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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

VOL III

A Thesis submitted for the
degree of Doctor of Philosophy

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THE METROPOLITAN BOROUGH OF ISLINGTON (LONSDALE PLACE)
COMPULSORY PURCHASE ORDER 1962

PART III HOUSING ACT 1957

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
 - a. Land-use background to the area
 - b. Architectural and townscape description of the area
 1. Liverpool Road
 2. Barnsbury Street
 3. Lonsdale Place
- iv. An explanation of the long-term planning proposals for the area 1960 - 1980

SECTION II THE PUBLIC ENQUIRY

- i. Background
- ii. The enquiry
 - a. The Council's case
 - b. The Inspector's decision
- iii. Initial conclusions

SECTION III THE REDEVELOPMENT SCHEME

SECTION IV CONCLUSIONS

I INTRODUCTION

i. Preamble

The Metropolitan Borough of Islington (Lonsdale Place) Compulsory Purchase Order 1962 was the formal title given to a part III Compulsory Purchase Order of an area in the centre of Barnsbury; this was represented to the Metropolitan Borough of Islington on 2 March 1962. In 1963 the Metropolitan Borough of Islington was amalgamated with the Metropolitan Borough of Finsbury to form the London Borough of Islington; this resulted from the implementation of the London Government Act as was explained earlier. This case example is therefore initially concerned with differently constituted authorities to those involved in the other case examples in this work.

Thus we were initially concerned here with the London County Council as the strategic planning and transportation organisation, the Metropolitan Borough of Islington operating on a local level, and later with the Greater London Council and the London Borough of Islington.

This case example was selected as, in contrast to the previous three case examples, it appeared that the Council made a good decision and the interplay of other influences upon the central issue of fitness as defined in the Act, is well illustrated.

Thus this case example is considered as a 'control' for the comparison of Part III decisions which resulted in the demolition of houses and the redevelopment of cleared sites in the Barnsbury Conservation Area.

The next case example, (Keystone Crescent), will be concerned with the analysis of the alternative 'control'; it will examine a Council decision to rescind a Compulsory Purchase Order on aesthetic and social grounds.

This case example examines the factors which influenced the Council's ultimate decision to proceed with Part III action, and analyses the decision made by the Ministry of Housing's Inspector, which was confirmed by the Minister on 15 August 1963 following a local Public Enquiry on 26 March 1963.

ii. Definition of the Boundaries of the Area

The area originally identified for Part III action was a terrace of small houses occupying .263 of an acre, nos. 2-11 Lonsdale Place. The London County Council and the Metropolitan Borough Council considered the inclusion of other houses and buildings in the area from time-to-time. These included 227-235 Liverpool Road, 55-73 Barnsbury Street, 13-17 Lonsdale Place and 1-16 Lonsdale Place (see map fig.7.01). However, the Council finally resolved to proceed with the Compulsory Purchase Order on the originally selected terrace of houses 2-11 Lonsdale Place.



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iii. Architectural & Townscape Description of the Area

a. Land-Use Background to the Area

As will be shown later, the offices of the two Councils involved in the planning of Islington sought to extend the area of interest beyond 2-11 Lonsdale Place, to include 1-16, 14-17 Lonsdale Place, 227-279 Liverpool Road and 55-73 Barnsbury Street. This area was developed between 1820-40, primarily as a residential area, which incorporated a small parade of shops in Barnsbury Street extending to include 279 Liverpool Road.

Gradually, as Islington lost its popularity as a middle-class residential area, the houses in Liverpool Road and some of the shops in Barnsbury Street were taken over by small light industrial users. Thus this area was characterised by a considerable mixture of small-scale non-confirming users which had resulted from laissez-faire town planning over a period of time. As will be shown later, the Councils were anxious to rationalise the land use of the area as a major planning objective.

b. Architectural & Townscape Description of the Area

1. Liverpool Road

The housing comprising nos. 263-279 Liverpool Road were three storey over basement flat fronted buildings which had been greatly re-built and altered (see photograph fig. 7.02). Some of the buildings had retained the

original narrow front basement areas and others had later incorporated pavement lights. Nos. 227-261 Liverpool Road were originally built in a set-back position from the road and subsequently the front gardens had been developed as single story factories (see photograph fig. 7.03). Although a number of the buildings were of some architectural interest the overall townscape character of the street was run-down and lacked any unifying architectural continuity; the street had a restless and visually unattractive appearance. (See photograph fig. 7.02).

2. Barnsbury Street

The housing comprising nos. 55-65 Barnsbury Street were two storey buildings and 57-65 incorporated shops at ground level. Nos. 67/69 was a three-storey post-war building providing shops at ground level and two flats above. No. 71 Barnsbury Street was an attractive public house which had been converted into a residence in 1963. Although lacking architectural unity, the overall character of this part of Barnsbury Street had a charm which resulted from its small scale and mixed use; this was in contrast to the formality of the classic design of the north and south terraces of Barnsbury Street located to the west. This contrast was heightened by the focal attention achieved by the vista-closure effected by 28 Barnsbury Street; this resulted from the kink in the road layout in this part of Barnsbury Street. (See map fig. 7.01 and photographs figs. 7.04 and 7.12)



205 - 259 LIVERPOOL ROAD, SHOWING SINGLE-STOREY FACTORY EXTENSIONS BUILT OVER ERST-WHILE FRONT GARDENS

fig. 7.03



PHOTOGRAPH SHOWING ROAD LAYOUT TO BARNSBURY STREET fig. 7.04



71-73 BARNSBURY STREET FRONT FACADE

fig. 7.05



Nos. 71-73 Barnsbury Street were four storey over basement houses which formed part of the classic layout of upper Barnsbury Street. The ground floors were stuccoed and incorporated semi-circular headed windows and doors. The upper windows were articulated with stucco mouldings and pediments and the front facade was capped with a stucco cornice. (See photographs figs. 7.05 & 7.06). These buildings were effectively listed in 1966 as being of architectural and historic interest.

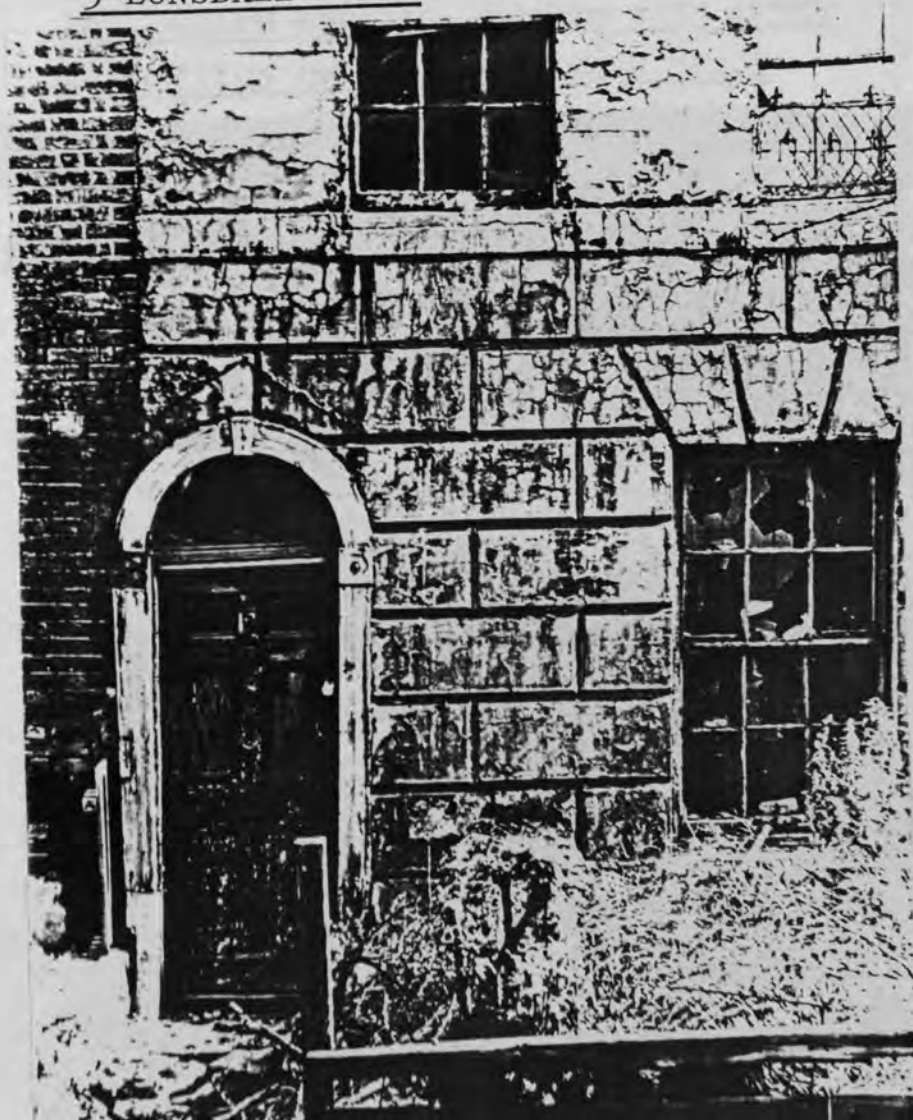
3. Lonsdale Place

The housing comprising nos. 3-11 Lonsdale Place was mainly two storey high although one house had been subsequently provided with an extra storey. The facades of all except no. 5 were built in London stock brickwork with square cut windows and door openings; no. 5 Lonsdale Place had been attractively stuccoed subsequently but allowed to fall into an advanced state of dereliction, (see photograph fig. 7.07). The houses were provided with front gardens approximately 15' x 13' in size. No. 2 Lonsdale Place had been re-built in 1962 and was of poor architectural quality (see photograph fig. 7.08). Nos. 14-17 Lonsdale Place had been demolished, and the cleared site was used for the manufacture of concrete components (see photograph fig. 7.09); this was associated with the factory opposite (see photograph fig. 7.10). No. 16 Lonsdale Place was a repair garage (see photograph 7.11). The overall townscape character of Lonsdale Place was one of considerable neglect and visual



5 LONSDALE PLACE

fig. 7.07





PHOTOGRAPH SHOWING CLEARED SITE AFTER
DEMOLITION OF 14-17 LONSDALE PLACE

fig. 7.09



THE EAST ELEVATION OF THE LONSDALE PRECAST
CONCRETE FACTORY

fig. 7.10



THE LONSDALE PLACE GARAGE WITH THE LONSDALE
PRECAST CONCRETE FACTORY TO THE SOUTH

fig. 7.11



iv. An Explanation of the Long-Term Planning Proposals for
the Area 1960-1980

As was shown in the preceeding section the area was one of considerable variety in land-users including small factories, shops, offices, workshops, open air work areas, houses, flats and a garage. Moreover the buildings had a seedy run-down appearance which looked ripe for re-development.

Accordingly, the Initial Development Plan 1951 showed the area zoned for residential use and therefore implied the removal of the non-conforming users.

In 1960 the houses in 3-11 Lonsdale Place were identified by the Public Health Officer for slum clearance and this recommendation was endorsed by the Medical Officer of Health and the Metropolitan Borough of Islington and was accordingly included in the Council's slum clearance programme. (189)

In 1961 the London County Council planners recommended the inclusion of 67-71 Barnsbury Street, the rear of 20 Lonsdale Square and 1-16 Lonsdale Place in order to allow the widening of the Lonsdale Place carriageway and the improvement of the road junction with Barnsbury Street to the north.

(189) The information which follows was provided verbally by officers of the London Borough of Islington and it has not been possible to check the statements with Council documents.

It should be noted that the existing carriageway was extremely narrow, being approximately 13', and was provided with a pavement only on the east side (see map fig. 7.01).

Later in 1961 the London County Council Highway Engineers recommended the inclusion of 227-235 Liverpool Road to allow a road widening scheme as Liverpool Road was a busy and well-used vehicular alternative to the A1 (Upper Street) which avoided the Highbury Corner junction.

On 2 March 1962, the Housing Committee of the London Borough of Islington decided to proceed with the originally identified Part III area. This decision was apparently made on financial criteria, since the road widening scheme envisaged by the London County Council engineers could not be funded from the Housing Account and the London County Council were not prepared to make good the deficit.

Following this decision, the London County Council further exhorted the London Borough of Islington to reconsider the Compulsory Purchase Order boundaries and recommended the further inclusion of 14-17 Lonsdale Place, 55-75 Barnsbury Street "for the completely satisfactory development of the area". (190)

(190) This information was given verbally by a senior planning officer of the London Borough of Islington (quoting London County Council information to the Metropolitan Borough of Islington, dated 17.9.62). It has not been possible to inspect this document.

However, the Metropolitan Borough of Islington proceeded with the formal representation of the Compulsory Purchase Order to the Ministry of Housing and Local Government, and a public enquiry date was fixed for 26 March 1963.

In the meantime, during the period around the end of 1962 and the beginning of 1963, the officers of the Metropolitan Borough of Islington recommended the implementation of the London County Council's recommendations to increase the area of the Compulsory Purchase Order. However, the Housing Committee of the Metropolitan Borough of Islington decided only to accept this recommendation if the London County Council would provide the additional finance required and take responsibility for rehousing the additional tenants who would be displaced by the implementation of their proposals.

The Minister's decision to confirm the Compulsory Purchase Order (with modifications) was made on 15 August 1963, at which time the Greater London Council finally stated they would not finance any deficit involved in the Compulsory Purchase of the other areas they wished to be included in the Council's site acquisition programme, and the London Borough of Islington decided to take no further Compulsory Purchase action.

However, in January 1967 the Greater London Council proposed that the London Borough of Islington implement a rolling programme of Part III and Part V Compulsory Purchase Orders to include 205-279 Liverpool Road, 55-71 Barnsbury Street and 1-16 and 4-17 Lonsdale Place. The London Borough of

Islington did not accept this recommendation since it was primarily motivated by road widening considerations and the Greater London Council were not prepared to fund the resulting deficits.

Thus we see in this case example a pure Part III situation which was not extended to include adjoining areas in spite of the exhortations of the London County Council and Greater London Council planners to make it the 'centre piece' of the replanning of the area.

The London Borough of Islington planners have now recognised and accepted the fact that 55-71 Barnsbury Street and 205-279 Lofting Road should be an area of mixed development and, with the removal of the planning blight, the area is being gradually upgraded on a piecemeal basis by private individuals (see photographs figs. 7.11, 7.12 & 7.13).

57 - 71 BARNSBURY STREET LOOKING WEST

fig. 7.12



57 - 71 BARNSBURY STREET LOOKING EAST

fig. 7.13



II THE PUBLIC ENQUIRY

i. Background

The Ministry of Housing's Inspector, who heard the Lonsdale Place enquiry on 26 March 1963, dealt with three other Compulsory Purchase Orders on the same day. (191)

This is an indication that there was no great opposition to the Compulsory Purchase Orders and that the issues the Inspector had to decide upon were relatively uncomplicated.

The writer was not an observer at the enquiry and the general case for the Council as set out below is taken from the Inspector's report. However, the writer was familiar with the houses before and after the enquiry and has interviewed the landlord and tenant of no. 2 Lonsdale Place.

ii. The Enquiry

a. The Council's Case

The only objector to the enquiry was the tenant of no.2 Lonsdale Place, which was included in the order as "added lands" and the Council's case was therefore primarily concerned with this property. The Council admitted the house was technically fit for human habitation except in its arrangement which they considered to be unsatisfactory as a dwelling.

(191) This information was contained in the Inspector's Report dated 15 August 1963, file nos. H1/728/13/5-8. The others were Holly Park no.4 Compulsory Purchase Order 1963, Hamilton Park Compulsory Purchase Order

The reasons given for this statement were as follows:

1. The house occupied the whole of the plot upon which it stood and therefore had no space at the rear.
2. The building consisted materially of a total of three habitable rooms on three floors, with no windows at the rear.
3. The rear wall was in poor condition.
4. The adjoining properties could not be demolished easily; such demolition if possible would involve difficulty and expense. 'An estimate of £600 was given as a probable cost.' (192)
5. The site upon which the house stood was required to allow the beneficial redevelopment of the Order land adjoining it to the south and those proposed to the north and east, that is to say 55-71 Barnsbury Street.

b. The Inspector's Decision

The Inspector decided to recommend that the Minister confirm the Part III Order for 3-11 Lonsdale Place and exclude 2 Lonsdale Place from the Compulsory Purchase Order. The Inspector's reasons for confirming the Compulsory Purchase Order are summarised as follows:

(192) Paragraph 8 supplement no. 2, File no. H1/728/10/18 which was attached to the Ministry of Housing & Local Government's letter to the Metropolitan Borough of Islington dated 15 August 1963.

1. the houses in 3-11 Lonsdale Place were all unfit because of degrees of disrepair, structural instability, dampness and lack of proper facilities for the storage of food;
2. the houses generally had defective brickwork to walls and chimney stacks, leaking roofs and broken or defective gutters, rotten or defective woodwork and loose and defective plaster to walls and ceilings.

The Inspector's reasons for recommending the exclusion of 2 Lonsdale Place can be summarised as follows:

1. the house was almost completely rebuilt and although it was not a through house, it was fit for human habitation; it has a bathroom and internal WC;
2. the rebuilding was approved by the District Surveyor both before and after its completion and it must therefore be assumed that it is a satisfactory unit of accommodation from a structural point of view;
3. there were no indications to show that the party wall could not satisfactorily be dealt with if it became necessary;
4. from the information obtained under cross-examination it emerged that the proposed redevelopment of Barnsbury Street would not take place for at least five years and might be considerably longer;

5. the acquisition of the house would be unduly expensive and would remain a vacant plot for some time; this appeared both unreasonable and unnecessary.

iii. Initial Conclusions

As was stated earlier the writer was familiar both with number 2 and 3-11 Lonsdale Place and in the writer's opinion the Inspector's decision was good in law and represented also a good practical decision.

It is implied in the Act that a part III Compulsory Purchase Order is virtually certain to be confirmed if there are no objectors. However, it is the writer's opinion that even if evidence had been submitted to suggest that the buildings could be made fit at reasonable cost, (this being the finite test of a part III Compulsory Purchase Order), the 'Appendix B' calculation would have shown this not to be the case.

It is also worth noting that the evidence submitted by the Council's witnesses that 55-71 Barnsbury Street was to be redeveloped within five years has proved to have been based upon false assumptions, since the Council decided in 1967 not to take any further Compulsory Purchase action in this area. The Minister confirmed the Compulsory Purchase Order on 18 August 1963.

Therefore it is clear that the part III Compulsory Purchase Order was properly represented and properly confirmed and

the intentions of the

Although the architectural quality of housing is not a criterion by which buildings were judged for slum clearance at that time, objections against part III Compulsory Purchase Orders were sometimes made by individuals and civic societies on conservation grounds.

In this case example no such objections were raised even though there were a number of active conservationists living in the immediate area; these included the writer.

Thus there were no conservation or architectural issues raised either with the Council or at the public enquiry.

It would now be worthwhile examining the redevelopment of the site within the context of the Barnsbury Conservation Area.

III THE REDEVELOPMENT SCHEME

Following the confirmation of the part III Compulsory Purchase Order on 15 August 1963 the Council's Valuers purchased 3-11 Lonsdale Place and by the end of 1966 the houses were demolished. The site was fenced and used as a temporary lorry park for refuse vehicles pending the Council making a decision regarding the acquisition of other adjoining properties as was explained earlier.

In May 1968 the Conservatives gained control of the London Borough of Islington and since one of their election promises was to encourage Housing Association activity in the Borough, the New London Housing Society opened negotiations for the purchase of the site for its redevelopment as a co-ownership housing scheme; these negotiations were carried out by the writer, who was a founder member of the Society.

Following the Council's decision not to extend their acquisition programme to include adjoining property, they suggested that the Housing Society should investigate the acquisition of 55-69 Barnsbury Street; at the same time the Council were negotiating the sale of their land to the Society.

The Society agreed the terms of acquisition of the Council's site with the London Borough of Islington and the Housing Corporation, but were unable to buy the Barnsbury Street houses since, with the removal of planning blight, the owners wished to retain and upgrade the properties themselves.

7

Accordingly, the Society bought the site from the London Borough of Islington at the end of 1970 and redeveloped it to the writer's design to provide 22 units of accommodation, 11 garages and an estate office (see drawing fig. 7.14)

The co-owners took occupation in December 1974 and they took over the management of the scheme from the sponsoring society in December 1977.

In 1977 the scheme won a Royal Institute of British Architects (NETAS) Commendation for the quality of the design of the building in its setting within the Barnsbury Conservation Area (see photographs figs. 7.15 and 7.16).

WESTERN ELEVATION - 3-22 LONSDALE PLACE

fig. 7.14

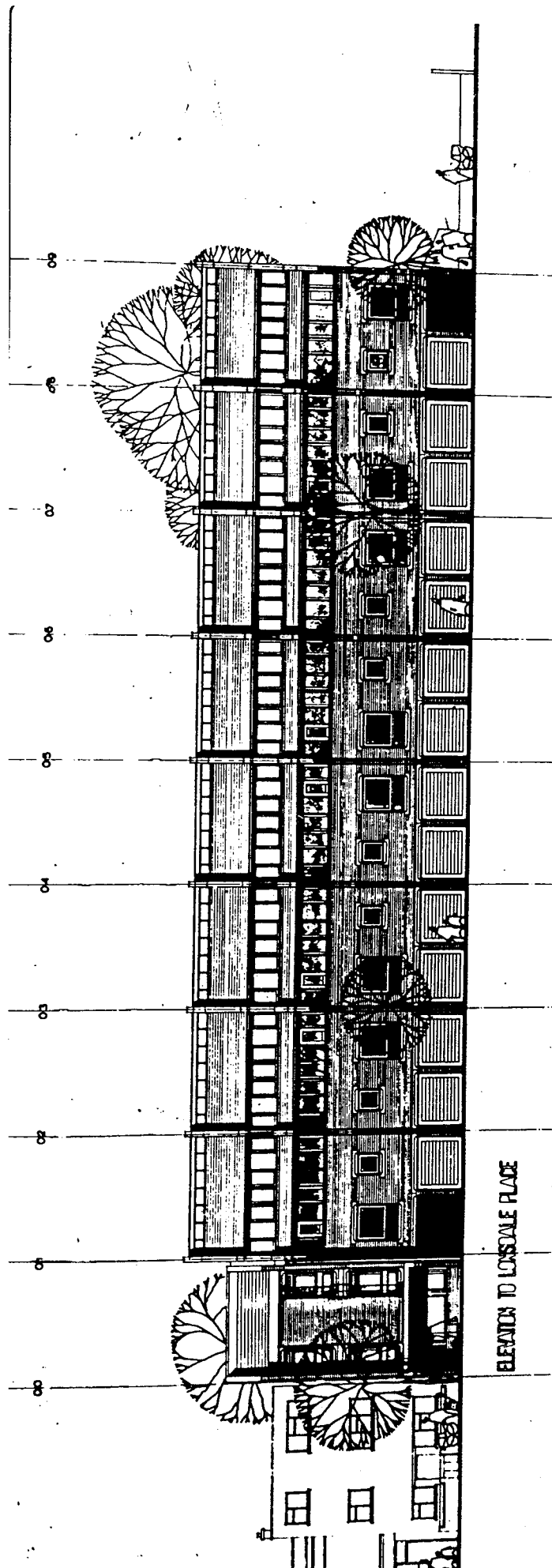


fig. 7.15



3-11 LONSDALE PLACE

fig. 7.16



IV CONCLUSIONS

The original houses were properly represented as unfit by the Medical Officer of Health and the Housing Committee of the Metropolitan Borough of Islington accepted their officers' recommendations and decided to take Part III action.

In spite of several attempts by officers of the London County Council and the Metropolitan Borough of Islington, the Housing Committee continued to regard the Part III as a slum clearance scheme per se and not as a vehicle for the realisation of Town Planning objectives. However, the Council were prepared to broaden the area of acquisition but not by the misuse of Part III.

The Compulsory Purchase Order was confirmed and buildings which were of poor visual quality were demolished and replaced by a new award-winning residential development.

Thus this case example represents an ideal 'control' in this work since the issues involved were clear-cut and the final outcome was successful. This was in contrast to the Barnsbury Road and Hemingford Road part III Compulsory Purchase Orders which were described earlier.

The Part III action in this case example can be summarised and illustrated diagrammatically, (see fig. 7.17).

CHAPTER EIGHT: CASE EXAMPLE 5

THE LONDON BOROUGH OF ISLINGTON (KEYSTONE CRESCENT)
COMPULSORY PURCHASE ORDER

PART III HOUSING ACT 1957

Structure of Case Example

SECTION I INTRODUCTION

- i. Preamble
- ii. Definition of the area boundaries
- iii. Architectural and townscape description
of the area
- iv. An explanation of the long-term planning
proposals for the area 1951-1971

SECTION II ACTION TAKEN BY THE LONDON BOROUGH OF ISLINGTON

SECTION III ACTION TAKEN BY OWNERS AND RESIDENTS

SECTION IV ACTION BY THE ISLINGTON CONSERVATION AREAS
ADVISORY COMMITTEE

- i. Narrative
- ii. Initial conclusions

SECTION V CONCLUSIONS

I INTRODUCTION

i. Preamble

This case example is concerned with a proposed part III Compulsory Purchase Order which following a reappraisal of the area by the Borough Architect and the Borough Planning Officer, was abandoned by the Council. The proposed area included 1, 2, 2a, 10-17, 18-22 Keystone Crescent and 24-28 Caledonian Road in the Kings Cross ward of the London Borough of Islington.

In the mid 1960's the houses were identified for Part III action and were included in the Council's slum clearance programme 1971-1975. In 1970 the Council designated the Crescent and some adjoining lands as a Conservation Area; this was centred around the Crescent and was entitled Conservation Area no 14: Keystone Crescent.

This case example was selected as, in contrast to other examples in this work, the Council decided to abandon Part III action in order to allow the existing owners to make their houses fit. This decision was motivated by aesthetic and social objectives and it is for this reason that the case example represents a good 'control' for comparison with other actions taken by the Council under Part III.

This 'control' is an alternative to that described in the preceding case example concerned with the Lonsdale Place part III Compulsory Purchase Order, and it examines the factors which influenced the ultimate decision to abandon Part III action and the results of this decision up to the present time.

ii. Definition of the Area Boundaries

The housing identified for Part III action included 1, 2, 2a, 10-17, 18-22 Keystone Crescent and 24-28 Caledonian Road in the Kings Cross ward of the London Borough of Islington (see map fig. 8.01).

iii. Architectural and Townscape Description of the Area

a. Keystone Crescent

The housing comprising Keystone Crescent was built in 1840 and, as its name implies, they were developed on a crescent-shaped plan form.

The houses were small in scale although comprising three storeys over semi-basements.

The front facade was built in London Stock brickwork, incorporating semi-circular heads to ground floor doors and windows and flat-cut arches to the remaining windows.

The top floors were mansarded, clad in Welsh slates and incorporated pitched roofed dormer windows.

The houses were not formally listed as of architectural and historic interest, but are now proposed for the statutory list. (see photographs figs. 8.02 and 8.03)

b. 24-28 Caledonian Road

These buildings were three storeys over a ground floor shop. The upper facades were in London stock brickwork and windows were embellished with moulded stucco surrounds. The shops projected approximately 3'0" in front of the main facade (see photograph fig. 8.04).

iv. An Explanation of the Long Term Planning Proposals for the Area 1951 - 1971

The Keystone Crescent Area was originally zoned for commercial and industrial development in the Initial Development Plan 1951; the plan was confirmed by the Minister in 1955. Following the designation of the Keystone Crescent Conservation Area in December 1971, the London Borough of Islington decided to abandon the Initial Development Plan and allowed the site to remain in residential use.

KEYSTONE CRESCENT

fig. 8.02



KEYSTONE CRESCENT

fig. 8.03



SHOP FRONTS TO 24-28 CALEDONIAN ROAD

fig. 8.04



II ACTION TAKEN BY THE LONDON BOROUGH OF ISLINGTON

Conservation Area No 14: Keystone Crescent was designated on 28 July 1970 and the Crescent was the heart of the Conservation Area as can be seen from the map of the Conservation Area fig. 8.05.

However, 1-17 Keystone Crescent had already been identified for Part III action and had been included in the slum clearance programme 1971-75. Therefore, it is clear that there was a conflict between the two decisions since, on the one hand the Part III action, if successful, would result in a statutory obligation on the part of the London Borough of Islington to demolish the buildings and, on the other hand the designation of the Conservation Area around the Crescent implied that the Council thought the houses should be retained.

The situation at this point can be represented diagrammatically see fig. 8.06.

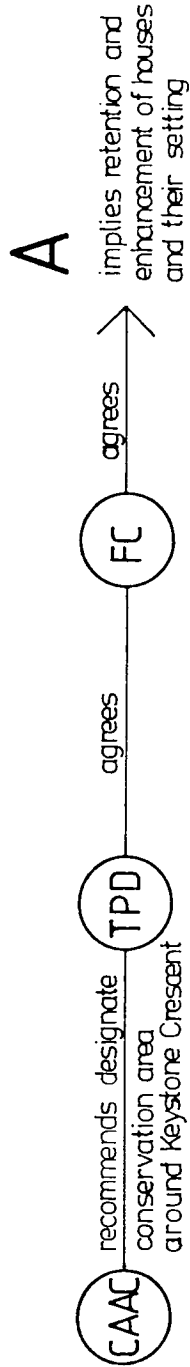
A similar situation existed in the Hemingford Road and 163-185 Barnsbury Road case examples which are examined later in this work.

It has not been possible to inspect the primary sources of information in person and the information set out below was provided verbally by officers of the Town Planning Department. (193)

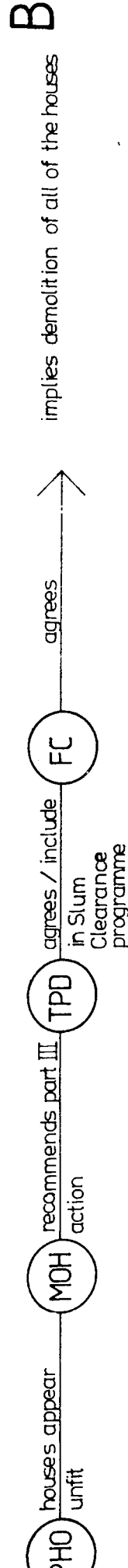
(193) I am indebted primarily to Christopher McCarthy, a senior Town Planner in the London Borough of Islington Town

KEY

- PHO PUBLIC HEALTH OFFICER
- MOH MEDICAL OFFICER OF HEALTH
- TPD TOWN PLANNING / DEVELOPMENT COMMITTEE
- CAAC CONSERVATION AREA ADVISORY COMMITTEE
- FC FULL COMMITTEE



SEE DIAGRAM 8.07



A DIAGRAMMATIC REPRESENTATION OF THE CONFLICT RESULTING FROM THE DECISION TO DESIGNATE KEYSTONE CRESCENT WITH A CONSERVATION AREA WHILST IT WAS INCLUDED IN THE COUNCIL'S SLUM CLEARANCE PROGRAMME fig. 8.06

In February 1971 the Council instructed the Medical Officer of Health to reconsider their earlier Part III recommendations. The brief was confirmed as follows:

"The investigation of this Department will be concerned to discover:

- a. the degree of unfitness of the properties and the various factors constituting this unfitness;
- b. what works are practical to restore fitness;
- c. are there any other measures (e.g. partial demolition of the terrace) which would provide a practical answer." (194)

The survey was carried out by the Borough Architect's Department on behalf of the Medical Officers of Health, and he reported that 2-2a, 11 and 15 Keystone Crescent were fit and the remainder were unfit.

The items of unfitness were summarised as follows:

- "a. Defective and sagging roofs;
- b. settled floors;
- c. some fracturing and bulging of walls;
- d. rising and penetrating damp;
- e. inadequate window areas in basement accommodation;
- f. insufficient natural ventilation to basement accommodation."

(194) These are direct quotes from Christopher McCarthy of the London Borough of Islington Town Planning Department.

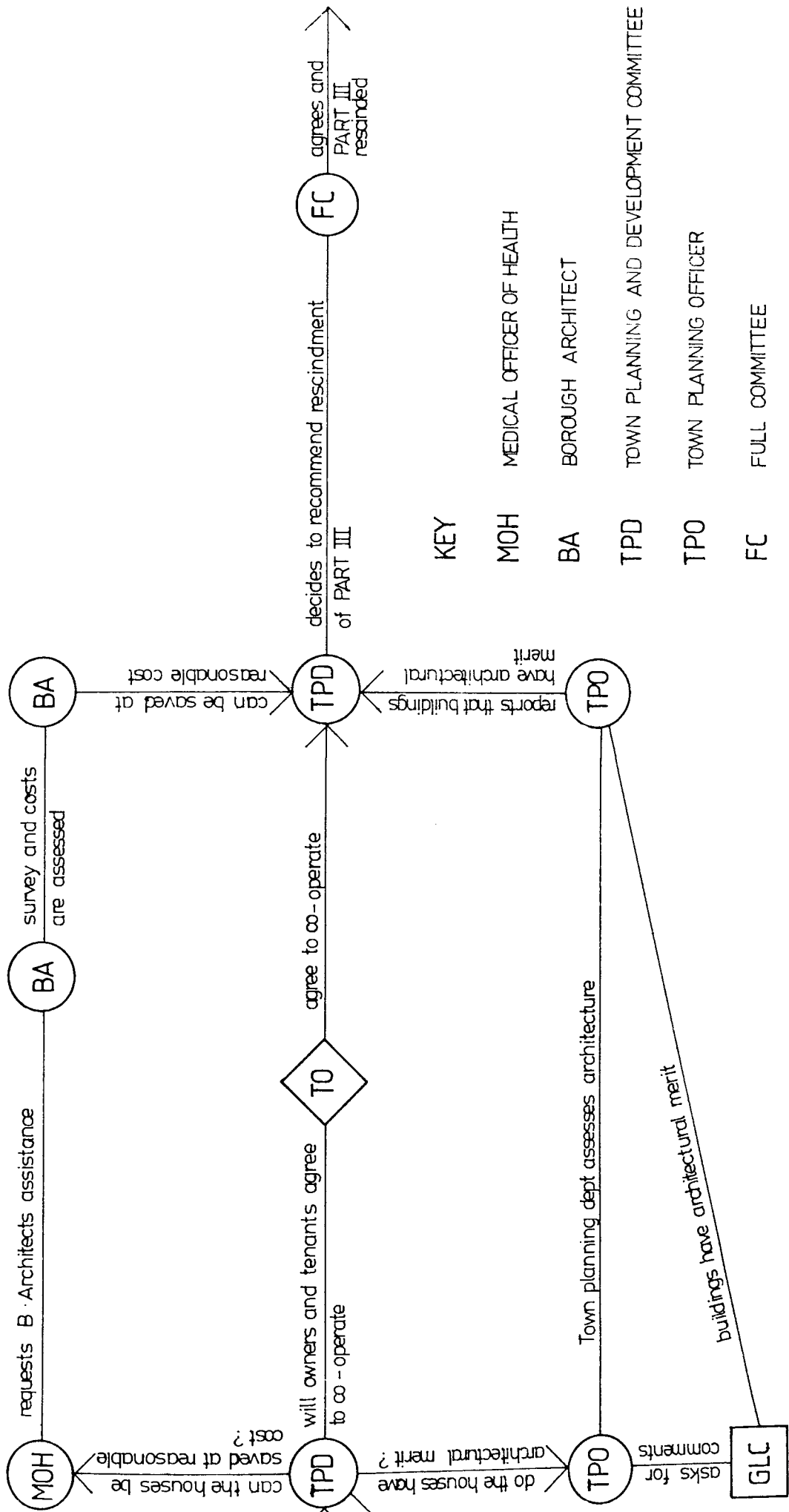
The Borough Architect reported that the works required to make the houses fit were not excessive and he stated that the buildings were capable of restoration at reasonable cost in the meaning of the 1957 Act.

The Borough Planning Officer recommended the retention of the houses and "emphasised the Conservation Area aspects and the 'niceness' of the Street." (195)

These reports were considered by the Town Planning & Development Committee on 16 February 1971, following receipt of representations from a body of residents of the area to remove the planning blight which had resulted from the inclusion of Keystone Crescent in the council's Slum Clearance Programme.

On 15 June 1971, the Town Planning & Development Committee resolved to give the owners and residents two months in which to draw up and present proposals for the necessary remedial and up-grading works.

