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Decision making and experiments  
in the process of solution implementation  
relating to Conservation with special  
reference to the Barnsbury Conservation Area

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## VOL II

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A Thesis submitted for the  
degree of Doctor of Philosophy

Kenneth Pring

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September 1979

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CHAPTER FIVE: CASE EXAMPLE 2

LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD) COMPULSORY

PURCHASE ORDER 1972

PART III HOUSING ACT 1957

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# I INTRODUCTION

## i. Preamble

The London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972, was the formal title given to a part III Compulsory Purchase Order; this related to two terraces of houses, numbers 16-62 Barnsbury Road. The terraces were located to the south of the then boundaries of the Barnsbury Conservation Area, and they have subsequently been included in the recently extended Conservation Area.

This case study is of particular interest because, following the experience gained in the Islington (Hemingford Road) Compulsory Purchase Order 1970, the writer was able to co-ordinate the Barnsbury Road objectors' actions so that the majority of the houses were made fit at reasonable cost, to the extent that the Council were forced reluctantly to rescind the slum clearance order.

Thus the lessons learnt in the previous case example were put to use and, in contrast to the approach used to fight the Hemingford Road C.P.O., it was decided to adopt an interventionist approach to the problem. Since, in the writer's opinion, the result of the Hemingford Road C.P.O. had been unsatisfactory, the prime object of the intervention was to influence the attitudes of the officers and members of the Council in various ways, in order to prevent the case going to a public enquiry.

This case example examines the factors which influenced the decision to compulsorily purchase the terraces, the responses and actions of those who opposed the proposal, and analyses the ultimate decision to rescind the Order shortly before the date fixed for the public enquiry.

The subsequent actions of the Council, the responses and final decisions taken will be explained and analysed in case example 3, in the next chapter of the thesis.

ii. Definition of Area Boundaries

The Compulsory Purchase Order area included 23 houses, a vacant site and a temporary second-hand gas appliance shop.

The Compulsory Purchase Order area was bounded by Copenhagen Street to the north, Barnsbury Road to the west, the rear party garden wall of the Order properties shared by the erstwhile terrace housing in Denmark Grove to the east, and Dewey Road to the south, (see map fig. 5.01).

iii. Architectural and Townscape Description of the Area

16-62 Barnsbury Road was developed between 1817 and 1822 by James Gouldon, after whom the terrace was originally named. He is reputed to have gone bankrupt, but whether





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this is because he lavished too much money upon the quality of the development is not known. (100)

The houses were laid-out in twin terraces separated by a narrow road which connects Barnsbury Road with Denmark Grove, (see photograph fig. 5.02).

They were mansarded, four storeys high over basements and built in yellow London stock brickwork, with the ground floor front elevation clad in rusticated stucco incorporating segmental arches to the window and door openings. The first and second floor windows had flat, cut London stock brickwork arches, (see photograph fig. 5.03), and there were double length balconies at first floor level containing their original cast iron panel inserts. (see photograph fig. 5.04).

The mansard roofs were clad in welsh slates and incorporated segmental headed dormer windows behind brick parapet walls on the front elevation, and square-headed dormers to the rear, (see photographs figs. 5.03 and 5.05)

The street doors retained their original panelling and fluted wooden quarter columns, (see photographs figs. 5.06 and 5.07).

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(100) Roger France, Goulden Terrace, a report to the DOE recommending the preservation of the buildings, (30th June 1972)

A VIEW OF THE NARROW ROAD WHICH SEPARATES THE TWO TERRACES AND LINKS BARNSBURY ROAD TO DENMARK GROVE fig. 5.02



56-62 BARNSBURY ROAD SHOWING FRONT ELEVATIONS IN FEBRUARY 1972 BEFORE COMMENCEMENT OF WORKS fig. 5.03



TYPICAL CAST IRON BALCONIES TO FIRST FLOOR WINDOWS fig. 5.04



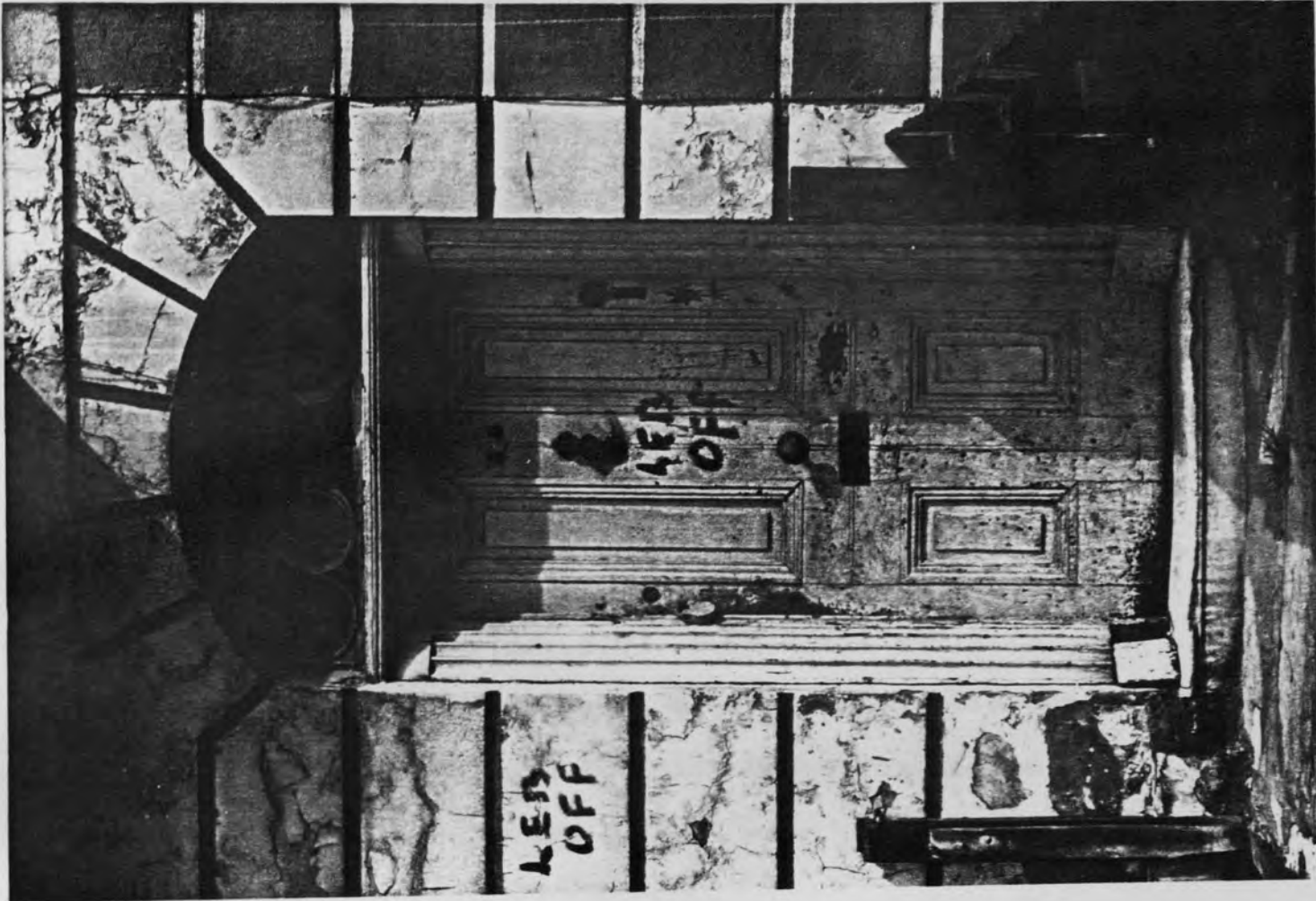
50-62 BARNSBURY ROAD SHOWING REAR ELEVATION IN  
FEBRUARY 1972 BEFORE COMMENCEMENT OF WORKS

fig. 5.05



42 BARNSBURY STREET - STREET DOOR

fig. 5.06



60 BARNSBURY STREET - STREET DOOR

fig. 5.07



The terraces are located in the south of the Barnsbury Conservation Area, which is officially designated as being of outstanding importance. The Conservation Area boundaries were originally designated on 27th November 1969 when, on the recommendation of the Borough Planning Officer, it was decided to exclude this part of Barnsbury Road in order to avoid the creation of administrative difficulties in the planning of this area which formed a part of the Angel redevelopment area.

The general condition of the housing before conversion is shown in photographs figs. 5.03, 5.05, 5.11 and 5.12. As can be seen, the housing was in a very dilapidated state at the time the Compulsory Purchase Order resolution was passed on the 15th February 1972.

The houses were listed as being of architectural and historic interest on the 10th May 1973, and the way in which the listing was achieved will be analysed later in this case example.

iv. An Explanation of the Long-Term Planning Proposals for the Area 1951-1972

This case example resembles the Islington (Hemingford Road) Compulsory Purchase Order area, in that it was also blighted by the public open space proposals contained in the Initial Development Plan.

This plan was published in 1951 and this indicated the land occupied by 16-62 Barnsbury Road zoned for use as public open space to link Barnsbury Park, (as described earlier), with a further public open space proposed to the south, (see Initial Development Plan map fig. 5.08).

The background to the transfer of lands designated for public open space, under Section 58 of the London Government Act 1963, was outlined in the previous case example, however, there was a special mention of the Barnsbury Road area in a report submitted to the Town Planning & Development Committee. (101)

"In December 1963 the former London County Council agreed to acquire for public open space purposes about  $4\frac{1}{2}$  acres of land at Barnsbury Road, Copenhagen Street, Denmark Grove and Grant Street. They intended to acquire part of the site under housing and planning powers and the remainder under open space powers using compulsory purchase action wherever this was necessary.

"An amendment to the Initial Development Plan, required by the open space development proposals, together with a compulsory purchase order were submitted by the former London County Council to the Minister of Housing and Local Government in 1964 and 1965 respectively. The

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(101) Working Party, Item Group C.CI, Report submitted to L.B.I. Town Planning & Development Committee (20th November 1970)



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Minister declined to deal with these submissions until the report on the Barnsbury environmental study was published. One of the proposals in this report affects the present boundaries of the open space site and the Minister has therefore suggested that the Greater London Council might now withdraw both the proposed amendment to the initial development plan and the compulsory purchase order.

"The Greater London Council have agreed with the suggestion of the Minister and, in view of the proposal in the scheme under Section 58(2) of the London Government Act 1963, that lands owned by the Greater London Council for the new public open space at Barnsbury Road should be transferred to the Borough Council, proposes that both submissions to the Minister should be withdrawn. This, the Greater London Council feel, will have the further advantage of allowing the Borough Council to consider afresh the planning the area. The decision of the Greater London Council to acquire land in the area will, however, remain in force until 30th September 1970 to cover any hardship to owner occupiers that may arise in the future.

"A letter had been received from the Greater London Council asking whether the Borough Council agrees to their proposal to withdraw the amendment to the Initial Development Plan and whether they are prepared to accept, from vesting date, financial responsibility for any further purchase of property they may make in the area.

"The precise allocation of land between housing and open space is at present undetermined and will be affected by the current review of open spaces and resources and by considerations associated with the Angel Redevelopment Scheme. It is however anticipated that the land concerned can be used either for housing or open space or, possibly a combination of both", (see map fig. 5.09) (102).

The Development Plan Working Party decided that:

"Bearing in mind the conditions existing in this area at the present time, the Working Party consider that recommendations as to the future of this area should be included in the next report on the Angel Redevelopment Scheme".  
(103)

However, in spite of the recommendations of the Working Party, the formal zoning was not changed and planning blight continued to affect the condition of the houses, so that on 15th February 1972 the London Borough of Islington passed their Compulsory Purchase Order resolution under Part III of the Housing Act 1957.

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- (102) Borough Planner's report was a verbatim reiteration of the Town Clerk's report item no. 20 dated 29th September 1970
- (103) L.B.I. Development Plan Working Party, Minute No. 5.11 (29th September 1970)

IDP Zone

IDP Zone Amendment  
- now withdrawn

fig. 5.09

LONDON BOROUGH OF ISLINGTON

Planning Department

TRANSFER OF GLC PARKS  
AND OPEN SPACE  
ASSESSMENT FOR COST  
EVALUATION

scale 1:1250

grid ref

date 20-11-70

planfile S 1201 b

drawn PJH

checked JDH

KG BLYTHE BSc (E st. Major)

Borough Planning Officer



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II BEFORE THE FORMAL SUBMISSION OF THE COMPULSORY PURCHASE ORDER TO THE DEPARTMENT OF THE ENVIRONMENT SEPTEMBER 1971 TO JUNE 1972

i. Narrative of Events Leading to the Part III C.P.O.

It is probable that the London Borough of Islington's Public Health Officers identified 16-62 Barnsbury Road as a potential Part III area in 1966. (104) The identification was made in a similar way to that described in the previous case example, with the possible difference that the area was represented following a 5% sample investigation, rather than the 10% used by the Greater London Councils' Public Health Officers on the original Islington (Hemingford Road) Compulsory Purchase Order which was represented in 1969.

The Public Health Officer reported his findings to the Medical Officer of Health, who, as a result of the report, recommended Part III action to the Director of Development, following which they submitted a joint report to the Town Planning & Development Committee on the 18th January 1972.

The Medical Officer of Health's section of the report is a verbatim statement quoted from the 1957 Housing Act, whereas the Director of Development's section of the report explains the financial, legal and policy implications.

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(104) It has not been possible to verify the date of the P.H.O's survey, but the terraces were formally included in the slum clearance programme for action for the period 1971/1975

The principle grounds of unfitness were given as:

- 1) Dampness
- 2) Disrepair
- 3) Instability

The report also contained a reference to the alleged unsatisfactory arrangement of the houses in the street in the description: "The houses are five storeyed basement properties with small yards and outbuildings ...".

As in the previous case example, the Committee were given no information as to other options open to them as an alternative to Part III action, and they therefore accepted their officer's recommendation.

The main work of the London Borough of Islington, as in most Local Authorities, is carried out in committees and the Compulsory Purchase Order resolution was adopted by the full Council as a matter of course.

Thus, the situation can be expressed as a simple decision-tree fig. 5.10.

At this point this case example is very similar to that of the Islington (Hemingford Road) Compulsory Purchase Order and the points of similarity will be summarised and analysed later.

- DD - DIRECTOR OF DEVELOPMENT
- LBI - LONDON BOROUGH OF ISLINGTON
- MOH - MEDICAL OFFICER OF HEALTH
- PHO - PUBLIC HEALTH OFFICER
- TPD - TOWN PLANNING & DEVELOPMENT COMMITTEE

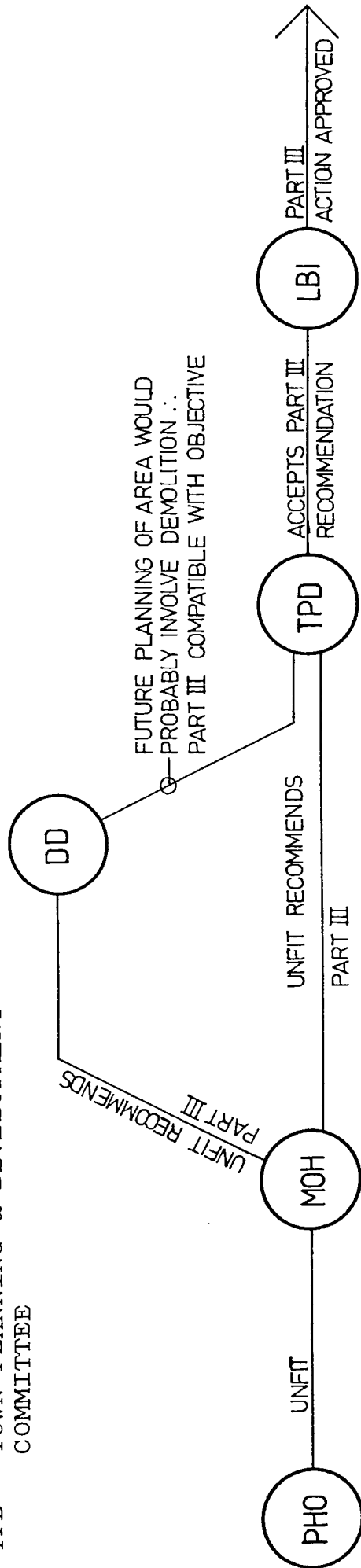


fig. 5.10 SIMPLE DECISION-TREE DIAGRAM OF BARNSBURY ROAD PART III C.P.O. SITUATION BETWEEN 1966 & 1972

ii. Reaction to the London Borough of Islington's Decision

a. Political Background

1. In the London Borough elections of 13th May 1971, the Conservatives lost control of Islington Council which they had held with a majority of approximately 30 over Labour and Independents.

The period 1968 to 1971 had been the only period for 34 years that the Conservatives had had a majority in Islington, that is to say the London Borough of Islington and the erstwhile Metropolitan Boroughs of Finsbury and Islington. Indeed, Islington Council had consisted solely of Labour councillors since the war.

During the period of Conservative control, the Council had been restructured by Messrs. Booze Allan as mentioned earlier in the previous case study, and the principles of public participation in planning and 'open-committee' meetings were established.

A majority of the Conservative councillors had only recently moved into Islington and about 80% were graduates. This was in marked contrast with the erstwhile Labour councillors both in this and the previous Labour controlled Council, who were mainly long-term working-class residents of the Borough.

This period of Conservative control was important for two reasons: firstly, because it proved to the Labour Party that they could no longer assume that they would always control the Council, and secondly, because the Labour Party used this period in opposition to review its attitudes to the new middle-class residents in the area, who were concerned to see better planning and more conservation of the environment included in Council proposals. They also restructured their selection of candidates to include a number of graduates.

Labour regained control of the Council in May 1971 by winning every seat in the Borough; the Conservatives retained three Aldermanic seats.

A large proportion of the new Labour councillors were also middle-class graduates who, like their Conservative counterparts, had recently moved into the area; these members took control of the Council and became chairmen of every important committee in the Council.

Part of the Labour Party's platform during the election was to accuse the Conservatives of encouraging private enterprise in the field of housing, whereby old houses were being bought relatively cheaply, sitting tenants were induced to move and, with the help of beneficial planning consents and



discretionary grants, these houses were converted for sale or to let furnished at high rents.

The Conservatives responded by accusing the Labour Party of attempting to make Islington into a working-class ghetto, by Compulsorily Purchasing and demolishing good housing of architectural and historical interest and building "barracks for the workers which will be the slums of tomorrow". (105)

This then was the political background of the London Borough of Islington during the period of this case study. The writer believes that there were strong political motives in the London Borough of Islington's actions and attitudes from January 1972 onwards; these prevailed through the subsequent events which form the subject of analysis in case example 3, 16-62 Barnsbury Road and 1-23 Copenhagen Street. These will be referred to in the narrative of case example 3 and will be analysed later in this work.

## 2. Greater London Council

The writer believes that there was no political intervention by the Greater London Council on this case example.

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(105) The Conservatives adopted this slogan which was originally used by Harry Brack who, as a Labour councillor prior to 1971, used the phrase in his battle to save the Packington Estate from demolition

### 3. Parliament

The Conservatives were in power during the Council period in the case study and this may have had an important bearing on the final decision to list the buildings, since there is a prima facie case indicating that the listing was achieved by political intervention which overrode the normal bureaucratic procedures.

#### b. Initial Response to the Compulsory Purchase Order Resolution

##### 1. Introduction

Since the properties were included in the Council's slum clearance programme for 1971/1975, it was a matter of public knowledge that Part III action was likely to be implemented in due course.

From the experience gained in the Islington (Hemingford Road) Compulsory Purchase Order, various local people, including the writer, were convinced that the only way to be absolutely certain of proving these houses were not slums, would be to convert them at reasonable cost. In this way there could be no argument on costs and quality at a public enquiry.

In September 1971 numbers 58 and 60 Barnsbury Road were auctioned and bought by a local property developer who appointed the writer to act for him.

There was a Whole House Closing Order on number 60 and therefore the two sitting tenants occupying a part of the building when it was acquired were being offered Council accommodation. There was a Closing Order on the basement of number 58, and two tenants occupied the first and second floors. These tenants, who were to remain, were consulted as to their requirements and plans were drawn up, which were approved by the tenants, for the conversion of the houses. The way in which tenants were involved in the decision to convert and restore the terraces will be described in a separate section in this case study.

Building work was commenced on site in the beginning of January 1972, that is to say before the passing of the Compulsory Purchase Order resolution on the 15th February 1972. Following the London Borough of Islington's decision to take Part III action, the owners and occupiers of the houses affected were informed of the resolution and were subsequently invited by the Council to a public meeting which was held at Starcross School on 25th May 1972.

This meeting was presided over by the Chairman of the Town Planning & Development Committee, who explained the Councils' long-term planning objectives for the area and its intention to deal with unsatisfactory housing in the Borough.

Certain residents of the terraces asked the Chairman to explain why works were being carried out to numbers 58/60 Barnsbury Road when, according to the Council the houses were scheduled for slum clearance, (see photographs figs. 5.11 and 5.12).

The Chairman stated that this was the work of speculators and that the Council were determined to process the Compulsory Purchase Order as a matter of urgency. He added that "speculators often burnt their fingers" and that the Council would take appropriate action against any unauthorised works. (106)

The meeting finished with the Chairman warning tenants about the danger of harassment by property speculators, and explained to owners that the Council would act quickly to purchase any houses they wished to sell before the public enquiry.

At the close of the meeting, the owner of 58/60 Barnsbury Road and the writer were invited to meet various owner occupiers in one of their houses. (107)

- (106) Later the Chairman appears to have had a change of heart, as will emerge in case example 6 - 163-185 Barnsbury Road part III C.P.O.
- (107) Mr. Yusef Mustafa, the Turkish-Cypriot owner of 48 Barnsbury Road, acted as host and co-ordinator for a number of immigrants in the street and this was a vital factor in the eventual success of the scheme

16-62 BARNSBURY ROAD, MARCH 1972, SHOWING  
SCAFFOLDING TO NO. 60 IN PREPARATION FOR  
BRICK CLEANING WORK

fig. 5.11



56-62 BARNSBURY ROAD SHOWING WORKS BEING  
CARRIED OUT TO 58/60 BARNSBURY ROAD APPROX.  
MARCH 1972 AFTER THE BRICKWORK TO NO. 60 HAD  
BEEN CLEARED

fig. 5.12



The writer explained his proposals for fighting the Compulsory Purchase Order and a further meeting was organised for the following week. At this meeting joint action was agreed with the Greek and Turkish-Cypriot owner-occupiers of numbers 48, 54 and 56 Barnsbury Road. These owner-occupiers also promised to contact the other owner-occupiers in the terrace and to invite them to co-operate in the campaign.

A number of other houses were subsequently offered for sale, four of which were bought by the owner of 58/60 referred to earlier, by a deliberate policy of bidding more for properties than the district valuer was prepared to accept; two others were bought by potential owner-occupiers and one by the New Islington & Hackney Housing Association.

By the middle of June 1972 work was proceeding on the thirteen houses, eight of which had been bought by developers, the remainder being owner-occupied.

In spite of the physical proof that the majority of the houses were being repaired and that nine were being extensively renovated, the London Borough of Islington decided to proceed with the Part III action and formally referred the Compulsory Purchase Order to the Department of the Environment on 16th June 1972.

It is clear from correspondence and discussions with officers and members of the London Borough of Islington, that the Council were aware that works were in progress, as will be shown later in this case example. Thus, the Council's decision at this point can be shown diagrammatically, (see decision-tree fig. 5.13).

There were certain social and economic factors which influenced the owner-occupiers' decision, which will be discussed later in this work.

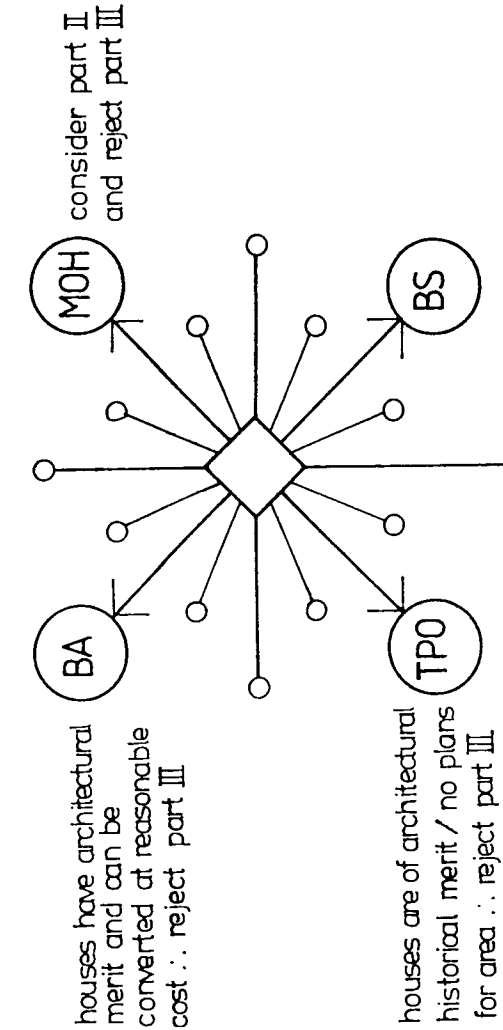
However, the crude situation can be expressed diagrammatically, (see decision-tree fig. 5.14).

c. The Theories to be Tested by the Interventionist Approach Adopted in this Case Study

It emerged from the analysis of the public enquiry evidence in the previous case example that many decisions were made on the basis of imperfect knowledge and that many of the factors in the decision-making process were of an exceedingly technical nature which involved legal, aesthetic, social and economic considerations.

Thus, it was decided in this case example to test the theories which were developed during and after the Islington (Hemingford Road) Compulsory Purchase Order

- INDIVIDUAL TENANTS OWNER-
- OCCUPIERS & DEVELOPERS
- BOROUGH ARCHITECT
- BOROUGH SOLICITOR
- DIRECTOR OF DEVELOPMENT
- FULL COMMITTEE
- MEDICAL OFFICER OF HEALTH
- PUBLIC HEALTH OFFICER
- PUBLIC MEETING
- TOWN PLANNING DEPARTMENT
- TOWN PLANNING & DEVELOPMENT COMMITTEE
- TOWN PLANNING OFFICER



- BA -
- BS -
- DD -
- FC -
- MOH -
- PHO -
- PM -
- TP -
- TPD -
- TPO -

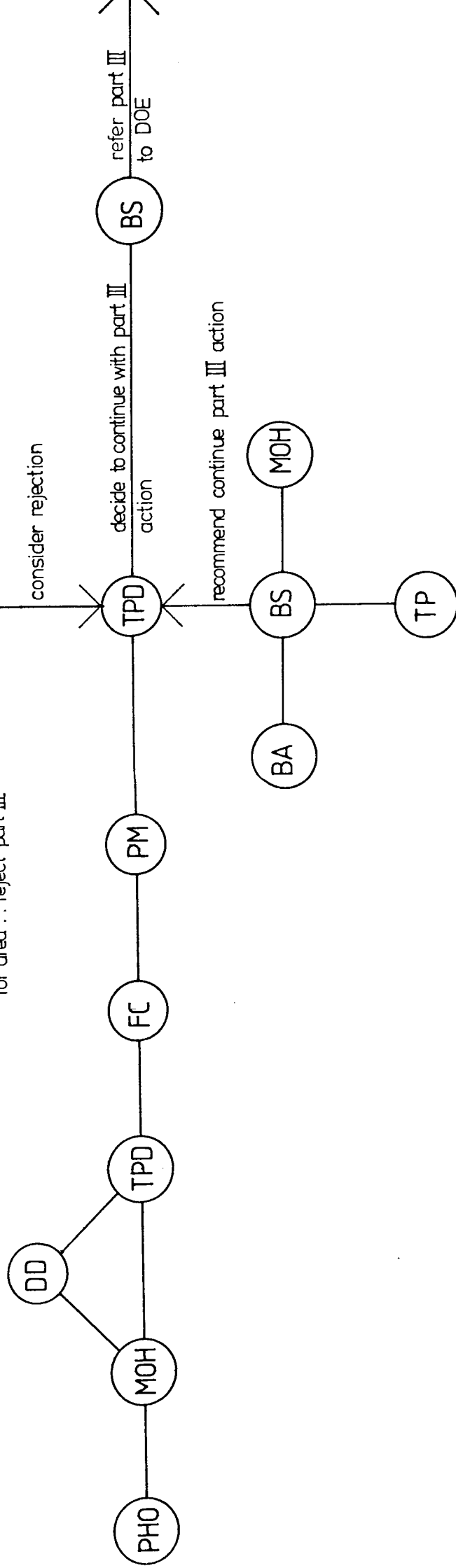
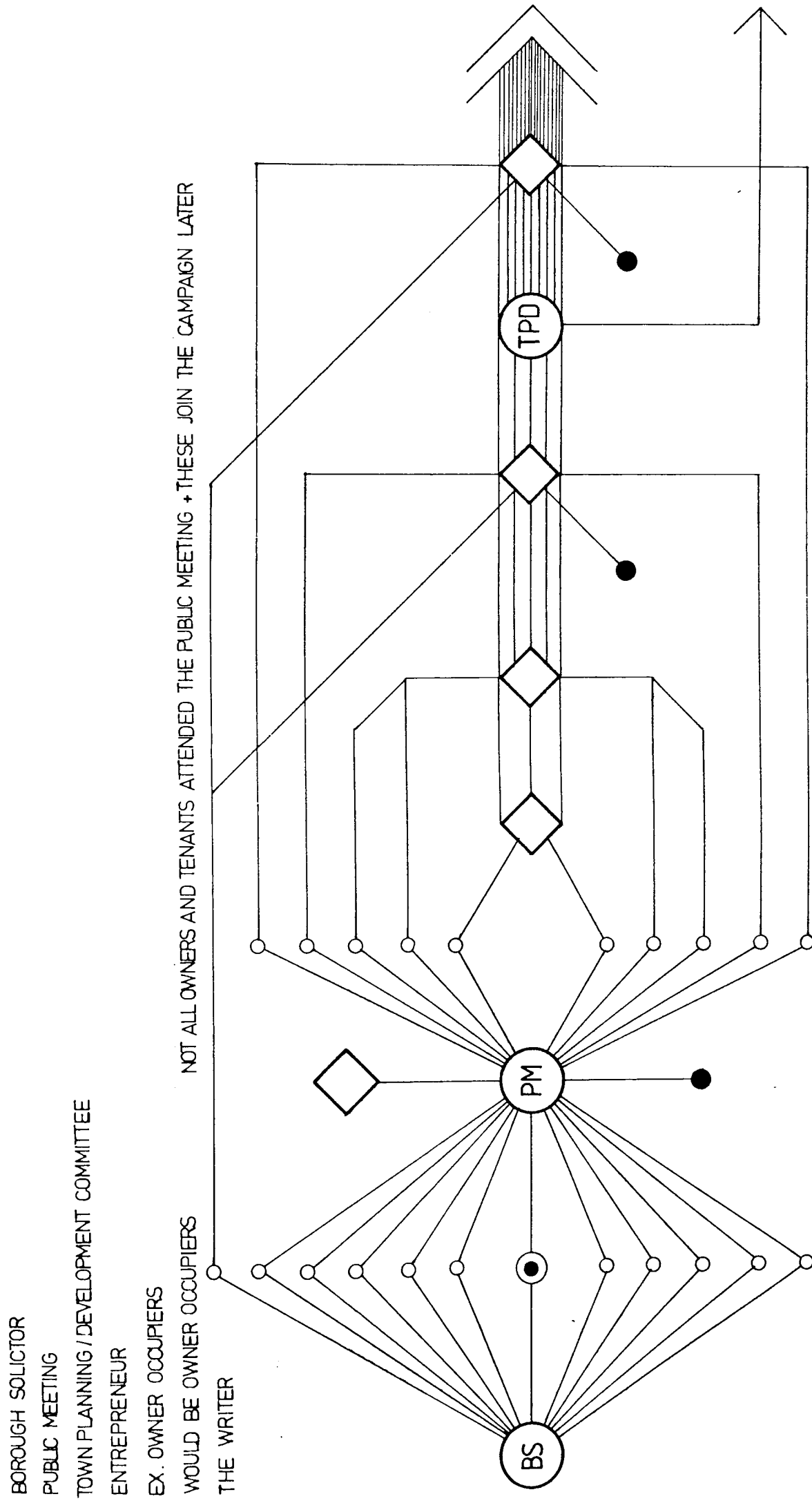


fig. 5.13 DECISION-TREE DIAGRAM OF SITUATION ON 16TH JUNE 1972 WHEN THE L.B.I. DECIDED TO PROCEED WITH THE ISLINGTON (BARNSBURY ROAD) COMPULSORY PURCHASE ORDER 1972





BOROUGH SOLICITOR  
 PUBLIC MEETING  
 TOWN PLANNING / DEVELOPMENT COMMITTEE  
 ENTREPRENEUR  
 EX. OWNER OCCUPIERS  
 WOULD BE OWNER OCCUPIERS  
 THE WRITER

NOT ALL OWNERS AND TENANTS ATTENDED THE PUBLIC MEETING + THESE JOIN THE CAMPAIGN LATER

BS sends notice of intention to take pt III action to owners and tenants

owners and tenants invited to public meeting

2 owner-occupiers join the developer & the writer after the public meeting & decide joint action

more owner-occupiers would-be owner-occupiers join the campaign

the LBI decide to continue in spite of the campaign and strengthens

fig. 5.14 A DIAGRAMMATIC REPRESENTATION OF OWNER-OCCUPIERS GRADUAL INVOLVEMENT IN THE CAMPAIGN

campaign, by the adoption of an empirical approach to the various factors which appeared to have influenced decisions in both case examples. There were also factors which emerged during the exercise, which were tested on the same basis.

Whilst it is accepted that the Islington (Barnsbury Road) Compulsory Purchase Order is not in all respects similar to the Islington (Hemingford Road) Compulsory Purchase Order, there were factors which both examples have in common, which are summarised as follows:-

1. The houses in both areas were typical examples of speculative development of the early nineteenth century and in the writer's opinion were of sufficient merit to be worthy of listing;
2. The houses in both areas suffered from planning blight, resulting from the public open space zoning contained in the Initial Development Plan 1951;
3. The houses in both cases were represented as unfit;
4. The houses in both cases were represented as being unstable by the Medical Officer of Health;
5. The Borough Planning Officer recommended the exclusion of both areas from the Barnsbury Conservation Area; (108)

6. In both cases the Borough Planning Officer contended that improvements and additions to the houses would require town planning consent;
7. In both cases it was contended that to give town planning consents for the conversions would involve a major departure from the Initial Development Plan.

The major differences between the housing in the two case studies are summarised as follows:-

1. The housing in the previous case example was smaller in scale and was built approximately 10-15 years later than that in Barnsbury Road;
2. A preponderance of the houses in the previous case example were leasehold and occupied by an aging community; there were no owners prepared to carry out major works of improvement;
3. In the previous case example the London Borough of Islington examined the possibility of rescinding the part III Compulsory Purchase Order and investigated a scheme of renovation, whereas the Council did not consider this option for Barnsbury Road.

During the empirical exercise on Barnsbury Road, a number of further important factors emerged which are summarised as follows:-

1. Members of the Council assumed and stated that the entrepreneurial actions of some of the house owners would lead to harassment and the 'winkling' of tenants. (109)
2. Many officers of the London Borough of Islington's Environmental Health and Town Planning Departments adopted a hostile and protectionist attitude, and were reluctant to co-operate in the resolution of procedural problems with which they were confronted;
3. Officers of the Greater London Council's Historic Buildings Division initially adopted a cautious and non-committal attitude to the objectors on the subject of the architectural value of the buildings, although they later unofficially gave encouragement to the work being carried out; later still they recommended that the houses be listed;
4. The Historic Buildings Division of the Department of the Environment were not initially prepared to consider the houses for listing; they later reconsidered the houses but stated that the buildings were not of sufficient merit to be worthy of listing; later still they finally recommended the listing of the terraces grade II.

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(109) 'Winkling' was verbally defined by George Cunningham, the local member of Parliament, as the process whereby working-class tenants were induced to relinquish their tenancies for a financial consideration, in order that houses could be made vacant for sale at high prices to middle-class owner-occupiers

Thus, during this empirical exercise it was possible to detect the relationship between the decision-makers and their professional advisers, that is to say the councillors and officers of the three tiers of Government

These factors and relationships in the decision-making process will be examined in more detail later in this case example.

iii. Action by the Objectors

a. Identification of Objectors and their Aims and Aspirations

There were 23 houses in the terrace including the cleared site which is included as a house for the purposes of statistical analysis. Prior to the formal submission of the part III Compulsory Purchase Order resolution, the London Borough of Islington owned seven of the houses in the terraces, one of which was occupied by a leaseholder, one was tenanted, one was a vacant site and the rest were vacant and in an advanced state of dilapidation. Of the remainder, six houses were owned by a developer who had acquired the houses knowing that they were designated for slum clearance; these houses were partly occupied by nine tenants. Eight houses were owner-occupied, the owner of only one of which was of English extraction, the remainder being

either Greek or Turkish-Cypriots, Indian or Italian by birth. These houses were almost exclusively occupied by extended families of up to four generations, although there was also some sub-letting of individual rooms.

One house was bought by the New Islington & Hackney Housing Association with the unofficial encouragement of the Chairman of the Town Planning Committee after the area had been designated for Part III action. (110)

Two houses were bought by prospective owner-occupiers, one from the only English owner-occupier; both houses were part tenanted. Two others were owned by a landlord who had only recently received them as a bequest, both being part tenanted.

All the indigenous owner-occupiers and tenants who lived in the terrace during 1972 were working-class, and many worked for British Rail and other public utilities in service industries in the immediate inner London area.

Following the adoption of a policy of unified action to fight the Compulsory Purchase Order by carrying out the necessary works of repair, which was led by the existing and new owner-occupiers, the landlord and the developer, it was decided to canvass the views of tenants to establish their attitudes to the C.P.O.

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The social survey was carried out by sociologists who were students of town planning at the Polytechnic of North London. (111)

They devised a questionnaire and analysed the answers given by respondents. They also explained the landlords' proposals and the influence this could have upon tenants' living accommodation and the rents they could be expected to pay on completion of the work; the survey did not cover those tenants who were to be rehoused by the London Borough of Islington.

The survey was carried out in order to:

1. Establish tenants' attitudes to the Compulsory Purchase Order;
2. Establish tenants' willingness to co-operate when works were carried out;
3. Establish whether they would be prepared to take temporary alternative accommodation in completed and renovated flats in the terraces, whilst works were being carried out;
4. Establish whether, and if so, to what extent, they would be willing or able to pay higher rents;
5. Establish tenants' accommodation requirements compared to their current accommodation.

The results of the survey revealed that approximately 90% of the tenants wished to remain in the terraces, they they would be prepared to pay higher rents for better amenities and they did not wish to become tenants of the London Borough of Islington.

These results were very surprising since they ran contrary to the current ethic that tenants preferred to be housed by Local Authorities rather than the private sector. However, the findings were subsequently checked by the Housing Department of the London Borough of Islington when the building work had been completed, and it was found that all but one tenant was pleased with the completed scheme of rehabilitation; this will be explained in more detail later in this case example.

One amusing fact which came to light from the survey, was that one of the owner-occupiers had obtained a mortgage from the London Borough of Islington to buy her house, (28 Barnsbury Road), during the same week that the Council had to decided to Compulsory Purchase the area for slum clearance. A Council spokesman stated ... "Mrs. Pelosi was offered a mortgage before the Committee took their decision" (112)

At this point it was possible to structure the strategy for fighting the Compulsory Purchase Order



b. The Organisation and Adoption of a Campaign Strategy

The strategy which was adopted was broken down into three distinct but parallel courses of action. The first was the establishment of the basic strategic model for the campaign including the following:-

1. Ensure if possible that every owner and occupier objected to the Compulsory Purchase Order when they received the formal notification.
2. Ensure that every objector was legally represented and that his evidence was prepared for professional presentation at a public enquiry.
3. Ensure that there was no conflict of interest in the representation of owners and occupiers' cases at a public enquiry.
4. Collect evidence for submission at a public enquiry and commission professional reports from specialists.

These were the elements of the strategy, recommended by the writer, which were adopted by the majority of the statutory objectors; the remaining objectors who had not initially been in favour of the campaign later decided to support it.

The second strand of the campaign was to carry out a public relations exercise including the following action:

1. The lobbying of councillors of the London Borough of Islington;
2. The lobbying of the professional and lay press;
3. The lobbying of local and national civic societies and amenity groups;
4. The submission of a formal report recommending the listing of the buildings;
5. The submission of a report under Section 28 of the Housing Act 1969, recommending the area be designated a General Improvement Area in lieu of Slum Clearance Area as proposed.

The third strand of the strategy was to whittle down the Medical Officer of Health's case for slum clearance, in order that he would be forced to recommend the rescindment of the Compulsory Purchase Order. These actions can be summarised as follows:

1. Survey the buildings and note all possible grounds of unfitness;
2. Try to obtain confirmation of those grounds from the Medical Officer of Health;
3. Where these grounds were agreed as being valid, attempt to have the defects remedied;
4. Where the grounds were not agreed, attempt to use objective and unarguable methods to prove the Medical Officer of Health was incorrect;

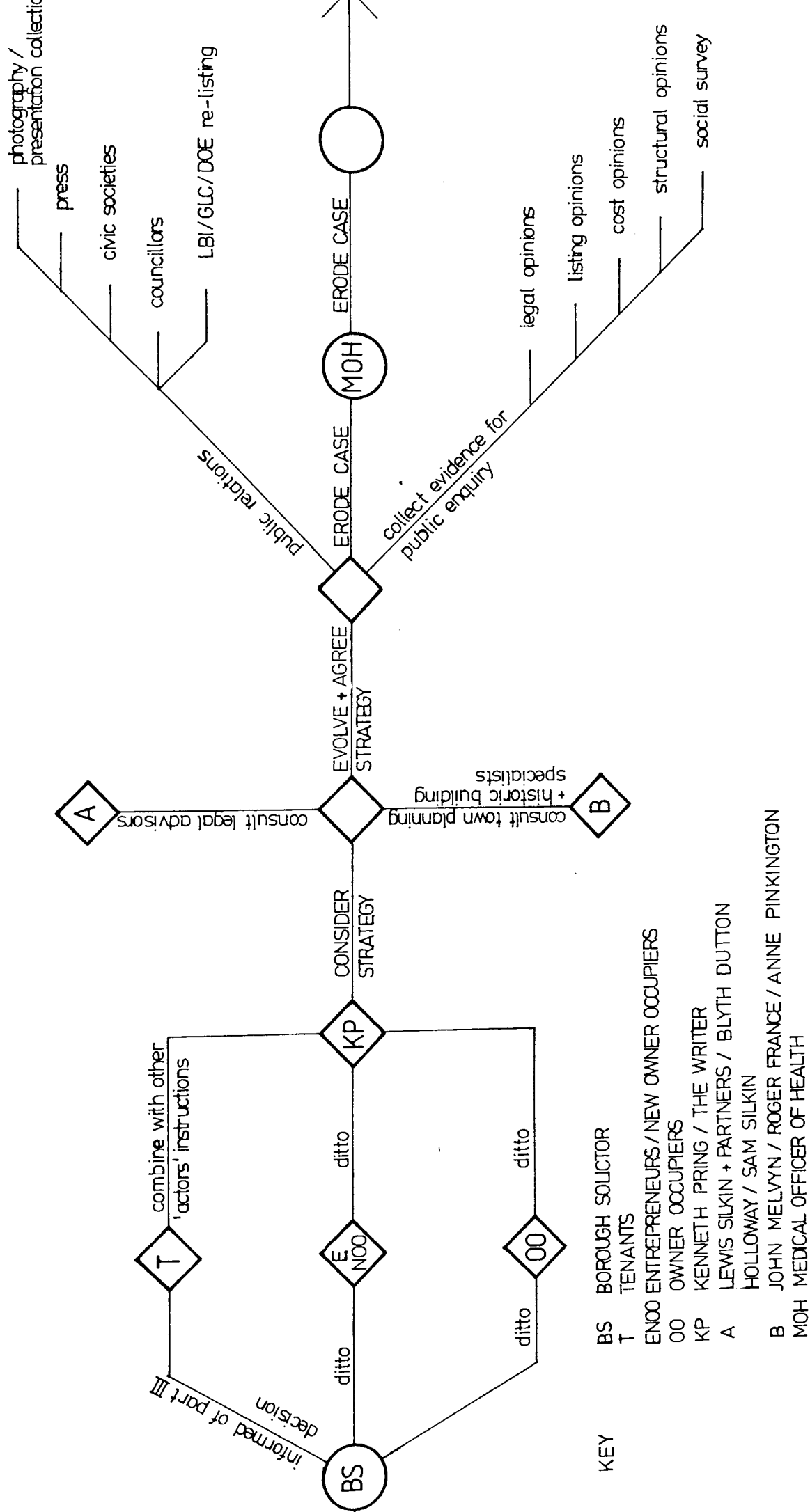
5. Use other legal methods to establish levels of fitness during the progress of the renovation works.

The interaction of the individual strands of the strategy can be summarised as follows:-

1. The production of evidence for a public enquiry;
2. A public relations exercise to show the houses to be of architectural merit, that tenants liked living in them and that they could be made fit at reasonable cost;
3. An exercise in eroding the Medical Officer of Health's case in order that, if the public relations exercise was successful and councillors asked for a review of their original decision, the Medical Officer of Health could report that there was cause to believe the Part III would not be necessary or, depending upon the amount of remedial work done, would not be successful at a public enquiry.

This relationship of the three strands in the campaign can be diagrammatically expressed, see fig. 5.15.

This strategy was adopted and generally put into action - first by the landlords and soon afterwards by one owner-occupier followed by almost all the other owner-occupiers.



- KEY
- BS BOROUGH SOLICITOR
  - T TENANTS
  - E NOO ENTREPRENEURS / NEW OWNER OCCUPIERS
  - OO OWNER OCCUPIERS
  - KP KENNETH PRING / THE WRITER
  - A LEWIS SILKIN + PARTNERS / BLYTH DUTTON HOLLOWAY / SAM SILKIN
  - B JOHN MELVYN / ROGER FRANCE / ANNE PINKINGTON
  - MOH MEDICAL OFFICER OF HEALTH

fig. 5.15 A DIAGRAMMATIC REPRESENTATION OF THE THREE-STRAND STRATEGY OF THE CAMPAIGN MOUNTED AGAINST THE BARNSBURY ROAD PART III C.P.O.

Some tenants co-operated from the beginning before work commenced on site, and others co-operated as the work to their accommodation became imminent; by the end of 1972 there was almost total co-operation.

The various strands of the strategy were overlapping in many instances, as will be shown in the next section of this case example, and it is for this reason that the actions taken will be related to particular organisations, departments of Government or individuals.

However, during the campaign it was clearly important to ensure that the rights and interests of tenants were not jeopardised by landlords and owner-occupiers' actions and vice-versa. This was particularly necessary in the joint organisation of legal representation for a public enquiry, and the writer recommended that the identifiable different interests be separately represented.

The new landlords and new prospective owner-occupiers provided the funds to pay for the legal costs incurred by indigenous owner-occupiers and tenants. They were represented by one firm of solicitors who briefed leading counsel and the landlords and new prospective owner-occupiers commissioned a different firm of

solicitors who briefed different leading counsel. (113)  
 Both were co-ordinated by the writer as far as the campaign was concerned; this strategy of legal representation can be shown diagrammatically, see fig. 5.16.

Having analysed and explained the strategies and legal background to the campaign, it is now possible to describe its operation in practice as applied to different situations which emerged as the interventionist approach developed.

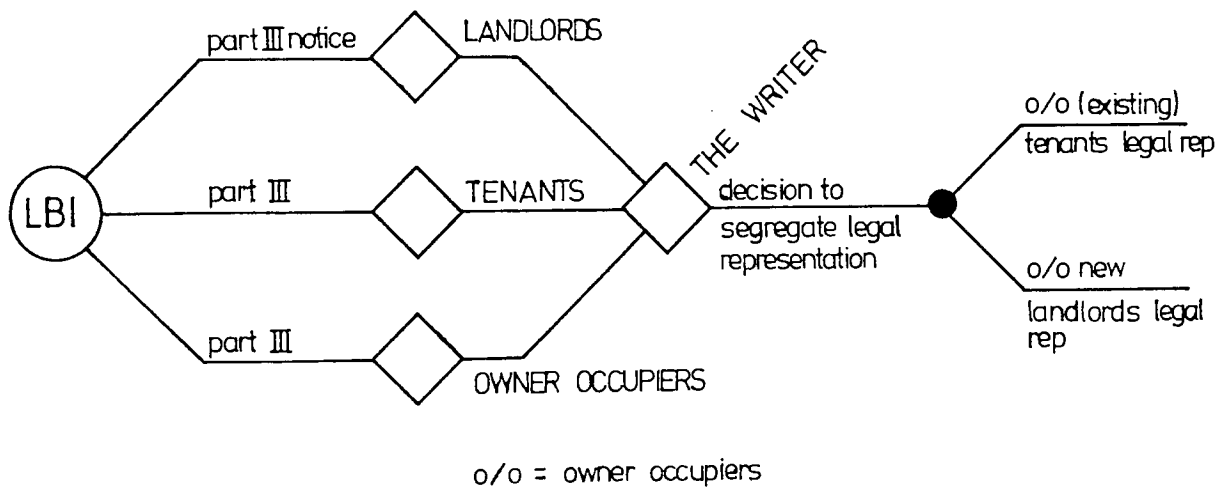


fig. 5.16 DIAGRAMMATIC REPRESENTATION OF THE DECISION TO SEGREGATE LEGAL REPRESENTATION OF OBJECTORS TO AVOID ANY POSSIBILITY OF A CONFLICT OF INTEREST

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(113) The indigenous owner-occupiers and tenants were represented by Lewis Silkin & Partners, who briefed Sam Silkin P.C.M.P.Q.C. and the entrepreneurs and occupiers commissioned Blyth Dutton

III EMPIRICAL ACTION TAKEN NOVEMBER 1971 TO JUNE 1972i. Interaction between the Medical Officer of Health, the District Surveyor and the Objectors

As was mentioned earlier, the Medical Officer of Health's principle grounds for representing the terraces as unsatisfactory were dampness, disrepair and instability, and there was a descriptive reference to the small rear gardens which contained outbuildings.

It was decided to test the extent to which these could be dealt with on-site in 58/60 Barnsbury Road, the strategic point being that if principles were proved on the ground and were agreed by the Medical Officer of Health, then the cost implications of carrying out specific items of work could be calculated, and other owners could make a decision whether or not to take similar action.

As previously stated, plans of 58/60 Barnsbury Road had been drawn up and agreed with the sitting tenants. The programme of work included all the items the writer considered necessary to satisfy the ten-point standard. However, from the experience gained in the previous case example, it was decided to deal with every point which could possibly influence the Inspector at a public enquiry. The most satisfactory situation would be if the houses were classed as fit before the public enquiry, so that

they would have to be classed as "added lands". (114)  
Clearly, the more houses that were treated in this way the less satisfactory the Medical Officer of Health's case would be, since he was statutorily obliged to prove that the best way of dealing with the unsatisfactory housing was "by the demolition of all the houses in the area".

However, the landlord had to take into account the fact that, although the houses would be much more valuable if made fit, in the event that the public enquiry Inspector did not regard the houses as fit and the Compulsory Purchase Order was confirmed, the landlord would receive compensation based upon the land value only. Thus his investment in the conversion of the houses would have to be written off. It is interesting to note that this situation applied in law from the date when the Council made its resolution on 15th February 1972, and not from the date when the representation was formally submitted to the Department of the Environment in June 1972.

The Medical Officer of Health drew attention to this point in his letter of the 12th June 1972:

"However, it is the Council's intention at this time to proceed with its resolution and submit the Compulsory Purchase Order in due course. Any works carried out

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(114) The term "added lands" or "other lands" is used to describe sites adjoining pt III CPO areas, or houses within, or adjacent to, pt III CPO areas, which are not unfit, but which are included in the CPO to ensure the proper redevelopment of the area



subsequent to the date of the resolution pending the findings of the Public Local Inquiry and of the Minister, must be at the owner's risk". (115)

However, this advice from the Public Health Officer had already been given to the landlord by his solicitor before commencement of the works. It had been decided that the houses would be made fit within 9-11 months and it was considered unlikely that a public enquiry would be held in 1972.

