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

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# VOL I

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A Thesis submitted for the  
degree of Doctor of Philosophy

Kenneth Pring

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September 1979

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SUMMARY OF THESIS SUBMITTED FOR Ph D. 1979  
BY KENNETH PRING

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DECISION MAKING AND EXPERIMENTS IN THE PROCESS OF SOLUTION  
IMPLEMENTATION RELATING TO CONSERVATION WITH SPECIAL  
REFERENCE TO THE BARNSBURY CONSERVATION AREA

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The thesis examines the development of the law of slum clearance and conservation and the way in which these relate to the problem of urban renewal in areas of architectural and historical interest.

This was set within a hypothetical framework of general problems encountered in the field of decision-making and the examination of management techniques.

The practical application of decision-making analysis techniques was carried out pragmatically through seven selected case examples, which allowed the analysis of legal, social, political, economic and architectural factors that had influenced the way in which the empowering legislation was administered.

Five of the case examples were selected on the basis of the writer's subjective opinion that the relevant Council had made a bad decision and, by the adoption of an interventionist approach, it was possible to ensure a reversal of four of the original decisions; two further case examples were selected as 'controls' against which the other five could be judged.

Thus, it was possible to undertake experiments to test the use of interventionist techniques 'on the ground', to prevent the demolition of housing which had been represented for slum clearance, and which was subsequently listed as being of architectural and historical interest.

The research covers the period 1968 to 1978, during which time there were several changes in public attitudes to slum clearance, conservation and urban renewal, which led to the introduction of new legislation and the amendment of existing legislation in these fields; the research illustrates some of these changes.

The thesis summarises and cross-references the analyses of the case examples and identifies means by which the administration of the existing legislation can be improved in the short term, also indicating areas of weakness in the empowering legislation which require review in the longer term.

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THE PROBLEM  
Past and Current thinking on Conservation, T.P and pt. III's and motivating influences on the decision-making processes

OBJECTIVES  
Identification of objectives and the formulation and statement of an hypothesis

THE EXAMINATION  
The selection of test case examples through which the hypothesis could be examined in depth

METHODOLOGY

DESCRIPTION OF MAJOR AREA OF THE LOCATION OF CASE EXAMPLES

Control pt. III Dry-Run

CONTROL

Hemingford Rd. Part III Compulsory P.O.

CONTROL

factors for further examination

16-62 Barnsbury Road Part III C.P.O.

Keystone Crescent Part III

Section 112 1-21 Cop'n. St. 16-62 B. Rd.

163-185 Barnsbury Rd Part III

TP/Actions 62 26/28 Barnsbury Rd

Shep. Walk Pt. III CPO

Enforcemint Action 58/60 B.Rd.

Lonsdale Place

Conclusions and Analysis of Findings

Identification of common problems and suggestions for change

OBJECTIVES  
HYPOTHESIS  
EVIDENCE  
EXAMINATION  
INT. CONCLUSIONS  
CONCLUSIONS  
RECOMMENDATIONS

DIAGRAMMATIC STRUCTURE OF THESIS

Fig. S.01.

PREFACE AND ACKNOWLEDGEMENTS

In her book "The Death and Life of Great American Cities", Jane Jacobs expressed the view that there were many problems in the field of town planning in the United States.

"Cities are an immense laboratory of trial and error, failure and success, in city building and city design. This is the laboratory in which city planning should have been learning, forming and testing its theories. Instead the practitioners and teachers of this discipline (if such it can be called), have ignored the study of success and failure in real life, have been incurious about the reasons for unexpected success ....." (1)

The writer believes that similar problems exist in the planning and replanning of British cities.

This thesis is concerned with some of the problems highlighted by Jane Jacobs, and takes the form of an examination of the "discipline" of Environmental Management and the "success and failure" of some aspects of the planning process: it is also concerned with "learning, forming and testing its theories" in "real life".

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(1) Jane Jacobs, Death and Life of Great American Cities (1961), p.16

The idea and motivating influence for the writing of the thesis, developed through an 'in depth' examination of and interference with certain decisions taken by two Inner London Boroughs, where it seemed to the writer that the results of these decisions, if implemented, would have led to a worsening of the environment and to the loss of houses which had potential for re-use and which had a considerable latent potential in the contribution they could make to the quality of the townscape of the area.

The research was initially concerned with the decisions taken by the London Borough of Islington, as they affected what is now known as the Barnsbury Conservation Area. However, as the results of the research and intervention work became known, NETAS (the local chapter of the R.I.B.A.), requested that the writer investigate and challenge a test-case Local Authority decision at a public enquiry in the London Borough of Hackney: this is included in the work for the sake of completeness.

The period of this study commenced when the writer bought, converted and moved into a house in Barnsbury in 1964 and continued until 1978. During this period there was a significant change in attitude to the processes of Inner Urban Renewal, conservation and environmental management.

This increasing public and private awareness of the existence of the problems which had to be solved, with a corresponding rise in the criticism of the methods used to solve them, was reflected in the research carried out.

Public concern with the issues of unsatisfactory housing and slum clearance, the conservation of buildings of architectural and historical interest and areas of high townscape value, and the social and economic factors involved, has resulted in significant changes in the attitudes of National and Local Government to these matters: in some cases this concern has led to alterations in the law of slum clearance, town planning and conservation and in others it has led to a change in the emphasis which is reflected in the decisions made at public enquiries, in the Law Courts and in the Council chambers of Regional and Local Authorities.

The Inner Urban Ring of London is an area in which these problems have been concentrated and therefore highlighted; the case examples selected, although not necessarily entirely typical, represent a microcosm of the general situations current at the time they were analysed.

The selection of the cases analysed was made subjectively on aesthetic grounds, where it seemed to the writer that decisions made by the Local Authority ignored "the study of success and failure in real life" and where it was decided not to be "incurious about the reasons for unexpected success"; instead, interventionist action was taken to achieve success.

In each example it was necessary to analyse the interaction of a number of influences upon the decision-making processes; not just those decisions made by the Council but also those taken by the occupants and owners of the buildings affected and those taken by other people interested in the environment.

During the period of the study, the Local Authorities made a great many decisions related to similar problems with which the writer had complete agreement: some of these are examined for the sake of completeness.

The main thrust of the research is concerned with the decision-making processes which are analysed empirically through case examples: these have provided an interesting insight into the conflicts which exist between different factions in the decision-making authorities, and which also exist between various government objectives.



Due to the interventionist approach adopted by the writer, there was often considerable difficulty in obtaining official information from the London Boroughs of Islington and Hackney, the Greater London Council and the Department of the Environment, since the situation was one of confrontation. However, since the Local Authorities subsequently conceded that the interventionist approach was, for the most part, successful and therefore justified, they have recently authorised the release of much useful background information and have consented to a number of interviews, which produced answers to certain questions.

The analysis involved an examination of the effects of, and interplay between, judgements concerned with economics, aesthetics, law, public opinion, politics, national and local government policies, and will provide a qualitative and logical basis for assisting those confronted with similar decisions in the future.

#### Generally

There are a great many other factors which individually, or together have influenced the decision-making process examined through the case examples. These are discussed in context where applicable.

Since there is only one case example in this work located in the London Borough of Hackney, a brief note of the background to the example is included as a preamble to that section of the thesis.

Acknowledgements

The writer would like to thank the officers and members of the London Borough of Islington and officers of the London Borough of Hackney, Greater London Council (Historical Buildings Department) and the Department of the Environment.

Thanks are also due to the owners and tenants of Barnsbury Road, who were the 'guinea pigs' in case examples 2 and 3; Alexander Skeaping, Anthony Brock and Lawrence Isaacson who assisted by proof reading; Vivian McBride and Denise Herman who had to contend with my handwriting in order to type the work, and Rodney Bowhay who assisted with the art work.

Above all, thanks are due to David Gregory and Michael Luck who, as thesis supervisors, provided invaluable criticism, advice and encouragement.

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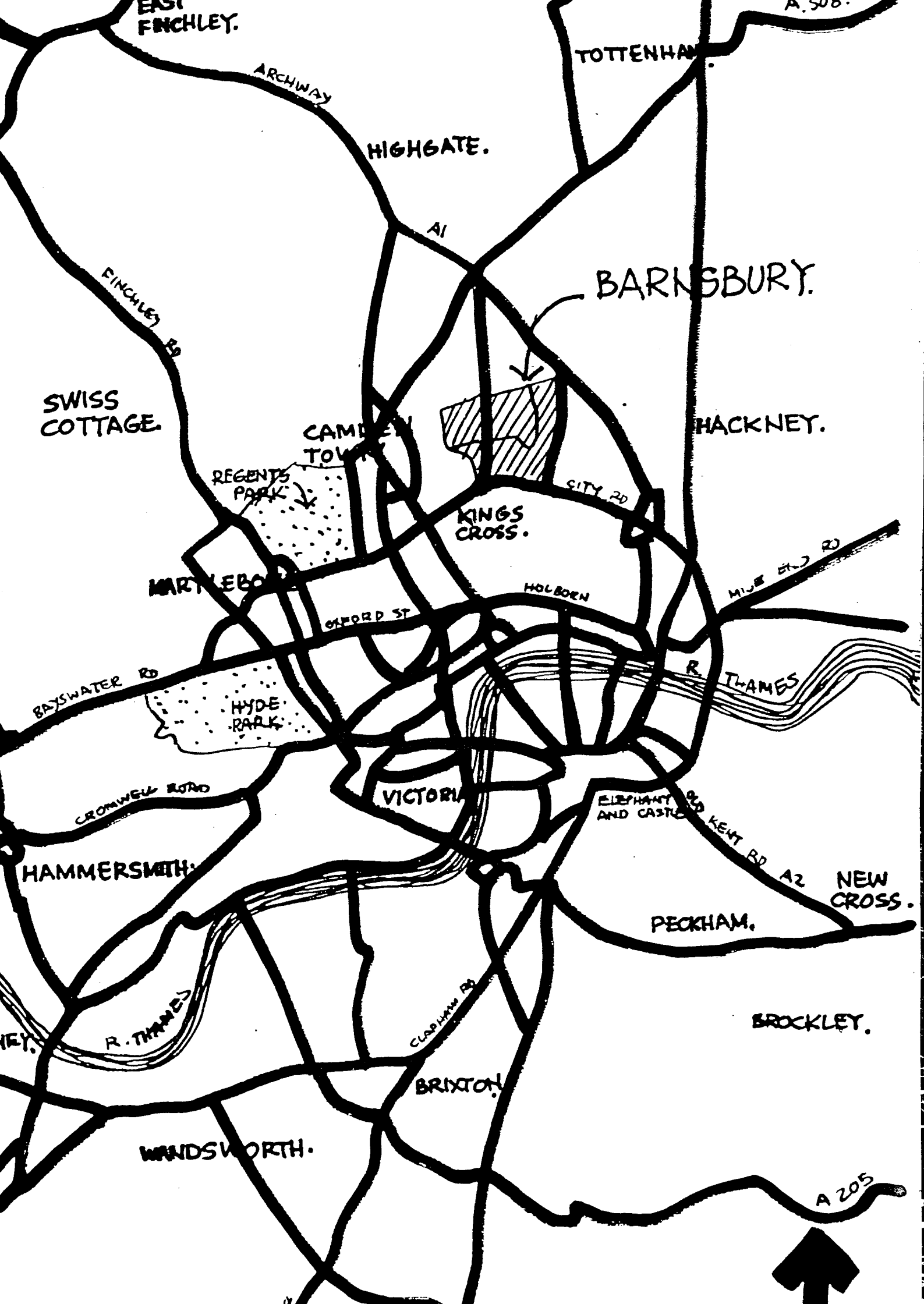
## CHAPTER ONE: INTRODUCTION AND BACKGROUND TO BARNSBURY

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### I LOCATION

The London Borough of Islington is located within the 'Inner Urban Ring' of London, as defined by Sir Patrick Abercrombie's Greater London Plan 1944 and is located approximately two miles equi-distant from the West-End and the City to the north. (See map fig. 1.01).

Barnsbury is a ward in the London Borough of Islington. In 1968 the Barnsbury Environmental Study, produced jointly by the Ministry of Housing, the Greater London Council and the London Borough of Islington, suggested the inclusion of part of Thornhill Ward to the west and St. Mary's Ward to the east in the proposed Barnsbury Environmental Area. However, since this work is concerned with the decision-making processes which affect conservation, all references to Barnsbury will relate to the recently extended Barnsbury Conservation Area. (See map fig. 1.02).



EAST FINCHLEY.

TOTTENHAM.

ARCHWAY

HIGHGATE.

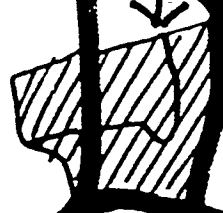
A1

BARNSBURY.

SWISS COTTAGE.

HACKNEY.

CAMPDEN TOWN



REGENTS PARK

KINGS CROSS.

SITY RD

MARTLEBOROUGH

HOLBORN

MUSEUM RD

GEORGE ST

BAYSWATER RD

HYDE PARK.

R. THAMES

CROMWELL ROAD

VICTORIA

ELEPHANT AND CASTLE

HAMMERSMITH.

ELPHINSTONE RD  
KENT RD

A2

NEW CROSS.

PECKHAM.

NEY.

R. THAMES

CLAPHAM RD

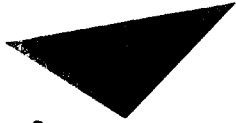
BROCKLEY.

BRISTON.

WANDSWORTH.

A 205





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## II A BRIEF HISTORICAL DESCRIPTION OF THE DEVELOPMENT OF BARNSBURY

Barnsbury was originally developed as a middle-class residential suburb between 1820 - 1860. However, even before its development was completed, the area began to lose popularity with the middle-classes due to the development of transport and industry nearby. In particular, the mainline railway termini at Kings Cross, St. Pancras and Euston at one and the same time gave rise to greatly increased pollution of the area immediately to the east, and on the other hand gave cheap, rapid and reliable access by rail to suburbs further afield.

In addition, there was considerable pressure on its housing due to the constant stream of new arrivals in the area, emanating from the mainline railway termini. This problem still exists today and is sometimes colloquially described as "the turn left at Kings Cross syndrome". (1)

Between 1870 - 1900, as the middle-class residents left for suburbs on the outer fringes of London, housing in Barnsbury became multi-occupied by the less well off.

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(1) A quote by Councillor Dr. Richard Candlin at a public meeting in 1970



However, in the late 1950's parts of Islington began to regain popularity with the middle classes and this trend spread to Barnsbury in the early 1960's, when families of professional and managerial workers started to buy and restore houses in the area, since they found "new delight in living in such pleasing surroundings so near to work". (2)

Before Barnsbury was developed, its fields were used for dairy farming and growing food for London's horses; this field pattern is still visible in the alignment of streets and in the development of estates.

When house building commenced, it was carried out on the basis established by the major estate developments of Central London, e.g. the Duke of Bedford and Lord Grosvenor. The first developments took place alongside the existing main roads, e.g. Park Place, Liverpool Road which was built in 1791.

Later in the 1820's the adjoining fields were developed by estate owners such as the Cloudesley Estate, Thornhill Estates and the Worshipful Company of Drapers.

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(2) Robert Thorne, 'Barnsbury', an unpublished historical paper produced for the G.L.C. Historic Buildings Division, (July 1976)

A good example of the social mix of the area in 1851 is demonstrated in Stonefield Street in the middle of the Barnsbury Area. At the time, "31.4% of the heads of household in the Street had clerical occupations, 22.9% were tradesmen and 14.3% were professional people. There was at least one servant for each household. There was only one owner-occupier, the other twenty-five houses being divided between twelve different owners." (3)

The Landlord and Tenants Guide of 1853 stated, "On the whole Islington may be considered, for unpretending persons, a most respectable suburb." (4)

However, parts of Barnsbury were being developed to accommodate activities which were being squeezed out of central London.

Thus activities such as horse slaughtering, soap making, tile manufacturing and the like were being carried on in the area. (5)

With the development of the railways, the new cattle market on Copenhagen Fields, the new model prison in Caledonian Road (Pentonville Prison) and the increasing

- (3) Islington Borough Council, Rate Books (December 1851) and the 1851 Census (RG 107.499.3.8)
- (4) Alfred Cox, Landlord and Tenants Guide (1853), p.228
- (5) This is evident from Thomas Cromwell's Walks Through Islington (1835), p.153 and The Builder XIII (August 25 1955), p.399

pressure of central area users to either move into the area or look for servicing facilities within it, there was the parallel pressure resulting from the need to house the workers involved in these activities.

Thus the area underwent a physical and social change, the speed of which can be judged by reference to the rate book relating to Stonefield Street, in which the beginning of the change was noticeable in 1871. Then the "heads of households with clerical occupations were still the most common (33.3%) but the proportions of tradesmen (8.3%) and professional men (11.1%) had fallen. Where there was one craftsman in 1851, by 1871 there were seven"....."Most telling of all, in 1871 there were only just one half the number of servants there had been twenty years earlier." (6)

The sub-division of houses was commented upon by the Rev. A.T. Fryer to the Royal Commission on Housing of the Working Classes. Although landlords preferred to let their houses to single middle-class families, such tenants were difficult to find since they now preferred to live further out of London in the newer suburbs. (7)

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(6) Robert Thorne, 'Barnsbury' from 1871 Census (RG 10.254)  
 (7) Rev. A.T. Fryer, Evidence to the Royal Commission on Housing of the Working Classes, (Q 1945), pp.1884-5

The middle-class attitude to Islington as a residential area is eloquently expressed in Darlington's *London and Environs of 1902*, which stated:

---

"All the near suburbs of London are dreary, and these are amongst the dreariest, making it difficult to imagine the time when Islington was the country resort of the merchants of 'Chepe', and the land of strawberries, dairies and 'sillibubs'." (8)

This social attitude accelerated the trend and in 1905 the Medical Officer of Health said that there were 1,300 better class, high rent houses unoccupied. (9)

Robert Thorne sums up this trend in his brief history of Barnsbury: "the middle-classes were fleeing but the landlords had not adjusted to the fact." (10)

In the 1950's professional people began to move back into Islington, mainly in the area around Canonbury Square and this trend continued, increased and spread to the other later Georgian areas of the borough - in particular to Barnsbury.

One factor influencing this trend resulted from the increasing cost and tediousness of travel to and from work, which made life in the inner urban ring of London more attractive.

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(8) Darlington, *London and Suburbs* (1902) 4th ed., p.268  
 (9) *Building News LXXXIX* (4 August 1905), p.171  
 (10) Robert Thorne, *op cit*, p.2

Moreover, the Clean Air Act and the designation of smokeless zones, together with the introduction of diesel and electric locomotives to replace the steam engines using the mainline termini immediately to the west, had a significant impact upon the quality of life in such areas.

Another factor influencing the trend was that there has been a change in taste, which has "redeemed the dreary terraces as delightful units of flexible housing." (11)

Moreover, an overriding factor was the cheapness of houses in the early 1950's and early 1960's when four storey late Georgian houses could be bought for £3,000 - £5,000. The rise in middle-class occupation was noted in the Barnsbury Study in 1968, when a rise from 4% in 1961 to 8 % in 1966 was seen; this percentage had increased to 14.7% in 1971. (12)

The first influx of new middle-class residents were predominantly young couples planning or starting a family, who preferred to occupy whole houses rather than flats, but as house prices in the area rose in the late 1960's and early 1970's many houses were converted into high quality flats, mainly for young professional single people.

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(11) Robert Thorne, op cit, p.3  
(12) Ibid, p.3

The corollary of the middle-class influx into the area has been a reduction in the number of working-class residents in the area.

Thus the end result of the return of Barnsbury as a fashionable middle-class residential area has been an overall reduction in multi-occupation of houses and the establishment of an articulate and knowledgeable group of people in the Borough.

This has affected the political structure in the Council, where the new middle-class residents dominate the three principal parties, through which their attitudes to the housing and environment of the area have influenced Council policies with regard to many issues, particularly that of conservation.

Thus today we see in the conservation areas in the Borough, many streets and squares of housing of architectural and historical interest, which have been restored to a high standard by a mixture of public and private enterprise; we also see a more socially balanced community.

However, some Council policies have been influenced by the factors which have historically affected the planning of the area and some of these will be examined later.

CHAPTER TWO: A REVIEW OF THE DEVELOPMENT OF THE LAW OF  
CONSERVATION AND THE LAW CONCERNED WITH UNSATISFACTORY  
HOUSING AND SLUM CLEARANCE, INCLUDING A DISCUSSION OF  
SOME PROBLEMS IN THE DECISION-MAKING PROCESSES USED IN  
THE ADMINISTRATION OF EMPOWERING LEGISLATION

I PREFACE

The majority of people in modern society accept that it is desirable that there be a measure of control over the development of land, and many people in Britain believed this would be reasonably achieved following the introduction of the Town and Country Planning Act in 1947.

The 1947 Act gave Local Authorities the power to control the use of land and the density and appearance of the development it permitted.

To cope with this new responsibility, some Local Authorities appointed planning officers, whilst others gave the development control role to existing officers of the Council, who were employed in other disciplines, e.g. Road and Civil Engineering, the Building Inspectorate and the Medical Officer of Health.

However, following the implementation of development control in 1947, it became clear that there were a number of other requirements to be satisfied in the field of town planning, which had not been envisaged, and in response to contemporary requirements new Town and Country Planning Acts have been enacted from time to time. In this way, the power of Local Authorities has been progressively strengthened since 1947 and their structure, organisation and roles have been consistently reviewed and refined.

Over the same period of time, various Governments have introduced legislation which, being concerned with housing, slum clearance and conservation, have resulted in broadening further the field of planning.

Gradually more Local Authorities employed properly qualified planners, architects and other professionals and as the role of the Authorities was increased, so the number of professional advisers and administrators employed has increased.

However, in spite of the introduction of so much legislative control over development and the employment of so many professional advisers, there has been much public dissatisfaction with the decisions that have been made and the effect these have had upon the environment.



There has been a great deal of controversy about such diverse forms of development as high-rise council flats, motorways, environmental traffic schemes, the breaking-up of old and established communities by clearance schemes, the loss of historic buildings and familiar townscapes, property speculation and 'gentrification' and repeated comment about the design of modern buildings.

This criticism indicates not only that there is widespread dissatisfaction with the planning process, but it demonstrates too the increasing awareness and concern on the part of the general public which is developing in Britain: this in its turn has led to an enormous growth in the number and quality of amenity societies and other pressure groups.

In his book, 'Design of Cities', Edmund N. Bacon opened by stating:

"The building of cities is one of man's greatest achievements. The form of his city always has been and always will be a pitiless indicator of the state of his civilization. This form is determined by the multiplicity of decisions made by the people who live in it. In certain circumstances these decisions have interacted to produce a force of such clarity and form that a noble city has been born. It is my premise that a deeper understanding of the interactions of these decisions can give us the insight necessary to create noble cities in our own day." (13)

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Whereas the basic premises of this statement are clearly true, in that the form of cities, (like towns, villages, townscapes and individual buildings), result from a multiplicity of decisions based upon a number of interacting circumstances, it is important to understand the role of the decision-makers in the process of development.

Insofar as society, as a whole, accepts or rejects the results of past decisions, or indeed actively encourages or discourages current development proposals, this is normally the only way in which most people attempt to influence their environment.

Looked at in the abstract, it can be claimed that since the control of development and the factors which directly influence development at the present time, are in the hands of democratically elected members in Local and National Government, the form of cities, towns, townscapes and individual buildings result from the "decisions made by the people ..."; there are many who would argue against this premise, as will be discussed later in this work.

However, by examining the reaction of the people affected by planning and other legislation which has shaped the environment, we can obtain "the insight necessary to create noble cities in our own day". The question of 'consumer satisfaction' in this thesis is concerned

primarily with the reaction of people to proposed changes of the existing environment, but the principles are essentially the same: for example, it is easy for people affected by a Council's proposal to demolish their homes, to understand and assess the affects of such a decision.

Likewise, it is easier for people living near to an area proposed for clearance, to assess what this means in terms of the affect it would have upon the environment.

It is very difficult for the professionals involved in town planning, architecture and other related disciplines, to fully realise the detailed impact of new developments on an area; it is often impossible for the layman!

It is for this reason that the examination of the case examples selected for this thesis was so interesting, since, amongst other things, the responses of owners and tenants of housing affected by clearance were established with reasonable accuracy, and the attitudes of many other people, in the immediate vicinity of the areas affected by clearance and other proposals, were tested on the ground.

There are many interacting influencing factors which have in the past affected and still today affect the form of our townscape. These include the following:-

- i) Economics
- ii) Social Considerations
- iii) Land-use Planning Objectives
- iv) Conservation of Buildings and Townscapes
- v) Environmental Management Objectives
- vi) Environmental Health Requirements

Since the adoption of the Town and Country Planning Act 1947, the extent to which these factors affect the town planning process rests with Local and National Government. Local Authorities have the right to determine whether or not private development will be allowed, and they also control or influence the type and appearance of permitted development. In addition, Local Authorities' own building programmes represent a significant proportion of all new development, whilst slum clearance is almost the exclusive province of Local Authorities.

Moreover, National Government has a significant influence over the other factors, which affect both private and public development. This influence takes the form of legislation to control certain factors on the one hand, and by the introduction of financial incentives and disincentives to the public and private sectors on the other. In addition, the Government issues circulars on various points from time to time, advising Local Authorities on matters of Government policy and exhorting them to adopt certain actions.

However, in spite of the influence that the Government has over the factors involved in the development process, Local Authorities have considerable discretion in the implementation of many of them.

It is clear that many criticisms of development are justified and that the form of such development frequently results from the exercise of the discretion on the part of the members and officers of the Local Authorities; it is also apparent that there are many diverse pressures which affect the decision-making process.

At this point, it would be worthwhile examining the principle influences which relate to the case examples which form the basis of this work, in terms of reviewing the aims and objectives in the Acts of Parliament, (that is to say the powers under which decisions are made), concerned with the following:-

- i) The law of conservation
- ii) The law concerned with unsatisfactory housing and slum clearance

II A REVIEW OF THE DEVELOPMENT OF THE LAW OF CONSERVATION  
RELATING TO ANCIENT MONUMENTS, BUILDINGS OF ARCHITECTURAL  
AND HISTORIC INTEREST AND AREAS OF HIGH TOWNSCAPE VALUE

As a general rule, legislation passed by Parliament results from the pressure of public opinion for its introduction; this is particularly true in relation to the law concerned with conserving what is commonly regarded as 'The National Heritage'.