The owners and residents of all except No. 1 Keystone Crescent produced their programme and recommendations; these were considered by the Town Planning & Development Committee on 7 December 1971, when it was decided to abandon the Part III action. The situation at this point may be expressed diagrammatically see fig. 8.07. At the



AM 8.06

- KEY
- MOH MEDICAL OFFICER OF HEALTH
 - BA BOROUGH ARCHITECT
 - TPD TOWN PLANNING AND DEVELOPMENT COMMITTEE
 - TPO TOWN PLANNING OFFICER
 - FC FULL COMMITTEE
 - GLC GREATER LONDON COUNCIL (historic buildings dept)
 - TO TENANTS and OWNERS

fig. 8.07

DRAMATIC REPRESENTATION OF THE ABANDONMENT OF THE
III ACTION, RESULTING FROM THE RECOMMENDATIONS
SENT BY THE OWNERS AND RESIDENTS

same time the Committee instructed the Medical Officer of Health to pursue the objective of dealing with the slum conditions by the use of Part II of the Housing Act 1957, that is to say by the use of normal Public Health Powers.

The Council decided to proceed against the owner of no. 1 Keystone Crescent under Part V of the Act, but, following the carrying out of a scheme of improvement, this decision was rescinded.

III ACTION TAKEN BY OWNERS & RESIDENTS

One of the leaders of the owners' and tenants' campaign converted his house for £2,000 in 1972-73. However, this figure did not include the cost of inserting a damp proof course into the basement walls; this work has been done recently. (196)

The works included rewiring and replumbing the house and installing a new bathroom and kitchen. Essential repairs were carried out concurrently and were included in the price quoted above. The owner occupiers of six other houses carried out similar works for similar prices.

Seven houses were owned by an absentee landlord who initially promised to carry out improvement works but, prior to the London Borough of Islington's decision to abandon their proposed Part III action, he changed his mind and sold all the houses to an entrepreneur for an average price of £1,100. (197)

The entrepreneur was an Italian linguist by profession and the majority of the houses were tenanted by Italians, whose English was rudimentary. The entrepreneur was therefore able to communicate with her tenants and obtained

(196) Mr. Kelly was a prominent personality in the campaign mounted by the owners and occupiers to save Keystone Crescent. I am indebted to Mr. Kelly for the information contained in this section of the case example.

(197) Ibid.

their confidence and co-operation in her plans for the upgrading of the properties. Accordingly, the necessary works were carried out and completed to the satisfaction of the tenants and the Council. (198)

Ten other houses were bought between 1972 and 1976 and have been converted for owner-occupation.

The remaining houses are still owned by absentee landlords who have carried out the necessary works to ensure that the housing is fit for human habitation.

As far as the writer is able to ascertain, the Council did not have to threaten the use of Part II of the Housing Act 1957 against any of the owners of the houses. Therefore, this case example illustrates an alternative course of action to Part III and thus represents a useful 'control', against which to consider the other part III Compulsory Purchase Orders which are analysed in this work.

IV THE ACTION BY THE ISLINGTON CONSERVATION AREAS
ADVISORY COMMITTEE

i. Narrative

The boundaries of Conservation Area no 14: Keystone Crescent, as designated on 28 July 1970, are indicated on the map fig. 8.05.

"The area was designated for the quality and cohesive character of its early mid-19th century terraces. It extends along Caledonian Road from Keystone Crescent to Wynford Road and All Saints Street and includes Keystone Crescent and some other early terraces to the east of Northdown Street, Killick Street and Southern Street". (199)

In July 1975 the Conservation Areas Advisory Committee considered the extension of the Conservation Area boundaries in principle, as a result of which the Council's planners investigated the conservation potential of the surrounding areas. In July 1976 the Borough Planning Officer presented his formal recommendations to extend the Conservation Area to the Planning Committee who approved them. Accordingly, the Borough Planning Officer consulted the Greater London Council Historic Buildings Division who "welcomed them and offered to collaborate in future preservation and enhancement policies." (200)

(199) Quote from Borough Planning Officer report to the Conservation Areas Advisory Committee 5 July 1976,

Subsequently, the London Borough of Islington confirmed the Conservation Area boundary revisions and the statutory procedures were completed in March 1977.

The revised and extended Conservation Area is shown on map fig. 8.05 which shows the extension westward to include Wharfdale Road, Balfe Street, Northampton Street and the west side of Caledonian Road.

ii. Initial conclusions

The original Conservation Area was small and was designated mainly for the architectural value of Keystone Crescent which gave its name to the Conservation Area.

Following the establishment of the Conservation Area and the up-grading of Keystone Crescent by the owners and 106-140 Caledonian Road by the London Borough of Islington, the opportunity arose for including the adjoining terraces in the Area in order to consolidate the architectural and townscape character of the area.

The retention of Keystone Crescent was an important aesthetic, social and public relations factor in the decision to extend the Conservation Area.

V CONCLUSIONS

Since the Medical Officer of Health had recommended that Keystone Crescent be included in the Borough's slum clearance programme, it follows that he considered the houses to be unfit for human habitation and therefore that they could not be made fit at reasonable cost.

However, following the Borough Architect's Department's survey in which the points of unfitness had been identified, listed and the necessary improvements and repairs had been costed, it emerged that the houses were capable of being made fit at reasonable cost.

Accordingly, the Council removed Keystone Crescent from its slum clearance programme and abandoned its proposed Part III action.

Subsequently, the owners and occupiers carried out the necessary works, and it is clear from the writer's discussions with one of their major spokesmen that they considered the repair and improvement costs to be reasonable in practical terms.

Thus it is clear that the houses were not properly represented as slums in the first place and it was likely that, had the Council proceeded with Part III action, the Compulsory Purchase Order would not have been confirmed.

It is interesting to note that the Medical Officer of Health's and Borough Architect's reports did not mention the question of inherent unfitness due to the arrangement of the houses in their streets, in spite of the fact that, as can be seen on the Ordnance Survey map fig. 8.01, the rear gardens of some houses were extremely small or indeed, in some cases, non-existent.

It is also interesting to note that, in contrast to the justification of Part III action taken in the Hemingford Road and 16-62 Barnsbury Road case examples, there was no mention of the lack of amenity spaces, garaging and car parking opportunities in the area.

Even more significant is the fact that there was no long-term planning objective for the area.

From this case example it has emerged that the conservation and social consequences of a successful part III Compulsory Purchase Order were not desirable and, in the absence of any other motivating factor to support an action which would have resulted in the houses being acquired by the Council for demolition, it was decided to abandon the proposed part III Compulsory Purchase Order.

This case example can be expressed diagrammatically see fig. 8.08.

MEDICAL OFFICER OF HEALTH

BOROUGH ARCHITECT

PUBLIC HEALTH OFFICER

HOUSING COMMITTEE

TOWN PLANNING OFFICER

TOWN PLANNING DEPARTMENT

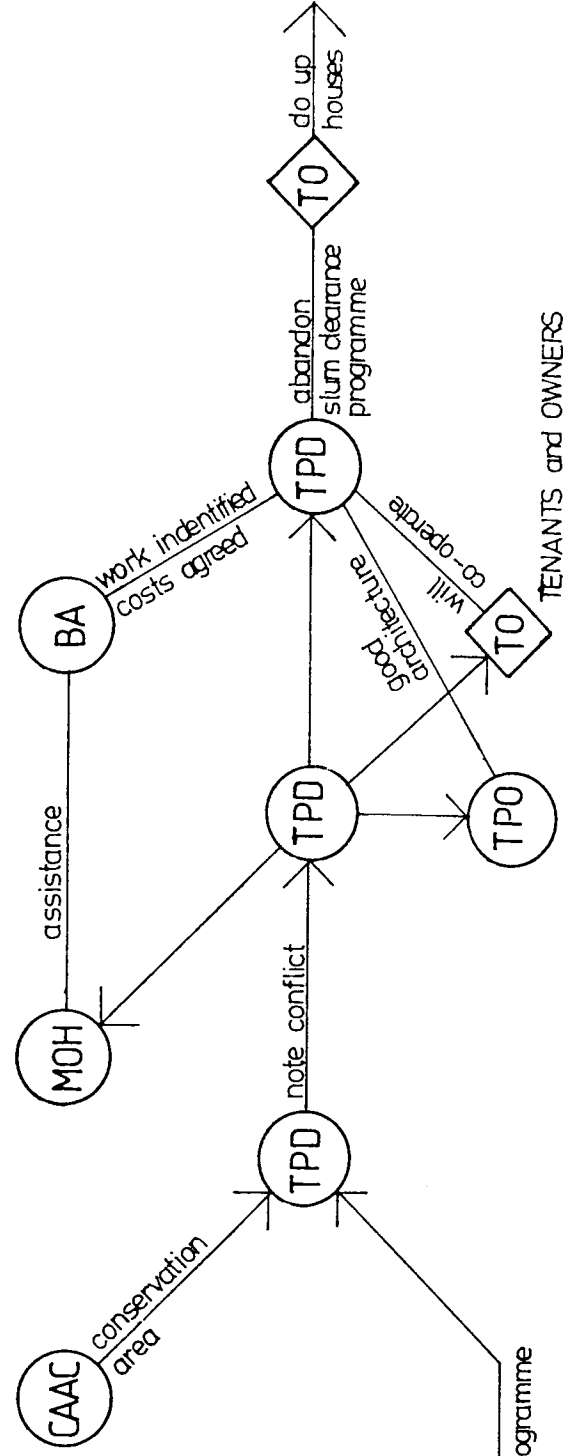
unfit

MOH

unfit

HC

included in LBI
Slum Clearance Programme



AGRAMMATIC REPRESENTATION OF THIS CASE EXAMPLE

fig. 8.08

CHAPTER NINE: CASE EXAMPLE 6

THE LONDON BOROUGH OF ISLINGTON (BARNSBURY ROAD)
COMPULSORY PURCHASE ORDER 1975

PART III HOUSING ACT 1957

PART V HOUSING ACT 1957

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 long-term planning proposals for the area 1951 - 1976

SECTION II AN ANALYSIS OF THE FACTORS WHICH INFLUENCED THE HOUSING COMMITTEE'S DECISION TO TAKE PART III C.P.O. ACTION, AND THE RESPONSES OF THE PLANNING COMMITTEE AND OTHER INTERESTED PARTIES TO THAT DECISION

SECTION III THE ACTION TAKEN BY THE OBJECTORS

SECTION IV AN ANALYSIS OF THE ACTIONS OF THE COUNCIL FOLLOWING THE LISTING OF THE BUILDINGS

SECTION V CONCLUSIONS

I INTRODUCTION

i. Preamble

This case example is concerned with a part III Compulsory Purchase Order which was rescinded by the Council, following the listing of the Order buildings by the Secretary of State for the Environment.

The proposed Compulsory Purchase Order area included 163-185 Barnsbury Road, which were represented as slums, and 88/90 Richmond Avenue which were included as 'added lands'. The houses were located in the central part of the Barnsbury Conservation Area.

In the mid 1960's, the houses were identified for Part III action and were included in the Council's slum clearance programme 1971 to 1975.

This example examines a different situation to those found in case examples 2, 5 and 7.

When the Council rescinded their part III Compulsory Purchase Order on 16-62 Barnsbury Road, they decided to do this before it was listed, since it had been proved 'on the ground' that the houses were capable of being made fit at reasonable cost.

In the Keystone Crescent case, the Council rescinded its part III Compulsory Purchase Order before the buildings had been listed, because the Crescent had been subsequently recognised as the 'cornerstone' of a newly designated Conservation Area; it was subsequently re-appraised and found not to be a slum clearance area, since the houses were capable of being made fit at reasonable cost.

The Shepherdess Walk case is similar to this example, in that the houses were listed after the Council had decided to take Part III action, but is different insofar as the Shepherdess Walk Compulsory Purchase Order was rescinded by virtue of the Secretary of State's refusal to grant Hackney listed building consent to demolish the buildings.

This case example examines the factors which influenced the Council's decision to abandon its Part III action and its subsequent decision to compulsorily acquire the houses under Part V of the 1957 Act.

ii. Definition of the Boundaries of the Area

The housing identified for Part III action included 163-185 Barnsbury Road and 88/90 Richmond Avenue, and were included in the Order as 'added lands', (see map fig. 9.01).

iii. Architectural and Townscape Description of the Area

a. 163-185 Barnsbury Road

The twelve houses were laid out in a terrace and were built in approximately 1837. (201)

The buildings were three storeys high over semi-basements and were built of London stock brickwork, which was clad in rusticated stucco to the first floor string course.

The first floor windows were recessed with square heads throughout, but those of the wings were within black relieving arches; the second floor windows were square headed throughout the front facade.

The parapets were provided with a cornice and the terrace retained many of its original architectural features; these included the panelled street doors, the ironwork to the first floor balconies and the railings to the front gardens, (see photograph fig. 9.02)

The return facade (the south elevation) to no. 185 had two broad bay projections extending through the first and second floors and these were supported on slender cast-iron colonnettes. The centrally placed

(201) This date is included in the official listing schedule thus "Dated 1837" schedule TQ3183 NW58/1359

163-185 BARNSBURY ROAD

fig. 9.02



163-185 BARNSBURY ROAD

fig. 9.03



street door was approached up steps and was set back, (see photograph fig. 9.03). The houses in 163-185 Barnsbury Road were rather unusual for Barnsbury, since they had front gardens and shallow front areas, (see photograph fig. 9.04).

b. 88 and 90 Richmond Avenue

88 and 90 Richmond Avenue were built in 1840 and incorporated later shop fronts; the buildings were two storey high.

The windows at first floor were recessed and contained their original glazing bars. The ground floor shop front windows had flattened arches beneath a dentilled cornice; the ground floor was stuccoed.

The roof was hipped and slated, (see photograph fig. 9.05).

iv. An Explanation of the Long-Term Planning Proposals for the Area 1951 - 1976

The sites of 163-185 Barnsbury Road and 88/90 Richmond Avenue were zoned for public open space in the Initial Development Plan 1951; this was subsequently confirmed by the Minister in 1955.

PHOTOGRAPH SHOWING SHALLOW FRONT AREA
TYPICAL TO 163-185 BARNSBURY ROAD

fig. 9.04



88 and 90 RICHMOND AVENUE

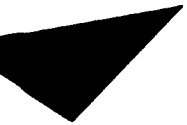
fig. 9.05



The area zoned for the public open space included the sites of housing described in case example 1 and the site of the south side of Richmond Avenue; the inclusion of the sites of 163-185 Barnsbury Road and 88/90 Richmond Avenue was planned to allow the extension of the Barnard Park, (see plan fig. 9.06).

The landscape consultants appointed to design and supervise the laying out of Barnard Park, advised the Borough Planning Officer in 1972 that they recommended that the south side of Richmond Avenue be retained; this recommendation was accepted by the Recreation Committee on the 13th January 1975 and by the Planning Committee on the 14th March 1975. 163-185 Barnsbury Road and 88/90 Richmond Avenue were listed on the 9th December 1975.

We see in this case another example of the effects of long-term public open space proposals, which had blighted the houses for approximately twenty-one years when the Council decided to take Part III action in June 1975.



Aston University

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BARNSBURY PARK (NOW RE-NAMED BARNARD PARK)
SHOWING ORIGINAL BOUNDARIES OF OPEN SPACE PROPOSAL

II AN ANALYSIS OF THE FACTORS WHICH INFLUENCED THE HOUSING COMMITTEE'S DECISION TO TAKE PART III COMPULSORY PURCHASE ORDER ACTION, AND THE RESPONSES OF THE PLANNING COMMITTEE AND OTHER INTERESTED PARTIES TO THAT DECISION

On the 15th May 1975, the Medical Officer of Health represented 163-185 Barnsbury Road for Part III action; this recommendation was accepted by the Housing Committee and was subsequently ratified by the Council on the 17th June 1975.

The formal Order was made on the 26th June 1975.

However, it is clear from verbal and written evidence subsequently obtained by the writer, that the Medical Officer of Health and the Housing Committee acted unilaterally in this process of identification, representation and taking action under Part III of the Act.

"These houses are in an area upon which further reports are awaited from the officers and will be the subject as appropriate of further reports to the Council." (202)

The reports referred to in this statement appear to be those later submitted in connection with the environmental impact of the demolition of the houses, the likely cost of conversion and the reconsideration of the future land-use proposals for the area.

It is evident that the Medical Officer of Health did not carry out an 'Appendix B' formula calculation, and that his representation was made upon his subjective notion of the likely costs to be incurred in making the houses fit for human habitation. This is clear from a report submitted by the Borough Planning Officer:

"I consider the buildings to be in architectural terms very similar to other properties in Barnsbury Road, many of which have been rehabilitated, although the Council has already been advised by the Chief Environmental Health Officer (Medical Officer of Health KP) as to their unfitness. In that the Borough Architect has considerable experience on buildings of this quality in Barnsbury more specific architectural advice might be obtained, and if the quality of the buildings is to be an issue at a Public Inquiry I advise that the Borough Architect be asked to examine the feasibility of putting the buildings into fit condition." (203)

Thus we see that within approximately fourteen days of the Council's decision to take Part III action, the Borough Planning Officer recommended that the Borough Architect be asked to carry out an 'Appendix B' calculation, since the Medical Officer of Health had not done so.

(203) Borough Planning Officer, Report to Planning Committee
(8th July 1975), para. 7

It is also evident that the architectural quality of the buildings was recognised, in that the Borough Planning Officer stated that this was likely to be an issue at a public enquiry; however, the report was rather cautious on this point:

"This Council will also, I expect, have to substantiate that the architectural quality is such that demolition should not be opposed and I am not able to say this on present evidence." (204)

The Borough Planning Officer did point out that the Greater London Council's Historic Buildings Division and the Conservation Area Advisory Committee were in favour of retaining the buildings and locally listing them all. (205)

The Borough Planning Officer stated that he would contact the Department of the Environment to obtain their opinion as to the architectural quality of the houses, and that he would also discuss the matter with the Medical Officer of Health; he would report verbally to the Town Planning Committees to inform councillors of the results of these discussions.

(204) Borough Planning Officer, op cit
(205) Ibid, para. 10

It is understood that the Department of the Environment indicated that the buildings had architectural merit and that the Medical Officer of Health remained convinced that the houses were slums.

The Borough Planning Officer also indicated that the public open space land zoning could be modified if the houses were to be retained:

" ... there is no appreciable gain from taking the properties from the west side of Barnsbury Road for public open space." (206)

The Borough Planning Officer ended his report by recommending:

"1. That the Housing Committee be asked to concur with the view that a decision as to whether to demolish the properties should await further reports from officers on the feasibility of retaining any or all of the buildings.

"2. That in the light of recommendation (1) the Borough Planning Officer prepares a report on the land use allocation of the area, in the light of a review of the public open space zone." (207)

(206) Borough Planning Officer, op cit, para. 11
(207) Ibid

These recommendations were accepted with reservations; the Planning Committee resolved:-

"That the committee concur in the proposals of the Housing Committee to seek compulsory acquisition of the properties in Barnsbury Road and Richmond Avenue but that they be requested to inform this Committee when the tenants have been rehoused prior to demolition." (208)

However, it is clear that the Housing Committee were aware of other relevant background factors which could have influenced their decision:

"However, recently the Recreation and Planning Committees (13th January and 14th March 1975) accepted certain recommendations concerning the implementation of the Barnard Park I.D.P. zoning on the basis that part of the Barnsbury Road frontage would be capable of rehabilitation - this without having the benefit of the advice of the Chief Environmental Health Officer." (209)

It is possible to detect a hint of expediency in the haste with which the Housing Committee acted, and in the fact that they did not seem prepared to delay their decision to allow the consideration of other important matters which, when considered later, subsequently resulted in the rescindment of the part III Compulsory Purchase Order.

(208) London Borough of Islington Planning Committee, Agenda G.3, (4th September 1975), p.1 para. (a)
 (209) London Borough of Islington Services Report, (26th &

The probable explanation for the apparent lack of willingness to consider any action but Part III, is that the Committee were concerned that the tenants living in the unsatisfactory housing should not be made to continue living in such conditions whilst the future of the housing was decided.

"Although several Councillors and residents in the area felt that the Terrace was of historical interest, my main concern was for the living conditions of the tenants. The Housing Committee has considered the question twice. Councillor Jack Straw, the Deputy Chairman, reported to the Committee that when he had met the tenants they were in favour of us pulling the terrace down." (210)

This attitude is also clearly discernable in the statements made by the Chairman of the Housing Committee: (211)

"Islington's Housing Chairwoman, Councillor Mrs. Margaret Watson, has attacked the listing of slum properties, 'regardless of the environmental conditions involved.

'It is causing real hardship to people in acute housing stress,' she said.

-
- (210) Councillor Mrs. Margaret Wilson, London Borough of Islington, letter to writer, (2nd December 1975)
- (211) Islington Gazette, Living in Historic Houses is Hardship for Tenants, (15th April 1976), p.6

'It is simply ludicrous. The factor that does not seem to be taken into account when buildings are listed is whether protecting the properties will be at the price of prolonging the human suffering involved when people have to live in poor housing conditions'."

Although the Housing Committee had the support of the majority of tenants in the Compulsory Purchase Order area, predictably the landlords and owner-occupiers were opposed to the Part III action.

Thus, we see a situation where the Housing Committee had made a unilateral decision to demolish the houses by the use of Part III, whilst the Planning Committee were being asked to consider action which could lead to the retention of the houses. The situation at this point can be represented diagrammatically, (see fig. 9.07).

The writer was asked to act for the owner-occupier of nos. 171/173 Barnsbury Road, and in this capacity it was possible to impose pressure upon the Council for the provision of information, since the owner-occupier had the status of a statutory objector.

Following the Council's decision to take Part III action, objections were submitted to the Secretary of State by owners, owner-occupiers, local and national civic societies and local individuals.

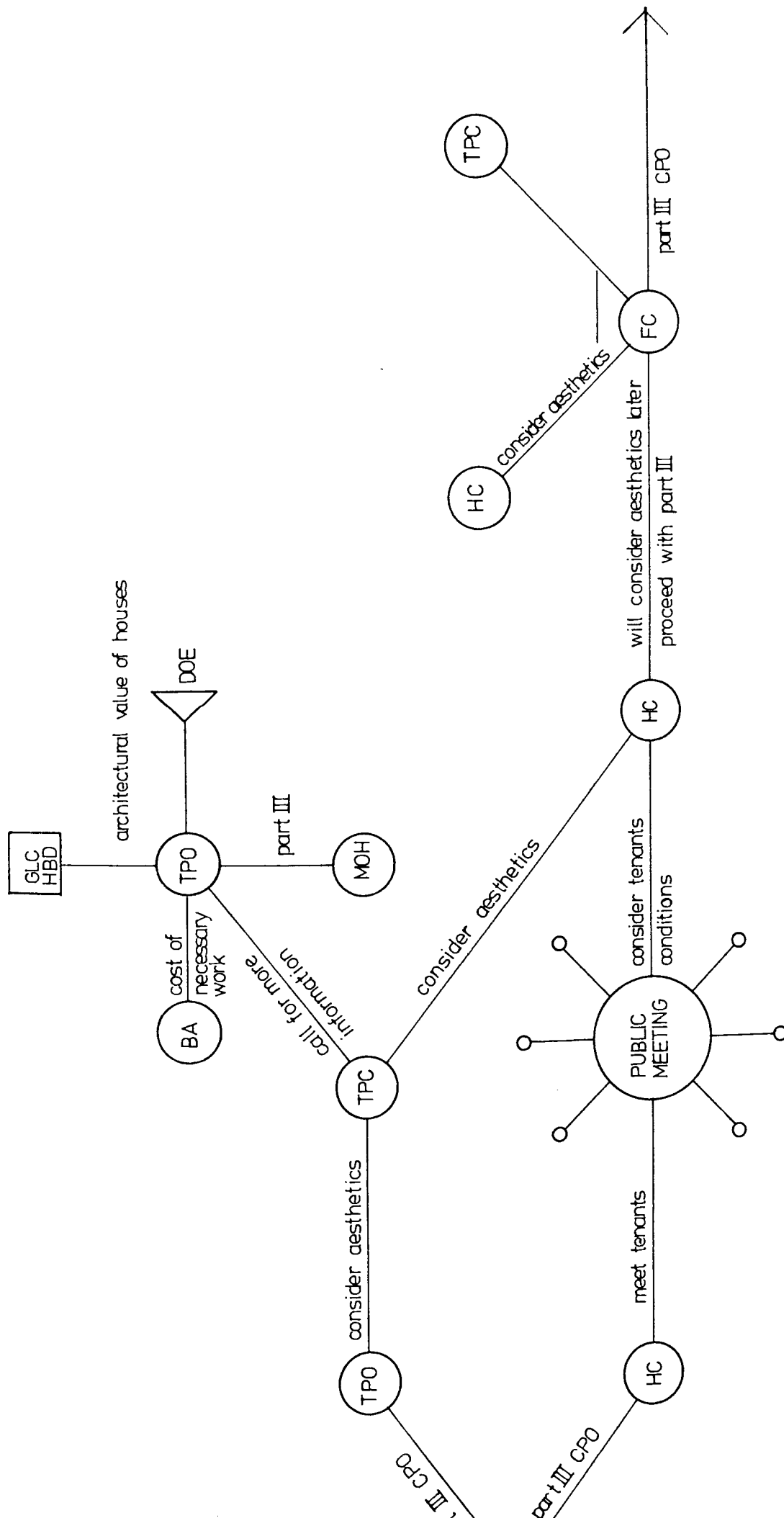


fig. 9.07

A DIAGRAMMATIC REPRESENTATION OF THE SITUATION WHEN THE LONDON BOROUGH OF ISLINGTON PASSED ITS PART III RESOLUTION ON 17TH JUNE 1975

It was also evident that some powerful councillors also had reservations about the Part III decision, as emerged at the Council meeting of the 29th July 1975, when the Housing Committees' recommendations were debated and accepted.

"Barnsbury Road Clearance Areas - Proposed Acquisition of Properties

"Councillor Mabey moved and Councillor Riddell seconded that the following should be added to the end of recommendation (c)

'Subject to further consideration by the Housing Committee of the potential of the houses for rehabilitation'.

"Following a debate the amendment was put to the vote and the Mayor declared it LOST and it was therefore

Resolved - On the motion of Councillor Mrs. Watson - That the recommendations contained in the report be adopted." (212)

Councillor Mabey had been Chairman of the Town Planning & Development Committee during the period 1971 to 1973, at which time his Committee processed a number of part III Compulsory Purchase Orders including case example 2. It

(212) Housing Committee's Report at Council Meeting, (29th July 1975), para. 10

is evident that Councillor Mabey had a change of heart in his attitude to Part III; this was confirmed during later discussions with the writer.

The situation at this point can be summarised as follows:-

The Housing Committee

- a. The Committee had accepted the Medical Officer of Health's recommended Part III action, even though he had not proved the houses were incapable of being made fit at reasonable cost.
- b. The Committee did not regard the fact that the houses were within the Barnsbury Conservation Area was as important as the need to clear slums.
- c. The Committee were aware that the Town Planning Committee were shortly to discuss the implications of the Medical Officer of Health's recommendation, but regarded the planning and architectural considerations of the site less important than the need to clear slums.
- d. The Committee were concerned primarily in ensuring that the tenants of the houses were rehoused without delay.

The Housing Committee's recommended Part III action was accepted by the full Council.

The Town Planning Committee

- a. The Committee were aware that the houses were within the Barnsbury Conservation Area, and they regarded this as an important factor for consideration.
- b. The Committee knew that the Greater London Council's Historic Buildings Division and the Islington Conservation Area Advisory Committee were in favour of the retention of the houses, which they regarded as being of sufficient merit to warrant their being listed as buildings of architectural and historic interest; the Town Planning Committee were largely sympathetic to these opinions.
- c. The Committee were aware that the revision of the boundaries of Barnard Park would allow the exclusion of 163-185 Barnsbury Road and 88/90 Richmond Avenue from the public open space zoning of the Initial Development Plan; this removed another factor which could have influenced the attitude as to whether the houses should be demolished.
- d. The Committee were aware that the Housing Committee had accepted the Medical Officer of Health's recommendation to take part III Compulsory Purchase Order action, even though he had not carried out an 'Appendix B' formula calculation.

- e. The Committee accepted that the Borough Architect should produce a notional scheme, cost it and carry out an 'Appendix B' formula calculation.

Initial Conclusions

The Housing Committee had taken a strictly correct legal attitude to Part III, in the sense that the future planning use of the land should not influence its decision.

Moreover, as a Housing Committee, their concern was for the problems of tenants whereas the Town Planning Committee were concerned with the broader issues involved.

However, the Housing Committee should have been provided with an 'Appendix B' formula calculation, since this would have shown that the houses were capable of being rendered fit at reasonable cost.

It is evident that the two Committees were not in accord with each other on the subject of 163-185 Barnsbury Road and 88/90 Richmond Avenue but there was one legal aspect of the Part III decision which should have allowed the matter to be fully discussed by both Committees before the decision was taken to proceed with Part III action.

As the houses were within a Conservation Area, and the Council's decision, if successfully implemented, would have resulted in their demolition, it would be necessary to obtain consent for their demolition. Thus, at this

point the views of the Town Planning Committee would have to be sought.

Therefore, it is clear that the unilateral action of the Housing Committee, in deciding not to wait for the recommendation of the Town Planning Committee, could have resulted in direct confrontation between the two Committees at a much later date.

It would be worthwhile now examining the action of the objectors to the part III Compulsory Purchase Order.

III THE ACTION TAKEN BY THE OBJECTORS

Prior to the writer's appointment to act for the owner-occupier of 171/173 Barnsbury Road in October 1975, a number of local people had taken action to try to get the houses listed, since they recognised that this would be of considerable assistance in the presentation of a case at a public enquiry to oppose the part III Compulsory Purchase Order.

Prominent amongst these objectors was an ex-local Labour councillor, who had realised the implications of Part III action, and had written to the Greater London Council immediately the Islington Council had passed its resolution. (213)

The Greater London Council responded very quickly and confirmed that they considered the houses were of sufficient merit to warrant their being listed and stated that they would do all in their power to save the houses from demolition.

Following the writer's appointment to act for one of the owner-occupiers in the terrace, he decided upon a two-stage campaign strategy.

(213) Michael Barclay M.A. C.Eng.

The first stage of the strategy was to try to persuade the London Borough of Islington to rescind its part III Compulsory Purchase Order and the second stage was to produce evidence for presentation at a public enquiry, in the event the first stage of the campaign proved unsuccessful.

The first stage of the strategy can be summarised as follows:-

- a. Strengthen the existing individual efforts to get the buildings listed by obtaining extra support, particularly from the Georgian Group and the local chapter of the Royal Institute of British Architects.
- b. Lobby influential councillors, pointing out that the houses are of architectural merit, can be converted at reasonable cost, the Council are unlikely to be successful at a public enquiry, and that the tenants would therefore benefit more from action under Part V of the Act rather than under Part III.

The second stage of the campaign was carried out in parallel with the first, and this can be summarised as follows:-

- a. Produce a notional scheme of conversion, cost it and carry out an 'Appendix B' formula calculation to establish the houses were incorrectly represented as slums.

- b. Obtain evidence to establish whether the Council had made a proper decision, in order that the decision could be challenged at an appropriate time.
- c. Establish whether there were useful reports and other items of information presented by officers to Council members which could be used in cross-examination at a public enquiry.
- d. Establish as much tenant support against the Compulsory Purchase Order as possible.
- e. Ensure that as many statutory objectors as possible were represented at a public enquiry, in the event the first stage of the campaign proved unsuccessful.

The most interesting point which emerged out of the campaign, was that there was a considerable lack of co-ordination between the various departments of the Council. Examples of this lack of co-ordination may be summarised as follows:-

- a. As noted earlier, the Town Planning Committee had decided to ask the Borough Architect to produce an 'Appendix B' formula calculation, based upon a notional scheme of conversion. They had also agreed that the Borough Planning Officer should produce a report on the land-use possibilities for the site of the houses, since it was no longer considered very important to implement the public open space zoning of the Initial

Development Plan.

The Housing Committee had decided to proceed with Part III action, but had taken note of the Planning Committee's action and had accepted the possibility that their decision could be changed at a later date.

"The Committee felt that the C.P.O. should proceed at this stage but that the matter should be reviewed prior to demolition to establish whether there were any changed circumstances which might affect this Committee's attitude to the future of the properties."
(214)

Therefore we see that the decisions of the two Committees were theoretically capable of being made compatible at a later date. However, it emerged that the Borough Solicitor thought this was legally impossible since: "Clearance Areas are irrevocable" (215)

When the writer challenged this statement, the Borough Solicitor set out the reasoning behind his legal opinion as follows:

"The basic situation is that, if a local authority declares a clearance area under the provisions of Section 42 of the Housing Act 1957 it has, by definition, satisfied itself (a) that all the houses in

the area are unfit within the meaning of Section 4 of the same Act and (b) that the most satisfactory way of dealing with those conditions is by the demolition of all buildings in the area. This, in fact, is the decision which was taken by the Council on the 17th June 1975 in respect of properties within this area which had been represented as unfit by the Chief Environmental Health Officer."

"There is no way the Council can rescind a clearance area declaration and it is imperative for the Council to acquire and demolish if the unfit conditions still subsist." (216)

Therefore we see a situation where the Borough Architect is carrying out instructions to establish whether or not the housing is capable of being converted at reasonable cost, whilst the Legal Department are saying that, notwithstanding this, the part III Compulsory Purchase Order decision is irrevocable.

The writer believes that the Borough Solicitor's legal opinion was wrong in law, since if the Borough Architect proved the houses were technically fit by virtue of their being made so at reasonable cost, then

(216) Borough Solicitor, letter to the writer,
(21st November 1975) p.1

it follows that all the houses in the area were not unfit and the best method of dealing with unsatisfactory housing was not by demolition. In those circumstances it seemed a matter of common sense that the Council rescind its Compulsory Purchase Order.

Indeed, it was quite clear from case examples 1, 2 and 3 that there was a considerable amount of legal opinion which concluded that there was no legal bar to the rescindment of a part III Compulsory Purchase Order. (217)

The most worrying aspect of the conflict between the decisions, actions and opinions of officers and members of the Council was that, following the decision to proceed with Part III action, the case was dealt with by the Borough Solicitor who was responsible for the presentation of the case at the public enquiry. For this reason, the writers' letters addressed to all officers of the Council were sent to the Borough Solicitor, who advised how they should be answered. Thus the rigid, and probably incorrect, legal stance taken by the Borough Solicitor was instilled in the responses received from other departments of the Council.

(217) The opinions of John Frazer M.P., T.W. Blyth L.L.B. the Rt. Hon. Sam Silkin P.C. M.P. Q.C. and Kenneth Bagnall Q.C.

- b. Following on from this, there emerged a possible reason for a further conflicting statement made by the Borough Solicitor's Department. Whilst the Borough Architect was producing his 'Appendix B' formula calculation, an officer of the Borough Solicitor's Department stated: "the Council is not considering rehabilitation at all", and "we have not approached the Borough Architect." (218)

However, the Borough Architect had been asked to carry out his exercise at the Town Planning meeting of the 8th July 1975 and he had established that the houses were capable of being converted at reasonable cost by the 7th November 1975; the same day that the officer from the Borough Solicitor's Department said the Borough Architect had not been consulted. (219)

Thus, we see a state of some confusion between the Housing and Town Planning Committees, the Medical Officer of Health, the Borough Planning Officer, the Borough Architect and the Borough Solicitor on the subject of the relevance of the 'Appendix B' formula calculation.

- c. The Medical Officer of Health's Department proved most unco-operative, in spite of the attitude expressed by certain senior Public Health Officers, following the

(218) Verbal statement made by Mr. Gubbins during a telephone conversation with the writer, (7th November 1975)

(219) Verbal statement made by Mr. A.E. Head during a telephone conversation with the writer,

rescindment of the part III Compulsory Purchase Order as described in case example 2.

When asked whether he had consulted the Borough Architect's Department, the officer stated: "I don't propose to tell you."

When asked whether he had consulted the Borough Planning Officer he stated: "I am not prepared to go into this."

When asked whether he had consulted the Conservation Area Advisory Committee, he stated: "We consulted the Borough Planning Officer."

When asked whether he had consulted the Greater London Council's Historic Buildings Division, he said they had not. (220)

It was clear from this officer's attitude that the Department were taking a very defensive stance.