On the 2nd December 1971 the Medical Officer of Health was informed that works would be started at the beginning of 1972 and he was provided with drawings showing the proposed conversion scheme. Thus the Medical Officer of Health was aware of this proposal before he submitted his Part III representation to the Housing Committee.

The drawings of the scheme which had been sent to the Medical Officer of Health were also submitted to the Greater London Council's District Surveyor, (as required under the London Building Acts and Bye-Laws), to the London Borough of Islington's Borough Engineer for drainage layout approval and to the London Borough of Islington's Medical Officer of Health for Means of Escape approval.

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(115) Medical Officer of Health's letter to Mr. A.J. Skeaping  
12th June 1972

The Medical Officer of Health's Means of Escape approval was formally issued on the 21st May 1972, by which time the drainage scheme had been approved by the Borough Engineer and passed by the Public Health Officer. Therefore, by the writers' actions in making use of other procedures, the Medical Officer of Health was forced to give decisions on certain matters relevant to the fitness of the houses.

The approval of the Means of Escape would imply approval of the disposition of rooms such as kitchens, corridors and staircases. The Medical Officer of Health's approval of the drains removed one further possible ground of unfitness, since this is an item in the ten-point standard.

The drawings of the scheme were also sent to the client's consultant structural engineer, (116), who had carried out a survey of the building; he confirmed that the basic fabric was structurally stable and capable of conversion. However, it could always be argued at a public enquiry that paid professional witnesses could be biased. For this reason it was thought worthwhile consulting the District Surveyor.

Unlike the situation prevailing in the rest of England where, under the Building Regulations, Local Authorities grant formal Bye-law approvals, in London builders are simply required to comply with the London Building Acts

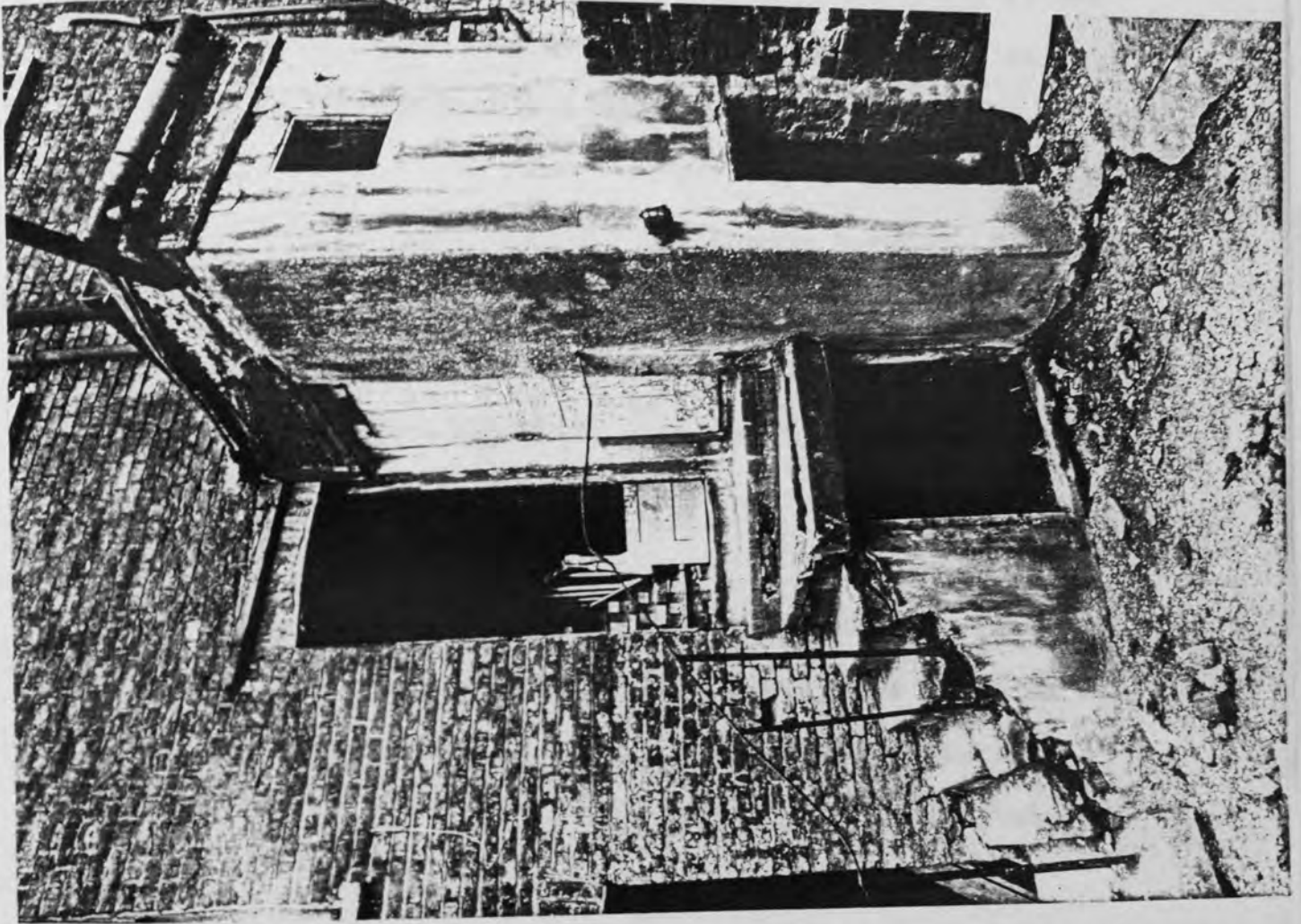
and Bye-Laws. Thus it was decided to invite the District Surveyor's assistant responsible for the case study area to a site meeting, in order to discuss the proposed conversion. It should be noted that District Surveyors, most of whom are qualified structural engineers, are employed by the Greater London Council and are not accountable to any committee of the Council; they are therefore free from political motivation.

The District Surveyor inspected 58/60 Barnsbury Road on the 2nd February 1972 and stated that, with the exception of the rear toilet addition and staircase, the houses were stable and in good structural condition, (see photograph fig. 5.17).

During the next two weeks the District Surveyor surveyed all the owner-occupied houses and he identified individual minor areas of instability. In one house he recommended the rear parapet wall be rebuilt, in another he asked that chimney pots be bedded and in another he recommended the provision of a support to the staircase newel post, all obviously minor matters compared to the contention of the London Borough of Islington that the buildings were unstable.

The District Surveyor considered none of the houses to be unstable and expressed annoyance that they had been represented as unstable, since, had they been considered so

REAR TOILET BACK ADDITION, 58 BARNSBURY ROAD fig. 5.17  
(SINCE DEMOLISHED) WHICH WAS CLASSED AS UN-  
STABLE BY THE DISTRICT SURVEYOR



DISUSED AIRAID SHELTER WITH PIDGEON LOFT  
BUILT OVER IT

fig. 5.18



by the London Borough of Islington, the Council should have informed the District Surveyor, whose duty it was to deal with such problems under the provisions of the London Building Acts and Bye-Laws.

By the use of this tactic, the London Borough of Islington's Medical Officer of Health's allegation that the houses were unstable was referred to an unbiased, qualified structural engineer employed by the Greater London Council.

The fact that the District Surveyor did not regard the buildings as unstable represented valuable evidence for presentation at a public enquiry, particularly when backed by the privately employed structural engineer's report.

At this point the writer entered into discussion with a Public Health Officer on the subject of stability, following which he set out his criteria for instability as follows:-

"The criteria we use when stating that premises are unfit is contained in Section 4 of the Housing Act 1957 and one of the factors considered is that of stability. This can be a contributive factor or in some cases may be such as to be sufficient to represent a property for instability alone. When it is a contributive factor

only, it need not necessarily be so dangerous as to warrant the District Surveyor being concerned with immediate action but it can constitute a defect which must be taken into consideration when deciding whether the property should be dealt with as unfit". (117)

However, following the specific identification of individual items of instability by the District Surveyor, in a majority of the non-London Borough of Islington owned houses, the necessary building works were immediately carried out to deal with the problems. In spite of the view expressed by the Chief Public Health Inspector, the London Borough of Islington's formal submission of the resolution to the Department of the Environment omitted instability as a principle ground of unfitness. Thus one of the most important points made by the London Borough of Islington was withdrawn.

The Chief Public Health Inspector's letter also indicated that the future use of the land had been at least a contributory factor in the Compulsory Purchase Order representation:-

"The principle factor here does not concern what use is subsequently to be made of the whole site but concerns the merits of demolition of the properties as against retaining them". (118)

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(117) Mr. M. Jacob, Chief Public Health Inspector, L.B.I.,  
letter to Mr. K. Pring,

The next strand in this part of the campaign was to establish which items, in the Medical Officer of Health's opinion, constituted unfitness. It was important to try to establish exact criteria in order to reduce to a minimum the level of disagreement at a public enquiry, and to assist in deciding whether or not to carry out works which were of a marginal nature. However, the Chief Public Health Inspector's response to a request for this information was refused:-

"I regret I cannot inform you of the detailed criteria adopted in every case which led us to make the representation in respect of the properties in Barnsbury Road as this will constitute the Council's "principle grounds" which will be made available for every objector at the public enquiry". (119)

As a matter of legality the Chief Public Health Inspector was wrong, as was shown in the previous case example; as will be shown later, a strategy was adopted to obtain the required information from the Medical Officer of Health by the use of various alternative procedural devices.

In response to being told that the owners of the majority of the houses were prepared to carry out an agreed programme of works, if the Compulsory Purchase Order was to be rescinded, the Chief Public Health Inspector stated this was not possible:-

"Properties in the past have been excluded from the Slum Clearance Programme when a sufficient number of owners have come forward to present an alternative viable scheme sufficient to satisfy the Council that the conditions of unfitness will be abated by some means other than demolition. As these properties have now been represented any consideration of an alternative scheme lies with the Minister after hearing all the evidence presented at the public enquiry". (120)

The reference to "properties in the past" includes the Islington (Keystone Crescent) Compulsory Purchase Order, which will be discussed in case example 5 later in this work. In this case the London Borough of Islington rescinded the part III Compulsory Purchase Order, since there was nothing in the Act which precluded them from doing so. Indeed, they did so after the resolution had been represented to the Department of the Environment.

As has been noted earlier, the Medical Officer of Health's report to the Council of the 15th February 1972 contained a hint that the houses were inherently unfit due to their poor arrangement in the street.

This statement referred specifically to the smallness of the back gardens and the fact that they also contained outbuildings, which further reduced the affective size of the usable space.

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It was clearly obvious that the back additions were unsightly, (see photograph fig. 5.18), and that to remove them would not only improve the visual amenity of the gardens and the rear elevations of the terraces, but would also extinguish an alleged point of inherent unfitness.

Thus it was decided to demolish as many outbuildings and back additions as possible and to unify back gardens wherever practicable.

From the experience gained in the Hemingford Road case example, it was decided to investigate all other possible points which could be included under the generic heading of 'unsatisfactory arrangement'. It was also obvious from the writer's knowledge of converting houses of this type that the front basement rooms did not comply with the Council's underground room legislation requirements with regard to natural light and ventilation. However, these were made to comply with the current standards by the demolition of the disused coal vaults in the front gardens of the houses. Indeed, the owner of number 56 had employed this method successfully for the removal of a Closing Order some years previously, (see photograph fig. 5.19).

A typical unified rear garden can be seen in photograph fig. 5.20 and an enlarged front area can be seen in photographs figs. 5.21(a) and (b).

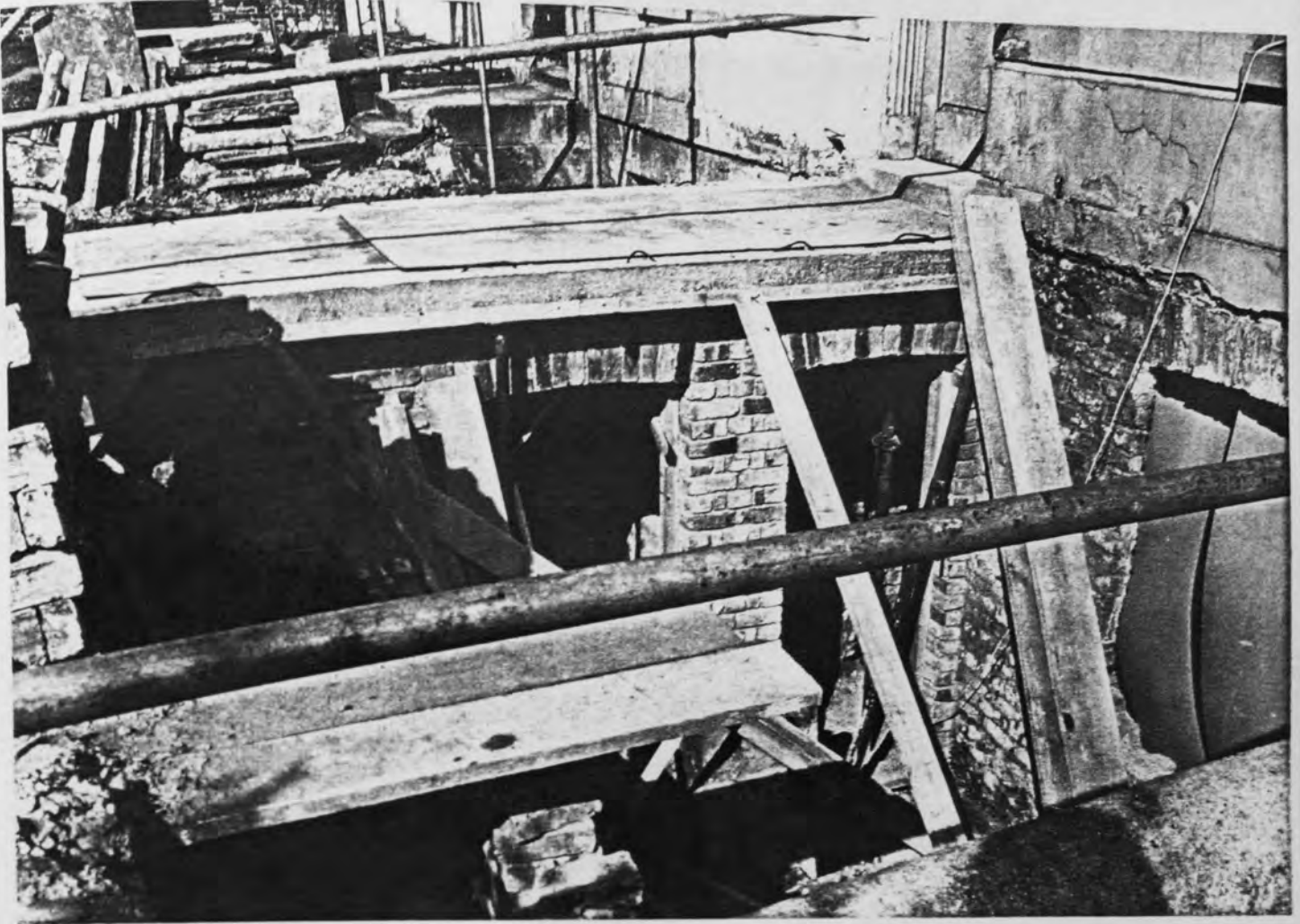
FRONT AREA OF 56 BARNSBURY ROAD INCREASED IN fig. 5.19  
SIZE BY THE DEMOLITION OF THE VAULTS



A TYPICAL UNIFIED REAR GARDEN

fig. 5.20





Thus, at this point the way in which the field of decision was reduced can be shown diagrammatically in fig. 5.22.

However, the Medical Officer of Health was also aware that works were being carried out, or were about to start, on 13 houses and that the works included major items such as damp proofing, roofing and rebuilding certain areas of external brick walling.

On every occasion that a major element of work was commenced which could be related to the ten-point standard, the Medical Officer of Health was informed in writing. Thus he could see the gradual erosion of his case.

On the 2nd June 1972 the writer wrote to the Medical Officer of Health setting out the current situation in the case, and reiterated the house owners desire to co-operate in a scheme of rehabilitation:-

"I would strenuously recommend that this C.P.O. be reconsidered in the light of the following:-

1. The buildings are demonstrably stable.
2. There is a clear indication that many owners are prepared to improve their property.
3. That these owners consider the costs of repairs as reasonable.

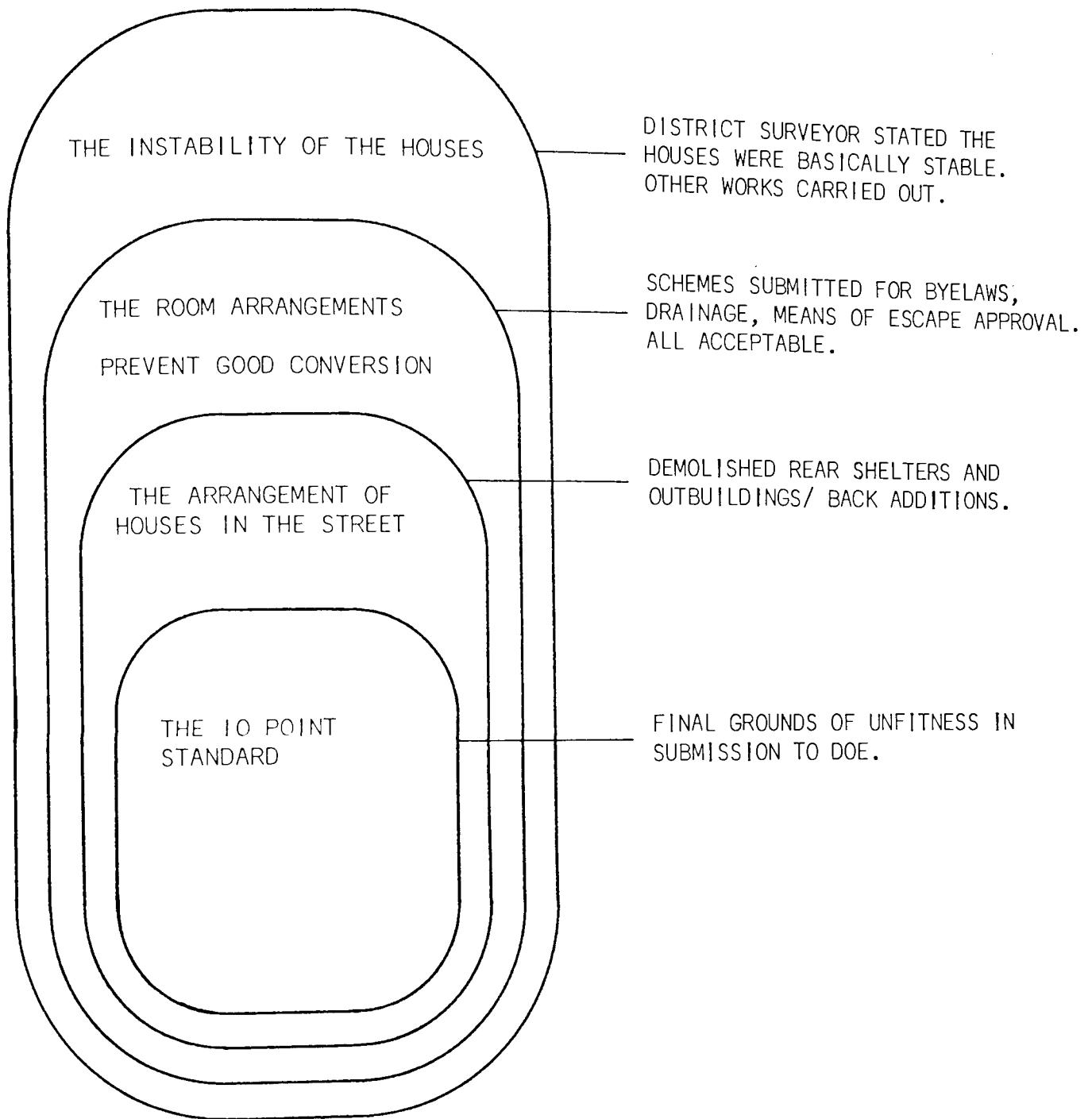


fig. 5.22 : DIAGRAMMATIC EXPRESSION OF THE REDUCTION IN THE FIELD OF DECISION BEFORE THE LONDON BOROUGH OF ISLINGTON, MEDICAL OFFICER OF HEALTH, SUBMITTED THE COMPULSORY PURCHASE ORDER RESOLUTION TO THE DEPARTMENT OF THE ENVIRONMENT 16 JUNE 72.

4. There will be a housing loss in the event of demolition.
5. The ownership pattern of the Terrace provides a marvellous opportunity of creating a mixed community, which is socially desirable.

I am making this request formally on behalf of the Owners of the above premises mentioned, and would be obliged for a formal response". (121)

The Medical Officer of Health replied:-

"Your correspondence was forwarded for information and consideration to the Director of Legal & Administrative Services who has advised me that the Council's resolution will proceed, and a Compulsory Purchase Order will be submitted in due course". (122)

Thus, in spite of the campaign the Council rejected the writers' arguments and the London Borough of Islington proceeded with the part III Compulsory Purchase Order; some possible reasons for this will be discussed later in this work.

The situation at this point can be illustrated diagrammatically, see fig. 5.23.

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(121) This is an extract from the writer's letter to the Medical Officer of Health, (2nd June 1972)

(122) This is an extract from the Chief Public Health Inspector's letter, (16th June 1972)

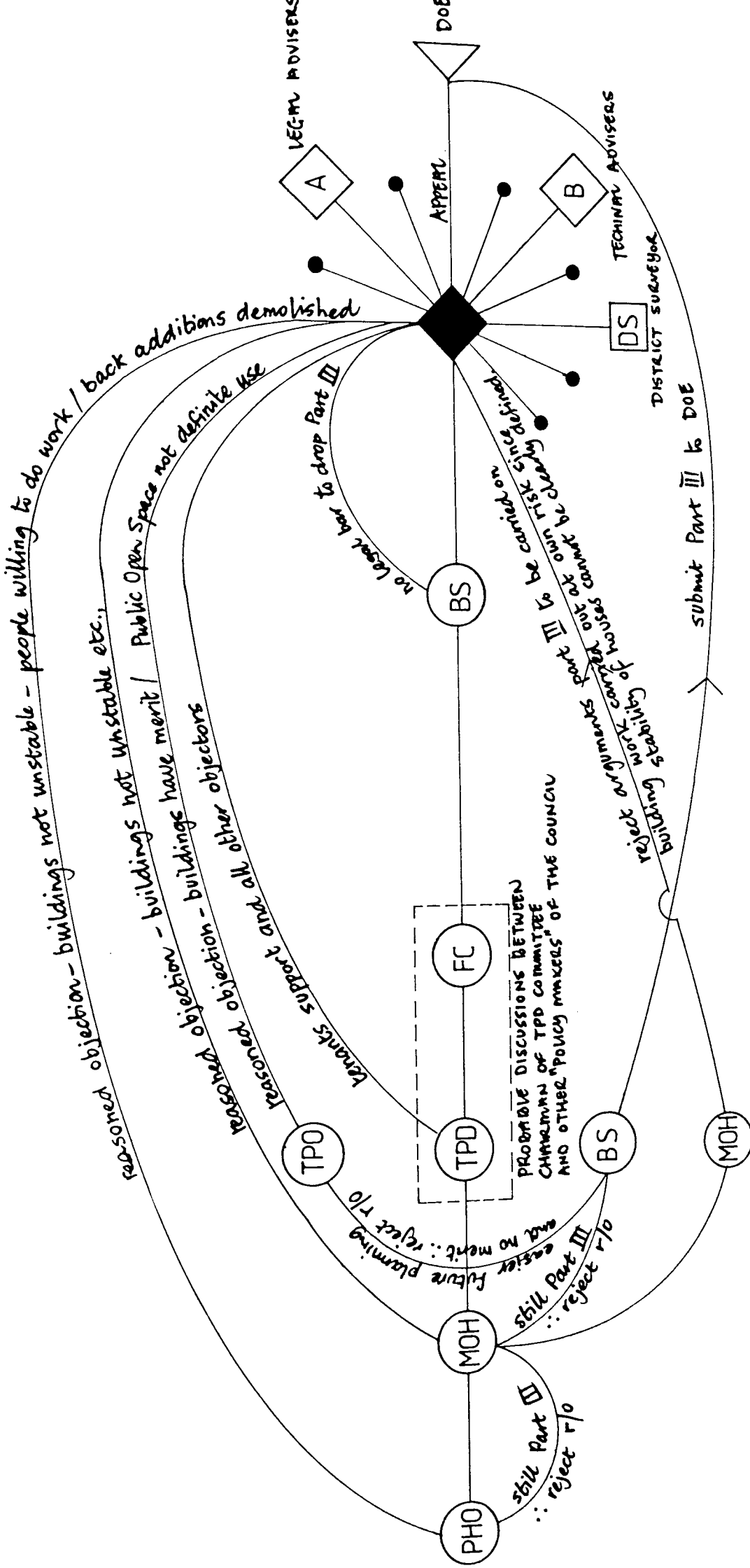


fig. 5.23 DIAGRAMATIC REPRESENTATION OF THE NETWORK RESULTING IN THE REJECTION OF THE REASONED ARGUMENTS IN RECOMMENDING THE L.B.I. RESCIND THE BARNESBURY ROAD PART III COMPULSORY PURCHASE ORDER AS AT JUNE 1972

ii. Action by the Borough Planning Officer  
(January 1972 - June 1972)

It was the writer's contention that the works which were commenced on 58/60 Barnsbury Road did not require town planning consent.

However, shortly after the commencement of works on site, the Deputy Borough Planning Officer contacted the writer by telephone and asked why he had not submitted a town planning application. The writer explained that, in his opinion:-

- a. No consent was required since it appeared the works were allowable as 'permitted development', as set out in the General Development Order of the 1968 Act;
- b. That the London Borough of Islington often requested the submission of town planning applications when there was no legal need to do so;
- c. That to agree to submit an application was tantamount to agreeing that an approval was required and could not therefore be recommended to his client.

The Deputy Town Planning Officer stated that, leaving aside the issue of the basic conversion works, the demolition of the front area vaults required consent, since the work could be classed as engineering work below ground.



The writer stated this could not be the case, since planning consent was not required to demolish buildings unless they were listed or were located in a Conservation Area, neither of which applied to these buildings.

The Deputy Borough Planning Officer then stated that he would consult the Council's Director of Legal Services on the matter. Subsequently the Borough Planning Officer wrote:-

"The Council's Director of Legal & Administration Services had advised me that the works you are carrying out at the premises (58/60 Barnsbury Road) constitute development requiring planning permission". (123)

The letter contained no reasoned argument in response to the writer's contention that no town planning application was required. The legal ramifications of the General Development Orders 1968 will be explained later; the fundamental point was raised in the final paragraph of the Borough Planning Officer's letter:

"I shall be pleased if you will submit for consideration by the Council an application for planning permission, and you may consider it appropriate to give instructions for all work at the property to cease pending the decision on the matter". (124)

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(123) R.G. Hodge, Borough Planning Officer, letter to the writer, (21st April 1972)

It is clear from the strategy for the campaign outlined earlier, that the principle object of the exercise was to carry out works to prove the houses could be made fit at reasonable cost before the public enquiry. Therefore, had the writer agreed to the Borough Planning Officer's request, (even had there been a legal right to accede to it), it would have resulted in a situation where the public enquiry Inspector would have had to base his decision upon partly converted housing. Moreover, three tenants would have been severely inconvenienced, since they lived in partly completed accommodation at the time the Council was implying that work should be stopped pending the receipt of town planning approval. Furthermore, the plan to use 58/60 for the temporary or permanent housing of tenants from elsewhere in the terraces would have been delayed to such an extent that the entire strategy of the campaign would have been frustrated. It was quite clear from the discussions with the Deputy Borough Planning Officer that he was aware of these aspects of the situation.

Accordingly, since it was the writer's belief that no town planning consent was required for the works being carried out, and since stopping the work would mean the effective abandonment of the campaign, it was decided to continue with the conversion programme and not to apply for town planning consent; the Deputy Borough Planning Officer was informed of the decision. In

response to this, the Deputy Borough Planning Officer wrote that he would be reporting the writer's failure to submit a town planning approval and his unpreparedness to stop work:

"... I must report to my Committee to take instructions as to what action should be initiated in relation to the unauthorised development". (125)

The writer again informed the Borough Planning Officer that, in his opinion, no town planning consent was required and pointed out that to date the London Borough of Islington had not explained why the works being carried out were not covered by the General Development Order.

As will be shown later, the London Borough of Islington authorised enforcement proceedings in respect of 58/60 Barnsbury Road and stated that town planning applications were required for the majority of house conversions subsequently carried out during 1972-1973.

The legal arguments and final decisions on the town planning issues will be dealt with later in case example 6. However, it is interesting to note that, in contrast to the situation prevailing at the London Borough of Islington (Hemingford Road) Compulsory Purchase Order 1970,

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(125) M.J. Tapsall, Deputy Borough Planning Officer, letter to the writer, (2nd June 1972)

where the Council's expert witness stated that no town planning consents would be granted for conversions on housing included in an area zoned for public open space, in this case the Borough Planning Officer was inviting - indeed insisting - upon town planning applications being made.

iii. An Analysis of Some Influencing Factors upon Tenants' Attitudes to the Campaign and a Discussion upon the Interaction between the Public Health Officer, the Writer, the Tenants and the Harassment Officer

There were clear economic incentives for private developers and potential owner-occupiers to buy houses in the Compulsory Purchase Order area and there were economic and social incentives for existing owner-occupiers to invest money in improving their houses. This was largely due to two factors:

- a. The market value of the houses was exceedingly low, due to the affects of the planning blight which resulted from the zoning of the land in 1951 for public open space use and the inclusion of the housing in the Council's slum clearance programme; both contributed to the advanced state of dilapidation of the housing;
- b. Property prices for unblighted housing in Barnsbury were rising rapidly;

c. The cost of making the property fit was far less than the difference between a) and b) above and conversion of the houses was therefore a commercial proposition.

These economic factors will be analysed in more detail later in this work.

Thus developers or potential owner-occupiers were able to make economic judgements of the strength of the London Borough of Islington's Part III case and could decide what level of investment should be risked in converting and improving their houses.

A similar judgement could be made by existing owner-occupiers, who were well aware of the increase in value of their property that would result if the planning and slum clearance blight were to be removed. In addition, they could understand the social effects upon their families if the Compulsory Purchase Order were to be confirmed; these too will be discussed later.

However, the issues were not so clear for tenants whose decisions as to whether or not to co-operate in the campaign were not so economically well defined. The tenants knew that if the Compulsory Purchase Order was to be confirmed by the Secretary of State for the Environment, they would be rehoused by the London Borough of Islington and they might receive financial compensation, if they had maintained their accommodation to a level whereby it could be officially classified as 'well maintained' in the mean-

They also knew that any accommodation offered by the London Borough of Islington would probably be elsewhere in the Borough and not in Barnsbury; they knew that the London Borough of Islington's housing stock in Barnsbury was inadequate for the demand. They also knew that the rents they were paying were very significantly lower than those paid by Council tenants in Islington. Some tenants were paying one pound per week for two floors of accommodation and others were paying four pounds, fifty-five pence per week for a ten-roomed house, whereas rents fixed as 'fair rents' by the rent officer for equivalent space standards in Barnsbury were nine pounds, fifty pence and fifteen pounds, seventy-five pence respectively.

The writer interviewed all of the tenants who occupied the houses bought by the developer and the two prospective owner-occupiers and explained the procedures which had been adopted to fight the Compulsory Purchase Order. He also explained the points which had a direct bearing upon the tenants' decision as to whether or not to support the campaign. These can be summarised as follows:-

- a. That owners had a right to carry out essential repairs to their houses, and since the houses were designated as slums it was clear that conditions had reached a level where certain works were urgently necessary.

- 558
- b. That tenants had rights which would be respected - indeed would have to be respected. Each tenant was given the London Borough of Islington's publication on tenants' rights and exhorted to read it. (126)
- c. That new rents would begin to rise to a fair rent on completion of the works and that this would rise by increments of  $33\frac{1}{3}\%$  per year over a three year period; this being the statutory requirement of the Rent Acts.
- d. That the works required to be done and the rent level which would result, would be made known to the tenant in advance by the Rent Officer.

In addition, it was established that tenants either wished to stay in their accommodation whilst works were being done or that they wished to occupy already converted flats nearby in the terrace. It was explained that the tenant would be given a written undertaking confirming their right to return to their previous accommodation when it was renovated.

The response of tenants was mixed. Some were suspicious and decided not to move but to tolerate the works necessary to renovate the flats. Others were friendly and co-operative and prepared either to stay in their flats whilst

work was carried out or to take temporary accommodation in already completed flats in the terraces. The most important factor in the establishment of confidence between the landlords and the tenants related to 58/60 Barnsbury Road which was converted into self-contained flats of a very high standard; they were used to house the two existing tenants who had lived there during the building works and to provide temporary accommodation for other tenants in the terrace who did not wish to stay in their flats during building works.

It is now worth mentioning a major incident which occurred with the Public Health Officer during this period of negotiation with the sitting tenants.

The tenants in 58/60 Barnsbury Road had been extremely co-operative and flexible in their efforts to help the landlord in the conversion of the houses to provide them with good living accommodation. An indication of the quality of these units will be demonstrated later in this work, since some of them have subsequently been sold on the open market.

As was mentioned earlier, the District Surveyor had stated that the back addition w.c. was latently unstable and should be demolished. Thus it was necessary to provide an internal w.c. for the temporary use of the two families who were in occupation at that time, (the London Borough of Islington had rehoused the other two tenants who had occupied no. 60 Barnsbury Road, which was the subject of



Conditions in the houses were clearly not desirable, since major building works were being carried out, (see photograph fig. 5.24). However, the tenants had accepted this situation and were paying no rent during this period. Indeed one tenant was offered a free fortnight's holiday in Majorca while the work was being carried out, but he decided not to accept this offer as his "wife did not like the idea of flying"; instead he was provided with a replacement pidgeon loft, which cost £600, as a token to compensate for the inconvenience his family had suffered.

Soon after the work started in the unoccupied parts of 58/60 Barnsbury Road on the 10th February 1972, the Public Health Officer telephoned the writer and asked what works were being carried out. It was explained that the works as shown on the submitted drawings, (referred to earlier), had been commenced in order to render the houses fit for those who were living in them.

The Public Health Officer stated that this "looked very much like harassment to him and he took a poor view of it". (127). He also stated that he had not been informed of the proposed works.

It is worth noting two points regarding the latter part of his statement. Firstly, there is no legal reason why

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(127) Public Health Officer, a statement made during a telephone call to the writer on the 14th February 1972

NO. 40 BARNSBURY ROAD BEING CONVERTED  
BY THE LONDON BOROUGH OF ISLINGTON

fig. 5.24



the Medical Officer of Health should have been informed that works had commenced and secondly, the Medical Officer of Health had actually been informed as was noted earlier.

However, the important issue was to deal with the Public Health Officer's allegation of harassment. This was an important local political issue at that time, with which the Council were very much concerned.

Due to the possibility of wide-spread harassment of tenants resulting from the effects of gentrification, Islington appointed a full-time Harassment Officer; indeed they were the first Council to do so.

Accordingly, the writer immediately contacted the Council's harassment officer and explained the Public Health Officer's statement and formally requested that a full investigation be carried out. Also, in order that there could be no misunderstanding, the writer confirmed the Public Health Officer's statement to the Medical Officer of Health in writing.

The Harassment Officer agreed to examine the allegation, but pointed out that he was normally approached by tenants and not by agents acting for landlords. He also confirmed that the Public Health Officer had not reported the matter to him and stated that if the Public Health Officer suspected harassment, he should have done so.

Approximately one week later, the Council's Harassment Officer telephoned the writer to say:

- a. No harassment had taken place; and in his opinion
- b. No harassment had been intended.

He also added that he had spoken to the Medical Officer of Health and had told him that both the landlord and the writer had acted in an exemplary way in safeguarding the tenants' rights; the situation at this point can be illustrated diagrammatically, see fig. 5.25.

At this point it was decided that a copy of every letter addressed to tenants should be sent to the Harassment Officer. Thus tenants could discuss points with which they were concerned, directly with the Harassment Officer.

In marked contrast to the Public Health Officer's allegation of harassment, a presumption of a type of 'winkling' without payment to tenants, two existing tenants approached the landlord stating that they knew the latent vacant possession value of the flats being converted for them, and they would relinquish their rights to their tenancies for a financial consideration.

These approaches were dealt with most carefully and the landlord insisted that both approaches were dealt with through independent solicitors and that copies of all relevant correspondence be sent to the Harassment Officer;

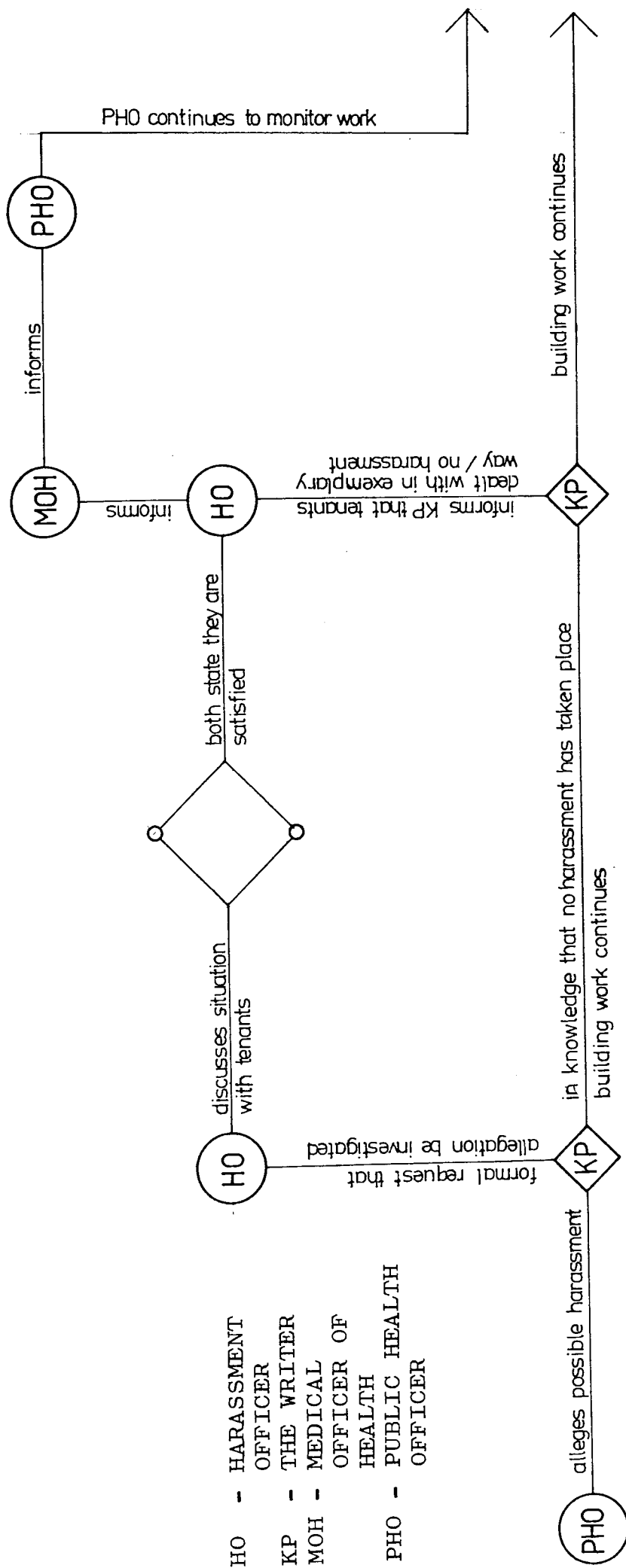


fig. 5.25 DIAGRAMMATIC ILLUSTRATION OF INTERACTION BETWEEN THE PUBLIC HEALTH OFFICER, THE MEDICAL OFFICER OF HEALTH, THE HARASSMENT OFFICER AND THE WRITER, WITH REGARD TO 58/60 BARNSEBURY ROAD, MARCH/APRIL 1972

the tenants were paid £3,000 each, which they used as deposits on houses they wished to buy.

There will be an analysis of the difference in values between occupied and vacant residential property, later in this work.

The reason for the elaborate way in which tenants were dealt with, was due to two factors:

- a. The landlord was genuinely concerned to safeguard his tenants' interests;
- b. It could have been important to show the Inspector at a public enquiry that tenants could be satisfactorily housed in their own or similar accommodation and that this could be achieved out of property which was allegedly unsuitable for anything other than demolition.

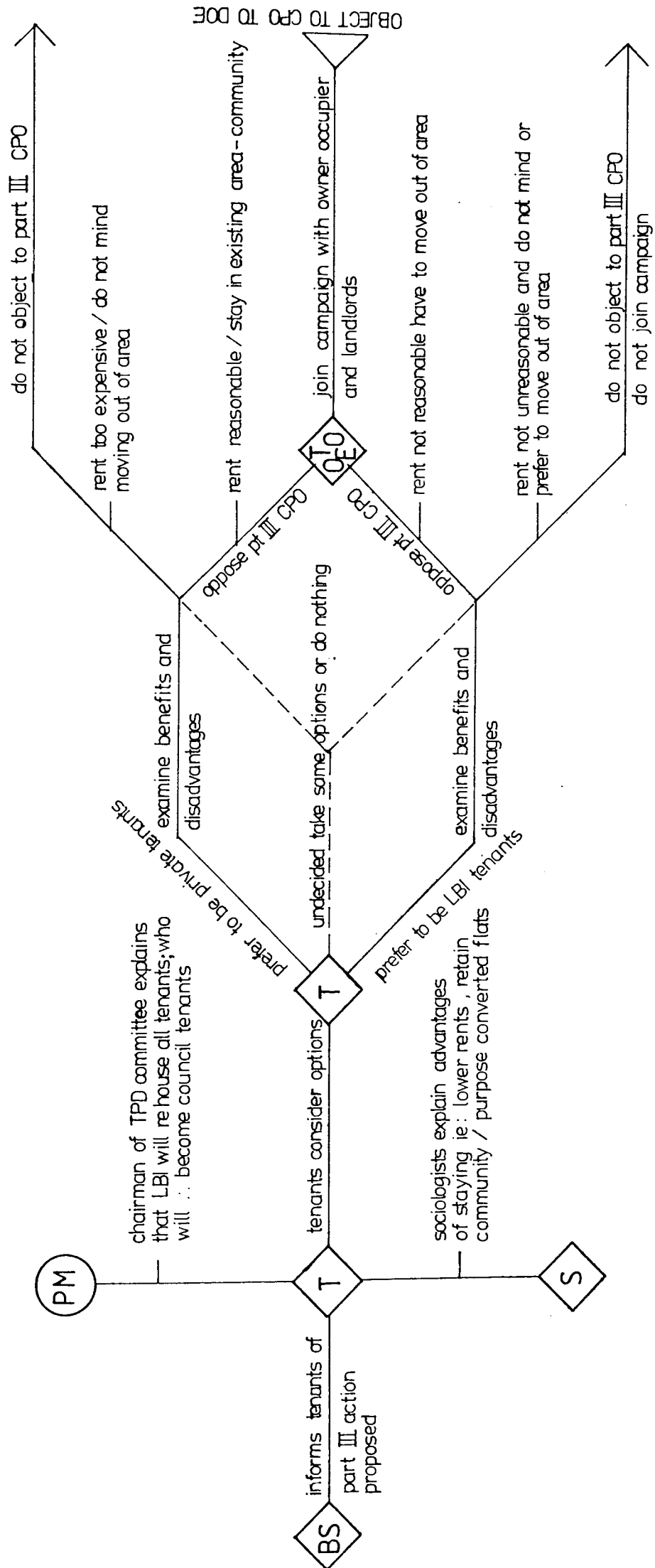
An interesting point emerged relating to four tenants who decided to accept the temporary accommodation in 58/60 Barnsbury Road. Whilst their flats elsewhere in the terraces were renovated, the tenants were safeguarded by legal undertakings, which maintained their rights to the tenancies of their previous accommodation on completion of the building works. In every case, after a period of not more than one month, the tenant requested that he be allowed to remain in 58/60 Barnsbury Road

and that he wished to relinquish his rights to his previous accommodation; in all cases the landlord acceded to the requests.

Although it is not specifically germane to the case example, it is of interest and therefore worth mentioning as a possible subject for future research, since the wider implication of this situation could be most useful in the field of urban renewal.

Likewise, attitudes of tenants to a new improved environment within a familiar setting are particularly important, since a major argument for conversion, rather than demolition and redevelopment, is that by conversion the existing community can be maintained.

There were cases where tenants were not initially co-operative or well-disposed to the landlords but, as was mentioned earlier, the London Borough of Islington's Housing Department carried out their own survey of tenants' attitudes to the completed scheme and all but one expressed themselves satisfied. The context of this survey and the reasons why one tenant expressed dissatisfaction will be examined later. Thus, when the London Borough of Islington formally submitted the part III Compulsory Purchase Order in June 1972, the tenants' options as to co-operating with the landlord or not opposing the Council's Part III proposal can be expressed diagrammatically, (see fig. 5.26).



- T - TENANTS, OWNER-OCCUPIERS AND ENTREPRENEURS
- O - SOCIOLOGISTS & THE WRITER
- E - TENANT
- S - PUBLIC MEETING
- PM - BOROUGH SOLICITOR
- BS

fig. 5.26  
DIAGRAMMATIC ILLUSTRATION OF THE TENANTS CHOICE  
OPTIONS IN THE DECISION WHETHER OR NOT TO  
SUPPORT THE CAMPAIGN AGAINST THE PART III  
COMPULSORY PURCHASE ORDER



The narrative and analysis above apply in general to the whole period of this case example and also case example 3, which examines the Councils' actions following the eventual rescindment of the part III Compulsory Purchase Order.

However, there were other points involving tenants, which occurred after June 1972; these will be examined within the bureaucratic procedures which are analysed later in this work.

iv. Summary of the Situation on 16th June 1972 when the Formal Representation was made to the Secretary of State for the Environment

The narrative and analysis of the interaction between the various Departments of the London Borough of Islington, the Greater London Council and the writer serve to illustrate the background to the case example during the period between the London Borough of Islington's resolution and the point at which this was formally presented to the Department of the Environment; the way in which these developed will be explained in the next section of this case example.

During this period no direct approaches were made to councillors or journalists, since it was decided that the public relations aspect of the campaign should be put into operation after the completion of restoration works to the front elevations of the houses.

The public relations argument was to be based upon visual and factual material, and it was considered important that the buildings would demonstrate that they were of architectural value, could be made fit at reasonable cost and that tenants and owner-occupiers could remain in the community during and after completion of the works.

For the same reason no approaches were made to Civic Societies, the Greater London Council or the Department of the Environment on the subject of listing. Thus, the interventionist strategy up to the 16th June 1972 was related almost exclusively to the Medical Officer of Health and the Public Health Inspector, the Borough Planning Officer, the District Surveyor, the Borough Engineer and the writer; this situation can be illustrated diagrammatically, see fig. 5.27.

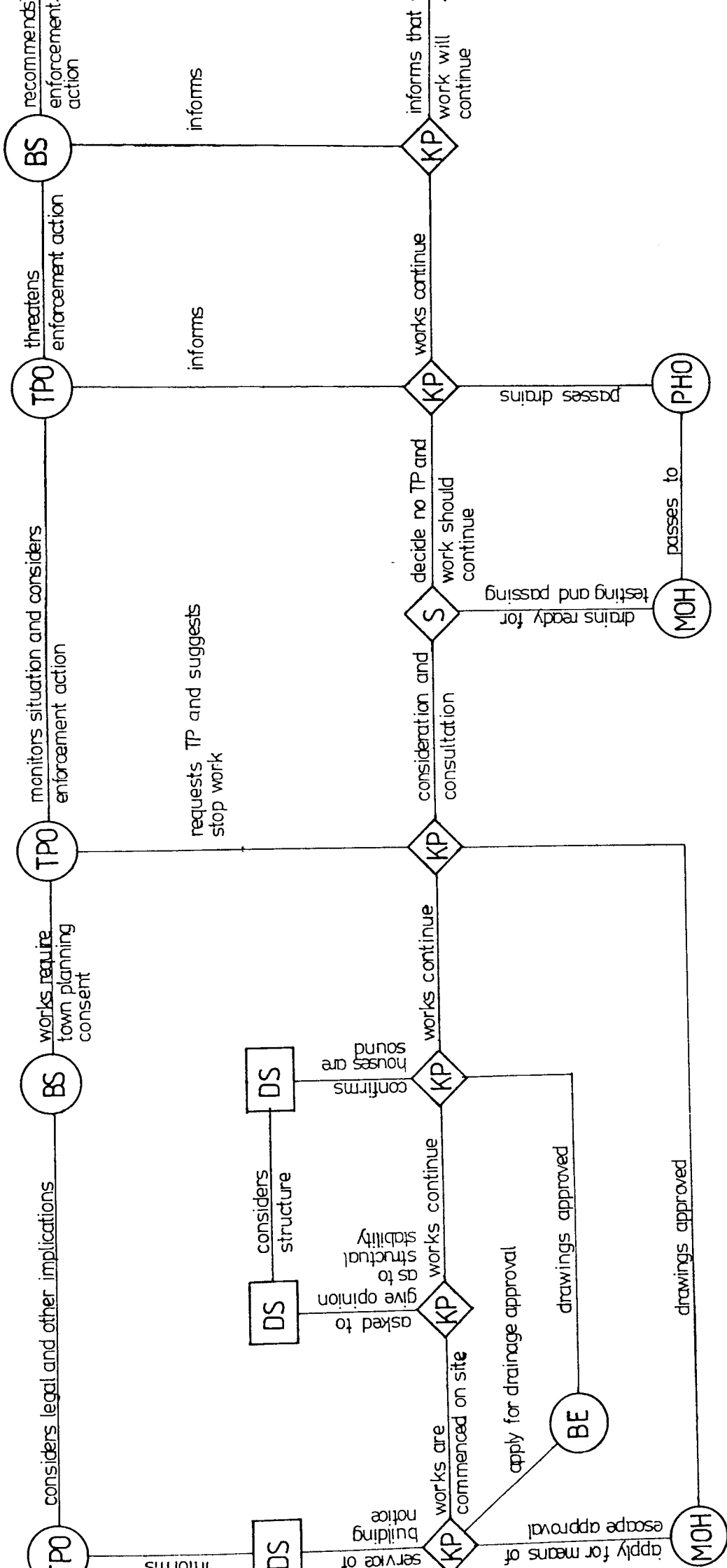


fig. 5.27 DIAGRAMMATIC ILLUSTRATION OF THE INTERACTION BETWEEN THE BOROUGH PLANNING OFFICER, THE BOROUGH ENGINEER, THE MEDICAL OFFICER OF HEALTH & HIS PUBLIC HEALTH INSPECTORS THE DISTRICT SURVEYOR AND THE WRITER JANUARY 1972 TO 16TH JUNE 1972

#### IV EMPIRICAL ACTION TAKEN JUNE 1972 - FEBRUARY 1973

##### i. General background

Following the London Borough of Islington's formal representation to the Secretary of State for the Environment on the 16th June 1972, the field and intensity of intervention was increased with the intention of influencing the London Borough of Islington to abandon the part III Compulsory Purchase Order, using the three strand strategy summarised earlier.

##### ii. Action with the Medical Officer of Health

###### a. Objectives

The principle objective in the strategy was to achieve a standard of repair of items of unfitness which would be acceptable to the writer, the house owner or tenant and the Medical Officer of Health.

A limiting factor in the strategy was that in some cases all items of unfitness would be remedied by means of a full conversion of a house but in other cases owners might only be able to afford to deal with a limited number of individual items.

The second objective was to obtain confirmation from the Medical Officer of Health, that works once completed

were acceptable, so that the following points could be established and agreed:-

1. Which houses could be classed as fit and could be considered as 'added lands';
2. Which items in other houses had been dealt with satisfactorily which therefore, by deduction, indicated those which had not been satisfactorily dealt with.