By the middle of the nineteenth century, informed public opinion was creating pressure for the introduction of measures to prevent the destruction of ancient monuments which, at that time, were not subject to any form of control and were afforded no legislative protection.

However, it is interesting to note that the appreciation of what constituted 'The National Heritage', was quite different to that current at the present time, and this was true too of the appreciation of historic buildings: the difference in attitudes and appreciation are clearly identifiable, as seen through the biases inherent in the successive Acts passed by Parliament, and also by an examination of those Bills which, although presented to Parliament, were not enacted - that is to say those that were rejected.

The philosophy of mid-nineteenth century conservationists is typified in the attitude expressed in the writings of William Morris and the focus of public opinion in support of this philosophy was expressed in the formation of "The Society for the Protection of Ancient Buildings" (SPAB), which convened its first meeting in 1877.

The SPAB philosophy was concerned primarily with ancient monuments such as tumuli, ancient earthworks, ruined castles, abbeys and churches, which they believed represented important evidence of Britain's historical development.

Moreover, the romanticism of the nineteenth century was reflected in the belief that such buildings, ruins and sites should "grow old gracefully" and that repairs to such monuments should be carried out in such a way as to demonstrate clearly - even to the untrained observer - that works of repair had been carried out. This attitude is still held by SPAB today, but is now regarded as a rather purist approach by many conservators and art historians; this change of attitude can be seen in the intention inherent in the various Acts concerned with conservation over the last 100 years.

In 1873 Sir John Lubbock, (later Lord Avebury), presented his "Bill for the Preservation of Ancient Monuments" to Parliament. This Bill proposed:

- i) The compilation of a statutory schedule of 68 monuments in Britain, which were in private ownership.
- ii) Provisions for the acquisition of monuments by agreement and for their care as necessary.
- iii) The provision of the necessary finances for i) and ii) above.
- iv) The appointment of Commissioners and a Board of Ancient Monuments.
- v) The provision to ensure that if the owner of a scheduled building proposed its demolition, three months notice was required so that the Ancient Monuments Board had the opportunity of purchasing the threatened building.

The prevalent view of informed opinion in 1873, was that a historic building was one built not later than the medieval period, however, Lubbock's proposed schedule listed only tumulii, mounds, stones and other very ancient works.



Parliament was very concerned with the rights and privileges of the private owners of land and the proposals in Lubbock's Bill ran contrary to the current ethic of land ownership at that time and, for this reason, the Bill did not reach the statute book.

Following this decision, there were many other attempts to introduce Bills to Parliament which were concerned with conservation, but all were unsuccessful until the passing of "The Ancient Monument Protection Act" in 1882.

The provisions of this Act can be summarised as follows:-

- i) It set up the procedure for the appointment of Commissioners of Ancient Works to purchase ancient monuments by agreement.
- ii) It allowed the Commissioners to act as guardians whose duty it was to maintain monuments in private ownership, if requested by the owners. In addition, the guardians were required to maintain the access to monuments.
- iii) It allowed private owners to bequeath ancient monuments to the Commissioners, who used their discretion as to whether or not the bequest should be accepted.

- iv) It provided an Inspectorate to maintain a general watching-brief on ancient monuments.
- v) It published a schedule, (which was in fact Lubbock's original list of 68 monuments), and introduced the means by which further monuments could be included in the schedule - "by Order in Council of Her Majesty."

It is interesting to note certain relevant points in connection with this Act. Firstly, the 68 monuments were all located in inaccessible places and did not occupy valuable development land and, secondly, although the penalties for damaging the scheduled monuments were severe, (these included fines which took account of the costs of repair and improvement, and imprisonment with or without hard labour for up to one month), the owners of the monuments were exempted, unless the monument was in guardianship.

However, the most important point was that, in contrast with the proposals in the 1873 Bill, the 1882 Act did not interfere with the owners' rights of sale - thus the main barrier to the introduction of protective legislation had been removed.

The 1882 Act defined monuments as those in the schedule, others of like character, or those accepted by the Commissioners under the guardianship provisions of the Act.

In 1890 Sir John Lubbock became a member of the London County Council and, mainly at his instigation, the Council sought special powers from Parliament to acquire, by agreement, buildings or monuments of architectural interest in the Greater London Area.

Having regard to the great number of buildings and monuments of architectural and historic interest in London, the London County Council considered that it should act as the protector of London's built heritage. This attitude prevailed throughout the existence of the London County Council and still exists at the present time in the Greater London Council; some aspects of this interest will be discussed later.

In 1898 Parliament acceded to the Council's request and passed the London Government Act, which embodied most of the powers that had been requested by Lubbock.

In 1900 Parliament passed an Amendment Act, the provisions of which can be summarised as follows:-

- i) The definition of what constituted a monument was extended to include monuments of artistic, historical or traditional interest to the public.

- ii) Parliament was concerned that the definition of monuments should exclude those which were capable of human habitation, since the Government did not wish to find itself providing free living accommodation, (except by caretakers), or accepting responsibility for the repair and maintenance of occupied buildings.
- iii) County Councils were given the power to buy monuments or to take monuments into guardianship in their own right.
- iv) County Councils were also given the power to carry out repairs and to give the owners of monuments grant-aid for repairs and maintenance.
- v) County Councils were given the right to receive voluntary contributions for repairs.
- vi) County Councils and the Commissioners were permitted to transfer the ownership of monuments and also guardianship, (subject to the acquiescence of the owners), between themselves.
- vii) Public access was to be provided to monuments in guardianship, but only at such times as were convenient to the owners and only with the owner's permission.

The Act defined a monument as a "Structure, erection or monument of Historic or Architectural interest."

It is interesting to note that in 1900 Parliament was still very concerned with the rights and privileges of land owners.

In 1910 Parliament passed an Act to amend the Ancient Monuments Act, but the provisions of this Act were short-lived, since three years later the Government repealed all previous Acts and passed the Ancient Monuments Consolidation and Amendment Act in 1913.

This Act re-drafted the legislation concerned with conservation and it can be summarised as follows:-

- i) The Act embodied a schedule similar to that in the 1882 Act, and underlined the definition as to what constituted an ancient monument, to include works of a like character as agreed by the Commissioner of Works, or "things of architectural, artistic, traditional or archaeological interest to the public."
- ii) The schedule and definition specifically excluded religious buildings. (It is worth noting that the treatment of religious buildings has been considered a special case up to and including the present time).
- iii) The measures of protection afforded to monuments in the Act were broadened to include the site upon which the monument stood, the access to the site and prescribed adjoining lands.

- iv) The powers of acquisition were the same as those in the 1882 Act. (These procedures still apply today, except that the powers are vested in the Secretary of State to the Department of the Environment in lieu of the Commissioners of Works).
- v) The provisions for guardianship of monuments were similar to those in the 1882 Act, and the same exclusions regarding occupied property were applied.
- vi) The provision for the purchase of monuments and their acceptance as gifts, were similar to those in the 1882 Act.
- vii) The Act set out the procedure for the appointment of guardians.
- viii) The Act described the duties of Local Authorities and Commissioners, and provided powers to enable the proper inspection of, and carrying out of repairs and maintenance to scheduled monuments.
- ix) The provision of finances for acquisition, inspection, scheduling, administration and maintenance, was to be arranged by Parliament via the Treasury.
- x) An owner of a monument was defined as the person having "title in fee simple".
- xi) The Act set out the procedure for the setting-up of 'The Ancient Monuments Board', which would control the implementation of the provisions of the Act.

xii) In the event that an ancient monument was considered to be in danger, the Ancient Monuments Board had the power to make a Preservation Order.

A Preservation Order remained in operation for 18 months and only became permanent if confirmed by Parliament within that time period: if the Order was not confirmed, it was deemed to have expired and no new Order could be made for a five year period.

A monument which was the subject of a Preservation Order was given a certain measure of protection, since it could not be damaged, worked upon or removed in whole or in part, without the prior written consent of the Commissioners.

It is important to note the inclusion of this power in the Act, since it is the first piece of conservation legislation which demonstrably encroached upon the rights of the owners of monuments. Thus, at this point, Parliament had for the first time established this important principle, upon which all future legislation concerned with conservation has been based. That is to say, that the rights of society at large to ensure the protection of monuments transcended the rights of private ownership.

- xiii) Provisions were made to allow access at any time to privately owned monuments, for the purposes of inspection, provided the owner was given seven days notice.

This part of the Act was also important, in that it broadened the principle of right of access to private property by suitably authorised inspectors, which increased the power of the Board in establishing the intrinsic value of monuments; this further reduced the inherent rights of the private owners.

- xiv) Where a monument was considered to be endangered by neglect or other means, the Board had the power to take it into compulsory guardianship.

Thus we see three major principles involving the erosion of the rights of the owners of monuments - all of which later became important, not only in the law of conservation, but also in the law concerned with unsatisfactory housing, slum clearance and town planning.

- xv) The Commissioners and Local Authorities were empowered to provide funds for repairs to monuments in private ownership.



- xvi) The Commissioners had the duty to up-date the schedule of monuments from time to time, which had to be published: there was no right of appeal against the scheduling of Monuments.
- xvii) If the owner of a monument wished to carry out works to it, he had to give the Commissioners one month's notice.
- xviii) The penalties for injuring a monument were as those contained in the 1882 Act, but the owners of properties in guardianship were no longer exempt from punishment.

In this section of the Act we see the fourth major principle which has been subsequently adopted and strengthened in later legislation - that is to say that punishment was extended to owners of monuments.

- xix) The Ancient Monuments Board were given an advisory role and were permitted to give professional guidance to the owners of monuments, as to the best means of safe-guarding and repairing them.
- xx) The Act allowed Local Authorities to waive building by-laws, where this was considered important in the restoration of the character of the monument.

This is a most interesting section of the Act, (Section 18), but is very seldom referred to. Indeed, this section was not known to the writer at the time the interventionist approach was adopted in case example 2 (16-62 Barnsbury Road N.1): it would have been useful had it been possible to test the philosophy of Section 18 in several aspects of that case example.

xxi) The Act provided for the means of controlling advertisements.

The Ancient Monument Consolidation and Amendment Act of 1913 was a most important piece of legislation, because, not only did it 'tidy-up' the provisions of earlier Acts, but also established the four fundamental principles which set the pattern for the legislation which was to follow it, right up to the present time, as will be seen later in this section.

Although certain sections of the Act have been subsequently encapsulated in later legislation and were therefore repealed, other sections are still in force at the present time - 66 years after it was enacted. This is a measure of the quality of the drafting of the Act and the philosophy of its provisions. Indeed, no new Act was introduced until 1931 when the Ancient Monuments Act made various adjustments to the 1913 Act, which can be summarised as follows:-

- i) There was a provision for the production of schemes for the improvement of the amenities of monuments, (that is to say the settings of monuments), and the Commissioners were empowered to produce 'Preservation Schemes'.

It should be noted that in 1931 there was no town planning legislation, but that today the control over the environment of monuments is encapsulated in various Town Planning Acts, which will be discussed later in this section.

- ii) The Commissioners were empowered to provide financial assistance to Local Authorities, who gave special consideration to the amenities of a monument.
- iii) Provisions were made to allow the opening-up and excavation of monuments for the purposes of archaeological examination; this was an extra power to the 1913 Act.
- iv) This provision was extended to assist a private owner who wished to carry out investigative or repair work to a monument, provided it was not occupied except by a caretaker.

So here we see yet again the concern of Parliament not to provide free living accommodation for the owners of monuments.

- v) There was an extension of the powers in respect of Preservation Orders.
- vi) The Act allowed the Commissioners to assist the owners of monuments, to repair and maintain those monuments which were not in guardianship.
- vii) Provisions were made to ensure that the owners of monuments were informed that it was proposed to include their monument in the statutory schedule.
- viii) The period of notice of an owner's intention to carry out work to a monument was extended from one month to three months.
- ix) The penalties for injuring a monument were increased: the fine was raised from five pounds, plus the repair cost, to one hundred pounds, plus the repair cost; the possible imprisonment period was increased from one month to three months. Moreover, it was possible for a magistrate to include both the fine and the imprisonment in a sentence.
- x) All successive owners were bound by guardianship arrangements.
- xi) The Commissioners were given control of monuments which were in guardianship as well as ownership.

xii) A distinctive definition was established for monuments and ancient monuments, as follows:-

- "a) the expression 'monument' shall include any building, structure, or other work, whether above or below the surface of the land, other than an ecclesiastical building for the time being used for ecclesiastical purposes, and any cave or excavation;
- b) the expression 'ancient monument' shall include:-
- (i) any monument specified in the Schedule to the Ancient Monuments Protection Act 1882; and
  - (ii) any monument for the time being specified in a list published under section twelve of the principal Act; and
  - (iii) any other monument or group of monuments and any part or remains of a monument or group of monuments which in the opinion of the Commissioners is of a like character, or of which the preservation is, in the opinion of the Commissioners, a matter of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching thereto."

The Acts up to and including the 1931 Act, were concerned primarily with "Monuments" and "Ancient Monuments" which were not in occupation and which were not religious buildings. However, in 1932 Parliament passed the Town and Country Planning Act which extended the statutory preservation legislation to encapsulate buildings of architectural and historic interest.

The primary points in the Act can be summarised as follows:-

- i) Powers were introduced to halt the demolition of buildings of architectural and historic interest.
- ii) The Act provided no schedule as was an essential part of the original Acts relating to monuments and ancient monuments.
- iii) Religious buildings were still excluded from protection.
- iv) Preservation Orders were extended to make them applicable to buildings of architectural and historic interest, as well as to monuments, but the administrative procedure by which this was to be achieved was slightly different.

From this time onwards, the legislation which was introduced maintained the distinction between ancient monuments, monuments, buildings of architectural and historic interest and ecclesiastical buildings.

Although the case examples, which are examined later in this thesis, are concerned with buildings of architectural and historic interest, it is worthwhile to understand the background to, and the underlying philosophy behind, the legislative powers under which decisions were made with regard to those case examples.

Gradually the legislation relating to conservation was increasingly regarded as a matter to be encapsulated in Town Planning Law and from time to time the law concerned with buildings of architectural and historic interest was included in Town Planning Acts. For example, the Planning Act of 1944 included a provision for the listing of buildings of architectural and historic interest, to make more sense of the 1932 Act: this power was given to the Minister of Town and Country Planning.

The 1947 Planning Act consolidated the Acts of 1932 and 1944, as well as introducing the control of most private development for the first time.

The next major step in the development of the legislation concerned with conservation, was 'The Historic Buildings and Ancient Monuments Act 1953'.

It is interesting to note that, although the procedures relating to ancient monuments and monuments on the one hand, and buildings of architectural and historic interest on the other, were separately identified and dealt with in rather different ways, the 1953 Act developed the legislation relating to both strands of interest in the law of conservation.

The sections of the Act concerned with buildings of architectural and historic interest, can be summarised as follows:-

- i) The Act set out the procedure for the setting-up of the Historic Buildings Council for England and similar Councils for Scotland and Wales.
- ii) Provisions were made for grant-aiding the preservation of historic buildings, their contents and adjoining lands.
- iii) Powers were given to the Minister to allow him to dispose of buildings in state ownership if he chose to do so.
- iv) Powers were also given to the Minister to acquire historic buildings, their contents and adjoining lands.
- v) The Minister was empowered to finance or assist in the financing of the acquisition of historic buildings by Local Authorities and National Trusts.



- vi) The Minister was empowered to accept endowments of historic buildings, their contents and adjoining lands.

Thus we see in this Act many procedures and powers being applied to buildings of architectural and historic interest, which previously related solely to monuments and ancient monuments.

The 1953 Historic Buildings and Ancient Monuments Act also amended and extended the protection afforded to ancient monuments: these can be summarised as follows:-

- i) The Act extended the time period of Preservation Orders to 21 months, in order to afford instant protection to threatened monuments and to allow sufficient time for a decision to be made as to what action, (if any), the Minister should take: these were called Interim Preservation Notices.
- ii) The Act also allowed the owner appropriate compensation if an Interim Preservation Notice, or subsequent Preservation Order, affected the value of the monument.

- iii) The Act extended the powers of Magistrates under the Magistrates Courts Act of 1952, ("which provides that an information cannot be tried unless it is laid within six months after the commission of the offence"), "... shall have effect in relation to offences under the Ancient Monuments Act 1913 and 1931, as if the words 'six months' there were substituted with the words 'one year'."

Thus we see in this Act a response in Parliament to the increasing weight of public concern in relation to monuments - to the extent of increasing the powers of Magistrates' jurisdiction over and above the normal time period set by law for other offences.

- iv) Owners' rights were further reduced as to what works might be carried out on a monument in his ownership.
- v) The Ancient Monuments Board were charged with the duty to submit a report to the Minister every year.

In this Act we see not only the extension of legislative powers to protect buildings of architectural and historic interest, and monuments and ancient monuments, but also an extension of the provision of information to the public by the Ancient Monuments Board. This perhaps

indicates in a small way a response to the pressure for citizen participation, which implies the establishment of a two-way process between Government and governed.

The Town and Country Planning Act 1962 brought the matter to a sophisticated level; the sections of the Act relevant to this review of the law of conservation, can be summarised as follows:-

- i) Local Planning Authorities were empowered to make Building Preservation Orders, where it appeared that a building of special architectural or historic interest in its area was under threat: the Building Preservation Order had to be confirmed by the Minister.
- ii) If an immediate Building Preservation Order appeared desirable or expedient, the Minister could confirm it provisionally for two months to allow time for a decision to be made.
- iii) Several types of land-owners were exempted from the Building Preservation Orders' provisions in the Act as follows:-
  - a) ecclesiastical buildings in use
  - b) designated Ancient Monuments
  - c) designated monuments on the Ministry of Works schedule
  - d) Ministry of Works buildings

- iv) The owner of a building subject to a Building Preservation Order, could carry out urgent works of repair; other works required the consent of the Local Planning Authority.
- v) The Act set-out the procedure for the listing of buildings of architectural and historic interest, but made the same exclusions as those relating to Building Preservation Orders in iii) above. The listing of a building meant that both the interior and exterior of the building received protection.
- vi) The Act introduced Tree Preservation Orders and gave Local Planning Authorities the power to protect trees in its area.
- vii) Provisions were made to give Local Planning Authorities control over the size, siting and appearance of advertisements.
- viii) Powers were given to Local Planning Authorities to serve notices upon owners of waste lands, requiring them to tidy-up the land: the notice gave a period of grace of 28 days.

It should be noted that since the demolition of a building did not then, and in many cases still does not today, constitute development in the meaning of the Town Planning Acts, no town planning consent was required.

Thus it is clear that the listing and Preservation Order procedures were of considerable importance in the process of conservation, since Local Planning Authorities were provided with the necessary powers to control demolition or significant alteration to the interiors and exteriors of buildings of architectural and historic importance.

However, Parliament was concerned that if protective legislation became too onerous, there might be a disincentive to the private ownership of historic buildings. Thus, the listing procedure could be regarded as a means whereby the owner of a building of architectural or historic interest is made aware that there are certain controls in existence which could affect his future plans for altering the building.

The Town and Country Planning Act 1962 is yet another example which demonstrates the gradual inclusion of matters relating to conservation in town planning legislation. However, certain aspects of conservation law were still dealt with separately. Indeed, on the same date the above act became law (19th July), Parliament enacted the Local Authorities (Historic Buildings) Act 1962.

This Act can be summarised as follows:-

- i) The Local Planning Authorities were empowered to contribute grant-aid to buildings which were on the statutory list of buildings of architectural and historic interest, or other buildings in their area, "appearing to them to be of architectural and historic interest".
- ii) Provisions were made whereby loans, with or without interest, could be made; the repayment periods were utterly at the discretion of the Local Planning Authority.
- iii) Provisions were also made for the recovery of loans, or parts of loans, also at the entire discretion of the Local Planning Authority.

The next important step in the law of conservation was the enactment of the Civic Amenities Act 1967, in which Parliament attempted to improve certain procedural arrangements and to widen the powers of protection.

The Act can be summarised as follows:-

- i) Provisions were made for the preservation of the character of areas of special architectural and historic interest. These areas were to be known as conservation areas.

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- ii) Local Authorities were required to control the form of development in conservation areas and "in respect of land in or adjacent to a conservation area".
  - iii) Developments proposed in or adjacent to conservation areas were to be publicised, in order that proposals could be the subject of public discussion.
  - iv) The period of notice of intention to carry out works on a listed building was increased from two months to six months.
  - v) The penalties for unauthorised development on a listed building was increased:-
    - "a) on summary conviction, to a fine not exceeding two hundred and fifty pounds or to imprisonment for a term not exceeding three months or to both; and
    - b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding twelve months or to both:"
  - vi) Further provision for loans and grants for the preservation of historic buildings were made in the Act.
  - vii) Local Planning Authorities were given the power to compulsory purchase listed buildings, in order to ensure their proper preservation.

- viii) Local Authorities were given powers to dispose of listed buildings at their discretion.
- ix) The Building Preservation Order procedure was slightly simplified.
- x) The Minister was charged with the responsibility to keep available for inspection free of charge, copies of lists of buildings of architectural and historic interest.
- xi) Local Authorities were charged with the duty to provide for the planting of trees. This was to be achieved by the imposition of conditions to planning consents granted.
- xii) Where trees, which were the subject of a Tree Preservation Order, had to be felled, the Local Authority was given the power to ensure their replacement.
- xiii) The fines for cutting-down or wilfully destroying a tree, the subject of a Tree Preservation Order, was increased from fifty pounds to "two hundred and fifty pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater".
- xiv) Provisions were made to speed-up the Tree Preservation Order procedure in cases where it was considered expedient to do so.



- xv) Local Authorities were charged with the duty to provide refuse dumps.
- xvi) Procedures were set-up to deal with dumped or abandoned motor vehicles.
- xvii) Penalties for unauthorised dumping or abandonment of motor vehicles are set out in the Act: "a fine of an amount not exceeding one hundred pounds, or in the case of a second or subsequent conviction, to a fine of an amount not exceeding two hundred pounds or imprisonment for a term not exceeding three months or both".
- xviii) The Act introduced increased rights-of-entry into buildings, or onto lands, by properly authorised personnel of the Local Planning Authority.

Thus we see in this Act a broadening of the area of protection afforded to listed buildings or other buildings of architectural and historic interest, to include the protection of the general character of an area.

We also see the increase in the duties of the Local Authorities with regard to tree planting, the removal of refuse and abandoned vehicles: in parallel, we see the further erosion of the rights of the owners of listed buildings.

Part V of the Town and Country Planning Act 1968 contained further legislation concerned with conservation; the Act can be summarised as follows:-

- i) The existing provisions restricting the demolition or alteration of listed buildings were strengthened.
- ii) Proposed works to listed buildings required a Listed Building consent and, if a Town Planning consent were granted, this did not preclude the need for the Listed Building consent.

It is worth noting that there were then, and still are today, many works which can be carried out without the need to obtain Town Planning consent; the Listed consent procedure prevents an abuse of this situation.

- iii) In the event that a Local Authority granted a consent for the demolition of a listed building, the building owner was required to give a month's grace, to allow officers of the Royal Commission on Historic Monuments to inspect the building and make any records considered to be desirable or expedient.
- iv) The Act set out the same exclusions as other Acts with regard to ecclesiastical buildings, monuments and ancient monuments, but vicarages and parsonages were no longer excluded.

- v) In the event that a building owner is aggrieved by the non-granting of a Listed Building consent, he can cause the Local Authority to acquire his building by use of the Purchase Notice procedure.
- vi) In the event that a building owner carried out unauthorised works to a listed building, Local Authorities were empowered to take action to stop the works and to ensure the remedying of any damage resulting from such works, by the use of the Enforcement Notice procedure: such a notice being entitled a 'Listed Building Enforcement Notice'.
- vii) If, after the service of a 'Listed Building Enforcement Notice' upon a building owner, he continue to carry out unauthorised works, he became liable to a fine of four hundred pounds.
- viii) If a building owner was convicted, he could be fined fifty pounds for each day that the requirements of the notice remained outstanding.
- ix) The Minister was empowered to direct a Local Authority to serve a Listed Building Enforcement Notice, if he considered it expedient.
- x) The law relating to Building Preservation Orders was broadened, to allow buildings which were not on the statutory list of buildings of architectural and historical interest, to be the subject of Building Preservation Notice action.

- xi) Provision was made to compensate building owners for loss and damages resulting from Building Preservation Notice action taken by Local Authorities.
- xii) Powers of compulsory purchase granted to Local Authorities were extended to include listed buildings which were in need of repair.
- xiii) Provision was made so that, before taking Compulsory Purchase Order action, a Local Authority was required to serve a Repairs Notice as a preliminary to such action: this allowed the building owner the opportunity to show his willingness to bring his building into a proper state of repair, in which case the Local Authority would take no further action.
- xiv) If a building owner deliberately allowed a listed building to become derelict and a Local Authority took Compulsory Purchase Order action, the compensation payable would be accordingly reduced.
- xv) The Act set out matters which might be taken into account by the Minister in deciding to list buildings, not only including the buildings itself, but also:

- "a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part; and
- b) the desirability of preserving, on the grounds of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building, or forming part of the land and comprised within the curtilage of the building."
- xvi) Provisions were made to ensure that Local Planning Authorities' proposals for listed buildings were referred to the Minister.
- xvii) The scope of protection of non-listed buildings in Conservation Areas was extended by virtue of the fact that the Act made provisions requiring Listed Building consent for the demolition of, or alteration to, buildings which were located within a Conservation Area.
- xviii) The Act set up the procedure for the formation of Conservation Area Advisory Committees.

Thus we see in this Act a considerable extension of the law of conservation and we see it increasingly meshed within the framework of town planning law.

The next Act concerned with conservation was the Town and Country Planning Act 1971, which is the largest Planning Act enacted by Parliament to date; the law relating to buildings of architectural and historic interest and conservation generally, is interspersed throughout the Act.