- d. Another point of conflict between officers which emerged, was in connection with the need to apply for consent to demolish buildings in Conservation Areas.

(220) Three questions were answered during a telephone conversation between Mr. Harris of the Medical Officer of Health's Department and the writer, (7th November 1975)

An officer of the Borough Solicitor's Department stated that the town planning consent for the demolition of the buildings was "going through". When asked to explain more precisely the position, he said he "assumed that town planning consent had either been sought or was currently being obtained." (221)

However, seven days later the Borough Planning Officer stated: "No application for planning permission to demolish the premises has been submitted ..." (222)

Thus we see, not only a state of some confusion on the relevance of the 'Appendix B' formula, but also conflict on the subject of whether town planning consent for demolition was, or was not, in hand; there was also a clear indication that the Medical Officer of Health's Department were adopting a rigid stance of non co-operation.

For these reasons, it became clear that the fundamental issue which could influence the Council to reconsider its Compulsory Purchase Order resolution was that of the architectural quality of the buildings and the contribution they made to the townscape. Indeed, this was stated by the Borough Solicitor:-

-
- (221) This information was obtained from Mr. Gubbins of the Borough Solicitor's Department during a telephone conversation with the writer, (7th November 1975)
- (222) A letter from the Borough Planning Officer over a signature of F.S. Frid, to the writer, (14th November 1975)

"As to the other circumstance which would relieve the Council of the duty to acquire and demolish, this is found in Section 110 of the Housing Act 1974. This provides that if any buildings in a clearance area are listed by the Secretary of State for the Environment at any time after a compulsory purchase order is made and either (i) the Council does not apply for listed building consent for demolition within three months of the listing or (ii) such application is made and is refused by the Secretary of State, the buildings concerned cease to be within the clearance area and the Council must therefore seek other ways to rectify unsatisfactory housing conditions e.g. by way of repairs notices, closing orders etc." (223)

As a result of the threat posed by the Council's Part III action, and the representation made by the Greater London Council's Historic Buildings Division, the Georgian Society, N.E.T.A.S, various other civic societies and interested individuals, the Inspectorate of Historic Buildings at the Department of the Environment reconsidered 163-185 Barnsbury Road and 88/90 Richmond Avenue and decided to list the houses as being of architectural and historic interest on the 9th December 1975; this took place seven months after the passing of the Part III resolution.

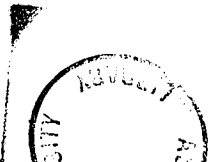
(223) Borough Solicitor, letter to the writer, (21st November 1975), p.2

IV AN ANALYSIS OF THE ACTIONS OF THE COUNCIL FOLLOWING
THE LISTING OF THE BUILDINGS

As was noted earlier, following the listing of the houses the Council could have allowed their part III Compulsory Purchase Order to lapse, by not applying for listed building consent within three months from the date upon which the houses were listed. This opportunity was not taken, and the Director of Development applied for listed building consent for the demolition of the houses in February 1976. He informed the statutory objectors of this in a letter dated the 6th February 1976.

The Director of Development apparently made his application without referring the matter to the Town Planning Committee and, bearing in mind the three month deadline for making the application, it seems that he was concerned not to jeopardise the part III Compulsory Purchase Order. Thus it can be implied that the Director of Development regarded the Housing Committee status as higher than that of the Town Planning Committee.

Indeed, the Conservation Officer in the Town Planning Department informed the writer that the application had not been referred to the Town Planning Committee, and that the Planners had intended the part III Compulsory Purchase Order to lapse by the effluxion of the three month period during which the application could be made.



Subsequently, the application was scheduled to be discussed by the Town Planning Committee on the 26th February 1976, that is to say some twenty days after the Director of Development had made application to demolish the houses. (224)

Following this the Deputy Borough Planning Officer stated:

"The Council will not be taking a decision until after the various statutory periods of consultation have been completed (in a week's time), and you will by now know that a report on the matter is being placed before the Planning (Applications) Sub-Committee tonight." (225)

However, it is clear from an analysis of the records, that the Council had in effect taken a decision by virtue of the Director of Development's application. This was recognised by the ex-Chairman of the Town Planning Committee, who suggested that, in the event the Town Planning Committee decided to allow the part III Compulsory Purchase Order to proceed to public enquiry, it would be possible to challenge the validity of this decision, since it appeared that the Director of Development had in fact submitted the application for the demolition of the houses to the Department of the Environment, three days too late. (226). This being so, the part III Compulsory Purchase Order would lapse by the effluxion of time.

(224) Borough Planning Officer, letter to the writer, (23rd February 1976)
letter to the writer (26th February 1976)

The writer mentioned this to a sympathetic officer in the Town Planning Department, and the officer advised that this point be kept for possible future use in the event that the Council did not rescind the Compulsory Purchase Order. (227)

The Town Planning Sub-Committee made no formal decision, but it has emerged from discussions with officers and members that the majority of members were in favour of retaining the houses for restoration and conversion; they referred the matter to the Town Planning Committee who decided in favour of the retention of the houses, and they informed the Housing Committee: "That the buildings should not be demolished but rather that a deputation should be sent to discuss this dilemma with the Secretary of State." (228)

The Housing Committee's decisions on the references from the Planning Committee were as follows:-

- "(a) That the request of the Planning Committee for a member level deputation to the Secretary of State for the Environment be not proceeded with;
- "(b) That the Council proceed with the Compulsory Purchase Order made by the Council on 29th July 1975 under Part III of the Housing Act 1957:

(227) The officer has asked to remain anonymous
 (228) London Borough of Islington, Agenda Item 8,
 (11th May 1976), p.369

- "(c) That a specific listed building application to demolish be made to the Department of the Environment forthwith;
- "(d) That the Officers be requested to report to the next meeting of the Housing Committee to enable them to examine all the options under Part III and Part V of the Housing Act 1957 and to consider whether to make a recommendation to the Policy Committee to alter their decisions referred to in (b) and (c) above." (229)

Following this, the Town Planning Committee made a further reference to the Housing Committee:

"The Conservation Areas Advisory Committee still held the view that the properties should be retained and rehabilitated, whilst the Housing Committee took the view that they should be demolished in accordance with the existing Part III C.P.O. and that the Borough Planning Officer carry out a further feasibility study as to the treatment of the area. The Planning Committee informed us that they considered that the Secretary of State should be asked not to confirm the Part III C.P.O. but that he be advised that, since the listing of the properties, reconsideration had been given to their demolition and that it was now thought that despite the unfitness of the houses, they should be rehabilitated." (230)

The Housing Committee decided to recommend a Compulsory Purchase Order under Part V of the Housing Act 1957, subject to the proviso that, if the Secretary of State would not allow a part V Compulsory Purchase Order, the Council should proceed with Part III action. (231)

The situation at this point can be represented diagrammatically, see fig. 9.08.

Thus we see a most unusual, if not unique, situation; the houses were subject to a part III and a part V Compulsory Purchase Order at the same time.

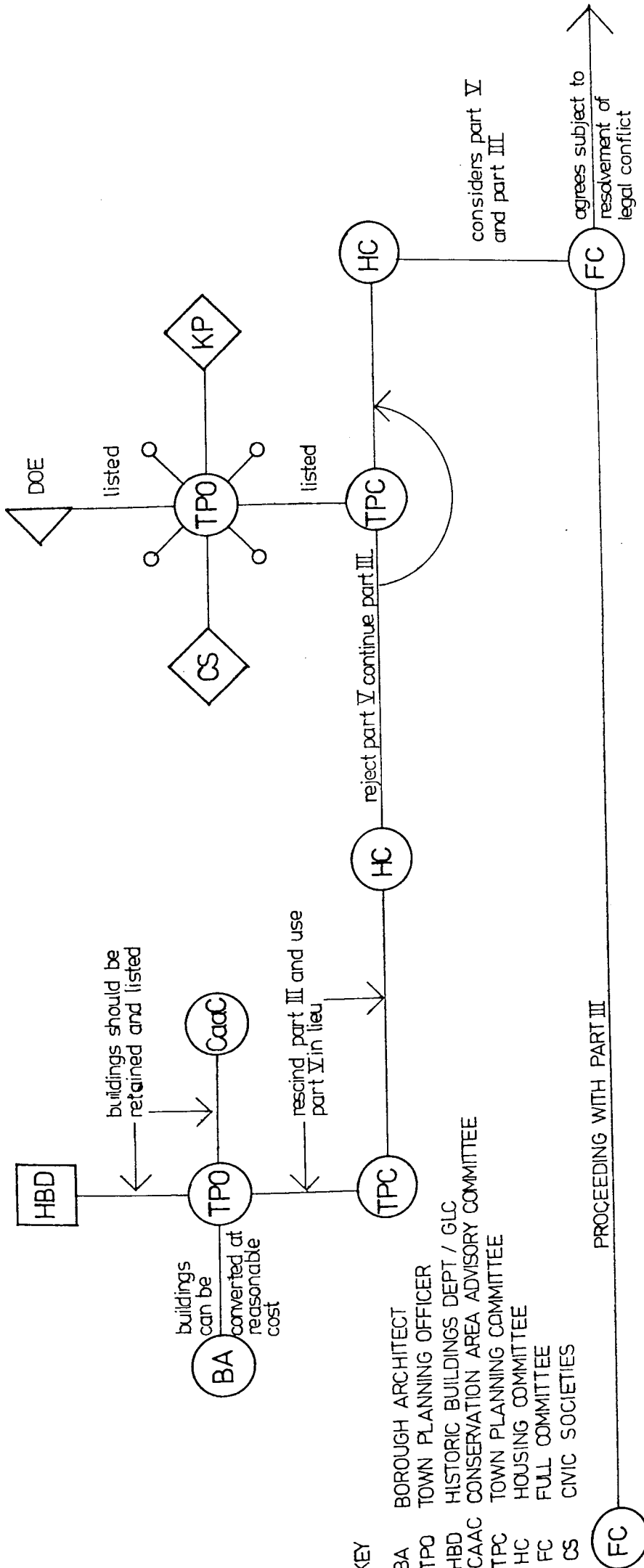
The Council seemed aware of this fact, since the Housing Committee's recommendation included:-

"(c) That pending the confirmation of the Compulsory Purchase Order referred to in (a) above, the Secretary of State for the Environment be requested to hold in abeyance the Barnsbury Road (Part III) Compulsory Purchase Order 1975." (232)

However, the Borough Solicitor had stated that part III Compulsory Purchase Orders were irrevocable, unless the houses the subject of the Compulsory Purchase Order were listed. Even then, the Part III remained effective if the Council applied for listed building consent to demolish the

(231) London Borough of Islington, Agenda Item 5,
(11th May 1976), p.369

(232) Ibid



- KEY
- BA BOROUGH ARCHITECT
 - TPO TOWN PLANNING OFFICER
 - HBD HISTORIC BUILDINGS DEPT / GLC
 - CAAC CONSERVATION AREA ADVISORY COMMITTEE
 - TPC TOWN PLANNING COMMITTEE
 - HC HOUSING COMMITTEE
 - FC FULL COMMITTEE
 - CS CIVIC SOCIETIES

fig. 9.08

A DIAGRAMMATIC REPRESENTATION OF THE SITUATION WHEN THE FULL COUNCIL OF THE LONDON BOROUGH OF ISLINGTON DECIDED TO TAKE PART V ACTION ON THE 11TH MAY 1976

houses within three months of the date of listing. Thus the Council thought themselves caught on the horns of a dilemma, and they referred the problem to the Borough Solicitor to take up with officials of the Department of the Environment. In fact, the problem seemed quite easily resolvable, since by the simple device of withdrawing the listed building application, the part III Compulsory Purchase Order would lapse, leaving the Part V action available for the acquisition and restoration of the houses.

It should be noted that shortly after the Council meeting of the 11th May, the Council acquired six houses from one of the absentee landlords, and this meant that they owned all but two of the houses in the terrace. So the problem of acquisition was related to the writer's client only.

In October 1976 the writer sent a letter to the Borough Solicitor setting out the legal opinions received from the Solicitors and Counsel who had advised on case example 2. (233)

Subsequently, the Chief Executive Officer of the Council told the writer that the Council "were still trying to find a solution to the problem." (234)

On the 24th October 1975 the Borough Solicitor wrote confirming that the part III Compulsory Purchase Order had been rescinded and that 171/173 Barnsbury Road were subject to the part V C.P.O. resolution of the 11th May 1976.

(233) K. Pring, letter to Borough Solicitor, (6th October 1976)
 (234) This was stated during a telephone discussion between Mr. Dewing and the writer, (11th October 1976)

V CONCLUSIONS

The analysis of this case example reveals a picture of considerable confusion, lack of understanding and co-operation between the members and officers of the Council and between different Departments of the Council.

This manifested itself in a situation of apparent conflict between the Housing Committee and the Medical Officer of Health on one side, and the Town Planning Committee, the Borough Planning Officer and the Borough Architect's Department on the other.

This conflict left the Borough Solicitor the problem of resolving the legal implications of the decision passed by the Council, since Part III and Part V of the Act are by definition mutually exclusive.

It is clear that the Housing Committee saw its role and the decisions it took as more important than those of the Town Planning Committee and it was confident enough to proceed with Part III action in the belief that it was legally irrevocable and politically justifiable. The Housing Committee's confidence was justified initially, since the Part III action was ratified in full Council in spite of opposition by powerful councillors; there were no party politics involved, since all members of the Council at that time were Labour.

However, as the case for the listing of the houses gained strength, it was possible to detect an increasing willingness on the part of members and officers of the Council to reconsider the Part III action.

This case example reveals a microcosm of the conflict which can occur between the need to deal with unsatisfactory housing on the one hand, and the presumption that buildings of architectural and historical interest should be retained and enhanced on the other.

The findings of this case example clearly justify the writer's hypothesis that the legislation and administration of the law of slum clearance and conservation need to be simplified, and that the means by which conflicts between these two strands in the field of urban renewal should be capable of being easily identified, assessed and decided upon.

CHAPTER TEN: CASE EXAMPLE 7

LONDON BOROUGH OF HACKNEY (SHEPHERDESS WALK)

COMPULSORY PURCHASE ORDER 1972

PART III HOUSING ACT 1957

Appeal against listed building consent sought by the London Borough of Hackney to demolish 9-67 Shepherdess Walk, N.1. 1976.

Town and Country Planning Act 1971

Town and Country Planning Act (Listed Buildings and Buildings in Conservation Areas) Regulations 1972

Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Amendment) Regulation 1974

Town and Country Planning (Inquiries Procedure) Rule 1974

Structure of Case Example

SECTION I INTRODUCTION

- i. Preamble
- ii. Definition of the Boundaries of the Area
- iii. Architectural and townscape description of area
- iv. An explanation of the long-term planning proposals for the area 1951-1976

SECTION II THE PUBLIC ENQUIRY INTO THE LONDON BOROUGH
OF HACKNEY (SHEPHERDESS WALK) COMPULSORY
PURCHASE ORDER 1972

- i. Generally
- ii. Summary of the evidence presented by the Senior Public Health Inspectors
- iii. Summary of the evidence presented by the Medical Officer of Health
- iv. Summary of the evidence presented by the Assistant Borough Planning Officer
- v. Summary of the evidence presented by the Objectors
- vi. The Inspectors decision
- vii. Initial conclusions

SECTION III AFTER THE CONFIRMATION OF THE COMPULSORY
PURCHASE ORDER 25th OCTOBER 1973 - 18th MAY
1976

- i. Actions taken by the Hackney Society
- ii. Actions taken by the Greater London Council Historic Buildings Board
- iii. Actions taken by the London Borough of Hackney
- iv. Actions taken by the North East Thames Architectural Society
- v. Actions by the Department of the Environment
- vi. Summary

SECTION IV THE PUBLIC ENQUIRY

- i. Preamble
- ii. The evidence presented by the London Borough of Hackney
- iii. The evidence presented by the Objectors
 - a. Preamble
 - b. Evidence presented by the North East Thames Architectural Society
- iv. Summary

SECTION V THE DECISION

SECTION VI CONCLUSIONS

- i. Generally
- ii. The factors tested through case examples

SECTION VII POSTSCRIPT

I INTRODUCTION

i. Preamble

The London Borough of Hackney (Shepherdess Walk) Compulsory Purchase Order 1972, was the formal title given to a part III Compulsory Purchase Order for a terrace of houses: nos 9-67 Shepherdess Walk.

This case example is of considerable interest, since it examines a unique situation that was resolved in a test-case in which many of the issues discussed in earlier case examples were involved.

In particular, it was possible to examine the application of the law of slum clearance and the law of conservation, since a conflict had developed between the provisions of both in the field of urban renewal.

This conflict developed as a result of the Secretary of State's confirmation of the Council's part III Compulsory Purchase Order; this implied that the houses should be acquired, the tenants moved out and the terrace demolished. However, subsequent to the confirmation of the Compulsory Purchase Order, the Department of the Environment listed the buildings as being of architectural and historic interest; this implied that the houses should either be retained and restored, or that a good case be made for their demolition.

The London Borough of Hackney decided to proceed with their part III Compulsory Purchase Order, and accordingly they applied for listed building consent to demolish the buildings. Due to the considerable number of objections which were made to this application, the Secretary of State to the Department of the Environment decided the matter should be considered at a public enquiry. The situation at this point can be illustrated diagrammatically, see fig. 10.01.

The writer was aware of special problems which had been posed in this situation of conflict, and from the experience gained through his empirical action in other case examples, it was clear that Shepherdess Walk offered a unique opportunity to test hypotheses identified and developed through earlier research.

The writer raised the matter with the Committee of the local chapter of the Royal Institute of British Architects (North East Thames Architectural Society) and it was decided that, since the situation which had developed was unique and very important, the Society should object to the Council's proposals and the writer should present a case for the retention and restoration of the houses and the abandonment of the part III Compulsory Purchase Order.

Accordingly the writer submitted an objection to the Department of the Environment and prepared and presented a reasoned case to the Inspector at the public enquiry; the

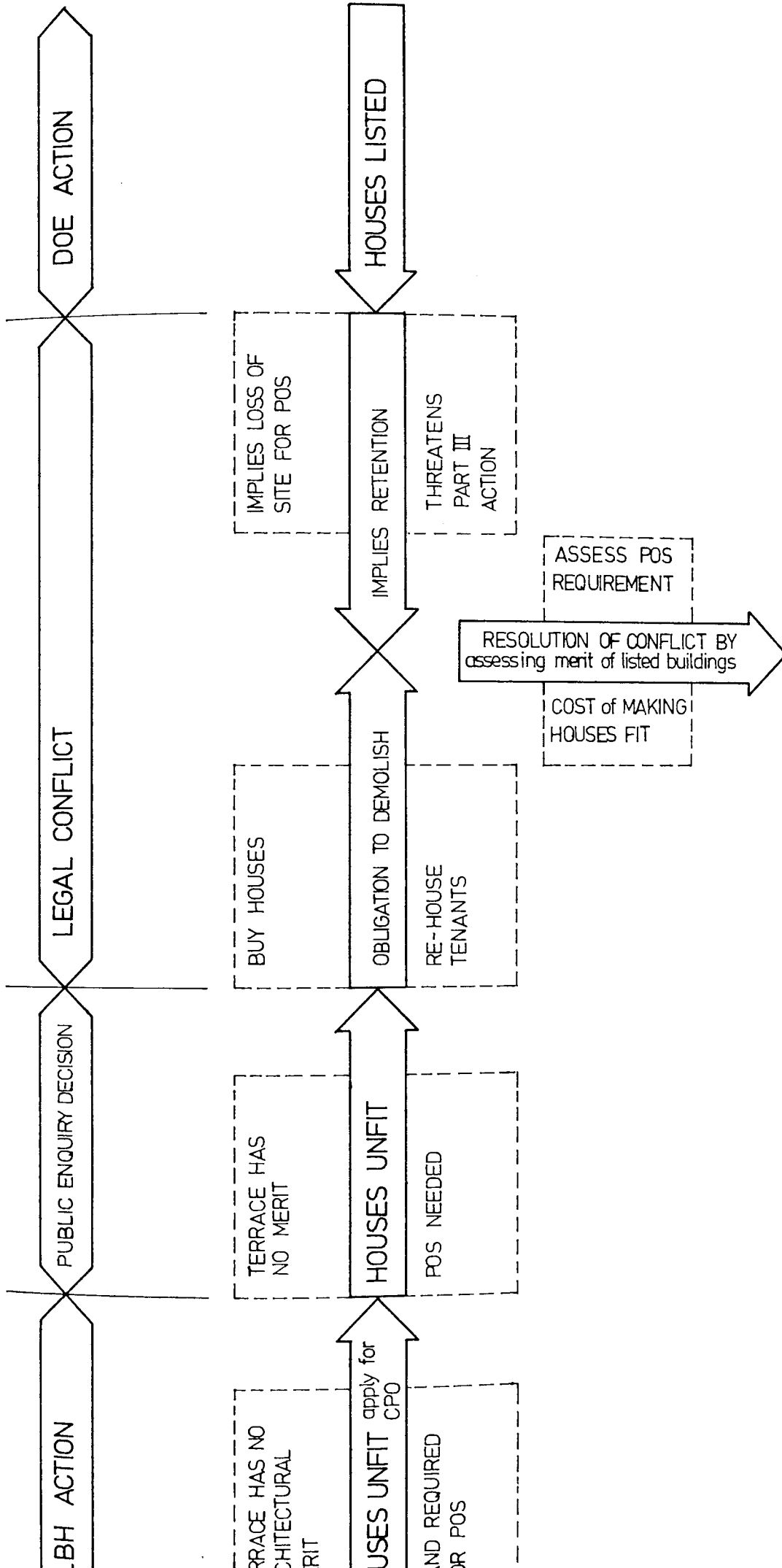


fig. 10.01

A DIAGRAMMATIC REPRESENTATION OF THE FIELD OF CONFLICT ESTABLISHED BY VIRTUE OF THE LISTING OF 9-67 SHEPHERDESS WALK AFTER THE SECRETARY OF STATE HAD CONFIRMED THE PART III COMPULSORY PURCHASE ORDER

Secretary of State decided to refuse the Council's listed building consent, and thereby effectively extinguished the earlier confirmation of the part III Compulsory Purchase Order.

Thus the learning and feedback process which developed through other case examples, was put to use in order to test the factors in the original part III decision, and the final decision to refuse listed building consent for the demolition of the terrace.

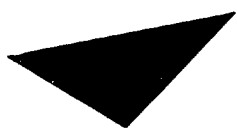
ii. Definition of the Boundaries of the Area

The Compulsory Purchase Order area comprised thirty houses, set in a single terrace on the west side of Shepherdess Walk, between Sturt Street to the north and Micawber Street to the south; the west boundary was formed by the Shepherdess Walk Open Space. (see map fig. 10.02).

iii. Architectural and Townscape description of the Area

9-67 Shepherdess Walk were built approximately 1848 by a builder or developer as a speculative development for middle-class occupation.

The houses were originally built two stories high over a basement, although some houses had been provided with mansard additions at a later date.



Aston University

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They were built in London stock brickwork, stuccoed up to the first floor level on the front and end elevations. Windows to the first floor front rooms were full height, opening onto cast iron fronted balconies; window heads to the ground floor front facade were segmental.

The front elevation coping incorporated a stucco cornice and front area railings were spear headed cast iron with urn finials.

The street doors incorporated six panels, flanked with pilasters and headed with semi-circular fanlights, most of which had been filled.

The most distinguishing feature of the terrace was that it was laid out in a very shallow crescent; this gave it a sense of unity and completeness.

The general character of the houses can be seen in the illustrations (see photographs figs. 10.03 and 10.04).

iv. An Explanation of the Long-term Planning Proposals for the Area 1951 - 1976

This case example resembles the London Borough of Islington (Hemingford Road) Compulsory Purchase Order 1970 and the London Borough of Islington (Barnsbury Road) Compulsory Purchase Order 1972, in that the housing in Shepherdess Walk was blighted by Public Open Space proposals contained in the

9-67 SHEPHERDESS WALK - TYPICAL ELEVATION

fig. 10.03



9-67 SHEPHERDESS WALK

fig. 10.04



Initial Development Plan 1951; this was still planned for implementation in 1972 when part III action was commenced.

The Initial Development Plan Public Open Space zoning of the land occupied by 9-67 Shepherdess Walk in 1951 was originally approved by the Minister of Housing and Local Government in March 1955; this land-use was subsequently re-appraised in the First Review of the Plan, and approved for retention in December 1962.

At the time of the First Review, it was the London County Council's intention to create the public open space in the second period of the plan programme. (235)

Under the provisions of the London Authorities (Transfer of Parks and Open Spaces) Order 1971, the responsibility for implementing the plan concerned with the Shepherdess Walk area, was transferred to the London Borough of Hackney. (236)

On 30th September 1971 the Council, upon representation by the Medical Officer of Health, declared the properties a Clearance Area; subsequently on 22nd March 1972 the Council resolved to make a Compulsory Purchase Order under part III of the Act.

(235) D.R. Hance the Assistant Borough Planning Officer, Evidence given to the Public Enquiry (18th May 1976) Background section, p.1.

(236) Ibid

A public enquiry was held on 17th April 1973, when the Council stated that, in the event that the Compulsory Purchase Order were to be confirmed, the properties would be demolished and the site would be used as public open space.

The Compulsory Purchase Order was confirmed on 25th October 1973, the rehousing of tenants was carried out between June 1974 to August 1975 (except one property, No 53, which was still in occupation in May 1976).

The terrace was listed in the middle of the rehousing process on 22nd January 1975. The Council continued with its rehousing programme, and decided on 1st April 1975 to apply for listed building consent for the demolition of the houses.

II THE PUBLIC ENQUIRY INTO THE LONDON BOROUGH OF HACKNEY
(SHEPHERDESS WALK) COMPULSORY PURCHASE ORDER 1972

i. Generally

The public enquiry into the part III Compulsory Purchase Order building consent was held on 17th April 1973. The Council's evidence was presented by the Medical Officer of Health, two Senior Public Health Inspectors, and the Assitant Borough Planning Officer.

ii. Summary of the Evidence presented by the Senior Public Health Officers

Each Senior Public Health Officers read a written proof stating that: "The area comprises thirty terrace type houses all with basements and small rear gardens." (237)

The proofs stated that the houses had been inspected, and were unfit for human habitation.

....."the main defects being general disrepair, evidence of rising dampness, and indadequate natural lighting and ventilation." (238)

(237) F.J. James and B. Rom, proof of evidence given (17th April 1973) para 2.

(238) Ibid para 3.

iii. Summary of the Evidence presented by Medical Officer of Health

The Medical Officer of Health read a written proof stating his medical qualification, and confirmed that he was the officer responsible for the original representation of the houses to the Council on 9th September 1971.

He stated: "Having regard to Section 4 of the Housing Act 1957, I am satisfied that all of the houses in the area as a whole are unfit for human habitation and that the most satisfactory method of dealing with the conditions in the area is by the demolition of all of the buildings in the area." (239)

It is interesting to note that, as was the case in the Hemingford Road Compulsory Purchase Order enquiry, the Medical Officer of Health quoted the 1957 Act verbatim.

iv. Summary of the Evidence presented by the Assistant Borough Planning Officer

The Assistant Borough Planning Officer commenced by describing the area and the planning background to it; he stressed the considerable deficiency in local open space in the Borough and the difficulties in accommodating it elsewhere if the part III Compulsory Purchase Order were not to be confirmed.

(239) Dr. R.G. Davis' evidence (17th April 1973)
para 2.

He explained the contents of the written statement of the Greater London Development Plan, and the fact that residential re-development had taken place at a density of 336 persons per hectare, and that much local land was zoned for industrial use; the public open space would be used by both local tenants and factory workers, whilst acting as a buffer between the two land-uses.

The detailed points made by this witness were subsequently repeated at the public enquiry concerned with the Council's listed building application to demolish the houses, and will be explained in more detail later in this case example.

v. Summary of Evidence presented by the Objectors

The principal objector was a Chartered Surveyor practising as a local estate agent; he represented A.M. and G. Properties Ltd who owned twenty-six of the thirty houses in the terrace.(240) The Surveyor read a written proof describing the houses, and their architectural character and condition. He proposed that his clients be permitted to rehabilitate their houses, and he estimated the likely costs of making them fit at £2000 each.

He stated that he thought the Borough were possibly acting under pressure from the Local Labour MP:

(240) W.G.J. Sims FRICS., FISVA.

"It seems to me that the Authorities may have been put under pressure by Mr. Ronald Brown MP., since in about July 1971 Mr. Brown telephoned me from the House of Commons and indicated that he would brook no interference with 'his' scheme." (241)

The witness continued by stating that, in his opinion, housing was a better use for the site of 9-67 Shepherdess Walk and that its site area would not make a significant contribution to the Borough's open space.

He pointed out that: "In 1965 the Council made a Compulsory Purchase Order (under the Open Spaces Act 1906) in respect of part of Shepherdess Walk, and yet they had not seen fit to acquire and to add 85-111 Shepherdess Walk." (242)

This concluded this witness's evidence.

Other objections were raised by individual owner-occupiers, tenants and the Hackney Society.

vi. The Inspectors Decision

The Inspector's Report set out the general case for the Council and then summarised the cases made by each objector, the Councils' comments, and the Inspectors' findings on-site.

In every case he decided that the Council had proved its case, and that the houses were properly represented as unfit.

"Opinion

The houses are old and have small rooms. In general they have been given only minimal repairs over a considerable period and are very damp. Due to multi-occupation, facilities for the preparation and cooking of food and for washing are not satisfactory in some houses. They have all come to the end of their natural life and are not of such architectural distinction to justify their retention. Parts of the houses in the order, such as balconies and coping stones, are in a dangerous condition." (243)

"Conclusions

I am satisfied that the clearance area has been properly represented within the meaning of Section 42(1)(a) of the Act.

"I am satisfied that by reason of the nature of the defects present in the houses the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area under Section 42(1)(b) of the Act.

"The Council are justified in acquiring all the houses in the area, which are in several ownerships, in order to secure the satisfactory clearance of the area under Section 43(1)(b) of the Act and lay it out afresh as a public open space." (244)

Accordingly, the London Borough of Hackney (Shepherdess Walk) Compulsory Purchase Order 1972 was confirmed by the Secretary of State on 25th October 1973.

vii. Initial Conclusions

The evidence given by the Public Health Inspectors was clearly correct since, by virtue of 21 years of planning blight the houses were undeniably in a bad state of disrepair, lacked certain basic amenities and had damp basements, the front rooms of which did not satisfy the underground room legislation. However, no evidence was presented by the Council to show that these defects could not have been dealt with at reasonable cost. The only evidence on costs submitted to the Inspector, was that of the Surveyor acting for A.G. & M. Properties and his estimate of £2000 per unit was not backed by any evidence as to how the figure had been calculated.

As will be shown later, the London Borough of Hackney subsequently admitted that, on the 'Appendix B' formula, the houses could be converted at reasonable cost. The implication of this will be discussed later.

III AFTER THE CONFIRMATION OF THE COMPULSORY PURCHASE ORDER
25th OCTOBER 1973 to 18th MAY 1976

i, Action taken by the Hackney Society.

During its survey of the London Borough of Hackney, the Inspectorate of the Historic Buildings Division of the Department of the Environment identified 9-67 Shepherdess Walk, (and other terraces in the same street) as of sufficient merit to warrant their being listed grade II as buildings of architectural and historic interest; the terrace was formally listed on 22nd January 1975.

As soon as the fact that the houses were listed came to the attention of the Hackney Society, it was decided to mount a campaign to save the terrace from demolition.

The Society were most concerned that, as tenants were rehoused by the Council, the vacated properties should not be vandalised and allowed to fall into dereliction. It was recognised that the campaign would not be successful if the cost of rehabilitating the houses was too high. Accordingly, the Society kept the houses under observation and noted damage that occurred due to vandalism, and lack of routine maintenance, and informed the Borough of the situation from time to time.

In spite of this, the Council failed to carry out even simple maintenance such as replacing trap-door roof access's, which, if not dealt with would allow direct rain penetration into the houses.

The Society wrote to the Greater London Council and requested a meeting with the appropriate officers of the London Borough of Hackney; they also sought support from other organisations concerned with conservation including the Georgian Group, the Victorian Society and the local chapter of the Royal Institute of British Architects.

The London Borough of Hackney rejected the Society's request for a meeting and this point was made subsequently at the public enquiry:

"this approach by the Society was rejected and instead we were advised that the Council considered that the listing of the buildings did not affect the result of the Compulsory Purchase Order Enquiry. They advised us that they intended to proceed with plans for the demolition of the properties" (245)

"Whereas some other East London boroughs hold consultations on Listed Buildings and Conservation Areas with local civic societies on a monthly basis, this Council has only held 2-3 meetings with the Hackney Society since its foundation 10 years ago. One might conclude that the Local authority is not particularly concerned about the view of local societies." (246)

(245) Julian Harrups written Proof of Evidence submitted to the public enquiry on behalf of the Hackney Society 18th May 1976. p.3, para 8.

(246) Ibid Para 9.

The Society widened the area of its activities by the issuing of press releases. These linked the Boroughs proposed demolition of Shepherdess Walk with the fact that it was European Architectural Heritage Year; the campaign objective of which was to draw attention to the need to safeguard historic buildings.

The Society also organised a letter writing campaign, whereby individuals and organisations were provided with a leaflet which explained the Council's proposal, and set out the arguments for the retention of the houses; everybody was urged to write to the London Borough of Hackney, the Greater London Council and the Department of the Environment objecting to the proposed demolition.

As a result of the large number of objections received by the Department of the Environment, the Secretary of State decided that the issue should be dealt with at a public enquiry.

Thus the Hackney Society had achieved its first objective.

ii. Action taken by the Greater London Council Historic Buildings Board.

Following their decision to apply for listed building consent to demolish the buildings, the London Borough of Hackney submitted their application to the Secretary of State for the Environment. Accordingly, the Department of

the Environment processed the application and informed the Greater London Council, the Georgian Group and the Victorian Society of Hackney's proposal.

Subsequently the matter was discussed by the Greater London Council Historic Buildings Board on 15th July 1975, when it was decided they: "..... were opposed to demolition but before informing the Secretary of State of their reasons they decided to offer the borough council a member-level meeting to discuss the matter". (247)

Although members of the London Borough of Hackney attended a joint member-level meeting with the Board on 14th October 1975: "..... the borough council strongly urged their case for demolition. They averred that high density housing schemes had been developed in the area based on and in anticipation of the availability of open space on this site, before the houses thereon had been added to the statutory list; that the Council ought to consider itself bound by the provisions of the 1951 Initial Development Plan, in view of the involvement of its predecessor, the London county council in the preparation of this; that as the inquiry into the compulsory purchase by the borough council of these houses, their architectural or historic interest had not been established that they would face strong and justified criticism of their housing schemes if necessary amenities were not provided." (248)

(247) Greater London Council Historic Buildings, Minutes of Board Meeting, (28th October 1975), Barts Ref: 650, p.1 para. 1

(248) Ibid p.1 para. 6

The borough council also "..... expressed the opinion that the houses had no special interest, that they were not capable of economic restoration, and that this was an instance when social need was of overriding importance. They were not prepared to incur the kind of expenditure needed for restoration work which would be significantly more than the cost of rehousing the existing tenants." (249)

The Boards reaction to the borough councils points is contained in the penultimate paragraph of the Minutes:

"..... While the Board appreciates the need for the provision of open space in the area they did not think that such provision would be possible in the existing financial climate. When applications are made to the Secretary of State for listed building consent the Council is consulted, as required statutorily, on the historic buildings aspect, and the locus of the Council is confined to such considerations. The Council had not been informed of and did not give evidence at the Compulsory Purchase Order inquiry but, as far back as 1969, verbal representations had been made to the Department in regard to the special interest of these houses. A decision as to the overriding importance of amenity needs over conservation aspects is a decision for the Minister. The Board considers that these buildings have merit and should be preserved." (250)

Accordingly the Board recommended "..... That the Secretary of State for the Environment be informed that the Council is opposed to the demolition of Nos. 9-67 Shepherdess Walk, Hackney for the reasons set out in the foregoing report and that the

Hackney Borough Council be informed accordingly and advised to refer any representations they have received direct to the Secretary of State." (251)

The Minutes revealed that although the Greater London Council had made representations to the London Borough of Hackney on the subject of the architectural merit of the houses in 1969 they did not make any representation to the part III Compulsory Purchase Order public enquiry, although they knew that if the Compulsory Purchase Order were to be confirmed, the Borough Council would be under a statutory obligation to demolish the buildings.

iii. Action taken by the London Borough of Hackney.

