. Asked in the House about the US Government's refusal to ratify the comprehensive test ban treaty, its stated wish to abandon the Anti-Ballistic Missile treaty and continuing efforts to develop NMD, Defence Minister Adam Ingram replied: *"Clearly, we can take considerable comfort from the active role played by the US in engaging with its allies and countries with which it would not previously have engaged. We are now in a new international environment and progress can be made on the back of that."*

The debate over NMD has momentarily been forced off the political agenda. However, deep concern at all levels of government remain. Whether this concern is sufficient to force the UK Government to stand up to Washington remains to be seen.

International Political Analysis

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US Security Paradigm

The present US security and foreign policies have not emerged suddenly with the 'election' of George Bush. They are part of a long term development from more multilaterally based policies to ones which are essentially unilateral in nature, although pluralateral initiatives feature as well when they support US interests. This development began before the end of the Cold War and has covered Democrat as well as Republican Administrations.

The objective is to reach military, diplomatic and economic global dominance for the US in the search for security for 'homeland America' and to protect US 'interests' world-wide. The terror attacks of 11th September were a devastating demonstration of the futility of such an approach to security but are being used to fuel the arguments for an acceleration of the development of the present policies. Other horrific statistics, such as the 6,000 children killed by diarrhoea on that same day, demonstrate the consequences of such policies for the 'poor' majority of the world but are generally ignored. Menwith Hill is used by the US to gather commercial intelligence even more than military intelligence. This is not shared with Britain or any other state but is used to promote the interests of the US and US companies around the world.

Missile defence and the militarisation of space are at the centre of the development of long reach, full spectrum military global dominance by the US. These programmes seek to make the US and its forces invulnerable to attack and to enhance its first-strike capability and its ability to threaten, wage and 'win' nuclear conflict. Deterrence is re-defined but remains at the heart of the security paradigm.

So-called National Missile Defence (NMD) of the US has few supporters outside the US. The development of NMD is seen as destabilising, not only militarily and politically but also in terms of the international disarmament process. Yet the Bush administration continues to peddle the smoke-screen of "rogue states". In fact this has intensified post-11th September even though the risk of attack on the US by named states using strategic ballistic missiles is infinitesimal.

The new 'Strategic Stability', which the US wishes to have with Russia, is to be based on deterrence constructed with much lower numbers of strategic nuclear weapons combined with missile defence. As yet, however, it is unclear whether the (mutual) unilateral reductions in nuclear weapons will be subject to the necessary disarmament principles of transparency, verification and irreversibility. In addition Russia is, quite rightly, worried that the involvement of missile defence, which if it works will enhance the US first-strike capability, will mean that the re-defined deterrence will be virtually one way. But since Russia is desperate, for financial and security reasons, to significantly reduce its nuclear arsenal some sort of 'deal' over NMD is very likely even though major amendment of the ABM Treaty remains unlikely.

China and control of the Pacific region remains a primary target of the missile defence programmes. In order to promote missile defence the US has even indicated to China that it would not object if China carried out more nuclear tests in order to develop its nuclear arsenal so that it would not be rendered ineffective by US NMD. This diversion of resources by China and distraction from the development of its economic strength would clearly suit US purposes. By

dragging China into an arms race the US would hope to weaken it as a competitor as has happened to the USSR/Russia. With NMD the US would still have an enhanced first strike capability and the ability to win any threatened conflict with China.

Of course any proliferation of nuclear weapons by China would cause India and then Pakistan to further develop their nuclear arsenals. Other states and non-state organisations undoubtedly look to other weapons of mass destruction as ways of trying to combat the awesome military power of the US.

Even the development of so-called Theatre Missile Defence (TMD) by the US in co-operation with Taiwan or Japan is very likely to result in the same response by China. At present China is clear that it would respond whatever form the missile defence takes but that it would not be dragged down economically by trying to achieve parity with the US militarily. Through development of TMD the US has managed to involve many states into missile defence programmes and thus the thrust of the US security policies. It is far from apparent that this involvement is to the security benefit of the other states. The prime example is the UK which, if it allows the US to use Fylingdales, Menwith Hill or other bases in Britain for missile defence, will make Britain even more of a target in the event of conflict. Britain would also incur a financial cost which would put an extra strain on an already over-stretched UK Defence Budget. Further, the TMD systems already deployed are one of the major obstacles to progress towards a peaceful resolution in the Middle East and post-11th September, TMD systems are likely to be viewed by the US as even more essential to their security framework.