It was hoped that by this means the Medical Officer of Health might eventually see his case eroded to a point where he could recommend the rescindment of the Compulsory Purchase Order or, if the case were to go to a public enquiry, the individual items of agreed unfitness related to the ten-point standard could be identified, agreed, costed and evaluated by the use of the Appendix B formula in Circular 65/69.

Accordingly, the Medical Officer of Health was requested to provide his detailed lists of points of unfitness in order to achieve an orderly and rational approach to the works being carried out.

As was noted in the previous case example, the Housing Act of 1957 requires that these lists be submitted "not later than 14 days before the public enquiry", however, it was hoped that the Medical Officer of Health would agree to co-operate. It is understood

that this proposal, had it been accepted, would have been very rare if not unique in the field of slum clearance. (128)

The works being carried out did not in any way conflict with the stated aims and objectives implied in his official status as the Borough's Medical Officer of Health. On the contrary, he should have welcomed the fact that housing he considered to be unfit was being made fit for human habitation.

However, his initial reaction was to refuse either to provide lists or to allow his officers to meet the writer on-site to agree such lists; the points at issue in this situation were confirmed in writing, as follows:-

"Further to our telephone conversation yesterday, I must register my concern at your statement that Mr. Jacobs has recommended that no meetings should take place between us and the Owners and/or Occupiers of these premises, pending a decision by the Council's Legal Department.

"I assume that the reason for this decision is to prevent your prejudicing what is clearly a weak case presented by the Council for this slum clearance order.

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(128) Lawrence Isaacson, a senior DOE official, a statement made in an interview, (October 1976)

You mention that it was your duty to take an impartial position between the Council on the one hand and the Owners and Occupiers of the premises on the other. I find, therefore, that your refusal to meet me runs completely contrary to this alleged impartiality and contrary also to your duty.

"I now formally request a meeting in the next seven days to discuss what your Medical Officer of Health has described as possible hazards to health in the premises, in order that I can organise the amelioration of the living conditions of my clients and their tenants.

"You will recall at the Public Meeting that you attended last week, the view expressed by the Chairman of the Public Services Committee, that Occupiers might well have to remain in these premises for two years or more. I therefore would respectfully suggest that it is your duty to assist me by ensuring that these two years are spent in accommodation which does not constitute a hazard to health.

"Should you fail to respond to this letter and respond to my request for a meeting, I will recommend to my clients that they take out a Writ of Mandamus (129) in the High Court of Justice requiring you to do your duty".  
(130)

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- (129) The threatened Writ of Mandamus refers to the Common Law remedy by means of which people can be ordered by the courts to carry out their legal duties.  
(130) K. Pring, letter to Mr. Wheeler, a Senior Public Health Inspector in the MOH Dept. LBI, (1st June 1972)

might possibly have been accepted by the courts. However, the most important point was that the London Borough of Islington were not prepared to accept the publicity which could have resulted from such an action. Furthermore, it could have been damaging to their Compulsory Purchase Order case if the Medical Officer of Health was seen not to have co-operated with the scheme of works being carried out on the houses - the point being he should have been showing concern for the health and welfare of inhabitants, not the acquisition of land for the London Borough of Islington!

Accordingly, the Public Health Officer telephoned within the seven days deadline period, and stated that lists of points of unfitness would be prepared and sent as soon as possible; the first lists were sent on 12th June 1972.

As was revealed by the social survey referred to earlier, the majority of the owner-occupiers were immigrants whose ability to speak, read and understand English ranged from just adequate at the one extreme, to virtually nil at the other. Therefore, the lists of points of unfitness were extremely useful, since they identified items of unfitness which could be dealt with by themselves. The houses owned by landlords or new owner-occupiers were being thoroughly restored at this time, and the lists of points of alleged unfitness were therefore of less importance in these properties than for those owned by indigenous owner-occupiers and tenants. Typical examples of the lists can be seen in Appendices 5-i and 5-ii.



The argument for the use of Mandamus was tenuous but might possibly have been accepted by the courts. However, the most important point was that the London Borough of Islington were not prepared to accept the publicity which could have resulted from such an action. Furthermore, it could have been damaging to their Compulsory Purchase Order case if the Medical Officer of Health was seen not to have co-operated with the scheme of works being carried out on the houses - the point being he should have been showing concern for the health and welfare of inhabitants, not the acquisition of land for the London Borough of Islington!

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b. A Brief Analysis of the Alleged Points of Unfitness and How They Were Dealt With

Some of the items listed were of an extremely minor nature, for example the list for 48 Barnsbury Road included: rusty rainwater and soil pipes and uneven garden paving, both of which the owner-occupier dealt with within a week of receipt of his list.

Other items appeared to be more serious, but were easily dealt with as described for 58/60 Barnsbury Road earlier, e.g. "cramped back yards due to out-buildings" and "inadequate light ventilation to the front basement rooms".

Other items were clearly major; the most important of these was the treatment of dampness to the basements. This applied to five of the owner-occupied houses and four of these were treated by a chemical injection damp proofing treatment, which the Medical Officer of Health accepted was satisfactory.

Other items were dealt with on a joint basis, whereby the same sub-contractors were employed by a number of different owners; these included roof repairs, pointing to brickwork, stucco repair, repairs to windows and doors and external redecoration.

Other items were expressed in terms which were ambiguous or difficult to understand, for example, "sprung and settled floors and stairs", was a ground of unfitness for every house. Although closely questioned, the Medical Officer of Health refused to explain what was meant by this term, and it was therefore decided to obtain opinions from independent experts.

The Building Research Establishment Timber Division at Princes Risborough, said that they understood what was meant by settled floors and stairs, but the use of the word "sprung" was one normally used to describe dance floors.

The Timber Research & Development Association made a similar comment. Ove Arup & Partners, who are the largest and probably the best firm of structural engineers in the World, stated that:

1. There was no inherent instability necessarily resulting from settlement.
2. If by "sprung" it was meant the floors were "bouncy" then this was not a point for concern. Indeed, it was a manifestation of the "recovery power of the timber" to return to its original position when released from a load.

The results of the opinions were agreed with the consultant engineer and sent to the Medical Officer of Health.

Thus, as work on-site continued and research of evidence for presentation at a public enquiry proceeded, the Medical Officer of Health was continually informed of what had been done, how the completed work related to the individual items in his lists and the results of research carried out.

c. The Methods Adopted for Testing the Alleged Points of Unfitness Against Other Criteria

1. As was mentioned earlier, although at that time drainage layouts were submitted to the Borough Engineer for approval, the actual testing of the drains once installed was carried out by Public Health Officers.
2. In addition, the Greater London Council delegated the Means of Escape approvals under the London Building Acts and Bye-Laws to the London Borough of Islington. At first this work was done in the Town Planning Department and later, in 1969, the responsibility was transferred to the Medical Officer of Healths' Public Health Officers.

Thus two major elements in the building works programme were approved by the Medical Officer of Health from time to time as work proceeded.

In all these ways the Medical Officer of Health could see his case for the Compulsory Purchase Order being inexorably eroded. Even so, he would not confirm his satisfaction either with the overall conversion works being carried out by the landlords and the prospective owner-occupiers, or with the individual items being dealt with by existing owner-occupiers.

It was considered important therefore to try to establish an objective judgement regarding the fitness of the houses and the flats being achieved by conversion; two methods of dealing with this question of acceptance of work were adopted, by the use of two legal procedures:

3. By making formal requests for the removal of the Closing Orders which had been placed on the properties prior to the Council's adoption of part III Compulsory Purchase Order action, immediately the points of unfitness relative to the appropriate house or part of house had been dealt with under the 1957 Housing Act;
4. By making applications for Qualification Certificates in connection with the establishment of fair rents, under the terms of the 1969 Housing Act.

The principle motivation behind the adoption of these two courses of action was that both procedures were dealt with administratively by the Medical Officer of Health.

It would now be worthwhile to examine the way in which the Closing Order determination procedure was used to establish fitness by a different legal device.

### 3. Closing Orders

Section 18 of the Housing Act 1957 states that a Local Authority may close a house, or part of a house for occupation, for the purpose of human habitation.

This procedure had been adopted by the Medical Officer of Health on the basements of four houses, and the whole of two other houses in the case example area. Therefore, as conversion works proceeded close to completion, it was decided to invoke Section 27 of the Act; this states that when and if the premises are made fit for human habitation, the Closing Order shall be determined.

Section 27 also states that approval "shall not be unreasonably withheld". The conversion of the basement of 58 Barnsbury Road was completed by the end of June 1972, (that is to say six months after the commencement of works), and an application for the

determination of the Closing Order was submitted to the London Borough of Islington. Subsequently, the Public Health Officer indicated that he had recommended the determination of the Order and that the legal documentation was to be dealt with by the Director of Legal and Administration Services. The determination was actually approved and issued on 15th September 1972; three months later.

Upon receipt of the determination, the developer had a finite basis for the establishment of what constituted fit premises and the criteria so established were applied to the remainder of the terrace.

An interesting point of law emerged when the Medical Officer of Health was asked to determine the Closing Order on the basement of 60 Barnsbury Road. This house was the subject of a Whole House Closing Order and, accordingly, the London Borough of Islington took responsibility for rehousing the tenants, as was mentioned earlier. The works to the basement flat were virtually identical to those carried out on number 58, and the application for the determination of the Closing Order was made at the same time. However, the London Borough of Islington declined to accept the application, since they said it was necessary for the whole house to be made fit. It was pointed out that the corollary implicit in the Act by virtue of the provision that a part of a house could be

'closed' to human habitation, was that a part could be similarly 'opened'.

The London Borough of Islington's Legal Department considered this point but, by the time they had agreed with the principle of this argument, the conversion of the whole house into five flats was virtually complete. The Legal Department therefore wrote saying that, whereas in principle they could see no bar to determining part of a Closing Order, there was now no need to do so, and they suggested that an application for the determination of the Whole House Closing Order be made; such an application was made, was approved by the Medical Officer of Health and formally ratified on the 5th December 1972.

At this juncture, another interesting legal point emerged when, following the receipt of the determination, the Council were requested to treat the house as 'other lands'; the Medical Officer of Health and the Director of Legal Services refused to change the classification of the house in the Compulsory Purchase Order. It is probable that this refusal was ultra vires since, by the London Borough of Islington's own actions in formally determining the Closing Orders, they recognised the accommodation was fit for human habitation and as such could not be acquired as a slum under the Housing Act 1957.



However, the use of the Closing Order determination procedure was useful in proving that the houses could be converted into good living accommodation within the timescale between the passing of a resolution to Compulsory Purchase the area and a public enquiry being held. This left two issues to be proved at the public enquiry:

- 1) That the costs incurred were reasonable within the definition of Circular 65/69;
- 2) That the majority of the owners would be prepared to carry out necessary works.

It would now be worthwhile examining the way in which the Qualification Certificate procedure was used to establish criteria for fitness by a different legislative process.

#### 4. Qualification Certificates

The Housing Act of 1969 sets down the procedure which applies to establishing the 'fair rents' chargeable to tenants, following the carrying out of works of conversion or improvement.

Under the Act, the landlord must submit plans and specifications to the rent officer, together with a certificate stating that the proposed works satisfy

the following conditions; the accommodation must be: " ... provided with all the standard amenities for the exclusive use of its occupants, ... in good repair, having regard to its age, character and locality ... and that it is in all other respects fit for human habitation". (131)

"The following provisions of this section shall have effect with respect to a controlled tenancy of a dwelling which is certified by the local authority, on the application of the landlord, to satisfy the following conditions, that is to say, that it is provided with all the standard amenities for the exclusive use of its occupants, that it is in good repair, having regard to its age, character and locality and disregarding internal decorative repair, and that it is in all other respects fit for human habitation". (132)

The wording of the Act actually includes the requirement that the rent officer must be satisfied that the unit he is assessing is fit for human habitation, and for this reason the use of the Qualification Certificate procedure was most attractive, having regard to the obvious reluctance of the Medical Officer of Health to confirm his satisfaction with completed works.

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(131) The Housing Act 1969, Pt. III Section 43  
(132) Ibid

The decision as to whether or not a Qualification Certificate should be issued rested with the Medical Officer of Health. It was therefore possible to force the Medical Officer of Health to judge the works proposed and to recommend the issue of the Qualification Certificate, and thus further demonstrate to him the continual erosion of his Part III case.

Even more important, it emerged that the Public Health Officer had pointed out that, since many of the flats to be assessed for fair rents were not occupied, there was no requirement for these to be dealt with under the Qualification Certificate procedure, as the Act allowed the rent officer to deal with these without the issue of a Certificate.

However, the discretion as to which method should be adopted rests, under the terms of the Act, with the applicant who was in this case the landlord. Therefore, it was an obvious choice to opt for the Qualification Certificate since, not only did it force the Medical Officer of Health to decide whether a unit was statutorily fit, (or would be when prescribed works had been carried out), but, in the event he refused to issue a Certificate he was forced to state the reason for this:

"If the Council refuse to issue a certificate of provisional approval or a qualification certificate the landlord will be sent a written statement of their reason for doing so". (133)

Accordingly, on the 31st May 1972 applications for Qualification Certificates were made for each floor of the majority of the landlord's accommodation and the formal approvals for the Qualification Certificates were issued on the 13th June 1972 by the London Borough of Islington's Legal Department.

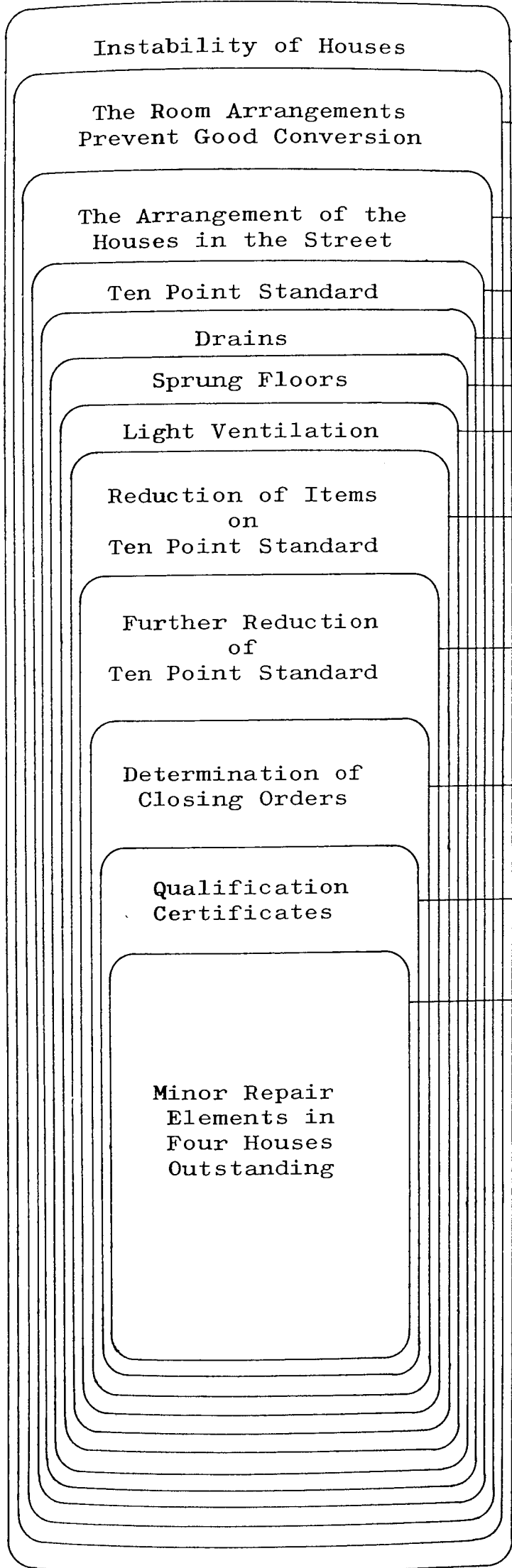
#### 5. Summary of Situation in December 1972

By November 1972 the works of conversion and improvement to thirteen of the houses were either finished, or had reached such an advanced stage that the Medical Officer of Health recommended the rescindment of the Compulsory Purchase Order. The formal report from the London Borough of Islington which encapsulated this recommendation will be analysed in detail later in this work. At this point the erosion of the Medical Officer of Health's case can be shown diagrammatically, (see fig. 5.28).

Thus, having established that the houses were capable of conversion into satisfactory housing, it was still necessary to establish that this was achieved at

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(133) Notes to applicants of Qualification Certificates, item 9.



Instability of Houses

District Surveyor stated the houses were basically stable: other works carried out. Schemes submitted for Drainage and Means of Escape approval: all approved.

The Room Arrangements Prevent Good Conversion

The Arrangement of the Houses in the Street

Demolished rear back addition and outhouses/shelters.

Ten Point Standard

Established prima facie case by threat of mandatory injunction

Drains

Drains passed by P.H.O.

Sprung Floors

BRE, TRADA & ARVRS said this is not a problem.

Light Ventilation

Front basement rooms made acceptable by demolition of front coal vaults.

Reduction of Items on Ten Point Standard

Repairs to roofs, brickwork, windows, doors and plaster.

Further Reduction of Ten Point Standard

Provision of internal w.c.'s, bathrooms and kitchens.

Determination of Closing Orders

E.G. 58/60 Barnsbury Road therefore legally fit.

Qualification Certificates

E.G. 58/60, 32/34 and 26/28 therefore legally fit.

Minor Repair Elements in Four Houses Outstanding

The Medical Officer of Health's case at November 1972.

fig. 5.28

DIAGRAMMATIC EXPRESSION OF THE REDUCTION IN THE FIELD OF DECISION WHEN THE LONDON BOROUGH OF ISLINGTON DECIDED TO RESCIND THE PART III CPO 1972

reasonable cost; for the sake of completeness and to prove the original hypothesis. However, before analysing economic aspects of the case example, it would be useful to examine the town planning, architectural and listing situation, in relation to the case study, since this will provide a background against which the economic analysis can be judged.

iii. Action with the Town Planning Officer

a. A Statement of the Legal Background to the Borough Town Planning Officer's Argument on the Conversion with regard to Town Planning Approval and the Writer's Opinion of the Town Planning Situation

As was mentioned earlier, the Deputy Borough Planning Officer stated that the works being carried out at 58/60 Barnsbury Road, which were commenced in January 1972, required town planning consent; a point of view which was shared with the Town Planning Officer and the Legal Department of the London Borough of Islington.

However, it is clear that the works being carried out in the great majority of the houses were covered by Section 22 of the Town & Country Planning Act 1971, which states:-

"(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land, that is to say -

"(a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building ..."

The Act clarifies the Town Planning Law in connection with the division of existing houses, the Act states:-

"(3) For the avoidance of doubt it is hereby declared that for the purposes of this section -

(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;"

The term "dwellinghouse" is defined negatively as:

"'dwellinghouse' does not include a building containing one or more flats, or a flat contained within such a building". (134)

Therefore, the only point at issue was the meaning of "materially" in Section (2)(a) of the Act. The writer took the view that the inclusion of two windows in lieu of a single dormer in the mansard, and the introduction of an average of one extra window in the rear elevation

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(134) Encyclopaedia of Planning Law, p.3998/43, section 3.867  
(Release 54: 1st May 1977)

of each house, could not be regarded as material; had the houses been listed, then these works would have been material.

The Town Planning Officer and Director of Legal Services on the other hand, were of the opinion that by virtue of the self-containment of the existing units of residential accommodation, Section 22 did not apply.

The writer had written to the Borough Planning Officer on the 5th June 1972 setting out the case for maintaining that no town planning consent was required for 58/60 Barnsbury Road, but no reasoned response was received. On the 24th August 1972 the Deputy Borough Planning Officer stated that:

1. There were no proposals for the further use of the land occupied by 16-62 Barnsbury Road other than open space.
2. The listed building report and the opinions of the erstwhile Deputy Borough Planning Officer were biased, since they were commissioned by the landlords. (135)

It would now be worthwhile examining these statements made by telephone on the 24th and at a meeting on the 29th August, with the benefit of hindsight.

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(135) M.J. Tapsall, Deputy Borough Planning Officer, notes of a telephone call to the writer (24th August 1972)



The first point made on the 24th August will be discussed in connection with the meeting of the 29th August, since the point was reiterated by the Deputy Borough Planning Officer on that occasion: this will be examined in case example 3.

The second point raised a serious issue. The Deputy Borough Planning Officer assumed that since the two chartered architects and chartered town planners were employed by the objectors, it followed that their views that the houses should be listed were biased and should therefore be treated with caution. The corollary of his argument must surely be that the statements of the London Borough of Islington's officers should be treated with equal caution, since they are employees of the Council.

However, since the houses were subsequently listed, it can be shown that the judgement of the two expert witnesses employed by the objectors was correct and the Deputy Borough Planning Officer's judgement was not.

When the Deputy Borough Planning Officer telephoned the writer in August 1972, he stated that the London Borough of Islington did not wish to waste time at the public enquiry, arguing whether the works which were in progress did or did not require town planning consent. The writer accordingly agreed to arrange the meeting which was held on the 29th August 1972 in the Town Planning Department.

The Deputy Borough Planning Officer stated as follows:-

1. He did not think that the London Borough of Islington would wish to change the land-use zoning of the site occupied by 16-62 Barnsbury Road, from public open space to housing;
2. The works being carried out to the housing were classifiable as unauthorised works;
3. He requested that a town planning application be made for every house;
4. He thought that the conversion scheme did not satisfy the London Borough of Islington's small dwellings policy;
5. He would not state whether or not, in his opinion, the houses should be saved from demolition;
6. He had not consulted either the Borough Architect or the Greater London Council's Historic Buildings Division as to the quality of the architecture of the houses, since this was a matter for the Town Planning Department to decide;
7. That the land upon which 16-62 Barnsbury Road stood, would be required for public open space;

8. That any town planning application could not be considered until the Angel Redevelopment Scheme had been approved. However, he anticipated this would be so approved within approximately three months.

The opinions of the Deputy Borough Planning Officer and Legal Department were presented to the Town Planning & Development Committee in November 1972 and, as a result the Committee authorised the Legal Department to take appropriate enforcement action. However, no enforcement action was taken and the Borough Solicitor and Planning Officer later conceded that the works carried out were 'permitted developments' within the meaning of the Act, and the proposed enforcement action was abandoned.

It was agreed that works to two houses and part of a third did require town planning consent: the Council took two years to grant consent and only did so just prior to a public enquiry for deemed refusal. (136)

Thus we see that during the period of this case example the Planning Department had made two major errors in the advice they gave the Town Planning & Development Committee. Firstly, by stating that the houses had no architectural merit, when they are subsequently listed

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(136) The Town Planning Acts require Local Authorities to grant or refuse Town Planning consent within 2 months of submission of an application. If a Local Authority fails to decide an application in this time, the appellant has the right to treat the application as if it had been refused.

and secondly, that town planning consents were required for all the work carried out to all the houses: they later withdrew this statement by specific performance.

iv. Action Under Section 28 of the Housing Act 1969

Section 28 of the Housing Act 1969 states:

"Where a report with respect to a predominantly residential area within the district of a local authority is submitted to them by a person or persons appearing to the authority to be suitably qualified (whether or not that person is or those persons include an officer of the authority) and it appears to the authority upon consideration of the report and of any other information in their possession, that living conditions in the area ought to be improved by the improvement of the amenities of the area or of dwellings therein or both and that such an improvement may be effected or assisted by the exercise of their powers under this Act, the authority may cause the area to be defined on a map and by resolution declare it to be a general improvement area."

Accordingly, the writer produced a report under Section 28 and it was submitted to the London Borough of Islington by the two solicitors acting for the objectors to the Compulsory Purchase Order.

The contents of the report can be summarised as follows:-

1. The planning background which resulted in blighting the housing;
2. The ownership and occupancy pattern of the terraces;
3. The part III Compulsory Purchase Order situation;
4. The works of improvement carried out subsequent to the part III action;
5. A summary of the current state of building works related to the Medical Officer of Health's lists of items of unfitness;
6. A suggested scheme of environmental improvements;
7. An analysis of the density achievable from the conversion of the existing housing compared with new development - showing a net housing loss by redevelopment;
8. A review of Housing Act criteria and how these related to the terraces.

The report was submitted on the 28th July 1972. Shortly after its receipt, the Borough Solicitor requested that ten further copies of the report be submitted for consideration by the various departments of Council and these were provided.

The London Borough of Islington made no response to the proposals in the period covered by this case example. However, following the rescindment of the part III Compulsory Purchase Order, they did draw attention to Section 29 of the Housing Act 1969 which states:

"(1) A general improvement area shall not be so defined as to include (but may be so defined as to surround) -  
 (a) any land comprised in an area declared to be a clearance area under Part III of the Act of 1957,"

Whereas it is clear that Section 29 was legally applicable to the situation, this did not preclude the Council from rescinding the part III Compulsory Purchase Order and then applying Section 28.

However, the report recommending Section 28 was probably unique at the time, since the wording of the Act using the phrase: "a suitably qualified person", was probably intended to apply to Local Authority employees and not to private consultants.

This point was made by Mr. Sam Silkin during a joint conference of Counsel, which will be referred to later.

The fundamental point in the relevance of this action in this case example, is that the London Borough of Islington were given a full and detailed report of the current situation in July 1972 which, as will be shown later, influenced the final decision to rescind the part III Compulsory Purchase Order.

#### v. Action by Borough Architect

There were three major factors in the Part III situation upon which, in the writer's opinion, the Borough Architects

Department should have been invited to give advice:-

- a. The question as to whether the houses were arranged such that they could be converted into good living accommodation;
- b. Whether they could be made fit at reasonable cost; and
- c. The architectural quality of the houses.

The Borough Architect informed the writer that the Medical Officer of Health had not consulted him upon any of these three major items. Accordingly, the writer invited the Borough Architect to inspect the building works in progress, and an officer of the Borough Architect's Department subsequently met the writer on-site in September 1972.

Following his inspection of the works, he stated that, in general terms, the conversions being carried out used similar criteria to those adopted by the London Borough of Islington for its own schemes. This fact was confirmed by the writer to the Borough Architect in writing; this was done to establish the fact for presentation as evidence at a public enquiry.

On the 11th November 1972 the writer contacted an officer of the Borough Architect's Department and was informed that a report was being produced for presentation to the Town Planning & Development Committee and that he was hopeful that the Council would rescind the Compulsory Purchase Order. This report will be referred to in the next case example.

The writer subsequently spoke to the Borough Architect who stated: "this matter is now in the hands of the Borough Planning Officer solely; it is not my responsibility". (137)

This statement is rather surprising, since whether or not houses were unsatisfactory was not a matter of town planning opinion. Indeed, it is arguable that the technical requirements of the Housing Act 1957 would appropriately be dealt with by the Borough Architect rather than the Medical Officer of Health, since the skills and judgements required fall within the competence of his Department.

From later discussions with architects in the London Borough of Islington, it was made clear that the Council had already decided to rescind the part III Compulsory Purchase Order and to adopt an alternative approach to the area; this fact had apparently been known in December 1972 when the Borough Architect made his statement. The alternative approach referred to above will be explained and analysed in case example 3.

#### vi. Consideration of an Alternative Strategy

On the 5th December 1972, the solicitors acting for the tenants and indigenous owner-occupiers reported that their

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(137) Borough Architect, a statement made during a conversation with the writer on 18th December 1972



Counsel had visited the houses and, as a back-up to the Section 28 report under the Housing Act 1969, recommended that: (138)

"1. A Management Scheme be entered into among all the consenting parties imposing positive obligations on each owner:-

(A) To put his property in good repair ('we would suggest that as you have already drawn up Schedules in relation to each property, setting out the works required to be done to render the property fit, these be utilised for the purpose of defining the state into which the individual owner should put his property').

(B) To keep the property in good and substantial repair.

(C) As regards the exterior, to fit it into a common appearance.

"2. A Deed would be drawn up appointing Trustees to the Scheme who would be elected by the owners. Power would be reserved to the Trustees in the event of an individual owner defaulting on his obligations to enter upon the land and to carry out the work required to be done and to register a Charge in respect of the cost of the same as against the Title of the property."

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(138) Rt. Hon. Sam Silkin P.C.M.P.Q.C. was Counsel to the indigenous owner-occupiers and tenants

Mr. Silkin was obviously convinced of the writer's case, since he also stated through Lewis Silkin & Partners, his instructing solicitors:

"Sam Silkin proposes that as soon as the concept has been accepted in principle by the individual owners a joint Conference of Counsel be held, but that having obtained the agreement of the various owners an approach should be made to the Local Authority to obtain their consent to a joint approach to the Department of the Environment for an adjournment of the Public Enquiry.

"Failing their agreeing the same, an approach should be made on behalf of the owners to the Department for such an adjournment. Failing their agreement an Application would be made at the actual Enquiry for an adjournment in order that the Management Scheme could be put into effect and its results gauged."

There are three very interesting aspects of this recommendation:-

- a. The part III Compulsory Purchase Order situation did not preclude the London Borough of Islington from considering action under Section 28 of the Housing Act 1969 in accordance with the writer's report;
- b. That the scheme of management proposal was a factor so strong in the situation, that the Department of the Environment could be prevailed upon via the London Borough of Islington to adjourn the public enquiry;

- c. If the London Borough of Islington did not agree, the Department of the Environment could be asked to adjourn the enquiry in any case.

Although it is clear that these recommendations were legal opinions, it must be borne in mind that the opinion was given by leading Counsel and that it had been agreed with two firms of specialist Town Planning solicitors and the other leading Counsel, Kenneth Bagnell Q.C. The backing of this body of legal opinion was a vital factor in the stance taken by the writer in the handling of the campaign.

Sam Silkin's proposals were never submitted to the London Borough of Islington, since by December 1972 the officers of the Council had indicated that the part III Compulsory Purchase Order was to be rescinded.

However, Sam Silkin's opinion is an interesting insight into some other options open to objectors faced with a part III Compulsory Purchase Order.

- vii. Action with the Greater London Council, Department of the Environment and Civic Societies in Connection with the Listing of the Houses as being of Architectural and Historical Interest

As was discussed in the review of the law of conservation, the Secretary of State for the Environment has a statutory duty to compile lists of buildings of special architectural

and historical interest. The administration of both local and national conservation policies is based upon these lists, which are supposed to be constantly under revision.

One of the criteria for listing was relevant to this case example, in which the housing was developed 1817-1822, since it is recommended that: "Most buildings of 1700 to 1840 are listed, though selection is necessary". (139)

On the subject of selection, it was the writer's belief that 16-62 Barnsbury were worthy of listing and that the terraces had been omitted from the list for one or a combination of two reasons:

- a. The future use of the land upon which the houses stood;
- b. The dilapidated state of the housing.

In theory, neither of these factors should affect whether or not buildings should be listed but in practice they could affect what is in the last analysis a subjective aesthetic judgement.

As was explained earlier, it had been decided to mount the campaign for the listing of the terraces when a number of the front elevations of the houses had been restored. In this way it was intended to display the fact that the houses,

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(139) Department of the Environment Circular 23/77, Historic Buildings & Conservation Areas Policy & Procedure, (16th March 1977), App.1 p.4890

although in a blighted and derelict condition generally, were in fact potentially of special architectural interest.

The writer commenced the campaign by writing to the Greater London Council's Historic Buildings Division, the Department of the Environment and Civic Societies, explaining the planning history of the terraces and sending photographs of completed restorations. (140)

At the same time, the writer recommended the appointment of two specialists to act as professional witnesses at a public enquiry. One was John Melvyn, the ex-Deputy Borough Planning Officer of Islington and the other was Roger France, an ex-Conservation officer of the London Borough of Southwark, who was a lecturer in conservation at the Polytechnics of Oxford and North London.

Roger France was asked to produce an analysis of the architectural quality of the terraces and relate this to other terraces which had been listed.

Roger France's Report was submitted to the Department of the Environment, Greater London Council, London Borough of Islington and Civic Societies on the 1st August 1972. It contained a historical background to the development of Gouldens' terraces and showed by photographic comparison

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(140) All three letters were sent on 8th June 1972 when it became clear that the London Borough of Islington were going to proceed with part III action

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that 16-62 Barnsbury Road, architecturally, was at least as good as, and possibly better than, other similar terraces which had been listed.

During the course of the campaign, the writer regularly telephoned the recipients of the report in parallel with Roger Frances' actions, from which some relevant factors emerged; these will be referred to during the narrative of actions and responses in the listing argument as it developed between June 1972, when the terrace was proposed for listing, and August 1973, when it was finally listed by the Department of the Environment.

Thus in June 1972 the strategic situation with regard to the listing of the buildings can be shown diagrammatically, (see fig. 5.29).

In parallel with the writer's lobbying programme, Roger France was trying to establish the exact criteria used by the Department of the Environment Inspectors, which had resulted in their decision not to recommend the listing of 16-62 Barnsbury Road. However, the Department of the Environment were ambivalent in their replies and Roger France therefore invited the Department of the Environment to send a representative to visit the terrace to inspect the restoration work which had been carried out. This request was refused in the Department of the Environment's letter of the 17th November 1972 which stated:

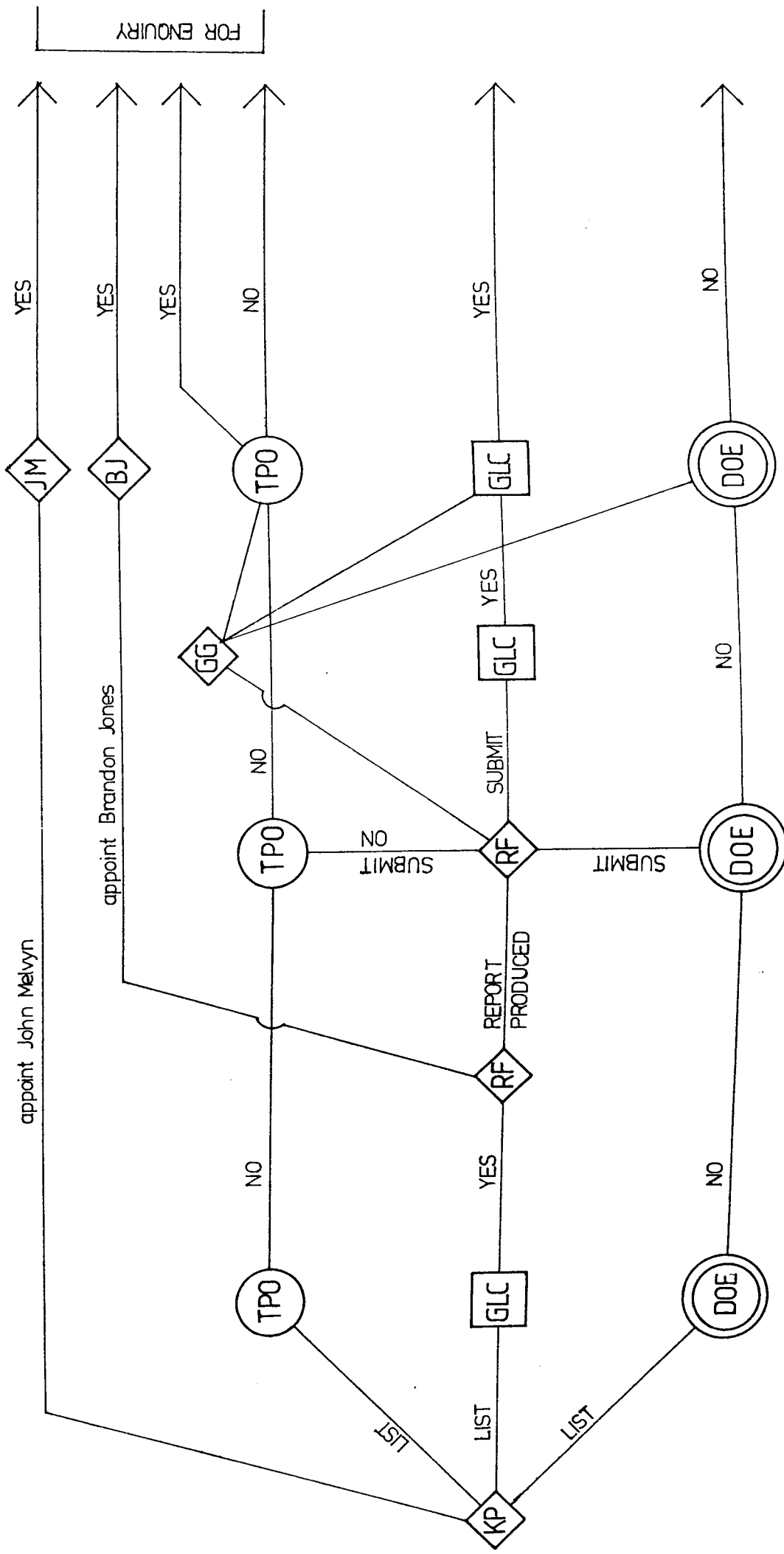


fig. 5.29 DIAGRAMMATIC REPRESENTATION OF THE STRATEGIC SITUATION REGARDING THE LISTING OF BUILDINGS IN JUNE 1972

"Unfortunately this is not possible. The entire Islington area has been re-surveyed fairly recently when all the buildings found to meet the criteria for listing were included in the list. It is not a practicable proposition to direct investigators to re-inspect buildings which have been restored subsequent to the full survey of an area. Ad hoc inspections of this nature deflect the investigators from their principle task which is the carrying out of full re-surveys in order to record those buildings of quality so far unprotected."

It also emerged from the letter that the Department of the Environment Inspectors had only recently surveyed Islington: " ... Except whilst work is actually in progress on the production of a revised list, as has lately been the case with Islington, there is only one effective list for each area."

Thus, it can be presumed that the terraces had been seen during 1972, that is to say after the Compulsory Purchase Order resolution had been made, and had not been considered suitable for listing.

On the 19th June 1972 the writer met the Borough Planning Officer on-site by chance, when the Borough Planning Officer explained he had been requested by the Chairman of the Town Planning & Development Committee to examine:

- a. The listing possibility of the terraces;
- b. Whether the terraces were worth saving.



The Borough Planning Officer stated that he could recommend neither and the writer confirmed this in writing as evidence for the public enquiry. (141)

On the 25th July 1972 the officer responsible for the Islington area in the Greater London Council's Historic Buildings Division confirmed that he had informed the London Borough of Islington that he had recommended the houses be included on the supplementary list of buildings of architectural and historical interest, that is to say before the submission of the Roger France's Report; this was also confirmed in writing to the Greater London Council as evidence for the public enquiry. (142). Thus, it emerged that even before the consideration of a professional assessment of 16-62 Barnsbury Road compared with other listed terraces in the Roger France's Report, the Borough Planning Officer had been specifically asked by the Chairman of the Town Planning & Development Committee whether the buildings were worthy of retention, and the Greater London Council's Historic Buildings Division had recommended that the London Borough of Islington include the terrace in their supplementary list.

On the 24th August 1972 the writer was told by an officer of the Greater London Council's Historic Buildings Division, that the listing of the properties was administratively

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(141) K. Pring, letter to K.G. Blyth, Borough Planning Officer (19th June 1972)

(142) K. Pring, letter to J. Calvacoressi, G.L.C. Historic Buildings Division, (25th July 1972)

and politically difficult, due to the public open space use zoning of the area. The writer confirmed this in writing and sent a copy of the Angel Planning Study, which clearly showed that the London Borough of Islington had no intention of using the Order lands for open space. (143). The land occupied by 16-62 Barnsbury Road had been earmarked for residential purposes. (144)

"This area extends from Copenhagen Street and Cloudesley Place southwards to the rear of Chapel Market. It is substantially cleared; the Barnsbury Road frontage is represented for Slum Clearance, and the GLC have recently rehabilitated the north east corner. The eastern boundary is formed by Liverpool Road and western by Penton Street.

"The 'Culpepper Site', bounded by Barnsbury Road, Copenhagen Street, Cloudesley Road and Culpepper Street should be re-developed for housing with open space located near Penton School, complementing the provision in Barnsbury Park. The size and shape of the area make it imperative that this area is dealt with comprehensively, so that the optimum housing development can be obtained, and a proper environmental area achieved in relation to the Barnsbury Traffic Management Scheme. It is recommended that this area be acquired by the Council and a housing scheme prepared as

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(143) K. Pring, letter to J. Calvacoressi, G.L.C. Historic Buildings Division, (24th August 1972)  
(144) Statement from the Angel Plan, p.30, paras. 6.8 & 6.9

soon as possible as this area has been partially cleared and in a semi-derelict condition for many years.", (see map of Barnsbury area, fig. 5.30).

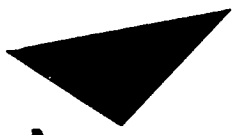
It is worth noting at this point that officers of both the London Borough of Islington and the Greater London Council did not confirm points raised in discussions and it was therefore necessary for the writer to take the initiative in confirming discussions in writing. This was done in order to obtain evidence for future presentation at a public enquiry.

However, it is possible to corroborate the points confirmed by the writer to the Greater London Council, since the Georgian Group had been informed that the planning background was the main block to the listing of the buildings. "I understand from the Greater London Council that the whole matter is bedevilled by the issue of the open space". (145).

At this point, in the Autumn of 1972, it was decided to commence the public relations exercise strand of the campaign. This included certain actions which overlapped those related to the listing of the properties. The most important of these was to involve the Conservative opposition in the London Borough of Islington and two meetings

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(145) Secretary of Georgian Group, letter to Roger France, (13th October 1972)



Aston University

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were arranged, whereby Conservative members met tenants, owner-occupiers and developers, examined the works in progress and established the basic points in the campaign.

The results of this involvement will emerge later in this case example. However, in spite of the views expressed by the Greater London Council's Historic Buildings Division on the terraces, the Department of the Environment in October re-affirmed that the houses were not worthy of inclusion on the list of buildings of architectural and historical interest.

"As has previously been explained however these buildings do not qualify for inclusion in the list as they do not meet the criteria for listing. In this particular instance the buildings are not considered architecturally to be of sufficient quality of their type and period, being also much altered with many of their original features removed." (146)

This statement should be compared with the Department of the Environment's publication on listing criteria, which stated: "The administration of both local and national conservation policies is based on these lists, which are constantly under revision."

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(146) Department of the Environment, letter to R. France, (30th October 1972)

However, the Department of the Environment's letter did provide hope for the listing in the future as paragraph three states: (147)

"What can be said however is that a note will be kept of any such buildings known to have been restored and when the next re-survey of the area is carried out they will then be looked at again."

It would be worthwhile considering the situation at this point, since the timing of inspection of buildings for slum clearance could be vital, as will be shown in case example 7, London Borough of Hackney (Shepherdess Walk) Compulsory Purchase Order 1972.

The fundamental point was that, had the part III Compulsory Purchase Order gone through the public enquiry procedure and the Compulsory Purchase Order had been confirmed, it is possible that some or all of the houses would have been demolished by the time the next listing inspection was carried out in Islington.

Alternatively, as in the Shepherdess Walk case example later in this work, the buildings might have been listed after they were confirmed as slums by the Department of the Environment.

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(147) Department of the Environment, op cit

On the 22nd December 1972, the Borough Town Planning Department eventually replied to Roger France's letter of the 25th July, (after two reminder letters had been sent), and the reply confirmed that the houses were not on the list of buildings of architectural and historical interest. Since the France Report was sent to the Borough Planning Officer to engage his assistance towards the saving and listing of the houses, this confirmation could only be described as a derisory make-weight response.

The letter also recommended that:

"As you will know this block of properties may well be the subject of an inquiry next year regarding their future; and I think it would be wisest to wait for the Ministry's Inspectors decision, at which time I am sure he will take your views into consideration".

However, the Borough Planning Officer was obviously aware that the Inspector at a slum clearance enquiry could legally consider evidence as to whether or not the houses were slums. Also, as will be discussed later, the choice of Inspectors by the Department of the Environment for public enquiries, was carried out on the principle of matching the Inspectors' professional qualifications with the issues involved in the public enquiry. Therefore, since the Islington (Barnsbury Road) Compulsory Purchase Order 1972

was under Part III of the Housing Act 1957, it would have been unlikely that the Department of the Environment would have appointed an architect as Inspector for the enquiry, as would probably be the case had listed buildings been involved. Moreover, the question of listing is dealt with by a specialist team of Department of the Environment Inspectors and not by Public Enquiry Inspectors. This will be shown later in this case example.

It was clear therefore from correspondence and discussion with officers in the Borough Planning Department, that the London Borough of Islington had:

- a. Ignored or rejected the France Report recommendations;
- b. Ignored or rejected the Greater London Council's Historic Buildings Division recommendation to place the houses on the supplementary list;
- c. Decided to leave the listing decision to a Public Enquiry Inspector who had no locus in the matter.

It will be shown later that the Borough Planning Officer was aware of the Greater London Council's recommendation and also knew that the part III Compulsory Purchase Order was to be rescinded when the letter referred to above was sent. This fact could have influenced the choice of words, "... may well be the subject of an inquiry ...", in the letter of the 22nd December 1972.



On the 4th January 1973, the writer had a lengthy telephone discussion with a senior Inspector in the Department of the Environment's Historic Buildings Section; this ended with the threat of a Mandatory Injunction against the Department since, in the writer's opinion, the Inspectorate were failing in their statutory duties.

It should be noted that at this time the London Borough of Islington and the Department of the Environment knew that the part III Compulsory Purchase Order was recommended for rescindment, since the Town Planning & Development Committee made this decision on the 28th November 1972.

On the 5th January 1973, the Department of the Environment agreed to re-inspect the houses ... "It is not known at present when the next full re-survey of Islington would be carried out but it would seem unlikely that this would be before the public inquiry into a Compulsory Purchase Order at present under consideration.

"In all the circumstances the Chief Investigator of Historic Buildings has undertaken not to await the next re-survey of the area but to have the buildings in question re-inspected forthwith and arrangements will therefore be made accordingly."

It is worth noting that this decision was taken the day after the threat of a Writ of Mandamus was made. This threat was made as it appeared that the Department of the

Environment and the London Borough of Islington were not being straightforward in answering questions as to their attitude towards the listing of the houses.

The confidential London Borough of Islington report to the Town Planning & Development Committee on the 28th November 1972 stated:

"The Department of the Environment stated in confidence that it is not likely that the terrace will ever be considered worthy of listing and the houses do not appear in the latest comprehensive listings issued by the Department."

However, subsequently the Chief Executive and Town Clerk of the London Borough of Islington stated in his letter to the entrepreneur that ... "They (the Council) were not aware that the buildings were to be listed and were not in any way consulted about this by the Department of the Environment." (148)

This statement avoided mentioning that the London Borough of Islington's officers had been in confidential consultation with the Department of the Environment, as had been suspected by the writer.

Thus it seemed that the threat of Mandamus had been successful in clarifying the attitude of the Department of the Environment as to their duty.

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(148) H.M. Dewing, Chief Executive Officer, L.B.I.,  
letter to A.J. Skeaping, (1st August 1973)

The London Borough of Islington formally resolved to rescind the part III Compulsory Purchase Order on the 4th January 1973 and decided to implement a Compulsory Purchase Order under Section 112 of the Town & Country Planning Act 1971; this will be discussed in case example 3; the discussion will include a narrative of the events which resulted in the eventual listing of the buildings on the 2nd August 1973. The situation at that time can be shown diagrammatically, see fig. 5.31.

The relationship between the three tiers of officer involvement in the decision-making process for listing will be discussed in the next case example, since it was within the context of the Section 112 Compulsory Purchase Order that the final decision to list the buildings occurred.

#### viii. The Public Relations Action

As was explained earlier, it was decided to open the public relations campaign after the restoration of the front facades of a number of houses had been completed.

The fundamental factors in the campaign were as follows:-

- a. That the houses could be made fit for their existing occupants;
- b. That this was in accord with their hopes and aspirations;
- c. That works were in hand which showed that a. and b. above were possible;

- D - DEPARTMENT OF THE ENVIRONMENT, HISTORIC BUILDINGS DIVISION
- GG - GEORGIAN GROUP
- GLC - GREATER LONDON COUNCIL, HISTORIC BUILDINGS DIVISION
- JM - JOHN MELVYN
- KP - KENNETH PRING
- RF - ROGER FRANCE
- TPO - TOWN PLANNING OFFICE

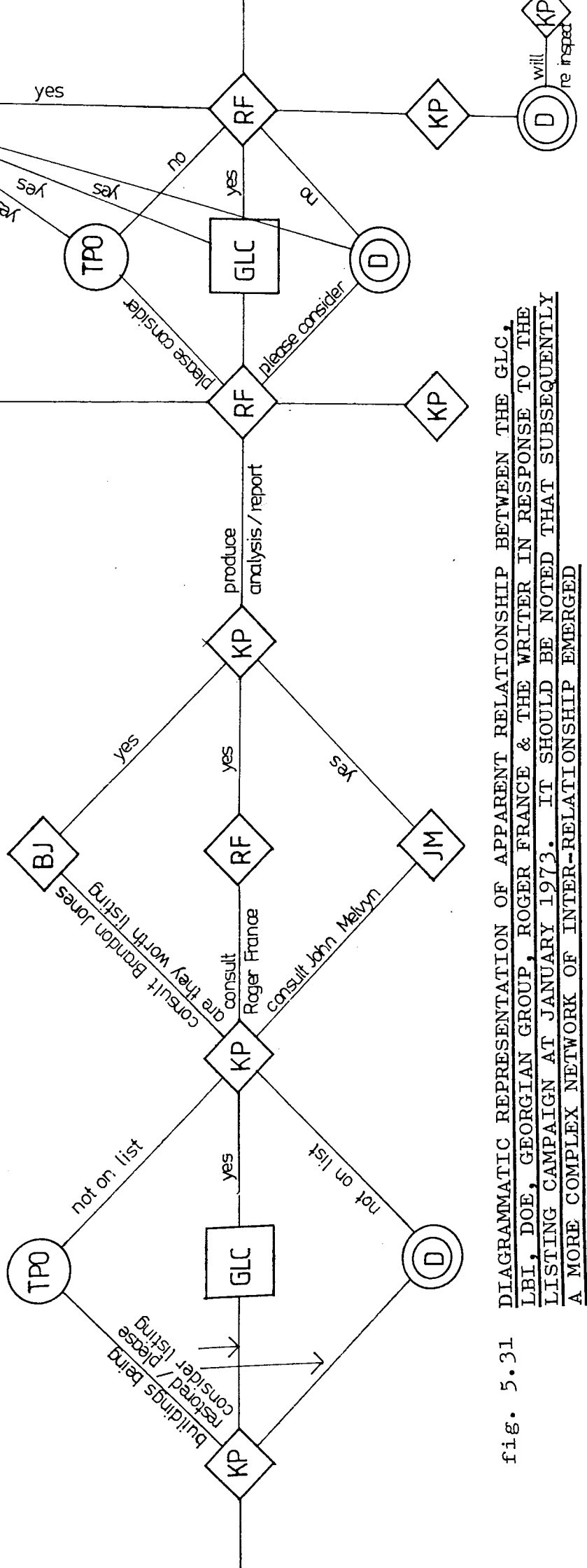


fig. 5.31 DIAGRAMMATIC REPRESENTATION OF APPARENT RELATIONSHIP BETWEEN THE GLC, LBI, DOE, GEORGIAN GROUP, ROGER FRANCE & THE WRITER IN RESPONSE TO THE LISTING CAMPAIGN AT JANUARY 1973. IT SHOULD BE NOTED THAT SUBSEQUENTLY A MORE COMPLEX NETWORK OF INTER-RELATIONSHIP EMERGED

- d. That the houses were potentially an elegant addition to the townscape of the area;
- e. That the terraces were worthy of being listed as of architectural and historical interest;
- f. That the Part III action was not necessary, would not be successful and should be abandoned.

The public relations exercise was directed primarily at the London Borough of Islington, since it would be the Council's decision whether to abandon or proceed with the part III Compulsory Purchase Order.

Accordingly, letters were sent to the local ward councillors, the chairman and vice chairman of the Town Planning & Development Committee, inviting them to inspect the works in hand and discuss the scheme with tenants and owners. The vice-chairman, who was an architect, accepted the invitation, visited the site with the writer and indicated that in his opinion the part III Compulsory Purchase Order would fail.