The provisions of the Act may be briefly summarised as follows:-

- i) Local Authorities were empowered to carry out essential works to unoccupied listed buildings, in the event the building owner was not prepared to do so.
- ii) The protection afforded to trees was extended by the introduction of higher fines: "...not exceeding two hundred and fifty pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater."
- iii) Local Planning Authorities were given further powers to enforce the replacement of trees.
- iv) The penalties for failure to comply with a notice with regard to waste land were increased to a fine not exceeding fifty pounds.

- v) Local Authorities were empowered to carry out necessary works to waste lands in the event the land-owner did not comply with the requirements of a formal notice under the Act; they were empowered also to recover the costs of the work carried out.
- vi) The law concerned with the control of advertisements was strengthened by the establishment of a fine for non-compliance: "...not exceeding one hundred pounds and, in the case of a continuing offence, five pounds for each day during which the offence continues after conviction."

Section 112 of the Act could be related to conservation, although its use would seem to be more relevant to other aspects of compulsory purchase for town planning purposes. However, the use of Section 112 is described in case example 3, (1-21 Copenhagen Street and 16-62 Barnsbury Road), later in this work.

- vii) The Secretary of State's role was defined in connection with the compulsory purchase and disposal of listed buildings:-
- "...the Secretary of State shall not give his consent to the appropriation or disposal .... of any land comprising a listed building, or to the erection, construction or carrying out of any building or work on any such land unless either -

- (a) the consent is given subject to such conditions or limitations as in the opinion of the Secretary of State will secure the preservation of the listed building; or
- (b) the Secretary of State, after giving the requisite notice of the application for his consent, is satisfied that the purpose which the local authority seek to achieve by the proposed exercise of their powers is one which ought in the public interest to be carried out, and that the carrying out of that purpose, whether by the use of the land in question or otherwise, either -
- (i) would be prevented by the preservation of the listed building; or
  - (ii) would be so affected by the preservation thereof that, notwithstanding the desirability of preserving the building, it is inexpedient to do so."
- viii) The procedure for dealing with listed building purchase notices and the Secretary of State's role in confirming such notices, was simplified.
- ix) The Act required Local Authorities wishing to demolish, or alter, buildings of architectural or historical interest which were in their ownership, to submit their listed building application to the Secretary of State.



The importance of this section of the Act will be examined in case example 7 ( 9-67 Shepherdess Walk).

- x) The Act made provision for the Secretary of State to delegate the authority for the compilation of the statutory list of buildings of architectural interest, at his discretion.

In spite of the massive provisions of the Town and Country Planning Act 1971, (many of which related to buildings of architectural and historic interest as summarised above), Parliament enacted the Town and Country Planning (Amendment) Act only one year later in 1972.

The provisions of this Act which were concerned with conservation law, can be summarised as follows:-

- i) The powers of protection for buildings in Conservation Areas, were widened further.
- ii) Local Authority grants, available to assist in the protection and retention of buildings of architectural and historic interest, were increased.
- iii) The procedure by which Conservation Areas were to be graded was established, so that Conservation Areas of outstanding importance could be identified and listed.

- iv) The grant-aid provisions for Conservation Areas of outstanding importance were gauged at a higher level than those which were not considered to be so important.

It is interesting to note that Barnsbury was initially designated as a Conservation Area of outstanding importance, subsequently down-graded and later re-graded to its original state. The circumstances of this change in status are described in case examples 2 and 3, later in this work.

The Town and Country Planning Act 1971 was primarily concerned with town planning issues, and it encapsulated a further widening of the control of listed buildings and Conservation Areas. The next Act relating to the law of conservation was the Town and Country Amenities Act 1974.

The aims of the Act were:

"...to make further provision for the control of development in the interests of amenity, for the protection of trees and the preservation and enhancement of conservation areas, and of buildings of architectural and historical interest and their surrounds and landscapes, and for related purposes."

The provisions of the Town and Country Amenities Act 1974 can be summarised as follows:-

- i) Local Authorities were given the duty to review and, if necessary, either extend existing Conservation Areas or designate new Conservation Areas.
- ii) Local Authorities were charged with the duty to enhance the character of Conservation Areas, as well as the duty to protect and preserve them.
- iii) Local Authorities were required to formulate and publish their proposals for the preservation and enhancement of Conservation Areas.
- iv) Local Authorities were required to submit their proposals to a public meeting in the area and "shall have regard to any views concerning the proposals expressed by persons attending the meeting."
- v) Powers were granted to Local Planning Authorities and the Secretary of State, to ensure that buildings in Conservation Areas, which were not listed but which contributed to the character of the area, could be treated as if they were listed, insofar as the owner of such a building could be required to repair it; in the event he failed to do so, the appropriate Authority could carry out the works and claim the cost of such works from the building owner.

- vi) The same procedure was adopted for unlisted buildings in Conservation Areas, where "Urgent works for preservation of unoccupied buildings" were thought necessary.
- vii) The control of trees was also widened by the increase of fines and sentences.
- "(a) on summary conviction to a fine not exceeding four hundred pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater; or
- (b) on conviction on indictment, to a fine."

The fifty pounds fine was increased to two hundred pounds.

Thus we see in this Act a manifestation of the continuing trend noted in other Acts, towards greater control over all aspects of the environment of listed buildings, with a consequent erosion of the erstwhile rights of owners. However, it is also important to note that corresponding with these two factors, the Local Authorities have been increasingly charged with extra duties, as indeed has the Department of the Environment.

III A REVIEW OF THE LAW CONCERNED WITH UNSATISFACTORY  
HOUSING AND SLUM CLEARANCE

As in the law of conservation, legislation passed by Parliament for the improvement of existing and proposed residential buildings, their surroundings and their infrastructure, resulted from the pressure of public opinion.

The worst conditions in housing are described as slums, which, by definition, are residential buildings that are not fit for human habitation; however, as Fred Berry wrote in his book 'Housing The Great British Failure': "This may seem to be a useful, straightforward definition, but this is not the case. It is of next to no use at all ..... It is useless mainly because it involves too much in the way of subjective judgement." (14)

Most people have a general view about what constitutes a slum, but again as Fred Berry wrote: "If you took the view that a slum is more easily recognised than described you would be nearer the mark." (15)

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(14) Fred Berry, Housing The Great British Failure, p.158  
(15) Ibid, p.158

Although Berry's view is generally valid today, that the decision as to what constitutes a slum is a matter of considerable subjectivity, there is no doubt that the conditions in which people lived up to the turn of the century, were often so bad that, if viewed today with the benefit of hindsight, relative to current standards, there would be no problem in making such a decision.

The first legislation introduced by Parliament was concerned directly with dealing with residential problems, which were regarded as injurious to the health of inhabitants; it was not until the Housing Act of 1954 that the term 'slum' was officially defined.

As Enid Gauldie said:

"It is very easy to assume because the decay of Britain's cities and the appalling living conditions of her working people became noticeable and impossible to ignore in the period following her rapid industrialisation, that industrialisation caused those conditions." (16)

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(16) Enid Gauldie, Cruel Habitations, p.21

However, the housing of rural workers before the advent of the industrial revolution "were rural slums of a horror not surpassed by the rookeries of London. The touching picture of country people leaving neat and pretty thatched cottages for the sins and slums of the cities is easily dispelled by a closer look at the pretty cottages." (17)

Insanitary living conditions were the lot of all classes of people, whether they lived in rural or urban areas. However, there were two fundamental differences between the living conditions of the working classes and the upper classes.

The first was that working class people often lived in overcrowded conditions, particularly in urban areas, the second was that technological innovations such as water closets, and the supply of running water were initially the prerogative of the wealthier members of society. The overcrowding problem was accelerated by the growth of population in Britain and the concentration of large numbers of people in urban areas.

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(17) Enid Gauldie, op cit, p.21

Until the mid-eighteenth century, Britain "had exhibited a rate of population growth so slow as to convince many contemporaries that numbers were static, if not actually declining." (18)

Although there are no official census figures for England and Wales before 1801, there may have been between 6 and  $6\frac{1}{2}$  million people. (19)

By 1801 the population of England and Wales had risen by approximately 50% to 8,893,000 and by 1851 it doubled again to 17,928,000. (20)

Thus, in the first half of the nineteenth century we see a massively increased population being concentrated primarily in towns, in which the accommodation available was quite inadequate for the demand.

However, in addition to this phenomenal population explosion, there was a massive shift in the balance of population from the country to towns, reflecting the change in the British economy from farming to manufacturing.

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- (18) John Burnett, A Social History of Housing 1815-1970, p.4  
 (19) Abstract of British historical statistics  
 B.R. Mitchell & P. Dean, Population and Vital Statistics 1, Estimates of Eighteenth Century Population (1962) p.5  
 (20) Ibid, p.5



In addition, with the development of public transport in the latter part of the nineteenth century, the middle and lower middle classes moved to new suburban developments; the houses they previously occupied in the inner urban sectors of towns and cities, were sub-divided for multi-occupation; this created the basis of the slum problem which developed in urban areas.

This pattern of events was generally true for Britain as a whole, and some slum clearance case examples in this thesis were established initially by this process. However, there were also other factors which influenced the decisions made by the London Borough of Islington and the London Borough of Hackney to utilise slum clearance legislation to achieve goals other than that of dealing with unsatisfactory housing: these will be examined later in case examples 1, 2, 5, 6 and 7.

Decisions taken by Local Authorities are often influenced by a combination of factors, but one of their most important administrative decisions must be concerned with the selection of the appropriate legal 'tool', to be used as the 'vehicle' for carrying out their other intentions.

Therefore, any examination of Local Authorities' decision-making processes in the field of slum clearance, should be concerned not only with the legal and administrative aspects affecting their decisions but should also compare the intentions of Parliament in empowering Local Authorities to take slum clearance action with the way in which that power is used 'on the ground'.

Having briefly looked at the background, against which legislation concerned with improving housing conditions was to be enacted, let us look at the factors which brought these issues firstly into public debate in influential circles, and later before Parliament:

There were six primary influencing factors as follows:- (21)

- i) The publication of census figures which included mortality rates in 1831.
- ii) The Registration Act 1836 which resulted in the setting-up of the Registrar-General's office in 1837, which collected and published information on age distribution, death statistics and local variations in the incidence of disease and mortality rates.

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(21) I am indebted to Enid Gauldie's, Cruel Habitations, A History of Working-Class Housing 1780-1918 (1974) pp.101-106 for this information

- iii) The Poor Law Amendment Act 1834 which required the Poor Law Commissioners to publish reports, which demonstrated the scale of poverty and squalor prevalent in Britain at that time.
- iv) The formation of a number of societies concerned with social studies and the collection of statistics, including The British Association for the Advancement of Science, The Statistical Society for London and other similar organisations in other major cities in Britain.
- v) The continuing and accelerating threat of riot and revolution; and
- vi) The cholera epidemics of 1833 and 1848.

In 1838 the Poor Law Commissioners sent their report to the Home Secretary, asking that the Commissioners be given the power to indict for nuisance. However, although it was accepted by some that the removal of filth would be beneficial in reducing disease and death, it was not easy to persuade Parliament to pass legislation which would have involved an increase in bureaucracy and financial investment; the House of Lords debated the report but failed to arrive at a conclusion.

In 1839 the Poor Law Report was published, together with an appendix entitled "Report on the Prevalence of Fever in Twenty Metropolitan Unions"; this was widely read and resulted in the Bishop of London having the matter brought to the House of Lords, which set-up an enquiry led by Edwin Chadwick. Chadwick's report on the sanitary conditions of the labouring population of England, Scotland and Wales, was published in 1842.

Meanwhile, in 1840 Richard Slaney had persuaded the Home Secretary to introduce three new Bills, which were concerned with:-

- i) The improvement of certain buildings
- ii) The better drainage of large towns and villages
- iii) The regulating of buildings in towns

These three Bills were passed by the Lords, but were then interrupted by the fall of the Whig Government in 1842 and were eventually abandoned by the Tory Government which, however, did set-up two select committees on the Building Regulation and Building Improvement topics.

Moreover, the Bills had produced a great deal of interest and public debate which added weight to the mounting evidence of the housing conditions in towns.

Following the publicity of Chadwick's report in 1842, the Government set-up a Royal Commission on the Health in Towns in 1843, which published their first report on The State of Large Towns and Popular Districts in 1844, with their second report following a year later.

These reports demonstrated the need for Government action on building construction, water supply and drainage, but the Commissioners were unable to conceive of the idea of legislative interference in what seemed to them private matters.

Thus we see, in the early development of the law of slum clearance, a parallel attitude to that which emerged in the law of conservation. The concern of private individuals, the formation of pressure groups, the concern too of Parliament not to interfere with the rights of landowners.

The legislation of the nineteenth century, in the field of health and habitation, is concerned with general powers applicable to the country as a whole. However, prior to the passing of this legislation, many nineteenth century Local Authorities already had considerable control over such things as drains and sewers, the collection of refuse, offal and household excreta, the

retention of pure water courses and ponds and the abatement of nuisances. These powers had been built-up in common law on a series of precedents, from cases won in the courts over a considerable period of time, and some went back to medieval times.

Moreover, where a town felt the need for wider powers, it often sought them from Parliament and there were several examples between 1825 and 1842 which demonstrates this, with regard to the imposition of minimum height standards for rooms and space standards around buildings.

The fundamental problem was that these powers were permissive, having been won as rights and not as duties, that is to say they were optional but not obligatory. (22)

As was noted earlier, the first attempt at general legislation to be applied to England and Wales, was Slaney and Tufnells' Bill of 1840 which proposed the improvement of the dwellings of the working classes; this was later to be known as the Small Tenements Bill.

The provisions of this Bill can be summarised as follows:-

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(22) Enid Gauldie, op cit. This can be seen in chapters 25 and 26, which show the progression from 'permissive' legislation, to the imposition of duties upon Local Authorities and the use of Compulsory Powers.

- i) To prevent the building of residential rooms below ground level
- ii) To ensure the proper provision of drainage for new housing
- iii) To prevent back-to-back development
- iv) To prohibit close alleys
- v) To ensure the provision of privies
- vi) To ensure the provision of ash pits
- vii) To ensure the provision of opening windows

The Bill also proposed the appointment of 'House-Wardens' to enforce the regulations - (an officer with similar general duties as our modern District Surveyors, Building Inspectors of Public Health Inspectors); the Bill failed to pass through Parliament.

The Clauses Act of 1847 and the Public Health Act of 1848 included some Building Regulations, but the main object of these Acts was concerned with the sanitary condition of houses, which was seen, quite properly, in a medical context.

The 1850's saw the introduction of a number of Acts, concerned both with controlling the way in which houses were used for residential purposes, and also for the provision of reasonable new accommodation for



'the working poor', or 'labouring classes'. These include the Dwelling Houses for the Working Classes (Scotland) Act 1855, the Nuisance Removal Act 1855, the Labourers Dwellings Act 1855, the Nuisances Removal (Scotland) Act 1856 and the Metropolitan Amendment Act 1856.

The fact that these Acts "proved far from effectual in improving the housing of the poor should not be allowed to mask the significance of the principles contained within them. Parliament moves in waves. One session allows important principles to be introduced alongside clauses which make sure those principles cannot be acted upon; while in a succeeding session, referring confidently to the principles already established and accepted in earlier, inoperable Acts, the limiting clauses can be swept aside. Thus nineteenth century legislative activity insinuated into the statute books the principle of state responsibility for housing, while at the same time ensuring, with all the outrage of which Parliament was capable, that such unwarrantable intrusion upon private rights would not be tolerated." (23)

The Nuisances Act 1855 consolidated and amended the Nuisances Removal and Diseases Prevention Acts of 1848 and 1849, and was particularly important because it contained the first use of the phrase "unfit for human habitation".

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(23) Enid Gauldie, op cit, p.250



The Act was not meant to be permissive, since it imposed upon the Local Authorities the duty to appoint Medical Officers of Health, who were required to order certain basic provisions in dwelling houses. These can be summarised as follows:-

- i) Provision of and maintenance of adequate privies
- ii) Maintenance of premises in a safe condition
- iii) Maintenance of premises in a habitable condition
- iv) The cleansing of premises
- v) The white-washing of insanitary houses
- vi) The closing of houses which were unsuitable for human habitation.

Thus we see the medical principles of the 1848 and 1849 Acts established more strongly in the 1855 Act, whereby the Local Authorities had a statutory obligation to appoint a Medical Officer of Health with specific duties and powers, to ensure minimum standards for housing.

As will be seen later, this role was expanded by subsequent legislation and the Medical Officer of Health, (or as he is now often called the Environmental Health Officer), still has considerable legal powers in this field today; this will become evident through this review and the case examples concerned with slum clearance which follow later in this thesis.

The term "unfit for human habitation" was not precisely defined and was open to interpretation. We therefore see the problem raised by Berry on the subject of definitions in this field of legislation; there were, however, some generally accepted interpretations as to what constituted a nuisance, or more accurately what did not constitute a nuisance, for example:-

The following were not necessarily regarded as nuisances in the true meaning of the Act:- (24)

- i) Insufficient light
- ii) Insufficient air
- iii) Dampness
- iv) Disrepair

Surprisingly, the use of cellars as dwellings was not universally forbidden, except in those Local Authorities which had adopted the Public Health Act 1848, or who had passed local regulations against such use.

In 1857 Lord Shaftesbury introduced a Bill to amend the 1851 and 1853 Lodging Houses Act; to deal with overcrowding and other public health matters. The Bill read:-

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(24) Enid Gauldie, op cit, p.254

"....whereas it is expedient that further provision should be made for the prevention of overcrowding in dwellings for the poor....the house should be exempt from the provisions of the Lodging Houses Act" and overcrowding, "if it is dangerous and prejudicial to health"....."may be proceeded against as a nuisance under the Nuisance Act 1855".

However, "....in this case, at the end of the Parliamentary session and in the early hours of the night, the great guns built by British parliamentarians to protect the people against tyranny were brought to bear on a tiny innocuous measure...." and the Bill was not passed. (25)

In 1858 Parliament amended the Public Health Act 1848, which included a clause forbidding the building of back-to-back houses, "this was an important step in the history of housing and town planning". (26)

Thus, here we see another example of the fusing of public health, housing and town planning legislation, such as was noted, (although later in the Parliamentary programme), in the law of conservation and town planning.

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(25) Enid Gauldie, op cit, pp.255-256  
(26) Ibid, p.257

Between 1866 and 1868 when "Disraeli's vision of Tory democracy, in which the good of the governed was the whole purpose of the government", (27), there were forces outside Parliament which were growing in strength and determination, to press for the reform of legislation concerned with living conditions of the poor.

The Sanitary Act of 1866 took matters an important step further, by making overcrowding a statutory nuisance. This is still the case at the present time and the control over current legislation is still in the hands of the Local Authorities Medical Officers of Health.

The Torrens Act introduced two other important principles, by empowering Medical Officers of Health to have access to premises for the purposes of inspecting housing conditions, and by allowing Local Authorities to compulsorily acquire houses unsuitable for human habitation.

The Public Health Act 1872 provided that the position of the Medical Officers of Health was to be held by a qualified medical practitioner, since, until that time "Medical officers were of variable quality, not by any means, for instance, always qualified doctors." (28)

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(27) Enid Gauldie, op cit, p.258  
(28) Ibid, p.271

However, the provisions of the Act were not usually enforced, since if closure action were to be taken this would require the tenants to be evicted and their situation would not be improved by this action.

"As Professor Wohl shows, 'due to the sensitivity of the Medical Officers to the plight of the poor that (the Act) was not more vigorously pressed'." (29)

The Sanitary Law Amendment Act 1874 authorised regulations about ventilation of rooms and pavings, and drainage of premises.

The Public Health Act 1875 laid down an enlightened code of Building Regulations for London and this was extended to the country Local Authorities in 1891.

The Artizans Dwellings Act of 1875, better known as the Cross Act, introduced further important measures to deal with slum property, which may be summarised as follows:-

- i) It made provisions for rehousing tenants evicted from slum clearance and improvement proposals.
- ii) Local Authorities were to draw-up schemes for the improvement of slum areas.

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(29) Enid Gauldie, op cit, pp. 270/271

- iii) Local Authorities were required to carry out street planning, paving and sewerage of land.
- iv) Housing built by the Local Authorities on cleared land for rehousing slum tenants had to be sold back to the owner within ten years.
- v) Provisions were made for compensating landlords for loss of rent.

Here we see again in the development of the law of slum clearance, a further example of the concern of Parliament to safeguard the rights and privileges of landowners, similar to the attitude which emerged in the development of the law of conservation.

The Artizans Dwellings Act 1882 widened the powers for taking property, to include not only buildings unsuitable for habitation, but also obstructive buildings, those so situated as to prevent the entrance of light and air to other buildings, or to prevent their repair and improvement.

In this Act we see a further example of the blurring of the distinction between the provision of housing for the poor, with the sanitary principles of earlier Acts, administered via Medical Officers of Health.

During the 1880's, there were many attempts to increase the scope of the Torrens and Cross Acts but, due to the 'Irish Problem', Parliament was too pre-occupied to give serious consideration to the Bills submitted. However, the work encapsulated in those Bills came to fruition in the 1890's, when Parliament passed three useful Housing Acts and an important new Public Health Act.

The Public Health Amendment Act 1890 extended the provision of the 1875 Act and may be summarised as follows:-

It empowered Local Authorities to pass By-laws to:-

- i) Ensure that w.c.'s were supplied with flushing water.
- ii) Control the construction of floors.
- iii) Control the construction of hearths.
- iv) Control the construction of staircases.
- v) Control the height of rooms.
- vi) Ensure the provision and maintenance of access for refuse removal.
- vii) Forbid the use of rooms for human habitation over privies, middens, cess-pools and ash-pits.

We can see in this Act that the structure, arrangement and layout of houses was still dictated by the 'sanitary idea', and that legislation was in the form of Public Health Acts rather than Housing Acts; this trend was not fully reversed until the Housing Act of 1954.

The Housing of the Working Classes Act 1890 went further than the 1885 Act, in that it consolidated all previous useful Housing Acts. The Act introduced a further interesting power in the law of slum clearance, by extending the rights of Local Authorities in their implementation of improvement schemes, by allowing houses which were unsuitable to be included in clearance and improvement schemes; this concept was introduced later into the law of town planning, in relation to planning objectives.

The Housing and Town Planning Act 1909 furthered the powers for dealing with unsuitable housing and the 1914 Report of the Local Government Board praised the slum clearance work of Local Authorities under the Act.

The Act extended the powers of Local Authorities to deal with 'insanitary houses', and most important the Act included a clause which allowed Local Authorities to retain ownership of houses they built for the labouring classes. Thus we see the first true



legislation giving Local Authorities the powers of compulsory purchase and compulsory retention of acquired land and buildings.

It is also interesting to note that, once again, the Act recognised the importance of relating housing to the proper planning of towns.

The Rent and Mortgage Restriction Act of 1915 introduced rent control and security of tenure, for unfurnished residential accommodation, as a war-time expedient. The rent control and security provisions of this Act still apply at the present time, and have often been blamed for the escalation of the problems of the provision and maintenance of privately rented accommodation.

"But if the new Act controlled rents it also put an end to what lingered of hopes for private-enterprise building of low-cost houses. With rents fixed at a level that was uneconomic in view of rising costs of building materials, no speculator would again attempt to build for the working classes." (30)

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(30) Enid Gauldie, op cit, p.308

As John Burnett has written:

"By the late twenties the emphasis in housing policy began to swing away from 'general needs' towards 'special needs' of particular categories, and in this sense the thirties were to mark something of a return to the 'sanitary' considerations which had characterised the policy of the late nineteenth century." (31)

The Housing (Rural Workers) Act of 1926 introduced the concept of improvement grants, to assist landlords to provide basic amenities in tenanted property.

The foundation of modern slum clearance was laid by the Greenwood Act of 1930. This Act created financial incentives for Local Authorities to act more dynamically in dealing with slums; indeed, Local Authorities were required to submit programmes of their slum clearance plans, with the aim of solving the problems if possible within five years.

The provisions of the 1930 Act were adopted in the Housing Act of 1933, "to concentrate public effort and money on clearance and improvement of slum conditions". However, as Burnett wrote: "The great loophole of the 1933 Act was, however, the absence of clear guidelines to Local Authorities as to what constituted a slum requiring demolition and rehousing." (32)

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(31) John Burnett, A Social History of Housing 1815-1970, p.234  
(32) Ibid, p.238

What is intriguing to note with hindsight, is that in spite of massive house building programmes, both in the public and private sectors, the slum problem was still unsolved.

The programmes under the 1933 Act provided for the demolition of 225,000 unsuitable homes, but by 1939 the official calculation of the number of slum houses requiring demolition had doubled to 472,000. (33)

This can be explained by the possibility that the programmes as submitted, were based upon incomplete survey material. However, it is also probable that the programmes covered only the very worst cases of unsatisfactory housing and excluded slums, which were regarded at that time as marginal. Moreover, it is arguable that due to the war-time effort, normal repair and improvement works may have been affected, so the rate of obsolescence was accelerated.

By the outbreak of the second world war, "about one-third of the population were well-housed in new, healthy accommodation, a second-third inhabiting older, by-law houses, sanitary but lacking in modern amenities and comforts, and a remaining third in very sub-standard property, much of it slum or rapidly becoming so." (34)

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(33) Marian Bowley, Housing & The State 1919-1944 (1945)p.152  
(34) John Burnett, op cit, p.243

The Housing Act 1949 was significant in the development of the law of slum clearance, by "its removal of any reference to 'the working classes'...thus the obligation to rehouse, was extended to the whole population."

(35)

Aneurin Bevan, the Minister of Health at that time, argued that "clearance could be resumed only after the needs of homeless families had been met..." (36)

However, in 1953 Harold MacMillan, then Minister of Housing, stated that although there was still "a great problem of overcrowding" and "of families with no home of their own", we could no longer "leave people living in cramped, dark, rotten houses." (37)

It is interesting to note the ministerial emphasis in relationship to the problem of slum clearance and improvement, in that Bevan made his statement as the Minister of Health and MacMillan made his as the Minister of Housing.