Following the Council's formal decision to apply for listed building consent for the demolition of Shepherdess Walk, the application was submitted to the Secretary of State for the Department of the Environment. As a matter of courtesy the Borough Planning Officer also formally asked the London Borough of Islington for comments upon the proposed demolition.

The writer was told by Officers of the London Borough of Islington Town Planning Department that Hackney were seeking support for the demolition on the grounds that Islington residents would be able to make use of the proposed public open space, since it was only a short distance from the borough boundaries. (252)

On the subject of inter-borough co-operation it emerged that the London Borough of Islington gave no support to Hackney's proposal; indeed Hackney had been approached recently to assist Islington with regard to its chronic shortage of public open space in another part of the Borough and this approach had been rejected. (253)

iv. Action taken by the North East Thames Architectural Society

At the request of N.E.T.A.S., the writer was asked to appear at the public enquiry and present a case for the retention and rehabilitation of the houses. Accordingly N.E.T.A.S. made a formal objection to the Secretary of State and informed the London Borough of Hackney and the Greater London Council of its decision.

The writer attempted to persuade the Greater London Council to take unilateral action and designate a Conservation Area to include the remaining terraces in the street many of which had been listed.

Although the Greater London Council had the power to take unilateral action, it clearly preferred not to do so. However, the Council's Historic Buildings Division were extremely helpful, and explained their proposed actions with regard to the demolition, as were revealed in the minutes which were examined earlier.

(253) The writer made this allegation at the public enquiry

One member of N.E.T.A.S., who had worked for the London Borough of Hackney, gave the writer much useful background information one item of which was vital to the case for the retention of the buildings. It emerged that the Borough Architects Department had produced a notional scheme for the conversion of the houses and carried out an 'Appendix B' calculation; this showed that the houses were capable of conversion at reasonable cost. (254)

Members of N.E.T.A.S. produced information upon the planning, open space, aesthetic and economics of the retention of the houses, and the writer briefed solicitors who, in turn briefed junior counsel. (255)

The writer also engaged a chartered Quantity Surveyor to give evidence upon costs and the 'Appendix B' calculation, and a chartered structural engineer to give evidence upon structural aspects of the buildings. (256)

The writer carried out a photographic survey of Shepherdess Walk and enlarged photographs, maps and diagrams were produced for presentation at the Enquiry.

v. Action taken by the Department of the Environment

Following receipt of the London Borough of Hackney's application for listed building consent, the Department of the

(254) Although the officer concerned was not employed by Hackney at the time he has asked to remain anonymous.

Environment formally notified the Greater London Council and two statutory civic societies: the Georgian Group and the Victorian Society.

An officer of the Department of the Environment wrote to the Borough Solicitor of the London Borough of Hackney setting out the issues upon which it appeared that a decision would be based:

" On the information so far available, the following points appear to the Secretary of State likely to be relevant to his consideration of the application:-

- a) the importance of the buildings both intrinsically and in relation to the street scene,
- b) their structural condition and state of repair,
- c) the likely cost of repairing and maintaining them in relation to their importance, with due regard to their economic value when repaired,
- d) the importance of the proposed use of the site for public open space,
- e) the possibility of retaining the buildings within the proposed public open space." (257)

The Borough Solicitor sent copies of this letter to all parties who had expressed their intention to appear at the public enquiry.

(257) C.N. Dodd Department of the Environment, Letter to Borough Solicitor of London Borough of Hackney, ref. HB/5013/270/17, (9th March 1976)

vi. Summary

All the parties who intended to make representation at the enquiry used the period 25th October 1973 to 18 May 1976 to gather evidence while the Department of the Environment ensured that the administrative legalities were properly established and produced a list of the factors which appeared most likely to influence the final decision.

The period was also used to gain public support for the Hackney Society's campaign in an effort to either persuade the London Borough of Hackney to change its mind or, in the event this failed, to establish a sympathetic climate of opinion in favour of the retention of the buildings.

The writer's attempt to persuade the Greater London Council to declare Shepherdess Walk a Conservation Area was unsuccessful, as Local Authorities preferred to agree issues by consensus rather than by confrontation.

Having explained something of the atmosphere in which the 'actors' were operating during this time, it would now be useful to analyse the various points which were argued at the public enquiry.

IV. THE PUBLIC ENQUIRYi. Preamble

The Shepherdess Walk Listed Building Application 18th April 1975 Public Enquiry took place on 18th May 1976; before K. Dodds., ARIBA, Dip TP MRTPI., a Department of the Environment Inspector.

It is interesting to note that the letter from the Department of the Environment of 9th March 1976 which set out what appeared to be the salient points in the ultimate decision was written by Mr. Dodds. It is clear therefore, that he had been allocated the case and had worked upon it before the hearing.

It is also interesting to note the likely bias in the Inspectors attitude to listed buildings which is revealed by the Inspector's qualifications in Architecture and Town Planning. The Department of the Environment almost invariably select architect/planners to take public enquiries in which aesthetics are an important factor in the decision.

ii. The Evidence present by the London Borough of Hackney

The Chief Assistant Solicitor to the Council represented the Borough. He set out the historic context of the events which had led up to the enquiry and then called the only witness for the Council: the Assistant Borough Planning Officer to the London Borough of Hackney. (258)

He commenced by describing the site occupied by 9 - 67 Shepherdess Walk and the adjoining open space and stated that: "Subject to the confirmation of this application the Council intend to lay out the land, together with the remaining land of the island site in its ownership, as an extension of the Shepherdess Walk open space" (259)

He then set out the planning background to the Council's case as described in the introduction section of the thesis earlier.

He continued by commenting upon the architectural merit of the houses: "..... this terrace is a pleasant though modest example of its period in the area. Its proportions and period detail are simple in character but the rhythm of its long facade are the principal contribution to the quality of the terrace both intrinsically and in the street scene. The house frontages do not, however, form part of a larger composition either within the terrace itself or as a part of a larger unified group of buildings and in this respect they cannot be considered of high architectural importance." (260)

He then went on to comment upon the townscape implications of his proposal.

"The land, the subject of this inquiry, together with that behind when laid out as public open space, would give a clear visual and psychological western boundary to an extensive area

of loosely sited post war housing and form a break between the housing and the zoned industrial area to the west." (261)

The Assistant Borough Planning Officer then outlined the structural condition of the houses, the arrangement of the rooms and the problems he envisaged in a scheme of conversion; these all related to Nos 35 and 59 Shepherdess Walk which typified those houses which had and those which did not have mansard roofs.

He summed up this part of his evidence thus:

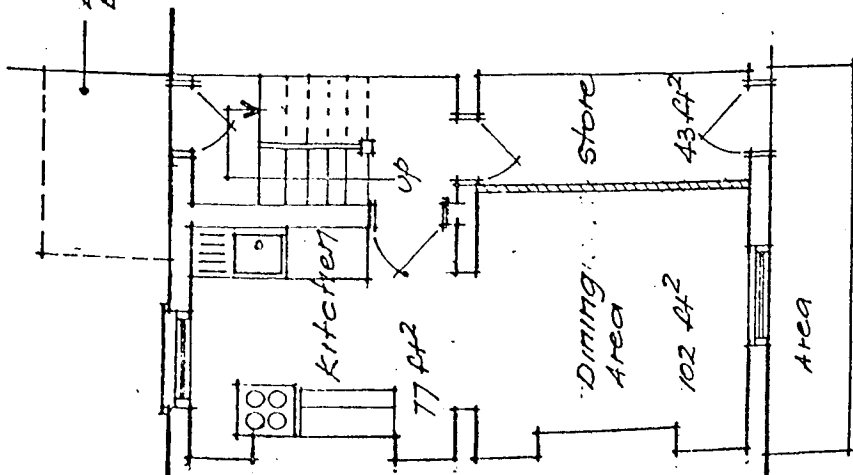
"Superficially the two properties inspected appear structurally stable but would demand a high expenditure to properly rectify a considerable extent of delapidation both internally and externally." (262)

He then described a possible means of converting the two house types. (see plans figs 10.05 and 10.06)

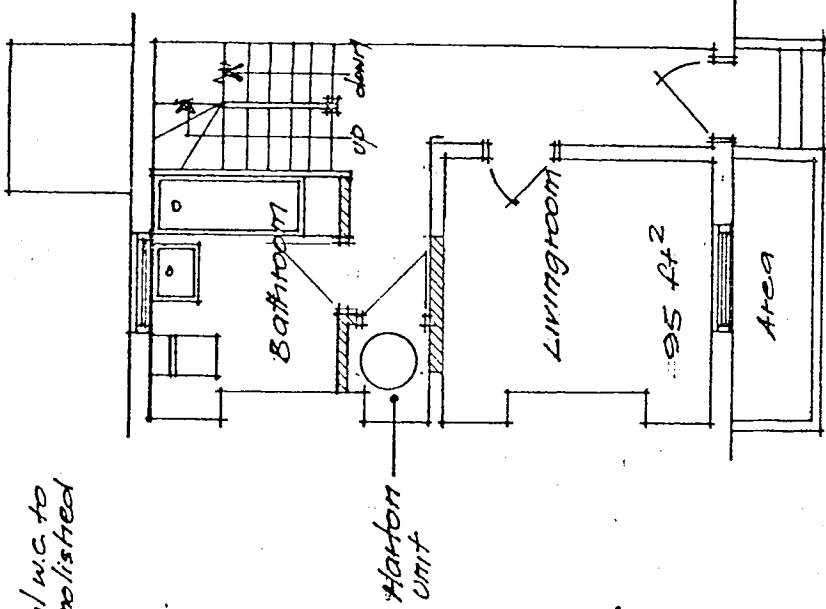
He continued by outlining the cost implication of the works required to convert 35 Shepherdess Walk as follows:-

(261) Assistant Borough Planning Officer op cit.
p.2. para 4(a)

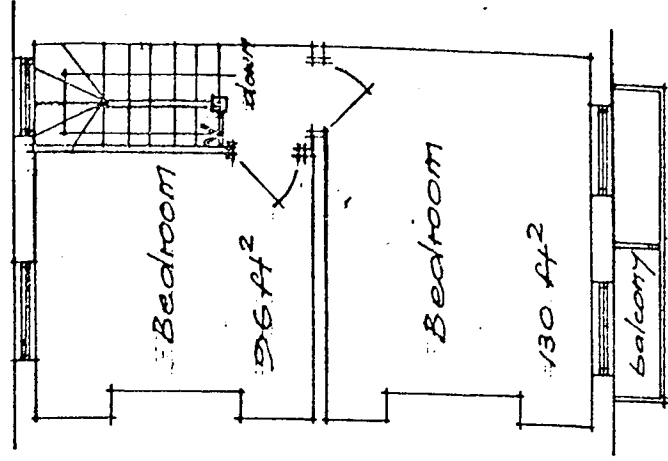
(262) Ibid p. 3. para 4(b)



Basement



Ground Floor



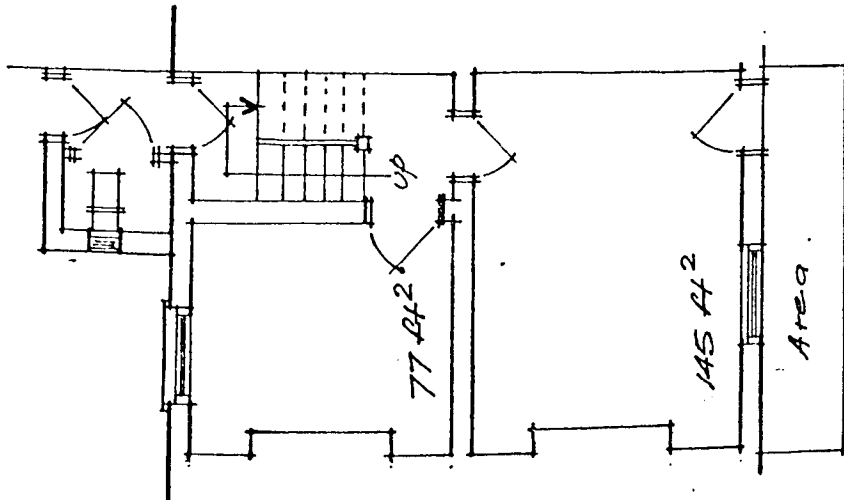
First Floor

fig. 10.05

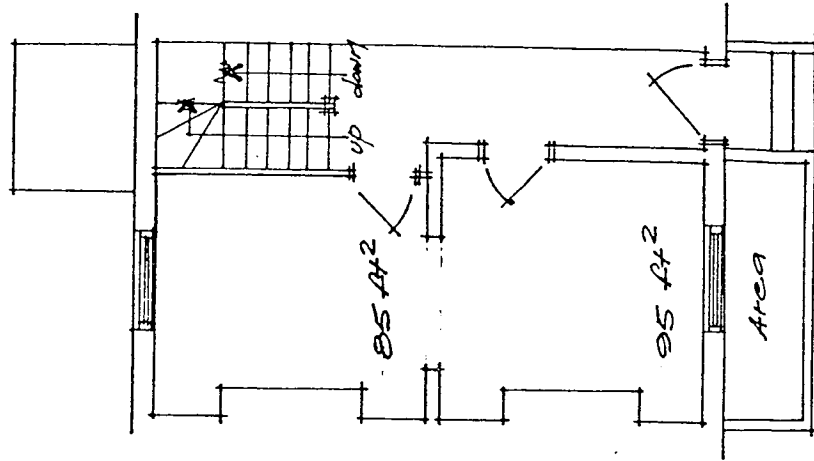
Plan As Proposed
 35, Shepherdess Walk
 London. N.1.

Scale: 1/8" = 1'
 Date: May 1976

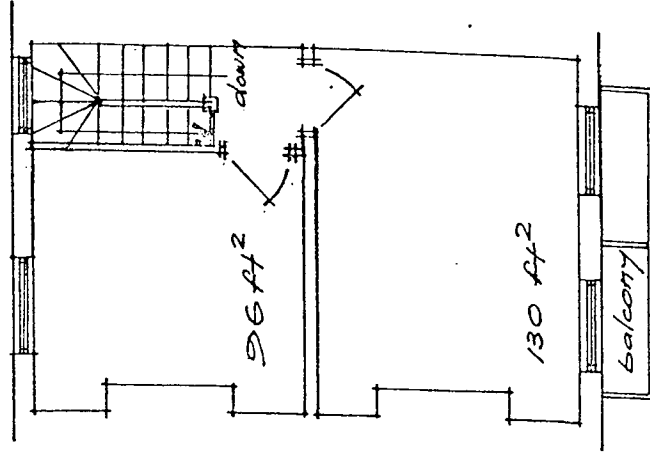
A Total gross area 882 ft²



Basement



Ground Floor



First Floor

fig. 10.06

Plan As Existing
35, Stepherdless Ln, London. N.1.
Scale: $\frac{1}{8}$ " : 1'
Date : May 1976
808

B Total gross area 906 ft²

<u>"Improvements:</u>	Inclusion of bathroom and W.C., Kitchen, heating, hot water, elect- rical installations, gas and heater services, dampcourse, timber treatment, drainage.	£3,498.00
<u>Repairs:</u>	Internally and externally	£4,875.00
<u>Other Works:</u>	Garden Walls, pavings, demolition	635.00
<u>Contingency</u>		500.00
<u>Fees and Salaries:</u>		£1,000.00
	Total:	<u>£10,508.00</u>

An approximate budget cost in the case of 59 Shepherdess Walk would be £11,000.00." (263)

He noted the implication of these calculations on the cost limits current at that time, in that 35 Shepherdess Walk would be £200 over the limit, (although this could probably be saved out of the contingency sum), and 59 would be £1000 below the limit.

Having conceded that the scheme was viable the witness had shown that the confirmation of the part III Compulsory Purchase Order in 1973 was wrong, since it was possible to make the houses fit at reasonable cost.

However the next part of his evidence was concerned with problems in the use of the buildings and can be summarised as follows:-

Three Storey House;

It was assumed that the three storey houses would accommodate three people,

- a) the existing room sizes were awkward
- b) Parker Morris Standards for a new flat or single storey house were 610 ft^2 plus storage 45 ft^2 whereas the existing house was 906 ft^2

It was assumed that the four storey houses would accommodate five to six people

- c) Parker Morris Standards for a new flat or single storey house were 1084 ft^2 whereas the existing house was 1010 ft^2 plus storage 50 ft^2

In both types of house:

- d) the use of front basement rooms was feasible but doubtful from the adequacy of natural light.
- e) the basement outlook would be depressing.
- f) the floor to ceiling heights of top floors of mansarded houses was below standard;
- g) the timber staircases were narrow; and
- h) incorporated continuous winders;
- i) the living rooms were small being only 95 ft^2 for 3 persons and 180 ft^2 for five person dwellings
- j) there would be no facility for off-street car parking
- k) there were no front area access stairs from the footway
- l) Refuse collection would have to be from Shepherdess Walk.

The witness then explained the Council's need for the public open space; this can be summarised as follows:-

- a) the area is deficient in public open space
- b) the proposed public open space would serve a local function for people within $\frac{1}{4}$ mile distance
- c) If 9-67 Shepherdess Walk were not to be included in the public open space it will be difficult to off-set the deficiency elsewhere.
- d) surrounding residential development was high density and more was proposed by the Greater London Council and the London Borough of Islington within a $\frac{1}{4}$ mile; this would increase the need.
- e) the public open space would act as a buffer between the industrial and residential areas to the east and west of the site.
- f) the public open space would serve industrial workers in the weekday day time and the local residents in the evenings and week-ends.
- g) there was a low level of car ownership in Hackney therefore the need for parks close to residential areas had increased.
- h) the population of Hackney was slightly above the national average age group; these older people would find the public open space very useful.

The witness then set out the design consideration of the public open space; and confirmed that the Council had allocated sufficient funds for the lay-out of the area.

He completed his evidence by stating that:

"It is my contention that the needs for public open space outweigh the considerations regarding the historic or architectural interest of the properties." (264)

Under cross-examination it appeared that the Assistant Borough Planning Office believed the houses to have no real merit and that they could not be converted to produce reasonable living accommodation.

iii. Evidence presented by the Objectors

a. Preamble

There were a number of objectors who gave evidence; these were as follows:-

1. North East Thames Architectural Society
2. The Hackney Society
3. The Victorian Society
4. The Georgian Group
5. The Ancient Monuments Society
6. Roger France of Oxford Polytechnic
- 7-10. Four individual local residents.

Some of the evidence given by the objectors was repetitive and overlapping therefore, for the sake of brevity, the evidence given by N.E.T.A.S. will be summarised since it encapsulated the salient points

made by all the other objectors and the N.E.T.A.S.
case was professionally presented by planning counsel.

b. The Evidence presented by North East Thames
Architectural Society.

Counsel for N.E.T.A.S. outlined the form of the objection and the nature of the case to be presented: he then called the writer to give evidence on the architectural and planning aspects of the case.

The writer commenced by describing the setting of 9-67 Shepherdess Walk, the recent planning history of the site and the architectural and townscape character of the appeal buildings; the evidence was substantially as described in the introduction section of this case example.

Evidence was then given to show that it was wrong to consider 9-67 Shepherdess Walk in isolation from the rest of the street, since the preponderance of the buildings north of the appeal site were also listed; a description and photographic survey of these buildings was submitted (see plan fig 10.07).

Evidence was then given as to certain aspects of the design of 9-67 Shepherdess Walk which were unique to Hackney and indeed nationally.

PLAN SHOWING LISTED BUILDINGS IN
SHEPHERDESS WALK

fig. 10.07



Aston University

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It should be noted at this point that other objectors gave a considerable amount of expert evidence upon this subject; particularly the architectural advisers to the statutory civic societies.

Evidence was then given on the subject of the proposed use of the site for public open space; this may be summarised as follows:

1. Although the Borough stated that they were determined to adhere to the approved Initial Development Plan, there were four cases in the immediate vicinity of the appeal site where they had had the opportunity to carry out development in accordance with the Initial Development Plan but where instead they had decided to carry out developments involving a different land-use; details of these developments were submitted.
2. One site zoned in the Initial Development Plan for public open space had been acquired by Hackney but had been sub-let by the Council for car parking purposes; the site was 70 yards from the appeal site.
3. The London Borough of Islington has the worst ratio of public open space per capita in London, but had taken a flexible approach to re-zoning

where to do so would ensure the retention of listed buildings; four examples were submitted as evidence to support this statement (In fact the evidence submitted was case example 2. and three other examples).

4. The proposed use of the appeal site as a visual link with the Regent's land tow path did not bear scrutiny since the canal was not visible from this part of Shepherdess Walk.
5. It was pointed out that even closer to the canal it was not visible, since it was obscured by a block of flats and a factory.
6. The existing public open space to the immediate north of the appeal site appeared to be under-used.
7. The existing public open space was most unattractively laid out and displayed no vestige of the 'visual screening' between the industrial and residential developments referred to in the Borough evidence.
8. It was suggested that the money which had been allocated for the laying-out of a public open space on the appeal site could be better spent in improving the existing park in the area.

9. Other empty sites in the immediate vicinity were identified which could be used for public open space purpose in lieu of the appeal site.
10. Local tenants could make use of the newly opened towpath to the Regent's Canal.
11. Local tenants could also use the new London Borough of Islington public open space adjoining the Packingham Estate development.
12. By reference to the London Borough of Islington Development Plan it was shown that Islington public open space requirement was less in this vicinity than in most of the rest of that Borough.
13. When Islington had requested public open space relief assistance in the Mildmay area of the Borough, Hackney had refused to help; therefore it appeared that the evidence presented, suggesting the appeal sites development on public open space would assist the London Borough of Islington, appeared at best to be a 'make-weight' argument.
14. Other proposals for recreational uses at Windsor House were not envisaged in the Initial Development Plan therefore this could be taken into account in lieu of the appeal site.

15. Hackney's population was dropping rapidly therefore the per capita provision of public open space would improve.
16. Due to the layout of the canal, many factory workers in $\frac{1}{4}$ mile radius would need to walk $\frac{1}{2}$ mile or more to use the appeal site.
17. The existing public open space almost exactly fits the target provisions of the Greater London Development Plan.
18. Hackney had 3.1 acres of public open space per 1000 people in 1966 compared with 0.3 for Islington and 1.6 for Tower Hamlets, indeed Hackney is the fifth highest inner London Borough with regard to public open space in terms of per capita provision.

It should be noted that the Hackney Society and the Georgian Group presented good evidence to show the considerable under-use of existing public open space in the immediate vicinity.

The next evidence to be presented concerned the possibility of retaining 9-67 Shepherdess Walk within the proposed open space; this can be summarised as follows:-

1. The site can be extended in the south to produce a public open space of 0.53 acres; this land could be used in a variety of ways: a list of activities and the areas they required was submitted with drawings showing several different approaches to the design.
2. The site could be further extended by the closure of Sturt Street to the north, thus converting the Shepherdess Walk public open space to the Sturt Street public open space.
3. A long narrow public open space with housing alongside would reduce vandalism to trees and plants because vandals would be visible to tenants.

The next evidence presented was concerned with the structural condition and state of repair of the buildings.

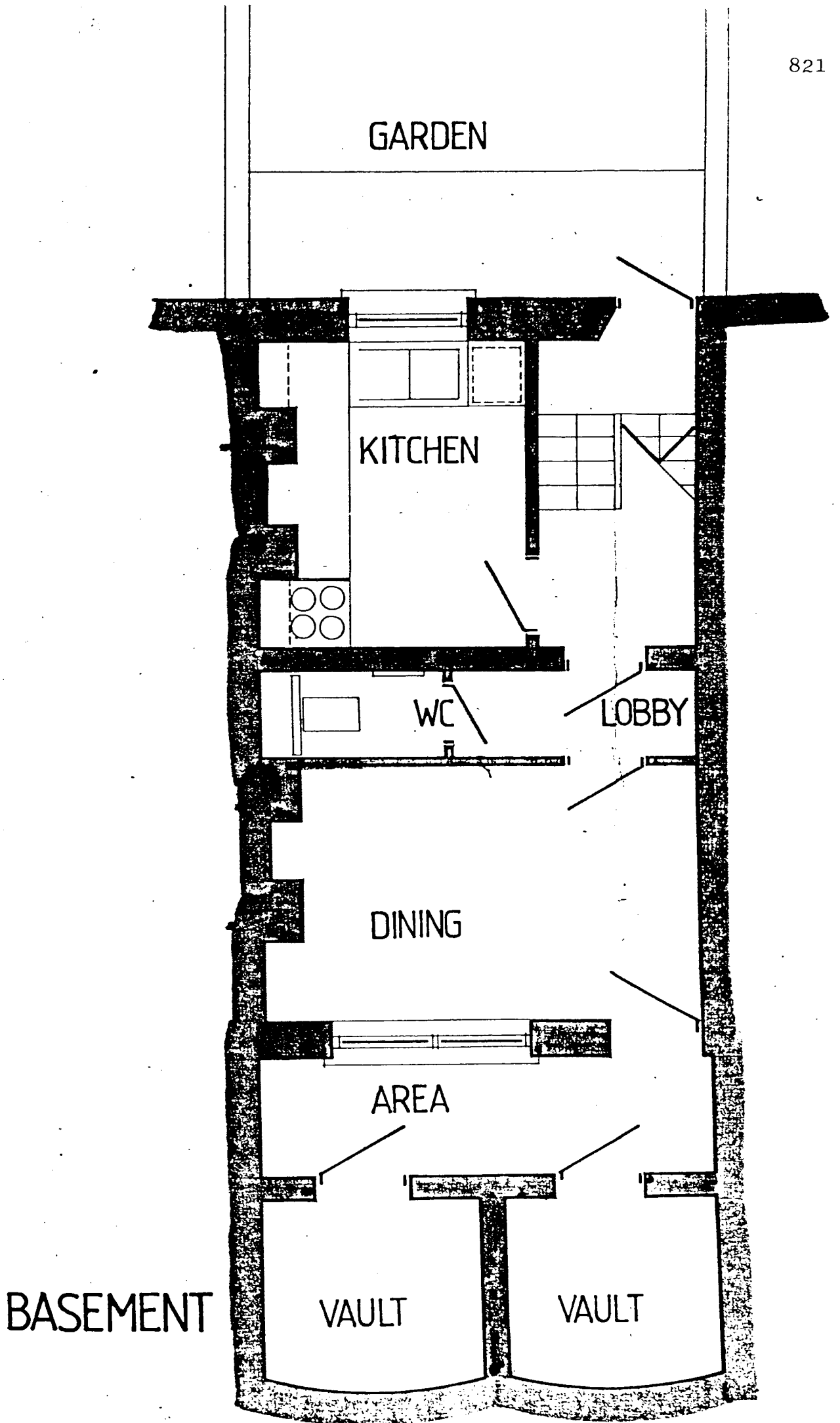
The writer stated that the houses were in reasonable structural condition considering the age of the property, and as good as similar houses purchased by middle class people for conversion in this part of inner London.

This evidence led on to a consideration of the likely costs of conversion compared with the likely life

expectancy of converted houses; these were compared notionally with the standards of modern housing.

The costs were based upon plans which were submitted (see figs. 10.08, 10.09 and 10.10), the costs implications of the proposals can be summarised as follows:-

<u>Rehabilitation Option</u>	<u>Redevelopment Option</u>
22x4 person houses	30x5 person houses
8x6 person houses	
Total no. of persons 136	Total no of persons 150
Parking hardstanding provided	Parking hardstanding provided
Space standards Parker Morris	Quality rating - 108% Parker Morris
All other standards equal to Parker Morris	
Quality rating 100% (compared to Parker Morris)	
Life 40 years	
<hr/>	
Total cost - works, fees and acquisition £784,440	Total cost - works, fee and acquisition £1,108,200
Plus notional housing loss cost 14 persons £ 67,032	
Total: <u>£851,472</u>	
% of new cost = 77%	
"Permitted cost" = 98%	



BASEMENT

GARDEN

KITCHEN

WC

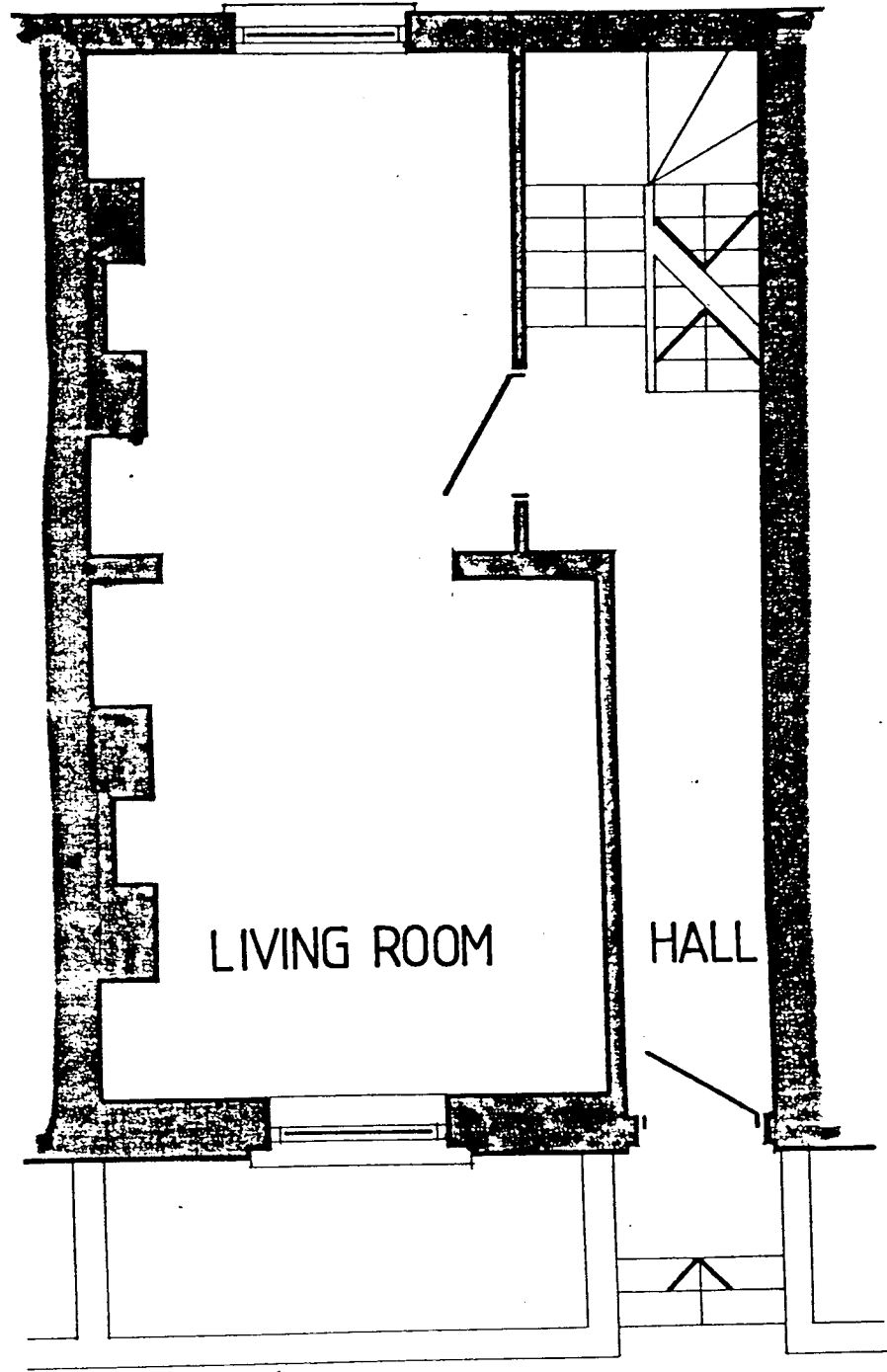
LOBBY

DINING

AREA

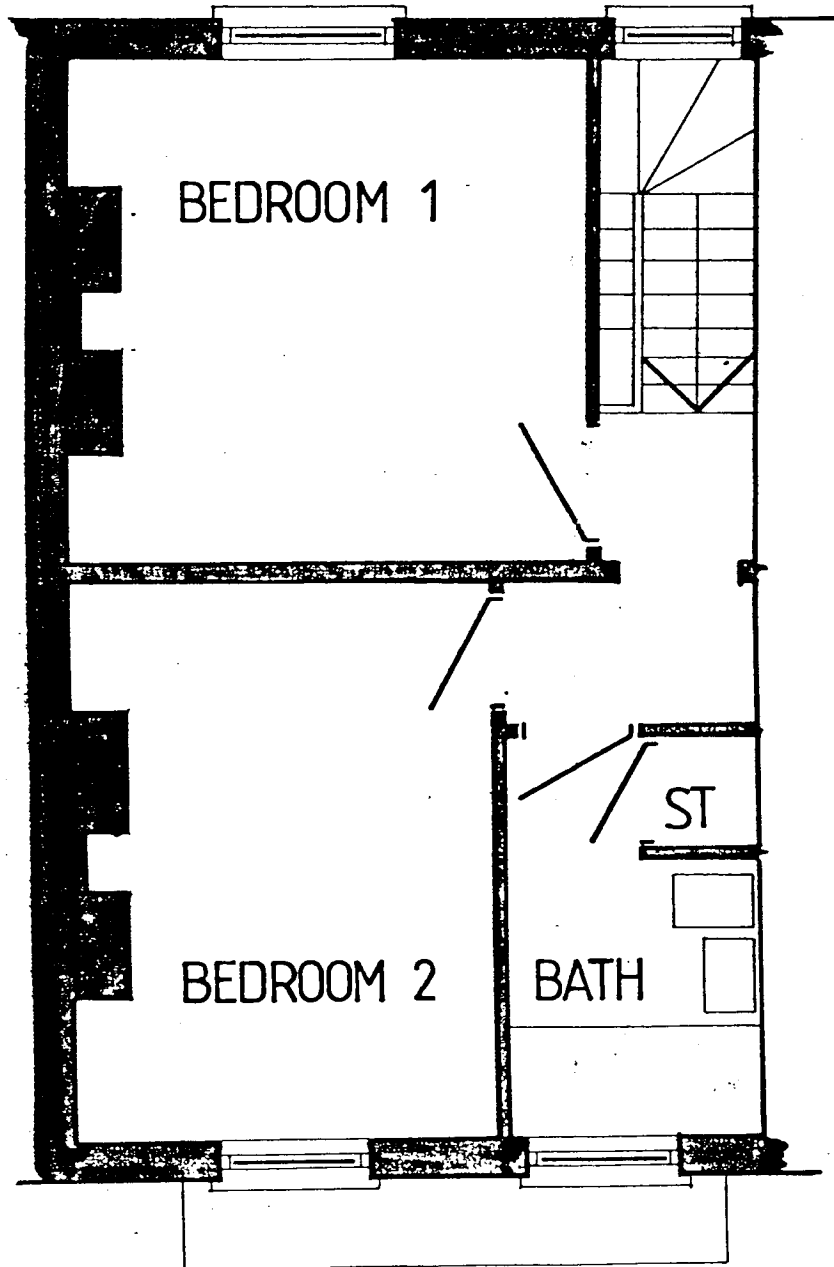
VAULT

VAULT



GROUND FLOOR

REHABILITATION OPTION
TYPICAL HOUSE 9-67 SHEPHERDESS WALK fig. 10.09



FIRST FLOOR

REHABILITATION OPTION
TYPICAL HOUSE 9-67 SHEPHERDESS WALK fig. 10.10

Assuming that the rehabilitated houses are as good as new houses, then it is economic to improve them. This proposition holds good even if the rehabilitated houses are considered to be only 80% as good as new houses.

It is reasonable to assume that redevelopment will take longer than rehabilitation. If this difference is 1 year (a modest assumption) then it could be said that 136 persons have to wait an extra year to be housed. This represents a benefit reduction, i.e. an increased cost. This loss of 136 bedspace years is equivalent to an increased cost of 9.1% and on this case rehabilitation represents 73% of the cost of new.

The conclusion is that rehabilitation of the existing houses is an economic proposition.

The detailed cost exercise is shown in Appendices 10-i and 10-ii.