It has emerged subsequently from discussions with members and erstwhile members of the Council, that they were most impressed with the speed with which the houses were being restored and the resultant rapid improvement in the external appearance of the houses, (see photographs figs. 5.32 and 5.33).

18-36 BARNSBURY ROAD, SHOWING THE LONDON  
BOROUGH OF ISLINGTONS' HOUSE CONVERSIONS  
NEARING COMPLETION

fig. 5.32



40-62 BARNSBURY ROAD, SHOWING THE LONDON  
BOROUGH OF ISLINGTONS' HOUSE CONVERSIONS  
NEARING COMPLETION

fig. 5.33



The effect of external appearance can be seen related to timing, (see photograph fig. 5.34), whereby, as at November 1972 when the Town Planning & Development Committee resolved to rescind the Compulsory Purchase Order, 70% of the facades of the non-London Borough of Islington owned houses were complete. Typical houses owned by the Council at that time are shown in photographs figs. 5.35 and 5.36.

The members of the Council were not kept specifically informed of the progress of internal works, since the writer was making frequent written reports to the Medical Officer of Health on the question of fitness. The lay press were informed of the campaign and this resulted in the publication of articles in the Guardian and the Times.

The Guardian's article was published on the 11th October 1972, was written by Carol Dix and was headed: "Houses at Knock Down Prices". The article described the actions which had taken place and remarked that many of the houses had been bought at a very low price because they were subject to a Compulsory Purchase Order. She made the point that, if the Compulsory Purchase Order were to be rescinded, the value of the houses would increase dramatically. She also questioned the role of the Medical Officer of Health in the Barnsbury Road case.

The Times' article was published on the 15th May 1973, was written by Tony Aldous and was headed: "Developers Bow to Conservation". The article was published after the houses were listed and will be discussed therefore in the next case example.

TYPICAL VIEW OF THE WEST ELEVATION OF  
24-30 BARNSBURY ROAD, SHOWING 26/28 AS  
THEY LOOKED IN NOVEMBER 1972

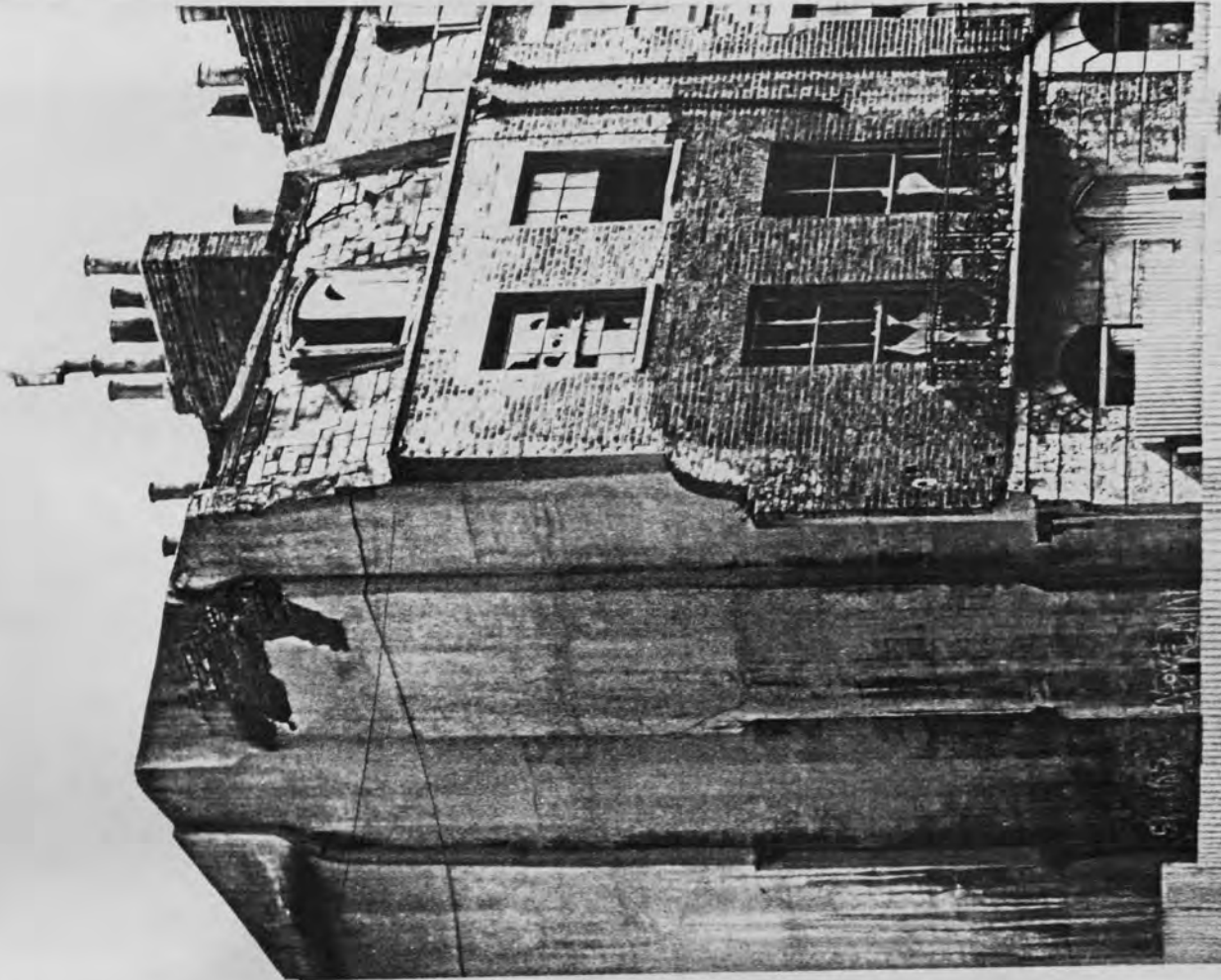
fig. 5.34





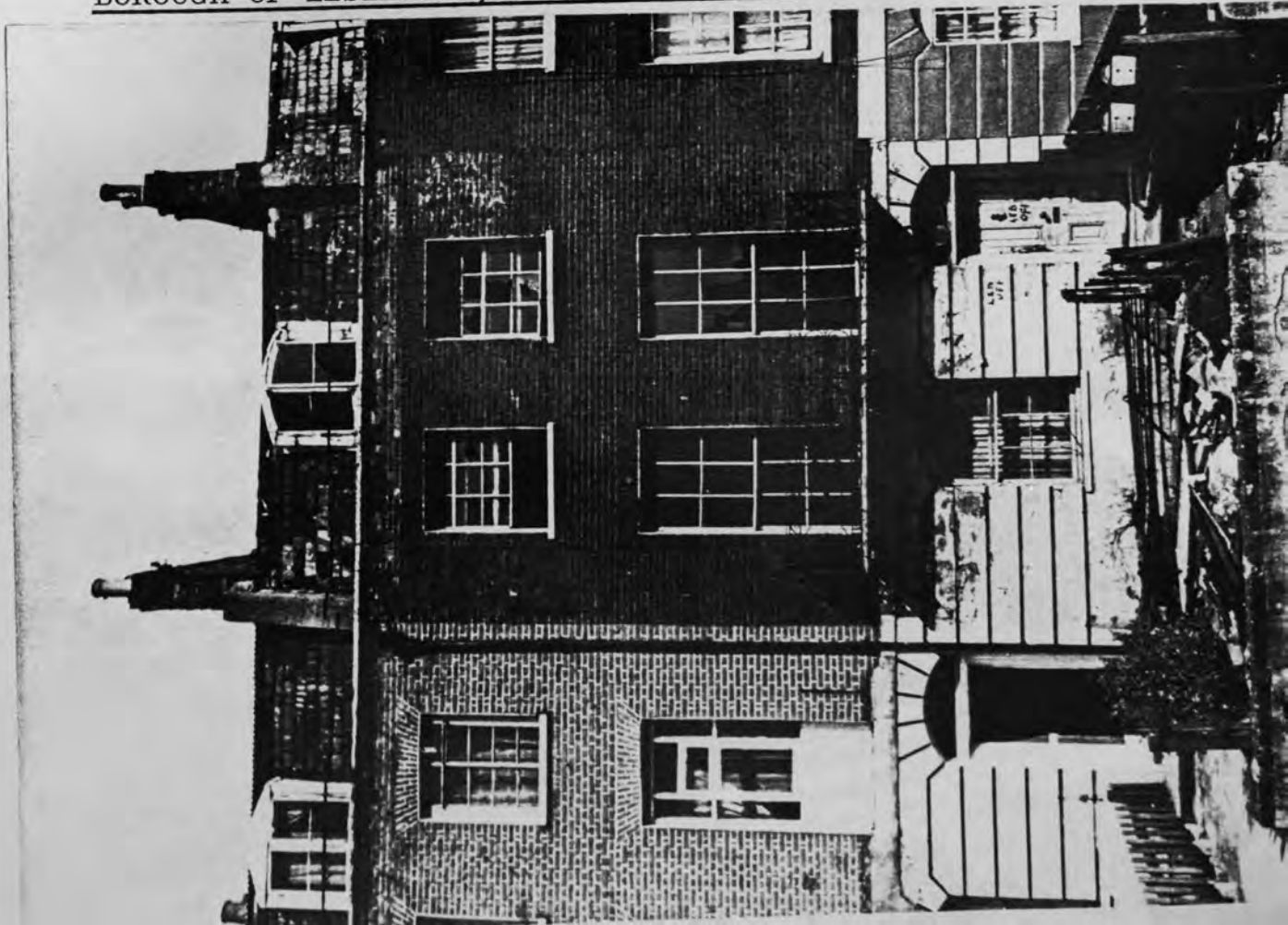
36 BARNSBURY ROAD OWNED BY THE LONDON  
BOROUGH OF ISLINGTON, TAKEN JUNE 1972

fig. 5.35



42 BARNSBURY ROAD OWNED BY THE LONDON  
BOROUGH OF ILSINGTON, TAKEN JUNE 1972

fig. 5.36



56-62 BARNSBURY ROAD BEFORE CONVERSION WORKS fig. 5.37  
WERE COMMENCED IN JANUARY 1972



18-48 BARNSBURY ROAD BEFORE CONVERSION WORKS fig. 5.38  
WERE COMMENCED IN JANUARY 1972



A series of articles were written by Charles McKean and published in the R.I.B.A. publication: "London Architect". These articles described the actions with the Department of the Environment, London Borough of Islington and Greater London Council, outlined earlier, and discussed the implications of the responses which were obtained.

### Conclusion

It is often very difficult to assess to what extent decisions are affected by public relations exercises. However, this campaign was useful and the writer believes that it helped to produce a climate of opinion amongst the officers of the Greater London Council and Department of the Environment, and the members and officers of the London Borough of Islington, such that they could see that their actions were producing what the Borough Planning Officer described as a "cause celebre". (149)

The London Borough of Islington were trying to improve the Labour Party image created up to 1968, when the Council had been in favour of the 'clear-fell' approach to urban renewal. Moreover, they could see that if they proceeded with the Compulsory Purchase Order to a public enquiry and

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(149) During the chance meeting of 19th June 1972, K. Blythe stated: "I can see this is going to become a cause celebre", referring to the campaign to save Barnsbury Rd.

the **Order** was not confirmed, they would receive unfavourable publicity. The campaign structure can be seen as a series of parallel actions and decisions centralised around the maintenance of the London Borough of Islington's part III Compulsory Purchase Order as the fundamental issue.

This issue was being eroded by the carrying out of works of **improvement** and repair to the houses, and the Medical Officer of Health was being constantly informed of completed items from his lists of alleged points of unfitness. He **in** turn was in touch with the chairman of the Town Planning & Development Committee.

The relationship of the campaign to the final decision is illustrated diagrammatically in the summary of conclusion at the end of this case example.

ix. An **Analysis** of the Economic Influences upon Decisions and Actions Taken by Affected Parties

The **elements** of the analysis will include the economic factors which influenced the decisions of the following to **invest** money into the renovation and restoration of the **houses**:-

- a. **New** entrepreneur landlords;
- b. **Existing** landlords;
- c. **New** prospective owner-occupiers;
- d. **Ex**-owner-occupiers

The influence upon sitting tenants will be discussed at the end of this section of case study.

a. New Entrepreneur Landlords

The fundamental economic factors which influenced the purchase of empty or part-occupied housing in the Compulsory Purchase Order area between September 1971 and June 1972, was that the houses were extremely cheap to buy.

58-60 Barnsbury Road were the first which were placed upon the market and these were bought for £5,000 at a public auction, that is to say £2,500 each. Gradually, as other houses were offered for sale during 1972, the prices of purchase increased to approximately £8,000 per house.

The years between September 1971 and September 1973 were a period in Britain during which property prices rose in value at an almost unprecedented rate in recent times.

Since approximately 1968 the trend in Barnsbury has been for residential property to increase in value at a faster rate than the average for Britain.

Thus, in 1972 a vacant unconverted four-storey terrace house built in the 1820's - 1850's would sell for

£18,000 to £22,000. The houses in Barnsbury Road were five-storey and rather more derelict than average, but the new middle-class owners of Barnsbury would expect to spend between £8,000 to £20,000 on a conversion, and the level of dereliction therefore had no great affect upon unconverted house values.

However, there was not only a surge in popularity in Barnsbury as an area in which to buy houses, there was also a great demand for flat accommodation. Thus if it were possible to convert each floor of a house in Barnsbury Road into a flat, the value of the flats would total £40,000 to £55,000.

The cost of converting one of the houses into five flats was estimated at approximately £25,000 at that time. A typical breakdown of costs incurred is shown for 34 Barnsbury Road as follows:

1. Central heating	£3,750
2. Plumbing and ventilation	1,250
3. Sanitary fittings	500
4. Electrical installation	1,750
5. Quarry tiling	210
6. Damp proofing	195
7. Re-roofing	975
8. New sashes and box frames	720
9. Kitchen units	520
10. Metal work	380
11. Ironmongery	280
List of Provisional Cost items	£10,350
Actual building costs	<u>£15,095</u>
Total cost:	<u>£25,625</u>

Therefore, the viability of a scheme of acquisition and conversion of an empty house would be approximately as follows:

Acquisition cost	£ 3,500
Conversion cost	25,000
Fees	3,000
Capitalised interest	<u>3,000</u>
Total approximate investment	<u>£34,500</u>
Sale value	£55,000
Investment cost	<u>34,500</u>
Profit	<u>£20,500</u>

This represents a 41% profit on the capital invested.

The high return on the investment, was an indication of the considerable risk that the conversion of the houses might not have been completed by the time the Compulsory Purchase Order was considered at a public enquiry. In this case, as was mentioned earlier, the entrepreneur ran the risk of losing his total investment in the conversion works.

However, the average economic return was different where a house was tenanted, since, as part of the strategy for saving the terrace, (and hence the investment), it was necessary to convert flats for sitting tenants.

This element was a very important factor in the economic decision, since 'fair rents' for unfurnished flats were then, and are now, insufficient even to cover the interest on the borrowing necessary to buy and convert the flats, and thus no profit could be achieved if considered in isolation.

Since the profit-margin on the houses, or parts of houses was so high, it was possible to cross-subsidise the tenanted conversions by the sales of others, so that a profit could still be achieved albeit a very much smaller one.

However, the reduced short term profits could be boosted by the latent profit obtainable when tenants eventually moved or died.



Had the London Borough of Islington succeeded in its attempts to Compulsory Purchase 16-62 Barnsbury Road, the landlords would have been deprived of this latent profit, since the District Valuer would only permit occupied housing to be acquired at 25% to 33 $\frac{1}{3}$ % of its vacant-possession market value.

The conversion costs achieved by the entrepreneurs were approximately £5,000 per flat, which compared with London Borough of Islington costs for similar works of £8,500. This was achieved due to two factors:

1. A building team was set up especially for the work;
2. The joint action and repetitious nature of the works resulted in a considerable economy of scale and a consequent saving on costs.

Thus, the entrepreneurs were able to make a good short-term profit with the latent opportunity of increasing this as tenants died or moved from their flats. From these profits, it was possible to assist owner-occupiers by means of gifts and loans of money for building works and professional fees.

It must be said that the Barnsbury Road campaign could not have been mounted but for these economic factors, and it is believed that this situation is very rare, if not unique.

b. Existing Landlords

There was one existing landlord who owned two properties in the terraces. Unlike the new entrepreneurs his property had been bought at full market value before the imposition of the planning blight in 1951.

However, had the London Borough of Islington's part III Compulsory Purchase Order been confirmed and his property classed as unfit, he would have been compensated at land value only, that is to say the houses would have been given no value at all. Furthermore, he had two floors vacant in one house and one in the other, all of which he converted and was thus able to cross-subsidise the unprofitable rented accommodation which he converted to a high standard.

c. New Prospective Owner-Occupiers

The economic encouragement for the involvement of new prospective owner-occupiers was the same as for the entrepreneurial landlord. That is to say, the houses were cheap to buy and, should the campaign against the Compulsory Purchase Order be successful and the blight be removed, the latent value of the house would increase.

Two houses were acquired by prospective owner-occupiers and both were part tenanted. The economic factors of higher than normal profit, used to off-set loss-making

subsidisation of tenants, applied equally to the new middle-class owner-occupiers of part-possession properties.

d. Existing Owner-Occupiers

Prior to the Housing Act 1969, owner-occupiers, like absentee landlords, received land value only in compensation following the confirmation of a part III Compulsory Purchase Order. Under the provision of the 1969 Act this was changed, so that owner-occupiers received full market value for their property even if it were classed as unfit for human habitation.

However, due to the public open space land-use planning blight, the advanced stage of dereliction of the empty London Borough of Islington housing in the terraces and the uncertainty of the future development in the 'Culpepper Area' to the east and south, the market value of the houses was much lower than for the rest of Barnsbury.

As emerged from the social survey, the majority of the owner-occupiers worked nearby and had extended families which occupied all, or the majority of, the accommodation in the houses. They wanted to remain in the area and in accommodation of similar size. However, they knew that the market value of their houses was not sufficient to allow them to buy a similar house nearby in Barnsbury should they decide to sell.

Therefore, the owner-occupiers choice was between spending money converting their houses and joining the campaign against the Compulsory Purchase Order on the one hand and accepting that their houses would be Compulsory Purchased as slums on the other. Their risk was that the expenditure upon improving the houses would not be matched by a corresponding financial return, in the event the Compulsory Purchase Order was confirmed. Their short term latent gains on the other hand were that they could save the extra expense incurred in living farther from their places of work and they could remain in the community.

In the long term, in the event the Compulsory Purchase Order was rescinded and the planning blight was removed, the value of their properties would rise to that of the rest of Barnsbury and they would therefore be free to sell and move to similar alternative accommodation if they chose to do so. In the event, all the owner-occupiers joined the campaign and carried out works of improvement. The average cost of making the houses fit was approximately £2,000 to £3,000, although with one exception they all spent between £5,000 and £8,000 to provide extra amenities.

The costs of dealing with the items of unfitness listed by the Medical Officer of Health for a typical house, 48 Barnsbury Road were approximately as follows:

1. Open jointed and bulged brickwork to rear wall	£ 20
2. Rusted rainwater and drainage goods	3
3. Unsatisfactory roof covering	650
4. Broken and uneven yard paving	left
5. General disrepair to plasterwork, windows, stairs and flooring	870
6. Unsatisfactory condition and arrangement of water closet	150
7. Sprung and settled floors and stairs	20
8. Dampness to basement parts (n.b. this included plastering works)	550
9. Unsatisfactory lighting and ventilation to basement room	35
	<hr/>
	£2,298
	<hr/>

It is worth noting that this figure was very similar to the average estimated costs of making the houses in the Islington (Hemingford Road) Compulsory Purchase Order 1970, technically fit.

e. Sitting Tenants

The economic aspects of this case example affected tenants insofar as the rents payable for the converted properties would be higher than those paid for the alleged slum accommodation they had occupied until mid 1972.

However, had the houses been Compulsory Purchased and the tenants rehoused in London Borough of Islington accommodation, they would have had to pay a full 'fair rent' immediately they took occupation.

By contrast, their rents for the converted accommodation in the terraces would have been the same notional 'fair rent' as would be charged by the London Borough of Islington for similar flats but the tenant would not pay the full 'fair rent' for three years.

The rent would rise in  $33\frac{1}{3}\%$  increments over the three year period, as can be seen in the table below:

Unfurnished Rents:

<u>Size of Flat</u>	<u>Rent Before</u>	<u>Rent After</u>	<u>'Fair Rent After 3 Years</u>
2 bed	£2	£3.58	£6.75
2 bed	£2	£3.33	£6.00
1 bed	£2	£3.50	£6.50
2 bed	£2	£3.67	£7.00

These rents related to nos. 32, 58 and 60 Barnsbury Road. The difference in 'fair rents' was due to differences in space standards, access and method of heating.

Summary

The economic decisions outlined above are very crude and the options were easily understood by all parties. As has been shown, the campaign provided economic advantage to everybody involved and in addition social benefits to tenants and owner-occupiers.

The minimal costs incurred in making the houses technically fit were very similar to those estimated in the previous case example and these can be related to the 'Appendix B' formula as follows:

1. Rehabilitation cost	£ 2,500	= 25%
2. Redevelopment cost	£10,000	

The maximum rehabilitation costs relate as follows:

1. Rehabilitation cost	£ 5,000	= 50%
2. Redevelopment cost	£10,000	

Thus it is clear that had the Compulsory Purchase Order proceeded to a public enquiry, the Secretary of State for the Environment could not have confirmed the Order since the Appendix B calculation would have shown that the houses were capable of being made fit at reasonable cost and approximately 80% of the houses were technically fit whereby they would have had to have been regarded as 'added land'. This being the case the Council would have found difficulty in proving that the best way of dealing with the remaining houses was by the demolition of the terraces.

V THE DECISIONi. Action Taken by the Town Planning & Development Committee

The Town Planning & Development Committee met on the 28th November 1972, when they considered a joint report from the Director of Development, Borough Planning Officer, Medical Officer of Health and Director of Legal Services; this report was confidential.

The report confirmed that the majority of the houses not in the Council's ownership were technically fit and that Counsel had advised that the London Borough of Islington would not succeed in its Compulsory Purchase Order. The Committee were therefore recommended to rescind the Order.

The Committee accepted this advice and the writer was informed by the Town Clerk of this on the 15th December 1972.

The confidential report to the Town Planning & Development Committee, further recommended that an alternative means of acquiring 16-62 Barnsbury Road be employed, by the use of Section 112 of the Town & Country Planning Act 1971.

The report was inaccurate and biased, since it contained 26 major omissions or errors in fact. However, these did not bear upon the decision to rescind the part III Compulsory Purchase Order but, in the writer's opinion, did influence the decision to proceed with the Section 112 Compulsory Purchase Order.



This report will be analysed in case example 3, the London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972, which covered not only 18-62 Barnsbury Road, but also 1-21 Copenhagen Street.

ii. Analysis of Influences in the Decision to Rescind the Part III Compulsory Purchase Order

Whilst it is clear that the fundamental issue in the decision to rescind the part III Compulsory Purchase Order was that the houses had been made fit, the influence of the other factors discussed earlier in this case example had a cumulative effect, which helped to reduce the field of the decision to the essential requirements of the Act.

The most important external influencing factor on the original Part III, was that the land occupied by 16-62 Barnsbury Road was zoned as public open space and in November 1972 the Council agreed that it was no longer needed for this purpose, since: "The Angel Planning Study envisages that the zone would not be fully implemented if the Barnsbury Park extension in the Hemingford area is proceeded with, but that local open space facilities would be provided as part of the redevelopment." (150)

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(150) Borough Planning Officer, Islington Borough Development Plan, Report of Studies, Topic Paper 3, (April 1973) p.23, section 4.3

One of the most important issues which, when resolved, reduced the field of decision most noticeably, was that concerned with the public open space zoning of the land occupied by 16-62 Barnsbury Road. Thus, when the Council accepted the principles of the plan for the Angel Area in November 1972, they recognised that the future use of the Part III site, if acquired, would be for housing purposes and the public open space would be located elsewhere.

It is interesting to note that it was the planning blight of the original public open space zoning in the Initial Development Plan 1951 which resulted in the dereliction of the terraces and that perhaps subconsciously the Council were able to take a more rational view of the other factors in their original part III Compulsory Purchase Order decision, when the future proposed use of the land was changed to housing.

It is also interesting to note that the Council's decision to rescind the part III Compulsory Purchase Order was made in the same month that the proposed change in land-use zoning had been agreed in principle.

However, it would appear that the architectural quality of the housing as it gradually improved during the campaign, was not an important influencing factor.

The report presented to the Town Planning & Development Committee, when it was decided to rescind the part III

Compulsory Purchase Order, left Councillors with the presumption that there was no case for the listing of the buildings, since the only reference to this aspect of the matter was a statement that the houses were not on the statutory list of buildings of architectural and historical interest.

As was the case in the Islington (Hemingford Road) Compulsory Purchase Order 1970, it is the writer's belief that the original decision to Compulsory Purchase 16-62 Barnsbury Road under Part III was not influenced by Party politics, since the Conservative opposition had not disagreed with the original decision. However, during the campaign following the Public Meeting in May 1972, it was clear that members and officers of the Council saw the situation as one of confrontation; this was also reflected in the Party political attitudes which developed between the Conservatives and the Socialists as described earlier.

However, looked at objectively, there was no reason why the Council could not have given encouragement to the campaign to improve and restore the houses, in order that allegedly slum housing could be made fit for human habitation.

The works carried out were of a very good standard, indeed the rent officer stated that the entrepreneurs' conversion for sitting tenants was "the best I have ever seen bar none." (151)

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(151) This statement was made verbally to Alexander Skeaping at the on-site inspection of the finished flats prior to the rents being formally assessed.

The Council were aware that there had been no harassment of tenants and no financial inducements had been offered to tenants to encourage them to leave.

In spite of the clear benefits of the campaign, it is clear from statements made by Labour and Conservative Councillors, members of the Barnsbury Ward Labour Party and the members of the Conservative Party, that the campaign had become a Party political matter.

The reasons for this appear to have been influenced by the following factors:

- a. Private entrepreneurial activity was being carried on contrary to two planning objectives of the Council, that is to say the removal of slums by clearance and the provision of open space;
- b. Private entrepreneurs would make a profit out of the Council's actions in blighting the properties and classifying them as slums, which had greatly depressed the acquisition costs of the lands;
- c. The entrepreneur had out-maneuvred the members and officers of the Council and had drawn public attention to this through the national and professional press.
- d. The entrepreneurs had gathered considerable tenant and local resident support for their actions, including several prominent members of the Labour Party.

e. The Council were annoyed that the legal advisers in the campaign included a firm of Labour lawyers, (two partners in which were Members of Parliament), and a prominent Labour Member of Parliament who had been briefed as Counsel. (152)

An interesting point which emerged during the campaign, was that a number of local professional practices were concerned not to upset the local councillors by involving themselves in campaigns, such as that mounted by the writer in this case example. Indeed, a local quantity surveyor and a chartered valuer both refused to act for any of the objectors at a public enquiry, since they thought that this would prejudice their relationship with officers and members of the Council. (153)

Moreover, although the writer's practice was on the Council's list, it received no commission from the London Borough of Islington between 1971 and 1976. The practice was given Council commissions from mid 1976 to the present time, following the publication of an article by Tony Aldous in Building Design in June 1976, in which he made the suggestion that the Council's motives for not giving the practice architectural work was possibly due to the successful campaigns mounted by the writer against the Council.

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(152) The fact that Labour MP's were advising and acting for private entrepreneurs became a political issue in Barnsbury in 1973 and this culminated in George Cunningham raising the matter in Parliament:  
Hansard 10.31 p.m. 3rd April 1974 p. 1411

(153) The writer contacted Harry Brack FRICS, the only quantity surveyor in the area and Messrs. Prebble & Co. and both stated they were not prepared to act as the campaign had strong political implications

The implications of these beliefs on a national as well as on a local level are extremely important. If objectors are to receive professional assistance in making their case against Council proposals, the local professional practices must not be placed in a position whereby, if they decide to give their assistance to objectors, Councils will deprive them of commissions.

Following the Council's decision to rescind the part III Compulsory Purchase Order, the Borough Solicitor informed the Department of the Environment and the public enquiry fixed for 28th February 1973 was cancelled.

Solicitors acting for the objectors requested the Secretary of State for the Department of the Environment to award costs against the London Borough of Islington and he agreed to do so, subject to the quantum being agreed with the London Borough of Islington. In the event the costs were not agreed, the Secretary of State stated that they would have to be fixed in the High Court.

The writer submitted his costs to the London Borough of Islington via both firms of solicitors and, following negotiations for more than twelve months, it became clear that the Council were not prepared to accept them. Accordingly, the writer issued a writ against the Council and the fees were discussed in detail before a Master of the High Court.

The hearing took place in approximately three and a half hours, at the end of which time the Master awarded the full fee to the writer and added in his summing-up that he thought the hourly rate charged was about one half of what it ought to have been. He also awarded the costs of the High Court hearing against the London Borough of Islington

Thus it is clear that at this period the London Borough of Islington was strongly politically motivated, and that they allowed this motivation to unreasonably bias their attitudes to apparently non-political issues.

VI SUMMARY OF CONCLUSIONS AND IDENTIFICATION OF AREAS  
FOR FUTURE RESEARCH

i. Influencing Factors and Factors to be Tested Through  
Other Case Examples

The three most easily identifiable and provable factors influencing the Council's decision to rescind the Islington (Barnsbury Road) Compulsory Purchase Order 1972(A) were as follows:

- a. The houses were not classifiable as slums;
- b. The Order lands were not required for public open space;
- c. The Order lands would no longer be blighted by the 'Culpepper Area' implication in the Angel Redevelopment Plan.

However, there were three other factors which emerged during and after the campaign, as follows:

- d. Political motivation;
- e. Public opinion;
- f. Economics.

The officer's joint report, recommending the rescindment of the part III Compulsory Purchase Order, was presented to the Town Planning & Development Committee on the 28th November 1972. This report also recommended that the



London Borough of Islington acquired 16-62 Barnsbury Road (exclusive) and the return terrace 1-23 Copenhagen Street (exclusive) and no. 7 Denmark Grove under Section 112 of the Town & Country Planning Act 1971. Other recommendations were accepted by the Committee and passed by full Council on the 4th January 1973. The new Compulsory Purchase Order was entitled the Islington (Barnsbury Road) Compulsory Purchase Order 1972, which is the subject of case example 3 in this work.

Thus it will be possible to examine the results of decisions made by the writer and the London Borough of Islington's reactions to these decisions. These can be analysed in the context of the planning and political background, without the influences of the factors involved in Part III action.

The London Borough of Islington's report of 28th November 1972 contained much useful information on the background to both decisions, (that is the rescindment of the Part III and the adoption of Section 112), but is particularly interesting with regard to the present case example.

It would now be worthwhile examining the report under the sub-headings listed above.

a. The houses were not classifiable as slums

Item B states: "The Director of Public Health advises that the thirteen houses which are referred to above

will have been rendered fit within Part III by the date of the proposed Inquiry. Some of the properties have been subject to Closing Orders in respect of the basements and in two cases the whole houses. One such order in respect of the basement at no 58 has been determined because those premises have been made fit. Closing Orders in respect of the basements at nos 44 and 62 and the whole houses at 34 and 60 must be lifted when the works are completed."

As a matter of fact, the Director of Development was wrong on a point of detail, since by this time two Closing Orders had been lifted, one being for a whole house.

The Council had to concede that the houses which had been completed, or upon which works were in progress, were not representable as slums. However, the houses owned by the London Borough of Islington and the Housing Association were still possibly classifiable as slums and the Council had to consider whether they could transfer the thirteen houses then admitted as fit, to 'other lands' in the part III Compulsory Purchase Order. Clearly, it was decided that since the objectors would be able to prove that their houses had been made fit at reasonable cost, the same case could be made for the houses which had not been rehabilitated.

- b. The Order lands were not required for public open space

Counsel's opinion was quoted as follows:

... "the Council would be required to show

- i. a watertight need for open space coupled with
- ii. a housing gain by redevelopment over and above that being achieved at present by rehabilitation."

The Borough Planning Officer stated: "So far as (i) is concerned, the Borough Planning Officer states that he would find it difficult to support a watertight need in the area more especially since the Working Party on open spaces has now recommended the extension of Barnsbury Park on to the Everilda Street site. With regard to (ii) the Borough Architect has established that a mixed development over the whole site would not produce a significant housing gain."

The writer believes that Counsel and the Borough Planning Officer were wrong in their interpretation of the strict legal requirements of Part III, although their opinions were valid for Section 112. However, the Borough Architect was incorrect on the question of density, since the conversion of 16-62 Barnsbury Road achieved a density of 176 persons per acre compared with the zone density of 136. Therefore, a housing

loss would have occurred by redevelopment. However, the Borough Solicitor stated that he "did not feel that a Compulsory Purchase Order under Part III could be sustained at the Inquiry on mixed housing and open space grounds.

- c. The Order lands would no longer be blighted by the 'Culpepper Area' implication in the Angel Redevelopment Plan

As was shown earlier, 'Priority Area 3' in the Angel Study showed that the retention of 16-62 Barnsbury Road was not incompatible with the overall planning of the area. However, it will be shown during the next case example that the Borough Planning Officer was still considering the demolition of 16-62 Barnsbury Road for other reasons, not specifically connected with the planning of the Culpepper Area.

On the 28th November 1972 the Borough Solicitor summed up his case by stating three alternative courses of action open to the London Borough of Islington as follows:

"(1) to proceed with the present Compulsory Purchase Order, producing the best case possible in support thereof. If this course is adopted there is a risk that either:

- (i) the said properties will be excluded from the Compulsory Purchase Order by the Secretary of State, leaving the Council owned properties and that owned by the New Islington and Hackney Housing Association to be cleared or
- (ii) that the fit properties are upgraded with resulting additional compensation. The Chief Solicitor considers that the Secretary of State is unlikely to adopt this course because it would almost certainly result in application being made to the High Court to quash the Order on the grounds of a mis-use of powers since the effect of upgrading of the vast majority of the properties in the Part III Order would be to confirm a Part V Order without proving a Part V case.

"(2) To rescind the Compulsory Purchase Order at this stage, rehabilitate the Council owned houses and develop the land to the rear either in accordance with zoning or as mixed housing and open space

"(3) To rescind the present Compulsory Purchase Order and make a new Compulsory Purchase Order under the Town and Country Planning Act to acquire the land for mixed purposes immediately appropriating a proportion of the land for housing to avoid losing the subsidy. Doubtless any future C.P.O. would meet with very strong opposition, given the history of the present one."

It is worth noting at this point that the Town Planning Act 1974 removed the statutory obligation to demolish unfit property acquired under Part III. The implication of this will be shown in the London Borough of Hackney (Shepherdess Walk) Compulsory Purchase Order 1972 in case example 7, later in this work.

On the advice of its officers, the Committee adopted the third option.

Thus the factors to be tested through further case examples are as follows:

1. 16-62 Barnsbury Road had been made fit at reasonable cost and the writer believed the majority of houses in the Islington (Hemingford Road) Compulsory Purchase Order 1970 were also capable of being made fit at reasonable cost.

It was considered necessary to examine to what extent this was true of other housing of a similar age and construction in the area.

This aspect will be examined in two further case examples, where it was found that the houses were capable of being made fit at reasonable cost even though they had been represented for Part III action. These are examined in the London Borough

of Islington (Barnsbury Road part III) Compulsory Purchase Order 1975 and the London Borough of Hackney (Shepherdess Walk part III) Compulsory Purchase Order 1972.

2. The effects of the Angel Redevelopment proposals and the inclusion of open space in the 'Culpepper Area' continued to affect the judgement of members and officers of the Council, as will be shown in the next case example concerned with London Borough of Islington (Barnsbury Road Section 112) Compulsory Purchase Order 1972.
3. Some political influences on some Part III and town planning actions will be examined in the London Borough of Islington (Barnsbury Road Section 112) Compulsory Purchase Order 1972 and the London Borough of Hackney (Shepherdess Walk part III) Compulsory Purchase Order 1972 case examples.
4. The effects of public opinion upon the decision-making process will be examined in the London Borough of Islington (Barnsbury Road Section 112) Compulsory Purchase Order 1972 and the London Borough of Hackney (Shepherdess Walk part III) Compulsory Purchase Order 1972 case examples.

5. Economic considerations will be discussed in the final summary of conclusions in this work and will be referred to in case examples where specific and relevant points emerge.

ii. Initial Conclusions

The primary conclusion in this case example was that, as in the Islington (Hemingford Road) Compulsory Purchase Order case example, there was no natural justice in the fact that, the Local Planning Authority having created a situation which resulted in the chronic state of disrepair of the houses caused by planning blight, the Council should then attempt to acquire the houses under Part III.

Moreover, on the fundamental issue of unfitness, the Medical Officer of Health provided no 'Appendix B' formula calculation, neither did he submit any evidence to support his contention that the houses were unstable.

The case example proves the Medical Officer of Health should not have represented the houses as unfit, since they were capable of being made fit at reasonable cost.

It is also clear that the proposed future use of the Order lands for public open space, at the time the decision was made, was regarded as an important factor to be taken into account in the decision, although legally, and with hindsight, it has been shown not to have been the case.



The points of similarity with the Islington (Hemingford Road) Compulsory Purchase Order 1972 were closely matched, (except in the size of the houses), and it is reasonable to conclude that, at the very least, the contention that the Hemingford Road housing was unfit must be considered doubtful. This contention will be examined in more detail in the London Borough of Hackney (Shepherdess Walk part III) Compulsory Purchase Order 1972, where a part III Compulsory Purchase Order was confirmed, but at a later date the 'Appendix B' formula was calculated and agreed by the London Borough of Hackney and the Department of the Environment, such that the Part III was subsequently rescinded.

An overall view of the parallel conclusions in the various case examples will be included in the final summary of conclusions' section, later in this work.

CHAPTER SIX: CASE EXAMPLE 3

LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD SECTION 112)

COMPULSORY PURCHASE ORDER 1972

SECTION 112 OF TOWN & COUNTRY PLANNING ACT 1971 AND

LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD) COMPULSORY

PURCHASE ORDER 1973

Structure of Case Example

SECTION I INTRODUCTION

- i. Preamble
- ii. Definition of the boundaries of the area
- iii. Architectural and townscape description  
of the area
- iv. An explanation of the long-term planning  
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  - c. Conclusions
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  - b. Conclusions

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- ii. Decision
- iii. An analysis of the Co-ordinator of Technical Services report and conclusion of 6th May 1975
- iv. Conclusions

# I INTRODUCTION

## i. Preamble

The London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972 was the formal title given to two Compulsory Purchase Orders. The first was represented under Part III of the Housing Act 1957, which was passed by the Council on 15th February 1972 and rescinded on 4th January 1973; this was examined and discussed in the previous case example and was concerned with 16-62 Barnsbury Road.

The second was represented under Section 112 of the Town and Country Planning Act 1971 by the Council on the 4th January 1973 and included 16-62 Barnsbury Road, 1-23 Copenhagen Street and 7 Denmark Grove. For the sake of clarity, this Compulsory Purchase Order will be identified by the addition of (Section 112) in the title in this work.

The first Section 112 Compulsory Purchase Order was rescinded on 5th February 1974, when Barnsbury Road and Denmark Grove were excluded from the Compulsory Purchase Order area and the revised C.P.O. was formally entitled the London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1973; this was also represented under Section 112 of the Town and Country Planning Act 1971.

In this case example it is possible to show the determination of the London Borough of Islington to acquire housing in this area since, as can be seen above, the Council passed three Compulsory Purchase Order resolutions under either the Housing or Town Planning Acts.

Following the experience gained in the previous case example, an interventionist technique was successfully mounted to influence the attitude of officers and members of the London Borough of Islington, Department of the Environment, Greater London Council and the Victorian Society and the Georgian Group, that is to say the two 'statutory' civic societies.

The object of the writer's interventionist action was to co-ordinate the efforts of owners and occupiers, to show that there was no significant planning gain to be achieved by the demolition of Barnsbury Road and Copenhagen Street, and that, with the exception of Denmark Grove, where only one house remained, the retention of the houses was both feasible and beneficial in architectural townscape terms.

The case example therefore covers the period from the time of the recommended rescindment of the part III Compulsory Purchase Order on 28th November 1972, to the eventual rescindment of the second Section 112 Compulsory Purchase

Order on 6th May 1975; during this time the Council carried out other actions which will be examined in this case example. These are summarised as follows:

- a. The processing and eventual rescindment of the enforcement resolution relating to 58/60 Barnsbury Road, described in the previous case example.
- b. The initial reluctance to grant town planning consent for the conversion of 26/28 and 62 Barnsbury Road, and the eventual granting of consents.
- c. The decision to place a Management Order on 18 Barnsbury Road, and later pass a part V Compulsory Purchase Order resolution, and the means by which the Council were forced to rescind both.
- d. The reluctance to pay costs awarded to the writer, which were eventually paid following a hearing before the Master at the High Court of Justice on the 9th August 1974.

This case example examines the factors which influenced the Councils' various decisions and the responses and actions of those who opposed the Councils' proposals. The case study analyses the Council's ultimate decision to rescind the Compulsory Purchase Orders before proceeding to public enquiries and the factors which resulted in the resolvment of the situations referred to in a. to d. above.



ii. Definition of the Boundaries of the Area

The London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972(B), involved 16-62 (exclusive) Barnsbury Road, 1-23 (exclusive) Copenhagen Street and 7 Denmark Grove.

The London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1973, involved 1-23 (exclusive) Copenhagen Street.

The two areas are shown on the map fig. 6.01.

iii. Architectural and Townscape Description of the Area

The case example area is located in the south of the Barnsbury Conservation Area, which is officially designated as being of outstanding importance. The Conservation Area boundaries were originally designated on 27th November 1969 and none of the housing in the case example area were included.

The architectural character of 16-62 Barnsbury Road was described in the previous case example, and since only one house remained in existence in Denmark Grove at the time the Compulsory Purchase Order resolution was passed, there was no case for its retention.

1-23 Copenhagen Street was built between 1835 and 1840 (152) by an unknown builder-developer. Numbers 1, 3 and 5 at the east end of the terrace were converted into shops some time before 1888, whereas no. 23 was designed and built as a corner shop at the time the terrace was developed; this shop was listed as being of architectural and historical interest.

The terrace was three storeys high over basements which were fronted by railings on nos. 5-21, that is to say the houses; the shops had paved forecourts.

The terrace was built of yellow London stock brickwork and the ground floor and basements of the houses were stuccoed.

The ground floor doors and windows had segmental arches and the first and second floor windows had flat cut arches formed in brickwork; there were no parapet cornices (see photograph fig. 6.02).

Some of the houses retained their original 'pattern book' cast iron balconies and the front area railings were almost intact for the entire terrace, (see photograph fig. 6.03).

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(152) Rosalind Siriboone for Roger France & Associates, Report, (December 1974), which was concerned with the historical background to 1-23 Copenhagen Street N1

PHOTOGRAPH SHOWING TYPICAL WINDOWS & DOORS  
TO THE HOUSES 1-23 COPENHAGEN STREET

fig. 6.02



PHOTOGRAPH SHOWING BALCONIES & RAILINGS TO  
HOUSES 1-23 COPENHAGEN STREET IN 1976

fig. 6.03



The terrace was in scale with the housing in the Barnsbury Conservation Area and was less fragmented by unsympathetic redevelopment and repair than the terrace to the north, which had originally been included within the Conservation Area, (see photographs figs. 6.04 and 6.05).

The housing contained two rooms on each floor, characteristic of housing of the period. The buildings were structurally sound and little major rebuilding or repair was required. However, they were in poor decorative repair and lacked many of the basic amenities at the time the Compulsory Purchase Order resolution was made on the 4th January 1973.

iv. An Explanation of the Long-Term Planning Proposals for the Area 1951 - 1978

The planning proposals for the case study area have been described in the previous case example, up to the 15th February 1972 when the London Borough of Islington passed their part III Compulsory Purchase Order under the Housing Act 1957.

In November 1972, the London Borough of Islington decided to submit an application to the Minister for the rezoning of the residential land to the east of 16-62 Barnsbury Road and including 1-23 Copenhagen Street; this was formally

VIEW OF THE NORTH SIDE OF COPENHAGEN STREET  
LOOKING WEST

fig. 6.04



VIEW OF THE NORTH & SOUTH SIDE OF  
COPENHAGEN STREET LOOKING EAST

fig. 6.05



submitted on 4th January 1973. As has been mentioned in the previous case example, the case example area fell within the designated Angel redevelopment plan, the principle aim of which was to deal with traffic problems at the Angel intersection.

The first traffic scheme was prepared by the Greater London Council in 1969 and submitted to the London Borough of Islington in July 1969, who agreed it in principle. However, the London Borough of Islington made certain detailed criticisms of the scheme and accordingly it was amended; the revised scheme was approved by the London Borough of Islington in October 1971 and by the Greater London Council in November 1971 (153)

The second Angel Planning Study was undertaken by private consultants (154) and, like the Greater London Council's scheme, this study contained detailed proposals which were primarily concerned with:

- a. The movement of traffic. The Angel is a major road junction involving five roads, three of which form part of the A1 major trunk road line to the M1; and
- b. The Council's proposals for a joint project in partnership with developers for the Angel intersection.

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(153) London Borough of Islington, The Angel Planning Study, p.13, para 3.2

(154) F.R. Bullen & Partners, Angel Redevelopment Traffic Plan (November 1970)

The joint development project was formally abandoned on the 7th October 1975 but the traffic proposals contained in the F.R. Bullen & Partners' report for the Angel area are still proposed by the Council whilst those for the Culpeper Area have been abandoned.

The Bullen report suggested that the Culpeper site should be developed for residential, open space and market purposes, as can be seen in fig. 6.06.. The report's traffic management proposals can be seen in fig. 6.07.

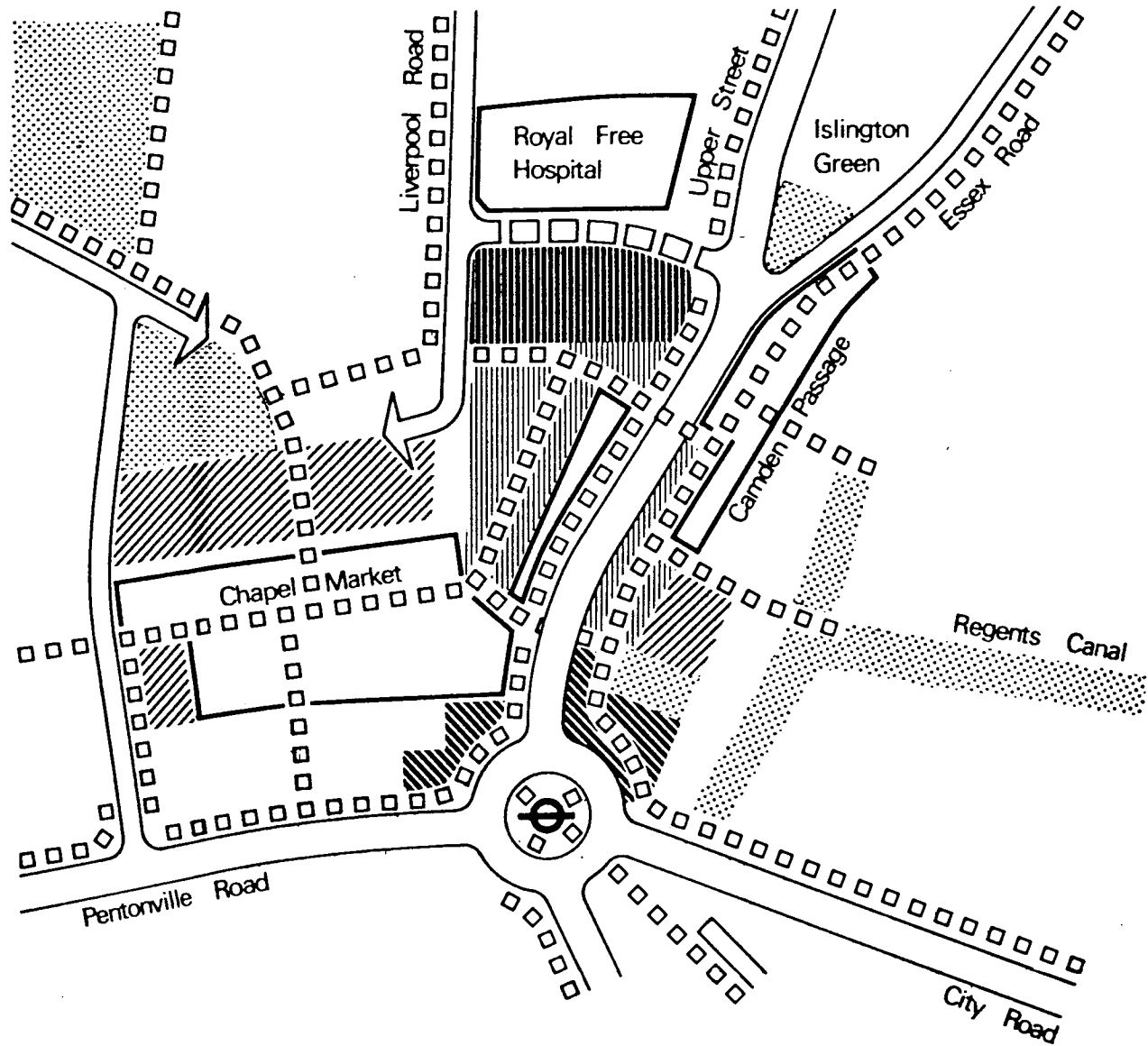
Roger France's report noted that the objectives:

"... should also avoid any possibility of conflict arising out of land set aside for public benefit being used for undue private interest." (155)


The report also made three direct references to the case example area.

"Between Copenhagen Street and Chapel Market is a large area of cleared land. Advantages of its location near Barnsbury Park, closeness to Chapel Market, and non-residential area to south together suggest that the provision of open space can be reduced from that allocated on Initial Development Plan in view of per capita provision. Its nearness to public open space schools and shopping make it suitable for higher than normal density, whilst the obsolete road network requires comprehensive redevelopment to provide better environment." (156)

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KEY

Offices		Shopping Mall	
Proposed Road Diversion		Civic Centre	
New Booking Hall		Residential	
Pedestrian Routes		Open Space	





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"The 'Culpeper Site' bounded by Barnsbury Road, Copenhagen Street, Cloudesly Road and Culpeper Street should be redeveloped for housing with public open space located near Penton School complementing provision of Barnsbury Park. The size and shape of the area make it imperative that this area is dealt with comprehensively, so that optimum housing development can be obtained, and a proper environmental area achieved in relation to the Barnsbury Traffic Management Scheme". (157)

The report's final summary of the recommendations for Priority Area 3, that is to say the Culpeper Area (see fig. 6.08), states: "that the 'Culpeper Site' be acquired by the Council and dealt with comprehensively for housing purposes, so as to provide a proper environmental area". (158)

Thus it can be seen that the fundamental issues affecting the London Borough of Islington's development of the Culpeper Area (Priority Area 3), were in a state of flux in 1973 when the Council decided to proceed with Section 112 Action.

As will be shown later, the position is still unresolved at the present time.

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(157) The Angel Planning Study, op cit, p.25 para 6.9  
(158) Ibid



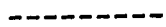
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fig. 6.08

## The Angel Study Area

Study Area Boundary



Priority Area Boundaries



II BEFORE THE FORMAL SUBMISSION OF THE LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD SECTION 112) COMPULSORY PURCHASE ORDER 1972 TO THE DEPARTMENT OF THE ENVIRONMENT: NOVEMBER 1972 TO JANUARY 1973

i. Analysis of the Borough Solicitor's Report to the Town Planning and Development Committee, 28th November 1972

a. Analysis

Certain items in this report were analysed in the previous case example, because the Town Planning & Development Committee decided to rescind the London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972 under Part III of the Housing Act 1957 and resolved to proceed with the London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972 (B) under Section 112 of the Town & Country Planning Act 1971, following receipt of officers' information and the recommendations contained in the report mentioned above.

It is important to establish the flavour of the report and, if possible, the climate of local political opinion in the Council when examining the contents of the report and the decisions which resulted from it. The affects of local non-political opinion and changes in Government policy will be examined later in this case example.