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(35) John English, Ruth Madigan & Peter Norman, Slum Clearance (1976), p.24

(36) House of Commons Official Report, Vol.473, Col.1352

(37) Ibid, Vol.520, Cols.173-194

However, due mainly to the rising standard by which slums were judged, the problem was still far from being solved at this time. The published figures for England and Wales gave 847,000 unsuitable houses, out of a total of 12,935,000. (38)

The Housing (Repairs and Rents) Act of 1954 included only minor changes to the law of slum clearance, but it did set out a universally applicable measure of unsuitability. This definition was very similar to that embodied in the 1957 Housing Act, which will be described later in this section.

The Housing Repairs Act of 1954 laid down the criteria for the judgement of the fitness of housing for human habitation as follows:-

- i) Repair
- ii) Stability
- iii) Freedom from damp
- iv) Natural ventilation
- v) Water supply
- vi) Drainage and sanitary convenience
- vii) Facilities for storage, preparation and cooking of food and for the disposal of waste water.

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(38) Ministry of Housing & Local Government Slum Clearance (England & Wales) Summary of Returns by Local Authorities (1955), HMSO Commd.9593

The Act stated that a house shall be deemed to be unsatisfactory for human habitation if, and only if, it is so far defective in one or more of the said matters, that it is not reasonably suitable for occupation in that condition.

Enoch Powell's Housing Act of 1957 repeated these criteria, and strengthened the powers of Local Authorities to compulsory purchase unsuitable housing.

The Act set out important procedural criteria, which had to be satisfied before a part III Compulsory Purchase Order resolution was passed, which can be summarised as follows:-

- i) The best way of dealing with the unsatisfactory portion of a group of houses, was by the demolition of all of the houses.
- ii) The houses could not be made statutorily fit at reasonable cost.
- iii) In the event that a part III Compulsory Purchase Order were to be confirmed by the Minister and the Local Authorities acquired the houses the subject of the Compulsory Purchase Order, they were obliged to demolish them.

- iv) Compensation was based upon the value of the land occupied by the houses and the houses were assumed to have no value at all.

This Act, with minor subsequent amendments, is still the prime legal vehicle available for slum clearance Compulsory Purchase Orders and is the subject of examination in case examples 1, 2, 4, 5, 6 and 7, later in this thesis.

The possibility of improving unsatisfactory housing always existed as an alternative to demolition, and this was recognised by Parliament's introduction of improvement grants, to assist private sector landlords and owner occupiers in the 1926 Act. The provisions of the Act were increased from time to time, and the amounts of grant-aid available substantially increased in line with inflation, and the current notion of what constituted basic amenities.

The Housing Act of 1964 extended the concept of improvement and introduced the idea of Improvement Areas, that is to say areas of sub-standard housing which should be up-graded to modern standards by compulsion and encouragement.

The owners of houses in Improvement Areas were to receive higher discretionary grants than those obtainable elsewhere and, to encourage them further, the external environment was to be improved by road closures, tree planting and other means.

Thus we see in this Act a broadening of the scope of treatment of unsatisfactory housing, to embrace the environment. This is yet another parallel with the law of conservation, whereby under the Civic Amenities Act 1967 the concept of Conservation Areas was introduced.

In 1961 the Ministry of Housing published its first National House Condition Survey, and published statistics from that time onwards. The findings of these surveys resulted in a significant change in government policy culminating in the passing of the Housing Act of 1969.

The Act reflected a change in public opinion and embodied a "massive switch in emphasis from redevelopment to rehabilitation, as a principle means of improving housing conditions." (39)

The Act also strengthened the powers of Local Authorities to designate and consolidate Improvement Areas. In addition, Local Authorities were given a duty to inspect houses in their areas, to keep a register of houses in multiple occupation, and to ensure these had adequate means of escape in case of fire.

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(39) Fred Berry, Housing The Great British Failure (1974)p.163



The Act added conditions regarding bad internal arrangement of rooms and the external arrangement of houses in their immediate environment as grounds of inherent unfitness; the provision for storage was deleted.

The Act also increased the grants available for rehabilitation and upgrading of older houses, and extended compensation on part III Compulsory Purchase Orders to tenants who had maintained their living accommodation in good order.

A large body of public opinion was becoming increasingly concerned with the clear-fell approach to urban renewal, for example: in 1972 a Shelter Report stated:

"That's a ham fisted way of doing things. For the families that have suffered most gravely from slum life it is tragic...For them there is often no solution in rehousing. Most do not find themselves on a spanking new estate, or at least not for long, but in another condemned or soon-to-be-condemned area of housing." (40)

The reasons for this situation, as set out by Fred Berry, are as follows:- (41)

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(40) Shelter, Resumé for Slums, p.7

(41) Fred Berry, *op cit*, p.164

- "(a) that occupants move before the council has a chance to offer them rehousing,
- (b) many families are unauthorised tenants, and therefore do not qualify for rehousing, and
- (c) rents of the dwellings provided by the council are too high."

and Berrys' answers to these objections appear to be:

- "(a) one doubts whether this is generally true,
- (b) councils ought to be under a positive obligation to rehouse anyone displaced by slum clearance, and
- (c) no one should ever be excluded from council housing just because he cannot afford the rent."

The compensation allowable to owner-occupiers under part III Compulsory Purchase Orders was eventually changed, so that they obtained full market value. However, absentee landlords still received compensation based upon the value of the land occupied by the house.

In 1974 the Daily Telegraph stated:-

"Lord Garnsworthy moved a series of new clauses (in the Lords), to empower a Local Authority to change its mind and rehabilitate housing scheduled for slum clearance under Compulsory Purchase Orders.

This was not always practical or desirable but there had been instances where authorities had experienced a change of mind but found they were required to go ahead with demolition.

They would now be able to apply to the Environment Secretary to confirm a rehabilitation order for any houses compulsorily acquired for slum clearance by Compulsory Purchase three months or more before the Bill came into operation.

This would revoke the Compulsory Purchase Order but they would have to pay additional compensation to the former owners forced to sell on site value.

Lord Sandys, for the Opposition, welcomed the new clauses. The background to them was essentially the strong growth in the movement towards preservation.

The new clauses were approved." (42)

This amendment was included in the Housing Act 1974, which extended the scope of Local Authority action in Improvement Areas and set-up the concept of Priority Neighbourhoods and Housing Action Areas, which were motivated primarily to relieve social stress.

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(42) Daily Telegraph (25th July 1974)

"Priority Neighbourhoods are designed to prevent the housing position in or around stress areas from deteriorating further and to stop stress from rippling out from areas which are the subject of concentrated action, normally by use of HAA powers: and may also serve to pave the way for later, more intensive, action by HAA treatment if still needed, or by GIA action of a kind which cannot be undertaken immediately."  
(43)

The introduction of the 1974 Act represented a major swing in Government policy away from 'clear-fell' re-development in older urban areas, to rehabilitation.

The Department of the Environment Circular "Housing Act 1974: Renewal Strategies" states:

- "1. The provisions of Parts IV-VIII of the Housing Act 1974, which deal with housing action areas, general improvement areas and priority neighbourhoods, call for new action on the part of housing authorities. In issuing guidance on the implementation of these provisions the Government is conscious of the problems facing local authorities as a result of the need to economise in the provision of many important services in consequence of decisions on public expenditure. But it is the Government's wish

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(43) HMSO Circular 14/75, Housing Act 1974:pts IV, V, VI, para. 1 of Memorandum B

that, at whatever level of constraints on resources, action to help people living in sub-standard homes, especially in difficult areas, should be given priority even at the expense of other areas and services.

2. Against this background, I am directed by the Secretary of State for the Environment to request housing authorities, in the light of the provisions of the Housing Act 1974 to undertake a thorough review of their policies in relation to older dwellings."

and the Circular also states:-

- "4. The housing activity of many urban local authorities was, for many years, dominated by the need to clear and redevelop areas of old housing for which no other solution was available, a process which often enabled extra homes to be built for families on the waiting list. Not unnaturally, run-down areas not already in the clearance programme were often assumed to be suitable only for demolition and redevelopment in due course. Residents of privately rented dwellings were usually believed to be content to change their tenancy for that of a council house or flat; adverse blighting effects of clearance

and the dispersal of communities were seen as being more than outweighed by the benefits conferred by the improvement in housing standards. Within the last few years, however, the position has altered significantly. Except in a few cities the programme of large-scale slum clearance should now be drawing to a close. Where authorities have been seeking to clear housing, especially dwellings which are fit or owner-occupied, it has proved much less easy to demonstrate that redevelopment is the best course, and resistance to such action has been increasing from residents of all kinds. Moreover, in the face of serious housing shortage in London and other major cities, wholesale demolition is increasingly criticized because it means that the total housing stock is reduced for a number of years while rebuilding takes place." (44)

Housing Action Areas are: "areas of housing stress where bad physical and social conditions interact and where intense activity will immediately follow declaration. In Housing Action Areas, house renovation grants are payable at the highest rates, the conditions attached to grants in respect of rented property are the most stringent, and the compulsory improvement provisions have been strengthened. Local authorities are given more

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(44) HMSO Circular 13/75, Housing Act 1974 Renewal Strategies (21st January 1975), para. 4

specific powers to acquire property (by agreement or, where necessary, compulsorily), and have to be notified both of transactions in rented housing and of notices to quit." (45)

The Act made provisions for further increasing grant-aid to landlords and owner occupiers and increased the financial support for municipalisation of existing housing and housing association activities.

The Housing Bill 1979 included proposals for extending to tenants the right to obtain statutory and discretionary grants for the up-grading of their accommodation. It also extended the grants available for repairs (as opposed to improvements), following the publication of the 1976 House Condition Survey, which indicated an increasing rate of obsolescence and disrepair.

However, due to the fall of the Labour Government, this Bill was not passed and since it was not mentioned in the Queen's Speech in the new Parliament, it appears that, at least for the moment, the Bill has been abandoned.

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(45) HMSO Circular 14/75 Housing Act 1974:pts IV, V, VI

This completes the brief review of the law concerned with unsatisfactory housing and slum clearance, and shows the continuing trend towards greater Government control over the conditions in which people are permitted to live.

The case examples examined later in the thesis, are concerned primarily with certain powers embodied in the 1957 Act which, as was noted earlier, are utilised by Local Authorities in the field of slum clearance. Some of these powers will be examined in detail in the analysis of decision-making options in case examples 1, 2, 4, 5, 6 and 7.

As in the law of conservation, these powers have led to an accelerating erosion of the rights of owners and Local Authorities have been charged with an increasing burden of duties. So too has the Department of the Environment.

### III INTERIM CONCLUSIONS

#### A SUMMARY OF THE FINDINGS OF THE REVIEW OF THE LAW OF CONSERVATION, HOUSING CONDITIONS AND SLUM CLEARANCE

From these brief reviews, it has been possible to trace the development of the law concerned with housing conditions, starting primarily with the 'sanitary ideas'



of earlier Acts, which became fused in later legislation firstly with building construction, (that is to say the quality of buildings) and later, in town planning legislation, with the larger scale implications of housing in its environment.

Although the development of the law of conservation started later than that concerned with residential living conditions, it has been possible to see an interesting parallel in the development of both aspects of the law. Briefly summarised, these have emerged as follows:-

- i) Legislation followed pressure from public opinion
- ii) There was initial parliamentary reluctance to interfere with the rights of land-owners, which was gradually replaced with an increasing preparedness to do so. There was a parallel, although later, acquiescence to the legislation on the part of land-owners.
- iii) Initial legislation included a large measure of 'permissiveness'. That is to say it was not entirely mandatory; this was gradually replaced by the introduction of compulsory powers and duties, and the creation of authorities to exercise and administer them.

- iv) Initial legislation was piecemeal and concerned with the solving of problems on an 'individual' scale and gradually developed to include a comprehensive approach, particularly in the field of urban renewal.
- v) Both lines in the development of the legislation of conservation and housing conditions, became merged with that of town planning and are now inextricably intertwined with it, particularly in the field of urban renewal.

Thus we see the general legislative background to the powers used by Local Authorities in the decision-making processes, which are the subject of this work and will be examined through case examples later.

It would be worthwhile now briefly reviewing some of the general problems found in the application of decision-making analysis, and some relevant examples of its application to the problems faced by Local Authorities, together with some of the general factors which influence the 'environment' of 'actors' in the process.

IV A DISCUSSION OF SOME PROBLEMS IN THE APPLICATION OF ANALYSIS TECHNIQUES TO DECISIONS MADE BY THE LONDON BOROUGH OF ISLINGTON AND THE LONDON BOROUGH OF HACKNEY, IN THE FIELD OF CONSERVATION AND SLUM CLEARANCE

As Brown, Katir and Peterson wrote:

"The ability to make sound decisions in the face of inconclusive evidence and unclear personal judgements has always been an enviable skill in business executives and other practical men of affairs." (46)

This statement is clearly applicable, not only to business decisions which are obviously generally evaluated on the basis of financial profitability, but also to decisions made by Local Authorities. However, it must be borne in mind that Local Authorities work under legislation, which imposes statutory powers and duties upon them, which have to be discharged in situations where profit is often not a factor which legislation allows to be taken into account in the decision-making process. This is particularly true in the fields of slum clearance and conservation.

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(46) Rex V. Brown, Andrew S. Katir and Cameron Peterson, Decision Analysis: An Overview (1974), p.5

In both fields, Local Authorities have to contend with a large degree of subjectivity since, as Fred Berry observed: "If you took the view that a slum is more easily recognised than described, you would be nearer the mark." (47) This statement is equally applicable to conservation, since the decision as to which buildings should be conserved as a matter of national importance, is also a question of aesthetic judgement, and therefore always open to criticism and revision as tastes change.

Decision-making "Until recently ... was a skill almost entirely in the province of intuition. During World War II formal approaches to decision-making began to be introduced under the name of operational-research. They were typically applied to special types of clear cut, repetitive problems ...". (48)

However, one of the problems faced by Local Authorities is that their decisions may not always be clear-cut or even repetitive, but since their decisions can be so important in terms of financial investment, social consequences and their effect upon what can be generally described as 'the environment', it is vital that some form of decision analysis be applied, in order that the Local Authorities may find a "way to make better more defensible, or just less painful decisions." (49)

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(47) Fred Berry, Housing The Great British Failure, p.158  
 (48) Rex V. Brown, Andrew S. Katir and Cameron Peterson,  
 op cit, p.5  
 (49) Ibid, p.5

Since there is often a large factor of subjectivity in Local Authority decisions, it is sometimes convenient to consider the concept of 'social profit' in these fields, since frequently no other profit-making criteria is applicable; this in turn can lead to the notion of 'loss-reduction', since this can be regarded as a 'social profit' when added into an 'equation of choice' which includes other factors and other objectives.

However, it would be wrong to dismiss subjectivity as an important factor in decision-making in the field of urban renewal, of new development or indeed in business.

J. Paul Getty once wrote of his own experience in ignoring the consensus of expert opinion regarding the location of oil in Oklahoma, "...like so many oilmen, I chose to temper all 'analytical' thinking with a healthy dose of non-logical subjectivity, .....I began drilling in the Red Beds, struck oil and brought in a vast new producing field." (50)

Getty also observed, "...that by relying on such non-textbook thought processes, and taking attendant risks, the biggest fortunes have been made - in oil and other endeavours ...If all the risk - and by that I mean not only the dangers, but the zest and the excitement - were removed from business, then the businessman might as well take a civil service job." (51)

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(50) J. Paul Getty, 'The Fine Art of Being the Boss', Playboy Magazine, (June 1972)

(51) Ibid

However, it is evident that flair, intuition and some risk are necessarily inherent in certain Local Authority decisions in the field of urban renewal, if we are to avoid the result which Jane Jacobs observed on the subject of Planners and Architects concerned with city planning, "... they have gone to great pains to learn what the saints and sages of modern orthodox planning have said about how cities ought to work and what ought to be good for people and business in them. They take this with such devotion, that when contradictory reality intrudes, threatening to shatter their dearly won learning, they must shrug reality aside." (52)

The implications of Jane Jacob's thesis are that Planners and Architects should adopt a flexible approach to urban problems and that they should adjust their philosophies to accommodate the "success and failure in real life" and the "trial and error, failure and success in city building and city design". (53)

Clearly, in a democratic society decisions in Local Authorities are taken by elected members of councils who, being human have the normal political, social, economic and aesthetic and other biases which they often accept as 'conventional wisdom'.

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(52) Jane Jacobs, The Death & Life of Great American Cities: The Failure of Town Planning (1961), p.18

(53) Ibid, p.16

Furthermore, these lay members will be swayed to a greater or larger degree in their decision-making processes, by the advice given by their officers and professional advisers. but, in the final analysis, decisions are made by the lay members of a council, particularly where such decisions are influenced primarily by political factors.

In such cases, the councils' officers may have to face a situation where they know that their professional opinion is contrary to the political opinion motivating decisions by members, and this can have serious and obvious implications in both directions in the chain of decision-making, particularly where more than one level of Government is involved, and where the political complexion of those levels is different.

The question of the relationship between officers and members has been examined in some detail by Friend and Jessop, who, in relation to their empirical study of the planning processes in Coventry described how:

"...on politically delicate matters, a chief officer might be able to ask his committee chairman for guidance as to what kinds of solution were likely to be unacceptable to the majority party group." (54)

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(54) J.K. Friend & W.N. Jessop, Local Government & Strategic Choice: An Operational Research Approach to the Processes of Public Planning (1969), p.52

However, both the Royal Town Planning Institute (55) and NALGO (56) have issued practice notes, as to how officers of Local Authorities should act where their professional judgement is contrary to the decisions taken by lay members, particularly in the field of public participation and public enquiries. Basically, the officers are exhorted not to prostitute their opinion in the interests of political expediency.

However, the same problem could arise between a specialist committee and the full council. As Friend and Jessop found in Coventry: "To make sure that officers' recommendations and committee decisions on politically controversial matters were not likely to prove unacceptable at this final stage, a number of informal practices of consultation had grown up at earlier stages in the decision-making process." (57)

There is evidence of similar actions by council officers and chairmen of relevant committees, in various case examples which will be examined later in this thesis.

In planning generally, it is clear that there are various groupings of interest, since planning involves

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(55) RTPI Practice advice note No.1 paras. 1,2,3,4,5,6  
(56) NALGO General practice notes to LA employees  
(57) J.K. Friend & W.N. Jessop, op cit, p.52



the control of the use of land. Therefore, planning decisions made by Local Authorities affect private owners of land and buildings, the community in the area and other government departments, who are either directly or indirectly affected by the decisions.

Friend, Power and Yewlett also suggest the addition of a fifth and "increasingly significant, sector of governmental activity; that of specialist agencies controlled by Boards or Councils whose members were appointed by government, but which otherwise have a high degree of management autonomy." (58)

These agencies include: railway, water, postal, telephone, electricity, gas and basic industries such as iron and steel. However, although these authorities had no involvement in the planning decisions discussed in the case examples in this thesis, the point that a fifth agency is 'at work' in the planning process is included for the purposes of completeness.

The analysis of the decision-making process, as seen through the case examples which are analysed later, does demonstrate the considerable interaction between the four major agencies involved in the planning process, particularly in the field of urban renewal.

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(58) J.K. Friend, J.M. Power & C.J. Yewlett, Public Planning: The Inter-Corporate Dimension (1974), p.16

There are also many interacting influences in the field of town planning, particularly in urban renewal and conservation, since, as was mentioned earlier, there is a great deal of subjectivity in the influencing factors in the decision-making process.

Tony Eddison touches upon the special problems related to establishing a rationale for dealing with intuition and judgement; he describes this as 'The Extrarational Model'. (59)

He states that extrarational processes play an essential and often major role in policy-making, and that this sometimes creates a major administrative problem in the field of corporate planning.

This is particularly true in the fields which are the subject of this work, as will be shown empirically through the case examples later, where these extrarational processes will be examined in tandem with the rationale.

As D. Yehezkel Dror says:-

"If we knew the characteristics of the extrarational processes, which perhaps include many different and separate processes with different, specific features, we could allocate them defined roles in optimal policy making, depending on whether their net output in a

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(59) Tony Eddison, Local Government: Management and Corporate Planning (1975), p.22

certain case is higher than that of 'more rational' methods. Since we don't know even that much about extrarational processes, we have no way, even in theory, to decide what their optimal role in policy-making might be. But we should not, on that account, underestimate their importance in either actual or optimal decision making and policy making, which the decision-sciences literature often does. Instead, I think the evidence about extrarational processes, unclear as it is, forces us to accept in part (after careful screening) the policymakers' introspective and observational impressions about the importance of extrarational processes in policy making, and leave the burden of proof on those who argue that such impressions have no validity at all." (60)

Although intuition and subjective influences on decisions may, upon examination with hindsight, appear to be better than the alternative choices available, it would be useful to attempt to apply a rationale involving a 'weighting' to subjective issues, rather on the lines of social cost benefit analysis. In a way this is the intention of the Appendix 'B' formular as used in the decision as to whether or not a house can be converted at reasonable cost; this being the most important criterion for slum clearance decisions under Part III of the Housing Act 1957.

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(60) D. Yehezkel Dror, Public Policy Making Re-examined (1968), pp.152-3

Dror goes on to say:-

"There are perhaps enough indications so far to make some sort of prima facie case for the claim that extrarational processes are sometimes a better method for policy making (and have a higher net output) than pure rationality, even if the latter is feasible." (61)

An important issue is related to what exactly lay-members regard as 'rational' or 'extrarational' factors affecting their policy decisions and the extent to which they were given good and unbiased information by their professional advisers. This issue will be analysed and discussed later in the thesis.

Dror continues by saying:-

"Whether policy makers regard extrarational processes as being sometimes ideal or not, they have little choice but to rely greatly on them. The question thus becomes the less 'sensitive' one of what is the best possible mix of rationality, extrarationality, and their various subtypes; and of how to create conditions that will allow these two different components of policy making to work together." (62)

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(61) D. Yehezkel Dror, op cit, pp.152-3  
(62) Ibid, pp.152-3

This model is clearly the best to apply in the field of conservation, where issues concerned with aesthetics and historic interest may be in conflict with other important planning objectives, such as the clearance of slums, provision of housing, employment, schools, hospitals, transport and other services.

Probably, the most difficult conflict to evaluate is that which sometimes develops between conservation and social engineering. This is summed up by Stretton: "How to conserve is usually a harder question than whether, or what, to conserve." (63)

In the case examples which follow, we will test this statement.

Stretton goes on to say:-

"So however urgent it may be to wake people up to physical and ecological dangers, environmental reformers also need political philosophies." (64)

Stretton is concerned with, amongst other things, 'social balance' and the affects of what is now sometimes called 'gentrification'. That is to say the process whereby new middle-class owner occupiers appear to take-over an area previously predominantly occupied by working-class people. This was an important, emotional

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(63) Hugh Stretton, Capitalism, Socialism & The Environment (1977), p.3

(64) Ibid, p.3

and well publicised motivating influence on a number of the decisions in Islington, analysed later, and a good example of 'extrarational' policy-making on the part of the Borough.

The most important constituent of a good system of management in any field, is that those responsible for making decisions monitor the results of those decisions, so that a feedback of relevant information can be established for use in later similar situations.

Eddison says on this subject:-

"....planning, in many respects, has up to now deceived itself by evading the realities of uncertainty about the future, of change through the passage of time, of natural errors in forecasting. There has been, both professionally and perhaps politically a 'faith' of planning, a faith in the 'omnipotence' almost of plans." (65)

It is hoped that some of the analyses which follow in the case examples, will be one means whereby such a feedback will be established.

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(65) Tony Eddison, op cit, p.16

V SUMMARY

Conservation and slum clearance law has developed in parallel, so that today both strands of public concern come within the ambit of town planning, particularly in the field of urban renewal. Parliament has seen fit to pass legislation to protect the buildings of architectural and historic interest on the one hand, and to see to it that slums are dealt with on the other: sometimes the legislative procedures lead to a conflict of interest.

This conflict has to be dealt with by the procedures set by Parliament and by the bureaucracy employed at all levels of government. There are those who question the need for a bureaucracy and there are others who, recognising a need, press for it to be made more professionally competent, efficient, economical and publically accountable.

Having discussed some of the problems which need to be examined by the use of operation research techniques, and some of the problems inherent in the use of systems analysis in the context of town planning, in the field of conservation, slum clearance and urban renewal, it would be worthwhile now examining the theoretical basis of some relevant modern methods of systems analysis.

Whereas a systems approach to the decision-making procedure related to conservation, slum clearance and urban renewal, can never be perfect, it should be possible to reduce the areas of uncertainty in a number of fields concerned with facts and above all to rationalise, as far as possible, the subjective factors in the process. This will be attempted later in the thesis.



"'Planning' implies future premises but in fact most 'planning' is a reaction to the past." (66)

This is another way of expressing one of the most important factors in corporate planning, (particularly in the field of conservation), that is to say the learning and feedback process which should be a major prerequisite of any system of environmental management.

The learning dimension in policy planning and decision-making is concerned with feedback and review, as Tony Eddison says:-

"The separate consideration of each element serves to highlight its interdependence with other elements and that learning and feedback are not fashionable glosses to planning but the crucial links which give the dynamic to the process. Feedback is information, information about the changing environment, old information revised, new information, information about the state of the process. Information is produced and required at all points in the process and so changes the process itself. The whole essence of planning is that it is dynamic and that the approach to it should be likewise." (67)

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(66) Lawrence Isaacson, during an interview in January 1976  
(67) Tony Eddison, Local Government: Management & Corporate Planning (1975), p.16

This thesis analyses a number of decisions, where this learning process and feedback dimension were not apparent in the decision-making system in operation in the London Borough of Islington at that time.

However, the writer's conclusion that this was the case was initially based upon subjective attitudes. These attitudes were encapsulated in a previous thesis, which was concerned with the physical side of environmental management - that is to say the improvement of the Townscape of Barnsbury. (68)

Later conclusions that the feedback and review dimension in the London Borough of Islington's decision-making system were sometimes inadequate, were extended, again on a largely subjective and emotional basis to include the social, economic and political aspects of environmental management.

This then was the starting point in the analysis, the discovery of a possible problem.

The next step was to establish whether the problem really existed, or whether there were more objective and important factors which had resulted in decisions, which appeared in the biased view of the writer, to be unreasonable.