The US is now more than ever determined to pursue all options for aggressive and defensive weapon systems. These include Unmanned Combat Aerial Vehicles, 'mini-nukes' (which will blur the boundary between conventional and nuclear weapons), sub-orbital bombers and space based lasers. Missile defence is a 'stalking horse' and the ultimate vehicle for US long reach, full spectrum domination is the weaponisation of space.

Disarmament and Arms Control

The US policy with regard to nuclear disarmament and arms control is a perfect example of its move away from the multilateral approach and its developing differences with British policy and interests. While these differences have been publicly obvious any criticism of the US by the UK has been private and muted.

Double standards with regard to inspection and verification regimes seem to be at the heart of the US objections to the ratification of the Comprehensive Test Ban Treaty (CTBT) and acceptance of the additional protocols to the Biological and Toxic Weapons Convention (BTWC). The US demands that other states, e.g. Iraq, are subject to rigorous inspection and verification procedures but that the US should be exempt since it perceives such regimes as against its national interest. This is apparent also in that US legislation has been passed which allows the President to limit the inspections for the Chemical Weapons Convention (CWC). At present the US is attempting to roll back the progress that has been made by trying to take the CTBT off the UN agenda and by trying to stop any further discussion on the additional protocols to the BTWC.

The development and deployment of missile defence threatens the Nuclear Non-Proliferation Treaty (NPT) and the Outer Space Treaty as well as the ABM Treaty. If the US and Russia and/or the US and China 'do a deal' over missile defence it will mean the maintenance of nuclear weapons as part of their security framework. That is at variance with their NPT obligations and the commitment they and the other nuclear weapon states made at the NPT Review Conference 2000 to abolish their nuclear arsenals. Missile defence will also feed the proliferation of nuclear weapons, other weapons of mass destruction and ballistic missiles. As such it can not be seen as supplementing non-proliferation efforts.

The Conference on Disarmament (CD) in Geneva is stalled in major part because the US refuses to negotiate a treaty which would prevent an arms race in outer space (PAROS). All the other states are willing to do so, albeit reluctantly on the part of some. However the US cannot take all the blame for the lack of progress at the CD. The deadlock is, although they would deny it, in the perceived self-interests of China, India and Pakistan who do not want negotiations on a Fissile Material Cut-off Treaty to be concluded before they have produced sufficient fissile material for their developing nuclear arsenals. Of course the deployment of missile defence by the US would increase the perceived need by these states for such nuclear weapons making materials.

Post ABM Treaty

While we should clearly be moving away from Cold War processes and strategy the direction chosen by the US is not in the interest of global stability. The ABM Treaty should not just be scrapped or amended into uselessness but rather become irrelevant through the abolition of nuclear weapons and control of ballistic missiles. Although it came into existence to maintain the strategy of Mutually Assured Destruction (MAD) it led directly to the SALT and START processes on the limitation and reduction of strategic nuclear weapons.

A major amendment to the Treaty is now very unlikely. Russia, and indeed Putin, has put too much political capital into stating it will not do so to give way in this formal manner. However a 'deal' is likely to be struck between the US and Russia concerning the Treaty and reductions in strategic nuclear weapons.

A real possibility is that the US will state that it is only mounting a testing programme for the present. In this case Russia will turn a blind-eye to violations of the Treaty. Perhaps more likely, due to internal pressure and the fact that Bush has invested a great deal of political credibility in delivering missile defence, is that the US will leave the Treaty as it is entitled to do under the terms, if it gives six months notice. If Russia is to accept either of these scenarios without reacting significantly then the price will be a treaty encapsulating the reductions in strategic nuclear weapons which both states have promised. Russia will still be able to say it is no longer taking part in the START process as such.

With the end of the ABM Treaty, whether literally or practically, much of the opposition from governments to missile defence will fade, particularly in Europe, as they accept NMD as a fait accompli. It is therefore even more important that states and NGOs with principle objections to missile defence programmes continue to make their case. We will also need to urge restraint on the part of China and others so that the threatened new arms race does not in fact materialise.

We also need to look to the longer term and focus on calls by Canada and others for a new Outer Space Treaty which would maintain space for peaceful uses. This should not just ban the weaponisation of space but also roll back the militarisation of space. Where, for instance, surveillance satellites are needed these should be under the control of civilian organisations such as the UN itself and Agencies responsible for the inspection and verification processes of treaties. The threat comes not only from the US but also from the new joint European Union and European Space Agency strategy.

Generally we must continue to reject the US security paradigm and highlight an alternative and sustainable paradigm for global security based on international law, multilateral treaties, conflict prevention, regional solutions to regional problems and any necessary military action in the context of a reformed United Nations.