The situation prior to the submission of the report can be shown diagrammatically, see fig. 6.09.

It would be worthwhile examining the information provided by the Borough Solicitor and analysing its accuracy:

Paragraph 3 of the Introduction stated:

"The Order was made on 16 June 1972 ..." and "In the light of developments in the area since the passing of the Compulsory Purchase Order Resolutions, it is necessary for the Committee to decide whether or not to proceed with the Order which is at present pending a Public Local Inquiry fixed for 28 February 1972". (159)

The enquiry referred to was in respect of the part III Compulsory Purchase Order which was the subject of the previous case example. However, the two case examples are closely related since one Compulsory Purchase Order was superceded by another at the same meeting.

However, the Borough Solicitor's statement suggests that the works of conversion occurred after the 16th June 1972, when in fact the works had been commenced at the beginning of January 1972. Thus the

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(159) Borough Solicitor, Report to Town Planning & Development Committee, (28th November 1972)

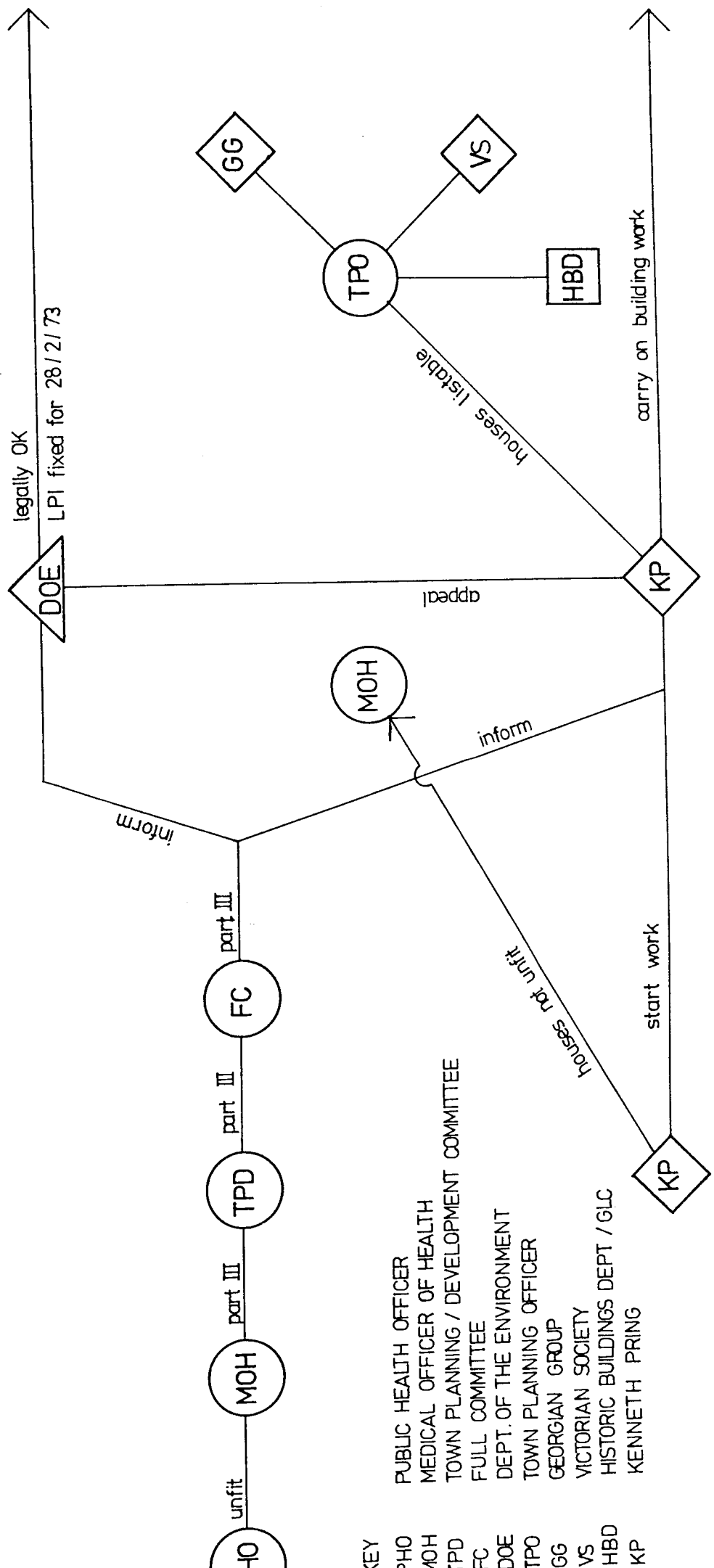


fig. 6.09

SIMPLISTIC DIAGRAMMATIC ILLUSTRATION OF THE POSITION AT 28TH NOVEMBER 1972

Compulsory Purchase Order Resolution was processed by the members and officers of the Council in the full knowledge of the situation; that is to say the reverse of the impression given in the report.

Paragraph 2 of the Background stated:

"Of the fifteen houses not owned by the Council, eleven changed hands, either at public auction or by private treaty since the Council Resolution for Compulsory Purchase".

This was incorrect, since only seven houses had changed hands between June and November 1972.

Paragraph 2 of the Background also stated:

"Thirteen of the properties including the eleven which have changed hands are now the subject of major rehabilitation works being undertaken by the owners under the auspices, or the direct control of a firm of consultant architects".

The "consultant architects" referred to was the writer's practice, and although it was true that the campaign to save the houses was co-ordinated by the writer, there were in fact three firms of architects

working in the terraces and each had been in communication with the London Borough of Islington. Indeed, each produced a report under Section 28 of the Housing Act 1969 which had been formally submitted to the Council by Lewis Silkin & Partners, as was noted in the previous case example. Furthermore, one owner-occupier was carrying out work independently without the use of an architect.

Paragraph 2 of the Background further stated:

"Six of the properties are owned by persons believed to be connected with the firm of architects, a further three by persons associated with the firm".

It emerged later, in a High Court Hearing, that the Borough Solicitor thought that the principle entrepreneur was an architect associated with the writer's firm. However, one new prospective owner-occupier was an employee in the writer's practice, but the other architect was quite independent.

The interesting point to be examined is why the Borough Solicitor considered it necessary to make any reference to the role of the writer and the relationship of the writer to the owners of the houses. This information, even if it had been correct, had



no bearing upon whether or not the houses were fit for human habitation. Neither was it relevant to the future planning and land-use issues implicit in the recommendation to proceed with compulsory acquisition under Section 112.

The report set out the ownership and condition of other houses in the terraces and explained how certain houses were transferred to the London Borough of Islington by the Greater London Council for future public open space use, under the Local Government Act 1963.

It stated that thirteen of the houses which were converted were classifiable as fit for human habitation and that this was confirmed by the Medical Officer of Health.

Paragraph 1 of the Condition Section of the report stated:

"Some of the properties have been subject to Closing Orders in respect of the basements and in two cases the whole houses. One such order in respect of the basement of no. 58 has been determined because those premises have been made fit".

The report omits to mention that the Borough Solicitor had received an application for the determination of the Whole House Closing Order, and that legal processes were in progress before 28th November 1972; the official determination was dated 5th December 1972.

Paragraph 2 of the Condition Section of the report stated:

"No planning applications for the conversion of any of the houses into self-contained units have been made and accordingly I have taken Counsel's opinion on the possibility of taking enforcement action under the Town and Country Planning Act 1971 in respect of Nos. 58 and 60 since works are substantially complete at these properties."

The Council had already passed a resolution to allow the Borough Solicitor to take enforcement action against the owners of 58 and 60 Barnsbury Road prior to the meeting of 28th November, and it was probably as a result of this that the Solicitor took Counsel's opinion.

As will be shown later, no town planning consents were required for the works which were carried out on 58 and 60 Barnsbury Road. Indeed, consents were only

required for the proposed works to 26 and 28 and part of 62 Barnsbury Road; these will be discussed in detail later in this case example.

Thus, the Borough Solicitor gave the impression that the works being carried out to all fifteen houses required town planning consent when in fact only three required approval; he omitted to mention the writer's contention that town planning consents were not required.

Not only was the information incorrect, but was not germane to the issues concerned with the fitness of the houses and the future land-use of the area; this will be discussed later in this case example.

Paragraph 4 of the Legal Implications Section of the report stated:

" ... the majority of the properties in the Order area have or are being converted to the Director of Public Health's satisfaction although the Borough Architect has some reservations on space standards."

The writer invited representatives from the Borough Architect's Department to visit the terraces on several occasions; these invitations were not accepted.

However, in September 1972 an officer of the Borough Architect's Department did agree to inspect the works both completed and being carried out. He stated that the conversions were to a higher standard than those carried out by the London Borough of Islington, in that each flat was provided with entry phones, purpose built kitchen units, waste disposal units, gas-fired central heating and were carpeted throughout.

The officer stated that he would report these facts to the London Borough of Islington and, on the subject of space standards, he said he would note that one bedroom units were almost invariably occupied by single people and therefore satisfied Parker Morris standards, and that other flats were in excess of Parker Morris standards by as much as 20%. He stated that he knew that the rent officer had stated that the completed units were "the best I have ever seen bar none". Therefore, on the assumption that the officer from the Borough Architect's Department kept his promise, it appears that the Borough Solicitor omitted to mention these facts in his report.

Paragraph 3 of the Council's Case Section of the report stated:

" ... The Borough Architect has established that a

mixed development over the whole site would not produce a significant housing gain."

The report omits to mention that the approximate density of 16-62 Barnsbury Road was 176 habitable rooms to the acre, as compared with the zoned density of 136, and that the demolition of 16-62 Barnsbury Road would result in a housing loss of approximately 40 persons.

The implications of this omission will be discussed later in this case example.

The report ended with a presentation of the three options open to the Council, as set out in the previous case example, and the implications of the choices between 2 and 3 will be discussed later in this work. However, it is worth noting that option 3 referred to the need to appropriate "a proportion of the land for housing to avoid losing the subsidy"; this too will be discussed later in this work.

b. Conclusions

The report contained a number of inaccuracies of fact and a number of omissions which could have influenced the Town Planning & Development Committee's decision. These can be briefly summarised as follows:

1. Inaccuracies of Fact

It was stated that:

- (a) Works of conversion had started after June 1972. In fact they had commenced at the beginning of January 1972;
- (b) Eleven houses had changed hands; whereas the true number was seven;
- (c) Thirteen properties were being converted under the auspices of control of the writer. In fact ten houses were being so converted;
- (d) There were three architects involved not one, as the report suggested;
- (e) The relationship of the writer to the other firms and individuals involved was incorrectly represented;
- (f) It was stated that a Closing Order for one floor of one house had been determined, when Orders for six had been determinable;
- (g) It was implied that town planning consents were required for the majority of the thirteen houses upon which works had been carried out, whereas consents were only required for two house conversions and part of a third.

2. Omissions of Relevant Known Information

(a) The conversions were of a very high standard and, since the majority of the smaller units were under-occupied, they satisfied Parker Morris space standards. The majority were 10% above Parker Morris space standards and the space standards on 26, 28 and 34 Barnsbury Road were 20% higher than Parker Morris standard space requirements. The other Parker Morris requirements were exceeded on all points.

(b) The loss of density which would result from the demolition of 16-62 Barnsbury Road.

Thus it is clear that the report contained eight inaccuracies in fact and two of omission.

The Town Planning & Development Committee resolved to rescind the part III Compulsory Purchase Order and substitute a Section 112 Compulsory Purchase Order on 28th November 1972, following their consideration of this report. However, the members of the Committee required further information as to the implication of Section 112, as a result of which the Town Planning Department submitted their report on 12th December 1972, that is to say before the Committee's recommendation

was submitted to the full Council on 4th January 1973.

The situation following the receipt and acceptance of the Borough Solicitor's report can be expressed as a network diagram, (see fig. 6.10).

At this point it would be worthwhile examining the contents of the Town Planning Officer's report, following which the effects of both reports upon the decision-making process can be analysed together in the context of the political climate in the London Borough of Islington at that time.

ii. Analysis of the Borough Planning Officer's Report to the Town Planning & Development Committee, 12th December 1972

a. Generally

This report, like that of the Borough Solicitor, was confidential. The apparent liaison between the Borough Planning Officer and other agencies in the London Borough of Islington can be simply expressed as a network diagram, (see fig. 6.11).

The Borough Planning Officer's report extended the area of interest beyond the town planning consideration of the two terraces 16-62 Barnsbury Road, to include the whole of the 'Culpeper Area'. The only other buildings



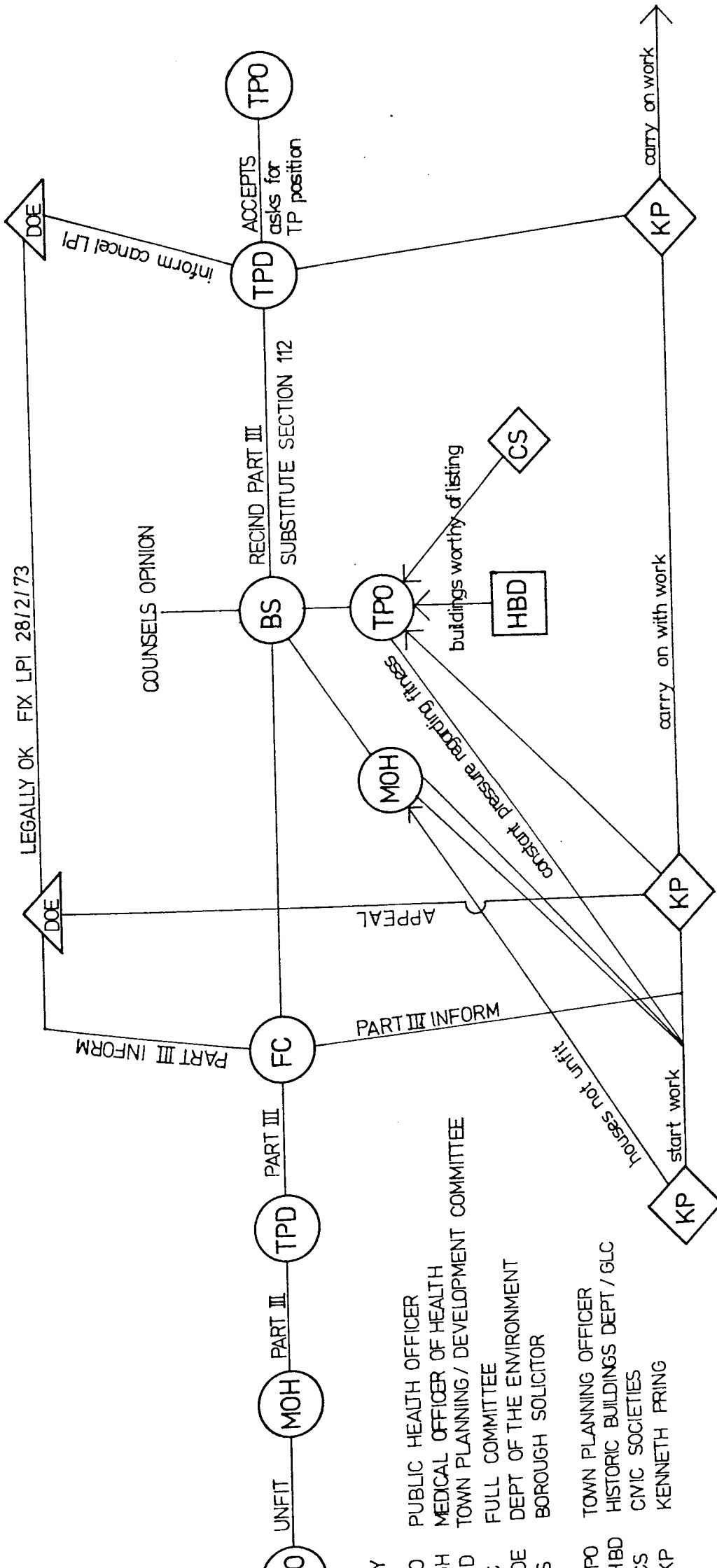


fig. 6.10

SIMPLISTIC DIAGRAMMATIC ILLUSTRATION OF SITUATION ON 28TH NOVEMBER 1972  
FOLLOWING RECEIPT AND ACCEPTANCE OF THE BOROUGH SOLICITOR'S REPORT

KEY

BV BOROUGH VALUER

CO COUNSELS OPINION

BS BOROUGH SOLICITOR

TPO TOWN PLANNING OFFICER

TPD TOWN PLANNING and DEVELOPMENT COMM

BA BOROUGH ARCHITECT

MOH MEDICAL OFFICER OF HEALTH

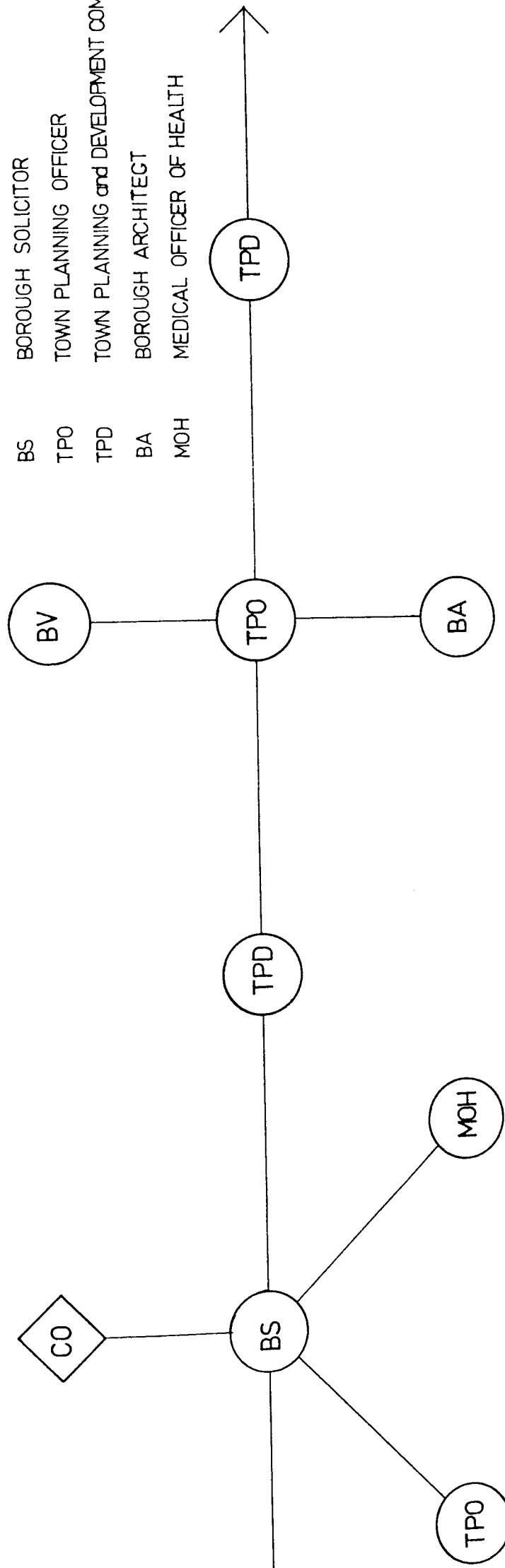


fig. 6.11

LIAISON BETWEEN THE LONDON BOROUGH OF ISLINGTON AGENCIES, AS APPARENT FROM THE BOROUGH PLANNING OFFICER'S REPORT OF THE 12TH DECEMBER 1972

left in existence in the area were 1-23 Copenhagen Street, 7 Denmark Grove and the King of Denmark Public House, (see map fig. 6.12).

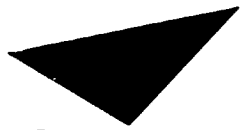
The remainder of the area had been Compulsory Purchased and cleared by the Greater London Council for housing and open space purposes, as described earlier.

Thus, the Town Planning & Development Committee were able to consider the wider issues of the existing housing in the case example area, rather than the simple question as to whether or not the houses were fit for human habitation, since the question of fitness had already been decided on 28th November 1972 when the part III Compulsory Purchase Order on 16-62 Barnsbury Road was rescinded.

b. Analysis

The report commenced by setting out the planning background to the area in the context of the first Angel Planning Study, as described earlier in this case example. The report then reiterated certain points mentioned in the Borough Solicitor's report analysed earlier:

Paragraph 2 in the Current Land Use Position Section stated:



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"Of the remaining 17 houses about 11 changed hands after the Council resolution for Compulsory Purchase Order made under the Housing Acts."

As was shown earlier, this information was not correct since only seven changed hands.

Paragraph 2 also stated:

"Almost all of the houses in private ownership are currently being extensively rehabilitated and I understand that the work is being supervised by a local firm of architects. I have had many discussions with this firm and explained to them, and to several of the owners, that the works being carried out appear likely to involve development which is unauthorised. I have advised that planning permission should be sought. Up to the present time no application for planning permission has been submitted in respect of any of the properties".

As was shown earlier, the Borough Planning Officer was incorrect in his contention, since, as was subsequently proved, town planning consent was only required for the conversion of two houses and part of another.

Paragraph 2 of the Implications for the Area Section of the report stated:

"Since no applications for planning permission in relation to the conversion and rehabilitation works have been submitted it is not possible to be certain about the number of people that might be accommodated in the privately owned dwellings."

This statement is plainly untrue, since by the 12th December 1972 some houses had been completely converted, and most of the remainder were at an advanced stage of conversion. Therefore, the occupancy factor of the houses could have been established by inspection.

Alternatively, the type of units being achieved by conversion could have been identified and quantified in a number of ways other than by relying on town planning applications, for example:

1. By examining the drawings submitted to the District Surveyor;
2. By examining the drawings submitted to the Medical Officer of Health for qualification certificate approval;
3. By examining the drawings submitted to the Borough Engineer for drainage approval;
4. By examining the drawings submitted to the Medical Officer of Health for Means of Escape approval.

5. By requesting the writer to provide the information.

Moreover, the works in progress had been inspected by other officers of the Council, including representatives of the Town Planning, Borough Architect's and Housing Departments, any of whom could have calculated the density and occupation factor.

However, the Borough Planning Officer does hazard a guess at the likely achievable density later in paragraph 2:

" ... but from the information available it is likely that the density achieved by the works would be in excess of the zoned density of 136 persons per acre ..."

As was mentioned earlier, the actual density achieved was 176 persons per acre, thus the Borough Planning Officer's report was misleading since, although it accepted that the zoned density would probably be exceeded, it gave no indication of the magnitude of the excess capacity in the terraces. The gross area of the site was 1.2 acres and a total notional loss of 44 persons would have resulted from the demolition of the buildings.

The writer believes that laymen would find it difficult to make an accurate judgement on what must be considered an important housing consideration, based

upon the information provided by the Borough Planning Officer.

The implications of the Borough Planning Officer's failure to provide accurate and easily establishable density data will be discussed later in this work.

Although the Borough Planning Officer omits to provide accurate density information and states that it was not possible to do so, he did make a generalised observation. Paragraph 2 also states:

" ... despite the fact that the gross site of 1.2 acres benefits substantially from the properties' frontage on to a wide road with the additional benefit of the space provided by side roads."

This point relates to the convention adopted in town planning with regard to gross densities, which allows the inclusion of 20'0" of roadway or half of the road width, (whichever is the lesser), to be included in the calculation of the site area; the zone density is then related to that "gross area".

By this means it is possible to calculate the number of persons per acre who can be accommodated on the net site area. This is sometimes further related to the number of habitable rooms which can be provided on the site. A habitable room can be briefly defined



as a room used for living or sleeping. In other words bathrooms, halls and kitchens would not be classed as habitable rooms.

The London Borough of Islington operated an occupancy factor relative to density of 1.1 persons per habitable room. However, for the sake of clarity, this has been ignored in this work, since the London Borough of Islington often relaxed this requirement.

The report failed to mention that the houses have front gardens in contrast to the small front areas of most houses in Barnsbury. The Borough Planning Officer also omitted to mention that, by the road closures recommended in the Angel Planning Study, the environment of the houses would be much improved.

The report then commented upon the nature of the conversions; paragraph 3 of the Implications for the Area Section stated:

"The accommodation provided by the rehabilitation and conversion of the privately owned properties is unlikely to comply with Parker Morris standards ..."

As was stated in the analysis of the Borough Solicitor's report, this statement is untrue for the majority of the units achieved by conversion.

Paragraph 3 continues: "... contains very small (22' x 18') back gardens to which access for most tenants will not be available."

As was noted earlier, the report omitted the fact that the houses had, by Barnsbury standards, very large front gardens (20' x 18'), in addition to those at the rear; the combined size of the front and rear gardens was above average for Barnsbury. It also omitted to mention the unification of gardens described in the previous case example.

In addition to these two omissions in the statement, there was a fundamental inaccuracy of fact, since one of the criteria adopted in planning the conversion of the houses was to provide access to the garden for every tenant, (see plans figs. 6.13, 6.14 and photograph fig. 6.15).

It should also be noted that up to 1973 the London Borough of Islington were converting houses in such a way that the tenants of the upper flats were unable to gain access to rear gardens.

It therefore seems that the Borough Planning Officer assumed that some tenants would not be able to use the rear gardens since this was often the case in Council conversions. However, he could have established the true position by the means outlined above on the subject of occupancy.



Aston University

**Content has been removed for copyright reasons**

**BASEMENT**

unit no. 1 : 2 bedroom flat  
unit no. 2 : 2 bedroom flat

BASEMENT PLAN SHOWING ACCESS TO GARDEN

fig. 6.13



Aston University

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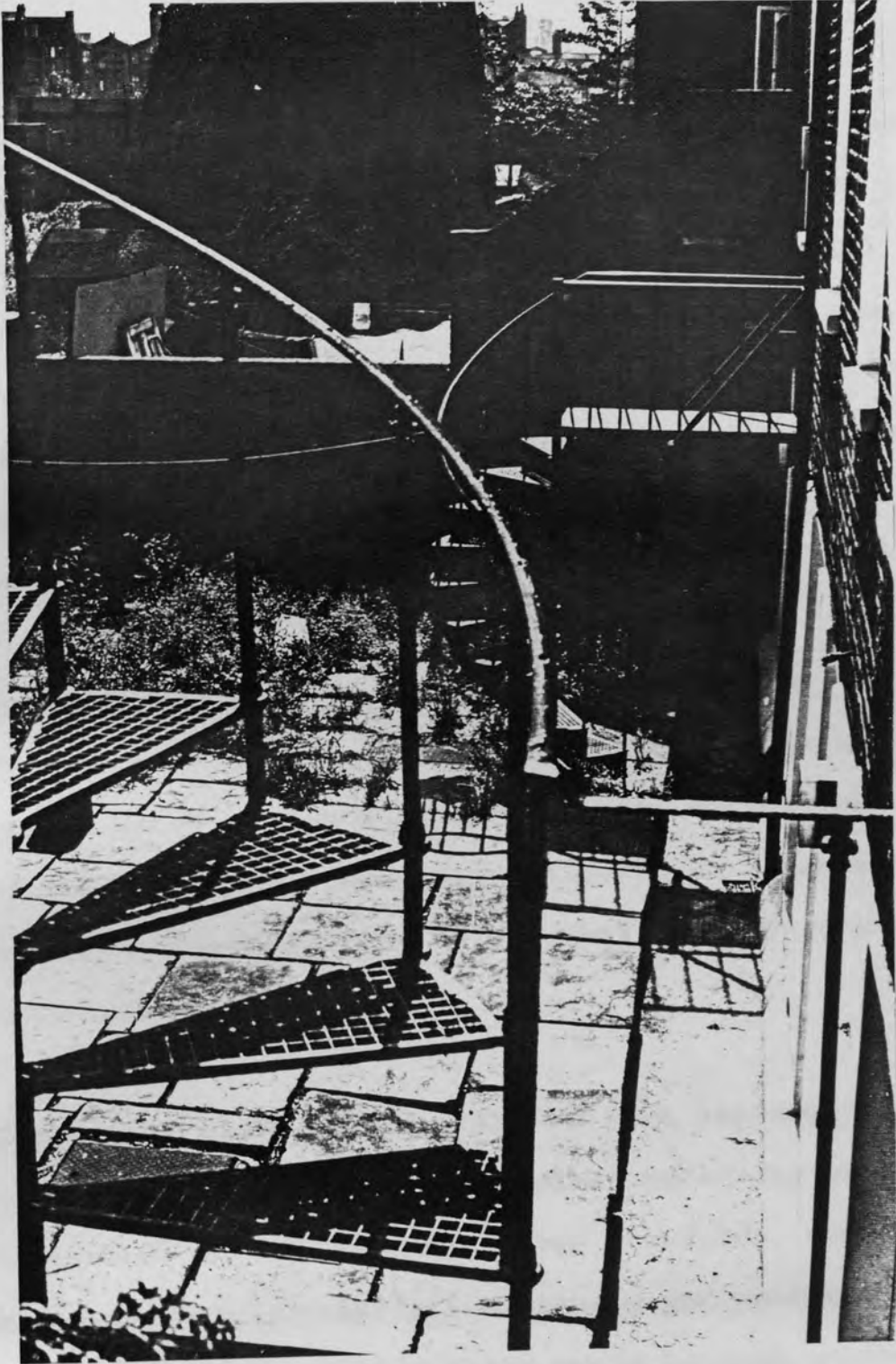
GROUND FLOOR

unit no. 3 : 1 bedroom flat  
unit no. 4 : bedsitter

GROUND FLOOR PLAN SHOWING ACCESS TO GARDEN fig. 6.14

PHOTOGRAPH SHOWING ACCESS TO THE GARDENS

fig. 6.15



Paragraph 3 continues: " ... and provides no parking facilities."

Most houses in Barnsbury do not have the use of garages or the exclusive use of parking places; cars are parked in the road. This has not prevented Barnsbury from becoming a fashionable residential area for people from the higher income levels and, as will be shown later, the sale of flats in 16-62 Barnsbury Road to middle class owners was in no way impaired by the lack of garages or exclusive car parking spaces.

Paragraph 3 concludes:

"Clearly the standard of accommodation involving joint use of the only staircase, etc, whilst substantially better than that available to tenants prior to rehabilitation is not what would be achieved upon redevelopment."

The use of the word "clearly" in this sentence suggests that the previous statements concerning the size and access to the gardens, space standards, density and surrounding roads all obviously and unarguably show that the converted flats would be less satisfactory than flats achievable in a new Council development. The sentence also mentions the further point

of shared staircase access as an unsatisfactory feature of the conversion scheme.

At this point it would be worthwhile examining this criticism in more detail. Firstly, the six existing owner-occupiers all had exclusive use of one staircase, since the houses were used communally by extended immigrant families of up to four generations. Secondly, in all but one case in the other privately owned houses, the basements were self-contained each with its own street door and garden access. Moreover, in the later conversions of nos. 26/28 and 58/60 it was possible to provide ground floors flats with their own street doors. Number 32 was converted into two maisonettes and a flat with two separate street doors between the three units.

There were approximately 47 households provided for in the terraces at the time the Borough Planning Officer's report was submitted, of which approximately 32 had their own street doors; approximately 13 households shared four staircases.

This was significantly better than was achieved in local Council schemes, as can be seen from the Greater London Council's scheme for Copenhagen Street, which was referred to in case example 1 in this work, (see fig. 4.39).

Paragraph 4 of the Implications for the Area Section stated:

"The terrace of dwellings are not included in the recently published list of Buildings of Architectural or Historical Interest and I understand that they are not regarded by the Minister as having sufficient comparative merit as to cause them to be added to the List."

As will be shown later, the 16-62 Barnsbury Road and 1-23 Copenhagen Street terraces were listed in May 1973, that is to say five months after the Borough Planning Officer made this statement.

The report also omitted the fact that 1-23 Copenhagen Street fronted the Barnsbury Conservation Area boundary which, having regard to the requirement of retaining the character of the area which is implicit in the designation of a Conservation Area, was an important omission. Clearly, the redevelopment of lands bordering Conservation Areas can have a profound influence on the character of the Area.

Paragraph 5 of the Implications for the Area Section of the report stated:

"The Council's intention to achieve the comprehensive



redevelopment of land in the Culpeper area; removing many of the existing public highways, provide active and passive recreational open space, the joint use of car parking facilities, etc, would justify the acceptance of a density in the area higher than the zoned density."

This statement supported the writer's contention concerning the opportunities for improving the environment of the area, and of course the occupants of 16-62 Barnsbury Road and 1-23 Copenhagen Street could share the car parking facilities referred to in the statement.

The statement seems to have been made primarily to support the contention that a density higher than zoned density could be achieved. However, the Borough Planning Officer omitted to provide either density calculations or to state his opinion as to what he would recommend as a suitable average density for the area.

Thus the Committee were given a vague notion of what might be achievable in terms of road closures, environmental improvement, car parking and higher zoned densities but these were not illustrated or qualified. Moreover, they did not take account of the alternative possibility of retaining 16-62 Barnsbury Road and 1-23 Copenhagen Street.

The Borough Planning Officer's report then outlined the implication of the notional opportunity for building to a higher density in the 'Culpeper Area'. Paragraph 5 continued by stating: ... "This in turn (that is to say the higher density opportunity KP) requires firm compliance with the Council's daylighting and other standards. The retention of the existing terrace (16-62 Barnsbury Road KP) implies a constraint upon the remainder of the land which could result in the loss of some redevelopment potential at this stage".

This statement refers to 16-62 Barnsbury Road, the rear gardens of which back onto the west side of Denmark Grove which, for the purposes of this case example will be considered a cleared site as was explained earlier.

As can be seen in the daylighting calculation related to the zone density of 136 persons to the acre in fig. 6.16, the west side of Denmark Grove could have been developed for housing purposes quite adequately.

Moreover, new development can be achieved at 176 persons per acre, since the writer achieved this in the Barnsbury Mews development, which received a Department of the Environment Highly Commended Award for Good Housing (160)

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(160) "Barnsbury Mews is important nationally. It probably achieves the maximum acceptable density for low rise dwellings."

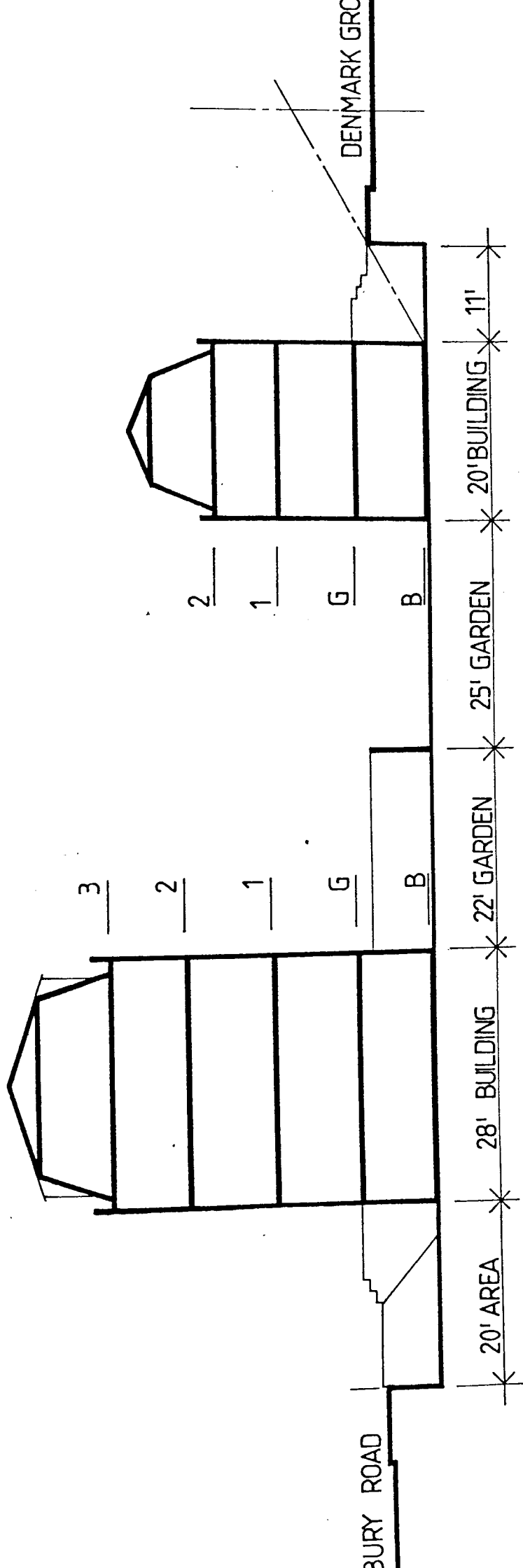


fig. 6.16

DAYLIGHTING CALCULATION RELATED TO THE ZONE DENSITY OF 136 PERSONS PER ACRE

The Greater London Council's proposed original development of the Culpeper Area envisaged the use of the west side of Denmark Grove for public open space. However, as was noted earlier, this scheme has recently been revised and the latest proposal shows the development of the site proposed for housing.

Thus it is clearly shown that the site immediately adjoining 16-62 Barnsbury Road was capable of beneficial development either for housing or public open space purposes and that these alternative opportunities were not unduly restricted by the retention of the Barnsbury Road terraces.

The implications of the Borough Planning Officer's opinion on the affect the retention of 16-62 Barnsbury Road would have upon the future redevelopment of the Culpeper Area, will be discussed later in this case example. However, paragraph 6 of this section of the report throws further light upon the Borough Planning Officer's statement:

"Should it be possible now to devise a scheme which did not suffer from the disadvantages associated with the retention of the terrace on Barnsbury Road, and I am very doubtful that it would be possible, ..."

In spite of this statement, the land to the east of 16-62 Barnsbury Road has been zoned for housing and the Council are currently planning a scheme for its development.

Paragraph 6 continues: "... it will further follow that the redevelopment of the Barnsbury Road terraces at some time in the future would be very difficult to achieve in such a form as to comply even with current standards, ..."

This statement was not based upon any scheme design, and was not backed up with any further information to support the Borough Planning Officer's contention. In fact, it is the writer's opinion that it would be relatively simple to redevelop the site satisfactorily.

It is possible to detect a trend in the Borough Planning Officer's report towards technical and aesthetic issues which were of an architectural nature, and not within the competence of pure town planners. This trend in the Borough Planning Officer's statement continues in the next part of paragraph 6 which states that a new scheme could not "... offer an acceptable design".

The writer is firmly convinced that an acceptable design could be achieved by redevelopment of the

terraces and, as will be shown in case example 4, a satisfactory scheme was produced on a similar shaped site at Lonsdale Place. This scheme was awarded an R.I.B.A. N.E.T.A.S. Commended Award in 1977.

The Borough Planning Officer continued in paragraph 6 by stating finally that a new development would not be able to: "retain the proportion of the density associated with this specific area."

It is not easy to understand which density the Borough Planning Officer is referring to, since a number of densities have been mentioned; these can be summarised as follows:-

1. The zoned density was 136 persons per acre;
  2. 16-62 Barnsbury Road "would be in excess of the zoned density of 136 persons per acre";
  3. The redevelopment of the area would "justify a higher zoned density than the zoned density".
- Moreover, the actual density of 16-62 Barnsbury Road was approximately 176 persons per acre.

The writer believes that the question of densities could have been expressed in simple layman's terms and that reasonably accurate calculations of the densities in 16-62 Barnsbury Road and the adjoining

areas could have been presented. The effect of density upon the number of units of accommodation which can be achieved by the development of a site are quickly and simply calculable; this information would have been useful to lay Councillors and could have influenced their ultimate decision to proceed with a Section 112 Compulsory Purchase Order, as will be examined later in this case example.

The report then set out the alternative actions open to the Council.

"1. To allow the existing privately owned properties to be retained and, using the Council's planning and other powers, seek to achieve the highest standards possible for the residents; this alternative would logically involve the Council in rehabilitating/redeveloping the properties that the Council owned, including those acquired from the Greater London Council."

"2. To seek to acquire the properties not in the Council's ownership in the terrace and negotiate comprehensive redevelopment here of the land either directly by this Council or in conjunction with the Greater London Council who own a substantial holding in the Culpeper Area."

It would be worth briefly examining these two alternatives at this point.

1. Alternative Choice 1

Alternative 1 suggested that, only by the Council's intervention in the conversion of the privately owned housing would it be possible for the tenants to obtain the reasonable standards of accommodation. The report omitted to mention that the rent officer had stated that the housing occupied by controlled unfurnished tenants was of an exceedingly high standard and from the writer's experience as a consultant to the London Borough of Islington, it can be stated that the accommodation was significantly better than that produced by the Council.

The Borough Planning Officer also failed to consider the position of the six indigenous and the new owner-occupiers who considered their accommodation superior to Council housing since they owned it, and had converted it to their own requirements in accordance with their own aesthetic taste; the London Borough of Islington would have found it difficult to have provided ten roomed houses for the extended immigrant families.

It is important to note that the Borough Planning Officer drew attention to the fact that the acceptance of alternative 1 implies that the London



Borough of Islington will rehabilitate their properties since, as will be shown later, there was considerable confusion in the various Departments of the London Borough of Islington, as to whether or not the Section 112 resolution was made with a view to the demolition of 16-62 Barnsbury Road and 1-23 Copenhagen Street.

2. Alternative Choice 2

This alternative was misunderstood by members and officers of the Council as was noted above. However, it does seem to imply that the comprehensive development of the area would be best achieved by the demolition of the Copenhagen Street and Barnsbury Road terraces, having regard to the arguments submitted against their retention earlier in the report.

The issues affecting the decision as to whether or not the terraces should be retained will be examined later in this work.

The report continued by explaining the reasons why 1-23 Copenhagen Street were recommended for inclusion in the Section 112 Compulsory Purchase Order.

"These 12 properties lie on the south side of Copenhagen Street and none are in this Council's ownership.

"Although the properties also lie within the Culpeper area previously referred to they are on land allocated in the Initial London Development Plan for residential purposes. Due to their location backing on to a temporary open space and the uncertainty about the future of the area they have effectively been blighted for many years, the premises are mainly still occupied."

"It is understood that the Greater London Council own three properties, one of which is empty."

This statement omitted to mention that 23 Copenhagen Street was listed grade II as being of architectural and historical interest and, as was noted earlier, there was no mention of the implications of the demolition of this terrace upon the character of the Barnsbury Conservation Area which it bounded.

The report then outlined the financial implications of acquiring the terraces, paragraph 1 of this section stated:

"The Director of Finance reports that the Borough Valuer estimates the cost of acquisition to be of the order of £370,000."

Had the Compulsory Purchase Order been confirmed by the Minister, the London Borough of Islington would have acquired twelve houses in Copenhagen Street, one in Denmark Grove and eighteen in Barnsbury Road, that is to say thirty-one houses in total. Thus by simple arithmetic, the Council expected to pay an average price of £11,935.48 for each house.

At the time the report was considered by the Town Planning & Development Committee, 58 and 60 Barnsbury Road had already been converted into ten self-contained flats with an average vacant possession value of £10,000 per unit. Thus the vacant possession value of the two houses was £110,000. 26 and 28 Barnsbury Road were in the process of being converted into seven flats with a vacant possession value of £94,000. 18 and 34 Barnsbury Road were each being converted into five flats with a vacant possession value of £100,000 and 62 was being converted into three units with a vacant possession value of £45,000. Thus the flats in these seven houses alone were worth £349,000.

In addition, the six owner-occupied houses in Barnsbury Road were worth approximately £15,000 to £20,000 each, and thus had a total value of between £90,000 and £120,000.

Thus it is clear that the Borough Valuer's estimate of acquisition cost was extremely low. Furthermore, having regard to the normal time-scale in the procedure for compulsory acquisition, the Council could have expected to buy the houses two to four years after the Compulsory Purchase Order resolution was passed. Thus the effects of the property inflation were also clearly not included in the Borough Valuer's calculation.

The writer estimated the acquisition cost of both vacant and occupied units in the Compulsory Purchase Order area at approximately £700,000 in December 1972, that is to say approximately 100% higher than the Borough Valuer's valuation.

As will be shown later, the writer's valuation was also pessimistic, since it did not include a factor for inflation. It is therefore clear that the Borough Valuer's information was extremely inaccurate and misleading.

The influences of economics upon the owners and occupiers of the houses have been examined in relation to the part III Compulsory Purchase Order in the previous case example; the effects under Section 112 will be discussed later.

The report continued by explaining the financial implications of the Compulsory Purchase Order ...

"If the land is acquired under Town Planning powers the acquisition cost will be a charge against the Council's locally determined allocation.

"If it is subsequently decided to use any part of the land for housing purposes the value of the land can be appropriated to the Housing Revenue account and there will then be a credit to the locally determined allocation. It is therefore necessary to determine the eventual land uses as soon as possible in order that other locally determined schemes can proceed without delay.

"The annual debt charges on the cost of acquisition will be £27,230 and, if any part of the land is appropriated for housing purposes, the value will qualify for subsidy under the Housing Finance Act."

Clearly, it follows that if the debt charges of £27,230 were based upon the unrealistically low assumed acquisition cost, then these too would be grossly undercalculated.

The report summarised the Borough Planning Officer's recommendations and set out the policy implications as follows:

"Summary

The intention of the recommendations below is to bring all the land between Dewey Road and Copenhagen Street into public ownership in order to secure its redevelopment, in a comprehensive manner, for high density residential purposes and public open space purposes."

"Policy Implications

It is the Council's policy to seek the most effective use of land within the Borough and to meet needs for housing and recreation by the provision of such facilities in accordance with the Councils' standards within the Borough."

These statements imply that the proper development of the area was only possible if the terraces were owned by the Council, even though the terraces fronted the north and west sides of the 'Culpeper Area' site which was cleared land; this land is still vacant at the present time and there are no approved proposals for its development.

The writer contended that the 'Culpeper Area' was capable of beneficial development for public open space and housing purposes, and it is understood that a Council scheme for the area will be approved shortly.

It is presumed that the development, as designed by the Councils' architects, will be regarded as satisfactory by members. If this is the case then the Borough Planning Officer's statement was inaccurate and misleading.

The report concluded by recommending that 16-62 (exclusive) Barnsbury Road, 7 Denmark Grove and 1-23 (exclusive) Copenhagen Street should be Compulsorily Purchased under Section 112 of the Town & Country Planning Act 1971. This recommendation was approved by the Town Planning & Development Committee and was referred to the full Council of the London Borough of Islington on the 4th January 1973 when the formal resolution was passed.

c. Summary of Initial Findings

This report, like that of the Borough Solicitor, contained a number of inaccuracies of fact and a number of significant omissions which could have influenced the Town Planning & Development Committee's decision.

These can be briefly summarised as follows:

1. Inaccuracies of fact

- (a) Seven houses changed hands after the passing of the Compulsory Purchase Order resolution, not eleven as stated.
- (b) That town planning consent was required for conversion works being carried out when in fact consent was only required for two houses and part of one other.
- (c) That it was not possible to provide occupancy and density information which it was in fact quite simple to establish.
- (d) That the likely density of the conversions would be in excess of 136 persons per acre when the actual density achieved was approximately 176 persons per acre; an understatement of approximately 30%.
- (e) That the conversions were unlikely to comply with Parker Morris standards, when in fact the majority did so comply; some flats were between 10% - 20% higher than Parker Morris space standards.
- (f) That tenants would not have access to rear gardens; in fact all tenants were provided with such access.



- (g) That the flats achieved by conversions were sub-standard compared with new Council developments.
- (h) That the number of tenants sharing staircases was more than would be the case in a new development.
- (i) That it was unlikely the west side of Denmark Grove would be developed, whereas the Greater London Council has produced two alternative proposals for this site.
- (j) That the retention of the terraces could impose a constraint on the future development of the area due to the inhibiting effects of the Council's daylighting codes; this was not correct.
- (k) That the site of 16-62 Barnsbury Road would not be redevelopable in the future; this was not correct.
- (l) That it would not be possible to produce a satisfactory design for any new development; this was not correct.

2. Important omissions

- (a) The houses had above average sized gardens if the front and rear gardens were both taken into consideration.
- (b) The rear gardens of approximately 50% of the houses in private ownership were unified.
- (c) No mention was made of the fact that the London Borough of Islington failed to provide access for the tenants of upper units in its own conversions of housing of this type.
- (d) No mention was made of the fact that the Council did not provide car parking or garage facilities for its own tenants in conversion schemes.
- (e) It was implied that the houses had no architectural merit when they were subsequently listed grade II as of architectural and historical interest five months later.
- (f) There was no mention of the implications of the close proximity of the terraces to the Barnsbury Conservation Area.

- (g) The proposed closure of roads in the Culpeper Area would allow the London Borough of Islington to improve the environment of the Barnsbury Road and Copenhagen Street terraces.
- (h) The road closures could be achieved without the need to acquire and demolish the terraces.
- (i) No indication was given as to the 'higher density' which could be achieved in the area.
- (j) There was no explanation of the statement that the retention of the terraces would result in a loss of development potential.
- (k) There was no definition as to which 'development potential' the Borough Planning Officer was concerned with - public open space, housing or environmental improvement.
- (l) The Borough Planning Officer stated that the retention of 16-62 Barnsbury Road would inhibit the future development of the site occupied by the terraces at some time in the future. He omitted to point out that the

houses had stood for approximately 150 years and that the works carried out had given the houses a further life expectancy which was probably equivalent to the notional 60 years assumed for new development.

- (m) The Borough Planning Officer did not clarify which density he thought desirable for the area.
- (n) The report omitted to mention that the tenants and owner-occupiers were happy with their accommodation.
- (o) The report omitted to mention that the rent officer stated the flats were converted to a very high standard.
- (p) The report refers only to the welfare of the tenants and omits to explain the effects of the Compulsory Purchase Order upon the owner-occupiers.
- (q) The report's recommendation was ambiguous as to whether or not the terraces were ultimately to be retained; this will be shown later in this case example.

- (r) The report omitted to mention that 23 Copenhagen Street was listed.
  
- (s) No mention was made of the King of Denmark Public House on the corner of Copenhagen Street and Cloudesley Road to the east of the Culpeper Area.
  
- (t) The report omitted that the Greater London Council's Historic Monuments Division, Georgian Group and Victorian Society had made representations for the listing of the buildings and their inclusion in the Barnsbury Conservation Area.
  
- (u) The report failed to mention the inability of the Council to adequately rehouse the existing immigrant extended family owner-occupiers.

d. Conclusions

The Borough Planning Officer's report of the 12th December 1972 which recommended the Section 112 Compulsory Purchase Order under the Town & Country Planning Act 1971, contained twelve incorrect items presented as fact and twenty-one items of omission.

Following their consideration of this report, the Town Planning & Development Committee accepted the Borough Planning Officer's recommendation and passed their resolution accordingly; this decision was subsequently endorsed by the full Council of the London Borough of Islington on the 4th January 1973.

It is clear that the report was written to provide a very strong case for the Compulsory Purchase of 16-62 Barnsbury Road and 1-23 Copenhagen Street. Moreover, many of the points of inaccuracy and omission identified above, reinforced the argument for the Compulsory Purchase Order.

It would be worthwhile now examining the political attitude of the London Borough of Islington in 1972 to 1973, and the relationship between senior officers and members of the Council at that time.

iii. A Discussion of Some Political Factors in the Decision

Prior to May 1968 the Labour Party had retained virtually 100% of the seats on Islington Council for 34 years. As in many other strong Labour areas, the Conservatives gained control of the Borough in May 1968 with a substantial majority.

During the Conservative's period of control, May 1968 to May 1971, property prices in Islington, as in the rest of the country, rose considerably in value; an unconverted four storey terrace house of the early nineteenth century which was worth £7,500 in May 1968, was worth approximately £15,000 in May 1971.

This dramatic increase in values highlighted the difference between the values of vacant and occupied houses in the area. Furthermore, the Conservatives introduced policies of environmental improvements, including tree planting and traffic management schemes, and encouraged the move towards rehabilitation in the Borough by granting more beneficial planning consents and discretionary grants.

Thus, the middle classes and property dealers and developers found Islington an even more attractive area in which to buy houses. One result of this trend was that large estates of occupied housing were bought by 'winklers', that is to say property dealers who paid a financial inducement to tenants to relinquish their tenancies.

In response to these changes in the area, a group of shopkeepers, social workers and members of the Communist Party organised a campaign against the environmental

improvements, the traffic management scheme and the middle class movement into the area. This campaign received much publicity on television and the national press and was actively supported by the Islington Communist and Labour Parties.