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(68) K. Pring, Barnsbury Explored: A privately sponsored publication of a thesis for the Diploma in Town Planning of the Polytechnic (Regent St) (1969)

This involved the in-depth analysis of the following factors:-

- i) The legal powers under which the decisions were made.
- ii) The procedure adopted in exercising those powers
- iii) The 'motive' behind the empowering legislation compared with the 'motive' of the Local Authority in its decision.

Against this analysis, it was then necessary to examine other factors which could have influenced the decision-making process, including the following:-

- i) What alternative powers were available to be applied to the problem to be solved?
- ii) Were these considered?

Clearly, where it was found that available options had been ignored, it was necessary to examine the affect a proper evaluation of these options may have had upon the original decision, had they been considered; these situations are identified and examined empirically through the case examples which follow later.

In certain cases it was found that alternative options had been considered, but had been rejected. In these cases it was necessary to establish whether the options

were presented or considered correctly and objectively; these situations are also identified and examined through the case examples which follow this section.

This situation is summarised by Nikoranov:-

"Problems may be recognised through (the evaluation of output). Discovery of a problem is the result of a process of (continuous monitoring of a system). Identification is possible given a knowledge of norms, or of the desired behaviour of the system ..." (69)

Following the establishment of a prima facie case of the existence of problems in the decision-making techniques related to identified cases, it was necessary to examine ways in which the problems could be solved.

However, this could not be examined in a purely theoretical way, since the writer's motivation was not only to produce evidence for use in the learning and feedback process, but also to attempt to reverse apparently bad decisions.

This was necessary as, in the writer's opinion, the original decisions, if carried through to completion, would have had undesirable architectural, townscape, social or economic results, or a mix-combination of more than one of these results.

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(69) S.P. Nikoranov, Systems Analysis: A Stage in the Development of the Methodology of Problem Solving in the U.S.A. Excerpt (1973), p.146

For this reason it was decided to apply an interventionist approach to the problem, with a view to the achievement of a reversal of original decisions.

The methodology of the interventionist approach adopted varied from case example to case example, and the individual characteristics and motivating factors related to each special case, are explained in the preamble to each example.

As will emerge later, the learning and feedback-process was discovered empirically and knowledge gained on the first case example was used on the second case. As the body of knowledge and experience grew, so it was applied progressively to later case examples; one of these was certainly a test case and another is either extremely rare if not unique.

For the purposes of monitoring certain decisions within prescribed spheres of power in the field of slum clearance, it was decided to examine two cases where the London Borough of Islington made decisions, which suggested quite different motivating factors than those apparent in the others which were examined. An examination of these decisions has been included for the purpose of ensuring a balance in the work; all slum clearance case examples are compared with a notional 'ideal dry-run' part III Compulsory Purchase Order.

As Elkin says:-

"A second methodological (and theoretical) question must be briefly raised, namely the issue of comparability or equivalence. This is a major consideration in all comparative work, but perhaps especially so in comparative urban or local politics. Here we face not only problems of defining measurement procedures which produce equivalent readings in very different contexts, but also the question of what to measure. At this juncture in comparative local level analysis, empirical research, if only of a trial and error kind, is as useful a strategy as pursuing discussions of conceptual schemes and measurement problems." (70)

For an academic justification of the methodology

adopted, Elkin makes the point that:-

"It is also worth noting here that the methodology pursued in this study, viz. case studies and general interviewing growing out of them, is not open to some of the criticisms of the 'mobilization of bias' school. One of their central arguments seems to be that looking at concrete decisions obscures the workings of this bias, i.e. the impact of the 'dominant values and the political myths, rituals and institutional practices which tend to favor the vested interests of one or more groups, relative to others'. The appropriate reply is

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(70) Stephen L. Elkin, Politics and Land Use Planning: The London Experience, p.6

simply that there is no reason why a researcher cannot go from questions about how particular issues are resolved, whether they are 'key' or not, to questions such as why these particular matters were being addressed and not some others. Some researchers may not in fact raise this question, but that is hardly damning unless it is demonstrated that they somehow cannot or are much less likely to do so than researchers that utilize some other approach, and neither of these has been demonstrated. At any rate, a substantial portion of what follows the case examples in this study is in fact directed at such matters as why certain kinds of issues didn't arise and why particular groups were inactive." (71)

Elkin's last sentence is particularly applicable to the research which is analysed and discussed in this thesis. However, the main justification for the methodology adopted is that subsequently most of the writer's subjective views concerning the decision-making techniques employed by the London Borough of Islington and the London Borough of Hackney, have proved accurate when measured against more objective criteria.

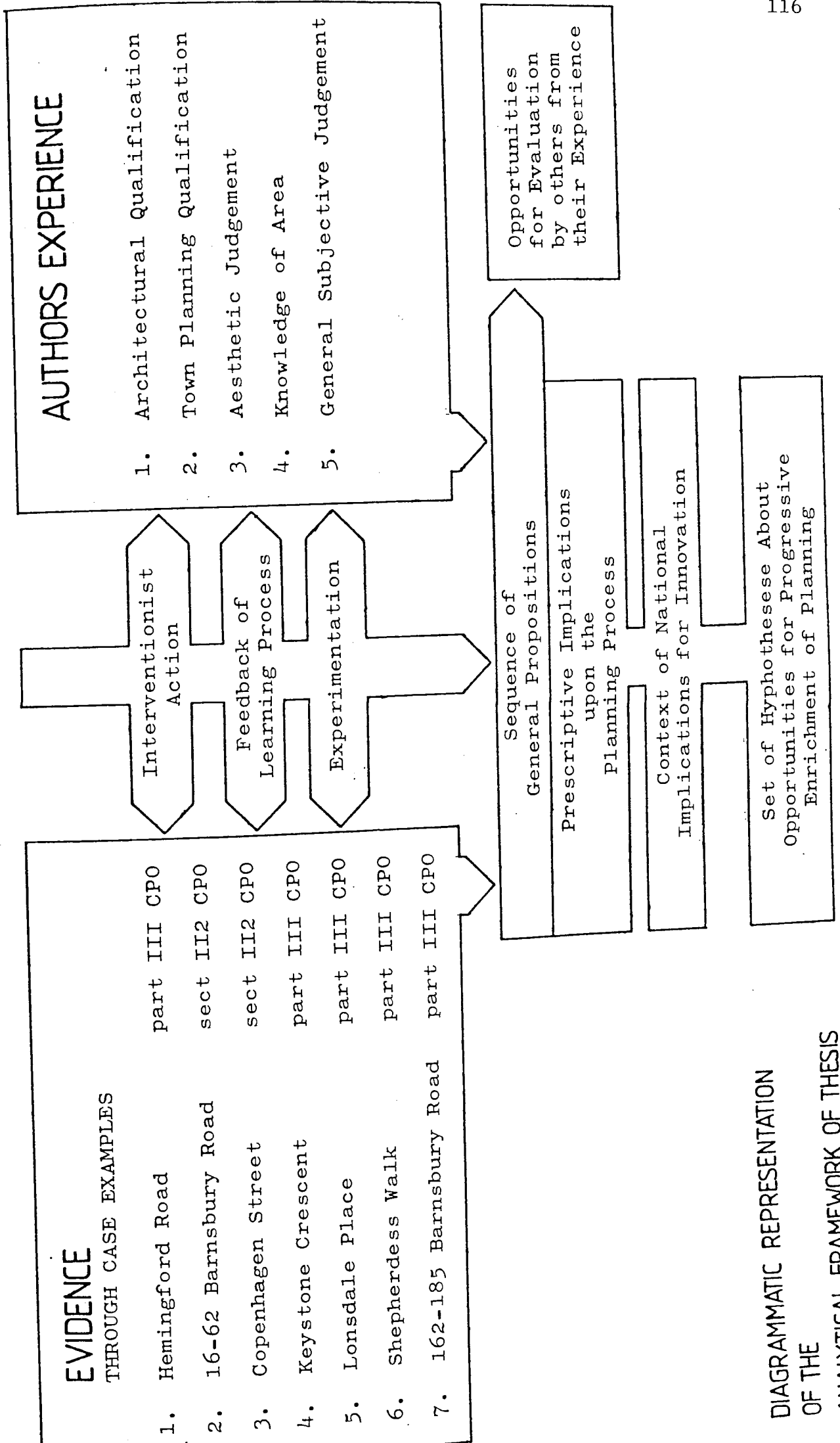
The analytical framework of the thesis may be illustrated diagrammatically. (see fig. 3.01).

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(71) Stephen L. Elkin, op cit, p.6

# ANALYTICAL FRAMEWORK OF THESIS

fig. 3.01



DIAGRAMMATIC REPRESENTATION OF THE ANALYTICAL FRAMEWORK OF THESIS



CHAPTER FOUR: CASE EXAMPLE 1

ISLINGTON (HEMINGFORD ROAD) COMPULSORY PURCHASE ORDER 1970

PART III HOUSING ACT 1957

Structure of Case Example

SECTION I INTRODUCTION

- i. Preamble
- ii. Definition of area boundaries
- iii. Architectural and townscape description of area
- iv. Explanation of the long-term planning proposals for the area 1951-1980

SECTION II BEFORE THE PUBLIC ENQUIRY

- i. Action by London County Council and Greater London Council 1965-1970
  - a. Narrative
  - b. Analysis of some factors in the Greater London Council's decision-making process resulting in the Part III Order
- ii. Reaction to the Greater London Council decision 1969-1970
  - a. Political background
  - b. Initial responses to the proposed Compulsory Purchase Order

- c. Social survey of residents in the area
  - d. Physical survey of housing in the area
- iii. Action by the London Borough of Islington (1970)
- a. Action by Director of Development
  - b. Action by the Barnsbury Housing Association
  - c. The Barnsbury Housing Association Scheme
  - d. Action by Barnsbury Joint Steering Committee
  - e. Narrative and analysis of factors resulting in the London Borough of Islington's decision to take over the Greater London Council's Part III Compulsory Purchase Order and extend the clearance area
  - f. A comparison between the Greater London Council and the London Borough of Islington Housing Committees' structure
- iv. Reaction to London Borough of Islington's Compulsory Purchase Order Decision 1971-72
- a. Narrative of responses and actions of statutory and non-statutory objectors

## SECTION III THE PUBLIC ENQUIRY 17TH MARCH 1972

- i. Preamble
- ii. Summary of evidence presented by London Borough of Islington
- iii. Summary of evidence presented by the Barnsbury Association
- iv. Summary of evidence presented by other statutory and non-statutory objectors
- v. The site inspection
- vi. The atmosphere of the enquiry

## SECTION IV AFTER THE PUBLIC ENQUIRY

- i. The bureaucratic procedure in the decision-making process leading to the publication of the Decision
- ii. An analysis of the Decision
  - a. The effects of the Public Open Space proposal for the area
  - b. The architectural and townscape value of the area
  - c. The effects of the Compulsory Purchase Order upon tenants and owners affected
  - d. The fitness of the houses
    - 1) Preamble
    - 2) Inherent unfitness due to poor arrangement of houses in their street setting

- 3) Inherent unfitness due to poor  
internal arrangement of the houses
  - 4) Structural stability
  - 5) The ten point standard
- iii. Analysis of the Department of the Environment's judgement of the evidence on fitness
  - iv. An economic appraisal of the decision
    - a. Preamble
      - 1) Density
      - 2) Space standards
      - 3) Costs

#### SECTION V AFTER THE DECISION

- i. The legal action taken against the Secretary of State for the Environment
- ii. The Secretary of State's response
- iii. The confirmation of the Part III Compulsory Purchase Order

#### SECTION VI THE CURRENT SITUATION

#### SECTION VII SUMMARY OF CONCLUSIONS AND IDENTIFICATION OF AREAS FOR FUTURE RESEARCH

- i. Influencing factors to be tested through other case examples
  - a. Matters of fact
  - b. Matters of opinion incorrectly presented as facts

- c. Matters of opinion acknowledged as  
personal judgements
  - d. Matters of sub-conscious judgement  
which are not recognised as such
- ii. Initial conclusions

ISLINGTON (HEMINGFORD ROAD) COMPULSORY PURCHASE ORDER 1970PART III HOUSING ACT 1957I INTRODUCTIONi. Preamble

The Islington (Hemingford Road) Compulsory Purchase Order 1970 was the formal title given to a part III CPO in the south west corner of the Barnsbury Conservation Area, which was represented by the London County Council on 22nd July 1969.

This case study is unusual because, although the CPO was originally represented by the London County Council, it was subsequently adopted by the London Borough of Islington, who extended the area covered by it and took over the responsibility for its presentation at a Local Public Enquiry.

There were two factors which, together, influenced the decision resulting in this transfer - the open space zoning of the proposed CPO area and the re-structuring in the roles of the Greater London Council and the London Boroughs, which took place under the London Government Act 1963.

Prior to the Act the London County Council was the central co-ordinating authority for London, the boundaries of which covered only the inner and the inner urban ring of London. Under the Act the London County Council was replaced by the Greater London Council as the strategic authority for the London area, including the suburban fringes.

Under the same Act thirty-two London Boroughs were created by the amalgamation of previous existing Local Authorities, thus the London Borough of Islington was formed by the merging of the Metropolitan Boroughs of Finsbury and Islington.

As part of this re-structuring process there was a re-definition of the roles of the respective authorities and some of the functions previously carried out by the London County Council were transferred to the London Boroughs; this transition was organised centrally by the Greater London Council. As part of this reorganisation, the Greater London Council transferred responsibility for some of its existing and proposed parks to the London Boroughs, and since the proposed Clearance Area was on land officially zoned for public open space - and was shown as such on Sir Patrick Abercrombie's Initial Development Plan of 1951 - the responsibility for the future of the Compulsory Purchase Order passed from the Greater London Council to the London Borough of Islington.

The officers and members of the London Borough of Islington had to make the choice, therefore, between proceeding with the Compulsory Purchase Order, or improving the existing housing.

This case study examines the factors which influenced the ultimate decision made by the London Borough of Islington to proceed with the Compulsory Purchase Order, and the response of those affected by the proposal. It also analyses the final decision made by the Department of the Environment's Inspector, which was confirmed by the Secretary of State following a Public Local Enquiry on 7th March 1972.

## ii. Definition of Area Boundaries

The London County Council's Compulsory Purchase Order resolution of 22nd July 1969 included 48 houses in Matilda Street, Shirley Street, Everilda Street and Hemingford Road. This area is shown on the map in fig. 4.01.

However, the London Borough of Islington's Compulsory Purchase Order resolution of 24th November 1970, proposed the extension of the CPO area to include 32 houses on the island site to the south bounded by Everilda Street, Hemingford Road, Matilda Street and Copenhagen Street. This area is shown on the map in fig. 4.02.





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The London Borough of Islington's Compulsory Purchase Order included 80 houses but excluded St. Thomas's Church of England School and Playground on the north and south sides of Everilda Street respectively and the Public House on the south east corner of Everilda Street and Matilda Street. Thus the extended CPO area was bounded by the rear garden wall to the north terrace of Shirley Street to the north, Matilda Street to the west, Hemingford Road to the east and Copenhagen Street to the south.

iii. Architectural and Townscape Description of the Area

The area of the case example is located in the south west corner of the Barnsbury Conservation Area, which is officially designated as being of outstanding importance.

In 1969, when the Greater London Council originally represented their Compulsory Purchase Order, the Barnsbury Conservation Area boundaries had already been decided in principle but they had not been officially designated. The Barnsbury Conservation Area is characterised by its considerable size and the large number of listed buildings which it contains.

The Borough Planning Officer of the London Borough of Islington, tried to persuade the Council to exclude the

complete south west corner from the Conservation Area, in order to avoid creating any administrative difficulties for the Greater London Councils' plans for this area. However, he was overruled by the members of the Conservation Area Advisory Committee; the area he recommended to be omitted is shown on map fig. 4.03.

The area affected by this Compulsory Purchase Order was mostly developed between approximately 1835 and 1840, with the most recent building being St. Thomas's School which was built in around 1885.

The houses within the area were two storey over a basement and were typical small scale residences of the period. They were laid out in terraces and built in London stock brickwork with timber stud internal partition walls. The plan form was typical of the period, with two rooms on each floor as shown in fig. 4.04.

The architectural and townscape character of the area varied from street to street, and is summarised as follows:

a. Matilda Street

The houses to the east side of the street were approximately the same height as those to the west which were not included in the Compulsory Purchase



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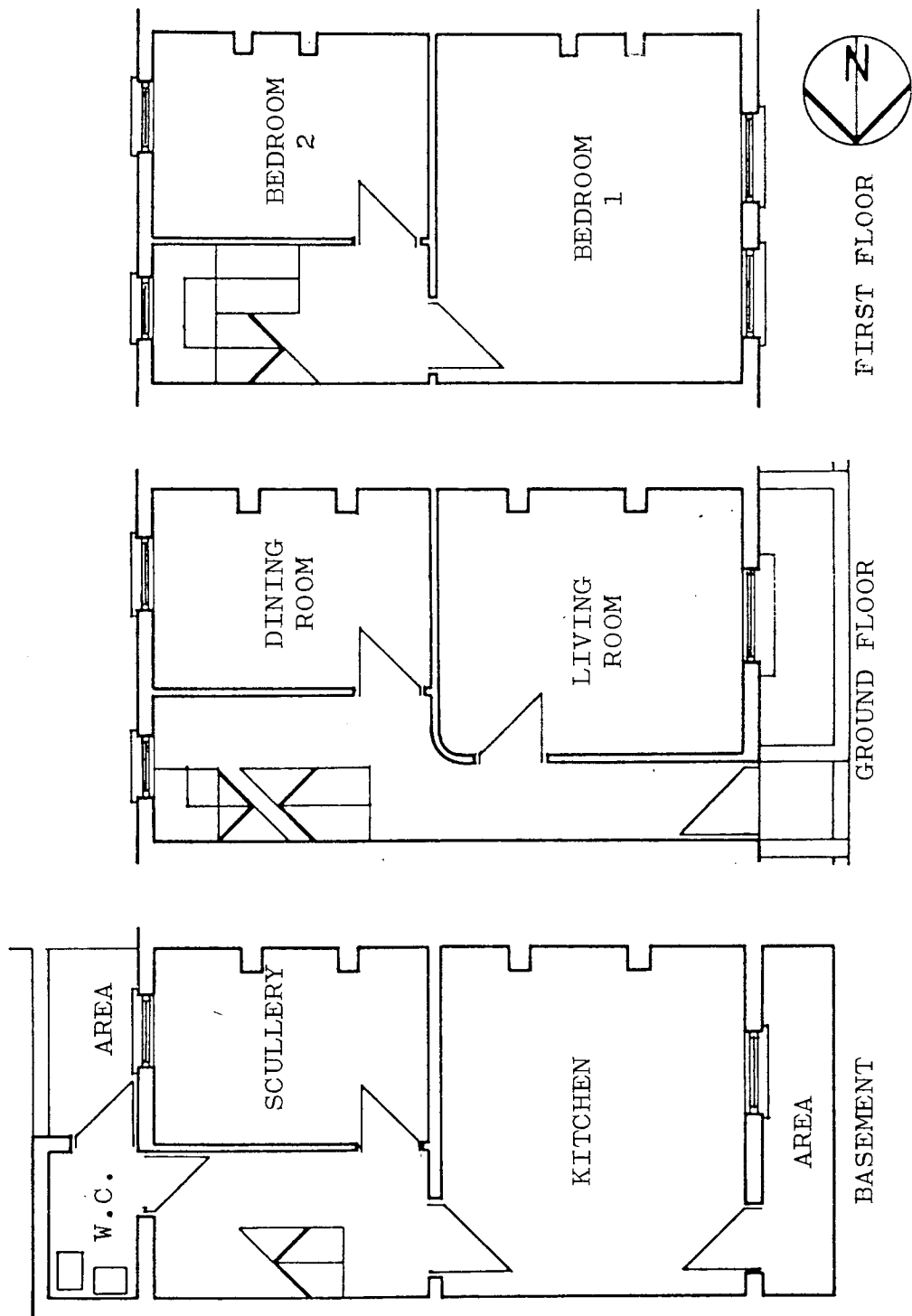


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fig. 4.04

TYPICAL PLAN-TYPE FOR THE AREA



Order. This can be seen clearly in the photographs figs. 4.05 and 4.06.

The houses on the east side were generally simple in architectural treatment, having semi-circular headed door openings and cambered arches to windows, although stucco mouldings had been added to the door and window surrounds to nos. 30-42. The east terraces are shown complete on the photograph fig. 4.07.

In contrast, the west terrace is more ornate, having stuccoed door and window surrounds and a capping cornice to the front parapet wall (see photograph fig. 4.08).

Matilda Street runs north/south from Copenhagen Street to the almost oval Thornhill Square. The smaller scale of the street houses, relative to those in the square, acted as a foil to, and gave a graded approach to the dominating curving terraces.

b. Hemingford Road

Hemingford Road runs north/south parallel to Matilda Street. In some ways it was potentially the grandest street in Islington, since the scale and 'texture' of the housing increased in height and grandeur moving from south to north. Starting with two storey housing at the south, there is a progression

A VIEW OF MATILDA STREET, LOOKING SOUTH

fig. 4.05



A VIEW OF MATILDA STREET, LOOKING NORTH

fig. 4.06





THE EAST SIDE OF MATILDA STREET  
SINCE DEMOLISHED

fig. 4.07



THE WEST SIDE OF MATILDA STREET,  
SINCE RESTORED

fig. 4.08



through three storey housing with stucco embellishments, to four storey stucco housing culminating at the Belitha Villas intersection in bow fronted stuccoed villas.

The houses to the west side of the road, included in the Compulsory Purchase Order, were arranged in three terraces, due to the intersection of Everilda Street and Shirley Street. The architectural character of each was different, probably reflecting the work of different developers.

Nos. 1-9 were stuccoed at ground floor and basement level, with stucco brackets and enrichments over the ground floor doors and windows. First floor window surrounds were also stuccoed and the parapet wall was provided with a cornice. The elevational treatment can be seen on the photograph fig. 4.9.

Nos. 13 and 15 were clad in rusticated stucco at ground floor and basement, (see photograph fig. 4.10) and no. 11, on the corner of Everilda Street, was a mansarded shop, (see photograph fig. 4.11). The remainder of this terrace - nos. 17-23 - were simple, plain brick houses similar to those on the east side of Matilda Street, (see photograph fig. 4.12).

1 - 9 HEMINGFORD ROAD (WEST SIDE)  
WHICH HAS SINCE BEEN DEMOLISHED

fig. 4.09



A VIEW OF THE SOUTH END OF HEMINGFORD ROAD fig. 4.10  
LOOKING SOUTH, THE WEST TERRACE (TO THE RIGHT  
OF THE PHOTOGRAPH) HAS SINCE BEEN DEMOLISHED



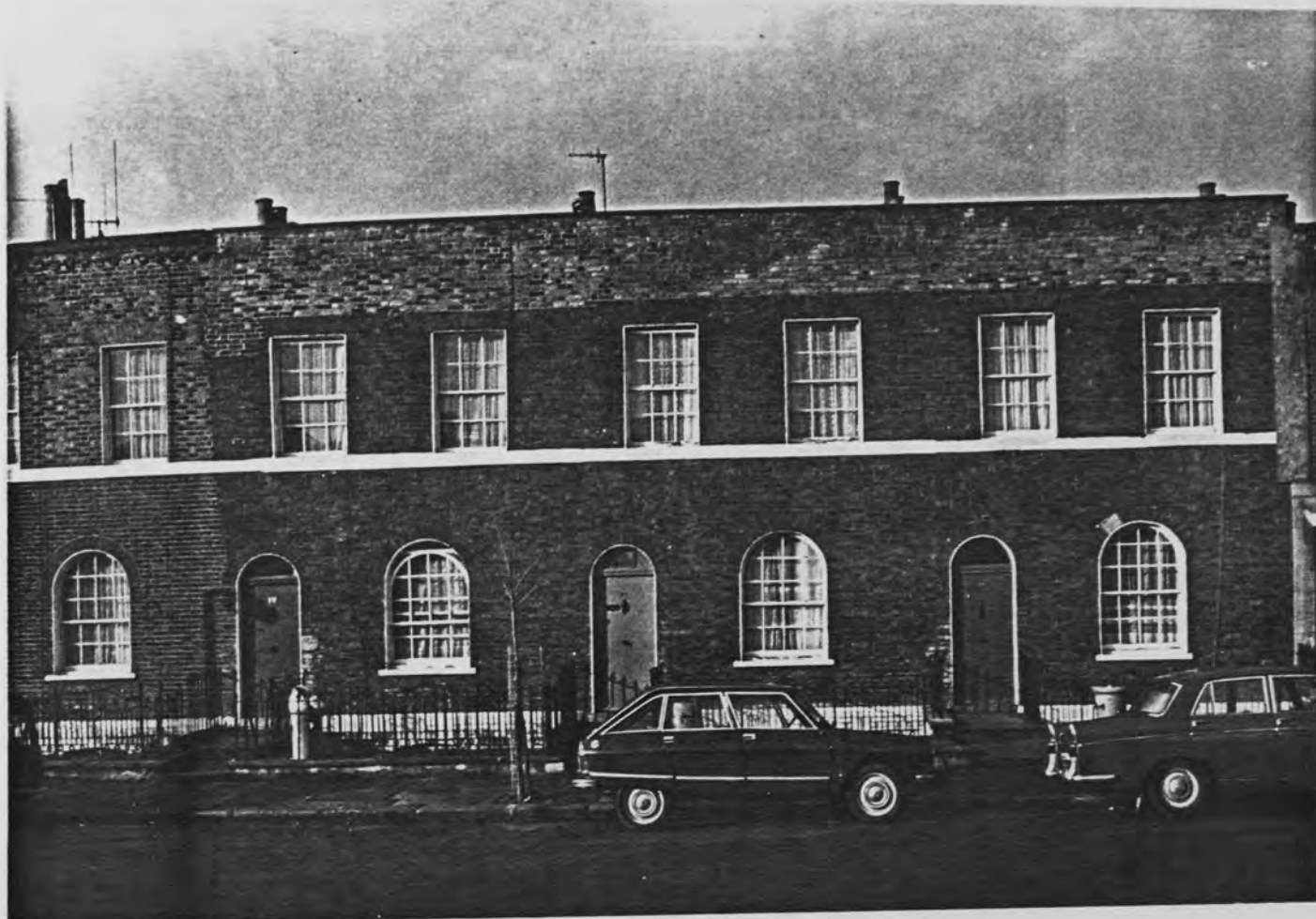
11 HEMINGFORD ROAD, NOW DEMOLISHED

fig. 4.11



17 - 23 HEMINGFORD ROAD, SINCE DEMOLISHED

fig. 4.12



35 - 39 HEMINGFORD ROAD, SINCE DEMOLISHED

fig. 4.13



The last terrace, nos. 35-39 were similar to nos. 1-9 but less ornate; (see photograph fig. 4.13); nos. 31 and 33 had been acquired and demolished by the Greater London Council prior to the Public Enquiry.