Evidence was then submitted regarding the alternative means of converting the buildings for housing purposes and the likely costs of doing so; the cost information was as follows:-

"To ascertain whether or not it is worthwhile to rehabilitate the thirty existing houses I have referred to 'Appendix B' of the Department of the Environment Circular 63/69 (updated to the current Test Discount rate of 10%)." (265)

The next evidence was to suggest that if 9-67 Shepherdess Walk were regarded as unsuitable for conversion for housing, they would be used for small offices. Such a use was identified as in great demand and this was recognised in the Greater London Development Plan which recommended that Town Planning consents should be given to encourage small office users up to 1000 ft² in inner urban areas.

The evidence was concluded by summarising the case presented and urging the Department of the Environment to set an example in encouraging the retention, restoration and conversion of buildings of architectural and historic interest.

Counsel for N.E.T.A.S. then called a chartered quantity surveyor to give evidence on the building costs as included in the writers evidence and to show the relevance of the 'Appendix B' formula.

Following this evidence Counsel called the chartered structural engineer who confirmed that the buildings were generally structurally sound and that their condition was normal for their age.

All witnesses had been cross-examined by the Council's solicitor and other objector witnesses were cross-examined both by Counsel for N.E.T.A.S. and by the Council's solicitor.

iv. Summary

At the completion of the public enquiry the objectors held an informal discussion, when it was generally agreed that all points relevant to the case had been adequately covered in the combined evidence submitted by the large number of objectors.

There was also a subjective feeling that the Department of the Environment's Inspector had conducted the hearing in a reasonable way. This was in marked contrast to the atmosphere described in the public enquiry section of case example 1. in connection with the London Borough of Islington's (Hemingford Road) Compulsory Purchase Order 1970.

V THE DECISION

The Inspector's report was submitted to the Secretary of State on 20th July 1976. The report summarised the principle points which appeared relevant to the argument as to whether or not to allow the demolition of 9-67 Shepherdess Walk both as presented by the London Borough of Hackney and by all the objectors who had given evidence at the public enquiry.

He then listed the points which he accepted had been established as facts and concluded:- (266)

"Bearing in mind the above findings of fact I am of the opinion that as these houses (unique in Hackney) are of exceptional quality, both intrinsically and in the contribution they make to a section of a largely undisturbed Georgian street scene, and when they are capable of rehabilitation at an acceptable cost, a cogent case needs to be established to justify the demolition of such an attractive and irreplaceable terrace. But the only reason advanced in support of the application for listed building consent is that the sites on which the buildings stand were allocated in the Development Plan and its Review for public open space purposes because there was and still is a local deficiency of this amenity land use.

"I appreciate that the Council are attempting to implement a long-standing commitment in the Development Plan and consider that the public interest would best be served by increasing

the amount and distribution of local open space, despite the fact that no overall deficiency exists within the Borough. That the buildings possess architectural interest and rehabilitation is feasible is not in dispute - although the preservation societies rate them higher than the Council. To my mind in the present climate of opinion on the importance of preserving listed buildings, only an unusually acute shortage (or total absence) of open space in special circumstances can justify the removal of scarce buildings of special historical or architectural interest. No such factors apply in the Shepherdess Walk area where there is only a minor local shortfall below recommended standards and demolition would produce a long narrow $\frac{1}{2}$ acre strip of cleared land having limited environmental value." (267)

"The Council have not made out a strong enough case to rebut the presumption in favour of preservation and consent should not be granted. They will have to either look elsewhere to remedy the deficiency, make better use of existing open space, or accept that a small shortfall in this land use must continue until other options arise." (268)

The Inspectors report ended by recommending :

"That listed building consent be not granted." (269)

(267) K. Dodds, op cit. p.10 para 6.2

(268) Ibid para 6.4

(269) Ibid para 7.1

VI CONCLUSIONSi. Generally

In his findings of fact the Inspector stated "Although in need of extensive repairs, the houses can be rehabilitated at an acceptable cost to provide satisfactory dwellings." (270)

Since the witness for the Borough had conceded that the houses could be converted within current cost limits, a fact which had been emphasised by the quantity surveyor and the architects who had appeared on behalf of objectors, and the Inspector had not asked any questions querying the fact, it was reasonable to anticipate that this point would be accepted. However the Borough's witness suggested that the conversions, although within cost limits, would not produce reasonable living conditions; this contention was not accepted by the Inspector.

However, even if the Inspector had accepted the Council's evidence on this point, it clearly emerged that the original part III Compulsory Purchase Order decision was incorrect, since a pre-requisite of part III of the Act is that, for properties to be properly defined as slums, it has to be shown that they cannot be made fit at reasonable cost. However the schemes as costed and submitted included works, the scope of which went far beyond those simply required to render the houses fit for human habitation, since the costs included

such items as central heating. Thus it is clear that the houses could have been made technically fit for a considerably smaller financial investment.

This raises an interesting point of conjecture as to what would have happened if the Inspector had granted the Borough a listed building consent to demolish the terrace, whilst finding, as a matter of fact, that the houses could be converted within current cost limits.

In such hypothetical circumstances, it is likely that the erstwhile owners of the houses could have taken legal action to have the original part III Compulsory Purchase Order confirmation ruled ultra vires. This would have left Hackney two alternative courses of action:

- a. to sell back the houses to the owner; or
- b. to pay compensation to the owners as if the houses had been bought at full market value.

The writer has not been able to establish whether such a situation has occurred elsewhere. However, as noted in the section on the law of conservation, the second option was made a feasible possibility by virtue of Lord Garnsworthy's amendment to the 1974 Act.

Another important implication of this factor in the Inspector's decision is that the question of the requirements of the 'Appendix B' formula were not properly considered at the original part III Compulsory Purchase Order hearing; the

Borough produced no costings, and those produced by the principal objectors were clearly wrong, and were for this reason rejected by the Inspector. Another possible closely related factor is that of the personal bias of Inspectors. It appears that Inspectors who are architects or architect/planners are selected to take hearings involving aesthetic judgements, whilst municipal, civil or structural engineers, retired service officers and other professionals are expected to deal with part III Compulsory Purchase Orders.

If this is the case there is a possible danger in that, in situations where it is not possible to achieve total objectivity the Department of the Environment's selection of Inspectors could perpetuate a bias in a certain direction; it is for this reason that such semi-objective tests as the 'Appendix B' formula in the determination of what constitutes a slum are so important.

From the findings in case examples in this thesis it seems clear that people experienced in the work of restoration and conversion, (such as architects and chartered building surveyors), would be more suitably qualified to take hearings concerned with slum clearance of buildings of architectural merit, or indeed buildings of marginal merit. Moreover it should be a fundamental part of any slum clearance inquiry hearing that a properly calculated 'Appendix B' formula be produced and submitted by the Local Authority for consideration and discussion.

Having briefly discussed the implications of the Inspector's decision with regard to the original confirmation of the part III Compulsory Purchase Order, it would be worthwhile now examining the second part of his decision concerned with public open space.

The Inspector found as fact:

"Whilst the overall provision in the Borough is adequate, there is a local deficiency in public open space in the Shepherdess Walk area which the Council wish to remedy by the use of the sites of Nos 9-67 together with the adjoining vacant land." (271)

The salient point in the Inspector's opinion was:

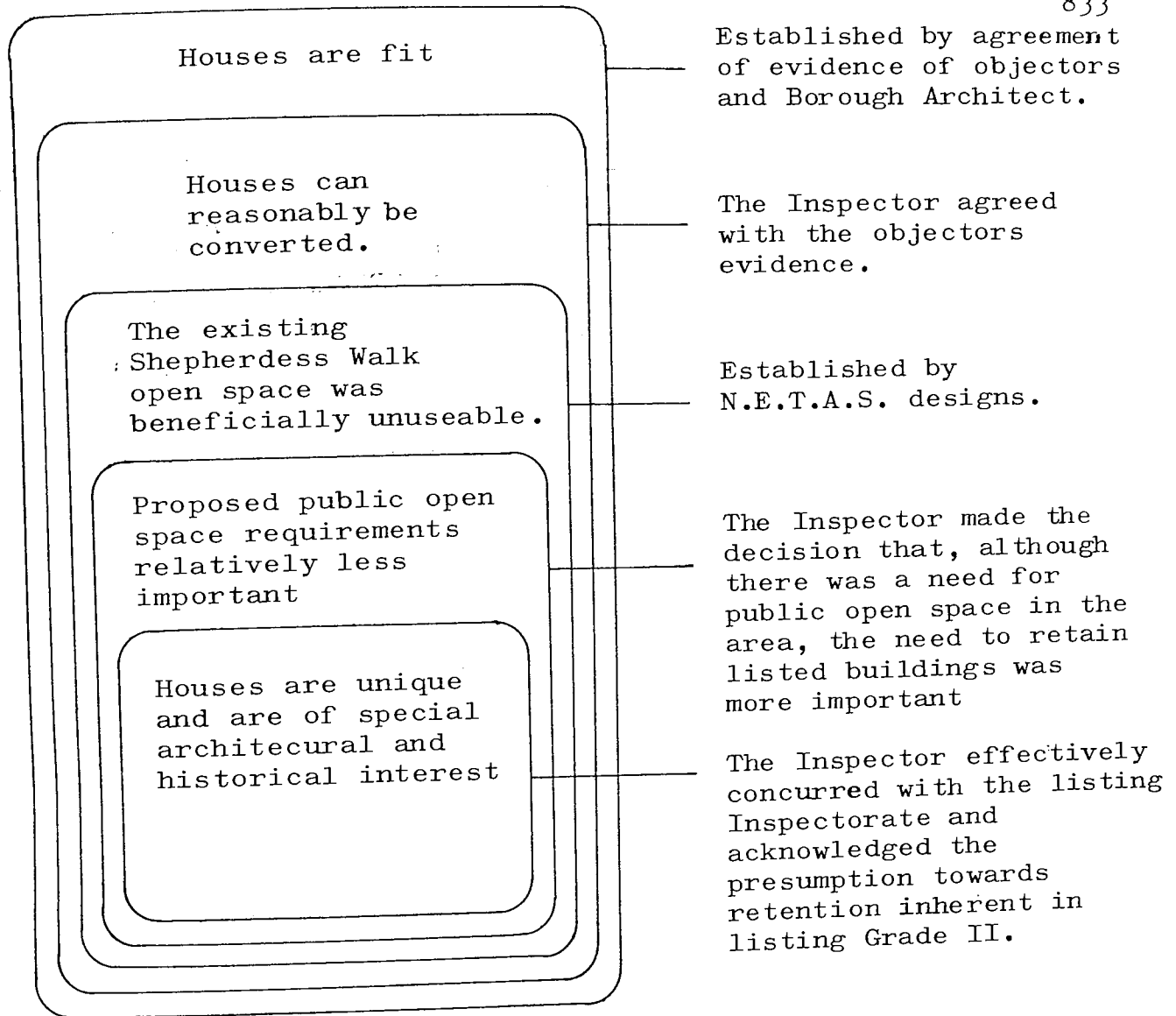
"To my mind in the present climate of opinion on the importance of preserving listed buildings, only an unusually acute shortage (or total absence) of open space in special circumstances can justify the removal of scarce buildings of special historical or architectural interest." (272)

Thus the Hackney Society had achieved its second objective.

The reduction in the Inspector's field of decision can be illustrated diagrammatically. see fig 10.11.

(271) K. Dodds, op cit, p.9 para 5.10

(272) Ibid p.10 para 6.2



DIAGRAMMATIC REPRESENTATION OF THE
REDUCTION IN THE FIELD OF DECISION
BY THE DEPARTMENT OF THE ENVIRONMENT'S
INSPECTOR FOLLOWING THE PUBLIC ENQUIRY
INTO THE LONDON BOROUGH OF HACKNEY
APPLICATION FOR LISTED BUILDING CONSENT
TO DEMOLISH 9-67 SHEPHERDESS WALK.

fig. 10.11

The Inspector's decision implies the need for flexibility in the planning process rather than a rigid determination on the part of planners to enforce an out-of-date master plan; this is particularly important in the field of urban renewal.

ii. The Factors Tested Through Case Examples

This case example is the final case selected for examination and analysis in the thesis. It is not suggested that all the points which have emerged during the research apply generally to slum clearance proposals in Britain, or indeed to London, however the analysis has revealed points of considerable concern which indicate flaws in the administration of the planning process in urban renewal, particularly with regard to slum clearance.

VII POSTSCRIPT

On 22nd October 1976, following the Secretary of State's decision not to grant Hackney a listed building consent Mr. Ronald Brown, the local labour MP for Hackney South and Shoreditch raised the matter in the House of Commons. (273)

Mr. Brown accused the Inspector of being incompetent, and biased towards the views of 'trendies' who lived outside the Borough whom he described as "the 'Rent-a-Crowd' Group." (274)

His accusation of incompetence was based upon the fact that the Inspector's decision effectively extinguished the part III Compulsory Purchase Order: he averred the confirmation of the part III Compulsory Purchase Order was a more rational decision:

"In 1972 the owners of these properties put a far more powerful case than this professional 'Rent a Crowd' has done. The inspector at that time, having considered all the evidence, was of the opinion that the overriding factor was undoubtedly the open space, and his view was that the buildings had no great architectural merit. Why is it that the report of Mr. Dodds is more important than the report of the previous inspector?" (275)

(273) R. Brown J.P.M.P. Hansard
pps. 1934/1943

(274) Ibid p. 1938

(275) Ibid p. 1937.

4.1 pm 22nd October 1976,

He also raised the issue that the Inspectors decision went against democratic principles since the decision not to allow listed building consent ran contrary to the opinions of democratically elected representatives in the London Borough of Hackney and Parliament:

"Here we have a democratic situation in which the people of the area, including all the councillors and the Member of Parliament, are saying what they want but in which the Minister is saying 'Go to blazes. I do not want to listen to you. I will do what I think is right.' And all that is because someone came into the area for 55 minutes and wrote a stupid report which was full of misleading errors. The Minister is satisfied with that." (276)

As was mentioned earlier, the surveyor who presented evidence for the principal landlords at the part III Compulsory Purchase Order in 1972 stated that Mr. Brown seemed to regard the proposed public open space as 'his'. This allegation appears to have been subsequently substantiated by Mr. Brown's statement in Parliament.

On the subject of the Inspector's assessment of the public open space requirements Mr. Brown stated:-

"I challenge my hon. Friend. This man needs sacking for making such misleading statements. It is not a park. It was never a park. It was part of the open space which was

given to me in 1970 after I raised the matter in the House as part of the total concept, and it is for my hon. Friend today to say why the Secretary of State has decided to go against it." (277)

The use of the words "It was part of the open space which was given to me in 1970" indicates Mr. Brown's strong identity with the planning of the public open space in this area.

Mr. Brown also outlined his other objections which can be summarised as follows:-

1. The decision not to allow listed building consent was bad and it would have been preferable to allow demolition under the confirmed part III Compulsory Purchase Order.
2. The houses had no architectural merit.
3. The public open space land-use requirement was the most important issue.
4. The decision was not democratic and was unduly influenced by outside parties.

Mr. Brown's statement was replied to by Mr. Kenneth Marks who was the then Under-Secretary of State for the Environment.

He explained the background of the case to the House and stated that the Inspector's report had been endorsed by the Secretary of State.

He pointed out that Hackney had conceded that the houses could be converted at reasonable cost, and that in the current climate of opinion, there was a presumption that, except in exceptional cases, listed buildings should be retained.

He then explained the philosophy behind the listing procedure:

"Listing is not the same as preservation. It merely puts a marker on a building and requires that listed building consent be sought for demolition or alteration affecting the special character of the building. The procedure gives the public the opportunity to comment and to have their views taken into account before a decision is reached." (278)

He continued by setting out the issues in resolving conflicts between the laws of conservation and slum clearance:

"The decision whether to allow demolition is not necessarily a case of preserving the existing buildings and wrecking the scheme or demolishing the existing buildings so that redevelopment can proceed. Compromise can often be reached by amending schemes so that some buildings can be preserved

or some of the new facilities required can be provided on other sites. It is not unusual to find that houses which in their existing state are unfit to live in are of special architectural or historic importance and interest. Poor condition does not detract from architectural interest unless the condition of the house is ruinous. For unfit listable houses a second look at rehabilitation as opposed to demolition is indicated, particularly in these days when all additions to the housing stock are useful." (279)

The writer believes this statement to be most useful in the field of urban renewal, particularly as it recognises and urges the need for flexibility in the planning process.

A further piece of useful information was revealed in the Under Secretary's reply:-

"Because of representations made about an alleged threat of demolition, they were listed in advance of the issue in February 1975 of the new statutory list for Hackney." (280)

Thus we see that the listing Inspectorate of the Department of the Environment had actually advanced the date of the listing of Shepherdess Walk as a means of re-opening the issue of demolition which was implied in the original part III Compulsory Purchase Order. This was in marked contrast to the Inspectorate's attitude which emerged in

(279) K. Marks, op cit, p. 1941

case example No 2. 16-62 Barnsbury Road.

The Under Secretary concluded by explaining the issues which had influenced the public enquiry Inspector and confirmed that the Secretary of State fully endorsed the Inspectors' findings.

Three other relevant points were revealed which could have had a strong influence upon Mr. Brown's attitudes. Firstly he had been a councillor for the area for many years, and he had been heavily involved in the planning of the area. Secondly, Mr. Brown's office was located in Shepherdess Walk opposite the appeal site and thirdly Mr. Brown had considerable influence in the Council with whom he had a close political and working relationship.

The fact that the Inspector's decision was challenged in Parliament was most useful in that as a result, a number of issues of policy were explained by the Under Secretary, and some underlying influencing factors were revealed.

Some of these will be examined in a review summary of conclusions later in the thesis.

CHAPTER ELEVEN: AN OVERVIEW OF THE CONCLUSIONS ESTABLISHED

EMPIRICALLY THROUGH SELECTED CASE EXAMPLES

I PREFACE

The analysis of the Hemingford Road Compulsory Purchase Order identified a number of important points which, in the biased opinion of the writer, indicated fundamental weaknesses in the way in which the inter-related issues of slum clearance, conservation management, and urban renewal were being dealt with at that time.

Following the analysis of the decision-making process which led to the eventual confirmation of the Hemingford Road Compulsory Purchase Order by the Secretary of State, and the subsequent demolition of the houses in the area, it was possible to produce a schedule of points for further examination through other case examples.

These case examples were selected to allow the analysis of specific aspects of the administration of the legal powers under which decisions were made in the fields of slum clearance, conservation management, and urban renewal; the results of these analyses confirmed the original subjective opinion that both the empowering legislation, and the means by which it was administered were, in these cases, clearly inadequate.

Since the case examples were selected specifically to allow the analysis of points of concern, the results of the analyses, and the subsequent conclusion reached, cannot be claimed as typical for the nation as a whole, or even the inner urban areas of London. However, the writer believes that the findings established through the analyses provide sufficient evidence to indicate confidently that there are a number of processes at work in urban renewal and city re-planning which need to be rationalised in order that decision-makers in these fields may make better decisions in the future.

By the adoption of an interventionist approach, the writer was able to establish a feed-back of learning, and the knowledge gained in certain empirical examples was applied to other cases where this was capable of beneficial use.

This process may be illustrated diagrammatically to show the way in which the analysis of case example 1 identified a number of areas for future investigation and the way in which the analyses of these areas led in turn to a further synthesis of problems in the field of this research.

see fig 11.01

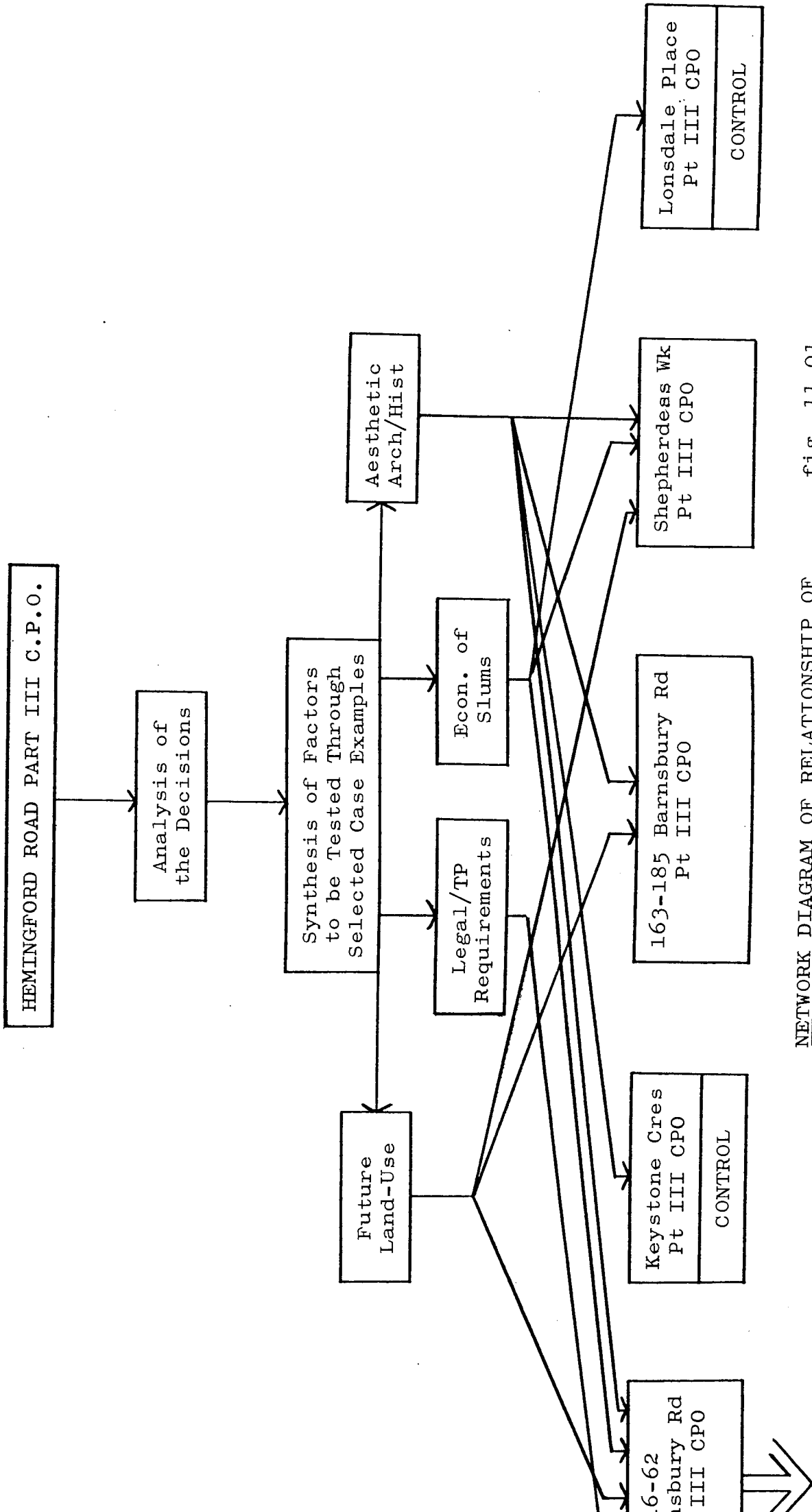


fig. 11.01
 NETWORK DIAGRAM OF RELATIONSHIP OF FACTORS TESTED THROUGH CASE EXAMPLES IDENTIFIED FROM THE HEMINGFORD RD ANALYSIS

II AN OVERVIEW OF THE CONCLUSIONS

The factors for future analyses through selected case examples were identified in the examination of the Hemingford Road Compulsory Purchase Order; these were as follows:

- i. The poor condition of the housing in the area was a direct result of planning blight caused by the public open space zoning indicated in the Initial Development Plan 1951.
- ii. The public open space proposed in this area could have been located elsewhere in the Barnsbury area, but the Council seemed to have adopted an attitude of inflexibility resulting from their master-plan ideology.
- iii. The majority of the houses were not slums, they should not have been represented as such, and the part III Compulsory Purchase Order should not have been confirmed by the Secretary of State since the houses were capable of being made fit at reasonable cost.
- iv. The London Borough of Islington and the Department of the Environment did not take sufficient note of the potential architectural and townscape value of the houses in the area.
- v. The information provided by Council officers to lay councillors was biased and incorrect in certain ways, and this had misled committee members into taking

A number of other related factors of interest also emerged from the analysis of the Hemingford Road case example, and from the analyses of those cases which were selected subsequently. However, at this point it would be worthwhile taking an overview of the conclusions reached in individual cases, to see to what extent they provide a basis for establishing a general framework within which to view the problems of urban renewal, slum clearance, and conservation management, and the influencing factors which affect decision-making techniques in these fields.

- i. The incidence of slum clearance proposals in areas where the condition of housing had been affected by long-term planning blight.

It was established that public open space zoning in the Initial Development Plan had blighted housing to the extent that some twenty years after the original zoning, the Local Authorities represented them as unfit and took Part III action; these case examples were as follows:

Case Example 1 : The London Borough of Islington
(Hemingford Road)

Compulsory Purchase Order 1970

Case Example 2 : The London Borough of Islington
(Barnsbury Road)

Compulsory Purchase Order 1972

Case Example 6: The London Borough of Islington
(Barnsbury Road)
Compulsory Purchase Order 1975

Case Example 7: The London Borough of Hackney
(Shepherdess Walk)
Compulsory Purchase Order 1972

In all these cases the houses represented as unfit were located in areas where housing of a similar plan form, type of construction, and architectural character, were maintained in a better state of repair by owner occupiers, landlords and tenants than those that had been blighted.

Potential middle-class owner occupiers were often interested enough in the houses but were put off by the planning blight; thus the houses were not subject to the effects of 'gentrification'.

As emerged in case example 2, 'gentrification' was used positively in the battle to prevent the demolition of 16-62 Barnsbury Road, but it should be remembered that this occurred after the London Borough of Islington had passed the resolution to take Part III action.

As was shown in case example 3, 1-21 Copenhagen Street, which had not been blighted by the possible zoning of the Initial Development Plan, was in a significantly better state of repair than the immediately adjoining terraces 16-62 Barnsbury Road.

Case examples 4 and 5 were not affected by planning blight and it is important to note that the two alternative courses of action taken by the London Borough of Islington in these two cases was the reason for their selection by the writer as 'controls', against which other actions could be compared. In case example 5, Keystone Crescent, the long-term plans affecting the area were not regarded as sacrosanct, and this was a major influencing factor in the Council's decision to abandon the Compulsory Purchase Order, and allow owners to rehabilitate their houses. What emerges from the cases where the Public Open Space zoning had blighted housing to the point whereby it became identified for future slum clearance action, is not that planning blight is any worse if it is caused by long-term Public Open Space zoning, but that flexibility in layout is more readily achievable in public open space design than in almost any other land-use. Any published and approved long-term plan creates planning blight but, by their very nature, parks can be more easily created on awkward sites than developments involving buildings; some other aspects of this point will be discussed in the next section in this chapter.

A fundamental issue which emerged from the analysis of cases where blighted property was the subject of Part III action is that of natural justice.

The planning blight had largely created the conditions which had caused the houses to be represented as unfit and it seems unjust that Councils be allowed to compulsorily acquire

such houses at land value only. As was noted earlier, this provision of the Act has been subsequently waived for owner-occupiers who, previous to the change in the law, would not have received sufficient compensation to acquire alternative houses elsewhere in the area. However, the provisions of the Act as originally worded, still apply to absentee landlords. In the writer's opinion, in the interest of natural justice, this provision of the Act should be changed to provide that compensation be paid at full market value; the value should be assessed on the assumption that the houses were not blighted. Apart from the issue of justice, there could be a further advantage in this proposal, since it is possible that many more slum properties could be acquired by private treaty; this could avoid the time-consuming and expensive processes which frequently occur at the present time.

ii. The effect of master-plan ideology and the reluctance to adopt a flexible attitude to land use zoning.

The rigid determination to implement master-plans many years after they had been made, not only creates planning blight, but also creates a situation where other factors which emerge over a period of time, and which should result in a reappraisal of the original plan, are ignored as being of little importance compared with the principle of ensuring the achievement of the objectives of the master-plan.

Subsequent to the formal adoption of the Initial Development Plan in 1955 there have been fundamental reappraisals of traffic problems and conservation managements legislation.

Professor Buchanan's report was published in 1964 and led to the gradual implementation of traffic management schemes where the quality of the environment was to be considered more important than maintaining existing traffic routes; such areas are termed Environmental Areas. The traffic management principle implied by the designation of an area as an Environmental Area is that, wherever possible, extraneous through traffic shall be excluded from it. In the field of conservation the implications of the designation of conservation areas was also very important.

The Initial Development Plan did not envisage the adoption of these two principles in urban renewal and city replanning, and it was clearly implied that flexibility in land-use zoning would be required if these two large-scale policies were to be sympathetically included in the planning objectives for appropriate areas; significantly, Barnsbury was both a Conservation Area and an Environmental Area.

It was established clearly in case examples 1, 2 and 7, that the implementation of the positive proposals contained in the Initial Development Plan 1951 was a powerful influence upon Local Authorities' decision to take Part III action.

As was explained in the section of the thesis concerned with the law of slum clearance, the future use of a site should have no influence upon whether or not houses should be compulsorily purchased under Part III of the Act.

However, in all case examples, it emerged that councillors were informed of the need to acquire the sites, the subject of Part III proposals, to achieve the implementation of the Initial Development Plan; they were also told that the public open space was desperately needed. In these circumstances it is clear that a lay committee, having been confronted with a representation that certain groups of houses were unfit, that the land occupied by the houses was urgently needed to provide much needed recreational space, and that the Council had a duty to implement the Initial Development Plan, would almost certainly see no option but to accept the recommendation to take Part III action.

As was shown in case examples 2, 3, 6 and 7, it was possible to treat the location of public open space in a flexible way. However, it is important to note that in the case example 3, a flexible attitude to the Initial Development Plan was only adopted after the houses occupying land zoned for public open space had been listed. In case example 7, the need for flexibility was established by the Department of Environment Inspector, following a public enquiry when he made the point that "only an unusual shortage (or total absence) of open space in special circumstances can justify the removal of scarce buildings of special architectural and historic interest." (281)

By contrast, in case example 6, 163-185 Barnsbury Road and 88-90 Richmond Avenue, the London Borough of Islington were originally concerned to extend their newly laid-out Barnard Park on the sites of the Order houses, but at that time the Council passed its resolution, councillors were aware of the fact that the public open space requirements in the area were such that they could reconsider the zoning of the Order site. This emerged clearly from the fact that when the Council made the part III Compulsory Purchase Order they noted that their decision could be reviewed when further reports were received from officers.

In case examples 2, 3 and 7, a conflict emerged between the presumption that listed buildings should be retained and enhanced on the one hand, and the motivating bias towards implementing long-term plans to provide public open space on the other. Such clear-cut issues enabled the London Borough of Islington to review its public open space zoning, and to decide in favour of retaining the listed buildings.

It is possible that the decision to retain the houses, alter the official land-use designation to residential, and accept either less public open space, or accept that it be provided elsewhere, was taken by the London Borough of Islington primarily because the Council had been advised that their Compulsory Purchase Orders were not likely to be successfully confirmed. However, the fact remains that, whatever the Council's motives, they decided in favour of retaining the buildings and dealing with their public open space requirements by other means.

In case example 1, the London Borough of Islington decided finally to lay-out the last remaining portion of the area acquired following the confirmation of the Part III Compulsory Purchase Order 1970, and this work is in hand at the present time. The Council considered using the site for housing or educational purposes, but finally decided to implement the public open space use designated in the Initial Development Plan: these considerations indicate a more flexible attitude from that strongly presented at the public enquiry in 1972.

The issue is very eloquently summarised in Roger France's proof of evidence submitted in connection with case example 7: his point is valid for case examples 1, 2, 3, 6 & 7 equally.

"The open space zoning has been on the Development Plan since 1951. At that time, little or no value was placed upon buildings of architectural or historic value. This situation is now reversed: the terrace has become indestructible and the open space flexible. One of the greatest assets of public open space is its flexibility. This is not recognised by planners, especially when the original development plan is referred to: brown on a plan looks as rigid as purple or green. However, on the ground, grass is the easiest of treatments to move around, whereas buildings of architectural or historic interest are not." (282)

(282) Roger France's proof of evidence p.4 para 2.2

iii. The incidence of houses being incorrectly represented as slums.

A house is legally defineable as a slum if it can be shown that it is incapable of being made fit at reasonable cost; the definition of what constitutes reasonable cost is established by a calculation based upon the Appendix B formula which has been described earlier.

A slum clearance area is legally defined as an area of unfit housing where the best method of dealing with the problem is by demolition.

It has been established by analyses that in case examples 1, 2, 4, 5, 6 & 7 no Appendix B calculation was carried out, and that the Local Authorities decided to proceed with Part III action on the recommendation of the Medical Officers of Health. The only evidence provided initially by the Medical Officers of Health in all these case examples was that the houses did not meet current standards as set-out in the Act: no economic justifications for the statements was provided. Moreover, in case examples 1 & 2, the Medical Officer of Health stated that the houses were unstable; in neither instance did the Medical Officer of Health notify the District Surveyor, who is the officer charged with the statutory responsibility for dealing with instability of buildings in London. Indeed, this fact was used in case example 2 to force the London Borough of Islington to omit instability as a ground of unfitness.

In case example 1, the London Borough of Islington re-considered the Part III Compulsory Purchase Order which had been inherited from the Greater London Council, and they received evidence from Council officers which included an Appendix B formula calculation. However, the evidence was biased in its assessment of the relative quality of a conversion scheme compared with a notional housing redevelopment of the Compulsory Purchase Order site; it was also biased in its assessment of the notional useful life of the houses following their conversion.

Moreover, officers presented a powerful case for the demolition of the houses on the grounds of the Initial Development Plan zoning of the Compulsory Purchase Order site for public open space purposes and incorrectly stated that to grant planning consent for the conversion scheme would be ultra vires since it would represent a major departure from the Initial Development Plan; it was later established by joint counsels opinion that, in most cases, town planning consents were not required. (283)

The writer believes that the majority of the houses could have been converted at reasonable cost, that the houses should not have been represented as slums, and that the Compulsory Purchase Order should not have been confirmed.

(283) This opinion was given by Rt. Hon. Sam Silkin P.C., M.P., Q.C., and Kenneth Bagnall Q.C., as referred to in case example 3.

In case example 1 the Council had been strongly influenced by the peripheral issue of the public open space proposal for the area. The Council were not given expert evidence upon the architectural and townscape merits of the housing, even though they had been included within the Barnsbury Conservation Area contrary to the recommendation of the Borough Planning Officer. Moreover, in case examples 2 and 3, although nos. 1-23 Copenhagen Street and nos. 16-62 Barnsbury Road were not included within the Barnsbury Conservation Area at that time, the officers should have pointed out that they were immediately adjoining its southern boundary. The implications of designating a Conservation Area include the consideration of proposals adjoining the area which would affect the character of the area. It is clear that the demolition of nos. 1-23 Copenhagen Street would have had a serious impact on the Barnsbury Conservation Area, and that the demolition of nos. 16-62 Barnsbury Road would also have had an effect on the area, although a lesser one.

Case example 6 was within the Barnsbury Conservation Area but this fact was considered less important than the need to demolish alleged slum housing.

None of the cases were referred to the Conservation Area Advisory Committee for an opinion as to the architectural, historical and townscape value of the buildings prior to the initial decision to issue a part III Compulsory Purchase Order. In case example 6, the views of the Conservation Area

Advisory Committee were sought by the Borough Planning Officer after the Part III Order had been made.

The background to case examples 2, 5, 6 & 7 were very similar to that of case example 1, since the evidence submitted by officers to lay councillors included no Appendix B formula calculation, no reference to the architectural and townscape merit of the houses and, (except in case example 6), councillors were informed of the urgent need to implement the public open space zoning proposals contained in the Initial Development Plan.

In addition, it emerged in case examples 2 and 3 that the issues of fitness, owners' and occupants' attitudes, and the architectural merit of the houses became secondary to political motives. However, the writer believes party politics played no part in the other case examples.

In case example 6, the views of the tenants were considered to be very important and, following a public meeting, the Housing Committee proceeded to recommend Part III action although they knew that this was likely to be opposed by the Town Planning Committee.

It was proved conclusively in case examples 2, 5, 6 and 7 that the houses were capable of being made fit at reasonable cost.