Thus, prior to the London Borough elections in 1971, the Labour Party manifesto included a pledge to municipalise as much existing housing as possible and to curb speculation in housing acquisition and development.

During the period of Conservative control, from May 1968 to May 1971, the Labour Party had reorganised itself and had adopted Council candidates, a great many of whom were young middle class professionals who had moved into the Borough relatively recently. Moreover, in the elections of May 1971 these candidates were more radical and determined than the majority of Labour councillors who held office prior to May 1968; they were also politically more Marxist in their attitudes and motivation.

When Labour regained control of the Council in May 1971, these candidates became councillors and took control of all the important committees. It is thus clear why councillors were extremely upset by the actions of the private entrepreneurs and owner-occupiers in defeating the Council's part III Compulsory Purchase Order so completely, that the Order had to be rescinded before it could go to a public enquiry.



The measure of members' dissatisfaction and frustration was made very obvious to the writer in his discussions with councillors, officers of the Council, officers of the Greater London Council and the Department of the Environment. Furthermore, this attitude was widely understood by rank and file members of the Labour Party, who had attended meetings at which the writers' actions regarding 16-62 Barnsbury Road were discussed.

There is little formal written evidence to indicate the Council's attitude and it must be remembered that both the Part III and Section 112 Compulsory Purchase Order debates took place in the confidential section of the Town Planning & Development Committee meetings.

However, the general subject of municipalisation of housing in areas which were attractive to the middle classes, were included in the Labour Party's report which stated:

"Social Mix Islington is a less well balanced community in terms of social class than London as a whole. We believe that a socially balanced community has advantages for everyone; however the present influx of middle class people into Islington is improving the social balance, and the process needs no encouragement. Indeed there are undesirable aspects in present trends: the creation of middle class islands, and the harassment of tenants so that property may be sold with vacant possession."

"We recommend that the Council should buy and rehabilitate houses in 'middle class' areas for its own tenants".  
(161)

The study team was led by an economist/planner, who was also the Chairman of the Town Planning & Development Committee when both the Part III and Section 112 decisions were taken.

Anne Power published "A Battle Lost Barnsbury 1972", which the writer believed had a significant influence on the Councils' attitudes. "A Battle Lost" was described as: "The conversion of Barnsbury from a 'twilight area' to a 'conservation area' of architectural merit with a swift transition to converted owner-occupied or luxury accommodation." (162)

Anne Power also referred to the writers' actions in Barnsbury Road as follows:

"And the best man does not always win - for example in the southern part of Barnsbury Road, where planning blight has caused enormous decay and hardship, 14 houses out of the 23 in the terrace are being converted by a well-known firm of Barnsbury architects and surveyors before the

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(161) Labour Party, Islington Labour Local Government Committee Report of Study Group of Physical Environment, p.4 para 13

(162) Anne Power, A Battle Lost Barnsbury 1972, p.1

planning blight is lifted. The developers are working on the assumption that their investment will prevent the Compulsory Purchase Order from being confirmed." (163)

The writer believes that "A Battle Lost" was sympathetically received by the London Borough of Islington.

Anne Power recommended that:

"Compulsory Purchase Orders be used in spite of high market values to prevent total take over of Barnsbury".

Although there was no overt political motivation for the decision to represent 16-62 Barnsbury Road for slum clearance, it is clear that the decision to proceed with the Compulsory Purchase Order taken in June 1972, (when the Order was officially submitted to the Department of the Environment), was political; the Council saw its authority publically flaunted and also saw the possibility that developers would make a profit out of the Council's actions.

Therefore, in November 1972, when the Town Planning & Development Committee were forced to rescind the part III Compulsory Purchase Order, there was a strong political determination amongst members to achieve two objectives:

- a. Acquire the housing;
- b. Stop the entrepreneurial activity.

Indeed, as was mentioned in the previous case example, the Chairman of the Town Planning & Development Committee said at a public meeting concerning 16-62 Barnsbury Road in March 1972, that tenants should not co-operate with the entrepreneurs, and he added that developers "often got their fingers burnt".

The Conservative opposition consisted of four Aldermen who recognised the political motivation behind the Section 112 Compulsory Purchase Order and who, on the 4th January 1973, laid down a motion that the Town Planning & Development Committee reconsider their decision as follows:

"Item 12(1)

That the recommendation be referred back to the Committee with instruction to:

- i. Reconsider the recommendations for the properties in Barnsbury Road and accept that the properties can and will provide perfectly good homes.
- ii. Take note that the Council has already recently lost at least one major case in the County Court resulting in costs and disbursements of £1,338.50 plus all the Council's costs through the processing of a political policy designed to prevent a part of the private sector operating in the Boroughs. All these costs being paid for by the rate payers.

- iii. Take note that if the case is pushed on political ground and subsequently lost then the Opposition reserve the right to inform the District Auditor of this prior request for reconsideration before more rate-payers' money is spent to achieve political ends."

This motion was defeated and the Town Planning & Development Committee's Section 112 resolution was endorsed by the full Council on a majority vote.

At this point it would be worth examining the relationship between officers and members of the Council, with regard to the political motivation in this decision.

- iv. An Examination of the Relationship between Officers and Members in the Decision

- a. Generally

The Borough Planning Officer and his deputy were both appointed by the Council prior to May 1968; thus these officers were appointed by a 100% Labour Council.

Although Council officers are expected to carry out policies adopted by the democratically elected members, the political attitude of officers could be an important factor in the process of their selection and appointment.

It is doubtful that Councillors involved in the selection of the Borough Planning Officer and his deputy actually requested applicants to state which, if any, political party they supported. However, it would have been possible to gauge applicants' political leanings by the answers they gave to questions posed during interviews.

It is generally accepted that the members of the town planning profession are more likely to support the Labour Party than the Conservatives, and this bias is even more true of planners who are employed in local Government.

Moreover, a senior member of the London Borough of Islington Town Planning Department has expressed the view that Islington, because of its well publicised problems, has attracted staff with a strong social motivation. (164)

It is clear that members would prefer to work with officers who were sympathetic to their aims and aspirations, since this would reduce friction, avoid delaying tactics and avoid bias in professional statements against the political policies of members.

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(164) This paraphrases a verbal statement made by Christopher McCarthy during a number of informal meetings in 1978

Therefore, it is likely that the Borough Planning Officer, his deputy, and senior officers were more sympathetic to the Labour Party than to the Conservatives. Indeed, the ex-Deputy Borough Planning Officer and his senior assistant who were both members of the Conservative Party informed the writer that, as far as they could tell, they were the only two Conservatives employed in the Department.

(165)

This is also probably true of the Borough Solicitor and is known to be true of the Borough Architect. (166) Thus it is possible that the inaccuracies and omissions in the Borough Solicitor's and Borough Planning Officer's reports, analysed earlier, were unconscious manifestations of their political determination to support the members against the entrepreneurs. The inaccuracies and omissions will be examined later in this case example, to establish whether or not the report contained a consistency of bias.

A further factor which could have influenced the officers' recommendations is connected with the political issues discussed above. This factor is that of the master and servant relationship which exists

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(165) This was stated informally by John Melvyn (who was the acting Deputy Borough Planning Officer), and Charles Hopkins in several meetings from 1968 to 1971

(166) The Borough Architect stated informally in 1973 that he was a member of the Fabian Society

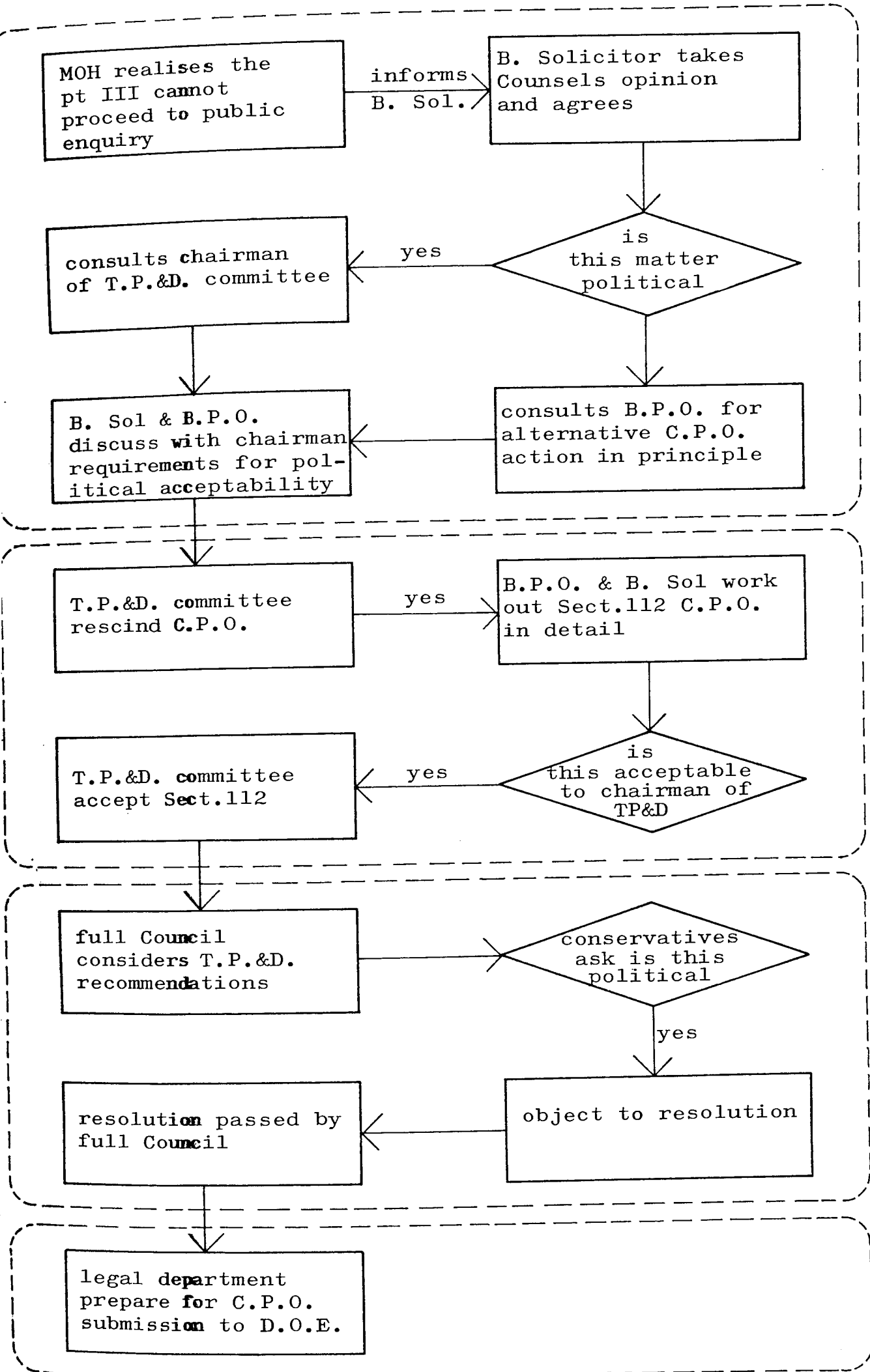
between members and officers. The relationship between Heads of Council Departments and the more powerful and influential members of the Council was one which frequently resulted in officers' reports and recommendations being written to accord with the political motives and aspirations of the various chairmen of committees and the leader of the Council.

In this case, the writer believes that, before the Borough Planning Officer submitted his report and recommendation to the Town Planning & Development Committee, he discussed its contents with the Chairman to establish his attitude to the subject of the report and the procedural means by which the Council could achieve its objectives.

There is nothing unusual or sinister in this arrangement, but it must be remembered that these discussions were confidential. However, it is important for Council officers to observe a strict code of behaviour and they should be prepared to give the Council their professional and unbiased opinions upon proposals under consideration for action.

This relationship would clearly be more conducive to co-operation, if the senior officers shared the political aims of the members. It is possible to express this relationship diagrammatically, (see fig. 6.17).





NETWORK DIAGRAM OF RELATIONSHIP BETWEEN T.P.&D. fig. 6.17 COMMITTEE & OFFICERS OF THE COUNCIL IN THE

However, there was a further factor which could have influenced the Borough Solicitor and Borough Planning Officers' reports. It was clear from the attitude of officers of the Medical Officer of Health's, Borough Planning Officer's and Borough Solicitor's Departments that they felt angry at being out-manoeuvred in the writer's campaign to save 16-62 Barnsbury Road. It is possible that the recommendation to proceed with Section 112 action was influenced, to some extent, by the desire to regain any loss of credibility resulting from their being obliged to rescind the part III Compulsory Purchase Order.

Clearly, it was the job of the Borough Planning Department to plan the area and make recommendations for its future use, ownership and occupation; the initiative in all three of which, in this instance, had been taken by the private sector.

Similarly, it was the job of the Borough Solicitor to ensure that the Council did not embark upon a Compulsory Purchase Order which it would legally be unable to achieve; the initiative of the private sector made a failure of the Council's action inevitable.

Although it would be reasonable to expect the Medical Officer of Health to have been similarly embarrassed, it is possible that this may not have been the case,

since the two Public Health Officers dealing with 16-62 Barnsbury Road congratulated the writer on his campaign, and stated that: "if we could always obtain this kind of reaction to a Part III Compulsory Purchase Order we would be delighted." (167)

b. Conclusions

Thus, there were four factors in the relationship between the members and senior officers of the Council, which had a bearing upon the contents of the reports:

1. The political aims and objectives of the members;
2. The extent to which these were shared by the Borough Planning Officer and Borough Solicitor;
3. The desire of both officers and members to retain or regain credibility, and retrieve the initiative in the planning area;
4. The desire for a lesson to be taught to the writer and the owners involved in the campaign.

At this point, it would be worthwhile examining the extent to which these factors relate to the omissions and inaccuracies in the reports and, since both reports were summarised in the agenda of the full Council meeting on 4th January 1974, the analysis will be related to that summary.

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(167) This was stated by Mr. South and Mr. Wheeler in December 1973

v. An Analysis of the Joint Report in the London Borough of Islington's full Council Agenda, 4th January 1973

a. Analysis

1. Ownership

The report incorrectly stated that eleven houses had been bought by entrepreneurs following the passing of the Compulsory Purchase Order resolution, when in fact only seven had changed hands.

Since the members were elected on a promise to stop speculation and to proceed with a programme of municipalisation, they saw the Barnsbury Road situation as one of confrontation. Thus, the exaggeration of the number of houses owned by the entrepreneurs exaggerated the level of confrontation.

It is possible that the London Borough of Islington would not have proceeded with a Section 112 Compulsory Purchase Order had the works of conversion been carried out solely by indigenous owner-occupiers, and it is also possible that the Council would not have been too concerned if a limited amount of works had been carried out by new owner-occupiers and entrepreneurs. It is not possible to assess at which point, (if at all), the London

Borough of Islington were swayed towards a Section 112 Compulsory Purchase Order by the balance of ownership. However, it is clear that the exaggeration of the number of houses sold would have influenced some members of the Committee either towards accepting the Compulsory Purchase Order recommendation or, if they already accepted it, their resolve could have been further strengthened.

## 2. Consultant Architects

The statement in the agenda that all of the architectural works were carried out by the writer was incorrect and not relevant to the decisions, either to rescind the part III Compulsory Purchase Order or its replacement with Section 112, as shown earlier in this case example.

However, the writer was well known to the members of the London Borough of Islington and their hostility was clearly demonstrated upon a number of occasions. Therefore, by omitting to mention the other architects involved in the campaign, the members could focus their actions notionally upon the writer.

3. Indigenous Owner Occupiers' Action

The indigenous owner-occupier of one house did not employ an architect and carried out his own works of repair and improvement. The agenda did not mention this and left members with the impression that the writer was solely responsible for the architectural works being carried out. Thus this omission supports the contention outlined in 2. above.

4. Closing Orders

The agenda omitted that the Closing Order on five flats had been lifted, therefore members were given the impression that more units were technically unfit or incomplete than was the case. This would support the contention that better accommodation would be achieved by the demolition of the terraces and its replacement with new Council housing.

5. Town Planning Consent

The agenda stated that town planning consents were required when this was not correct for most of the works being carried out. This contention would support the view that the entrepreneurs were unscrupulous, unco-operative and acting illegally; all of which would have influenced the members to accept the Section 112

resolution, in order to deal with this apparently unsatisfactory situation. The question of what did or did not constitute development requiring town planning consent will be discussed later in this case example.

6. Density

The agenda stated that it was not possible to ascertain the likely density to be achieved by the conversion of the houses and understated by approximately 30% the likely density. Thus members would be led to believe that in the event the Compulsory Purchase Order was successful, the London Borough of Islington would have less people to rehouse than was the case. Therefore, the members were given a distorted view about the likely rehousing commitment; an important factor in any Compulsory Purchase Order decision.

7. Standards

The agenda stated that the units being provided by the entrepreneurs were not likely to comply with Parker Morris standards, when in fact by virtue of either occupation or by comparison with the Parker Morris space requirements, the units were generally up to standard and many were up to 20% larger than the Parker Morris standards. No reference was made to the excellent standard of

the conversions. Therefore, the members were led to believe that the entrepreneurs were carrying out substandard conversions, which it was their duty to prevent.

8. New Development Preferred

The agenda asserted that better housing accommodation for tenants would be achieved by redevelopment than by rehabilitation; no mention was made of the indigenous and new owner-occupiers. This statement was made without any explanation of the criteria by which this value judgement had been made. Therefore, the members were recommended to support a Town Planning & Development Committee resolution which implied the demolition of 16-62 Barnsbury Road.

9. Common Staircase

The agenda implied that the common staircases in the conversion scheme would be shared to an unacceptable extent, when this was not so. Again this incorrect information would help to convince members towards the view that the Council should stop this type of entrepreneurial action and redevelop the site for new housing.

10. Garden Provision

The gross understatement of the garden sizes also reinforced the contention that the area should be redeveloped.



## 11. Architectural and Historical Character

The Borough Planning Officer's stated lack of appreciation of the terraces which were subsequently listed as of architectural and historical interest, was an important omission, since this too reinforced the decision to take action which would result in the demolition of the houses and the redevelopment of the site.

It should be noted that the Greater London Council Historical Buildings Division, the Victorian Society and Georgian Group and the Civic Design Section of the London Borough of Islington, were in favour of the retention of the buildings. This fact was not drawn to the attention of the Town Planning & Development Committee or the full Council meeting of the London Borough of Islington.

## 12. Road Closures

The agenda stated that the closure of many of the roads in the area was necessary for the proper replanning of the Culpeper Area; the report did not explain that it was possible to achieve this objective whilst still retaining 16-62 Barnsbury Road and 1-23 Copenhagen Street. Therefore, members saw only one possibility for the implementation of the road closures, that is to say by the demolition of the terraces.

### 13. Car Parking

The agenda's statement that the car parking needs of occupants of 16-62 Barnsbury Road could not be satisfied, ignored two other factors. Firstly, the majority of occupants of converted houses in Barnsbury did not have garages and secondly, if the provision of garages was considered of great importance in the Culpeper Area, garaging could have been provided in the new development in the area. Thus again the members were led to the view that redevelopment was preferable to rehabilitation and therefore they should support the Section 112 resolution.

### 14. Daylighting

The agenda incorrectly asserted that the Councils' daylighting standards would prevent the beneficial development of the vacant land in the area if the terraces were retained. Thus, once again the members were provided with a single logical option - that is to say that the existing housing in the area should be demolished for redevelopment.

### 15. Costs

The agenda understated the costs of acquiring the existing housing by approximately 100%; again unduly influencing members towards a redevelopment approach.

## 16. Acquisition of Terraces

The agenda stated that the frontage terraces should be acquired, since if this were not done the London Borough of Islington would find it exceedingly difficult to redevelop the site adequately in the future. This is an argument for the Council to buy all the houses in the Borough; indeed, all the buildings in the Borough.

The writer believes this recommendation was a catch-all make-weight argument stated to sway any members who had any doubt that the Council should endorse the Section 112 resolution.

### b. Conclusion

In every case of inaccuracy or omission, the effect was to show that the Council had only one option: to Compulsory Purchase the terraces under Section 112 of the Town & Country Planning Act 1971 and to demolish them.

The reports submitted to the Town Planning & Development Committee by the Borough Solicitor and the Borough Planning Officer, contained a number of items of unbiased fact, but, as can be seen from the evaluation above, there was not a single inaccuracy or omission which supported the retention of the housing.

The results of this evaluation show an overwhelming bias which the writer does not believe to have been totally subconscious; the evidence suggests a concerted action involving the Borough Solicitor, the Borough Planning Officer and the Chairman of the Town Planning & Development Committee.

The bias in the agenda reflected that apparent in the Borough Solicitor's and the Borough Planning Officer's reports analysed earlier. However, it is interesting to note that, whereas the Borough Solicitor's report of November 1972 contained eight inaccuracies of fact and two of omission, the Borough Planning Officer's report of December 1972 contained twelve inaccuracies of fact and twenty-one of omission.

Thus the trend of the bias in the first report was significantly increased in the second, thereby strengthening the decision to proceed with Section 112 action.

The accuracy of the writer's opinion will be checked against other parallel actions taken by the London Borough of Islington between November 1972 and 1975; these actions will be examined later in this case example.

The principal entrepreneur attended the Council meeting of the 4th January 1973 and took notes of the general debate which took place, as follows:

"In reply to an attack made by Alderman Michael Morris on the Council's deliberately obstructive policy towards the private housing sector in the Borough during the discussion on the proposed Compulsory Purchase Order with respect to the Crescent Street Triangle, Councillor Mabey made an intemperate outburst along the following lines: ... 'We would expect Michael Morris to support his friends, the private developers ... we will be examining a good example of the way these private developers work in Item 12 later tonight ...' (168)

"In spite of this remark Councillor Mabey subsequently made no attempt whatsoever to get the matter debated when it was proposed that the matter should be passed without discussion under the 10 o'clock rule." (169)

The 10 o'clock rule states generally that if the Council's business is not concluded by 10.00 p.m., those items on the agenda which have not been discussed by that time will be passed automatically without debate.

Thus the Part III and Section 112 decisions were taken in complete secrecy since:

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(168) Alexander Skeaping, verbatim reiteration of actions and statements made at the local meeting of the LBI on 4th January 1973. Item 12 referred to was the Islington (Barnsbury Road) 1973 Section 112 C.P.O.  
(169) Ibid

1. The Borough Solicitor's report of 28th November 1972 was confidential and was discussed in the confidential part of the Committee meeting.
2. The Borough Planning Officer's report of December was confidential and it too was discussed in the confidential part of the Committee meeting.
3. The full Council did not discuss the Town Planning & Development Committee's decision as this item of the agenda was so placed that by 10.00 p.m. it had not been reached and was therefore passed automatically without debate.

It is reasonable to infer from this that the Council members and their officers were hostile to the writers' actions, but were unprepared for the issues raised in reports to be discussed publically.

III AN ANALYSIS OF SECTION 112 OF THE TOWN & COUNTRY PLANNING ACT 1971 AND ITS RELEVANCE TO THE PLANNING SITUATION IN THE CULPEPER AREA DECEMBER 1973

i. Generally

Following the meeting of the Committee on 4th December 1972, the Town Clerk confirmed that the Council were being asked to endorse the Section 112 decision; this was confirmed on 15th December 1972, that is to say before it was presented to the full Council on 4th January 1973.

It would be worthwhile at this point briefly examining the effects of Section 112, in order to understand why the Council opted for a Compulsory Purchase Order under this section, rather than use other available powers for compulsory acquisition.

ii. The Relevant Contents of the Act

Section 112 is the first Section under Part VI of the Town & Country Planning Act 1971, and it deals with "compulsory acquisition of land in connection with development and for planning purposes".

Paragraph (1) explains that before a Compulsory Purchase Order can be confirmed by the Secretary of State, he must be satisfied:

- "a) that the land is required in order to secure the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of the land or of any area in which the land is situated; or
- b) that it is expedient in the public interest that the land should be held together with land so required; or
- c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement, or both, of another area as a whole; or
- d) that it is expedient to acquire the land immediately for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated".

The Council resolution was for the compulsory acquisition under paragraphs (1) (a) of Section 112.

The four sections (a) to (d) of paragraph (1) of Section 112 each provide a reason for this Section of the Act, and unlike other Acts concerned with Compulsory Purchase Orders, no criteria are provided by which the merits of a case can



be judged. It is presumed that, if necessary, the Council would present its case at a public enquiry and that objectors too would be able to make their case known; the eventual decision as to whether or not the Compulsory Purchase Order should be confirmed would rest with the Secretary of State for the Department of the Environment.

However, the London Borough of Islington presented no firm proposals for the development of the Culpeper Area and the decision to Compulsorily Purchase the privately held housing in 16-62 Barnsbury Road and 1-23 Copenhagen Street was made for political reasons, which were justified upon grossly inaccurate and misleading reports from officers.

Moreover, the writer took the view that the retention of the terraces would not inhibit the future redevelopment of the area, indeed the character of the existing housing would enhance any development of the area, since the buildings were of architectural merit.

It would be worthwhile now considering the objectives of each of the four alternative reasons which are set out in the Act, which justify a prima facie case for Section 112 action.

a. Clause (1)(a)

(1)(a) of Section 112 could be used if the land occupied by 16-62 Barnsbury Road and 1-23 Copenhagen Street

were required to be in the ownership of the Council to "secure the treatment as a whole ... of the land or of any area in which the land is situated". The Borough Solicitor and the Borough Planning Officer gave evidence to the Town Planning & Development Committee to support this requirement, since the two terraces bounded a vacant site which was jointly owned by the London Borough of Islington and the Greater London Council.

However, as has been shown earlier, the contents of these reports was far from exhaustive and they did not show the development which they intended to secure, and which would be more satisfactorily secured by the demolition of the terraces.

The Borough Planning Officer's report did contain criticism of 16-62 Barnsbury Road as being unsuitable for housing purposes, as has been discussed earlier, and it could be assumed that the London Borough of Islington were concerned to acquire 16-62 Barnsbury Road in order to demolish them to allow the provision of a cleared site frontage to the west of the Culpeper Area.

However, the Council were not necessarily committed to demolish the houses since Section (1)(a) stated that the treatment of the area could be secured ...

"by development, redevelopment or improvement, or partly by one and partly by another method".

Therefore, if the Compulsory Purchase Order were to have been confirmed the Council would have had the option of demolishing all or part of the terraces and rehabilitating any housing they decided to retain.

Thus, even though the Borough Planning Officer's report implied the demolition of the terraces, the Council would have had the ultimate option of retaining them if the Compulsory Purchase Order had been confirmed.

b. Clause (1)(b)

(1)(b) set out a further ground for consideration in the use of Section 112, relative to paragraph (1)(a), in that if it would be "expedient in the public interest that the land be held" for a proper development to be achieved by the Local Authority, Section (1)(b) could be used.

It is not clear whether the use of one Section mutually excludes the use of another, since if this were not the case the London Borough of Islington could have tried to utilise both. However, since each Section ends with the word "or", there is a presumption that it would be ultra vires to attempt to use more than one Section of this part of the Act in a Compulsory Purchase Order.

Having regard to the lack of positive planning proposals for the Culpeper Area at the time of the Council's resolution, their aims might have been better served by (1)(b) than (1)(a), since their justification for the Compulsory Purchase Order could have been more ambivalent.

c. Clause (1)(c)

(1)(c) of Section 112 reiterates the principles set out in (1)(a), as regards retaining the option to develop or redevelop the area, but adds the specific purposes for such action ... "for the relocation of population or industry or the replacement of open space ...". Therefore, so far this Section would have suited the Councils' aims. However, the next part sets out the probable reason why (1)(c) was not adopted, since the development or redevelopment stated that this was to be required "... in the course of the redevelopment or improvement, or both, of another area as a whole".

Thus the Council's case for adopting action under (1)(c) would have had to relate to another specific area of comprehensive development. It is possible that the Council could have related this to the Angel Area, but it must be remembered that the Plan for that area had not been finalised and agreed at that time.

Clearly, had the Council contended that the cleared Culpeper Area required to be extended by the inclusion of 16-62 Barnsbury Road and 1-23 Copenhagen Street for the replacement of uses which would be lost as a result of the Angel redevelopment, the plans for the Angel would have had to be finalised by the time of the public enquiry, which was the inevitable outcome of their Section 112 resolution. Moreover, their plans for the Culpeper Area would likewise have had to relate to the displaced land uses from the Angel Area.

Thus, Section (1)(a) was an easier option to adopt, since no such specific planning work would be required for presentation at a public enquiry.

d. Clause (1)(d)

(1)(d) provides the power for the Local Authority to Compulsorily Purchase land immediately for "the proper planning of an area in which the land is situated". The significant word in this clause is "immediately", and it is difficult to see how any Local Authority could use (1) (d), since the time required for the procedures of identifying an area for Compulsory Purchase, producing a case for its acquisition, processing the Compulsory Purchase Order through the relevant committee to the full Council, providing the legal requirements for presentation to the

Department of the Environment, together with the inevitable delay before the hearing of the case at a public enquiry and the period in which the Secretary of State decides whether or not to confirm the Compulsory Purchase Order, would altogether take a minimum of two to three years.

In any case, the London Borough of Islington could only have considered using (1)(d) if they had already planned the Culpeper Area in detail, and they could show that the implementation of their plan required the urgent acquisition of the frontage lands 16-62 Barnsbury Road and 1-23 Copenhagen Street.

Since this was not the case, the reasons for the London Borough of Islington not adopting (1)(d) are quite clear.

### iii. Conclusions

Since the Council had not decided the specific future land uses for 16-62 Barnsbury Road and 1-23 Copenhagen Street, they could not acquire the housing under Part V of the Housing Act 1957, neither could they acquire under the Town Planning Acts for open space purposes.

Thus, the use of clause (1)(a) rather than one of the other options available under Section 112, allowed the Council maximum freedom for the ultimate planning of the area and was therefore a natural choice.

However, the Council made a fundamental error in their decision which will be shown later in this case example.

IV THE RESPONSE OF OWNERS AND OCCUPIERS TO THE PROPOSED SECTION 112 COMPULSORY PURCHASE ORDER

i. Generally

The owners and owner-occupiers were obviously delighted that they had won the part III Compulsory Purchase Order battle, but were confused as to the objectives implicit in the Section 112 resolution, which had been accepted in principle by the Town Planning & Development Committee on the 28th November 1972, passed formally on the 4th December 1972 and endorsed by the London Borough of Islington on the 4th January 1973.

As was stated earlier, the principal entrepreneur had been informed of the Town Planning & Development Committee's decision on 15th December 1972 and this information was passed to all interested parties that day.

It would now be worth considering the economic effects of the Section 112 decision.

ii. An Assessment of the Economic Effects of the Rescindment of the Part III Compulsory Purchase Order and the Decision to Substitute Section 112 in lieu

The economic effect upon tenants, new and indigenous owner-occupiers and entrepreneurs were different; this influenced the strategy adopted in the campaign against the Section 112 Compulsory Purchase Order.



a. The Effect upon Tenants

At the time of the rescindment of the part III Compulsory Purchase Order, there were a variety of tenancies in 16-62 Barnsbury Road, which can be summarised as follows:

1. Indigenous statutory tenants occupying privately-owned converted unfurnished flats;
2. Indigenous statutory tenants occupying privately-owned unconverted unfurnished flats;
3. Indigenous statutory tenants occupying unfurnished unconverted property owned by the London Borough of Islington;
4. Indigenous statutory tenants occupying unfurnished unconverted property owned by the New Islington & Hackney Housing Association;
5. New middle-class tenants occupying privately-owned furnished flats on fixed term leases.

Clearly, the tenants who occupied converted flats paying 'fair rents' as assessed by the rent officer or Rent Tribunal for unfurnished and furnished flats respectively, would not have to pay any rent increase as a result of the rescindment of Part III. In addition, their security of tenure was still at risk, in that if the Section 112 Compulsory Purchase Order

were to have been confirmed and the houses demolished, they would be rehoused by the Council.

Had this occurred the unfurnished tenants would probably have had to pay a higher rent, as was explained in the previous case example. The furnished tenants would have been automatically dispossessed, since their fixed term leases were written to accord with the anticipated dates by which final decisions would be made. Thus their leases would have become void by the effluxion of time. (170)

Those tenants occupying houses owned by the London Borough of Islington and the Housing Association, were faced with one of two prospects. Either their houses would be converted to meet their specific requirements whilst they remained in occupation, or they would be offered alternative accommodation. In both cases they would be expected to pay a 'fair rent'.

These tenants were paying between two pound and three pound per week for their accommodation at that time, and they could expect to pay double or treble that rent elsewhere. Thus, the tenants in privately-owned unfurnished flats were more secure and significantly better off than those in Council or Housing Association accommodation.

b. The Effect on Owner-Occupiers

There were two types of owner-occupiers at the time of the rescindment of the part III Compulsory Purchase Order; the indigenous immigrant extended families who had lived in the terraces for upwards of 20 years, and the new middle class owner-occupiers who had joined the campaign to fight the Compulsory Purchase Order, in order to obtain their future home at less than the normal market price.

The economic effect of the rescindment of the part III Compulsory Purchase Order, had the Section 112 resolution not been adopted, would have been that the blight on the housing had been removed and it would therefore have been saleable on the open market.

Thus the owner-occupiers' loss, if any, would have been the difference in the value of the housing caused by the planning blight imposed by the Section 112 Compulsory Purchase Order and the open market price.

c. The Effect on Entrepreneurs

The entrepreneurs were involved in the scheme with the object of making a profit and they expected to make a return on their investment in three ways, as follows:

1. Rent from unfurnished flats;
2. Rent from furnished flats;
3. The sale of completed flats.

As was explained earlier, the rents obtainable for unfurnished flats at 'fair rents' were not even sufficient to cover the interest on the invested capital. This can be simply illustrated by assuming that the historic development cost of producing one flat was as low as seven thousand pounds, and that interest payable on the loan to cover this sum was as low as ten per cent.

By simple arithmetic it can be seen that seven hundred pounds per annum would be payable in interest, that is to say thirteen pounds forty-six pence per week, compared with a fair rent as assessed by the rent officer of between six pounds fifty pence and seven pounds per week. In other words, the fair rent assessment covered only half of the interest cost alone, quite apart from the maintenance, renewal and administrative costs incurred by the landlord.

Thus, even on this simple and understated example, it is clear that the landlord would make a significant loss if he were to rely solely on unfurnished rents.

The rent loss was in fact much more significant than stated above, since the interest rates prevalent in 1972-73 for development were  $12\frac{1}{2}\%$  to 18%. Moreover, the landlord was responsible for repairs, maintenance, insurance and the management costs of the property.

It is for this fundamental reason that, as property rose in value, the difference between the vacant possession and occupied values of housing increased and created more incentive for landlords to pay significant financial inducements to tenants who would relinquish their controlled tenancies.

However, in this case example, the entrepreneurs had taken into account the opportunities to cross-subsidise the losses which resulted from providing their existing tenants with good low rent accommodation.

Whilst the blight of the part III Compulsory Purchase Order remained in effect, it was clearly not possible for the entrepreneurs to sell completed flats at market value. For this reason flats which were not required for existing tenants were let furnished at rents which were just sufficient to cover the interest on the development cost of providing the accommodation.

It was intended to reduce the sum borrowed by selling a sufficient number of flats at full market value, so that the rents receivable on the remaining flats retained would cover the interest and capital repayments plus management and maintenance costs incurred.

Thus the imposition of a further planning blight resulting from the Section 112 Compulsory Purchase Order would have prevented the sale of completed flats and thus have upset the proposed cross-subsidy arrangement.

However, this was not a problem in the early part of 1973 since, although all the existing tenants in Barnsbury Road had been rehoused in converted flats, the conversions of those earmarked for sale had not been completed. Furthermore the value of flats was still rising rapidly and the effect of the virtual bar to selling the flats imposed by the Council's decision was being off-set by the increase in property values, which in turn provided the developers with additional collateral security.

There was a further important influencing factor in the next stage of the campaign to fight the Section 112 Compulsory Purchase Order, which resulted directly from the inability to sell flats resulting from the Council's action.

The principal entrepreneur decided to buy two partly tenanted houses in Copenhagen Street. Since he would immediately be able to offer the tenants accommodation in newly converted flats he was unable to sell, he would thus have the opportunity of converting the newly purchased vacant houses into separate self-contained flats. These could either be sold on the open market if the Section 112 was not confirmed, or could be sold to the London Borough of Islington at virtually full market price, if the Compulsory Purchase Order was to be successful.

ii. The Adoption of a Strategy for the Campaign Against the Section 112 Compulsory Purchase Order

a. Narrative

Immediately it was known that the Town Planning & Development Committee had passed a resolution to rescind the part III Compulsory Purchase Order and had decided to proceed with Section 112 action, the writer and the principal entrepreneur discussed the matter with the solicitors who had been acting on the part III Compulsory Purchase Order. As a result of these discussions, it was decided to evaluate the strength of the Council's case supporting the Section 112 Compulsory Purchase Order, on the lines outlined earlier in this case example; it was decided that the Council's arguments were politically biased and would not bear scrutiny at a public enquiry.

Accordingly, as mentioned earlier, the entrepreneur bought two houses in Copenhagen Street and conversion and restoration works were put in hand. This action was implemented within the context of an overall strategy for the saving of 16-62 Barnsbury Road and 1-23 Copenhagen Street.

b. Factors Influencing the Strategy Adopted

There were a number of factors which influenced the campaign strategy for fighting the Section 112 Compulsory Purchase Order, which can be summarised as follows:

1. The architectural and historical quality of the terraces;
2. The proximity of the terraces to the Barnsbury Conservation Area;
3. The requirement of town planning law;
4. The social implications;
5. The economic effects;
6. The political motive behind the Section 112 action.

These factors have already been discussed earlier, primarily in connection with 16-62 Barnsbury Road. However, the area of the Council's Compulsory Purchase activity had now been extended to include 1-23 Copenhagen



Street, since both frontages bounded the Culpeper Area.

The writer considered that the addition of Copenhagen Street to the Council's proposed Compulsory Purchase Order strengthened some of the arguments which he had made in connection with the part III Compulsory Purchase Order. These were as follows:

1. The Architectural and Historical Quality of the Terraces

Whilst the future of 1-23 Copenhagen Street was in doubt, the architectural and historical quality of 16-62 Barnsbury Road had to be seen in isolation from the context of the original development form of the area. Originally, Barnsbury Road was part of the general fabric of the early nineteenth century area south of Copenhagen Street, which had been steadily eroded from approximately 1930 to 1972. The area opposite 16-62 Barnsbury Road had been demolished and redeveloped between the wars, as six-storey balcony-access high density London County Council flats and the housing to the east of 16-62 Barnsbury Road had been gradually demolished between 1968 and 1972, so that the terraces were left as a 'peninsular' of early nineteenth century housing, within an area which was either

already developed or was proposed for comprehensive redevelopment for Council flats by the Greater London Council and the London Borough of Islington.

1-23 Copenhagen Street, as the connecting link between the 'peninsular' and the Barnsbury Conservation Area, represented an important architectural element in the area.

Furthermore, 1-23 Copenhagen Street, although a later development, was of similar architectural character to Barnsbury Road and both formed a cohesive whole when seen from the north and west of the Culpeper Area.

The writer's opinion that the housing on both frontages was of architectural and historical interest had been endorsed by the Greater London Council Historic Monuments Division, the Georgian Group, the Victorian Society, the Royal Institute of British Architects and the three local Civic Societies. Therefore, the Section 112 Compulsory Purchase Order offered the opportunity for arguing the case for the retention and restoration of both terraces at a public enquiry, with the possibility of removing the effects of planning blight from both; the argument for their joint retention was

stronger than that for retaining 16-62 Barnsbury Road alone; as will be seen this objective was achieved.

2. The Proximity of the Terraces to the Barnsbury Conservation Area

Whether or not the houses in both frontages were listable, they were clearly of a similar character and of equal, if not better, quality than those included in the south part of the Barnsbury Conservation Area.

As was shown in the two previous case examples, the Borough Planning Officer was reluctant to recommend buildings for inclusion in Conservation Areas when to do so could have interfered with other planning objectives. Since 1-23 Copenhagen Street was included in the Angel planning study area, the Borough Planning Officer recommended that this terrace should be excluded from the Barnsbury Conservation Area and this recommendation was accepted.

3. Town Planning Factors

By virtue of their resolution to proceed with Section 112 action, the London Borough of Islington had created a situation which would require them

to crystallise their plans for the Culpeper Area. Moreover, these plans would have had to be sufficiently detailed and well argued to support the contention that the frontage terraces should be taken into the Council's ownership.

The writer was convinced that the Culpeper Area was capable of beneficial redevelopment without the need for the acquisition of 16-62 Barnsbury Road and 1-23 Copenhagen Street. Moreover, the writer saw no reason for their demolition, indeed the contrary was the case as has been explained above.

Thus the Compulsory Purchase Order offered an excellent opportunity to establish the removal of the planning blight affecting the site before the public enquiry date.

#### 4. Social Factors

As was explained earlier in the previous case example, the entrepreneurs had ensured that the indigenous tenants in 16-62 Barnsbury Road were housed in good accommodation at low rents. In addition, indigenous owner-occupiers had shown themselves willing to improve their houses.

Sociologists and Town Planners were becoming increasingly concerned that Council redevelopment almost inevitably resulted in the erosion of existing well established communities. However, in this case example the private developers had produced a situation whereby the accommodation requirements of the existing residents in the terraces were catered for.

However, Islington was a socially unbalanced Borough and the retention and development of 16-62 Barnsbury Road offered the opportunity to achieve a mixed community including the following social groups:

- (a) Working class indigenous Greek, Turkish, Indian and Italian owner-occupiers mostly with extended families, some of whom let a single room to tenants of the same ethnic group.
- (b) Working class indigenous English and Irish tenants of unfurnished flats owned by private landlords.
- (c) English working class indigenous tenants of unfurnished Council flats.
- (d) English and Jamaican working class indigenous tenants of unfurnished Housing Association flats.

- (e) New middle class owner-occupiers who let furnished accommodation to middle class tenants.
- (f) New middle class owner-occupiers of leasehold flats.
- (g) New middle class tenants of furnished fixed term lease flats.

Therefore, the rehabilitation of 16-62 Barnsbury Road provided an opportunity for creating a more socially balanced street in the community, including a variety of ownership and tenancy patterns. This opportunity was in contrast to the presumed alternative of Council development, whereby the housing in the area would be primarily for working class occupation. Had the Compulsory Purchase Order been confirmed, the immigrant owner-occupiers would have been forced to move elsewhere, since their houses would have gone into Council ownership and if the houses were demolished the complete community would have been dispersed from the area.

Thus the writer believed that there was an excellent social case to be presented at a public enquiry and that this would be strengthened by extending

the interventionist approach adopted for 16-62 Barnsbury Road into 1-23 Copenhagen Street.

5. Economic Factors

The writer believed it would be possible to show sound economic argument in favour of the retention of the terraces: some detailed calculation of the effects upon different social-economic groups has been discussed earlier.

It should also be noted that the Council's economic information on the subject of acquisition costs and the attendant loan charges was grossly inaccurate; this would be easily proved at a public enquiry.

6. The Political Motive Behind the Section 112 Action

The writer believed it would be possible to show, in relation to the other five factors influencing the case for the retention of the houses and the maintenance of their existing ownership, that the Council's decision was vexatiously motivated by political rather than rational town planning objectives.

It was therefore considered that there was an excellent case for consideration by an independent

inspector of the Department of the Environment who would be unlikely to be influenced by party political arguments and biased information.

c. The Adoption of the Campaign Strategy

As soon as the Council's decision was made public, the writer visited the existing occupants in 1-23 Copenhagen Street to explain:

1. What the Council were proposing by their use of the Section 112 action;
2. The affect this action would have upon existing tenants;
3. How and by what means the Council were defeated on the part III Compulsory Purchase Order on 16-62 Barnsbury Road;
4. The means by which the Section 112 Compulsory Purchase Order could be opposed.

With the exception of one tenant, every occupant agreed to support the campaign to oppose the Section 112 Compulsory Purchase Order.

As was mentioned earlier, the principal entrepreneur involved in 16-62 Barnsbury Road had bought 17 and 19 Copenhagen Street and in addition no. 7 was bought by a middle class prospective owner-occupier.



It was clear from the writers' interviews that the occupants of 1-23 Copenhagen Street had been very impressed with the visual evidence of the conversions and restoration of 16-62 Barnsbury Road, and were aware that existing tenants had been provided with very good accommodation at cheap rents; they also knew that tenants rights had been rigorously safeguarded and that no harassment had taken place.

The two indigenous owner-occupiers and the tenants in Copenhagen Street had confidence in the integrity of the writer and the entrepreneurs who had been involved in 16-62 Barnsbury Road, and it was for this reason that the campaign received such a strong measure of support in Copenhagen Street.

The owner-occupiers and tenants in 16-62 Barnsbury Road gave almost universal support to the campaign for the same reasons. However, the most important motive behind their support was the desire to continue to live in the area in their newly converted flats.

It is interesting to note that, had the Council stated that they would not demolish the houses in the event that the Section 112 Compulsory Purchase Order were to be confirmed, it is probable that a number of tenants would not have supported the campaign, since

they might have preferred to have had their tenancies transferred from the private sector to the London Borough of Islington.

d. The Public Relations Action

The public relations action adopted was basically a continuation of the exercise described in the previous case example.

The fundamental factors in the campaign were as follows:

1. That the housing was capable of conversion for existing tenants and owner-occupiers;
2. That a good social balance could be achieved in the area;
3. That the houses were a potentially elegant addition to the townscape of the area;
4. That the terraces were worthy of being listed as of architectural and historical interest;
5. That the terraces were worthy of inclusion within the Barnsbury Conservation Area;
6. That the retention of the terraces would be a good foil to any redevelopment of the Culpeper Area;
7. That the Council did not need to own the houses in order to plan the Culpeper Area beneficially;

8. That it was not necessary to demolish the houses in order to redevelop the Culpeper Area;
9. That the Council's Section 112 action was politically motivated;
10. That the Council's justification for the Compulsory Purchase Order was based upon biased and inaccurate evidence presented by the Borough Solicitor and the Borough Planning Officer.

The public relations exercise was directed primarily at the London Borough of Islington, since it would be the Council's decision whether to abandon or proceed with the Section 112 Compulsory Purchase Order.

Accordingly, letters were sent to members and officers of the London Borough of Islington, stating that their decision was based upon false premises.

An important part of the public relations exercise was to continue with rehabilitation works as speedily as possible. In particular the works to the front facade and gardens was considered vital, since the external appearance of the buildings was the superficial justification for the case for the listing of the buildings and their inclusion in the Barnsbury Conservation Area. Moreover, these works were good for the morale of the owners and occupiers of the houses. The corollary of this situation of rapid visual upgrading was that the

officers and members of the Council could see their case continually eroded.

The effect of external appearance can be related to timing whereby, as at the 5th February 1974, when the Town Planning & Development Committee resolved to omit 16-62 Barnsbury Road from the Section 112 Compulsory Purchase Order area, the restoration of all of the facades of the non-London Borough of Islington owned houses was complete, and the front gardens of 90% of the houses had been planted with trees and shrubs.

As was explained earlier, works were commenced upon numbers 7, 17 and 19 Copenhagen Street and it was intended to show that similar results could be obtained in Copenhagen Street to those manifested in 16-62 Barnsbury Road, in terms of tenant retention, tenant satisfaction and architectural quality in the restoration and conversion works.

As was mentioned earlier, the Times published an article by Tony Aldous on the 15th May 1973 headed "Developers Bow to Conservation". This article was written after the houses were listed and it provoked correspondence in the Times, some aspects of which will be examined later in this case example.

The writer's campaign was mounted with far more confidence than had been the case in the previous case example;

this was due to a variety of reasons as follows:

1. Following the rescindment of the part III Compulsory Purchase Order the house values of 16-62 Barnsbury Road for non owner-occupied houses acquired by the Council, if the Section 112 Compulsory Purchase Order were to be confirmed, would be full market value and not land value only, as was the possible case under Part III.
2. The conversion works were proceeding well and tenants had expressed their satisfaction with the accommodation and the rents they were paying.
3. The external appearance of the houses was improving rapidly.
4. The degree of informed support was increasing.

There was therefore less need to be so vigorous and vehement in dealings with officers and members of the Council.

An important strand in the public relations exercise was to impose pressure upon the London Borough of Islington through other agencies, for example, the Greater London Council Historic Monuments Division, Victorian Society, the Georgian Group, whilst making direct representations to the Department of the Environment Historic Monument.

e. Conclusion

Although it is difficult to assess precisely the effects of the public relations exercise upon the Council's ultimate decision, the writer is of the opinion that the campaign was useful. Moreover, as the campaign developed, officers of the Council were frequently making statements to the effect that "you know you are going to win" and "you know the Council will have to rescind the Section 112 Compulsory Purchase Order." (171)

Moreover, the climate of public and central Government opinion was becoming increasingly biased towards restoration rather than redevelopment, as has been discussed earlier in this work. Thus the London Borough of Islington saw itself with decreasing chances of success at a public enquiry.

iii. Consideration of a Parallel Strategy

The writer considered using the common law remedy of certiorari which allows judicial or quasi-judicial decisions based upon 'errors on the face of the record' to be challenged in the law court. However, it was not certain that certiorari would be accepted by the courts and it was decided to revive the possible use of this remedy depending upon the outcome of the strategy adopted.

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(171) These remarks

V EMPIRICAL ACTION TAKEN WITH OFFICERS OF THE LONDON BOROUGH  
OF ISLINGTON, GREATER LONDON COUNCIL AND DEPARTMENT OF THE  
ENVIRONMENT BETWEEN NOVEMBER 1972 WHEN THE SECTION 112  
DECISION WAS TAKEN AND THE LISTING OF THE HOUSES IN AUGUST 1973

i. The Objectives

The prime objective of the overall campaign was to achieve a situation whereby the Council would decide to rescind the Section 112 Compulsory Purchase Order, thereby avoiding the delay and expense involved in a public enquiry.

Clearly, the achievement of this situation would require the Town Planning & Development Committee to realise that the case for the acquisition and demolition of the houses had been eroded to a point where there was a good possibility that the Compulsory Purchase Order would not be confirmed by the Secretary of State for the Department of the Environment.

An additional advantage of forcing the Council to reconsider their Compulsory Purchase Order, was that it produced a further opportunity by which the terraces could be saved and, in the event the Council decided to proceed with the Compulsory Purchase Order, the final decision would still ultimately rest with the Secretary of State for the Environment.

Moreover, if it were possible to show that the major arguments of the objectors were demonstrably provable and those of the Council were not, and the Council decided to proceed with the Compulsory Purchase Order in spite of this proof, then the political nature of the decision would have been more overt and therefore more easily challengeable.

As has been stated earlier, and as will be shown later in this case example, the Section 112 Compulsory Purchase Order if confirmed would have left the Council the option to retain or demolish the terraces, (in whole or in part). The Borough Planning Officer's report implied that, because of the alleged deficiencies in garden space and access, over-shared staircases, undersized flats and the other factors inherent in the conversion of 16-62 Barnsbury Road analysed earlier, the terraces should be demolished: this implication was subsequently confirmed by the Borough Solicitor as will be shown later.

However, there was considerable confusion amongst councillors and some officers of the London Borough of Islington, who had assumed that the terraces would be retained and restored by the Council if the Compulsory Purchase Order were to be confirmed.

The writer concluded that the question as to whether or not the houses should be retained was fundamental to



the Council's case and would be presented as the major issue by the objectors at a public enquiry.

The factors involved in establishing the Council's attitude to the question of demolition were as follows:

- a. The architectural merit of the houses;
- b. The inaccurate description of completed flats;
- c. The need to demolish the houses to allow the proper redevelopment of the Culpeper Area.

The most important and effective means of forcing the London Borough of Islington to reconsider the Compulsory Purchase Order would occur if the houses were to be listed, since this would focus attention on the fundamental issue as to whether the houses were to be retained or demolished, in the event the Compulsory Purchase Order were to be confirmed.