A general view of the road looking south towards the Greater London Council's Barnsbury Estate development, is shown on photograph fig. 4.10.

The housing not included in the Compulsory Purchase Order on the east side of the road, is shown on photograph fig. 4.14.

c. Shirley Street

The houses to the south side of the street were stuccoed for their full height and the window and door openings were embellished. This was in contrast to the housing to the north, which were of largely plain brick with later additions of stucco to the doors and windows of nos. 10 and 12.

The street ran between Matilda Street and Hemingford Road and thus the east and west vistas were nicely closed.

The character of this street can be seen in the photographs figs. 4.15 and 4.16.

A VIEW SHOWING TYPICAL HOUSING TO THE EAST      fig. 4.14  
SIDE OF HEMINGFORD ROAD WHICH HAS SINCE  
BEEN RESTORED



SHIRLEY STREET, LOOKING WEST

fig. 4.15



SHIRLEY STREET, LOOKING EAST

fig. 4.16





d. Everilda Street

This street was dominated by St. Thomas's Church of England School on the north side, and housing on both sides of the street was similar to that in the east side of Matilda Street.

e. Copenhagen Street

The north terrace of the street included in the Compulsory Purchase Order area, consisted of three storey brick buildings incorporating shops at ground floor level, (see photograph fig. 4.17). The townscape of Copenhagen Street was generally of poor quality, due to the total lack of environmental consideration in the piecemeal development of the Barnsbury Estate to the south.

Generally the area represented small scale housing which was complimentary to the grander housing in the Conservation Area and, if restored, would have been an attractive area in which to live. It should be remembered that the object of introducing conservation areas was not simply to preserve individual buildings of architectural and historic interest, but also to conserve the character of the area in which they were set.

This was the basis upon which initial objections to the proposed Compulsory Purchase Order were raised, and this view was also generally shared by the London Borough of Islington, who were responsible for declaring the Conservation Area.

THE NORTH SIDE OF COPENHAGEN STREET,  
SINCE DEMOLISHED

fig. 4.17



iv. An Explanation of the Long-Term Planning Proposals  
for the Area 1951 - 1980

Islington is the London Borough most deficient in public open space, and it was a prime objective of Sir Patrick Abercrombie's Initial Development Plan to provide more recreational and park facilities in the Borough.

Following the destruction, by enemy bombing, of approximately seven acres of land in the area bounded by Hemingford Road, Richmond Avenue, Barnsbury Road and Copenhagen Street, the site presented an obvious choice for the provision of public open space and this was proposed in the Initial Development Plan.

The Barnsbury Environmental Study Group report was published in October 1969, but the officers of the Greater London Council were not clear as to the proposals it contained:

"The proposals in the Barnsbury Study appeared to be conflicting: they could be read as indicating residential, open space and education uses, or some combination thereof".

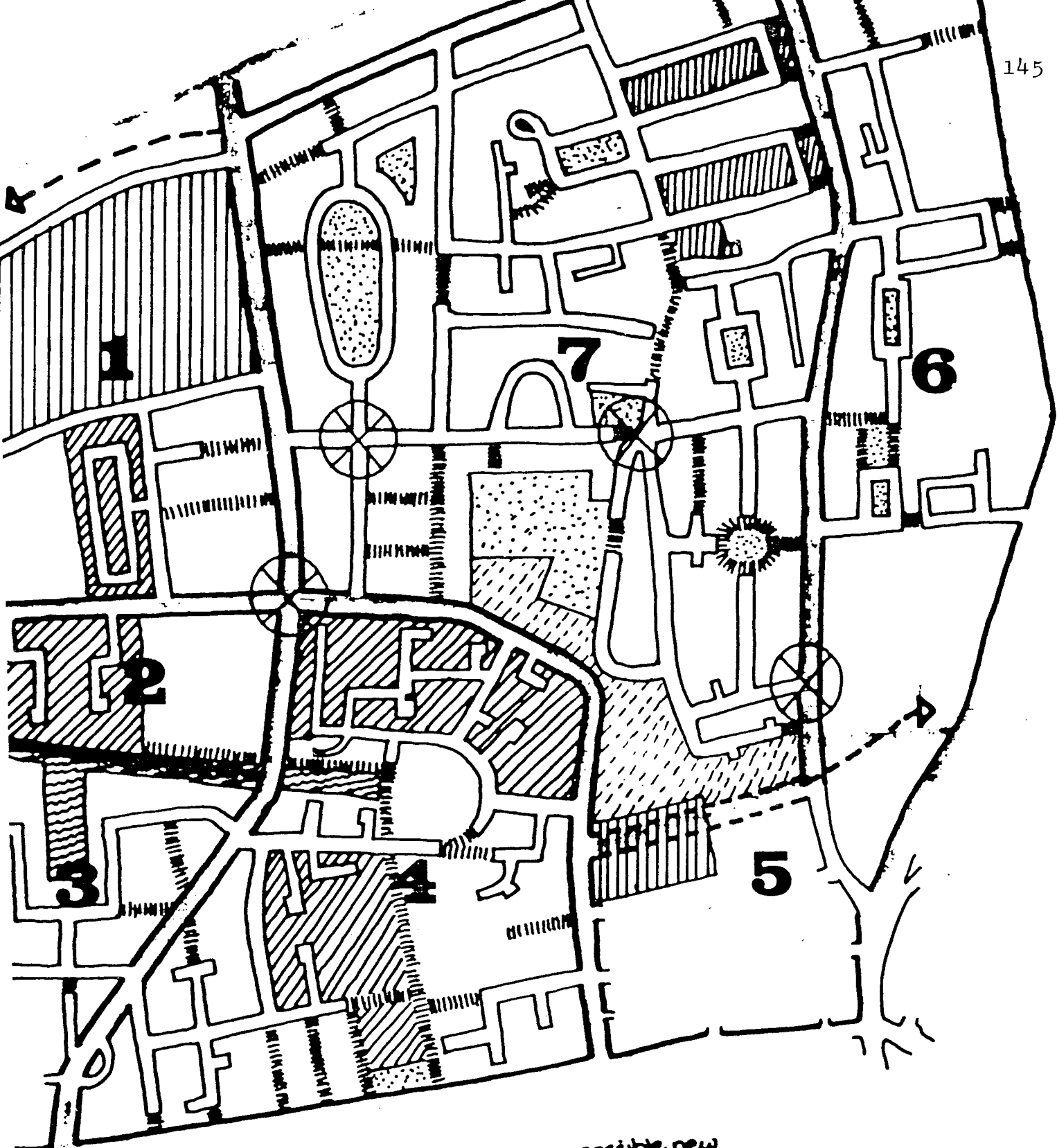
"The Study indicates that future provision of open space might be met otherwise than by taking the whole of the area at present zoned for the purpose." (72)

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(72) Greater London Council Joint Report by Director of Housing and the Valuer & Estates Surveyor, ref. VA/AH/IIT/58948/8636, (11th June 1969), para. 6

However, the Barnsbury Study's summary map of proposals for the area, clearly indicates the containment of the public open space at the line of the rear garden walls of the east terrace of housing in Hemingford Road, (see map fig. 4.18).

There was therefore considerable indecision as to the future use of the case example area and thus the area was blighted by the open space proposal; this blight was the principle cause of the decline in the condition of the housing. The Hemingford Road Compulsory Purchase Order was not the only area affected in this way, and this will be shown in two other case examples later in this work.



Existing green spaces needing improvement

Road taking through traffic

Improvement at road junctions

possible new green spaces

New development

possible long term extensions

pedestrian ways (some with parking provision)

Canal and canal basin

Roads essential to the environmental areas

L.A. Housing areas needing landscape or other improvement

fig. 4.18 BARNSBURY STUDIES SUMMARY MAP OF PROPOSALS FOR THE AREA

II BEFORE THE PUBLIC ENQUIRYii. Action by London County Council and  
Greater London Council 1965 - 1972a. Narrative

Unlike the situation outlined in the notional part III case, analysed later, there was no statutory duty requiring Medical Officers of Health to organise periodic inspections of housing in their areas in 1965; this duty was imposed in the Housing Act 1969.

However, the Ministry of Housing and later the Department of the Environment used Public Health Officers as their agents to carry out quinquennial condition surveys. The object of these surveys was to provide statistical material related to housing conditions, for analysis by the Department of the Environment for use in Governmental policy making. Thus, before 1969, Public Health Officers would obtain a general notion of the housing conditions in their areas, both by virtue of their surveys for the Department of the Environment and by their general day-to-day duties. It was probably in one of these two ways that the case example area was identified for further investigation by the Greater London Council's Medical Officer of Health in 1965, and subsequently included in their slum clearance programme.

In 1969 the area was investigated by the Public Health Officer, as required by the Housing Act 1957, on the basis of a 10% sample.

Following his receipt of the survey results, the Greater London Council's Medical Officer of Health consulted the Medical Officer of Health for the London Borough of Islington, as a matter of courtesy and professional etiquette, to establish the latter's opinion of the proposed Compulsory Purchase Order, prior to the formal submission of the representation to the Greater London Council Housing Committee. This was confirmed in correspondence, when the Housing Committee Chairman stated ..... "The Medical Officer of Health of the London Borough of Islington has not dissented from the view of the Council's Medical Adviser." (73)

The Medical Officer of Health produced his official representation under section 42 of the Act on the 9th August 1968 and this, together with a joint report from the Director of Housing and the Valuer and Estates Surveyor, along with a concurrant report from the Treasurer to the Council, were submitted to the Housing Committee on 26th June 1969.

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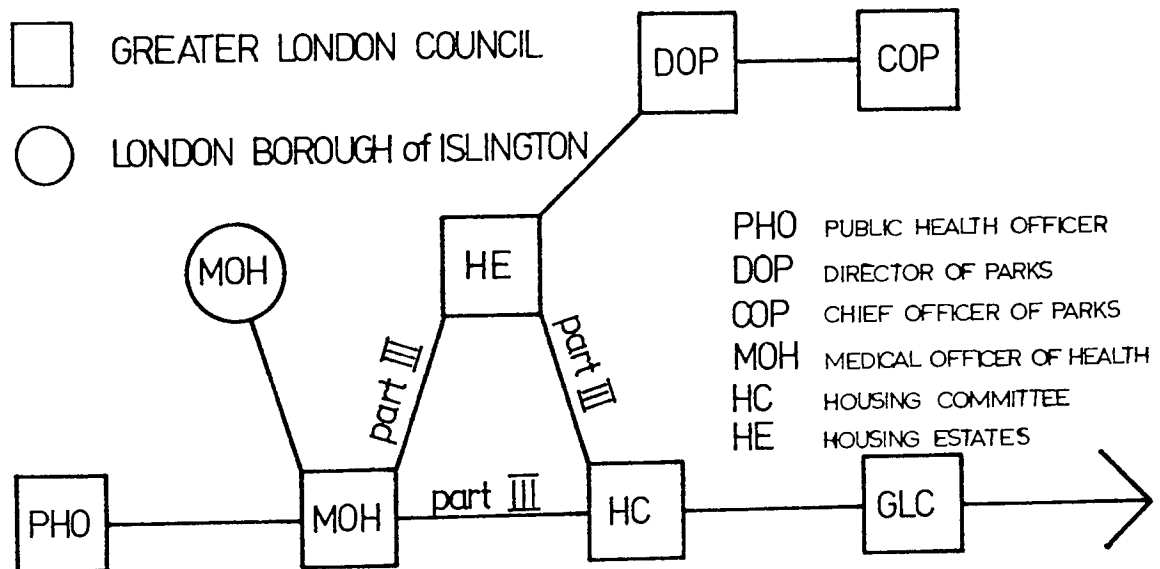
(73) Director of Housing & Valuer & Estates Surveyor, GLC,  
op cit,

These reports recommended that part III action be implemented and explained the land-use zoning, the financial estimates of acquisition and confirmed that the Greater London Council had sufficient excess capacity in its housing stock, to rehouse dispossessed people affected by the proposed Compulsory Purchase Order. (74)

Moreover, the report stated:

"The Chief Officer of the Parks Department states that the expansion of the existing Barnsbury Park is urgently needed". (75)

This situation can be illustrated diagrammatically, see decision-tree fig. 4.19 below.



(74) Director of Housing & Valuer & Estates Surveyor, GLC  
op cit,

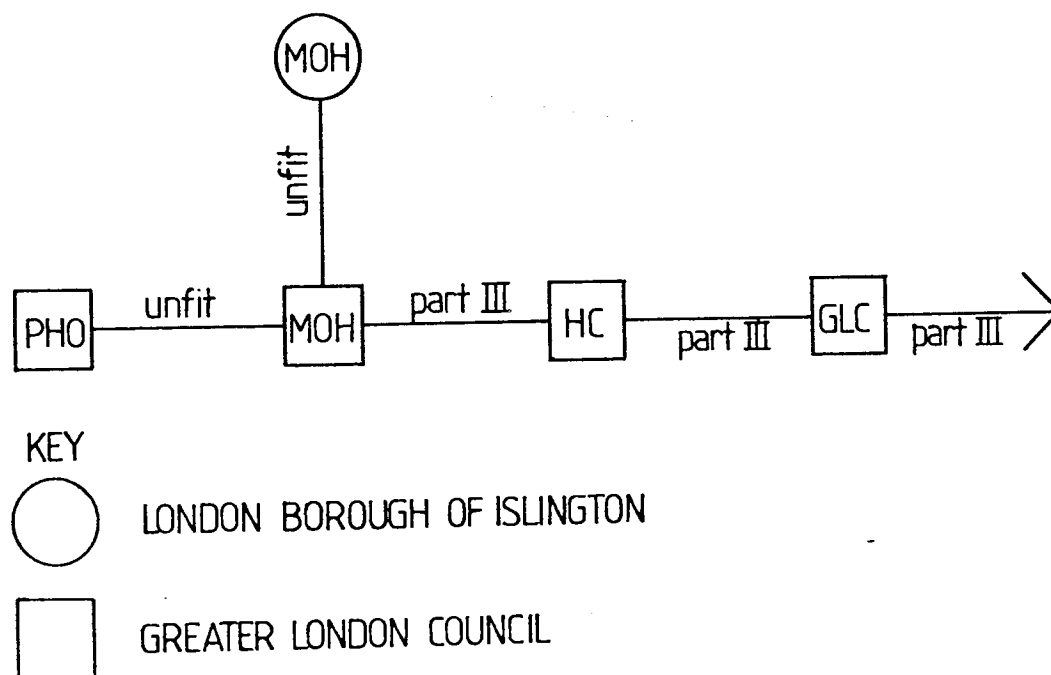
(75) Ibid,



The Committee were given no information as to the other options open to them as an alternative to part III action, and they therefore accepted the Medical Officer of Health's recommendations to Compulsory Purchase the houses in the area. Thus at this point the situation can be expressed as a simple decision-tree, see fig. 4.20 below.

DECISION-TREE

DIAGRAM OF THE ORIGINAL PART III CPO DECISION fig. 4.20



Since the main work of the Greater London Council is carried out by Committees, it is very rare for the full Council to interfere with decisions made by Committees and the Compulsory Purchase Order resolution was passed automatically.

b. Analysis of Some Factors in the Greater London Council's Decision-Making Process Resulting in the Part III Order

There were a number of options under part II of the Housing Act 1957 which, had they been presented to the Housing Committee before its acceptance of the Medical Officer of Health's Compulsory Purchase Order representation, could have influenced their decision.

Some of these options will be examined through later case examples and in the notional dry-run CPO, which will be examined later.

Had the Greater London Council Housing Committee been provided with an evaluation of these options for dealing with the unsatisfactory housing, the alternatives would have been presented in a different way, (see decision-tree fig. 4.21).

The decision-tree shows the relationship of the Greater London Council's Planning Committee to the decision-making process. Had the houses been found to be fit, or poor but capable of being rehabilitated by one or more of the various options, then the Committee could have decided either to set in motion the process for formally re-zoning the area for residential use, or, (as has been shown in John Fraser's legal opinion earlier), they could simply have decided to take no

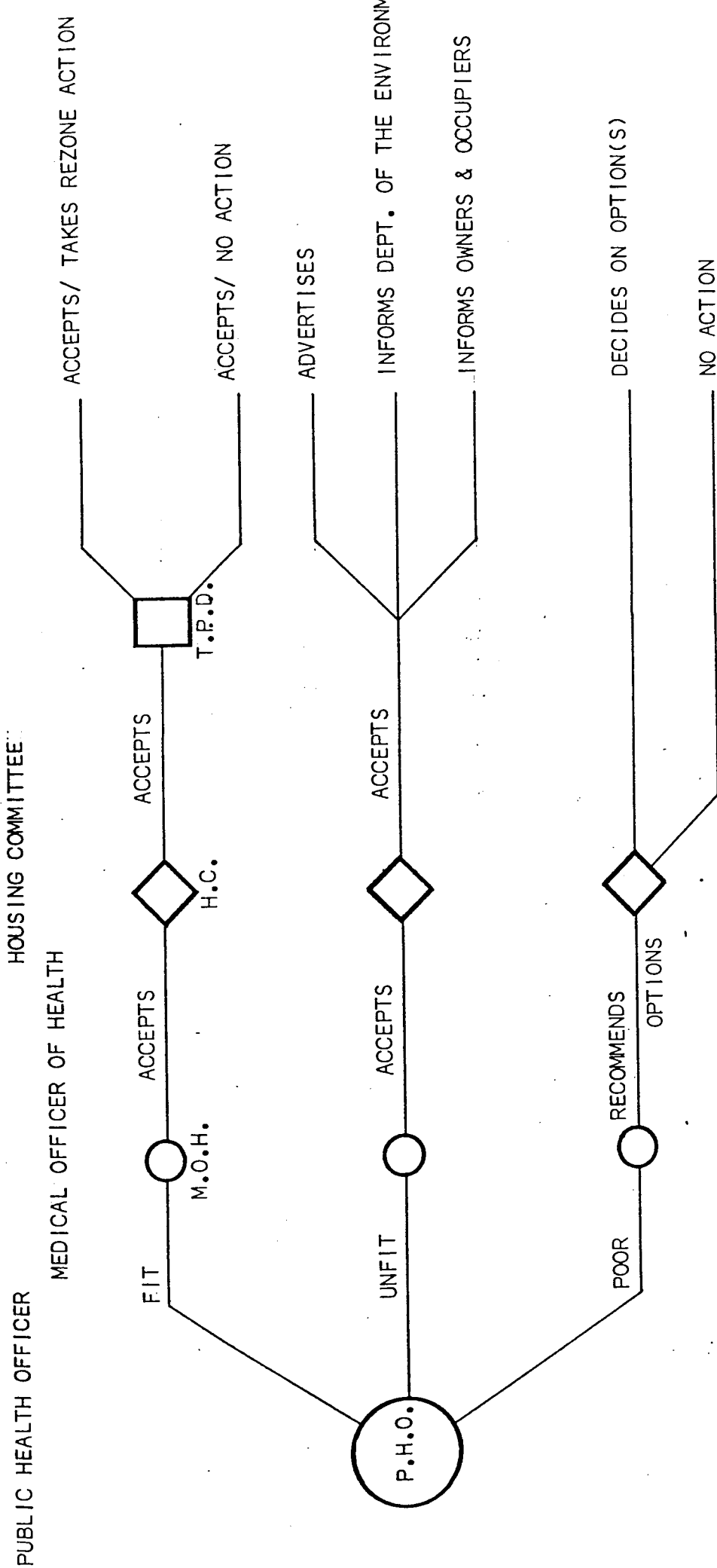


FIG 4.21: DIAGRAMMATIC REPRESENTATION OF BASIC ALTERNATIVES FOR DEALING WITH THE HOUSES.

T.P.D. = TOWN PLANNING DEPARTMENT

action but note the situation and take it into account when proceeding with the implementation of their open space programme of development.

However, there were two other factors which, taken together with the above, could have 'weighted' an evenly balanced argument towards a decision to retain and renovate the housing.

Firstly, it would have been useful for the Housing Committee to have known something of the hopes and aspirations of the occupants of the houses. A simple social survey would have given useful information, for example:

1. An indication of the willingness and ability of owner-occupiers to improve their homes if the planning blight were removed and their houses became eligible for grant-aid.
2. Tenants' willingness and ability to pay higher rents for improved living accommodation.
3. Tenants' attitudes to becoming Greater London Council tenants.
4. Absentee landlords' willingness and ability to carry out improvements.

Secondly, Councillors could have been provided with an architectural and townscape assessment of the area, so that, in the event that the alternatives to clearance were found to be marginal, then the aesthetic quality of the houses in the total environment could have been a conclusive factor in a decision whether or not to retain the buildings.

A very important factor emerged from discussions with Councillors and officers of the Greater London Council and the London Borough of Islington, who have stated that they had been influenced by the fact that the Clearance Area was officially and legally zoned for open space purposes.

Indeed, the Greater London Council's Director of Housing and Valuer and Estates Surveyor's report of 11th June 1969 stated:-

"The Director of Planning states that the site is in an area zoned in the Initial Development Plan for public open space. It is programmed for development by 1972. The Chief Officer of the Parks Department stated that the expansion of the existing Barnsbury Park is urgently needed." (76)

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(76) Director of Housing & Valuer & Estates Surveyor, GLC,  
op cit, p.1 para. 4

However, this is denied by the Chairman of the Housing Committee in his statement ... "It seems to us that the public interest requires that first things be put first, and we believe that it would be wrong to delay taking the necessary powers to improve the lot of those occupying unfit property, until decisions are taken on the eventual land use." (77)

Apart from the fact that the land use of the Compulsory Purchase Order area had already been defined in 1951, the Chairman's point is quite proper in law since .... "If the Local Authority's main intention is to obtain public open space to implement the development plan then it should use its powers under the Town and Country Planning Acts for that purpose and not rely on the Housing Act powers to implement a Town Planning objective. To do so would be ultra vires." (78)

However, several Councillors (including the three representing Barnsbury in the London Borough of Islington), were quite clear that the decision to Compulsory Purchase the houses was influenced by the extra planning gain of obtaining a long term objective for the westward expansion of Barnsbury Park.

There are two relevant factors in which the two issues were related.

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(77) Horace Cutler, letter to J.G. Roberts, (10th December 1969)

(78) John D. Fraser MP, legal opinion, (9th November 1970)

The first was that the houses had become delapidated due to the planning blight resulting from the open space zoning.

The second became clear at the public enquiry, when the London Borough of Islington's Town Planning witness stated that the retention and rehabilitation of the houses was contrary to the Initial Development Plan zoning and as such would be classed as a major departure from the plan. This would require ministerial approval and would be difficult and time consuming to achieve from the administrative and legal points of view.

It was also stated that for this reason, the London Borough of Islington could:

1. give no planning consents for conversion of housing in the area;
2. would give no grant aid for any works of improvement or renovation;
3. would not provide mortgages for the private acquisition of houses in the area for owner occupation.

However, this point of view is not valid in law, since the fundamental legal point is ... "If the houses are not unfit then it would hardly be a major departure from the development plan to keep them fit by utilising the powers of the Housing Act 1969." (79)

Thus the Councillors could, and should, have been given clear guidelines on the legal implications involved in a decision to retain the buildings which were located in an area zoned for public open space. Their options in this situation can be expressed diagrammatically, (see decision-tree fig. 4.22).

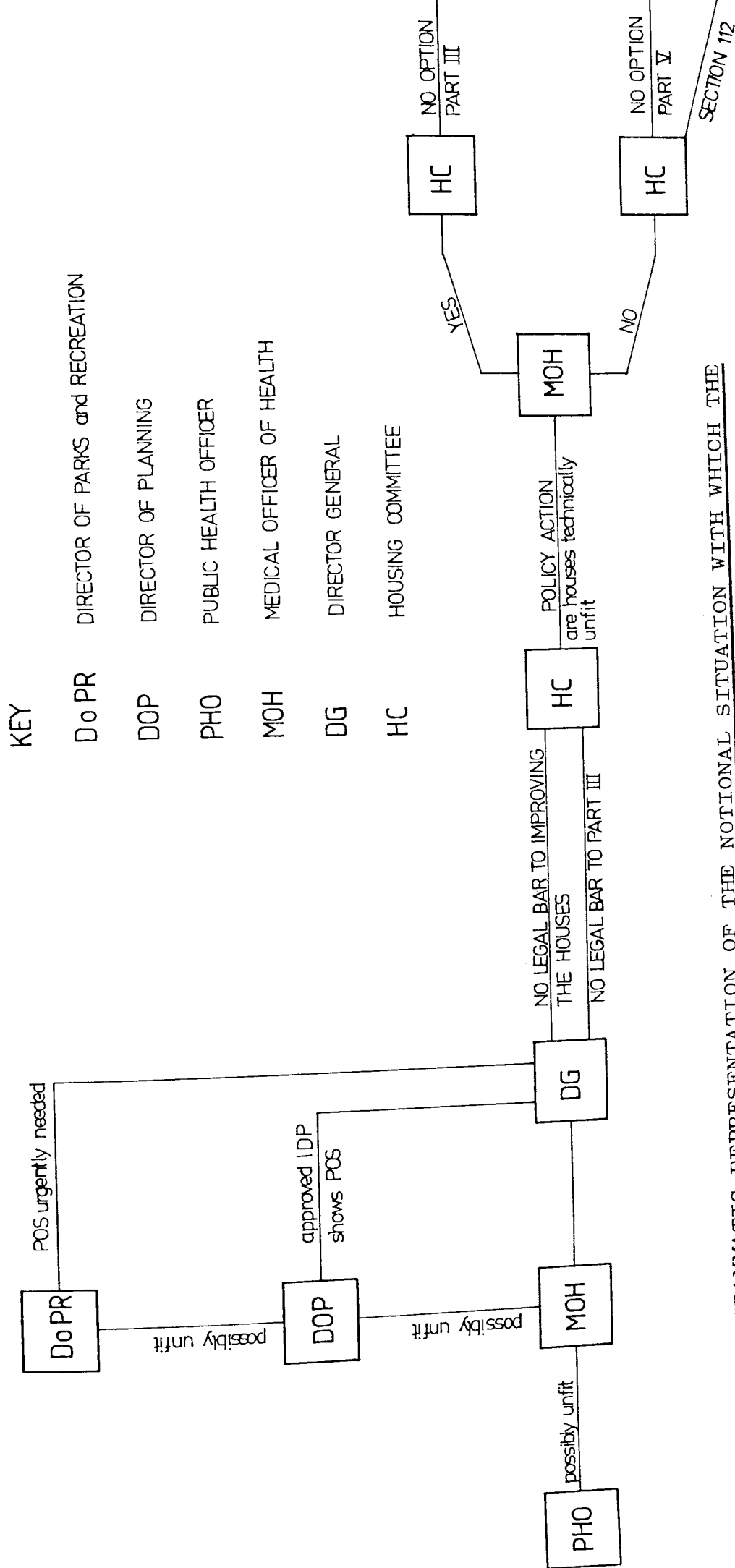
Had the Housing Committee been given clear guidelines on the legal implication involved in a decision to retain the housing in an area zoned for public open space and been provided with an evaluation of the architectural and social surveys, their options at this point could be expressed in such a way as to 'weight' a marginal decision to retain the housing, (see decision-tree fig. 4.23).