Although these examples cannot be regarded as typical, the writer believes that the analyses of the legal powers, and the way in which they were administered in these examples, has highlighted fundamental weaknesses in the inter-related issues of slum clearance, conservation management and urban renewal.

iv. The incidence of disregarding or not recognising the architectural and townscape value of houses represented for slum clearance

In case examples 1, 2, 3, 5, 6 and 7 it was established that, although the Local Authorities had been influenced by the master-plan ethic, they had either not recognised the latent architectural and historic value of the houses or the latent contribution they could make to the townscape of the area, or, where this was recognised it was not regarded as sufficiently important to influence their decision to take Part III or Section 112 action. They adopted this attitude knowing that case examples 1 and 6 were included in the Barnsbury Conservation Area, or immediately adjoined it. None of these cases were referred to the Conservation Area Advisory Committee for an opinion as to the architectural and historic interest or townscape value of the terraces.

However, following the listing of the houses in case examples 2, 3 and 6, the London Borough of Islington rescinded their Compulsory Purchase Orders. It is difficult to establish to what extent this decision was influenced by the revelation that the buildings had merit, and had received legal recognition

of listed status, or whether it was influenced by officers' advice that listing of the buildings had greatly reduced the likely success of the Compulsory Purchase Order actions.

There were clearly officers and members of the Council who were influenced by their wish to retain the buildings, whilst other officers and members of the Council were probably influenced by their desire to reduce loss of creditability by not proceeding with Compulsory Purchase Orders, the outcome of which was doubtful; it has not been possible to establish which of these two motives received a majority support.

In case example 7, the London Borough of Islington recognised the latent architectural and historical merit and townscape value of the houses in the Compulsory Purchase Order area. Accordingly, they reviewed their initial Part III decision, and called for a report on the economic and planning aspects of the case. The Borough Architect produced an Appendix B formula calculation showing the buildings to be capable of being made fit at reasonable cost, and the Borough Planning Officer pointed out that the houses had architectural merit, and that there was no sacrosanct long-term planning proposal for the Compulsory Purchase Order site; the Council thereupon decided to rescind the part III Compulsory Purchase Order.

The important factor in this case is that the Council's reappraisal resulted from its recognition of the latent value of the houses in the area, and the desire to ensure they be retained. If the aesthetic value of the houses had not been recognised, the Compulsory Purchase Order would have been

decided following a public enquiry; it is possible that but for the timely reappraisal, the houses would have been demolished.

Case example 6 was also interesting since, although the Housing Committee of the London Borough of Islington did not apparently recognise the value of the houses, as soon as they were listed the Council reappraised their decision and, after considerable discussion, rescinded the part III Compulsory Purchase Order.

In contrast, case example 7 established a test-case situation since, following the confirmation of Hackney's part III Compulsory Purchase Order, the buildings were subsequently listed, and as a result of the Borough's application for listed building consent being referred to a public enquiry, it was established that the houses were capable of being converted at reasonable cost.

Thus we see a number of examples where the eventual establishment of architectural merit was the motivating force which resulted in a reversal of the original decision which would have involved the demolition of the buildings.

v. The incidence of officers' submissions of biased, incorrect or insufficient information to lay councillors.

It was established in case examples 1, 2, 3, 5, 6 and 7 that Local Authority officers produced reports recommending Part III of Section 112 action, which contained biased, incorrect, incomplete or misleading information.

The implication of these reports was that the councillors made their decision on imperfect information. Indeed in case examples 2 and 3 the writer has concluded that some reports submitted to the Town Planning and Development Committee of the London Borough of Islington were so grossly inaccurate, and the bias contained in them was so clear, that there is a reasonable presumption that they were deliberately written to justify the averred political motivation of the Council.

The political attitude of the Council in case examples 2 and 3 were visible in the public and private statements of officers and members of the London Borough of Islington, and this created a situation whereby the objectors to the Part III and Section 112 Compulsory Purchase Orders found difficulty in commissioning the best qualified Quantity Surveyor and Valuer in the Borough; both refused to act, since they believed that to do so would affect their relationship with officers and members of the Council to the point whereby it could affect the work they carried out for, or with, the Council.

The implications of this situation pose very serious questions relevant to fairness, and the democratic rights of objectors to employ the best professional advice when objecting to a Local Authority Compulsory Purchase Order proposal.

It emerged in case example 4 that the Housing Committee maintained a correct stance regarding the Part III Compulsory

Purchase Order. In spite of the exhortation from the Greater London Council planners over a period of years, and the later advice given by their own Borough Planning Officer, to extend the context of the original Compulsory Purchase Order area to encapsulate marginal buildings and land to achieve a planning objective, the committee decided to regard their Part III action in isolation; they were only prepared to extend the Compulsory Purchase Order if the Greater London Council would agree to indemnify the London Borough of Islington against the costs of doing so.

It emerged in case examples 2, 5 and 7 that the Local Authorities had been provided with inadequate information by officers since, although officers had stated that the houses were slums and had no architectural merit, the houses in all three cases were subsequently listed, and it was established that all of the houses were capable of being made fit at reasonable cost. In addition, the officers did not draw attention to the fact that case examples 2 and 3 adjoined the Barnsbury Conservation Area, and they did not point out that the impact of the demolition of nos 1-21 Copenhagen Street and nos. 16-62 Barnsbury Road would seriously affect the Conservation Area.

In case example 6, the Housing Committee made their decision to take Part III action on the incorrect and unsubstantiated advice of the Medical Officer of Health. The committee decided to proceed with Part III action in spite of the fact that they knew there were other powerful arguments which were about to be put to them via the Town Planning

Committee. Thus in this case the bias of the reports acted upon was consistent with the mood of the committee.

It was also revealed that the Local Authorities were given incorrect legal advice as to the need to obtain town planning consents for works of conversion, and the status of the Council with regard to the major departure procedure, which it was alleged would be involved in the event that the Council allowed the Compulsory Purchase Order sites to be left in use for housing purposes rather than the public open space zoning proposed in the Initial Development Plan.

It was subsequently established by joint leading counsels' opinion that all of the works necessary to make the houses fit could be carried out without planning consent, and that most of the conversion work in case example 2 did not require consent. Indeed the Council enforcement notice action on nos. 58/60 Barnsbury Road was never processed and the resolution was subsequently rescinded some two years after it had been originally passed.

It emerged in case example 6 that the Council found itself in an apparently difficult legal position, since there were Compulsory Purchase Orders under Part III and Part V current at the same time, when one mutually excludes the other. The legal advice given to the Council by the Borough Solicitor was initially incorrect and unclear.

It was clearly established through all the selected case examples that the officers' reports to the appropriate

decision-making committees were unsatisfactory with regard to either a single factor, (as was found in case example 4), or in a number of factors as in all the other examples: these factors come under different departments within the Local Authorities and can be summarised as follows:

- a) legal - Borough Solicitor
- b) building economics - Borough Architect
- c) aesthetics - Borough Architect/
Planning Officer
- d) architectural - Borough Architect/
Planning Officer
- e) town planning - Borough Planning Officer
- f) structural stability of buildings - District Surveyor

A further point which emerged was that a number of officers were expected to give advice upon matters which were not within their discipline. It is clear that the Medical Officer of Health who is required by law to be a qualified medical practitioner, is not competent to carry out his statutory duties with regard to Part III of the Housing Act 1957.

It was clearly established in case examples 2, 5, 6 and 7 that the evidence given by the Medical Officer of Health in support of his representation of the houses as slums was based upon subjective judgements, since no Appendix B formula calculation had been carried out. Indeed the implications of Appendix B are that a number of other disciplines would

be needed, and that the medical opinion of unfitness would need to be proved by reference to these other disciplines.

It was also established that the Borough Planning Officer was quite unable to assess the architectural quality and townscape value of case examples 1, 2, 3, and 7. In case example 2, the Borough Planning Officer was asked to review his opinion of the terraces before the part III Compulsory Purchase Order was referred to the Department of the Environment. He stated that he saw no merit in the terraces and that they were not worthy of retention; they were subsequently listed, and included in the Barnsbury Conservation Area, which was officially upgraded to an area of 'outstanding importance'.

The analyses of the case examples has revealed that, in many instances, there was little collaboration and co-operation between officers from different departments of the Council. In case examples 2 and 3 the analysis showed that different officers in different departments of the London Borough of Islington had differing views about the Council's motives behind the Section 112 Compulsory Purchase Order, that is to say, whether the houses were to be demolished, or retained and restored. There was also confusion between different officers of the Town Planning Department on this issue.

In case example 6 there was considerable confusion amongst officers of different departments of the Council, and this

confusion was compounded by the fact that there was no clear hierarchy of status between the Housing and Town Planning Committees and the officers who served them. The confusion was further increased by virtue of the fact that the attitudes and reports of the Conservation Areas Advisory Committee, Borough Planning Officer, Borough Architect and Medical Officer of Health were supposed to be co-ordinated by the Borough Solicitor's Department, the officers in which were often unaware of the actions taken, and opinions which had been given, by officers of other departments.

Another important factor is the question as to whether some of the apparent omissions of relevant facts, the provision of incorrect information, and the weighting of certain factors was, as appeared in case examples 1, 2 and 3, due to the desire to provide a bias towards the political motivation of the decision-making body.

Although such motives can be excused on the democratic principle that officers of the Council have a duty to carry out the wishes of the elected members of the Council, there are three other issues which, in the writer's opinion, emerge from such an argument.

Firstly, the essence of professionalism is that the members of a profession should have a standard of integrity which should preclude their compromising their professional judgements.

Secondly, in the interest of natural justice, committees should be aware of the true facts which influence their decision. This is particularly important where such a decision leads to the threat of Compulsory Purchase of somebody's home.

Thirdly, there is the question of public participation in the planning process. There is a conflict between the Council's setting-up of open committee meetings, and the fact that the most important decisions are taken in the confidential section of the agenda: the problem is even worse when decisions are made on inaccurate, incomplete or biased evidence.

Human beings are, by their very nature, biased in some way or another, and the writer readily admits his bias which has been stated several times in this thesis. However, it is obvious that it is more likely that decision-makers will be in a position to make good decisions if they are provided with information which is accurate and objective.

In Local Authorities, decisions are made by lay councillors who also have their own biases, and in a democratic society it is theoretically possible for the electorate to show its dissatisfaction with councillors with whose decisions they disagree.

It is a fundamental precept of British democracy that bad law is changed by Parliament and that law which is capable

of abuse is, by definition, bad and should be altered by Parliament to prevent incorrect use. The behaviour of Local Authorities in regard to their administration of their powers has been defined: "All statutory powers must be exercised in good faith and for the purposes for which they were granted." (284)

Several of the more unjust elements of the law of slum clearance have been changed, and the law of conservation has been broadened and strengthened by Parliament during the period of the writer's research into these subjects. However, there are a number of points of concern which remain to be rationalised both in terms of the empowering legislation and the means by which it is administered.

vi. The hierarchy of the case examples and the relationships of the factors analysed through the case examples.

The selection of the case examples following the confirmation of the Hemingford Road Compulsory Purchase Order, was made to test hypotheses established in the analysis of all of the factors apparent in all stages of the decision-making process, from the time the London County Council's Public Health Officer first identified the houses as slums, up to the present time.

The knowledge of the law of slum clearance gained from case example 1 was invaluable in the interventionist approach

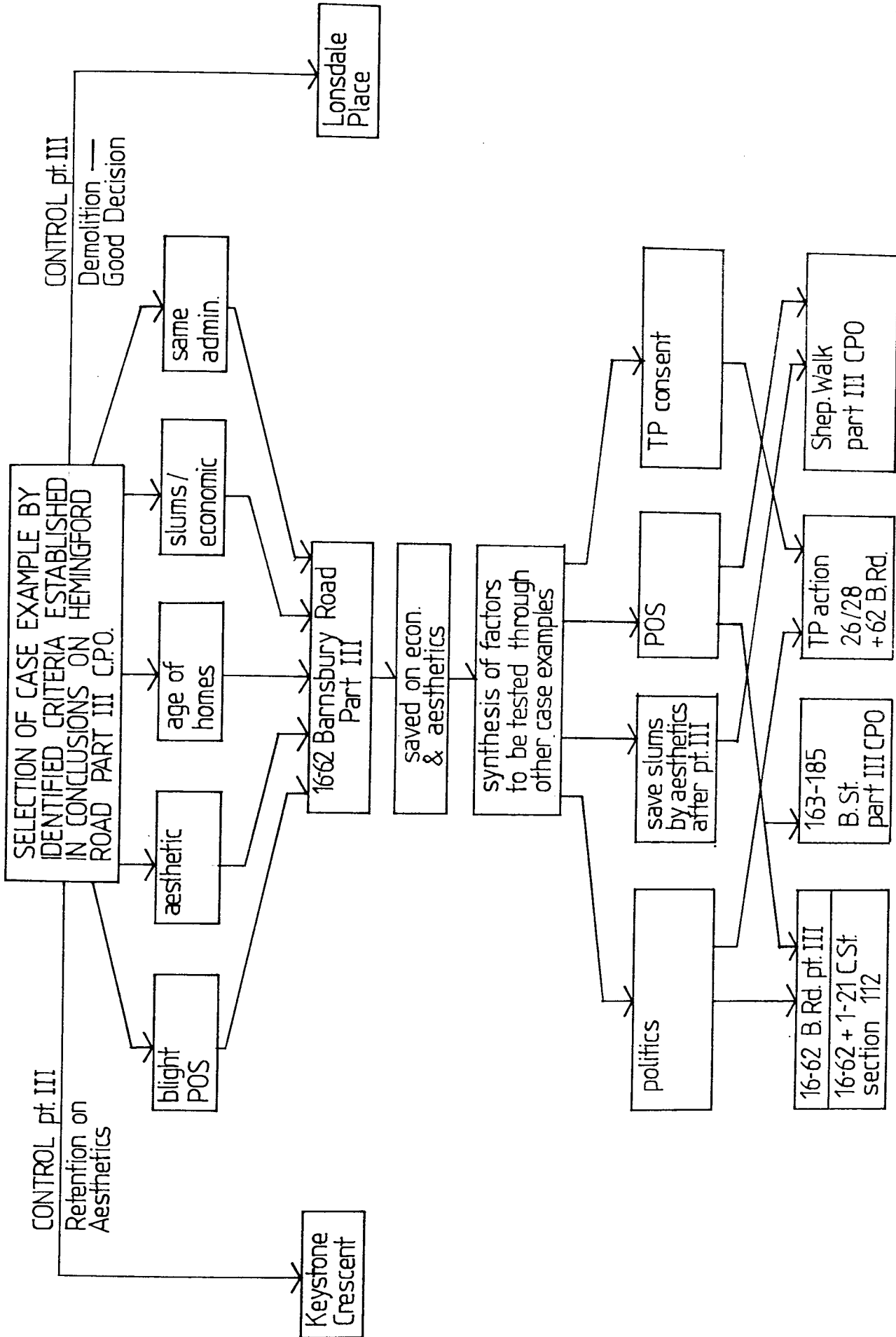
adopted in case example 2. The public relations experience gained in case example 2 was usefully employed in case example 3.

The knowledge of the law of slum clearance, the understanding of the interplay of town planning aims which was gained in case examples 1 and 2, and the importance of the aesthetic value of the houses threatened by Part III action, was applied to case examples 6 and 7.

The development of the analysis feedback and the application of knowledge established through the case examples can be illustrated diagrammatically. (see fig. 11.02).

- vii. A discussion of some possible background factors which may have affected the decision-making processes of some of the case examples.

There are three factors which could interact in the subjective view as to what does, or does not, constitute slum housing. Firstly, as the nation's slum clearance programme progresses and the worst unsatisfactory housing is cleared, the threshold standard of the subjective value judgement of what housing is classifiable as slums is raised. Secondly, the officers in the Medical Officer of Health's Department who are responsible for slum clearance have a vested interest in maintaining their jobs. Clearly, if there are no slums left to be assessed and represented, those officers who had been trained and employed to fulfil these functions in



NETWORK DIAGRAM SHOWING HIERARCHY OF CASE EXAMPLES AND THE RELATIONSHIPS OF THE FACTORS TESTED TO THE fig. 11.02

the department would find themselves with no useful role to play in this field, and they would be vulnerable to redundancy or re-deployment in other sections of the Council; this could affect their prospects for promotion and advancement.

Thirdly, as standards of what should be regarded as fundamental requirements in housing are constantly rising, the subjective standard as to what constitutes a slum tend to rise in parallel.

With regard to the housing the subject of part III Compulsory Purchase Order action in case examples 1, 2, 5, 6 and 7, it should be remembered that this housing was built for middle-class occupation and it embodied the features regarded as essential to tenants of that social class in the early nineteenth century.

It is commonly assumed that slums were the homes of the poorest members of the lower working-classes, and looked at on a comparative basis this was true. However, if one regards middle-class housing prior to the statutory provision of W.C.'s and main drainage they would all fall below the standards set out in the 1957 Act.

By this sanitary definition the majority of the middle-classes were living in unsatisfactory conditions up to approximately 1875. However, it was after the middle-classes had moved to the new suburbs of London, and the

houses they previously occupied were re-let, floor-by-floor, or even room-by-room, to working-class families, that they became recognised as slums.

Thus, we see in these factors the background against which slums may be subjectively assessed, identified and represented. The Appendix B formula calculation was intended to be the yardstick by which slums could be objectively defined but, as was shown in all the case examples analysed, no Appendix B calculations were carried out to justify the part III Compulsory Purchase Order actions recommended by the Medical Officers of Health.

There are two other background influencing factors which have emerged through the analyses of case examples. Firstly, there is what the writer has termed "creative motivation". This term was coined to describe the solution where planning officers and councillors, having produced a plan for an area, often regard its implementation as vital due to the personal commitment they have made in its preparation. To see the plan abandoned in whole or in part is regarded as a personal insult, even when the reasons for abandonment or alteration appear to have validity.

This point was well illustrated by the personal interest taken by Mr. Ronald Brown M.P. in the Shepherdess Walk case, when he telephoned the principal objector to the Compulsory Purchase Order to make it clear he would brook no obstruction to 'his' park, and when in Parliament he stated -

"It was part of the open space which was given to me in 1970 after I raised the matter in the House" (285)

Officers and councillors who take this attitude should not be confused with those who are influenced by the master-plan ethic motivation discussed earlier. The Initial Development Plan 1951 was the master-plan for London, and the majority of the 'actors' in the decisions analysed in this thesis were not involved in its production but simply in its implementation.

However, both motivations have the same result since they both exclude the possibility of objective flexibility in the planning process to allow for changing circumstances.

Finally, it would be worthwhile considering the problem of the in-built bias of officers and the fact that the bias can be strengthened and perpetuated as a decision is processed.

The writer has decided to establish the possibility of a notional bias by the professional qualification of the officers concerned. It is reasonable to assume that officers who decided to study estate management, public health and hygiene, medicine, engineering or surveying, are not necessarily interested in the abstract study of aesthetics. Similarly, artists, architects and art historians indicate their vocational bias by the choice of the profession they choose to practise, and these choices indicate a strong aesthetic bias.

It is recognised that this argument is simplistic, since there have been a great many engineers, surveyors, estate managers and medical practitioners who have achieved international reputations as people of taste and discretion; however, the choice of profession is one way of gauging the likelihood of aesthetic sensibility, interest and knowledge.

It would be worthwhile now examining the qualifications of officers who were directly involved in recommending Part III or Section 112 action in case examples 1, 2, 3, 5 and 6.

The Public Health Officers all had diplomas in public health and the Medical Officer of Health was a qualified medical practitioner. The Borough Planning Officer had a B.Sc. (Estates Management), and his deputy was a chartered surveyor and chartered town planner. The Director of Development was a valuer by profession and the Director of Legal Services had a degree in law. These officers were the principal 'actors' in the report submission stage of the decision-making process, and none of them had qualifications which suggest they had a strong aesthetic sense. Indeed, by his own admission, the Borough Planning Officer stated that the houses in case examples 2 and 3 had no merit when they were subsequently listed approximately 12 months later.

Furthermore, as noted earlier, part III Compulsory Purchase Orders tend to be dealt with by Department of the Environment Inspectors whose qualifications suggest the same

absence of aesthetic judgement. Thus the part III Compulsory Purchase Order process is commenced, processed and eventually decided by officers who apparently do not recognise the merit of the buildings.

In case examples 1 and 7, the original Part III was confirmed when the inspectors established that they thought the houses had no merit, since a statement to this effect was not included in the 'found as facts' section of their reports.

There is no proof for the writer's argument since it would not be possible to make a finite judgement on a point of this kind. However the facts as established through the case examples does indicate the existence of this factor as a point for consideration in the field of decision-making where aesthetic judgements can balance, or even outweigh other influencing factors.

ii. A summary of the findings from the overview of conclusions established through case examples.

The conclusions reached in case example 1 and which were subsequently tested through the other cases, revealed that the problems identified in the Part III process as applied to case example 1, also applied to other case examples.

The way in which these factors inter-relate is summarised below:

- a. In case examples 1, 2, 5, 6 and 7 houses were represented for slum clearance when they were not slums since the houses were capable of being converted at reasonable cost as defined in the Act.
- b. In case examples 1, 2, 6 and 7 the Local Authorities allowed the future proposed public open space land use of the Part III sites to influence their decision when they should not have done so.
- c. In case examples 1, 2, 6 and 7 the houses had fallen into an unsatisfactory state due to the planning blight effects of the public open space zoning: it runs contrary to natural justice to allow Part III action in this circumstance.
- d. In case examples 1, 2, 5, 6 and 7 the latent architectural and historical merit and townscape value of the houses was not accepted when subsequently all the houses in case examples 2, 5, 6 and 7 were listed.
- e. The evidence provided by officers in support of Part III recommendations was often faulty, incorrect, incomplete or biased.

From the overview analyses of these five factors a number of other conclusions were reached; these may be summarised as follows:

f. There are a number of background factors which can influence planning decisions, including:

1. the master-plan ideology of some planners and councillors
2. the 'creative motivation' of some planners and councillors

g. There are a number of background influences upon the identification and progression of areas for Part III action; these include the following:

1. living standards are rising
2. the number of slums as defined by use of the Appendix B formula are diminishing
3. the roles of Public Health Officers and Medical Officers of Health are diminishing.

h. Public Health Officers and Medical Officers of Health are not qualified to carry out the essential work required by the Appendix B formula which includes the following:

1. establishment of stability of houses
2. planning the conversion of houses
3. planning the ambient environment of the houses
4. costing any requirements as to 1, 2 & 3 above
5. establishing the quality of notional conversion costs with those of notional redevelopment
6. establishing the likely life-expectancy of converted houses

- i. There is a lack of natural justice for absentee landlords who own houses which are confirmed as Part III and which are Compulsorily Purchased, since they receive compensation only on the value of the land.
- j. Many confidential and other reports submitted to councillors recommending Part III and Section 112 action were inaccurate, incomplete and misleading. In the interests of good decision-making, natural justice and public participation, reports should be accurate, complete and, wherever reasonable should be submitted and debated in open committee meetings. The professional officers of the Council should not prostitute their opinions for the sake of expediency.
- k. There was a lack of collaboration between officers, and between officers and members, and the opinions of vital specialist advisers, which was within the competence of certain sections of the Council, was not sought.
- l. The political attitudes of officers and members of the London Borough of Islington which developed through case examples 2 and 3 were such that the best local professional advice in certain fields was denied to the objectors as the professionals were concerned for financial motives not to prejudice their work relationship with the Council. This runs contrary to the requirement of natural justice since it should be possible for objectors to employ such advisers and that these advisers should not be placed in a position whereby they feel precluded from acting.

m. It was claimed in case examples 1, 2 and 3 that the works necessary to render the houses fit required town planning consent when this was not legally correct. It was claimed that the work of conversion of the majority of houses in case example 2 required town planning consent when this was not so. It was stated in case examples 1 and 2 that to give town planning consent to carry out improvements to the houses would constitute a major departure from the Initial Development Plan when this was not so.

These issues can be summarised by saying that the decision-makers should be as objective as possible, that this objectivity implies the need for flexibility, and the need to utilise the best knowledge of the inter-related disciplines within the competence of the Council, or from outside professional advisers.

The analyses have revealed weaknesses in the existing legal powers under which slum clearance, conservation management and urban renewal are administered. It has also revealed the need for improved methods of administration. Some possibilities for change will be discussed in the next chapter of the thesis.

CHAPTER TWELVE: THE NATIONAL CONTEXT OF THE PROBLEM,
HYPOTHESES FOR CHANGES IN LEGISLATION AND ADMINISTRATION,
AND THE IDENTIFICATION OF FUTURE USEFUL AREAS OF RESEARCH

I THE NATIONAL CONTEXT OF THE PROBLEM

i. Generally

Tony Eddison has defined planning thus: "Planning is the process of preparing a set of decisions for action in the future directed at achieving goals by optimal means and of learning from the outcome about possible new sets of decisions and new goals to be achieved." (286)

What has emerged through the analyses of the selected case examples is that, since the publication of the Initial Development Plan in 1951, and its formal ratification by the Minister in 1955, there have been a number of changes in attitudes in the fields of conservation and slum clearance which have influenced decisions in the field of urban renewal.

It is beyond the scope of this thesis to quantify the extent of the conflict that exists between the need to deal with unsatisfactory housing, and the need to retain and enhance houses of architectural and historic interest. However, what has been established is that such conflicts often

(286) Tony Eddison, Local Government: Management and Corporate Planning, 1975, p.23

occur in the inner urban areas of London, and that in some cases the basis of the conflict could have been avoided. During the period of the writer's research, it has been possible to identify weaknesses in the empowering legislation, and the way in which it is administered, in the fields of conservation, slum clearance and urban renewal; some of these weaknesses have been recognised by Parliament, and some of the more obvious problems have been dealt with by the amendment of existing Acts of Parliament, or by the enactment of new legislation.

However, there are still a number of points of conflict in the current body of legislation which leave decision-makers in Local Authorities unclear both as to the alternative actions that are available to them and the way in which these may be evaluated.

It is in this field of evaluation that the writer's 'extra-rational' attitude was identified and developed through the selected case examples since, by means of the interventionist approach adopted, it was possible to learn about some possible new sets of decisions and new goals to be achieved.

ii. Buildings of Architectural and Historic Interest

The Initial Development Plan which was published in 1951, was drawn-up as a land-use master-plan for London. The plan was based upon presumptions about such issues as

population growth and housing density, commercial and industrial needs, open space and educational requirements, and a transport infrastructure network for the city.

The planners were aware of the need to protect the nation's built heritage, but were not aware of the extent to which this factor was to become a major planning objective in the future.

Moreover, the Inspectorate of Historic Buildings of the Department of the Environment were constantly revising their attitudes as to what buildings were listable, and at the present time the Inspectorate is including buildings on the statutory list which were built in the Victorian, Edwardian and even the 1930's period.

Thus it is understandable that, due to the above mentioned changes in attitudes, buildings which occupy sites zoned for some other land-use purpose, have been listed subsequent to the confirmation of the Initial Development Plan by the Minister in 1955. In such situations there is a presumption that the buildings will be retained and enhanced on the one hand, and that they should be demolished to achieve the implementation of the long-term planning objectives of the Initial Development Plan on the other.

It is beyond the scope of this thesis to assess the extent of this conflict, but it is clear that the problem is more prevalent in the inner urban areas than the suburbs of London.

The overriding factor in the resolution of this conflict must be that historic buildings are irreplaceable, and that planners should therefore use their ingenuity to implement the aims and objectives of the master plans sufficiently flexibly to be able to take account of changing circumstances.

iii. Unsatisfactory Housing

There are three factors which have emerged in the consideration of unsatisfactory housing in this work. Firstly, in all the selected case examples examined and analysed in this thesis, it has emerged that the unsatisfactory condition of the housing was caused directly by the planning blight effect of the public open space zoning in the Initial Development Plan.

It is beyond the scope of this work to attempt to quantify the extent to which planning blight has added to the nation's slum clearance problem; however it is reasonable to presume that the problem is ubiquitous within the inner urban ring of London.

Secondly, it was proved through the case examples that many houses represented as slums were capable of being made fit at reasonable cost; this fact leads to reasonable presumption that the extent of the nation's slum clearance problem is exaggerated if the findings established in this thesis are to be found in other areas of London and in other cities in the United Kingdom.

Thirdly, the writer has identified a number of cases where there was a direct conflict between the motivating desire to deal with unsatisfactory housing, and the presumption that buildings of architectural and historic interest should be retained and enhanced.

Whilst it is beyond the scope of this work to attempt to quantify the incidence of such situations nationally, it is clear that the problems posed by this conflict are to be found in the inner urban areas of London, and in other cities in the United Kingdom.

iv. Long-Term Planning Aims and Objectives

Much of what is today regarded as beautiful architecture and townscape evolved over a long period of time without the benefit of town planning or development control. The architecture and townscape of Barnsbury and Shepherdess Walk in Hackney was also achieved largely by non-architect developers and builders. However, this is not an argument against the need for planning, since the fundamental problems in development today are the speed of construction, the scale of operation involved and the impact these have upon the environment; these are the primary justifications for the existence of the planning profession and the control that Local Authorities exercise upon development through that professional discipline.

The need for development control and long-term planning

are almost universally accepted in the United Kingdom and the developed nations of the world.

However, since Local Authorities in the United Kingdom have a large degree of autonomy over the action they take, Parliament has established procedures to ensure that these Authorities produce certain basic plans for the development and control of their areas. This is one of the main causes of the development of the master-plan ideology in the minds of officers and members of Local Authorities; the approved plan becomes sacrosanct and the adoption of a flexible attitude to planning becomes difficult to achieve.

Another case is the 'creative motivation' of officers and members whereby the implementation of the plans they have devised is regarded as the first priority; this is another powerful influence against the adoption of a flexible attitude to new situations which develop in the 'arena' of their plans.

The master-plan ideology and the creative motivation influences on planning often militate against the 'extra rational' factor in the planning process.

A planner, having qualified as such and having been employed in the planning department of a Local Authority has a natural desire to 'plan'.

In the majority of the cases examined in this thesis it

is possible to see that the effects of 'planning' were in certain ways disadvantageous. Long-term planning had produced planning blight which, in turn led to housing becoming unsatisfactory to a point whereby it was regarded by the Medical Officer of Health as representable for slum clearance action. But for the interventionist approach adopted it is probable that most of this housing would have been demolished; this would have meant the loss of a significant proportion of the nation's built heritage since the buildings have been proved to have been of architectural merit by virtue of their having been listed.

The problem faced by the planners in such situations is to what extent they should take note of and encourage 'trend planning'.

It is difficult for professional town planners to adopt a 'laissez-fair' attitude and to allow the situation to develop. However, in the majority of the case examples analysed in this thesis it is arguable that this approach would have been preferable to that of rigid compliance with out-of-date plans which had been drawn up in ignorance of future attitudes to listed buildings.

The fundamental requirement of the planning process which emerges from the analyses of case examples in this thesis is the adoption of an open-minded and flexible approach to planning. This implies the need to identify trends and to encourage, guide or stop them.

The decision should rest upon an objective assessment of the trend and where it might lead; the assessment should be reviewed frequently. In other words, planning should be treated as a continuous process of prediction, decision, observation, review in an everlasting continuum.

In this way the planners can note 'unexpected success or failure' and their knowledge can be fed back into the planning process.

One aspect of such a learning process should be that, although planners seek to control development, there are often processes at work within their own Local Authorities which seem to by-pass development control; for example the actions of the Medical Officer of Health with regard to the clearance of alleged slums.

Another aspect of the learning process is the need for planners to have good and accurate information and a means by which it can be evaluated. The planning process is often extremely complex with regard to the evaluation of the respective merits of competing uses for scarce available land.

The writer believes it is possible to create a pragmatic and rational method of assessing the relative merits of present, as against projected future, land use on a given site.

Justice as a Factor in Planning or Quasi-Planning

It is a fundamental precept of British law that "A long line of cases shows that it is not merely of some importance, but it is of fundamental importance, that Justice should not only be done, but should manifestly and undoubtedly be seen to be done". (287)

It is a widely held view that this precept is ignored in the law of slum clearance and town planning.

Depending upon his circumstances, in the United Kingdom a self-confessed murderer or rapist can seek, and be given, legal aid representation in the courts of law, whereas an objector to a Compulsory Purchase Order affecting his own home is denied such a privilege at a public enquiry.

In addition, as has been stated earlier, the absentee landlord of a house acquired by a Local Authority under Part III receives compensation on a land only basis, even if his property has become unfit due to the effects of planning blight. This situation is clearly unjust and easily remedied by law.

(287) Lord Hewart former Lord Chief Justice Quote 'the Chief' by R. Jackson. Penguin Dictionary of Modern Quotations. p. 97.

II THE TIME SCALE OF POSSIBLE CHANGE

It is frequently argued that, in the field of urban renewal, it is important to adopt the concept of 'gradualism'. (288)

Gradualism is the term used to describe the process whereby a view is taken about the life expectancy of a residential urban area and money is accordingly expended upon the housing in that area consistent with its life expectancy. The aim of gradualism is to ameliorate the existing housing problem for a foreseeable period of time, during which the long-term planning possibilities for the area can be observed and re-assessed. In a way, the concept of gradualism fits quite well into the writer's statement in connection with the learning and review process discussed earlier in this section. However, the concept suffers from the fact that planners may regard as finite the hypothetical life expectancy arbitrarily placed upon the buildings.

For this reason it is preferable to attempt to judge the balance between investment in the improvement of existing buildings, their likely life expectancy and their 'quality', compared with a notional new development, on a more objective basis; this will be attempted later in this work.

Looked at realistically, the time scale of change is a broad subject since it encapsulates the time required for new

(288) This is often referred to now as gradual renewal which

concepts to be understood, accepted and put into practice by the appropriate agencies at work in the field of what can be broadly described as 'planning'.

It is possible to generalise by saying that certain improvements in the existing system can be made in the short-term, and that alteration to the basis of the existing system or its replacement with a new system can be achieved in the long-term.

However, the writer believes that it is expedient to establish improvements to the existing system as a matter of urgency since changes in legislation can take 10 to 15 years in achievement.

For this reason the writer's proposals for change will be discussed pragmatically in the context of short-term and long-term objectives.

III SOME HYPOTHESES FOR IMPROVING THE EXISTING DECISION- MAKING PROCESSES IN THE FIELDS OF SLUM CLEARANCE, CONSERVATION AND URBAN RENEWAL

i. Generally

Through the analyses of the case examples in this thesis, it has been possible to identify areas in the current legislation concerned with slum clearance, conservation and urban renewal which need to be re-assessed and improved. However, it is recognised that the achievement of changes in the law is time consuming and that Parliament is under considerable pressure to deal with other matters of national importance which rank higher on the list of priorities than the points of concern identified in this work.

It is therefore expedient to examine means by which the existing legislation may be more efficiently, objectively and fairly administered in order to ameliorate some of the points of concern which have been analysed in this thesis.

ii. The Law of Slum Clearance and its Administration

a. The Powers Available

The law concerned with unsatisfactory housing and slum clearance is largely contained within the Housing Act 1957. (289)

(289) Slums can sometimes be acquired by the use of the other Acts, e.g. Town & Country Planning Act 1971 when the Secretary of State is satisfied that this is justified in order to secure the development, redevelopment or

There are three sections in the Act which represent the fundamental options available to Local Authorities when considering action against owners of housing which is unsatisfactory: these are Parts II, III and V of the Act.

There is a fourth option which is also available for consideration; this being the acquisition of the unsatisfactory housing by private treaty. (290)

The powers under Part II of the Act are designed to secure the repair, closure or demolition of individual unfit houses, or parts of houses. The definition of unfitness under Part II is the same as that under Part III, and this implies the requirement to apply the criteria set out in the 'Appendix B' formula calculation.

If a house is capable of repair, the Local Authority may enforce the necessary action at the owner's expense. If a house is not capable of being made fit at reasonable cost, the Local Authority has two options for action:

(290) John English, Ruth Madigan and Peter Norman, Slum Clearance (1976), p.52. Dewsbury adopted this approach in 1954 because of a shortage of Public Health Officers and Bristol adopted this method of corporation policy in the interests of justice.

1. The Local Authority may issue a Demolition Order requiring the owner of the house to demolish the building at his own expense; the site of a house demolished in these circumstances remains in the landlord's ownership.

2. The Local Authority may serve a Closing Order on the owner of a house forbidding its use for human habitation either entirely or in part (e.g. basement room).

Only unfit houses, (or parts of houses), may be subject to Part II action. Where a house owner is aggrieved by the action taken by a Local Authority he may appeal to the County Court.