This was to be achieved by establishing proof of individual officers' and members' understanding of the implication of a confirmed Section 112 Compulsory Purchase Order, showing that there existed a considerable degree of conflict and confusion in the Council as regards the future of the terraces. The evidence obtained in this way would be utilised to point out to members and officers who assumed that the Council intended to retain and restore the terraces, that

other officers and members thought the reverse. In this way the writer hoped to gather support for certain strands in the campaign in the Council.

In parallel with this lobbying action, the writer concluded that it was vitally important to continue the listing campaign which had been commenced in June 1972, in connection with the part III Compulsory Purchase Order, and which had reached the point where, following the writer's threat of a mandatory injunction of 5th January 1973, the Department of the Environment Inspector of Historic Buildings had agreed to re-inspect the properties.

ii. The Action Taken

On the 25th July 1972 an officer of the Greater London Council's Historic Buildings Division had stated verbally that he would recommend that 16-62 Barnsbury Road were worthy of listing; the writer had confirmed this to his Department in writing, requesting him to write a letter setting out his assessment of the terraces. The salient points in the writer's letter were as follows:-

"I am very pleased indeed to note from our telephone discussion today that the Division has seen fit to recommend to the Local Planning Authority, the inclusion of these houses (16-62 Barnsbury Road KP) on the supplementary list.

"I wonder if it would be at all possible for you to let me have a copy of the letter or if this is not possible could you please write me a letter explaining the current position." (172)

The Greater London Council did not answer this or any letters from the writer requesting the confirmation of the Historic Building Divisions' recommendations at this time, although officers of the Department verbally repeated that they had recommended that the Department of the Environment list the buildings.

The Department of the Environment's Inspector of Historic Buildings agreed to re-inspect the terraces in January 1973 and the Greater London Council did finally confirm their recommendations in a letter to the writer, (173), eight months after their original verbal confirmation and two months after the Department of the Environment's re-inspection.

As was shown in the previous case example, the officers of the Greater London Council's Historic Buildings Division had been influenced in their attitudes with regard to the listing of these terraces, since they understood the political and planning background to the proposed Section 112 Compulsory Purchase Order. It is apparent therefore

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(172) K. Pring, letter to Mr. Calvacorressi G.L.C. Historical Monuments Division, 25th July 1972  
(173) Mr. Calvacorressi, letter to K. Pring, 29th March 1973

that officers of the Greater London Council's Historic Monuments Division were only prepared to confirm in writing the statements they had made verbally after the Department of the Environment had re-inspected the terraces and found them worthy of listing.

As was mentioned earlier, the Conservatives had come to the conclusion that the Section 112 Compulsory Purchase Order was politically motivated and as a consequence had decided to take parallel political action. The prospective Conservative Parliamentary candidate made direct representations to the Secretary of State for the Environment, who apparently requested Lord Sandford to investigate the actions of the Department of the Environment's officers, in connection with the recommendation of the Greater London Council's Historic Monuments Division, Roger France's report and the writers' exhortations that the houses be listed.

The original representation by the prospective Conservative Parliamentary candidate to the Secretary of State was made on the 28th March 1973 and Lord Sandford's private secretary wrote on the 3rd May 1973 confirming that 16-62 Barnsbury Road and 7-21 Copenhagen Street were of listable quality.

The letter stated that the listing resulted from a re-appraisal of the standards for listing:

" ... None of the properties other than 23 Copenhagen Street were regarded as listable when the area was re-surveyed four years ago. However, since that date the standards on which buildings are judged for listing have been further revised and on receipt of your letter arrangements were made for the buildings to be inspected again". (174)

The writer knows of no alteration in the quality standards by which buildings were to be classified as listable, and it is assumed that this statement was made as an excuse for the Department of the Environment's lack of action prior to the political intervention by members of the Conservative party. The writer's point of view was subsequently endorsed by the Labour members of the Council and the Labour member of Parliament for Islington South and Finsbury, as will be shown later.

It is interesting to note that the Conservative representation to the Department of the Environment was made on the 28th March 1973, and the Greater London Council's Historic Building Division confirmed their belief that the houses were worthy of listing on the 29th March 1973. It is clear therefore that the political representations were made at a time when the Greater London Council was also sufficiently confident of the ultimate listing of the houses to confirm their recommendations in writing.

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(174) Lord Sandford's private secretary D.O.E., letter to John Szemery, (3rd May 1973)

The Department of the Environment's letter also implies that the decision to re-inspect the terraces was made as a result of the Conservatives' political representation only, when, as has been shown earlier, there had been a number of direct appeals made to the Department of the Environment by Roger France, the Georgian Group, the Victorian Society, the Royal Institute of British Architects, the Local Civic Societies and the writer.

It is worth reiterating at this point that the Borough Solicitor to the London Borough of Islington had given the impression that there had been no contact between the London Borough of Islington and the Department of the Environment on the subject of listing, when, by reference to correspondence and confidential Council minutes, it was clear that this was not the case. Moreover, the Borough Planning Officer and Borough Surveyor's reports to the Town Planning & Development Committee had omitted to mention that the Greater London Council's Historic Monuments Division and the statutory Civic Societies had supported the writer's contention that the houses were worthy of listing.

There are therefore reasonable grounds for believing that the initial failure to list the buildings and the ultimate decision to do so were both politically motivated.

Lord Sandford's private secretary's letter continued by stating:

"You will be glad to know that on current listing standards nos. 7-21 Copenhagen Street, and nos. 16-36 and 40-62 (inc) Barnsbury Road all qualify for the statutory list."

In spite of the apparent political intervention which resulted in this decision, the writer believes that it was justifiable in objective and aesthetic terms. The question of future land use, the dilapidated state of the buildings, whether or not they were slums, and the quality of the conversion being carried out were not relevant to the fundamental issue of listability.

Lord Sandford's private secretary's letter also stated that:

"Incidentally we had already heard that a number of the buildings in the Barnsbury Road were being restored and we were awaiting information from the Architects concerned that restoration works were complete before arranging for the buildings to be re-inspected and assessed for listing."

There are two issues of importance in this statement. Firstly, the question as to whether or not the houses are restored is not a criteria for listing and secondly, the Department of the Environment had been kept fully informed

of progress and had been sent photographs showing the up-to-date works undertaken at regular intervals during the campaign.

It was concluded therefore that this was a make-weight face-saving statement, made on behalf of the Inspectorate of the Department of the Environment's Historic Buildings Section.

The letter finished by stating:

" ... we are notifying the Islington London Borough Council and the Greater London Council accordingly and will endeavour to include those buildings that do qualify in the list within the next two or three weeks."

Thus, it emerged that there were apparently considerable political pressures for and against the listing of the terraces, and that officers of the London Borough of Islington, Greater London Council and the Department of the Environment had been unable or unprepared to become involved. The situation at this point can be shown diagrammatically, (see fig. 6.18).

As a result of the listing of the buildings, the London Borough of Islington were placed in a situation whereby they had to re-appraise their Section 112 Compulsory Purchase Order decision and on the 1st August 1973 the



Prospective Conservative candidate

Lord Sandford at DOE

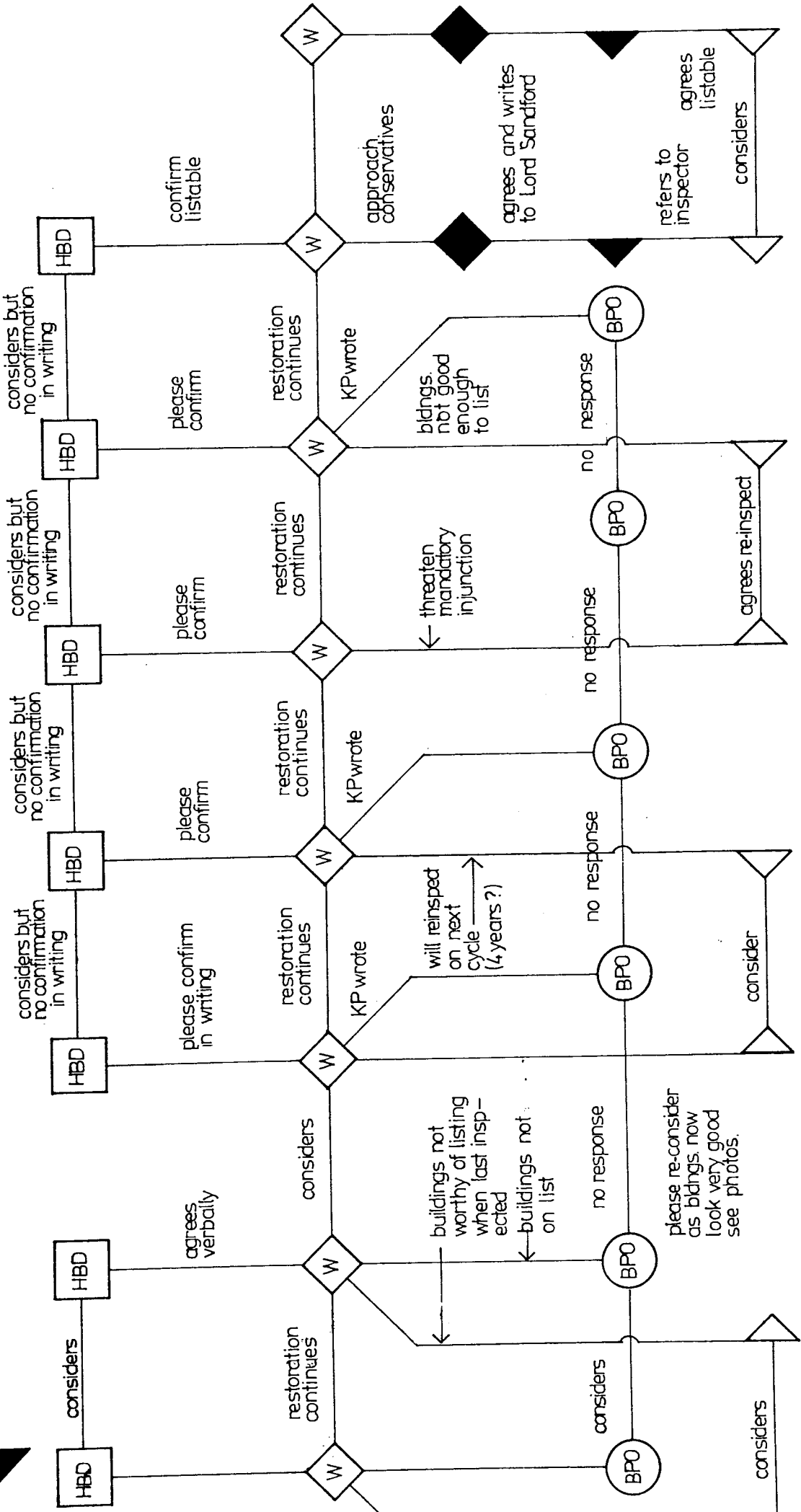


fig. 6.18

A SIMPLISTIC DIAGRAMMATIC ILLUSTRATION OF THE LISTING CAMPAIGN

BETWEEN JUNE 1972 AND 3RD MAY 1973

Borough Solicitor confirmed that due to the listing of the houses, "the Council are now awaiting a Report from the Borough Planning Officer on the area as a whole and the future of the Council owned properties will be dependent on the decisions reached in connection with this report." (175)

An important point of legal procedure was established as a result of Lord Sandford's actions in informing the Conservative prospective candidate that the houses were to be listed, before informing the owners of the houses, the London Borough of Islington and the Greater London Council.

On the 5th May 1973, when the writer was informed of the proposed listing of the terraces he contacted the London Borough of Islington's Town Planning Department and was informed that the Council had been told of the listing. However, the Chairman of the Town Planning & Development Committee denied this in a quotation in the Islington Gazette (176):

"Islington Council's planning chief accused a Government department this week of acting 'quite disgracefully' over the announcement of a decision affecting the future of a terrace of Georgian houses in Barnsbury Road, Islington.

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(175) Borough Solicitor, letter to Alexander Skeaping, (1st August 1973)

(176) An extract from an article in the Islington Gazette headed "Row over Ministry 'link' with Tories", (8th June 1973)

"Councillor Jeffrey Fairweather, chairman of the planning committee, claims that the Department of the Environment informed an Islington Conservative Parliamentary candidate about the placing of the homes on the list of buildings of architectural or historic interest before giving official notification to the council.

"The Labour-controlled council decided in January to ask the Environment Minister, Mr. Geoffrey Rippon, to confirm compulsory purchase orders on the 23 houses 16-62 Barnsbury Road - so that they could be demolished to make way for new homes and open space.

"Mr. John Szemerey, Prospective Parliamentary Conservative candidate for Islington South and Finsbury, wrote to Department of the Environment in March urging that the terrace should be preserved. He announced on May 14th that he had received a letter from the Department saying that the homes were going to be listed. Islington Council claims that it did not receive notification from the Department until May 16th.

"Councillor Fairweather said: 'I know only too well that the Department of the Environment has a statutory right to list what buildings it likes but the manner in which it was done here leaves much to be desired. I take very great exception to the news being given to a Prospective

Conservative candidate before the council had been informed.

"I can only infer that there is a very close political link between the local Conservative party and central Government. Such a link on the question of the listing of the terrace is quite disgraceful when it appears to be being used to bypass the responsible local authority which is currently considering the future of this particular area.

"Mr. Szemerey stated this week that he received his letter from the Department on May 5th.

"He said: 'I have it on good authority that the council was notified about the listing at the same time. I suspect there was a breakdown in communication within the town hall between officials and elected representatives.'

"Councillor Fairweather rejected Mr. Szemerey's claim.

"He said: 'Officials did not lose any time in informing members or other officials of the listing of these buildings when notification was received from the Department of the Environment. Mr. Szemerey's comments are a smoke-screen to hide the fact that he was informed of the listing before the council.'"

There are several important issues mentioned in this article.

Firstly, the Department of the Environment's letter was dated the 3rd May 1973 and received by the prospective Conservative candidate on the 4th May 1973, when the writer was informed of its contents by letter. A principal planner of the London Borough of Islington and the officer concerned with Islington in the Greater London Council's Historic Monuments Division, both already knew of the Department of the Environment's decision on the 5th May, when the writer telephoned them to inform them of the news.

Therefore, the Chairman of the Town Planning & Development Committee was incorrect in his statement that the London Borough of Islington did not know until the 16th May 1973. Even if the Town Planning Officer contacted had not been told by the Department of the Environment, it can be proved that he had been informed by the writer and Mr. Szemerey's statement was therefore correct. Moreover, this is confirmed by the Parliamentary Commissioners' findings, as will be shown later in this case example.

However, the article does state that the London Borough of Islington intended to demolish the houses and this was not denied in subsequent editions of the Islington Gazette.

It is interesting to note that the Chairman of the Town Planning & Development Committee was accusing the Conservatives of having special 'links' with the Ministry when, as was shown earlier, the officers of the London Borough of Islington were having confidential discussions with the Department of the Environment, which they denied had taken place.

The Chairman repeated his allegations in a letter to the editor of the Times of 21st May 1973:

"Sir - It is nonsense for the prospective Conservative Parliamentary candidate for Islington South to say Islington Borough Council has carried out a 'vendetta against these houses', referring to properties in Barnsbury Road and Copenhagen Street (report May 15th).

"We wish to acquire these houses compulsorily to enable us to redevelop the area of which they form part for housing and open space purposes.

"At the time of writing we have not received any official notification from the Department of the Environment that these houses have been listed as being of architectural merit. We are somewhat surprised that Mr. John Szemerey has this information first."

However, the Times' report referred to was that of the 15th May, that is to say a day earlier than the date of receipt of the listing decision alleged in the Islington Gazette article of 8th June 1973. Therefore, it is clear that there was some confusion in the dates quoted by the Chairman, and in addition there was probably some lack of communication between officers and members of the London Borough of Islington.

In any case, the matter of the method of listing was subsequently referred to the Parliamentary Commissioner by George Cunningham M.P., on behalf of the New Islington & Hackney Housing Association who were the owners of 46 Barnsbury Road.

The Commissioner investigating the way in which the terraces were listed, found a technical case of maladministration in that a third party, that is to say the Conservative prospective candidate, was informed of the proposed listing of the houses before the owners.

He concluded that:

"I do not criticise the way the Department acted in deciding that the Association's property should be added to the list of buildings of architectural and historic interest in Islington. But I consider the Association

had cause to feel aggrieved by the way the listing became known to them, particularly when even some considerable time after it had been reported in the press they had still not received any official notification to confirm that their property had been listed. And I am glad to report that the Department have since made changes in their procedures designed in future to avoid premature communication to a third party before the owners themselves are informed." (177)

Thus, it is clear that the London Borough of Islington and Greater London Council were properly informed, since the only point of maladministration found by the Commissioner was that the property owners were informed after the prospective Conservative candidate.

It is worth noting that the Conservative candidate saw his role as acting for the owners and occupiers of the houses, as was shown in the previous case example.

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(177) Parliamentary Commissioner for Administration, Report to Mr. George Cunningham M.P., Ref: C.324/T, (10th May 1974), p.6 para 13.



iii. Conclusions

Following the notification of the proposed listing on the 3rd May 1973, 16-62 Barnsbury Road and 1-23 Copenhagen Street were formally included on the list of buildings of special architectural interest on the 2nd August 1973.

Although members of the London Borough of Islington complained about the method by which the buildings had apparently been listed, they did not actually comment upon the merits of the decision itself.

Subsequently, senior members and officers have confirmed to the writer in informal discussions that they too thought the buildings were properly listed, and indeed this is supported by the Parliamentary Commissioner's findings, which raised no query as to the criteria adopted in the aesthetic judgement resulting in the ultimate listing of the houses.

This case example demonstrates certain points of weakness in the listing procedure, since it is clear that the dilapidated state of the houses was an important influencing factor in the decision not to include the houses when the area was surveyed by the Department of the Environment's Inspectors in 1969, and the London Borough of Islington's

future plans for the Culpeper Area influenced the Greater London Council in its decision not to publicly support the listing campaign, until it was clear that the buildings were to be listed.

Moreover, in a period of time when the London Borough of Islington were advocating 'open house' committee meetings and public participation in planning, they were organising matters in such a way that those affected by plans were excluded from the discussion of the fundamental issues affecting the future of the area. The subject of the confidential discussions which were held between officers of the Department of the Environment and the London Borough of Islington, were made known to councillors but not to the owners and occupiers of the houses affected. However, when a similar situation became apparent involving the Department of the Environment and the Conservative candidate, the London Borough of Islington expressed considerable indignation.

The most worrying point in this case example was that buildings which were listable were proposed for demolition by the London Borough of Islington, the Department of the Environment were apparently prepared to accept this proposal, and the Greater London Council were not prepared to provide overt support to the campaign to maintain and list the buildings.

However, as a result of the listing of the buildings, the Borough Planning Officer recommended the exclusion of 16-62 Barnsbury Road from the Compulsory Purchase Order area; this recommendation was accepted by the Planning Committee on the 5th February 1974.

It will be shown later that the listing of the buildings was a major factor which also resulted in the rescindment of the remainder of the Section 112 Compulsory Purchase Order relating to 1-23 Copenhagen Street, and was formally passed by the full Council on the 6th May 1975.

VI AN ANALYSIS OF THE DECISION TO EXCLUDE 16-62 BARNSBURY  
ROAD FROM THE SECTION 112 COMPULSORY PURCHASE ORDER  
AREA 5TH FEBRUARY 1974

i. Background

As has been shown earlier in this case example and as will emerge later, the campaign was fought during a period of changing attitudes on the question of 'broad brush' planning objectives achieved by clear fell action in urban areas on the one hand and the increasing belief that rehabilitation was preferable to redevelopment on the other. Moreover, there had been a fundamental change in attitudes regarding the conservation of the nation's heritage. These general concepts had been reflected both in the legislation introduced in 1971 and 1974 with regard to conservation and slum clearance and also in the Greater London Council's Greater London Development Plan consultative documents.

In addition, by virtue of the nature of the entrepreneurial activity in this case example, the Council had been shown that the political element in the decision to Compulsory Purchase the housing had lost its impetus since the landlords had provided good accommodation for their tenants and the Housing Manager's social survey had shown an overwhelming degree of tenant satisfaction with the new flats and maisonettes provided.

Therefore, the Town Planning Committee were prepared to reconsider their Compulsory Purchase Order decision of January 1973 when they considered the Borough Solicitor and Borough Planning Officer's report in January 1974.

ii. The Decision

It has not been possible to obtain a copy of the Borough Solicitor and Borough Planning Officer's report to the Town Planning Committee of January 1974 but its contents were summarised in the Council Agenda report of the 6th May 1975, when the Council ultimately resolved to rescind the Compulsory Purchase Order completely.

Paragraph 4 of Item 3 states:

"However, before this Order was made the Barnsbury Road and Copenhagen Street properties were included in the list of buildings of Special Architectural or Historic Interest compiled by the Secretary of State for the Environment. In view, therefore, of the difficulties anticipated in obtaining listed building consent and the advice given by the Borough Solicitor regarding the difficulties in successfully promoting the Compulsory Purchase Order having regard to the listing and the major works of rehabilitation which had been carried out in the majority of the houses in the terrace, the Council at its meeting on 5th February, 1974, resolve to delete the Barnsbury Road properties from the Order."

Thus it is clear that the principle factors which influenced the recommendation for the exclusion of 16-62 Barnsbury Road from the Compulsory Purchase Order area were:

- a. The buildings had been listed.
- b. The officers of the Council believed it would be difficult to obtain listed building consent for the demolition of the houses.
- c. The houses had been subject to major rehabilitation.

Moreover, as will be shown later in the analysis of the decision to rescind the Compulsory Purchase Order in respect of 1-23 Copenhagen Street, the Town Planning Committee were also aware of other important factors which influenced their decision to omit 16-62 Barnsbury Road from the Compulsory Purchase Order:-

- a. The Borough Solicitor stated that an essential prerequisite to a successful public enquiry was the need to show that the houses should be demolished, and this could not be demonstrated.
- b. The Borough Planning Officer considered that the retention of the buildings on the Barnsbury Road frontage would not inhibit, to an unacceptable degree, the comprehensive redevelopment of the Culpeper Area.

- c. Various financial considerations, which will be shown later.

### iii. Conclusions

The London Borough of Islington's decision to exclude 16-62 Barnsbury Road was a complete vindication of the campaign in every respect. This fact was subsequently confirmed by the officers and members of the Council.

However, it was interesting to note that the Council were maintaining their Compulsory Purchase Order in respect of 1-23 Copenhagen Street; this decision will be analysed later in this case example.

VII AN ANALYSIS OF ASSUMPTIONS BY OFFICERS AND MEMBERS OF THE LONDON BOROUGH OF ISLINGTON AS TO WHETHER OR NOT THE COUNCIL WERE PROPOSING THE DEMOLITION OF THE HOUSES

i. Generally

The period January 1973 to February 1974 spanned the time between the original London Borough of Islington decision to Compulsorily Purchase 16-62 (exclusive) Barnsbury Road and 1-23 (exclusive) Copenhagen Street, and the 'interim' decision to remove Barnsbury Road from the Compulsory Purchase Order area.

This part of the campaign was progressed in parallel with the action concerned with the listing of the houses and followed the consideration of action by the use of the common law remedy of Certiorari, as was described earlier.

The object of the exercise was to reduce the Council's case to its constituent parts and show wherever possible the weakness or impropriety of the factors which influenced the Section 112 Decision.

ii. The Objectives

The actions described and analysed in this section were parallel to, and often closely interwoven with, those which related to the actions that resulted in the listing of the houses, described earlier in this case example.



The objectives of the parallel actions in the campaign were to demonstrate to members and officers of the Council that, apart from the fundamental issue of the architectural and townscape quality of 1-23 Copenhagen Street, there were other important factors which supported the contention that the houses need not be taken into the Council's ownership, and that the proper planning of the area would not be inhibited by virtue of the retention of the terrace.

By various means it was possible to establish the different assumptions made by various officers and members of the Council, on the basic issue as to whether or not the London Borough of Islington were proposing to demolish 16-62 Barnsbury Road and 1-23 Copenhagen Street, in the event that the Section 112 Compulsory Purchase Order were to be confirmed by the Secretary of State for the Environment.

It was decided therefore to pose this question to the key 'actors' in the Council, who either had been or should have been consulted in connection with the decision to proceed with the Section 112 Compulsory Purchase Order.

iii. The Borough Solicitor

In the event that the Section 112 Compulsory Purchase Order had proceeded to a public enquiry, the responsibility for collating evidence and presenting the Council's case would have rested with the Borough Solicitor; he was

also responsible for informing the Department of the Environment of the Council's decision and providing the Department with the legal documentation as required by the Act.

Moreover, the Borough Solicitor had a professional responsibility to advise the Council as to whether or not the Compulsory Purchase Order was likely to be confirmed by the Secretary of State for the Environment. It was therefore important to establish whether or not the Borough Solicitor intended to present a case at a public enquiry which included evidence supporting the demolition of the houses within the Compulsory Purchase Order area.

The first direct discussion with the Borough Solicitor's Department took place on the 8th January 1973 in connection with the Section 28 action, referred to in the previous case example, when an officer of the Department confirmed that the Borough Architect had not been consulted regarding the future of 16-62 Barnsbury Road and 1-23 Copenhagen Street, and that the Borough Planning Officer felt he had no locus in the matter.

The writer's argument in this situation was confirmed in a letter to the Borough Solicitor's Department of the 8th January 1973:

"I was shocked and surprised to find that the Borough Architect has not been consulted in connection with the Section 28 report of the 1969 Housing Act, and I would be grateful if you would send him a copy of the report for his perusal and comments."

"I am also surprised that the Deputy Borough Planning Officer feels that he has no locus in the matter. I would be grateful if you could ask him to explain how it is that as the GIA would presuppose the retention and restoration of the existing buildings and that he recommends their demolition, that he has no locus in the matter."

"Clearly, as these two approaches are mutually exclusive, much will depend on the recommendation of the Planning Officer and, therefore, he is involved ..."

This discussion alerted the writer to the fundamental lack of co-ordination between relevant departments of the Council and the resultant confusion amongst officers as to the ultimate consequences of the decisions taken by the members of the Council.

Accordingly, discussions were immediately held with officers of the Borough Architect's and Town Planning Departments, when it emerged that they did not believe that the Council intended to demolish the houses if the Compulsory Purchase Order were to be confirmed.

This was confirmed in writing to the Borough Solicitor on the 10th January 1973.

It is important to note that these discussions and confirmations took place before the buildings were listed on the 10th May 1973.

The writer assumed that, following the Department of the Environment's decision to list the buildings in May 1973 and the Council's subsequent resolution to exclude 16-62 Barnsbury Road from the Section 112 Compulsory Purchase Order in February 1974, the officers of the various departments of the Council had agreed upon a consensus decision regarding the future of 1-23 Copenhagen Street. However, as will be shown later this was not the case, neither was it true of the members of the Council.

On the 3rd November 1974 the writer contacted a senior officer of the Borough Solicitor's Department (178), who was to be responsible for presenting the Council's case for the Compulsory Purchase Order. It emerged that he was of the opinion that the Council would demolish the buildings if the Compulsory Purchase Order were to be confirmed by the Secretary of State for the Environment; moreover, he was producing a case for the Council on this assumption.

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(178) Mr. Bailey was the officer in the Borough Solicitor's Department responsible for dealing with the C.P.O.

The writer pointed out that the Council would require listed building consent before the buildings could be demolished, and the officer responded by stating that the Council could grant itself "a deemed approval".

The writer stated that this was not his understanding of the situation with regard to the requirements of historic buildings legislation: this was indeed the case as was shown earlier in the section concerned with the law of conservation.

The officer confirmed that he had not consulted the following:

- a. The Town Planning Department's Development Control Officer;
- b. The Deputy Town Planning Officer;
- c. The Greater London Council's Historic Buildings Division;
- d. The London Borough of Islington's Conservation Area Advisory Committee;
- e. The Borough Architect.

Accordingly, the writer initiated action with these officers, which will be described and analysed later in this work.

The writer had a further discussion with the same officer on the 2nd October 1974, the salient point of which was confirmed in a letter of the 3rd October 1974:

"Further to our telephone conversation yesterday afternoon I should like to thank you for explaining the current position in connection with the proposed Compulsory Purchase Order of the above buildings (1-23 Copenhagen Street) not already in the Council's ownership.

I am grateful for your frankness in our discussion particularly as you are the first officer of either the London Borough of Islington or the Greater London Council who has committed himself as to the future of the buildings which will be recommended for demolition."

However, as a result of the confirmation of the telephone discussions with the officer, the Borough Solicitor replied to the writer's letter on the 21st October 1974. The Borough Solicitor's letter clarified the situation in several ways and the writer believes that the Borough Solicitor's personal intervention was a direct result of the writers' actions in confirming the points raised in discussion with the Borough Solicitor's assistant and with other interested officers of the London Borough of Islington and the Greater London Council.

The Borough Solicitor stated that: "... As Mr. Bailey (a Borough Solicitor assistant KP) explained to you it was the Council's intention to redevelop the area in conjunction with adjoining lands in the ownership of the Greater London Council and the presumption had been that all the properties in the area might need to be demolished."

It should be made clear at this point that both the Borough Solicitor's assistant and the Borough Planning Officer, (as will be shown later) had stated unequivocally that 1-23 Copenhagen Street were proposed for demolition.

Also, as was shown earlier, the Chairman of the Town Planning & Development Committee had stated that the houses were proposed for demolition in the Times' letter and Islington Gazette article.

Thus, it seemed that the Borough Solicitor was introducing an alternative course of action which was permissible in Section 112 of the Act, since Section 112 did not preclude the rehabilitation of buildings which were acquired compulsorily.

The Borough Solicitor's letter continued:

"The Council's intentions concerning these properties have

not been finally determined to decide that they should be demolished, subject to the confirmation of the Order and Listed Building Consent."

Thus it was made clear that the Council had made its decision to proceed with their Section 112 Compulsory Purchase Order on 1-23 Copenhagen Street, although they had no plans for their future use, and the Borough Solicitor's assistant had assumed that the houses were to be demolished in the event the Order were to be confirmed.

The Borough Solicitor's letter went on to say:

"I emphasise that Mr. Bailey told you viz that this is only one option open to the Council and is not necessarily the one selected."

This was not true, as the Borough Solicitor's assistant had been quite explicit in stating that the Council intended to demolish the buildings. The writer believes that this sentence was included in the Borough Solicitor's letter as 'written evidence' on the realisation of the damaging implications of the statements made by his assistant.

The Borough Solicitor's letter ended by stating his proposals:



"Once the Order is made by the Council, the Statement of Reasons will set out, in an unequivocal way, the Council's proposals for the lands in the Order area and adjoining lands."

This statement poses two points for consideration. Firstly, the Council should not have decided to Compulsorily Purchase the area under a Town Planning Act unless it was clear that it needed to own the land or buildings concerned, and secondly, the original decision to take Section 112 action had been decided on the 4th December 1972; that is to say nearly two years before the Borough Solicitor's letter was written. It would have been reasonable to suppose that the formal presentation of the Order should have been submitted to the Department of the Environment shortly after the Council's decision was made, and in the writer's opinion the period of delay was excessive.

iv. The Borough Planning Officer

As was shown earlier in the analysis of the Borough Planning Officer's report of the 4th December 1972, which recommended Section 112 Compulsory Purchase Order action, there was a clear implication that 16-62 Barnsbury Road and 1-23 Copenhagen Street should be demolished.

The writer's first discussion with the Borough Planning Officer on the subject of the future of the terrace took

place at a chance meeting in Barnsbury on the 12th June 1972 when he stated that he had been asked by the Chairman of the Town Planning & Development Committee whether he could produce a planning case for the retention of the terraces, that is to say 16-62 Barnsbury Road. It was automatically assumed by the Borough Planning Officer that the demolition of 1-23 Copenhagen Street could not be avoided.

The points of discussion were confirmed to the Borough Planning Officer by the writer in a letter of the 19th June 1972 which stated:

"I was interested to hear that you had been asked to produce a planning case for the retention of these terraces (16-62 Barnsbury Road KP), which although involving a departure from the Initial Development Plan, would be fully compatible with Councillor Mabey's (the then Chairman of the Town Planning & Development Committee KP) statement made at the public meeting, that the Council intend the site bounded by Barnsbury Road, Copenhagen Street, Dignum Street and Cloudesley Road to be used for public open space and housing."

The writer ended the letter by offering to meet the Borough Planning Officer:

"I would welcome the opportunity of discussing the planning issues surrounding the public open space area in general and the future of Barnsbury Road in particular."

This offer was accepted by the Deputy Borough Planning Officer and a meeting was arranged for the 29th August 1972, which was attended by one owner-occupier, the principal entrepreneur and the writer; the meeting took place three months prior to the rescindment of the original part III Compulsory Purchase Order.

Minutes of this meeting were produced by the writer and distributed to all those who had attended the meeting. Subsequently, on the 11th January, the Deputy Borough Planning Officer stated that the minutes were inaccurate. However, when challenged he refused to state with which specific points he disagreed. There were a number of points discussed and minuted which related to the question of whether or not the houses were to be retained or demolished:-

Paragraph 1

The Deputy Borough Planning Officer was asked whether or not the London Borough of Islington would support an application to the Department of the Environment for a departure from the Initial Development Plan, to permit the retention of the housing in lieu of the public open space land use zoning.

The Deputy Borough Planning Officer stated: "... that in his view, it was likely that such an application would not receive the Council's support."

It is clear from this statement that the Council were intending to retain the existing open space zoning for the land occupied by 16-62 Barnsbury Road.

The Deputy Borough Planning Officer continued his statement and "... pointed out that the submission of an application for Town Planning permission in respect of houses in the Terrace would be the surest way of establishing the Council's attitude to the future use of the site."

The writer was unable to understand why the London Borough of Islington would be more likely to decide to change the land use zoning of the Compulsory Purchase Order area if town planning applications were submitted, since clearly the future use of the site would be determined within the overall planning context of the Angel and Culpeper Areas.

The Council ultimately decided to formally set in motion the major departure from the Initial Development Plan procedure on the 2nd December 1974, that is to say over two years after the Deputy Borough Planning Officer's statement.

Also, as was shown in John Frazer's legal opinion in case example 1, the retention of the houses and their conversion and improvement could be legally permitted and there was no legal or procedural requirement for the public open space zoning to be formally altered.

Paragraph 4

The writer invited the Deputy Borough Planning Officer to give his opinion whether the terrace should be saved: he declined to answer the question.

Paragraph 5

The writer invited the Deputy Borough Planning Officer to clarify the statement he had made by telephone on Friday, 25th August 1972, that the Council might still require the land occupied by 16-62 Barnsbury Road for public open space purposes because this was confirmed within the Angel Consultative Report. It was pointed out that paragraph 6.9 and map 5 of the Report showed that 16-62 Barnsbury Road was shown proposed for housing purposes.

The Deputy Borough Planning Officer disagreed with the writer's interpretation, but it was clear that there was no other possible interpretation, since the Report's statement was quite definitive, (see map 5 fig. 6.19).

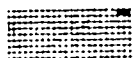
"The 'Culpeper site', bounded by Barnsbury Road, Copenhagen Street, Cloudesley Road and Culpeper Street should be redeveloped for housing with open space located near Penton School, complementing the provision in Barnsbury Park. The size and shape of the area make it imperative that this area is dealt with comprehensively, so that the optimum housing development can be obtained ..."



Aston University

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ping Centres



Secondary Roads



Areas



Major Distributors



**District Diagram**

From the attitude of the Borough Planning Officer, it appeared to the writer that the meeting was called mainly to obtain information from the objectors to the part III Compulsory Purchase Order, rather than for the purpose of holding a proper and meaningful discussion of the planning and land use issues involved in the area.

Moreover, the Deputy Borough Planning Officers' statements strongly implied that he saw no alternative to the demolition of the houses. In fact, legally he was quite correct, since if the part III Compulsory Purchase Order were to have been confirmed, the London Borough of Islington would have had a statutory obligation to demolish the houses. However, the meeting took place at a time when the Borough Solicitor, the Borough Planning Officer and the Medical Officer of Health were seriously considering recommending the rescindment of the part III Order; this recommendation was formally presented to the Town Planning & Development Committee on the 28th November, that is to say exactly three months after this meeting took place.

It is clear therefore that the Deputy Borough Planning Officer's statements were deliberately misleading and unhelpful, and in the opinion of the writer represented an abrogation of the Council's publicised philosophy of public participation in planning.

The next discussion with the Deputy Borough Planning Officer took place on the 4th January 1973, that is to say approximately one month after the Town Planning & Development Committee had resolved to rescind the Part III action and decided to proceed with a Section 112 Compulsory Purchase Order in lieu.

The discussion took place by telephone and the writer took notes of the points raised in the discussion, which were typed and filed as evidence for presentation at a public enquiry. The discussion was in connection with the Section 28 Report submitted to the Council on the 28th July 1972 and which recommended that 16-62 Barnsbury Road be designated a General Improvement Area.

"I informed Mr. Tapsall that the Medical Officer of Health had told me that his Department was not responsible for general improvement areas, and Mr. Tapsall informed me that in all matters of this sort, it is best to contact the Town Clerk.

"I said that in my view it was a planning matter, and Mr. Tapsall said that it was not.

"I said that in so far as he had claimed that the buildings should be demolished and as this action would preclude the possibility of declaring a General Improvement Area, the decision clearly fell very largely within his Department. He concurred with this view."



Thus we can see that the Deputy Borough Planning Officer had accepted that the houses were earmarked for demolition; however, later in the discussion he was less clear as to his proposals.

"Mr. Tapsall responded by asking the question whether it was in fact the Council's intention to pull down Barnsbury Road, and I responded that this is what I understood in the report contained in the Council's agenda.

"I asked the question whether it was the Council's intention to pull the buildings down and Mr. Tapsall declined to answer."

The general points raised in the discussion were the subject of the writer's letter to the Deputy Borough Planning Officer on the 8th January 1973.

"During our telephone conversation, you seemed to be uncertain as to whether or not it was the Council's intention to demolish the above terraces.

"This is a formal request that, in line with the exhortations contained in the white paper, 'Old Houses into New Homes ', (179), you can give me a definite answer as to the Councils' proposals.

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(179) The writer made a habit of noting the subject of telephone conversations and these quotations are contained on a memorandum of the discussions between the writer and Mr. Tapsall on 4th January 1973; the writer's understanding of the conversations were confirmed in writing to the Council on 8th January 1973.

"May I remind you of the conclusions in that white paper contained in Section 6, Paragraph 54, 'Local Authorities must be tireless in explaining their proposals and gaining the confidence and approval of those whom they will affect.'

"You may recall our discussion in respect of the Section 28 report, which you claim was not your responsibility to deal with. It is my view that in so far as the retention and rehabilitation of the buildings on the one hand, and their demolition and redevelopment on the other, are mutually exclusive that your Department would be involved in deciding upon whether or not a General Improvement Area would be appropriate."

Neither the Deputy Borough Planning Officer nor any other officer of the London Borough of Islington ever answered this letter.

The next discussion with the Deputy Borough Planning Officer took place on the 11th January 1973, at a meeting attended by three owner-occupiers, three professional advisers to owners and occupiers, the principal entrepreneur and a principal planning officer of the Council. Minutes of the points discussed at the meeting were subsequently produced and distributed to all those who attended the meeting; nobody queried the accuracy of the minutes.

The writer repeated three questions which were fundamental to the future of 16-62 Barnsbury Road and 1-23 Copenhagen Street, and were contained in paragraph 12 of the minutes:

- "a) did he (the Deputy Borough Planning Officer KP) know if the Council intended to demolish the above terraces (Barnsbury Road and Copenhagen Street KP) or rehabilitate them?
- b) did he know if the Council intended to use the land occupied by the terraces for housing or for open space purposes?
- c) did he know if the Council would be departing from the Initial Development Plan?"

The Deputy Borough Planning Officer stated that he did not know the answers to any of these questions and those present at the meeting expressed their surprise that he was ignorant of such basic points. (180)

The Deputy Borough Planning Officer stated that he did not accept the accuracy of the writers' minutes of 29th August 1972, but he had been too busy to write saying on which points they were an incorrect version of what was discussed.

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(180) Minutes of meeting held on 11th January 1973, paras 13 and 14

Thus we see that the Town Planning Department were continuing to be ambivalent on the subject of whether or not the houses were to be retained or demolished and the writer complained of this and other aspects of the meetings by writing to the Borough Planning Officer personally on the 15th January 1973; the relevant issues of which were as follows:

" ... It was therefore singularly surprising to all present that Mr. Tapsall was not prepared to discuss the minutes of the previous meeting and stated that if we insisted on having a discussion on this, he would call the meeting to a close."

"I reminded Mr. Tapsall that I had given his secretary to understand that a discussion of the previous minutes would be vital to a proper exchange of information and views. Mr. Tapsall's response was that he did not agree with the minutes. Mr. Tapsall further surprised the meeting by saying that:

- a) he did not know if the Council intended to demolish the above terraces or rehabilitate them.
- b) He did not know if the Council intended to use the land occupied by the terraces for housing or for open space purposes.
- c) he did not know if the Council would be departing from the Initial Development Plan."

"It is possible that Mr. Tapsall is ignorant of the likely course of action to be taken by the Council, in which case he was not the appropriate officer to be involved in discussions on the future of this site, particularly as he did not know that the Copenhagen Street frontage to the north of the Culpeper site was zoned for housing and not for open space, as he stated. The alternative possibility is that the Council has not yet decided the future of these terraces."

"I would be grateful if you could help to resolve the miasma of uncertainty surrounding the future of this area by either answering the questions that Mr. Tapsall said he was unable to answer, as listed a) b) and c) above, or confirming that the Council has no idea of its proposals for the planning of this area."

"Finally, could you instruct Mr. Tapsall to set out in writing in what respects the minutes of our meeting do not meet his satisfaction.

"I enclose a copy of the minutes of our second meeting, and I would be grateful for Mr. Tapsall's comments in writing before meeting the officers again."

The Borough Planning Officer did not reply to this letter, or comment on the minutes of either of the two meetings.

The writer also wrote to the Deputy Borough Planning Officer on the 16th January 1973, enclosing minutes of the meeting of 11th January 1973, and formally requesting comments on the minutes of both meetings: the Deputy Borough Planning Officer did not reply to this letter.

The next discussion with the Town Planning Department took place with the Borough Planning Officer on the 20th November 1973; the points raised in which were noted and filed for use at a public enquiry.

The Borough Planning Officer stated that it was unlikely that the Council would advocate the demolition of 16-62 Barnsbury Road, and it was probable that some houses would be excluded from the Compulsory Purchase Order; the Compulsory Purchase Order could then be left in force on houses where conversion works had either not been commenced or were substantially incomplete. Thus the Borough Planning Officer's statement implied the use of the Section 112 C.P.O. as a threat to ensure the completion of the restoration and conversion programme.

The Borough Planning Officer further stated that there was a much better chance of the Council rescinding the Compulsory Purchase Order in respect of 16-62 Barnsbury Road if the principal entrepreneur would agree to sell his houses to the Council by private treaty. However, the Borough Planning Officer thought that "Copenhagen Street would have to go to make way for open space."

This was the most frank and useful discussion which the writer had with the London Borough of Islington's Town Planning Department and it revealed the political nature of the original decision to proceed with Section 112 action and the conditions which would influence a decision to rescind the Compulsory Purchase Order in respect of 16-62 Barnsbury Road; the Borough Planning Officer was still convinced that 1-23 Copenhagen Street should be acquired and demolished for open space purposes, even though 7-23 were listed as of special architectural and historical interest.

The writer contacted the principal planner responsible for the Barnsbury Area in the Town Planning Department on the 7th October 1974 and was told that he had not been consulted about the proposed demolition; he requested the writer submit a history of the planning background to the Section 112 decision; this the writer did on the 8th October 1974:-

"I enclose a brief summary showing the historical background to the buildings which has been very checkered and typifies the problem of planning blight. I also enclose, for your information the booklet entitled 'Protecting our Historic Buildings ' - this is a document kindly given to me by your Council.

"I refer you to page four which explains the need to protect listed buildings ... 'demolition must not be allowed unless

the case has been fully examined', and page seven in connection with recording buildings to be demolished.

"Clearly the exhortation quoted above from Clause 4 has not been heeded by your own Council if the architects, architect/planners, Greater London Council Historic Buildings Division or your development control officers have not been consulted."

"In the circumstances, may I suggest that you arrange for the position to be reviewed with regard to:

- a) the proposal to demolish.
- b) the inclusion of the terrace in the Barnsbury Conservation Area.

"I have taken the matter up with a number of officers of your Council, the Greater London Council, the specialist Societies and certain Councillors. I am convinced that there is no need to demolish these buildings and I am sure that this view will be shared by architects and other visually aware people."

The issue was clarified later that day (8th October 1974), when the writer discussed the matter with the Borough Planning Officer when he stated unequivocally that the Council had decided to retain and rehabilitate 1-23 Copenhagen Street and that it was quite in order for the writer to



confirm this to him; this statement was confirmed in a letter of the same date as evidence for the public enquiry.

The matter was further clarified on the 2nd October 1974, when a Senior Development Control Officer of the Town Planning Department remarked in a telephone discussion with the writer: "This (1-23 Copenhagen Street) looks like a Barnsbury Road situation and he thought privately that the London Borough of Islington would take a similar decision in due course." (181)

Thus it was possible to detect an increasing willingness on the part of officers to discuss the question of demolition or retention of the terraces frankly and honestly. This openness on the part of Council officers was not solely confined to the writer. On the 27th November 1974, one of the other professional advisers working within the writer's campaign strategy, was informed by an officer of the Town Planning Department that: "in confidence the officers recommended the retention of the terrace". (182)

The question of re-zoning the land occupied by 16-62 Barnsbury Road was finally set in motion when the London Borough of Islington Housing Committee resolved on the 2nd December 1974:

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(181) Telephone message note of discussion between the writer and John Farrow, 3.30 p.m. on 2nd October 1974  
(182) Barry Docker

"b) that the Borough Architect be requested to ask the Planning Committee to consider an alteration in the zoning of the area from public open space ..."

However, the original part III Compulsory Purchase Order, had it been confirmed, would have resulted in the demolition of the houses, since that was a statutory implication of that part of the Housing Act 1957 at that time; Section 112 implies no such statutory obligation.

During this period it emerged that as the political issues of ownership became less intense, so the officers of the Town Planning Department became more prepared to discuss the future of the terraces.

v. The Borough Architect

The Borough Planning Officer was qualified as an estate manager and the Deputy Borough Planning Officer was qualified as a surveyor and town planner, neither of which choices of profession indicated a strong aesthetic motivation. However in contrast the Borough Architect was qualified as an architect and town planner, and was a well known artist/sculptor.

a. Generally

The writer assumed that the Borough Architect would be more sympathetic than other departmental heads of Council departments to the retention of 16-62 Barnsbury

Road and 1-23 Copenhagen Street, since he had a good reputation as a man of taste and discretion in the fields of new development and conversion.

Moreover, the arguments raised by the Borough Planning Officer in connection with the criticism of the conversion works being carried out on 16-62 Barnsbury Road and the alleged limitations the retention of both terraces would have upon the future development potential were, in the writer's opinion, more properly and objectively assessable by the Borough Architect's Department than by the Town Planning Department. Clearly, the training of Town Planning Officers does not equip them to comment meaningfully upon the detailed conversion possibilities of existing housing or the detailed design limitations upon possible new development implicit in the retention of the terraces.

For these reasons the writer sought to involve the Borough Architect in the original part III Compulsory Purchase Order campaign since it was clear that:

1. the buildings were of architectural and historical merit;
2. the houses could be converted at reasonable cost based upon the formula contained in 'Appendix B' to the 1957 Housing Act.

The assessment of these two fundamental factors were not within the competence of the Town Planning Department or the Medical Officer of Health, but were capable of clarification by the Borough Architect's Department.

b. The Action Taken

For this reason the writer arranged a meeting with a principal architect of the Department on site, as was mentioned in the previous case example.

Subsequently, the writer discussed the part III Compulsory Purchase Order proposals with the Borough Architect informally at a private Christmas party in December 1972, when the Borough Architect stated that the London Borough of Islington had come to a good conclusion as to its future proposed actions with regard to 16-62 Barnsbury Road and 1-23 Copenhagen Street and these would not be in conflict with the writers' aspirations regarding the retention of the buildings.

It transpired that the Borough Architect was referring to the Section 112 proposal which, as was explained earlier, did not preclude the retention of the buildings. Thus it was clear to the writer that the

Borough Architect was of the opinion that the Council were intending to retain and restore 16-62 Barnsbury Road and 1-23 Copenhagen Street.

Indeed, before the rescindment of the part III Compulsory Purchase Order on the 4th December 1972, the writer had a discussion with one of the principal architects in the Rehabilitation Section of the Borough Architect's Department on 11th October 1972, when the principal architect explained that he was writing a report which should convince the Council that the houses should be retained and rehabilitated; this referred to 16-62 Barnsbury Road.

However, on the 18th December 1972 the writer spoke to the Borough Architect who stated simply that the matter "is now in the hands of the Borough Planning Officer solely: it is his responsibility".

As has been shown in the analysis of the Borough Planning Officer's report to the Town Planning & Development Committee of 4th December 1972, there is a reasonable presumption that the Borough Architect's report was not accurately summarised and that only those points which produced a suitable bias towards the political motivation of the recommendation were selected and presented.

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Following the Council's decision on the 4th January 1973 to endorse the Town Planning & Development Committee's resolution, the writer wrote to the Borough Architect on the 10th January 1973 requesting clarification as to whether or not the Section 112 decision would involve the demolition of 16-62 Barnsbury Road and 1-23 Copenhagen Street, and the Borough Architect replied on the 18th January 1973 stating:

"As you know, the report to Council from the Town Planning & Development Committee arose from the Borough Planning Officer's Committee report and I have not had an opportunity of meeting Mr. Blythe (the Borough Planning Officer) to discuss this."

"When I do, I will try to obtain clarification as to the Council's intentions regarding these properties."

From this it appears that the Borough Planning Officer's report was produced and submitted without the benefit of the Borough Architects' comments. As has been shown earlier, the Borough Planning Officer's report contained a considerable body of evidence of an architectural nature to support the Compulsory Purchase Order. Moreover, as has been shown, an overwhelming amount of the evidence in the report was incorrect and biased.

The implication of the lack of co-operation between the Town Planning and Borough Architect's Departments will be discussed and analysed later in this case example.

On the 9th March 1973, the Borough Architect wrote again to the writer as follows:

"I did discuss the question of the future of the houses with Mr. Blythe following your letter of 10th January but in view of the correspondence that has taken place, Mr. Blythe considered that it was for the Chief Solicitor to respond to your letter."

It appeared from this letter that the Borough Architect had been instructed not to interfere and not to become involved in the question as to whether or not the houses should be demolished.

As was shown earlier, the Borough Solicitor was of the opinion that the houses were earmarked for demolition and this view was shared by the Borough Planning Officer at this time. Therefore, it is likely that these two Departments were concerned that the Borough Architect's Department should not unwittingly provide evidence which would support the writer's case at a public enquiry.



However, it is interesting to note that, following the exclusion of 16-62 Barnsbury Road from the Section 112 Compulsory Purchase Order, the Housing Committee gave instructions to the Borough Architect, rather than the Borough Planning Officer, to make a case to the Planning Committee for the re-zoning of the area.

The Housing Committee agenda of 2nd December 1974 stated in item 6(b): "that the Borough Architect be requested to ask the Planning Committee to consider an alteration in the zoning of the area for public open space ..."

This would appear to the writer to be a matter for the Borough Planning Officer and, moreover, one which had been the major factor in the part III Compulsory Purchase Order and Section 112 Compulsory Purchase Order resolution decisions.

c. Conclusions

The writer believes that, had the Borough Architect been responsible for the original report concerning possible Part III action on 16-62 Barnsbury Road, he would have recommended that this was not appropriate since the houses were not unfit.

They were not unfit since they were not unstable and were capable of being made technically fit at reasonable

cost. Moreover, the Borough Architect's report would possibly have taken note of the architectural merit of the houses and their potential contribution to the townscape of both the Barnsbury Conservation Area and the future development of the Culpeper Area.