It is apparent that the Greater London Council Housing Committee assumed that the Council's Medical Officer of Health had considered the possibility of improving the houses as the Chairman of the Committee wrote on 10th December 1969,

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(79) John D. Fraser MP, op cit.





- KEY
- Do PR DIRECTOR OF PARKS and RECREATION
  - DOP DIRECTOR OF PLANNING
  - PHO PUBLIC HEALTH OFFICER
  - MOH MEDICAL OFFICER OF HEALTH
  - DG DIRECTOR GENERAL
  - HC HOUSING COMMITTEE

fig. 4.22 A DIAGRAMMATIC REPRESENTATION OF THE NOTIONAL SITUATION WITH WHICH THE GREATER LONDON COUNCIL HOUSING COMMITTEE COULD HAVE BEEN FACED ON 10TH DECEMBER 1969, ASSUMING THEY HAD BEEN GIVEN GOOD LEGAL ADVICE

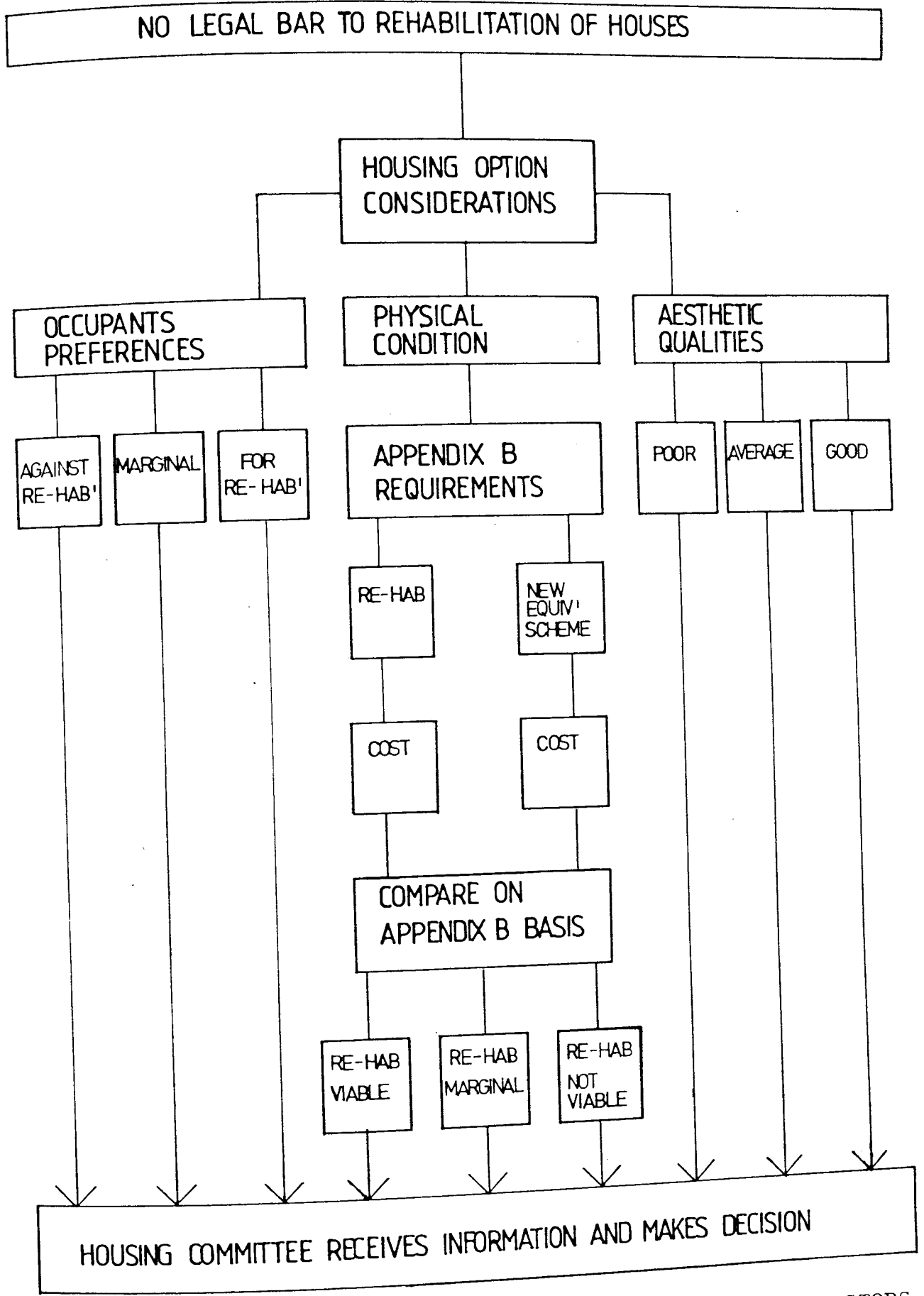


fig. 4.23 DIAGRAMMATIC REPRESENTATION OF 'UNWEIGHTED' FACTORS WHICH COULD HAVE BEEN BROUGHT INTO THE DECISION-MAKING PROCESS OF THE GREATER LONDON COUNCIL HOUSING COMMITTEE IN CONNECTION WITH HEMINGFORD ROAD

"The Council's Officers were unable to recommend any action other than clearance because, inter alia, it appeared that the future 'life' of these properties was insufficient to justify costly rehabilitation work." (80)

It was also apparent that the Chairman of the Greater London Council's Housing Committee was unaware of the other courses of action open to the Greater London Council, or the London Borough of Islington, since he states .... "the properties are not owned by this Council. Therefore it has no control over them and could neither maintain them nor 'allow' them to fall into disrepair." (81)

When making a decision there are certain premises which are 'taken as read', that is to say they are considered as 'conventional wisdom'.

Having regard to the ethic current at that time, that all unsatisfactory housing should be demolished and the Initial Development Plan should be considered almost sacrosanct, there are two points which might well form a part in the underlying attitudes of Councillors faced with a similar decision at the present time.

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(80) Chairman, GLC Housing Committee, letter to J.G. Roberts,  
Chairman of Barnsbury Association, (10th December 1969)

(81) Ibid

Firstly, bearing in mind the chronic housing problems of the inner urban areas of London generally, and that of Islington in particular, it would have been useful for Councillors to have been able to consider the further point that to clear the area and to use it as open space would involve a serious housing loss and that rehabilitation might have been more beneficial than clearance.

Secondly, there is the requirement that, under Section 42(1) of the Housing Act 1957, a Local Authority must show that it can provide 'suitable accommodation' for people who are deprived of their homes as a result of slum clearance schemes. It could have been argued that the occupants of this clearance area would be more 'suitably accommodated' by remaining in their area in their existing houses, than elsewhere in Greater London Council accommodation.

It has not been possible in this research to trace the movement of people who have been forced to leave the Compulsory Purchase Order area, but this would be a useful subject for future research. Particular concern was expressed by John English, Ruth Madigan and Peter Norman in their book 'Slum Clearance', which highlighted tenants' deprivation of choice in housing

following part III Compulsory Purchase Order action, with special regard to the effect upon old people and owner occupiers. (82)

Having discussed some of the factors which influenced the decision to proceed with the part III Compulsory Purchase Order and having examined other factors which, had they been evaluated and considered by the Greater London Council, might have resulted in a different decision, it would now be worth considering some other possible subjective influences on the decision-making process in the Housing Committee at that time.

From later discussions with officers and members of the Greater London Council and London Borough of Islington and from evidence presented by the Medical Officer of Health at the Local Public Enquiry, it is evident that there were a number of other factors which had a bearing on the decision.

Firstly, the office of Medical Officer of Health has a statutory significance and the appointment of people to this post has to be confirmed by the Secretary of State for the Department of the Environment.

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(82) John English, Ruth Madigan & Peter Norman, Slum Clearance (1976)

The book highlights the alienating experience that slum clearance has on residents and the resulting dependence that it places upon the Local Authorities

Secondly, it was considered that the decision as to whether or not a house was a slum, was a matter of "medical opinion". (83)

One senior officer of the Council expressed the view that, in the event of the Council rejecting the Medical Officer of Health's representation to Compulsory Purchase an area, the Medical Officer of Health would have to resign. (84) However, the Local Authority are not bound to act on the representations of the Medical Officer of Health. For instance, Section 42, Sub-section (1), of the 1957 Housing Act states that where a Local Authority, upon consideration of an official representation .. are satisfied, then they can define a clearance area. "The wording of the Act seems to make it clear that Councillors have a choice of not being satisfied." (85)

Secondly, the costs of acquiring the part III lands were relatively low. There were two reasons for this: firstly, due to the effect of planning blight, the houses were not in good repair, and were located in a 'twilight zone'; secondly, tenanted houses would be bought at land value only in the event that the part III Compulsory Purchase Order was confirmed.

- 
- (83) Valuation & Estates Department GLC, letter to Raymond Andrews RIBA LEG Chairman, (11th June 1970)
- (84) Christopher McCarthy, Senior Planner LBI, an interview (12th July 1978)
- (85) John D. Fraser MP, letter to the Minister, (9th November 1970)

Thirdly, and finally, Councillors have subsequently made it clear that the final decision would be made after full discussion and analysis of evidence by the Secretary of State for the Department of the Environment, following a Local Public Enquiry.

Following the resolution to Compulsory Purchase the area under part III, the statutory notices were issued to owners and tenants of the houses affected and advertisements advising of the Greater London Council's proposal were published in the London Gazette and local newspapers.

ii. Reaction to the Greater London Council Decision 1969 - 1970

It would now be worthwhile to examine the situation during the period from 22nd July 1969 to 24th November 1970, following the Greater London Council Housing Committee's acceptance of their Medical Officer of Health's recommendation to clear the area, up to the time when the London Borough of Islington's Town Planning and Development Committee passed their resolution to Compulsory Purchase the area and, moreover, to extend it to include the island site to the south.

a. Political Background

This period was one of a unique political nature in Islington, since the Conservatives had a majority in all three tiers of Government; in Parliament, at the

Greater London Council and in the London Borough of Islington. The Barnsbury Councillors were independent and had been elected in response to a manifesto of environmental issues precipitated by the Barnsbury Environmental Study.

There was no suggestion in the Housing Committees or in full Council of either the Greater London Council or the London Borough of Islington, that the Islington (Hemingford Road) Compulsory Purchase Order area was in any way a subject for party political action between the Labour and Conservative Parties. However, the Independents took a strong line in favour of the retention of the housing in the original Greater London Council Compulsory Purchase Order area, and in all of the extended area, except the Copenhagen Street frontage.

b. Initial Responses to the Proposed Compulsory Purchase Order

Following the publication of the Greater London Council's proposal to Compulsory Purchase the area, there was an immediate reaction from the residents of the houses affected. There was also a strong response from the Thornhill Estate Association and the Barnsbury Association - two very active local societies, the first concerned primarily with leasehold enfranchisement in the Thornhill Estates and the second, with local civic amenities and local affairs in general.



The response took the form of political lobbying and many letters were sent to the Greater London Council Councillors, exhorting them to consider a programme of rehabilitation instead of slum clearance.

Islington Councillors were also lobbied and many of them - including the leader of the Council and the Chairman of the Town Planning and Development Committee, (which acted as the Housing Committee) - expressed sympathy with the arguments that the houses should be retained.

Within a short time the campaign was unified under the aegis of the Barnsbury Association, who coordinated the lobbying campaign. This arrangement was regarded as temporary, until a 100% survey of occupants' attitudes was carried out, as will be shown later.

From correspondence with the Chairman of the Greater London Council Housing Committee, it became clear that the lobbying of Greater London Council officers and members was not going to result in a corporate decision to reverse the Compulsory Purchase Order resolution, and it was decided to prepare for three situations:

1. The transfer of responsibility for the Clearance Area from the Greater London Council to the London Borough of Islington, which was under consideration at that time.
  
2. The gathering and submission of evidence which could be used initially to try to persuade the Greater London Council or London Borough of Islington to rescind the Compulsory Purchase Order, either by formally taking a decision to do so, or by simply allowing the Compulsory Purchase Order resolution to become void by the fluxion of time. (86)
  
3. The preparation of evidence for a public enquiry, should the exhortations to the London Borough of Islington and the Greater London Council prove ineffective.

The Barnsbury Association were anxious that, before becoming co-ordinators for the occupants of the affected houses, they should establish tenants' and owners' attitudes to the Greater London Council's proposal, by means of a social survey of the area.

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(86) This process is possible under Section 43 (4) of the Housing Act 1957

c. Social Survey of Residents in the Area

Accordingly, under the aegis of a professional market researcher, the Association carried out a social survey, the results of which were published in December 1969. (87)

The social survey was carried out on 50% of the houses, the occupants of which were selected on a random basis from the electoral register. A summary of the results of the survey is as follows:-

1. 48% of the sample were owner occupiers and the remainder were tenants.
2. 47% of the people questioned were in the 65-90 year age group with "another concentration in the middle-age group 45-54, i.e. 'electors' with grown up families, and only a sprinkling of other ages."
3. 67% of the sample did not consider that their accommodation was a slum and were displeased with the proposed Compulsory Purchase Order. This attitude was not confined solely to owner occupiers, being shared by 53% of tenants.
4. 52% of the sample were retired from work and the remainder worked in skilled or semi-skilled jobs.

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(87) Gordon Thompson & Rohan Bell, A Study of the Matilda Street, Everilda Street, Shirley Street and Hemingford Road Compulsory Purchase Area, (December 1969)

5. 18 of the 24 persons interviewed stated that they would be happy to stay in their currently occupied accommodation if the houses were repaired, improved and provided with full modern amenities.

d. Physical Survey of Housing in the Area

In addition to the findings of the social survey, the Barnsbury Association report also included a short analysis and description of the townscape of the area, and the results of a survey into alleged unsatisfactory conditions of the houses.

A summary of the survey was based upon an external examination of all the houses and an analysis of six selected typical houses which were surveyed thoroughly, the results of the survey findings being related to the ten point standard set out in the Act.

The findings are briefly summarised as follows:

1. Almost all basements were damp and did not comply with current daylighting and ventilating standards.
2. All houses had a W.C. and water supply, although approximately 66% had no bathroom.
3. Almost all the houses were in reasonable structural condition and repair, having regard to their age and the effects of planning blight.

4. Most houses had adequate storage and kitchen arrangements.
5. The arrangement of rooms was such that the houses were capable of beneficial rehabilitation.
6. None of the houses were unstable or classifiable as a dangerous structure, in the meaning of the London Building Acts (1939) Amendment Act.
7. Most of the housing was capable of rehabilitation within the financial limits of discretionary grant levels, that is to say for an expenditure of £2,400 most of the houses could have been made fit.

The report's findings were based upon the fundamental assumption that, with the exception of the question of stability, no other single item in the ten point standard would be sufficient to warrant the slum clearance Compulsory Purchase Order.

Since there was strong support from the occupants of the houses in the area, and as the cost of making the dwellings fit appeared reasonable:

1. The Barnsbury Association agreed to co-ordinate the campaign on behalf of the appellants;
2. This situation can be illustrated diagrammatically see fig. 4.24.

The Barnsbury Association submitted the Report to the principal officers and members of the Greater London Council and the London Borough of Islington in December 1969.

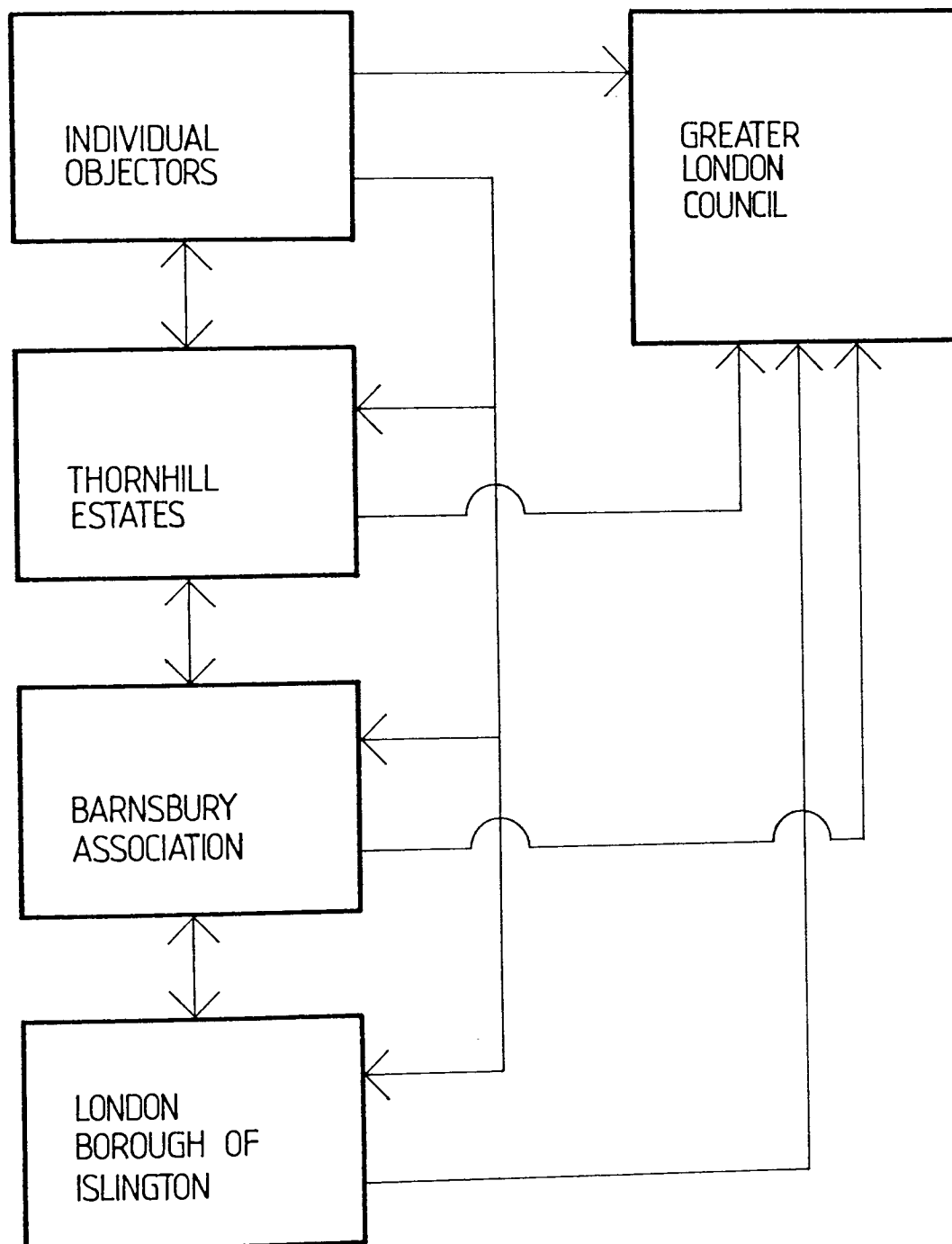


fig. 4.24 DIAGRAMMATIC REPRESENTATION OF PRIMARY & SECONDARY RELATIONSHIPS IN THE LOBBYING CAMPAIGN TO PERSUADE THE GREATER LONDON COUNCIL TO ABANDON ITS PART III C.P.O. ACTION IN FAVOUR OF RETENTION & REHABILITATION OF MOST OF THE EXISTING HOUSING

iii. Action by the London Borough of Islington (1970)

a. Action by Director of Development

In response to the lobbying campaign and the evidence submitted by the Barnsbury Association, members and officers of the London Borough of Islington expressed their willingness to consider means by which the houses could be retained.

Accordingly, in January 1970, the Director of Development of the London Borough of Islington was investigating other means of dealing with the houses in the proposed Compulsory Purchase Order area, since the transfer of the responsibility for the area to the London Borough of Islington was imminent, and members of the Council had expressed themselves sympathetic to the retention and rehabilitation of the houses.

His investigation was carried out through two agencies, the London Borough of Islington's Architectural Department and the Barnsbury Housing Association.

b. Action by the Barnsbury Housing Association

On 27th January 1970 the Director of Development of the London Borough of Islington asked the Barnsbury Housing Association if they would be interested in involving themselves in the area and, if they were, to produce a

report setting out their proposals for running a rehabilitation and social management programme. The Barnsbury Housing Association agreed to investigate the potential for the area and appointed the writer's practice as Consultant Architects and Town Planners. (88) The consultants worked closely with the Barnsbury Association's social survey team, local engineers and quantity surveyors, and produced a probe report for presentation to the Barnsbury Joint Steering Group meeting on the 12th February 1970.

The report was presented in writing to the Steering Group and no members of the consultant's team were present during the discussion which followed. However, one member of the Barnsbury Housing Association did attend in his capacity as a Barnsbury Councillor. (89) Thus the presentation to the Committee was not dealt with in the normal way in which schemes would be presented - that is to say, in the presence of their authors, who, if present, would be available to make any necessary explanations, answer questions and would hear at first hand the views of the Committee members. However, the Barnsbury Steering Group were sufficiently interested in the possibilities outlined in the probe report to request that further and more detailed information should be submitted by the Barnsbury Housing Association.

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(88) Meers Pring Wager & Partners, Architects, Surveyors and Town Planners

(89) Cllr. Thomas W. Blyth, L.L.B.



Accordingly, the Barnsbury Housing Association's consultants produced their final report, which was completed and submitted to the Barnsbury Joint Steering Group and the London Borough of Islington on the 22nd May 1970.

c. The Barnsbury Housing Association Scheme

The Barnsbury Housing Association scheme involved the demolition of the four corner shops and the re-development of the corner sites and three other bomb destroyed sites in the area; the new development would have provided seven two-bedroom units with garages under. Thirty-two of the remaining houses were recommended for rehabilitation with basement bed-sitter units with maisonettes on ground and first floor level; some of these would be two bedroom and others three bedroom units, depending upon whether or not new back additions were to be constructed.

The proposed scheme would have provided 91 units of various sizes, together with a 75% garage provision included in a scheme of environmental improvement. It was recommended that the industrial users should be located elsewhere nearby in the locality.

The costings for the scheme were agreed between the quantity surveyors acting for the Barnsbury Housing

Association and the London Borough of Islington, and totalled £350,000 - that is to say an average unit cost of £3,846. This figure was significantly higher than that presented by the Barnsbury Association, because the two schemes had been priced upon different bases.

The Barnsbury Association estimated cost was £2,400 per unit for works required to make the houses statutorily fit, whereas the Barnsbury Housing Associations' costs included elements of redevelopment, garage provision and environmental improvements. The Barnsbury Housing Association recommended that the houses be acquired under Part V of the Housing Act 1957, either by Compulsory Purchase Order, or private treaty and that occupants' wishes should be matched with proposals as nearly as possible. That is to say, that the few tenants who did not wish to remain would be rehoused by the London Borough of Islington or Greater London Council and those who wanted to stay in the area would be accommodated in the Barnsbury Housing Association scheme.

d. Action by Barnsbury Joint Steering Committee

The Barnsbury Housing Association scheme was considered at the Greater London Council/London Borough of Islington Joint Steering Group on 23rd June 1970, following the presentation of a report by the London Borough of Islington's Director of Development; the conclusions of the report are summarised as follows:

1. Both Medical Officers of Health were firmly of the opinion that the area should be treated as a part III Compulsory Purchase Order.
2. Rehabilitation was contrary to the zoning of the area and it would be necessary to implement a major departure procedure to allow the proposal to go forward.
3. The rehabilitation of the housing would be too costly and the majority of properties were not suitable for conversion.
4. The officers did not agree with many of the opinions expressed in the Barnsbury Housing Association's report.
5. The Barnsbury Housing Associations' proposals included four properties, which were not included in the part III Order.
6. The officers were not clear whether the costs submitted by the Barnsbury Housing Association excluded or included necessary structural repairs. The Barnsbury Housing Association's structural survey was merely based on an inspection from the street.
7. Rehabilitation was not viable in economic terms.
8. The officers would not recommend the Council to give the Barnsbury Housing Association financial assistance for the development.

9. The London Borough of Islington was short of open space and the Compulsory Purchase Order land could be used to redress the deficiency.
10. Available funds could be better spent elsewhere in Islington.
11. The Greater London Council would only allow the effective rescindment of the Compulsory Purchase Order if the London Borough of Islington would approve a loan to the Barnsbury Housing Association for the purchase and repair of all the properties in the area.
12. The properties were not included in any existing or proposed list of buildings of special architectural or historical interest.
13. The matter could be resolved by the Minister following a public enquiry.