The powers under Part III of the Act are concerned with the clearance of areas of unfit houses rather than individual houses. This is achieved by a Compulsory Purchase, where a Local Authority believes that the housing in an area does not meet the 10 point standard set out in Part II of the 1957 Act; that the houses are inherently unfit due to their internal arrangement or external layout in their environment ; that they cannot be made fit at reasonable cost. (291)

The owners of houses acquired under Part III of the Act were compensated at land value only since it was assumed

(291) Prior to 1974 a Local Authority had the option of
This alternative was

that the house occupying the land was of no value as it could produce no income. This basis of compensation was altered several times over a number of years to assist owner-occupiers to buy alternative accommodation elsewhere; this was last up-dated in 1970 whereby an owner-occupier who had continuously occupied a house for two years or more before the Compulsory Purchase Order, would receive full market value in compensation.

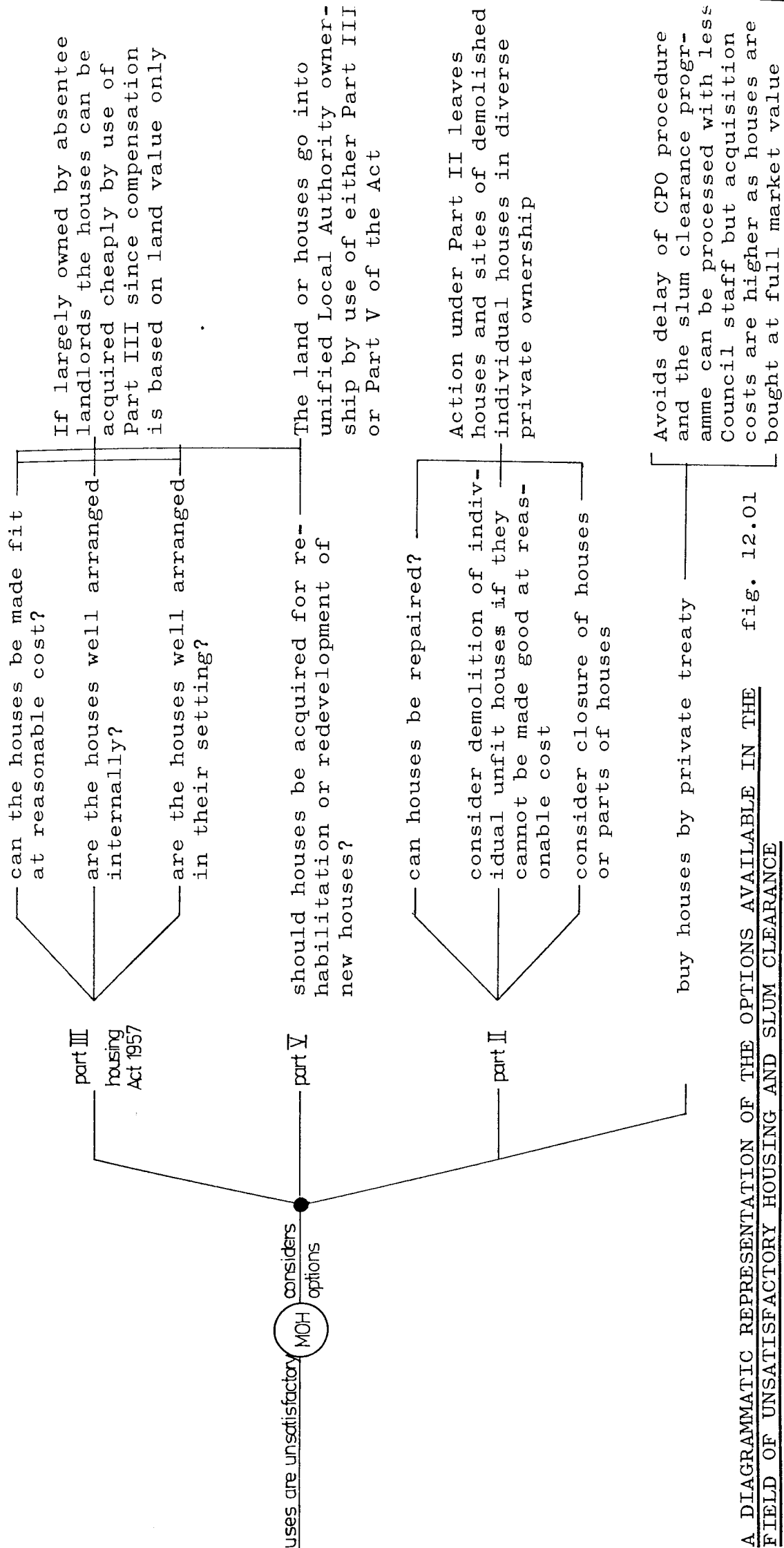
Part V of the Act gave Local Authorities the power to Compulsorily Purchase land or buildings for housing purposes. Thus it was possible for unsatisfactory housing to be acquired for rehabilitation or for re-development. The compensation payable to owners of houses acquired under this section of the Act was based upon full market value.

The legal options available in the field of unsatisfactory housing and slum clearance can be represented diagrammatically. (See fig. 12.01).

b. The Administration of the Available Powers

By virtue of the historical development of the law concerned with unsatisfactory housing and slum clearance, the decision as to whether or not to represent houses under Part II and Part III of the Act rests with the Medical Officer of Health.

Advantages



A DIAGRAMMATIC REPRESENTATION OF THE OPTIONS AVAILABLE IN THE FIELD OF UNSATISFACTORY HOUSING AND SLUM CLEARANCE

The Department of the Medical Officer of Health employs Public Health Officers who deal with the routine inspection of restaurants, shops and other buildings and areas where there could be a food health risk. They also investigate complaints of unsatisfactory housing, and produce the information necessary for the periodic Housing Condition Surveys which are published by the Department of the Environment.

It is probable that, whilst producing the information for the Housing Condition Survey, the Public Health Officers identify housing for inclusion in the Local Authority's slum clearance programme; the priority of clearance is most frequently established on the principle of 'worst is first'.

Lesser problems of unsatisfactory housing are dealt with on an ad hoc basis under Part II of the Act; the Department of the Medical Officer of Health is seldom involved in decisions as to whether to take Part V action or whether to recommend acquisition of unsatisfactory housing by private treaty.

The identification of areas of housing for inclusion in a Local Authority's slum clearance programme, and the procedure adopted up to its formal inclusion, can be expressed diagrammatically, (see fig. 12.02).

KEY

HOUSING MANAGER

PUBLIC HEALTH OFFICER

MEDICAL OFFICER OF HEALTH

HOUSING COMMITTEE

FULL COMMITTEE

BOROUGH TREASURER

BOROUGH VALUER

HM

PHO

MOH

HC

FC

BT

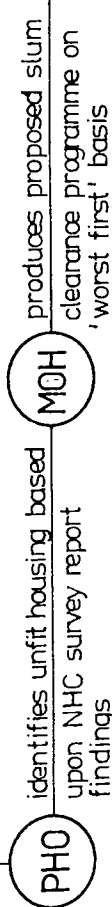
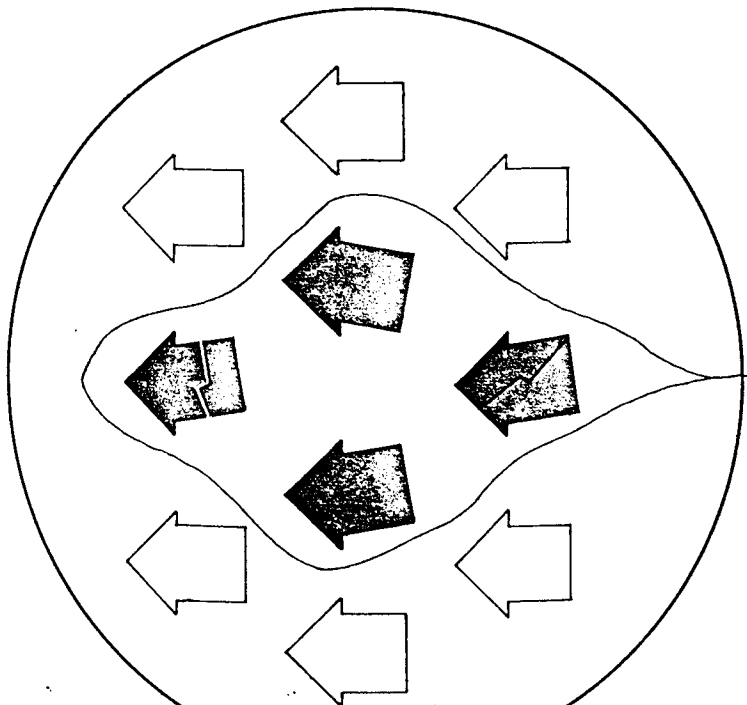
BV

HM

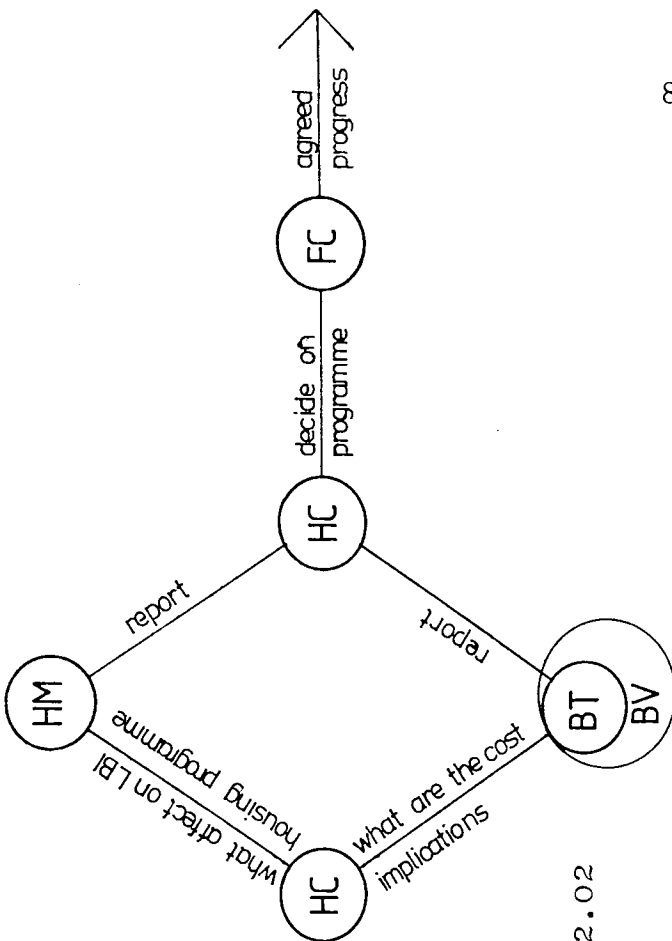
HC

BT

BV



NHC = NATIONAL HOUSE CONDITION SURVEY



A DIAGRAMMATIC REPRESENTATION OF THE IDENTIFICATION

OF AREAS OF HOUSING FOR INCLUSION IN THE LOCAL

AUTHORITY'S SLUM CLEARANCE PROGRAMME

On the 'worst is first' principle, the most unsatisfactory housing is given a priority position in the slum clearance programme, and when Part III action is contemplated, each house is visited by Public Health Officers who draw up lists of points of unfitness. Until 1974, when the Health Services were reorganised, the Medical Officer of Health or his deputy would also often briefly check the Public Health Officer's inspection to satisfy the statutory requirement to justify an official representation under the Act. (292)

Once the Medical Officer of Health has made his official representation, the initiative lies technically with the lay councillors of the appropriate committee, who must endorse Part III action if they are satisfied with the representation. (293)

At this point " ... there is clearly an important element of judgement involved and occasionally committees have not accepted recommendations from their officers." (294)

(292) This is now done by the Director of Environmental Health. However, since his function is the same as that of the Medical Officer of Health with regard to Part III, his title has been mentioned throughout the thesis.

(293) The committees concerned with slums were The Housing Committee of the Greater London Council or London Borough of Hackney, and the London Borough of Islington except 1971/74 when the Town Planning & Housing Committees were combined into the Town Planning & Development Committee.

However, "normally these matters will have been considered well in advance of any recommendation coming to the committee and its consideration at this stage is usually a formality." (295)

When, as is usual, the full Council accepts the recommendations of the appropriate committee, a formal declaration of a clearance area is made and if, as is usual, the clearance involves a part III Compulsory Purchase Order, the resolution is submitted to the Secretary of State for the Environment, and owners and occupiers are informed of the decision.

If there are no objectors the Compulsory Purchase Order may be automatically confirmed by the Secretary of State and, from a procedural point of view, this situation would be often regarded as ideal, there being no discord between the Council and the owners and occupiers of the represented houses. This situation may be expressed diagrammatically, (see fig. 12.03).

Owners and occupiers who object to the proposal have the status of 'statutory objectors', and their views and the Council's case are heard at a public enquiry held by a Department of the Environment Inspector in the locality. The Inspector can listen to and accept evidence from non-statutory objectors at his discretion. This situation can be expressed diagrammatically, (see fig. 12.04).

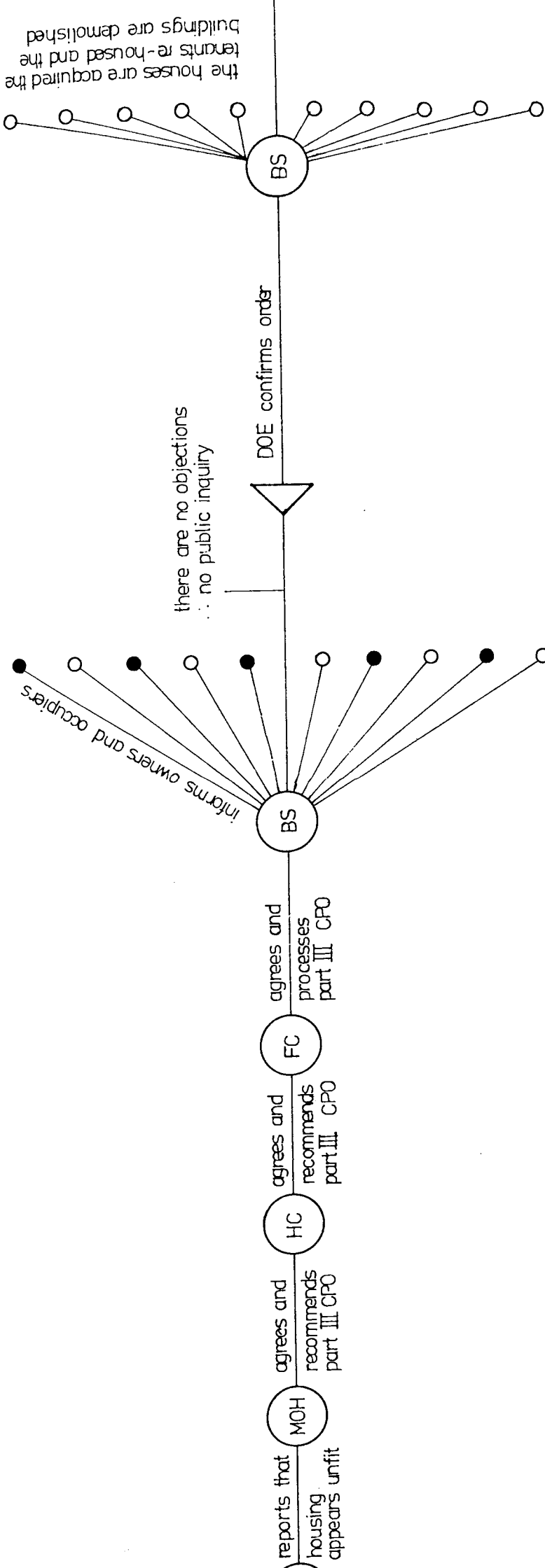


fig. 12.03

DIAGRAMMATIC REPRESENTATION OF AN 'IDEAL' PART III
P.O. WHERE THERE ARE NO OBJECTORS TO THE PROPOSAL

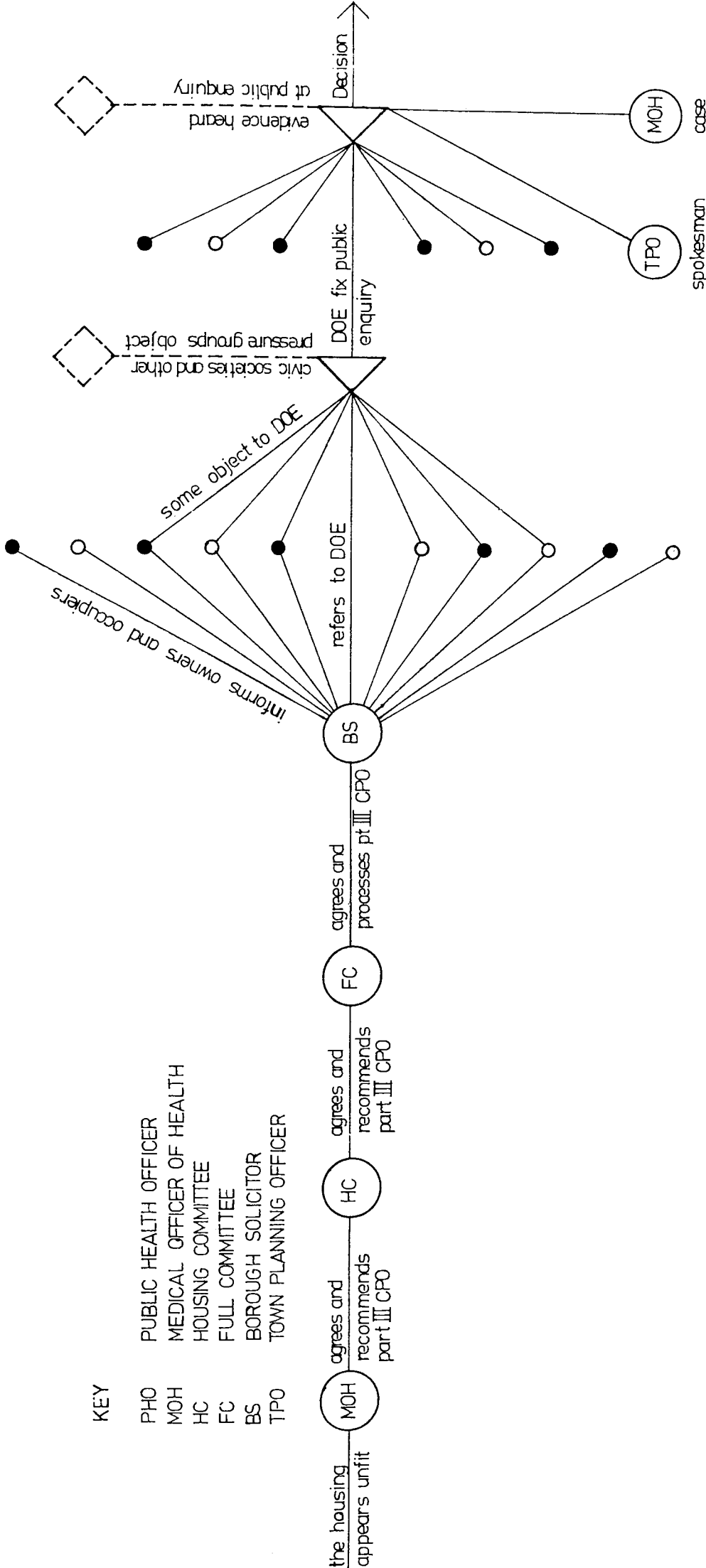


fig. 12.04

DIAGRAMMATIC REPRESENTATION OF A 'NORMAL' PART III C.P.O.
 THERE NO INTERVENTIONIST ACTION TOOK PLACE AND WHERE THE
 HOUSES WERE NOT LISTED

However, due to the rigid application of the procedures set down in the Act, and due to the fact that the clearance of the worst slums was obviously necessary and often accepted by owners and occupiers either without objection or with only weak objection, the officers and members of many Local Authorities saw Part III as an easy option and a panacea for dealing with unsatisfactory housing.

As John English, Ruth Madigan and Peter Norman wrote:

"For officials, the same procedures provide the basic structure within which their jobs are defined. Most of the tasks, at least at the early stages of clearance, are required by law; completing them routinely to satisfy legal requirements provides a minimum job definition for staff and encourages a legalistic interpretation of the clearance process. The routinisation encouraged by conformity to rules which is common to any large bureaucracy may also have been reinforced by the long established continuity of slum clearance procedures. These have developed the inertia of almost twenty years in operation without major change. At both central and local government levels specialised slum clearance units have developed the rigidity of organisations within which men have built careers and the dead weight of set patterns of paperwork negates change." (296)

The writer believes that "the minimum job definition", and the routine attitude to the problem of unsatisfactory housing was a major factor which led to the problems which emerged through the analyses of the case examples.

The problem of the bureaucracy and job definition involved in the Compulsory Purchase Order process is exacerbated by the fact that: "... none of the departments involved in CPO procedure has a general advisory or informative role. On the contrary, the quasi-judicial nature of the CPO process and the stress on legal correctness encourages officials not to commit themselves to hard information and, as first priority, to protect the legal interests of their council. This can be illustrated for both the key officials involved in compulsory purchase, the PHI and the town clerk." (297)

The first step in the process of representation is carried out by the Public Health Officers and, as John English, Ruth Madigan and Peter Norman wrote: (298)

"The most effective step that the PHI can take to ensure that events do run smoothly for the local authority is to concentrate on a detailed and careful inspection of the physical fabric of the property and to say nothing of substance. As a good professional his main concern

(297) John English, Ruth Madigan & Peter Norman, op cit, p.69
(298) Ibid, p.70

is to see that the information on which his report is based is detailed and accurate enough to withstand scrutiny; first the possible scrutiny of councillors who may not be prepared to take his recommendations on the nod; second, the scrutiny of individual house owners who may object to the CPO and require a detailed notice of principal grounds of unfitness; and, third, the scrutiny of an inspector from the Department at a PLI. Properties which are the subject of objections often receive particular attention involving several visits from PHIs including senior inspectors. All such properties will be visited by a Department inspector at the time of the PLI. The recommendations of Department inspectors are the only indication a local PHI has that his judgement of what is or is not an unfit house is being correctly applied according to a rough common standard. Individual public health departments pride themselves on how few houses in their clearance areas are reclassified and how few CPOs are ever turned down."

However, the writer believes that although a Public Health Officer is able to make a list of obvious defects, he is not qualified to know the means by which they can be remedied or the likely costs of doing so. These skills are found in the building industry amongst architects, builders, building surveyors, structural engineers and quantity surveyors.

The work of Public Health Officers in the field of part III Compulsory Purchase Orders was adequate for the worst housing dealt with following the introduction of the Act. However, Public Health Officers are often unable to perform adequately with regard to housing in marginal Part III areas.

Public Health Officers are likewise not qualified to assess buildings which may have architectural merit and since the listing of buildings can influence a Part III decision, this matter should be taken into consideration. Even where buildings are not of sufficient quality to warrant their inclusion in the statutory list at the present time, it should be borne in mind that they may be considered listable at some time in the future.

c. Some Proposals for the Short-Term Improvement of the Part III Functions in the Department of the Medical Officer of Health

The Public Health Officers should retain their function of identifying areas of unsatisfactory housing but these should be assessed by qualified professionals with the use of the 'Appendix B' formula.

The Department should either use the skills within the Council or employ them from the private sector to carry out the following functions:

1. Establish whether the buildings are structurally stable and which part (if any) will require stabilisation;
2. Produce a full schedule of items of the built fabric which require repair;
3. Produce a scheme including plans, elevations, sections, details and specification required to render the houses fit for human habitation;
4. Produce a scheme for a new residential development equivalent in density to the scheme of conversion;
5. Produce an accurate and detailed estimate of the costs involved in 3. and 4. above;
6. Assess the likely life expectancy of the houses following their conversion;
7. Compare the quality of the housing achievable by conversion with that of the notional new development.

In the case of the London Borough of Islington, the London Borough of Hackney and the Greater London Council, the Councils employ their own architects, quantity and building surveyors and structural engineers, who are familiar with the problems of converting houses in their

area and are able to design and estimate the costs incurred in new residential development; it would be a simple matter for the Medical Officer of Health to seek the assistance of the Borough Architect's Department.

Clearly, by the adoption of this proposal it would be possible to achieve the following:-

1. To accurately assess which proposed Compulsory Purchase Orders in the Council's slum clearance programme are properly representable for Part III action; this would allow an identification of the cases where alternative courses of action should be considered to deal with unsatisfactory housing.
2. Where it was established that houses in the slum clearance programme were not slums, these could be taken out of the programme and dealt with under Part II or Part V of the Act. These houses would then immediately cease to be affected by the blight created by their inclusion in the programme.
3. The true scale of the Council's slum problem could be assessed.
4. The Council could avoid the waste of time and money in proceeding with Part III action which was unlikely to succeed.
5. The bureaucratic machine which processes Part III

Compulsory Purchase Order in the Local Authorities and the Department of the Environment would be more efficiently used if it were to be concerned mainly with well documented part III Compulsory Purchase Orders which had been rigorously tested prior to representation.

6. A reduction in the volume of Part III's which fail to be confirmed or which are marginal would allow the existing bureaucratic set-up to process genuine and urgent Part III's more quickly.

7. This would benefit the tenants of all housing on the slum clearance programme even if that housing were to be taken out of the programme. Firstly the housing which is found to be fit within the meaning of the Act would be subject to action under Part II or Part V and, although the tenant may not see the immediate benefit of this, it should be noted that the tenant's problems are likely to be dealt with much faster in this way than would be the case if the Part III action was to be unsuccessfully progressed through a public enquiry. Secondly, those houses which are retained in the slum clearance programme would be progressed more rapidly by virtue of the reduction in the volume of work and the excision of work which could be abortive.

8. Owners and owner-occupiers of houses retained in the slum clearance programme would be able to make more objective judgements about whether or not to fight Compulsory Purchase Orders. This could lead to a reduction in the number of opposed Compulsory Purchase Orders and a further reduction in the demand for bureaucratic time within the Local Authorities and the Department of the Environment.
9. Housing removed from the slum clearance programme which occupied land zoned for some other use, could be re-assessed by the Planners and the Town Planning Committees.

Therefore, we see that within the existing framework of Part III legislation, and the bureaucracy which administers it, it is possible to establish a single means by which the quality of the technical assessment of Part III areas can be greatly improved.

Having discussed a means by which the technical assessment of housing identified for Part III action may be improved, it now remains to consider the ways in which an aesthetic judgement may be obtained on those houses which remain in the programme following such an assessment.

1. Where a proposed part III Compulsory Purchase Order falls within a designated conservation area

or within a proposed conservation area, it is important that the matter be referred to the following:

- (a) the Council's Conservation Area Advisory Committee;
- (b) the Borough Conservation Officer;
- (c) the Greater London Council Historic Buildings Division;
- (d) the Department of the Environment Historic Buildings Division;
- (e) the statutory civic societies

2. Where it appears that the houses the subject of the proposed Part III are listable, this factor should be taken into account and the Part III action should be re-assessed; this is particularly important where the technical assessment reveals that the Part III action is marginal.
3. Depending upon the quality of the houses, their rarity, their group value, the contribution they make to the townscape of the area and the cost implications of retaining and improving them, the proposed Part III could be re-assessed and possibly taken out of the programme.

The essential point which is being made above is that the technical and aesthetic assessments should be

carefully and accurately carried out by the Local Authority before deciding to take Part III action. This would avoid the attitude which is often taken by officers and members of Local Authorities, whereby they regard the Inspector and his back-up staff at the Department of the Environment as responsible for deciding upon these issues. This attitude leads to a loss of autonomy on the part of the Local Authority where they have the technical and aesthetic skills available to assess the matter themselves.

d. Some Proposals for Improving the Quality of the Legal Advice Given to Local Authorities

As was shown in case examples 1, 2 and 3, there were strong legal reasons advanced by the Borough Solicitor and the Borough Planning Officer of the London Borough of Islington in support of the contention that:

1. Planning consent would be required for the works necessary to render the houses fit for human habitation; and
2. To grant the required planning consents would be contrary to the Initial Development Plan and would involve the need to adopt the 'departure procedure'.

As was shown subsequently, both legal opinions were important considerations which had been taken into account by the lay councillors in passing the part III Compulsory Purchase Order resolution and the legal opinions were incorrect.

It is not possible for solicitors to be experts upon all aspects of the law and this is one of the main reasons advanced for the two-tier legal system used in the United Kingdom. Barristers specialise in, and give legal opinions on, various aspects of the law and this, together with their skill in advocacy, is their role in our legal system.

Accordingly, the legal advisers to the appellants in case examples 1, 2 and 3 recommended that first class joint Counsels opinion be sought to establish the likely legal position with regard to the allegation made by the London Borough of Islington; joint Counsel advised that the Council was wrong, and this was subsequently admitted by the Borough Solicitor to have been so.

Thus it is clear that, where the Borough Solicitor is required to give advice upon issues with which he is not familiar, or where there is reasonable cause for uncertainty, it should be possible for the Borough Solicitor to take first class Counsel's opinion.

To take such advice is normal practice in the private legal sector and there is no reason why Borough Solicitors in the public sector should not do likewise. Indeed, it emerged from case example 3 that the principle reason advanced for the rescindment of the Section 112 Compulsory Purchase Order was that Counsel had advised that the Council's action was unlikely to be successful.

e. Some Proposals for Improving the Objectivity of Officers' Reports to Lay Councillors

Some proposals for improving the objectivity of reports from the Departments of the Medical Officer of Health and the Borough Solicitor have already been discussed. The future proposed planning use of an area represented for Part III action is legally irrelevant and should not be a factor in the decision-making process.

However, the reality is that land-use zoning produces blight in existing urban areas and this in turn can result in the housing in a blighted area falling into a state whereby it is identified for Part III action. It must be recognised that, since slum clearance can have such a profound influence upon urban renewal, it is natural that officers and members of Local Authorities should consider future land-use implications relative to Part III action.

Therefore it is easy to understand why, in case examples 1, 2, 3 and 7, the Council's Planning Officers were asked to advise members on the planning aspects of the cases.

Therefore we see that it is possible that a number of officers of the Council may be asked to give advice upon different aspects of a Part III case; in the writer's opinion this is preferable to the all too frequent reliance upon the narrow and often misleading evidence of the Medical Officer of Health and the Public Health Officer.

However, it is obvious that there is no point in considering a number of aspects relative to a Part III decision if the advice given is incorrect, incomplete, unclear or biased; a decision taken upon such information is likely to be frustrated at a public enquiry.

The question to be considered is therefore by which means more objective reports may be obtained. A fundamental factor posed by this question is to what extent officers are influenced, sub-consciously or consciously, to introduce a bias in their advice consistent with their understanding of the political motivation of the Council they serve.

The simplest way of solving this problem is to ensure that the evidence given by officers is made public and is debated publicly. Many Councils have adopted a policy of open committee meetings and Islington was one of the first Local Authorities to do this. However, case examples 2 and 3 were the subject of action by Islington which had been based upon incorrect, unclear, incomplete and biased evidence from its officers.

The Housing Committee made their decision in the 'confidential' part of the meeting and by virtue of the standing order regarding discussions after 10 p.m., the decisions were never publicly discussed by the full Council.

It is reasonably argued that, had the officers' reports been written in the knowledge that they were to be made available to the public and were to be the subject of public debate, the officers would have taken more care to ensure the accuracy of their evidence.

As has been discussed earlier, it is not possible to completely erase bias from the decision-making process and there are occasions when bias is positively beneficial. However, the writer believes that a number of Councillors were genuinely misled as to the background to case examples 2 and 3 and that the advice supplied

was so unclear that different officers and members of the Council had completely different understandings upon important points of concern, for example, whether or not the Section 112 Compulsory Purchase Order was intended as a means to achieve the demolition of 1-21 Copenhagen Street or its retention and restoration.

A further point in favour of the writer's proposal is that reports which influence the decisions taken may be of great importance for use at public enquiries or in the law courts, in so far as they may be used as a basis for cross examination of Council witnesses. If officers knew their reports were likely to be the subject of searching scrutiny and analysis, it is probable they would take more care in their preparation.

The writer believes that Part III decisions should only be taken where the Local Authority believes that, following a full scale in-depth public enquiry, the Compulsory Purchase Order will be confirmed by the Secretary of State.

The discretionary question of bias should rest with the elected representatives, since they theoretically run the risk of being removed from office by the electorate in the event their decisions are found to be unacceptable.

IV SOME HYPOTHESES FOR IMPROVEMENTS IN THE LAW CONCERNED
WITH UNSATISFACTORY HOUSING AND SLUM CLEARANCE, CONSERVATION
AND URBAN RENEWAL

i. The Law Concerned with Unsatisfactory Housing and
Slum Clearance.

There are a number of options available in the Acts of Parliament which provide Local Authorities with the power to deal with unsatisfactory housing; the more important and useful of these have been described earlier.

The most draconian of these powers is Part III of the Housing Act 1957, since its use has the implication that no other option is possible, and if successfully implemented, it results in the demolition of the area represented.

Therefore, if a Local Authority passes a Part III resolution it implies that the unsatisfactory housing in the area is not capable of being dealt with by the use of Part II or Part V of the 1957 Act, nor that it is capable of being dealt with by declaring it a General Improvement Area, Housing Action Area or Priority Area, the implications of which were discussed earlier in the thesis.

By virtue of the legislative requirements of a Part III resolution Local Authorities often regard them as sacrosanct when, as has been established through case examples analysed in this work, this is sometimes not necessarily the case.

Parliament has recognised a certain weakness in Part III of the Housing Act 1957 and has altered two of the worst aspects of it in the 1974 Act.

Lord Garnsworthys amendment allowed a Local Authority to alter its decision to demolish houses acquired under Part III should they decide instead to rehabilitate them, and the law of compensation was changed to allow owner-occupiers who had occupied property represented under Part III for two years or more to obtain full market value for their houses when acquired by a Local Authority.

The writer believes that the provision of the 1957 Act should be amended to ensure that all owners of houses which are acquired under Part III receive compensation at full market value.

Apart from the fact that, in the writer's opinion, this is required by natural justice, such a change in the law could remove the actuality (or the suspicion that) a Local Authority was proceeding with Part III action since to do so would be cheaper than to use the alternative powers at its disposal.

Moreover, apart from the advantages already discussed, this proposed amendment to the law could result in Local Authorities adopting a more flexible approach to the problem, since the economic bias inherent in Part III action would be removed; this could be a significant factor in that it

encourages the adoption of a more objective approach to the consideration of the other options which are available for dealing with the problems of unsatisfactory housing.

From the analyses of the case examples it has emerged that the threshold of decisions relative to the assessment of slum clearance areas has reached a point at which the role of the Medical Officer of Health and his Public Health Officers is often inappropriate, since the job definition inherent in their roles has outstripped the level of competence and professional judgement usually required at the present time.

Although this lack of competence and professional skill can be overcome by re-structuring the existing administration of Part III within Local Authorities, the decision whether or not to do so is discretionary.

Bearing in mind the strong legalistic attitudes which have developed within the Departments of many Medical Officers of Health it is clearly desirable to alter the legal requirements of the Act. Through the analyses of case examples it has been possible to identify two requirements of the Act which in the writers opinion should be changed. Firstly, the statutory role of the Medical Officer of Health as the Officer responsible for representation should be changed, so that the duty should rest with the Local Authority and not with one of its officers. Secondly, it should be a statutory requirement that an 'Appendix B' formula calculation be presented to the Local Authority in support of a Part III resolution

These changes would provide the basis for the objective production of, and rational consideration of, the economic justification for a part III Compulsory Purchase Order. They would also allow the possibility of administrative flexibility within a Local Authority by the removal of the Medical Officer of Health from a decision-making process in which he has only a minor role to play.

From a conceptional point of view, these proposals envisage a shift from the sanitary view of slum assessment to a practical and economic means of establishing whether homes in an area are slums.

From a practical point of view, those Public Health Officers who were previously involved in the Medical Officer of Health's slum clearance work could be absorbed within the Local Authority's Architectural Department.

The justification for these suggestions does not rest solely upon the conclusions reached through the case examples but also from the fact that the Borough Architect's Department of many Local Authorities are heavily involved in the other aspects in the field concerned with unsatisfactory housing. Since General Improvement Areas and Housing Action Areas are already dealt with in these departments, it seems reasonable that these departments should also be responsible for the justification of Part III actions.