The writer also believes that a more balanced and accurate report on the architectural issues in the Section 112 decision would have been submitted to the Town Planning & Development Committee had it been produced by the Borough Architect's Department.

vi. The Islington Conservation Area Advisory Committee

a. Background

As was explained earlier, the concept of providing legislation to ensure the conservation of large areas of buildings (as opposed to individual buildings or small groups of buildings), was embodied in Section 277 of the Town & Country Planning Act 1971.

As has been shown in this and the two previous case examples, the writer was of the opinion that the selection of the precise boundaries of the Barnsbury Conservation Area had been 'gerrymandered' to ensure the exclusion of buildings which, had they been

included, might have prevented or interfered with the implementation of long-term planning proposals adopted for the land upon which they stood.

This situation, whereby planning objectives interfered with the proper and objective selection of conservation area boundaries, was not confined to the London Borough of Islington, indeed recognition of that problem by central Government soon resulted in the enactment of the Town & Country Amenities Act 1974. This Act received the Royal Assent on the 31st July 1974 and took effect on the 31st August. It strengthened the legislation governing the designation of conservation areas in general and was particularly concerned with those areas considered to be outstanding importance; Barnsbury was such an area and was so officially designated on the 27th November 1969.

Two months after the Act came into effect, the Department of the Environment issued Circular no. 147/74 in October 1974 explaining the Government's intentions with regard to the provision of the Act as it affected conservation areas.

Section 277a of the 1974 Act differs from Section 277 of the 1971 Act in several ways, two of which were relevant to the writer's interventionist campaign for the retention of 16-62 Barnsbury Road and 1-23 Copenhagen Street.

Firstly, Section 277a placed the duty on the Local Planning Authority to designate further conservation areas within certain periods of time to be stated by the Secretary of State from time to time and secondly, if in the opinion of the Department of the Environment a Local Planning Authority were not carrying out this duty, the Secretary of State was given the power to designate conservation areas unilaterally under the provisions of the Act.

The writer was actively pressing the London Borough of Islington for the extension of the Barnsbury Conservation Area boundaries from June 1972 until the eventual inclusion of peripheral groups of buildings adjoining the area on 10th December 1976 and was therefore anticipating the new legislation embodied in the 1974 Act. Although the revised provisions in Section 277a of the Act, and the explanations and exhortations contained in Circular no. 147/74, were concerned amongst other things with the designation of new conservation areas, it was clear that the implications of the Government's legislation included the implied duty that Local Planning Authorities should include all worthwhile buildings and groups of buildings within conservation areas; indeed, this duty was likewise implied in the 1971 Act, although not so strongly stated as was subsequently the case.

Therefore, it is clear that the writer's campaign was running in parallel with the national ethic prevalent between 1971 and 1974.

The campaign for the inclusion of 16-62 Barnsbury Road and 1-23 Copenhagen Street was directed at the Islington Conservation Area Advisory Committee, of which the writer was a founder member.

The setting up of the Conservation Area Advisory Committees was recommended in the 1971 Act and the Islington Conservation Area Advisory Committee was formed on an adhoc basis late in 1969 and formally convened in early 1970.

The Committee membership was drawn from councillors and officers of the London Borough of Islington and representatives of the Greater London Council, Royal Institute of British Architects, Royal Town Planning Institute and national, local civic and amenity societies. The Chairman of the Committee was normally either the Chairman or Vice-chairman of the Town Planning & Development Committee.

Circular 147/74 set out the Secretary of State's intentions with regard to the importance of these committees, recommendations as to their constitutions and the role they should play in the formulation of

policies and enhancement of the character of the conservation areas. (183)

b. The Action Taken

As was explained earlier, the objectors to the Compulsory Purchase Orders had appointed specialist advisers to assist in the campaign who would be suitable as professional witnesses in the event that the issues proceeded to a public enquiry.

It was agreed between the witnesses that 16-62 Barnsbury Road and 1-23 Copenhagen Street should be included within the Barnsbury Conservation Area. This was considered to be an important plank in the campaign to retain the terraces, since if they were so included this would serve to indicate that the buildings had architectural merit, even if they were not sufficiently good as to be worthy of listing.

This strand of the campaign was commenced in November 1972 and continued until the terraces were finally included within the Conservation Area on 10th December 1976.

The Town & Country Amenities Act 1974 was published during this period and Section 227a of the Act brought

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(183) Department of the Environment, Circular 147/74, paras 45/49 (October 1974)

the demolition of buildings in conservation areas under control, by applying with modifications the listed building control provisions of the Act.

Therefore, in this aspect the campaign was also running in parallel with the national ethic of that period.

The action taken was divided so that one of the professional advisers (Roger France) lobbied the Department of the Environment, the writer, the London Borough of Islington's Conservation Area Advisory Committee and the Greater London Council's Historic Monuments Division, and both lobbied the local and national Civic Societies.

The campaign commenced during the period when 16-62 Barnsbury Road were subject to Part III action which, as has been shown earlier, would have resulted in the demolition of the houses had it been confirmed. However, this statutory requirement was subsequently changed and this fact might have been instrumental in retaining the houses had the Compulsory Purchase Order been confirmed. This will be explained through the Shepherdess Walk Compulsory Purchase Order case example 7, later in this work.

Roger France wrote to the Historic Buildings Section of the Department of the Environment on the 2nd November 1972, following an exchange of letters on the subject of the listing of the buildings between June and November 1972, as described earlier, and he posed the question as to whether the Secretary of State would be prepared to intervene and extend the boundaries of the conservation area unilaterally by virtue of the powers granted him in the 1974 Act.

The Chief Inspector of Historic Buildings to the Department of the Environment replied to Roger France's letter, stating the legality of the situation (184):

"The responsibility to designate conservation areas under Section 1 of the Civic Amenities Act (now Section 277 of the Town and Country Planning Act 1971) and to deal with applications for planning permission for development within them is in no sense delegated to local planning authorities by the Secretary of State but is placed by Parliament on the local planning authorities directly subject to the power of the Secretary of State to give directions under Sections 277, 28 and 31 of the Town and Country Planning Act 1971 viz. to give directions to authorities about the designation of conservation areas, ..."

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(184) Chief Inspector of Historic Buildings D.O.E., letter to Roger France (6th December 1972), para 4



The letter then set out the reality of the situation:

(185)

"However since the day to day administration of planning control has been placed by Parliament on local planning authorities, the Secretary of State would not expect to intervene in local matters. These powers of directions have therefore not hitherto been used."

Thus it was clear that although the London Borough of Islington, the Greater London Council and Secretary of State for the Environment had the legal right to designate and therefore by logical implication extend conservation areas, the Secretary of State preferred to leave the administration of this part of the Act to the Local Planning Authorities.

As was explained earlier, officers of the Greater London Council were sympathetic to the listing of 16-62 Barnsbury Road, and they were diplomatically pressing the London Borough of Islington to abandon the part III Compulsory Purchase Order and were at the same time pressing the Department of the Environment to list the buildings. Therefore, although the Greater London Council had parallel powers to designate conservation areas, it was decided that

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(185) Chief Inspector of Historic Buildings D.O.E. op cit, para 5

to request the Greater London Council to use them would be counter-productive to the campaign. In any case, it was thought that the Greater London Council would take a similar line to that taken by the Senior Inspector of the Historic Buildings Section of the Department of the Environment. In the circumstances, it was decided not to formally request the Greater London Council's support in this strand of the campaign. However, the Greater London Councils' officers were represented on the Islington Conservation Area Advisory Committee and their support could be reasonably anticipated.

The writer raised the question of the inclusion of 16-62 Barnsbury Road and 1-23 Copenhagen Street within the Barnsbury Conservation Area, at a meeting of the Islington Conservation Area Advisory Committee on the 3rd May 1973, when the Chairman suggested that the writer made a case for consideration by the Committee. Accordingly, the writer produced maps and photographs of the south part of the Barnsbury Conservation Area and presented these to the Committee on the 26th July 1973.

The Chairman intervened in the early part of the presentation, by stating that the Council's Legal Department had advised that the Conservation Area Advisory Committee could not discuss the extension of conservation areas, since this was not a permitted

function of the Committee. The writer protested that this was not legally correct and requested that the clerk to the meeting show specifically where in the Act Conservation Area Advisory Committees were forbidden to recommend extending conservation areas.

The Chairman again intervened and stated that the matter was closed.

At this point it would be worth examining the legal point raised by the Chairman. His argument was that, although Conservation Area Advisory Committees were properly and legally involved in the selection of conservation area boundaries, and advised upon the development proposals in designated conservation areas, the 1971 Act did not grant them the right to advise upon the extension of already designated conservation areas.

This argument was clearly untenable, since the role of the Conservation Area Advisory Committees envisaged in the 1971 Act was to give advice. The decision whether or not that advice should be taken rested with the elected members of the Council and not with the Conservation Area Advisory Committees.

It was quite clear to the writer that the Chairman's action was motivated by politics and not by ignorance of the architectural and townscape merit of the writer's case, since by profession the Chairman was

a lecturer in architecture. His action in preventing the discussion of the writer's recommendation was thinly disguised as a procedural legal problem, when in fact he was clearly aware of the reason for the writer's attempted presentation of the case.

Since the officers of the London Borough of Islington were apparently unaware of the architectural quality of the buildings, and since the officers and members appeared to be intent upon proceeding with the Section 112 Compulsory Purchase Order, the writer was attempting to have the matter discussed by a non-political quasi-official and professionally manned committee of the London Borough of Islington.

Clearly, had the writer's case been presented and accepted by the Conservation Area Advisory Committee, the matter would have been referred back to the Town Planning & Development Committee who would have been therefore forced to formally reconsider their Compulsory Purchase Order.

Moreover, had the Conservation Area Advisory Committee resolved to include the terraces in the Barnsbury Conservation Area and the London Borough of Islington had refused to do so, the political nature of the Town Planning & Development Committee's actions would have been openly manifested. Furthermore, the Conservation

Area Advisory Committee's decision and that of the Town Planning & Development Committee would have been useful for presentation at a public enquiry.

The writer was therefore quite aware of the dilemma he had given the Chairman of the Conservation Area Advisory Committee, when attempting to present the case for the inclusion of the terrace in the Barnsbury Conservation Area. The situation can be expressed diagrammatically, (see fig. 6.20).

In 1973 the chairmanship of the Islington Conservation Area Advisory Committee was taken by Lord Castle, and the question of the inclusion of the terraces within the Barnsbury Conservation Area was raised in the Committee meeting on the 13th January 1975. The minutes stated (186):

"Conservation Area No 10 (Barnsbury)

Mr. Read stated that it had been suggested to him that the boundaries of this Conservation Area had been formed to exclude certain areas of housing in which the Council might have a future interest, but which could otherwise have been included. The Borough Planning Officer reported that this had also been suggested

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(186) C.A.A.C. meeting held on 13th January 1975, minute (i) in the 'Other Business' section

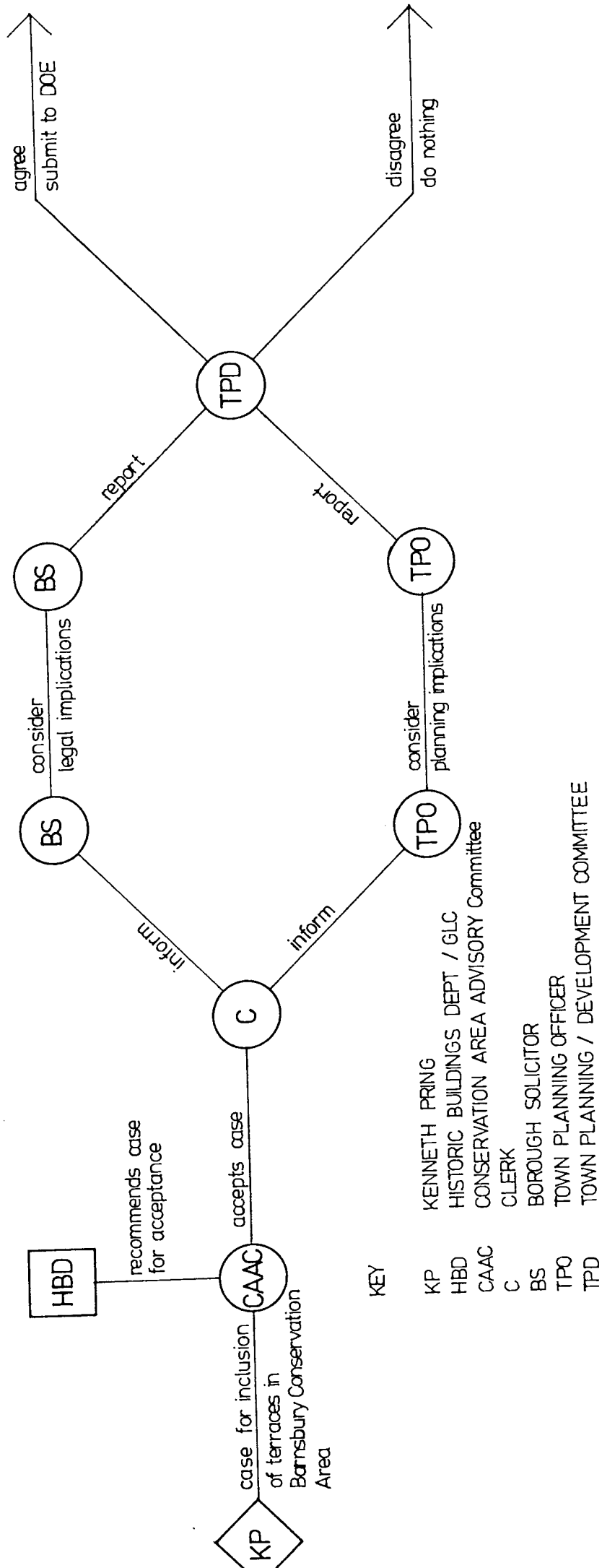


fig. 6.20

NOTIONAL NETWORK DIAGRAM OF SITUATION OF C.A.A.C. HAD RECOMMENDED THE INCLUSION OF 16 - 62 BARNSBURY ROAD AND 1 - 23 COPENHAGEN STREET

to him. Good reasons for exclusion existed at the time the decision was taken - some buildings were listed and Copenhagen Street was considered a potential clearance area. It had been arranged that the Islington Society or Barnsbury Association would consider the extension of the area and submit proposals. Mr. Read stated that they hoped to report to the next meeting."

Subsequently, it was decided to hold a site meeting of the Conservation Area Advisory Committee in Barnsbury, in order that the boundaries would be reinspected and reviewed. This inspection meeting took place on the 25th November 1975 under the Chairmanship of Lord Castle when it was decided to include the terrace in the Barnsbury Conservation Area; this was formally approved by the Council after they had decided to rescind the Section 112 Compulsory Purchase Order.

c. Conclusions

It was clear from the statement of officers of the London Borough of Islington, that the exclusion of the terraces from the originally designated Barnsbury Conservation Area was motivated by the objective to achieve administrative simplicity in the implementation

of long-term policies for the area. The inclusion of the terraces 16-62 Barnsbury Road and 1-23 Copenhagen Street would have imposed a duty on the Council to show a strong case for their demolition, which could have been an important influencing factor on both officers' recommendations to the Council and members' decisions based upon these recommendations.

The inclusion of buildings within Conservation Areas does not necessarily imply that they shall not be demolished, but rather that a good case for their demolition should be presented before a decision is taken which would result in demolition.

The Barnsbury Conservation Area, after being extended to include these and other terraces, was designated officially as being of outstanding importance. This tends to suggest that the terraces had sufficient merit to warrant their inclusion in the Conservation Area and the motive for their original exclusion was repeatedly reviewed and repeatedly perpetuated. This situation can be expressed diagrammatically, (see fig. 6.21).

vii. Members of the London Borough of Islington's Council

a. Action Taken with Councillors

It was clear from the Public Meeting of 27th March 1972 in connection with the part III Compulsory Purchase Order,





that some members of the Council had adopted a tough and uncompromising attitude to the campaign to retain 16-62 Barnsbury Road and that they were determined to proceed with the Order.

The apparent reasons for the adoption of this attitude resulted from the active policy of intervention, designed to frustrate the Compulsory Purchase Order, which was described and analysed in detail earlier in this case example in connection with the ultimate decision to rescind the part III Compulsory Purchase Order and substitute the adoption of Section 112 action in lieu.

The strategy which was adopted was to proceed with the works of restoration and conversion to demonstrate that the housing was capable of providing good living accommodation, both for indigenous and non-indigenous occupants, to ensure that existing tenants rights were being scrupulously maintained and that tenants were pleased with their converted accommodation, and to prove that the houses were potentially attractive additions to the townscape of the area.

In other words the works were, as already explained, an important strand of the public relations exercise against the Section 112 Compulsory Purchase Order.

Therefore, the action with individual members of the Council was taken against the background of an increasingly apparent demonstration of the principle planks of the objectors' arguments for the retention of the terraces.

In July 1972, just after the London Borough of Islington formally submitted the part III Compulsory Purchase Order to the Department of the Environment, the principal entrepreneur had a discussion with one of his local Labour councillors, who was Chairman of the Special Advisory Committee on Public Consultation and Participation.(187) Although he had originally expressed annoyance with the campaign, by July 1972 he appeared to have come to the view that the Council was probably unlikely to succeed in its Part III action and that the entrepreneur's argument appeared sound. He accordingly met the Borough Planning Officer and the Chairman of the Town Planning & Development Committee to discuss the Compulsory Purchase Order, when he was informed that "we will make it stick".

The Councillor reported the result of this discussion to the principal entrepreneur by telephone, who confirmed the statement made by letter on the 9th January 1973 when the Councillor resigned from the London Borough of Islington.

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(187) Report of meeting between Prof. Cllr. R. Wylie and Alexander Skeaping

However, the Councillor also confirmed the results of his discussions in a letter of the 11th July 1972, in which he stated that ... "If, however, the situation changes dramatically in the next few weeks or months Councillor Mabey, (the Chairman of the Town Planning & Development Committee) has indicated to me that he will be quite prepared to keep everyone concerned informed as much as possible in case some changes have to be made in the Council's plan of action."

Thus it was apparent that the principal councillors of the London Borough of Islington were aware of the works which were proceeding and they recognised the possibility that these works could reach a threshold of completion, whereby the part III Compulsory Purchase Order would become incapable of confirmation by the Secretary of State to the Environment.

It is worth noting again at this point that, had the part III Compulsory Purchase Order been confirmed, the London Borough of Islington would have been under a statutory obligation to demolish the houses; this fact was well known to the principal members of the Council.

The issue under discussion and analysis in this section of the case example is whether or not members thought that the houses would be retained or demolished, as a result of the Section 112 action adopted by the Council.

Since the Council decided initially to take Part III action which would have resulted in the demolition of the houses, many officers and members of the London Borough of Islington assumed that the Section 112 action had been adopted to achieve the same end result, although as explained earlier Section 112 does not necessarily imply demolition.

However, an important 'actor' in both the Part III and Section 112 Compulsory Purchase Orders was the Chairman of the Town Planning & Development Committee, who was an Economist/Town Planner by profession and who knew the ramifications of both Compulsory Purchase Orders.

It is worth noting that, although at the Public Meeting on the 27th March 1972, the Chairman of the Town Planning & Development Committee expressed himself strongly in favour of the Part III action, his attitude had appeared to change by June 1972, when he asked the Borough Planning Officer to inspect 16-62 Barnsbury Road to see whether he could produce a planning case for their retention. However, in July 1972 the same Councillor informed the Chairman of the Public Participation Committee that the Council would successfully be able to represent the houses for slum clearance.

It is possible to deduce from this information that the Chairman of the Town Planning & Development Committee

had asked the Borough Planning Officer to establish whether or not he could produce a planning case for the retention of the houses and, on being told that no reasonable case could be produced, the Chairman was able to make the statement to the Chairman of the Public Participation Committee with confidence.

The writer has not been able to establish whether in June 1972 the Chairman of the Town Planning & Development Committee was personally in favour of the part III Compulsory Purchase Order being formally submitted to the Department of the Environment. However, the writer has reasonable grounds for believing that by November 1972 the Chairman was in favour of the retention of both 16-62 Barnsbury Road and 1-23 Copenhagen Street; the reasons for the writer's assumption will emerge later in case example 6, concerned with a part III Compulsory Purchase Order on 163-185 Barnsbury Road.

On the 11th January 1973, the writer wrote to the new Chairman of the Town Planning & Development Committee, (who was as noted earlier a lecturer in architecture), pointing out that the Section 112 decision had been made on the basis of grossly misleading and biased reports from the Borough Solicitor and the Borough Planning Officer. The writer suggested that the Chairman met the members of the campaign, in order

that he could judge for himself the strength of the Borough Planning Officer's case: the suggested meeting was rejected.

The writer wrote to the Chairman of the Town Planning & Development Committee again on the 22nd March 1973, requesting information as to what, (if anything), the Council had done with regard to the Section 28 Report which had been submitted by Lewis Silkin & Partners in August 1972.

The Chairman replied on the 30th March 1973:

"The officials of the Council have been keeping me fully informed on the matter but at the present time I do not feel that we are able to give consideration to your proposals in isolation from our examination of detailed proposals for the whole district. I am sure that in this way the best solution will be found."

Thus this letter contained a statement that the Council were still considering the planning of the area occupied by the terraces and that they were still searching for the best solution. The writer had met the Chairman on site prior to the rescindment of the part III Compulsory Purchase Order, when he made it quite clear that he was in favour of the retention of

16-62 Barnsbury Road. It was reasonable to assume therefore that the Chairman of the Town Planning & Development Committee anticipated that the houses would be retained and rehabilitated by the Council, if the Section 112 Compulsory Purchase Order were to be confirmed.

In contrast, it emerged during informal discussions with five other Labour councillors representing Barnsbury and Thornhill Wards, that they were all convinced that the houses would be demolished if the Section 112 Compulsory Purchase Order were to be confirmed; this view was shared by the Conservative opposition.

Thus it was clear that there was considerable confusion in the minds of members about the likely effects of a confirmed Compulsory Purchase Order on the terraces, and this was echoed in the statements of officers of the Council.

It is possible that a major reason for this confusion was that the original part III Compulsory Purchase Order was apparently considered a good decision by the Council and this Compulsory Purchase Order, had it been confirmed, would have resulted in the demolition of the houses. Therefore, since the Council's method of achieving this result had been frustrated



and ultimately prevented, the Council adopted an alternative method; Section 112.

It is also likely that members and officers were confused about the actual motives behind the Section 112 Compulsory Purchase Order, that is to say whether the question of ownership or that of demolition was the principle factor in the Compulsory Purchase Order decision.

This confusion was exacerbated by the fact that, at the time of both the part III and Section 112 Compulsory Purchase Order decisions, the functions of control of housing and town planning decisions were combined in the Town Planning & Development Committee.

This emerged from discussions with members and officers of the Council and was confirmed definitively by an influential councillor on the 17th September 1973, who explained that the Town Planning & Development Committee's responsibilities were to be split and would be dealt with by a Housing Committee and a separate Town Planning Committee from the 1st October 1973. (188)

He further gave an assurance that one of the first tasks of the new Planning Committee was to make

definitive decisions about land use in relation to 16-62 Barnsbury Road and 1-23 Copenhagen Street.

b. Conclusions

In addition to the confusion concerning the motive behind the Section 112 decision, and its effect upon the future of the terraces which emerged from discussions and correspondence with members, it was also possible to detect the beginning of a change of attitude to the question of rehabilitation in general, and to the writer's campaign in particular.

There were three probable reasons for this:

1. The members were able to judge the merit of the buildings since works were progressing rapidly during this period.
2. The influence of the more hostile left-wing members of the Council was declining and three had already resigned or were about to resign from the Council. Therefore, the more moderate members were becoming increasingly powerful and they were more prepared to regard the campaign in objective planning terms and less as a political issue.

3. The climate of public opinion reflected in the national move away from high-rise and clear-fell policies of urban renewal and the increasing trend towards rehabilitation and conservation, as discussed in the earlier part of this work.

The Council resolved to delete 16-62 Barnsbury Road from the Section 112 Compulsory Purchase Order on the 5th February 1974.

Furthermore, as the trends summarised in 1, 2 and 3 above continued, the Section 112 Compulsory Purchase Order was rescinded by the Council on the 6th June 1975; this decision will be analysed in the next section of this work.

VIII AN ANALYSIS OF THE DECISION TO RESCIND THE SECTION 112  
COMPULSORY PURCHASE ORDER 6TH MAY 1975

i. Background

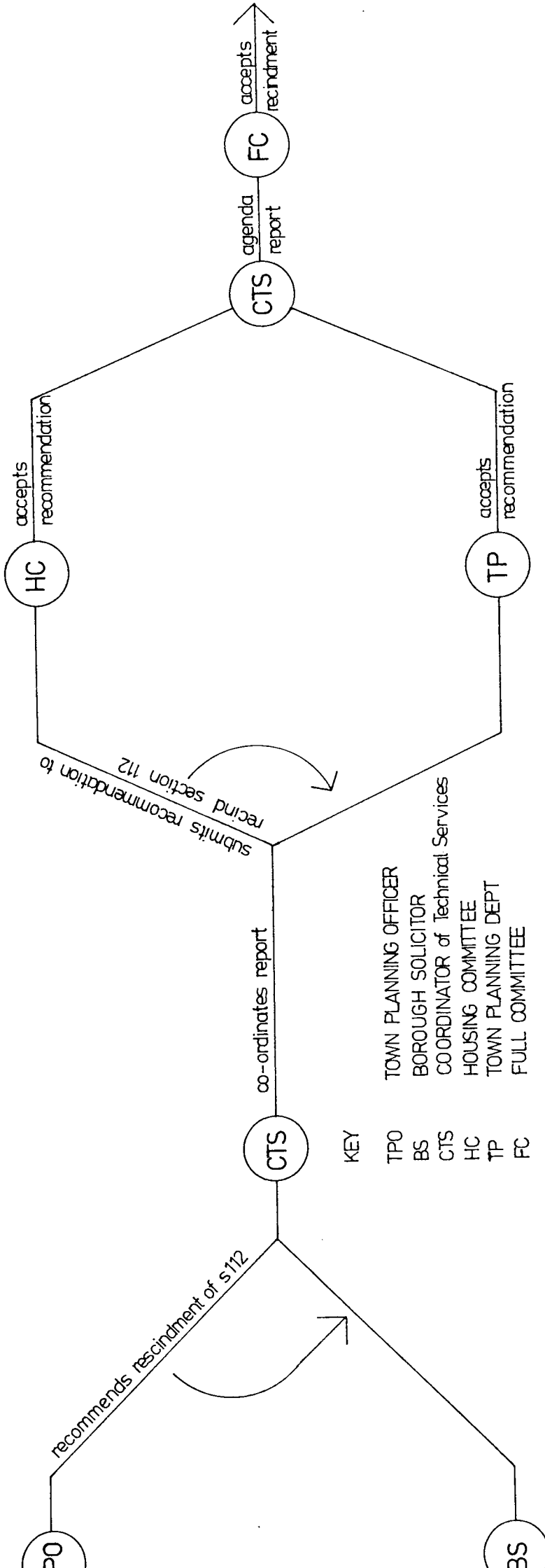
In October 1973 the Council split the functions previously performed by the Town Planning & Development Committee into separate Housing and Town Planning Committees; the work of both was to be co-ordinated by a newly created office: Co-ordinator of Technical Services.

The Co-ordinator of Technical Services' function was to provide liaison between both Committees and the Departments of the Council which served them, so that the interaction of housing and planning matters were properly considered, albeit by different Committees.

Thus the function of communication and liaison was placed in the hands of an officer of the Council, in preference to the situation which existed in the Town Planning & Development Committee, where the liaison function was retained in the Committee. The role of the Co-ordinator of Technical Services is shown diagrammatically (see fig. 6.22).

ii. The Decision

The full Council agenda of the 6th May 1975 contained the Co-ordinator of Technical Services' Report, which started by setting out the historical background to the original



KEY

- TPO TOWN PLANNING OFFICER
- BS BOROUGH SOLICITOR
- CTS COORDINATOR of Technical Services
- HC HOUSING COMMITTEE
- TP TOWN PLANNING DEPT
- FC FULL COMMITTEE

fig. 6.22

DIAGRAMMATIC ILLUSTRATION OF THE CO-ORDINATOR OF TECHNICAL SERVICES' FUNCTION  
IN THE COUNCIL'S ADMINISTRATION, AS IT EMERGED IN THE PROCESS OF RESCINDING THE  
LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD) COMPULSORY PURCHASE ORDER 1972  
UNDER SECTION 112 OF THE TOWN & COUNTRY PLANNING ACT 1971

part III Compulsory Purchase Order made by the Council on the 15th February 1972 and the reasons for its rescindment on the 4th January 1973, as described and analysed in the previous case example.

The report continued by explaining the reasons for including 16-62 Barnsbury Road and 1-23 Copenhagen Street in a Section 112 Compulsory Purchase Order under the Town & Country Planning Act 1971. This explanation included a factor which had not previously been explicitly mentioned before. Paragraph 3 of item 3 stated:

"This resolution followed the tentative agreement for an exchange of land with the Greater London Council so as to consolidate this Council's ownership in the area which would allow the implementation of the objectives of the Angel Planning Study by a single development agency of satisfactory open space, housing and road links."

The report then explained that the properties the Council intended to acquire had been listed and that because of the difficulties in producing a convincing case at a public enquiry, the Council had resolved to exclude 16-62 Barnsbury Road from the Compulsory Purchase Order area on the 5th February 1974.

The report continued by outlining the then current position with regard to 1-23 Copenhagen Street. Three of the twelve

houses were owned by the London Borough of Islington and a further house had been offered to the Council by the Greater London Council and paragraph 6 stated:

"Of the remaining eight properties, objections to the Compulsory Purchase Order have been received from the owners of five, namely 7, 9, 17, 19 and 21, on the grounds that either the properties are currently being restored to a high standard or that they are prepared to bring them up up a good standard."

The report then explained the position in connection with the Compulsory Purchase Order procedure for a public enquiry. Paragraph 7 stated:

"The Department of the Environment is being pressed by these objectors to arrange for an early Public Local Inquiry. Before this can be done the Council must supply the necessary documents in support of the Order to comply with the Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962, which include a Statement of Reasons for making the Order and Certificates as to planning permission and Listed Building Consent. The Department of the Environment is in turn pressing the Council to submit these documents."

Thus it was clear that the London Borough of Islington had not carried out its statutory obligations to present its case at a public enquiry, even though the original Section

112 decision had been taken on the 28th November 1972, that is to say two years and seven months previously.

The report then set out the Housing Committee's and Town Planning Committee's conclusions, paragraph 1 of which section stated:

"With the change of circumstances arising from the recent listing of the Copenhagen Street properties, the emphasis on rehabilitation, the fact that extensive works are in hand to two of the properties and the owners of three others are prepared to give undertakings to repair and improve, it is considered that it is most unlikely that a listed building consent to demolish would be forthcoming. In addition, the Borough Solicitor is of the opinion that an essential prerequisite to a successful argument at a Public Local Inquiry that comprehensive redevelopment is intended is a firm agreement with the Greater London Council for the transfer of their land holding in the area; this would show that not only is comprehensive redevelopment intended but that, by virtue of the agreement, it is within the Council's power to achieve."

Paragraph 2 of the report then stated:

"The Borough Planning Officer considers that the retention of the buildings on both the Barnsbury Road and the



Copenhagen Street frontages will not inhibit to an unacceptable degree the comprehensive redevelopment of the area when the Greater London Council holding in the Culpeper Street area eventually passes to this Council."

Accordingly, the Council accepted the recommendation of the two Committees to rescind the Islington (Barnsbury Road) 1973 Compulsory Purchase Order. At this point it would be worthwhile examining the reasons given for the recommendation to rescind the Compulsory Purchase Order in some detail.

iii. An Analysis of the Co-ordinator of Technical Services' Report and Conclusions of 6th May 1975

The items in the report, which related to the part III Compulsory Purchase Order and the exclusion of 16-62 Barnsbury Road from the Section 112 Compulsory Purchase Order, have been discussed earlier in this case example.

However, some of the factors were also relevant to 1-23 Copenhagen Street. These can be summarised as follows:

- a. The majority of the buildings were listed;
- b. It would be difficult to obtain listed building consent for the demolition of the buildings;

Other factors related specifically to 1-23 Copenhagen Street. These can be summarised as follows:

- c. The houses were currently being restored to a high standard; or
- d. The owners of the other houses not being restored had offered to bring their houses up to a good standard;
- e. The Council were unprepared for a public enquiry as required by the Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962;
- f. The Department of the Environment were pressing for the hearing of a public enquiry;
- g. There was a change in circumstances related to a. and b. above and an increased emphasis on rehabilitation;
- h. The Council would need to show it could only achieve a comprehensive development of the area by the acquisition of 1-23 Copenhagen Street, and the Borough Planning Officer had conceded that the retention of both terraces would not unduly inhibit the proper redevelopment of the Culpepper Area.

It would now be useful to analyse each of these factors in the Co-ordinator of Technical Services' Report, which resulted in the rescindment of the Section 112 Compulsory Purchase Order.

- a. The majority of the buildings were listed

The officers of the Council were aware that the Greater London Council, the Georgian Group, the Victorian Society, the Royal Institute of British Architects,

the writer and Roger France were of the opinion that the houses in 16-62 Barnsbury Road and 1-23 Copenhagen Street were worthy of listing.

Although the Borough Planning Officer's report stated that the objectors were of the opinion that the buildings were listable, he did not distinguish between statutory and non-statutory objectors, and the Committee were therefore probably under the impression that the Borough Planning Officer was referring to the property owners and their professional advisers.

However, as has been shown earlier, the Historic Building Division of the Greater London Council and the two statutory Civic Societies had also made representations to the Borough Planning Officer and the Department of the Environment; this information was not made known to the Committee in the report.

Moreover, the Borough Planning Officer had not consulted the Islington Conservation Area Advisory Committee or the Borough Architect's Department as to their views on the architectural and townscape value of the terraces. Since the houses were listed soon after the Borough Planning Officer's report and recommendations of Section 112 action were produced, it is clear that there was a serious omission of aesthetic judgement in the report and it was reasonable to conclude that the

Borough Planning Officer was either an inadequate judge of the architectural value of the buildings or was unduly influenced by political or long-term planning objectives or indeed by a combination of all three.

A more significant point was that, even after the houses were listed, the Borough Planning Officer recommended the Housing Committee and Planning Committee to proceed with the Section 112 Compulsory Purchase Order with regard to 1-23 Copenhagen Street.

This implies that the Borough Planning Officer regarded the political or long-term planning objectives for the area to be so strong that he could justify the demolition of the buildings, even though they had been listed.

- b. It would be difficult to obtain listed building consent for the demolition of the buildings

It is difficult to understand why the Borough Planning Officer was prepared to recommend proceeding with the Section 112 Compulsory Purchase Order on 1-23 Copenhagen Street, following their being listed, unless the political and planning factors were of overwhelming importance as mentioned above.

However, it is possible that the Borough Planning Officer changed his attitude as the houses were restored and he was able to appreciate their potential or he may have satisfied himself that the political or planning objectives for the area were achievable even if the houses were to be retained.

- c. The houses were currently being restored to a high standard

It is interesting to note that this was a fundamental argument put forward for the rescindment of the part III Compulsory Purchase Order on 16-62 Barnsbury Road, but in spite of this the Borough Planning Officer's report stated a number of biased and inaccurate criticisms of the conversions being carried out. His report ended by recommending the Section 112 Compulsory Purchase Order; this clearly implied the intention to demolish the houses in the event that the Compulsory Purchase Order had been confirmed.

The report of the 6th May 1975 contained no criticisms of the conversions being carried out to 17-19 Copenhagen Street, which were the major works referred to, although these were almost exactly similar in design, layout and detailing to six of the houses in 16-62 Barnsbury Road, having been designed by the same firm of architects for the same entrepreneur,

using the same firm of builders.

Therefore, it would appear that either the Borough Planning Officer had appraised himself of the actual works carried out in this instance, whereas he had not done so in the case of 16-62 Barnsbury Road, or his previous report of November 1972 was biased to produce a result consistent with the political objectives of the councillors and planning aims for the Culpepper Area.

- d. The owners of the other houses not being restored had offered to bring their houses up to a good standard

The owners of houses in 16-62 Barnsbury Road who had not commenced works by November 1972 had given a similar undertaking but the Borough Planning Officer had not reported this fact in his report.

Also by implication his report of November 1972 suggested that the houses were being badly converted, were inherently unsuitable for rehabilitation and their retention would inhibit the proper redevelopment of the Culpepper Area.

Therefore, it is reasonable to infer that when it suited the Borough Planning Officer's case he suppressed

the owners' stated intention with regard to the conversion of their houses but when it strengthened his case to reverse his previous recommendation, he was prepared to mention the owners' undertaking.

- e. The Council were unprepared for a public enquiry as required by the Compulsory Purchase by Local Authorities (Inquiries Procedure) Rules 1962

It should be noted that the Town Planning & Development Committee had decided upon Section 112 action on the 28th November 1972, based upon the report and recommendations submitted by the Borough Planning Officer.

The proposal to rescind the Compulsory Purchase Order was considered by the Housing Committee on the 7th April 1975 and during this period of two and a half years the officers of the Council had not produced the documentation required by the 1962 Act. The documents which were required for presentation were as follows:

1. A statement of reasons for making the Order;
2. Certificates as to planning permission;
3. Certificates as to listed building consent.

1. A statement of reasons for making the order

The Borough Planning Officer could have summarised his report of the 28th November 1972, since this contained the overt reasons for the making of the Order. However, as has been shown earlier, this report contained a number of inaccuracies of fact as well as important omissions. Had the report been rewritten on an accurate and objective basis, it would have been clear to the Department of the Environment and the objectors that the Council's case was very weak, had a strong political bias and would not bear the scrutiny of intense cross-examination at a public enquiry.

It is therefore not surprising that, in two and a half years the London Borough of Islington produced no statement of reasons as required by the 1962 Act.

2. Certificates as to planning permission

The London Borough of Islington had the power to grant itself a planning consent for redevelopment of the Order lands, but there were two factors which made it difficult for them to do so.

Firstly, the plans for the Culpeper Area were in a state of constant change during the period 1964 to



1975 and this meant that the Council could make no firm decision as to the land-use issues.

Secondly, the members and officers of the Council were divided as to whether the houses should be retained or demolished. Therefore, until these fundamental issues were resolved, the Council could not reasonably grant itself town planning consent.

3. Certificates as to listed building consent

As was shown earlier, although a Borough legal officer stated that the Council could give itself a listed building consent, this was not in fact the case.

Any proposal for the demolition of the terrace would need to be discussed with the Greater London Council's Historic Monuments Division, the Islington Conservation Area Advisory Committee and the final decision would rest with the Secretary of State for the Environment.

As will be shown later in case example 7, it is possible that the Listed Building application for the demolition of the terrace would have been the subject of a public enquiry in its own right.

A fundamental prerequisite of a case for the demolition of the buildings would be that the land occupied by the houses was vital to the proper redevelopment of the area. The writer always maintained that this was not possible to prove, since it was not true. This was conceded by the Borough Planning Officer in point h.

- f. The Department of the Environment were pressing for the hearing of a public enquiry

It was clear that a delay of two and a half years from the date of the resolution to proceed with Section 112 action, without the production and presentation of documents to the Department of the Environment, was far too long. The solicitors acting for the objectors had made strong representations to the Department of the Environment, who had in turn pressed the London Borough of Islington for their documentation.

Thus, the London Borough of Islington were in a position of either producing the information, or requesting a further period of time be granted for the necessary works to be carried out.

However, the Department of the Environment's request had crystallised the issues which would need to be argued at a public enquiry and the Borough Planning

Officer and Borough Solicitor were therefore obliged to conclude that their case was weak and probably untenable.

- g. There was a change in circumstances related to the listed building consent and the difficulty in obtaining listed building consent for the demolition of the houses

On the 5th February 1974, the Borough Planning Officer had recommended that the Section 112 Compulsory Purchase Order remained in force with respect to 1-23 Copenhagen Street, although they had been listed in August 1973, that is to say he was recommending the demolition of these houses, knowing them to be listed.

It is difficult therefore to understand in which way the circumstances had changed, except that restoration was well advanced on a number of houses in Copenhagen Street. It is likely that members had made it clear to the Borough Planning Officer that they were not in favour of demolition, since they could appreciate the potential of the houses following the restoration of the facades.

- h. The Council would need to show it could only achieve a comprehensive development of the area by the acquisition of 1-23 Copenhagen Street and the Borough Planning Officer had conceded that the retention of both terraces would not unduly inhibit the proper re-development of the Culpeper Area

As has been shown, the planning background to the Angel and Culpeper Areas was characterised by constant changes in approaches and motivation from 1964 to 1975.

Therefore the Council were proposing to acquire 16-62 Barnsbury Road and 1-23 Copenhagen Street to increase their ownership of land in these areas, although they had no firm plans for the Culpeper Area and the terraces were located on the peripheral boundaries of the area.

The Borough Planning Officer's report of the 28th November 1972 stated that the conversion of 16-62 Barnsbury Road would be unsatisfactory, the retention of the houses would prevent the beneficial development of the Culpeper Area and the houses should be demolished.

Thus, it was clear that the Borough Planning Officer was incorrect on all fundamental issues he had presented in support of the Section 112.

iv. Conclusions

The primary conclusion in this case example is that the decision to adopt, and later proceed with the Section 112 action was closely related to the part III Compulsory Purchase Order action it replaced, and was more influenced by political than by town planning objectives.

The reports submitted by the Borough Solicitor and Borough Planning Officer in November and December 1972 contained much inaccurate, biased and irrelevant information. The campaign objective was to demonstrate the inherent weakness of the Council's case by isolating the fundamental issues which had apparently influenced the Section 112 decision, in order to prove them wrong, doubtful or misunderstood.

Thus, the Borough Planning Officer was incorrect in saying the buildings were not worthy of listing, since they were subsequently listed grade II as of special architectural and historical interest by the Department of the Environment.

The Borough Planning Officers' claims that the conversions of 16-62 Barnsbury Road were not acceptable and the retention of the two frontages would prevent the beneficial redevelopment of the Culpeper Area, were demonstrated as untrue.

The question as to whether the Section 112 action was taken with a view to the demolition of the terraces was misunderstood by both members and officers of the Council.

The political motivation behind the Section 112 Compulsory Purchase Order was related to the strong anti-gentrification feeling prevalent in the Council in 1972, which was concerned mainly with the need to safeguard sitting tenants from harassment.

The Council observed the results of entrepreneurial action in 16-62 Barnsbury Road in that, not only were tenants provided with good living accommodation at cheap rents, but the majority of the tenants preferred to stay in the flats with which they had been provided.

The economic factors influencing speculation in houses between 1968 and 1973 were not in existence in 1974 and 1975, when the Council decided firstly to omit 16-62 Barnsbury Road and 1-23 Copenhagen Street respectively; indeed, the property market had collapsed and many speculators, developers and builders were facing bankruptcy.

Another factor was that the Labour Council of 1971 to 1974 was determined to pursue vigorous Socialist policies following the Conservatives' term of control of the Council from 1968 to 1971. Some of the policies adopted were probably influenced by an over-reaction against Tory policies, but gradually, over the period 1971 to 1974, these were amended and became more moderate.

Thus the political motivation behind the Section 112 Compulsory Purchase Order was waning in parallel with the demonstrable erosion of the town planning objectives implicit in the Order.

These two parallel situations can be shown diagrammatically, (see figs. 6.23 and 6.24).

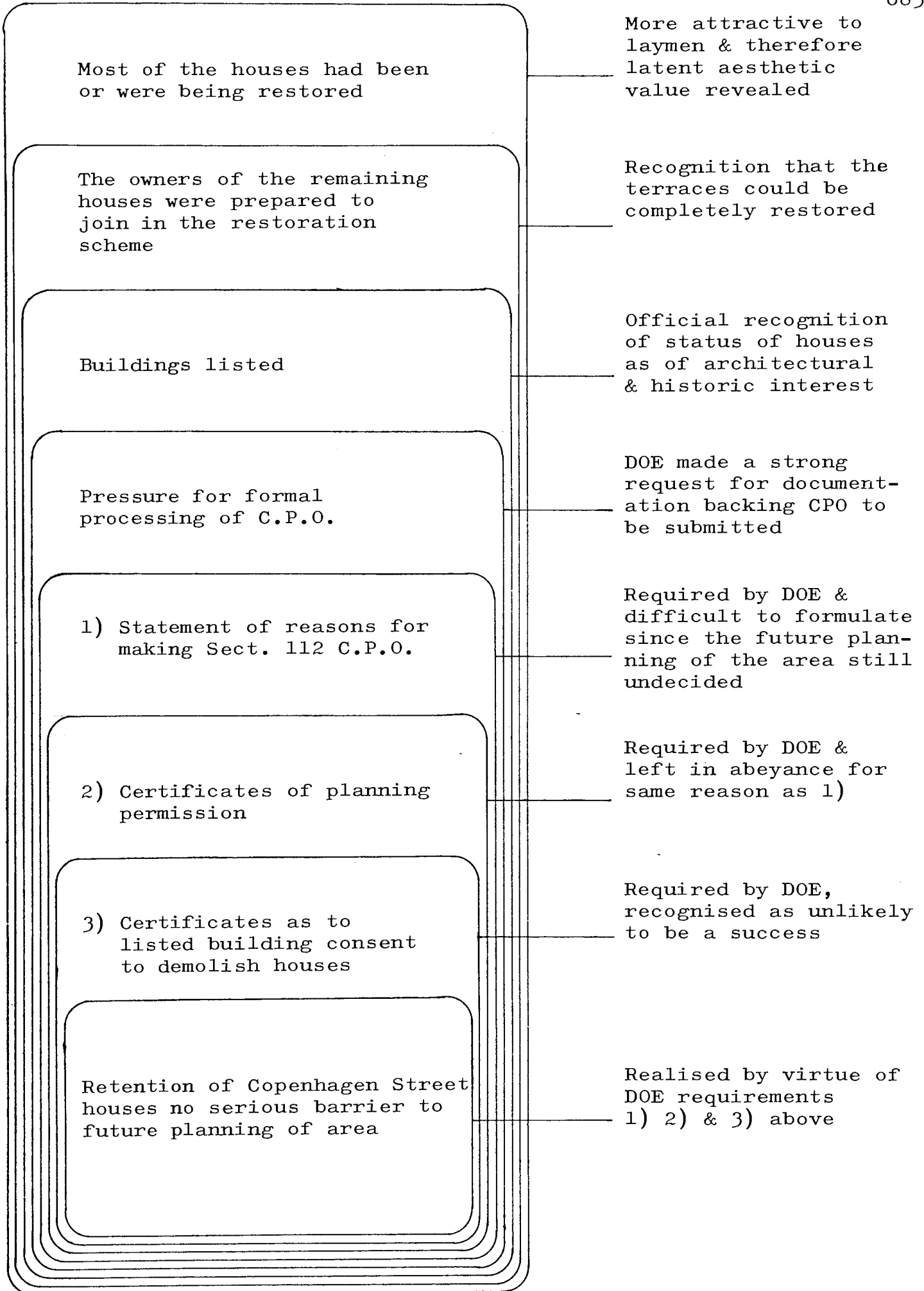
The characteristics in the selection of other case examples were identified as follows:

- a. Housing in the Barnsbury Area or in a similar area;
- b. Housing blighted since 1951;
- c. Housing which was listable being proposed for demolition;
- d. Housing of a similar age and style;
- e. Housing which had been condemned to demolition by a confirmed part III Compulsory Purchase Order, but which had been subsequently listed.

The issues to be tested in case examples were identified as follows:

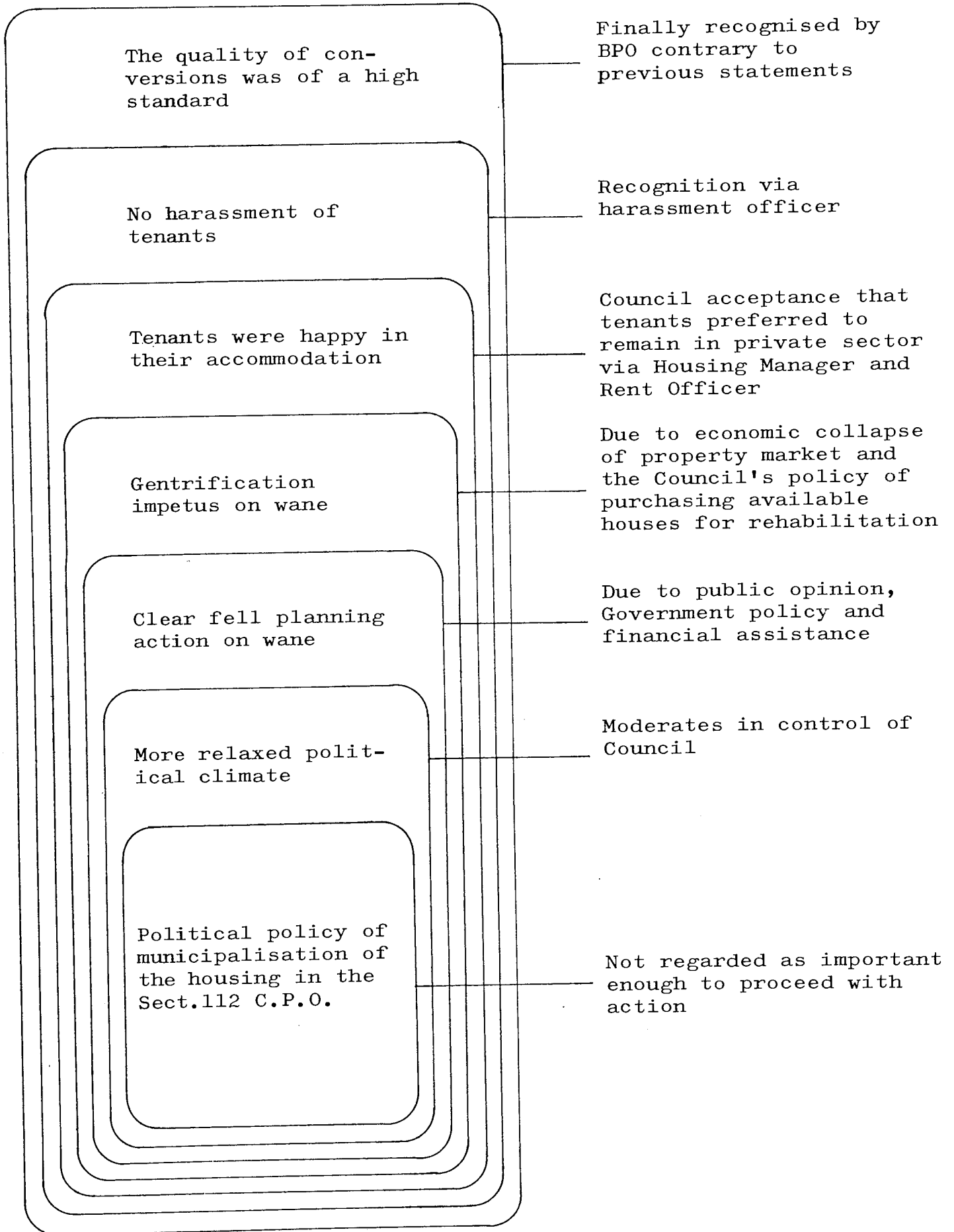
- a. That land-use zoning can be dealt with flexibly;
- b. That architectural and townscape quality can affect decisions;
- c. That political motivation is a powerful force and often results in a bias in officers' recommendations.

An overall view of the parallel conclusion in the various case examples will be included in the final summary of conclusions section of the thesis.



DIAGRAMMATIC EXPRESSION OF THE REDUCTION IN THE FIELD OF DECISION AT THE TIME THE BOROUGH PLANNING OFFICER BOROUGH SOLICITOR RECOMMENDED THE RESCINDMENT OF THE fig. 6.23





DIAGRAMMATIC EXPRESSION OF THE REDUCTION IN THE POLITICAL FIELD OF DECISION AT THE POINT WHEN THE COUNCIL DECIDED TO RESCIND THE LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD) CPO 1973 UNDER SECTION 112 OF THE TOWN & COUNTRY PLANNING ACT 1971

fig. 6.24