As has been noted earlier, Local Authorities frequently do not set-up a hierarchy of committees and, as was established in case example 6, conflicts can arise between committees which regard Part III from different points of view.

It would be undesirable to impose upon Local Authorities the duty to establish a hierarchical committee structure whereby the opinions of one committee should be regarded as more important than those of another, although legislation can result in such a situation in certain circumstances.

However, the sort of conflict which emerged between the Housing and Town Planning Committees of the London Borough of Islington, in case 6, could be avoided by the clarification of the basis of their decisions; the writer believes the suggestion for changes in the administration of Part III and the legal alterations proposed would obviate such conflicts.

ii. The Law concerned with conservation

There are four main issues which have emerged from the analyses of the case examples which indicate areas for consideration of changes in the law of conservation.

Firstly, there was the question of slum clearance proposals which threatened listed or listable buildings and the consequent erosion of designated conservation areas; some methods by which the conflict of interest might be dealt with have already been discussed earlier in this chapter.

Secondly there is the problem of long-term planning proposals which were adopted in 1955 and which did not take account of the rise in public interest and concern at the loss of old familiar buildings and townscapes in London.

Since the publication of the Initial Development Plan in 1951, and its formal ratification by the Minister in 1955, there has been a growing realisation that master-plans of this sort need to be reviewed and amended from time to time to take account of changing circumstances. The Greater London Development Plan was published in 1968, and this sought to review the proposals of the Initial Development Plan. However following an 18 month public enquiry a decision by the Secretary of State is still awaited on what is likely to be an out-of-date plan.

During the period 1951 to the present time planners and the public have learned many lessons and, as a result, the knowledge gained has often been absorbed into different sectors in what can be generally regarded as the planning process.

Significant amongst the lessons learnt was the need to conserve and improve buildings and historic areas, and this has resulted in a greatly increased number of buildings being listed, and many conservation areas being designated.

Meanwhile some of the proposals contained in the Initial Development Plan are still blighting buildings which are likely to be listed when they are next surveyed by the Inspectorate of Historic Buildings of the Department of the Environment.

Similarly if and when the Greater London Development Plan is formally approved, it is likely that some of its proposals will impose blight upon listed or listable buildings in London.

Therefore it is important that the proposals contained in these two large-scale plans be re-assessed with a view to ensuring the retention of as many as possible of the listed or listable buildings and conservation areas.

Such a review would identify the areas where the presumption that listed buildings and conservation areas will be retained and enhanced is in conflict with a proposal which implies demolition. In such circumstances the issue should be decided in the way Roger France advocated at the public enquiry analysed in case example 7.

"In conclusion, I submit that the local planning authority should submit alternative zoning solutions and reasons for their unacceptability, together with appraisals of recreation and open space in the borough, before consent to demolish be given". (299)

(299) Roger France Proof of Evidence submitted at the public enquiry p. 4 para 2.2.

Since Local Authorities in London are stautorily bound to work towards the implementation of the Initial Development Plan, and in the event the Greater London Development Plan is approved will be similarly bound to its implementation, the writer believes that the easiest way of encouraging the review recommended above would be by the removal of the 'departure procedure' requirements of the Act.

The 'departure procedure' should be retained only for elements of the plan which have important implications upon the combination or national infrastructure e.g. roads, railways, inland waterways. However, depending upon the value of the buildings or conservation areas threatened by such proposals, the plan should be reviewed with a view to retaining historic buildings and townscapes.

The overriding issue is the need for flexibility in planning, and it could be said that the writer's bias towards the retention of buildings and areas of architectural and historical interest imposes a rigid inflexibility in attitude to other possible uses to which the land occupied by such buildings and areas may be put.

The writer's response to such an arguement is that such buildings and areas are quite literally irreplaceable and, if they are to be demolished to make way for some other land-use, it should be incumbent upon planners to prove that their proposals cannot be adequately accommodated elsewhere.

Thirdly, it has emerged clearly through the analyses of case examples that the listing procedure currently in operation is too slow and too subjective. The Department of the Environment's Inspectorate of Historic Buildings should be increased to ensure that listable buildings are not lost due to non recognition of their merit. The Inspectorate should also disregard the condition of buildings when listing, since it seems probable that the poor condition of 16-62 Barnsbury Road and 163-185 Barnsbury Road and 1-21 Copenhagen Street was the main reason these had not been included in the lists compiled in the earlier survey of Islington.

Fourthly, there is the question of the impact upon the environment created by the demolition of old buildings, and the new developments adjoining historic buildings and townscapes. Consideration could be given to the Environmental Impact legislation adopted in the U.S.A. whereby developers are required to provide an environmental and aesthetic analysis of their proposals with their Town Planning application. It would be interesting to see how this system works in practise.

iii. The Law Concerned with Urban Renewal

The legal issues already identified and discussed in the previous two sections of this chapter on the subjects of urban clearance and conservation all fall within the field of urban renewal since, by definition slums and listed buildings and conservation areas in London are all to be found in the older urban areas where renewal is required.

The overriding requirement in this field of planning is that of flexibility in the use of existing powers.

As Geoffrey Steeley stated "Current Statutory plans failed to satisfy the needs of the various groups. Why was the Government so set against 'informal' plans? - 'we, the planners, and we, the public, need them.' " (300)

The same argument and proposal regarding the abandonment of 'departure procedure' as set out in the section concerned with the law of conservation should, in the writers opinion, be applied to urban renewal and all town planning proposals.

Legal Aid

In the interests of justice, and with a view to ensuring that a part III or Town Planning proposal is properly presented, argued and rigorously examined at public enquiries, the writer believes that legal Aid should be available to statutory objectors. (301)

Moreover, provision should be made to ensure that solicitors, barristers and professional advisers acting for objectors are not prejudiced by Local Authorities. This proposal is within the main stream of current public and parliamentary opinion since its aim is similar to the law concerned with racial discrimination and the provisions to prevent unfair dismissal from employment.

(300) "Pleas for More Pragmatic Local Plans" Article in Royal Town Planning Institute Journal, October 1978 p.3. Quoting Geoffrey Steeley Deputy County Planning Officer for Hereford.

(301) This point was raised by Mr. David Hall of the Town & Country Planning Association in his letter to Mr. Shore the Environment Secretary. "The Associations concern is to make the decision making process.....more fair and better able to bring out all the arguments and facts" Daily Telegraph

v. Proposals for improving the 'Appendix B' formula
and its application

The fundamental deciding factor as to what is or is not a slum is whether housing is capable of being converted at reasonable cost. The secondary issues for consideration are whether or not the houses are stable and whether or not they are arranged internally and in their setting in such a way that they are capable of beneficial conversion.

However, the overriding point is related to the economics of conversion since, if houses are badly arranged internally or in their environment, but this arrangement can be ameliorated satisfactorily at reasonable cost, then it follows that the houses are not technically slums.

It was clearly shown through the case examples in the thesis that Medical Officers of Health had represented houses as slums and that Councils had decided to proceed with Part III action without having been provided with an Appendix B formula calculation.

This has long been an issue which has been of concern to the writer and this was the main thrust of the proposed legal action against the Department of the Environment discussed in case example No.1.

However, this point has now been clarified through the courts and it is now established that:-

"From now on it will not be sufficient for those housing authorities which still indulge in wholesale demolition to resort merely to alleged "expediency" or policy consideration to justify their (slum clearance K.P.) proposals." (302)

Thus it is established by the Court of Appeal that the Appendix B formula has the status of being the deciding factor in a slum clearance decision; this fully justifies the writers opinion expressed in connection with case example 1. in 1970.

The 'Appendix B' formula is currently under review by the Department of the Environment but no decision has been reached with regard to possible amendments or additions.

The current formula attempts to provide the means by which a comparison may be made between residential accommodation achieved by conversion, and similar accommodation obtained by re-development. Three factors are considered:-

- a. The life expectancy of converted housing compared with a notional 60 year life for a new development
- b. The quality of accommodation achieved by conversion compared with Parker Morris standards.
- c. The comparative cost of conversion and new development.

It would be worthwhile now examining the application of the formula in order to establish in which way the decision involving its use may be improved.

a. Life expectancy of converted housing compared with a notional 60 year life for a new development

The funding of council housing developments is arranged over a 60 year period for new housing and a 40 year period for conversions. Although at first glance this may appear to have been based upon an arbitrary judgement of the life expectancy of the housing, when one considers the need to ensure that the accommodation is retained in existence, occupied and rent producing for the period of funding, it is easy to understand that it is prudent to fix the period for the repayment of the capital and interest well below the life expectancy of the buildings; this factor of safety is required to ensure the 'collateral security' of the monies advanced.

However, having established a 60 year period for loan-repayments the authorities have found it convenient to regard 60 years as the notional life of new residential accommodation, when, as has been shown through the analyses of case examples, housing can have a useful life far in excess of this period. On the other hand, it is necessary to allow for the costs of maintenance and repair, which, it is often assumed, will be greater for accommodation achieved by conversion than will be

Whereas this assumption is clearly often justified, it must be borne in mind that new developments often incorporate new and untried building techniques which can result in the need for considerable unexpected and costly remedial works, e.g. the incidence of condensation in council housing built since the 1960's is now regarded as ubiquitous.

Some new developments have developed major structural problems, or latent design or constructional defects have led to the consideration of their demolition. e.g. System built houses on the Bison System in Haringey, and the Rohnan Point type blocks in Tower Hamlets.

Moreover, inner London boroughs are currently upgrading post war flats on their 'estates action programmes'; many of these flats are less than 30 years old and some were built less than 20 years ago.

Whilst it is accepted that older houses may, in certain cases, require a higher level of maintenance, this may not be true for all rehabilitated houses. Moreover, it is reasonable to argue that housing of 130-150 years in age is likely to have suffered sufficient distress to allow a competent surveyor to identify structural repair and maintenance requirements. In addition after conversion it is probably easier to predict future maintenance and repairs with more confidence and accuracy with regard to such buildings since their

structural and detailed design has been well known, tried and tested for upwards of two hundred years.

It must be remembered that housing, like motor cars, television sets and washing machines, begins to deteriorate from the moment it is completed. Therefore, it is important to establish, if possible, the degree and speed of such deterioration. It should also be borne in mind that the acceptable standards for housing and the facilities provided, are constantly rising. Therefore it would be useful to establish to what extent the design of housing is capable of flexible adaptation.

Although interesting as a subject of research, it has not been possible to include such a study in this work, but the point is included for the sake of completeness.

However, it is possible to make some general statements from the findings established through case examples and the writers experience as a designer of new council housing, and as a practitioner in the field of 'estates action' renewal.

1. The housing analysed in the case examples was 130-150 years old and had been first occupied by middle-class tenants, then some 30-40 years later by many working class tenants who often lived a family to a floor or even a room, and the majority

of these houses have subsequently been converted to a large variety of housing units; ;this demonstrates clearly that housing of this type is extremely flexible and adaptable to changing needs.

2. The conversion of the houses has allowed a reconsideration of some structural and detailed design elements in the original buildings to be improved. e.g. re-building of certain walls, strengthening roof and floors etc. In this way the houses have been given a longer life expectancy than may be the case for some new housing schemes.
3. The overcrowding which was endemic in the housing in case example 2 has been dealt with. Therefore the erstwhile overuse of the houses, which was a significant factor in their representation as slums, no longer exists. If the housing could stand such overuse, and be subsequently converted to a high standard, at a lower density and at reasonable cost, it is reasonable to argue that its future life expectancy is good.

Although such factors as described above are not necessarily true for all converted housing, the writer believes that a realisation that maintenance, repair, and structural stability may be better and more economically achieved in converted housing, should be an important background consideration in any decision between rehabilitation and

redevelopment; such a realisation should be a 'weighting' factor in any marginal situation.

For the sake of proper comparison, the level of conversion work should be designed and listed to as near an equivalent to new development as is reasonably possible; The calculation of the comparison should be carried out by qualified professionals skilled in both types of housing.

b. The Quality of Accommodation achieved by conversion compared with Parker Morris Standards.

Parker Morris standards are those to which Councils and housing associations are required to conform in the design of new housing. The standards broadly include the following:-

1. Space Standards which set out minimum room sizes and minimum residential unit sizes; the latter vary depending upon the number of persons to be accommodated in a unit, and the height of the unit.
2. Services, including the supply of water, gas, electricity, and heating.
3. Facilities, including the provision of baths, W.C's, Lavatory basins, and kitchens.

It would now be worthwhile to examine the means by which accommodation achievable by conversion may be compared with these minimum recommendations.

1. Space Standards Comparison

It is clearly possible, by the simple measurement of rooms and unit sizes of a scheme of conversion, to establish to what extent they match, exceed or fall short of, the Parker Morris space standards; the results of such an exercise are normally presented as a percentage.

Occasionally, in times of economic depression, government agencies have made it known that they will accept new developments 10% below Parker Morris space standards. (303)

It is arguable that a 10% tolerance should be acceptable in a scheme of conversion where room or unit sizes do not equate with the Parker Morris standards.

Another point to consider is that, quite often, conversion schemes may fall below the recommended minimum space requirements but may have other redeeming features such as higher ceilings. In such cases the cube space standard and possibly the lighting and ventilation of a conversion may be greater than that achieved in a new development.

(303) The Housing Corporation were prepared to accept and fund schemes 10% below Parker Morris standards in ... Society co-ownership and cost-

A further point is that where a unit falls seriously below Parker Morris standards it will frequently be acceptable if it is assumed to accommodate less people. A unit having enough rooms, facilities and services for 5 people may not satisfy the standards but, when it is assumed that 3 or 4 people will occupy such a unit it is probably that it will comply.

It should be borne in mind that, within reasonable limits, it is difficult to control finitely the occupancy factor in any building; this is particularly true in residential accommodation where the 'shape' of a family can change quite rapidly.

It emerged in case example 6 (Shepherdess Walk) that the London Borough of Hackney regarded the houses as below Parker Morris standards because they decided to exclude the front basement rooms from the calculation since they faced onto a basement area. Their scheme proposed that this room be used as a dining room and, as such, they believed they were seriously impinging upon the living standards which could be achieved in the houses.

What is interesting about this proposed use is that a great many middle-class owner occupiers who buy and convert housing of this type, have made beneficial use of the front basement room by using it for dining. This is particularly convenient as it directly adjoins the Kitchen in the rear basement room. Thus we see that the Council were apparently concerned to obviate what they regarded as undesirable uses for their tenants, whilst elsewhere wealthy middle-class owner occupiers were converting housing to achieve the same plan by preference. This type of subjectivity in the use of the comparison exercise must be avoided wherever possible.

The writer has concluded from the analyses of the case examples that, used flexibly, and taking note of the suggestions made above, the comparison of space standards relative to Parker Morris is a useful yardstick of comparison which should be taken into account in a decision whether to rehabilitate or redevelop.

2 & 3. Services and Facilities Standards Comparison

There is no reason why the provision of water, gas and electricity services in residential accommodation achieved by conversion should not be as good as those provided in new developments. Similarly, it is almost always possible to achieve satisfactory bathrooms, W.C's and kitchens in conversion schemes.

c. Comparative costs of conversion and new development

The exercise involved in producing a scheme of conversion, with a notional scheme of redevelopment, and calculating the cost of each, is a relatively simple matter for a competent team of professionals. However, the writer believes that this approach is too simplistic, and is biased against conversion because it fails to give regard to other beneficial factors which have a profound effect on the economics involved. These factors may be summarised as follows:-

1. The exercise does not allow for the costs involved in the provision of alternative accommodation for dispossessed occupants.
2. Although sites are frequently left vacant for 4-7 years before development commences and require 1-3 years for the building period, no allowance is made for the interest charges involved in the land acquisition cost and attendant legal and other professional costs; and
3. likewise no allowance is made for the loss of rent and rates from the existing properties; and
4. no allowance is made for the inflationary increases in building costs over such a period.

5. No allowance is made for the open-market unblighted value of the houses.
6. No allowance is made for the architectural merit of the houses.
7. No calculation is made to establish the opportunity cost involved in carrying through a part III Compulsory Purchase Order decision compared with alternative uses for the available capital.
8. No allowance is made for the social cost involved in the break -down of an existing community, the removal of people out of the area, the difficulties for extended families to buy suitable alternative accommodation, or its provision by the Local Authority.

Clearly there are balancing factors which can, to a certain extent, compensate for these omissions. For example, Local Authorities expect to subsidise the rents of Council tenants and provision is made in their budgets to allow for this. However, looked at objectively, and ignoring the source of funds or subsidies available, it must be accepted that some of the omissions from the 'Appendix B' formula listed above should be considered in the decision whether to rehabilitate or redevelop.

It would be worthwhile now carrying out a simple comparison exercise on the basis of project appraisal techniques as are used in the private sector of the building development industry.

The following assumptions have been made:-

1. Since housing produced for renting is not profitable, the calculations will show low 'rounded-down' notional sums in the rentalisation exercise.
2. Interest will be assumed at 10% per annum; this is significantly lower than that often borne in the private sector, where 14% - 18% is not unusual.
3. Following the confirmation of a Compulsory Purchase Order under Part III, it is common for the period involved in acquisition, rehousing, clearance and redevelopment to completion to take up to 10 years; the assumption is made that this can be achieved in 7 years.
4. Rates of existing units are assumed at £100 per annum; this must be regarded as an absolute minimum.
5. Rents of existing units are assumed at £300 per annum, and converted units are rentalised at £600 per annum, these too must be regarded as an absolute minimum.

7. Inflationary increases in the building industry are assumed at 10% per annum, although at the present time this is running at 12%
8. The calculation assumes that the housing is bought at market value and that its condition is so poor that it may be representable for Part III action. Therefore the basic cost of acquisition will appear in both columns of the appraisal. The housing is assumed to be occupied.
9. Professional fees are assumed at 10%. (304)
10. The total development value of an average two bedroom council flat or house could be upwards of £40,000. However, it is assumed that dispossessed occupants of compulsarily purchased housing will be rehoused in older units with a notional value of £20,000.
11. It is assumed that a programme of rehabilitation would be completed within two years.
12. The appraisal is based upon housing as described and illustrated in case example 1 and 6. The houses are two storey over basement, and the conversion is assumed for single family occupation as indicated in the plans submitted by the London Borough of Hackney, at the Shepherdess Walk public enquiry into the Council's application for listed building consent to demolish the houses.

(304) The percentage fee for conversion work can be up to 13% but 10% is the combined fee allowed for repetitive

Thus, the comparison calculation will be carried out on a simplistic basis, and will include assumptions which still allow for a bias towards re-development. In addition, as a result of pitching each of the various factors lower than is normally the case, it is possible to absorb fluctuations which may occur between these factors. For example, changes in interest charges, increases in rent or a change in the rate of inflation in building costs.

Project Appraisal of the relative cost of producing housing by conversion and by new development.

FACTOR	New Development	Conversion
i) House acquisition cost	£20,000	£20,000
ii) Demolition cost	£ 1,000	
iii) Interest on site acquisition cost 10% x (£20,000 + £1000) x 7 years	£14,700	
iv) Interest on house acquisition 10% x £20,000 x 2 years		£ 2,000
v) Building cost	£30,000	£20,000
vi) Inflationary cost of new building works 10% x £30,000 x 7 years	£21,000	
vii) Inflationary cost of conversion 10% x £20,000 x 2 years		£ 4,000
viii) Fees @ 10% of building cost	£ 3,000	£ 2,000
ix) Inflationary cost of fees on new development 10% x £21,000	£ 2,100	
x) Inflationary cost of fees on conversion 10% x £4,000		£ 400
Estimated Total costs	£91,800	£50,400

It is accepted that this calculation is not an elegant means of comparing the two options under consideration, although it does have the merit of simplicity. The findings of this appraisal may be compared with the factor concerned with the income or loss of income which would result from the alternative options.

Income or Loss of Income comparison between housing achieved by conversion and re-development

FACTOR	New Development	Conversion
x) Provision of alternative accommodation assuming 25% owner-occupiers buy their own accommodation. £20,000 - (25% x 20,000)	£15,000	£15,000
xi) Loss of rent from existing housing £300 p.a. x 7 years £300 p.a. x 2 years	2,100	600
xii) Loss of extra rent obtainable following conversion £300 x 5 years	£ 1,500	
xiii) Rate loss from existing housing £100 p.a. x 7 years £100 p.a. x 2 years	700	200
xiv) Loss of extra rates obtainable following conversion £100 x 5 years	500	
xv) Loss of rent increases £150 x 4 years	600	
xvi) Loss of rate increases £50 x 3 years	150	
Estimated Total Losses	£ 20,550	£15,800

Thus we see that over a seven year period, up to the notional comparison completion date of a new housing development, the conversion option in these calculations has clear financial advantages.

The difference in unit development cost is £41,400 and the rent, rates and accommodation provision unit costs difference is £4,750; the total difference amounts to £46,150.

This difference is so great that, even if the building cost of conversion was equal to that of re-development, it would still be cheaper to rehabilitate the houses, indeed this would be the case even if the conversion costs were to substantially exceed re-development costs.

Even if the occupancy factor relative to Parker Morris space standards was 3:5, (i.e. three people were deemed to occupy the space normally occupied by five), and this were to be introduced into the equation the difference in comparative costs would still favour rehabilitation rather than redevelopment.

Total unit development costs	=	£112,350
Assume 60% space standard	=	£ 67,410
Total unit conversion cost	=	<u>£ 66,200</u>
Unit Saving	=	<u>£ 1,210</u>

The crucial factor influencing this cost difference is that of time, since delays result in increases in the capitalised interest involved in servicing loans.

However, the difference in the capitalised interest in the comparison is so great that even if the conversion period were to be increased to 3 years, and the re-development period reduced to 5 years, there would still be a difference of £4,500 on the acquisition cost interest alone. (305)

The factors of 'quality', and life expectancy may be influenced by a comparison difference of significance, since this would create the opportunity to increase both the quality, and life expectancy of the housing whilst still retaining a marginal financial advantage over the redevelopment scheme.

The techniques used above makes no provision for the financial appraisal of tenants, willingness to allow up-grading work to be carried out while they are in occupation, as was achieved in certain instances in case example 2.

Clearly, where this is possible, the conversion option would be even more desirable since it would save the rehousing cost notionally included at £15,000.

(305) Calculated thus:-

New Development	10% x	(20,000 x 5 yrs = £10,500
Conversion	10% x	(21,000 x 3 yrs = £ 6,000

Although no specific allowance is made for the architectural or historic merit of the housing, or the townscape of the surrounding area, this could be assessed largely by including the full open-market vacant possession price of the existing housing. This would also reflect such facilities as private gardens in the appraisal.

Conclusion

By the use of project appraisal techniques, it is possible to judge the comparison between the respective building and rentalisation costs of both options, and the appraisal can incorporate architectural merit, and tenant attitudes as described above.

The technique should be used in conjunction with the 'quality' and life expectancy provision of the existing 'Appendix B' formula, and appraisals can be adjusted accordingly.

The writer believes it is important that appraisals be kept simple, since in this way they will be easily understood, and are more likely to be properly used. Had such a technique been used for case example 1, the writer believes that Hemingford Road, Matilda Street, Everilda Street, and Shirley Street would have been saved from demolition. In addition it is probable that the housing in case examples 2, 5, 6 and 7 would never have been threatened with demolition.

V POSTSCRIPT

During the period of research it has been possible to identify other factors which have a distorting effect upon decisions involving conversion of older housing in the private sector. These are as follows:-

1. When a house is improved the Inland Revenue are able to alter its rateable value so that the occupant, (whether owner or tenant), will be required to pay higher rates. This applies even to relatively simple improvements such as the installation of central heating or the provision of a bathroom.

Thus the rating system in its present form produces a disincentive to the improvement of housing.

2. Works of improvement carried out to existing housing is subject to the imposition of Value Added Tax; this applies also to full scale rehabilitation. However, paradoxically no V.A.T. is chargeable on new development. The current rate of V.A.T. is 15% and is clearly a major disincentive to the carrying out of repairs and conversions.

3. Rents charged for housing in the private sector are governed by the 'fair rent' which is administered by the local rent officer service. In many instances it was found that sitting tenants were paying rents

which were so low that landlords could not afford to carry out essential repairs and renewals. The extra 'fair rents' chargeable when an existing unit is converted for a tenant are so low that they will not even support the interest upon the capital invested. This creates a two sided trap since, on the one hand there is no incentive for the landlords to carry out work, and on the other the tenant tends to accept poor housing conditions as long as the rent is low.

In some cases the London Borough of Islington had difficulty in persuading tenants who lived in houses which were the subject of closing orders, to take Council accommodation. Some tenants said they preferred to stay where they were and pay a low rent.

The question of rents and unearned income is a matter of great political debate but the consequences of the current situation in the private sector and the legislation which has partly led towards it, is in need of review.

4. The question of harassment is closely linked with that of low rents. Low rents result in houses being valued significantly below their vacant possession value. Since tenants have security of tenure, landlords are clearly better off if they can pay their tenants a financial inducement for their tenancies in order to be able to sell property at its vacant possession value;

More unscrupulous landlords may resort to harrassment.

5. The overriding point which has emerged repeatedly through the case examples, is that the housing represented as slums was regarded as potentially desirable residences by middle-class people who wished to move into Islington and Hackney. The writer has no doubt that, had the Councils bought the housing under Part V of the Housing Act 1957 and offered them for sale, all of the houses would have sold very quickly and been converted at no expense to the Council. This could be a novel way of dealing with certain apparent slums.

Appendices







ISLINGTON (HEMINGFORD ROAD) COMPULSORY PURCHASE ORDER 1970

Reference No **16**



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LONDON BOROUGH OF ISLINGTON

HOUSING ACT 1957

ISLINGTON (HEMINGFORD ROAD) COMPULSORY PURCHASE ORDER 1970

Reference No **45**



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DENSITY

Assuming normal local town planning density of 136
persons/acre Density = 374 persons

The existing houses are under-occupied when compared
with this figure.

POSSIBLE DENSITY FOR REHABILITATION SCHEME

Total number of houses = 67

- | | | |
|-------------------------------|--|--------------------|
| (i) | 39 houses have sufficient area to
accommodated 6 persons
(15 of these houses will require
new extensions) | = 234 persons |
| (ii) | 28 houses have sufficient area to
accommodate 5 persons | = 140 persons |
| (iii) | 3 sites for rebuilding at 6 persons
per site | = 18 persons |
| TOTAL NUMBER OF PERSONS | | <u>392 persons</u> |

SPACE STANDARDS FOR REHABILITATION SCHEME

- (i) Houses with 15' frontage can be converted to provide a basement flat plus a maisonette above, providing accommodation for 6 persons
- i.e. basement flat (2 persons) = 490 sq ft (Parker Morris = 510 sq.ft.)
- maisonette (4 persons) = 770 sq ft (Parker Morris = 805 sq.ft.)
- (ii) Houses with minimum 13' frontage will become five person houses
- Area = 1008 sq ft. min (Parker Morris = 1060 sq.ft.)

The above space standards can be further improved by:-

- a) Building additional extensions.
- b) Reducing number of persons to 136 persons/acre.

3 SHIRLEY STREET

TOTALS & PROVISIONAL SUMS

	PRICE
C 01 Stripping Out.	50
C 02 Walls, Partitions, Staircases	220
C 03 General Repairs and New Work	767
C 04 Door Schedule	167
C 05 Window Number	58
C 06 External Works	688
C 07 Internal Decorations	325
External Decorations	225
Drainage	75
Plumbing	100
Electrical Installation	200
Gas Installation	Nil
Damp Proofing	160
Timber Treatment	
Kitchen Fittings	70
Sanitary Fittings	100
Ironmongery	Nil
	<hr/>
	3,105
Preliminaries + Profit 20%	621
	<hr/>
TOTAL: £	<u>3,726</u>

17 HEMINGFORD ROAD

TOTALS & PROVISIONAL SUMS

	PRICE
C 01 Stripping Out	100
C 02 Walls, Partitions, Staircases	570
C 03 General Repairs & New Work	890
C 04 Door Schedule	176
C 05 Window Number	136.50
C 06 External Works	524
C 07 Internal Decorations	450
External Decorations	225
Draining	75
Plumbing	100
Electrical Installation	200
Gas Installation	Nil
Damp Proofing	180
Timber Treatment	
Kitchen Fittings	70
Sanitary Fittings	100
Ironmongery	Nil
	<hr/>
	3,796.50
Preliminaries + Profit 20%	759.30
	<hr/>
TOTAL:	£ 4,555.80
	<hr/> <hr/>

LONDON BOROUGH OF ISLINGTON'S FINANCIAL CASEDOCUMENT NO 3. pages 4, 5 & 6) OCTOBER 1970

1. Since it is anticipated that the programme will take a minimum of 60 weeks to tender stage and a further two years will need to be allowed for the building contract, the estimate of building costs are on the low side and likely costs which are set out below have been agreed with the Barnsbury Housing Association Quantity Surveyor as being more likely:-

Improvement of 13 single houses at	4,700	=	61,100
Conversion of 24 houses to provide 24 bedsitters and 24 maisonettes at conversion of 8 houses to provide 8 bedsitters and 8 maisonettes at	6,650	=	159,600
7 new flats by infilling at	7,000	=	56,000
9 garages below new flats at	4,800	=	33,600
34 lock up garages at	500	=	4,500
New roads, etc.	500	=	17,000
			4,000
			<hr/>
Total building costs for 84 units and 33 garages		=	335,800
Other costs would more likely be:			
Fees		=	43,654
Acquisition costs		=	210,000
			<hr/>
	Total	£	589,454
			<hr/>

2. The programme suggested in the report does not take account of the necessity to conform with the major departure procedure for which a further 60 weeks could be required. It is appreciated that this procedure could run concurrently with the pre-tender period but this would involve the payment of abortive fees if the application for a major departure was to be unsuccessful.
3. Should it be decided that the properties comprised in the area should remain in residential use, it would be necessary to compare the economics of rehabilitation with that of re-development, as a justification for large scale rehabilitation and General Improvement Area Action, in accordance with the formula set out in Ministry of Housing and Local Government Circular 65/69. This formula shows what, in the Ministry's view is the maximum cost of improvement per dwelling as a proportion of the cost of new building. In this case:
- the quality of the improved and converted dwellings is 60% of that of new;
 - the life of rehabilitated dwellings is 40 years.

The cost of rehabilitation including land costs should not exceed 58% of that of redevelopment after allowing for increased maintenance costs of rehabilitated dwellings.

Set out below is a summary of the comparative costs. Because of the difference in density and the number of units achieved in each case the costs of redevelopment and rehabilitation have been reduced to costs per bed space so as to give comparability:-

Rehabilitation costs as a percentage of redevelopment costs:-

Redevelopment costs per Bed Space at Density of 100 p.p.a	Rehabilitation costs per Bed Space	% of Redevelopment
£	£	
Building costs per bed space	1,306	1,556
Land costs per bed space	879	896
Additional Maintenance Costs per bed space		24
<u>£2,185</u>	<u>£2,476</u>	<u>113.3</u>

Redevelopment costs per Bed Space at Density of 136.p.p.a	Rehabilitation costs per Bed Space	% of Redevelopment
£	£	
Building Costs per bed space	1,408	1,556
Land Costs per bed space	634	896
Additional Maintenance Costs per bed space		24
<u>£2,042</u>	<u>£2,476</u>	<u>121.3</u>

The above costs when related to the Ministry formula referred to in paragraph 3. indicates that rehabilitation is not viable in economic terms.

Scheme of Redevelopment proposed by G.L.C. to provide 90 dwellings at density of 136 persons per acre.

Scheme of Redevelopment proposed by G.L.C. to provide 65 dwellings at a density of 100 persons per acre.

	£	£
Capital Costs:		
Acquisition	210,000	210,000
Building Works (inc.fees)	<u>466,000</u>	<u>311,200</u>
	<u>£676,000</u>	<u>£521,200</u>
Revenue Costs:		
Debt Charges for 60 years	57,893	44,636
Repairs, Supervision and management	<u>6,315</u>	<u>4,560</u>
	<u>£ 64,208</u>	<u>£ 49,196</u>
Rent	30,464	21,991
Government subsidy	<u>30,996</u>	<u>24,183</u>
	<u>£ 61,460</u>	<u>£ 46,174</u>
Annual Deficit to be met by Greater London Council	<u>£2,748</u>	<u>£3,022</u>
Annual Deficit per dwelling	<u>£31</u>	<u>£46</u>
Annual Deficit per person	<u>£ 8</u>	<u>£12</u>

Scheme proposed by Barnsbury Housing Association to provide 77 dwellings by rehabilitation and 7 dwellings by redevelopment

	£
Capital Cost:	
Acquisition	210,000
Redevelopment Works (inc.fees)	66,783
Rehabilitation Works (inc.fees)	<u>312,671</u>
	<u>£589,454</u>
Revenue Costs:	
Debt Charges on Redevelopment costs for 60 years (including debt charges on capitalised interest)	9,469
Debt Charges on Rehabilitation costs for 30 years (including debt charges on capitalised interest)	52,559
Repairs, supervision and management	<u>2,940</u>
	<u>£64,968</u>
Rent	23,465
Government Subsidy	<u>17,798</u>
	<u>£41,263</u>

Annual Deficit to be met from General Rate
Fund of London Borough of Islington

£23,705

Annual Deficit per dwelling

£282

Annual Deficit per person

£104

London Borough of Islington

PUBLIC HEALTH DEPARTMENT

159-167 Upper Street N1 1RE

C. BURNS, M.B., Ch.B., D.C.H., D.P.H.

Director of Public Health, Medical
Officer of Health and Principal
School Medical Officer (I.L.E.A.)

This matter is being dealt with by

Mr. A. Wheeler

Telephone 01-226 1234

Ext.: 287

Your ref KP/TL/1040.

Our ref PH/EH/D4/AW/SE



Aston University

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C. BURNS, M.B., Ch.B., D.C.H., D.P.H.

Director of Public Health, Medical
Officer of Health and Principal
School Medical Officer (I.L.E.A.)

This matter is being dealt with by

Mr. A. Wheeler

Telephone 01-226 1234

Ext.: **287**

Your ref **KP/TL/1027**

Our ref **PH/EH/D4/AW/SE**

London Borough of Islington

PUBLIC HEALTH DEPARTMENT

159-167 Upper Street N1 1RE

12th June 1972



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Redevelopment of 30 x 5 persons units,
car parking hardstanding allowed

say: £21,000.00 per unit x 30	=	£	630,000.00
plus 14% professional fees:		£	88,200.00
		£	<u>718,200.00</u>
acquisition cost = 30 x £13,000:		£	390,000.00
		£	<u>1,108,200.00</u>

150 persons therefore:

£ 718,200.00 ÷ 150 = £4,788.00 per person

Rehabilitation, car parking hardstanding allowed

22 no. 4 person units (3 storey)

x £11,000.00 conversion cost = £ 242,000.00

8 no. 6 person units (4 storey)

x £13,000.00 conversion cost = £ 104,000.00

£ 346,000.00

plus 14% professional fees £ 48,440.00

£ 394,440.00

rehousing 14 persons @ £4,788.00 £ 67,032.00

£ 461.472.00

acquisition cost £ 390,000.00

£ 851.472.00

(i.e. 77% cost of redevelopment without time adjustment)

Assume redevelopment one year prolonged programme therefore:

22 (4 persons) = 88
8 (6 persons) = 48

on site to be rehoused

136 bedspaces for 60 years:

$136 \times 9.967 = 1,355.512$ (present value)

Delay for 1 year = $1,355.512 - (1,355.512 \times .909) = 1,232.16$

Effect of delay

(present value) = $1,355.512 - 1,232.16 = 123$ bedspace years

$$\frac{123}{1,355.51} = 9.1\%$$

Therefore cost of redevelopment (wks) = £ 718,200.00

plus 9.1% of £718,200 = 65,356.20

£ 783,556.20

Rehabilitation cost: £851,472.00 as percentage of
 redevelopment cost of (£1,108,200. plus £65,356.20 = £1,173,556.20)
 = 73%

Useful life in years	Quality of improved dwellings as percentage of that new dwelling					
	100%	90%	80%	70%	60%	50%
40	0.98	0.88	0.78	0.68	0.59	0.49
30	0.91	0.85	0.75	0.66	0.56	0.47
20	0.85	0.76	0.68	0.60	0.51	0.43
15	0.76	0.68	0.61	0.53	0.46	0.38

Test discount rate = 10%

Reference: Ministry of Housing and
 Local Government Circular 65/69

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