The report ended with a recommendation that the Greater London Council submit this part III Compulsory Purchase Order to the Minister.

This recommendation was not initially accepted by the Barnsbury Joint Steering Group, on behalf of the Greater London Council and the Town Planning & Development Committee of the London Borough of Islington, and the responsibility for the area was transferred to the London Borough of Islington.

This is clear from the Greater London Council Director General's letter to the Town Clerk of the London Borough of Islington on 3rd August 1970, which states:

"In pursuance of views expressed at the meeting of the Barnsbury Joint Steering Group on 1 July 1970, the Council's officers are preparing a report recommending that the Council should rescind its declaration of a clearance area and resolution to secure the demolition of the houses in the Hemingford Road area by compulsory purchase and should refer its Medical Officer's representation of unfitness to the Islington London Borough Council."

The grounds for these recommendations would be that the site is not required for any purpose of the Council (though a possible ILEA use part of it has been discussed), that the Borough Council has ideas for the use of the site and wishes to satisfy itself that compulsory purchase and demolition of all the properties is necessarily the best way of dealing with the unfit houses, and that the Borough Council is therefore willing, subject to the approval of the Minister of Housing and Local Government, to take over from the Greater London Council full responsibility for dealing with the representation of unfitness." (90)

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(90) Director General, GLC, letter to Town Clerk LBI,  
(3rd August 1970)

However, the officers of the London Borough of Islington had already decided to recommend proceeding with the Compulsory Purchase Order, and indeed to extend its area in their report to the Barnsbury Joint Steering Group on the 23rd June 1970.

e. Narrative and Analysis of Factors Resulting in the London Borough of Islington's Decision to Take Over the Greater London Council's Part III Compulsory Purchase Order and Extend the Clearance Area

Under Section 58 of the London Government Act 1963, the responsibility for open space was to be transferred to the London Boroughs. In order to ensure an orderly transfer of the responsibility for public open space, the Act required the Greater London Council and the London Boroughs to, "prepare and submit to the Minister a scheme concerning that land". This requirement also applied to properties or land not laid out as parks or open space at that time.

The London Borough of Islington set up a working party to examine the implications of the transfer and the members of the working party considered a report by the Borough Planning Officer on 27th April 1970, which recommended that the framework of the report should be organised to encapsulate the views of:

- a) The Director of Development
- b) The Director of Finance
- c) The Director of Legal and Administrative Services

This recommendation was accepted by the London Borough of Islington and accordingly a joint report was presented to the Town Planning and Development Plan Working Party on the 20th November 1970.

Paragraph 5.3 of this report states: (91)

"It is understood that the G.L.C. is preparing a layout for the 2.8 acres of land in their ownership to the south of the existing park, see Appendix 1 para. 2. It is possible that either the G.L.C. will implement the scheme with the Council indemnifying any costs, or it would fall to this Council to layout the land transferred. The land is cleared or derelict and includes closed roads. To the north of the existing park Nos. 163-185 Barnsbury Road are also included within the minimum completion areas, because of the likelihood of inclusion in the 1971-75 Slum Clearance Programme, and to provide access from the north and a link to Thornhill Gardens."

Prior to the meeting of the Barnsbury Joint Steering Group, the consultants to the Barnsbury Housing Association were complaining of a lack of response from the Greater London Council and the London Borough of Islington's officers, since the Barnsbury Housing Association's report had been submitted on 31st April 1970 and there had been no comment from either Council.

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(91) Director of Development, Director of Finance, Director of Legal & Administrative Services, LBI, Joint Report: Public Open Space - Implications of the Transfer of G.L.C. Parks & Open Spaces (20th November 1970) p.7, para. 5.3

Thus, since the Barnsbury Housing Association had been invited to become involved in the scheme and had agreed the costings of the development with the London Borough of Islington's surveyors, it was assumed that in principle the scheme would proceed. However, from an analysis of the Director of Development's report, it is clear that this was not the case and the bias of the report was totally against the renovation of the housing.

The factors listed in the report were reiterated and expanded in the public enquiry, an analysis of which follows later in this work. However, for the sake of clarity in the narrative, it would be worthwhile examining the points listed in d):

1. The fact that the Medical Officers of Health still considered the area for part III action can be understood, since it would have been difficult for them to recommend anything else without losing credibility. This factor will be discussed in more detail at the end of this case example.
2. The future use of the site had nothing to do with the part III decision in law, as shown earlier in the legal opinion from John Fraser, and should not have been a factor in the decision making process.



3. The rehabilitation scheme and costs submitted by the Barnsbury Housing Association had been agreed with the London Borough of Islington's surveyors, who expressed no doubts as to the viability of the scheme. If, subsequently, these or other officers considered the scheme too costly, they did not state the basis of this conclusion, neither did they discuss their misgivings with the Barnsbury Housing Associations' consultants.

The same applies to the suitability of houses for conversion. The report does not say in which way the properties were unsuitable, that is whether the rooms were too small, badly arranged, or whether the buildings were structurally unsuitable. In this instance too, the Councils' officers could have discussed the matter with the writer, but did not do so.

4. The officers did not inform the Barnsbury Housing Association that they disagreed with any of the opinions in the Barnsbury Housing Association's report.
5. The Barnsbury Housing Association's scheme could simply have omitted the few non-included houses; the option to do so was never offered.

6. The officers did not ask the Barnsbury Housing Association to clarify whether structural repairs were included or excluded in their costings. The structural survey was based upon internal and external inspections and two firms of structural engineers were consulted.

This should have been compared with the 10% sample surveys carried out by the Public Health Officer and upon which the Compulsory Purchase Order was based.

7. The officers' calculation of viability was based upon the "Appendix B" formula, on the assumption that the quality of the improved and converted dwellings was 60% of that of new buildings, and that the houses had a 40 year life. The Barnsbury Housing Association were not shown these calculations and had no opportunity of making representations upon these two important factors in the viability calculation. The effects of 'life' and 'quality' in the 'Appendix B' formula calculation, will be dealt with later in this section, as part of the evaluation of the public enquiry decision.
8. Since the officers of the Councils were recommending proceeding with the part III CPO, they would clearly not also recommend the Councils to provide funds for a scheme of renovation.

9. The open space zoning was covered in Item 2.
10. The officers did not say where the available funds could be better spent.
11. This point is understandable, since it allows the representation of the part III Order to be rescinded without loss of credibility on the part of the Medical Officer of Health. The wording of the recommendation is based upon that in the Act.
12. The buildings were not listed, neither was there any proposal at the time to do so. However, the report totally omitted to mention that the part III area was within the proposed Barnsbury Conservation Area.
13. The final item in the summary left the Committee the easy option of leaving all the technical arguments to be decided by the Minister after a public enquiry; this was the officers' firm recommendation stated at the end of the summary of conclusions.

The Barnsbury Joint Steering Committee decided to recommend that the London Borough of Islington should take-over the Greater London Council slum clearance area and part III Compulsory Purchase Order. The situation at this point can be diagrammatically represented as shown on the decision-tree fig. 4.25.

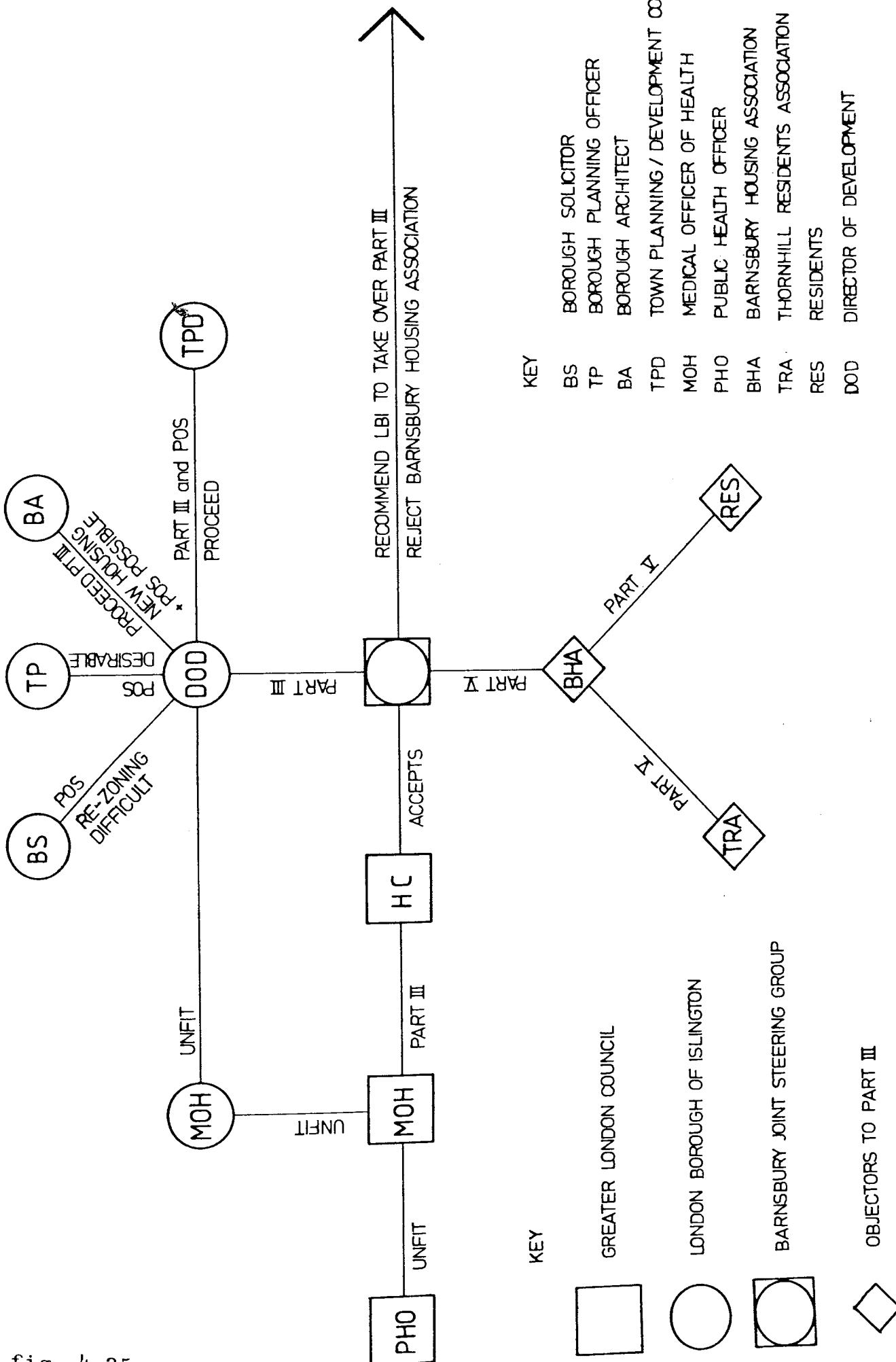


fig. 4.25  
 A DIAGRAMMATIC REPRESENTATION OF THE WAY IN WHICH THE L.B.I'S  
 TOWN PLANNING & DEVELOPMENT WORKING PARTY'S REPORT OF THE 20TH  
 NOVEMBER 1970 AFFECTED THE COMMITTEES DECISION TO PROCEED WITH  
 PART III ACTION

The recommendation to take-over and proceed with the part III Compulsory Purchase Order was presented to the London Borough of Islington Town Planning and Development Committee on 7th July 1970, and was discussed at length without a final decision being taken. On 13th October 1970 a report on the Compulsory Purchase Order area was again discussed, and this contained several items not included in previous reports, as follows:

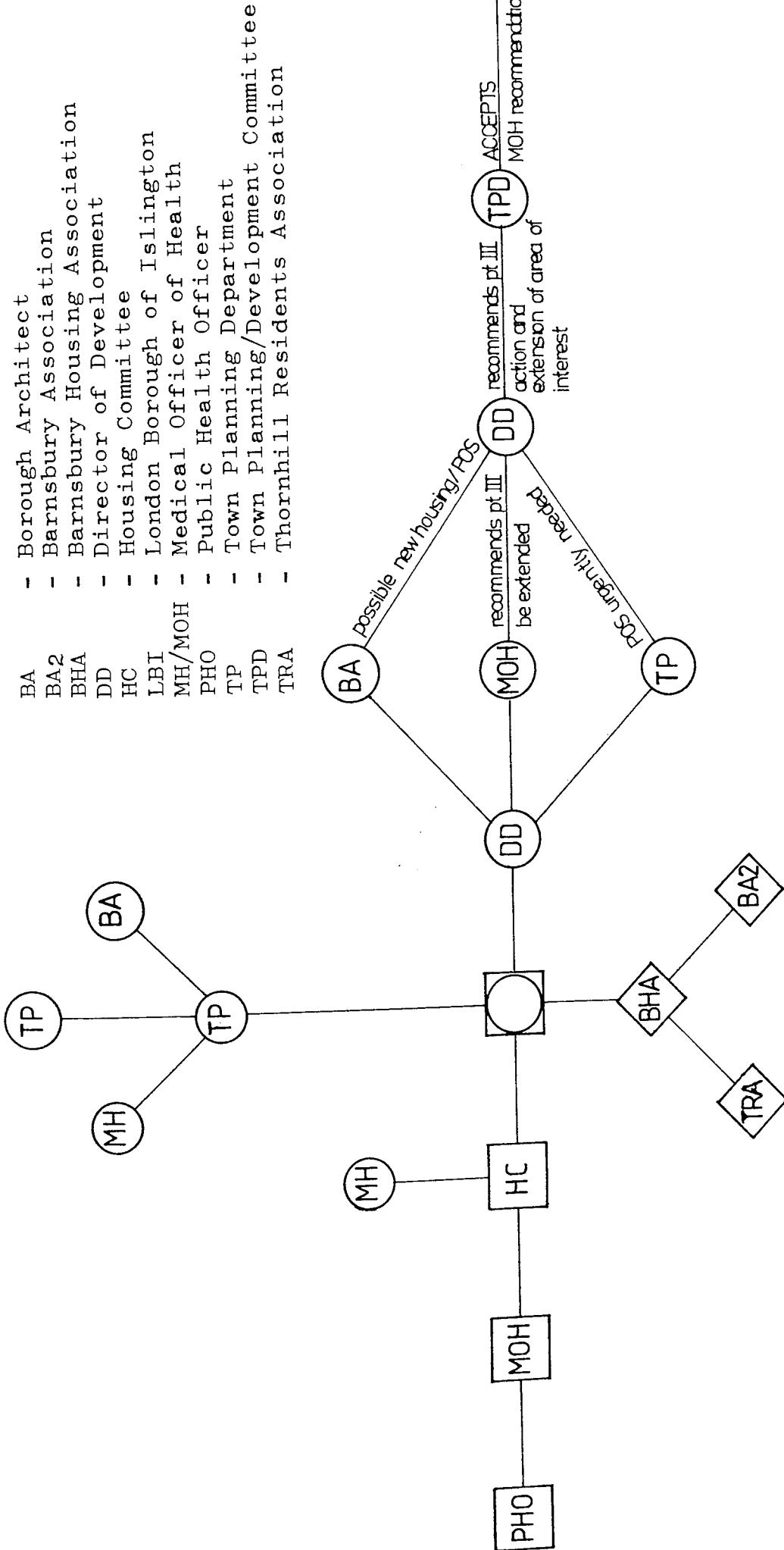
1. The officers of the Council had been in consultation with technical officers of the Ministry of Housing and Local Government, concerning the costings submitted to the Committee, and they concurred in the views expressed jointly by the London Borough of Islington and Greater London Council officers.
2. The Borough Architect produced a compromise scheme which envisaged "housing around a garden square of Shirley Street/Matilda Street/Everilda Street/Hemingford Road."
3. The London Borough of Islington's Medical Officer of Health reported that there were possibly further properties capable of representation under part III of the Housing Act 1957.

4. It was pointed out that, by proceeding with the part III Compulsory Purchase Order, the site could still be partly redeveloped for housing and partly used for open space and "would accord with the Council's policy of removing slum houses, increasing open space and improving the environment."

The Committee were recommended to accept responsibility for the making of a Compulsory Purchase Order under part III of the Housing Act, in respect of all those properties included in the existing Greater London Council order.

The Committee accepted this recommendation and the extension of the Compulsory Purchase Order area to include allegedly unsatisfactory housing to the south and passed a resolution accordingly. This was endorsed by the full Council on 24th November 1970 as a matter of formality, and the owners and occupiers were informed of the decision. The statutory requirement of advertising in the London Gazette and the local newspapers was observed and the Department of the Environment were formally notified of the Council's decision.

The situation at this point can be expressed diagrammatically, as shown in the decision-tree fig. 4.26.



- BA - Borough Architect
- BA2 - Barnsbury Association
- BHA - Barnsbury Housing Association
- DD - Director of Development
- HC - Housing Committee
- LBI - London Borough of Islington
- MH/MOH - Medical Officer of Health
- PHO - Public Health Officer
- TP - Town Planning Department
- TPD - Town Planning/Development Committee
- TRA - Thornhill Residents Association

fig. 4.26 DIAGRAMMATIC REPRESENTATION OF THE DECISION-MAKING PROCESS WHICH LED TO THE LONDON BOROUGH OF ISLINGTON TAKING OVER AND EXTENDING THE GREATER LONDON COUNCIL'S ORIGINAL PART III COMPULSORY PURCHASE ORDER ACTION

f. A Comparison Between the Greater London Council and the London Borough of Islington Housing Committees' Structure

At this point it is worth comparing the information submitted to the relevant Committees of both Councils - the Greater London Council Housing Committee and the London Borough of Islington Town Planning & Development Committee.

At the time of the Greater London Council's part III Compulsory Purchase Order decision, the Housing Committee's responsibility was to deal with all aspects of housing, including the development, maintenance and management of its own estates. It was also the Committee through which slum clearance action was taken by the Medical Officer of Health; the Committee had no planning role and planning matters were dealt with by another Committee of the Council.

Obviously there would be many occasions when the Housing and Planning Committees would liaise with each other, to ensure that there was no duplication of effort and no action authorised by one Committee which could jeopardise or embarrass the other.

A similar situation existed in the London Borough of Islington until 1969 when, following a time and motion study by Booze Allen & Co, the function of the Town



Planning and Housing Committees were combined in a new Committee, entitled the Town Planning and Development Committee.

The fact that the two functions of Town Planning and Housing were within the same Committee could explain the reason why the London Borough of Islington requested so much information about the alternative courses of action, insofar as they were more aware of the environmental and social connotations of the proposed part III Compulsory Purchase Order than the Greater London Council Housing Committee had been.

It is interesting to note that the London Borough of Islington obtained the basic conversion information necessary for an 'Appendix B' calculation from the Barnsbury Housing Association, and their report was investigated 'in depth' by the Councils' officers.

At that time there was a special joint Greater London Council/London Borough of Islington interest in the area due to:

1. The recommendations of the Barnsbury Environmental Study Group and the need to investigate these at both levels of local government;
2. The beginning of current interest at that time in experimenting with citizen participation in planning, (hence the involvement of the Barnsbury Housing Association);

3. The Compulsory Purchase Order area was on land zoned for public open space, responsibility for which was to be transferred from the Greater London Council to the London Borough of Islington.

The liaison between the Councils was arranged by the setting-up of the Barnsbury Joint Steering Committee, through which all planning and related matters were discussed by officers and members of both Councils. The role of the Committee can be expressed diagrammatically, see fig. 4.27, below.

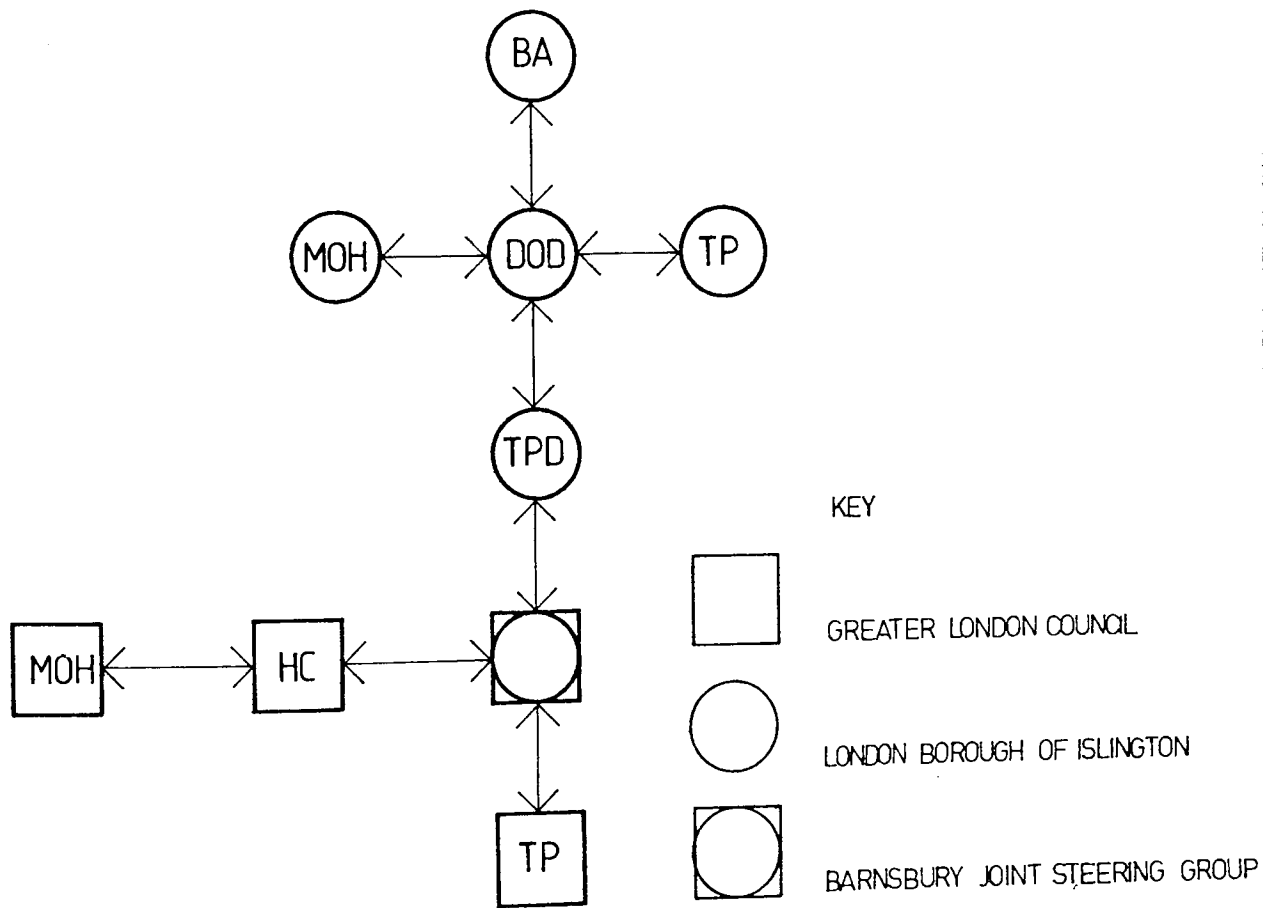


fig. 4.27 A DIAGRAMMATIC REPRESENTATION OF THE ROLE OF THE BARNSBURY JOINT STEERING COMMITTEE IN LIAISON WITH OFFICERS & MEMBERS OF THE LONDON BOROUGH OF ISLINGTON & THE GREATER LONDON COUNCIL

It is interesting to note that, by virtue of the Barnsbury Housing Association's report, the Council had a very detailed insight into the case for the retention and renovation of the houses in the Compulsory Purchase Order area, whereas the Committee reports, containing officers' calculations and other evidence in support of the Compulsory Purchase Order, were confidential and therefore not known to the objectors.

At this point, the London Borough of Islington had assumed responsibility for the Compulsory Purchase Order area and the role of the Barnsbury Joint Steering Group was still to ensure proper communication and liaison between members and officers of both Councils, and its decisions seem to have been accepted by both Councils.

iv. Reaction to London Borough of Islington's Compulsory Purchase Order Decision 1971 - 1972

As soon as owners and occupants of the Compulsory Purchase Order area and the surrounding neighbourhood knew of the Council's decision there was an immediate reaction.

The Thornhill Estate Association and the Barnsbury Association had been in constant contact with the people affected by the decision; members of both organisations canvassed the owners and occupiers of the houses affected

and helped them with the legal requirements of filing their formal objections to the Compulsory Purchase Order with the Department of the Environment. Thus the majority of owners and occupiers lodged objections to the Compulsory Purchase Order. This was an important part of the overall campaign, since owners and occupiers were statutory objectors - that is to say they have a legal right to object and to be heard at a public enquiry.

In December 1971 the Barnsbury Association's social survey team carried out a further survey of owners and occupants' attitudes to the Compulsory Purchase Order. The 100% survey produced a 75% response in favour of rehabilitation and continued residence. Those who were so inclined signed a petition for submission to the London Borough of Islington and the Department of the Environment Inspector of the public enquiry.

In both this and the earlier survey, the tenants were informed of the rental alternatives and the future implications of the Housing Finance Act were explained. Tenants were told the rents they could expect to pay for their existing accommodation following rehabilitation and the rent they could expect to pay for new Council homes.

The Thornhill Estate Association and the Barnsbury Association also lodged objections as non-statutory objectors.

As a result of the large number of objections sent to the Secretary of State for the Department of the Environment, he decided to hold a local public enquiry.

III THE PUBLIC ENQUIRY 17TH MARCH 1972i. Preamble

The Islington (Hemingford Road) Compulsory Purchase Order 1970 Public Enquiry was held in Islington Town Hall on 7th and 17th March 1972, before the Department of the Environment Inspector Mr. S.J. Parnell BSc MICE MRSH.

Thus, there had been a delay of seven years since the Greater London Council's Public Health Officers had first inspected the houses and found them unsuitable for human habitation, five years since the Greater London Council part III Compulsory Purchase Order resolution and one year since the London Borough of Islington part III Compulsory Purchase Order.

During the period between the Greater London Council Compulsory Purchase Order resolution and the time of the public enquiry, a number of houses had been privately acquired by the Greater London Council, who had in turn sold them to the London Borough of Islington; others had been bought by the London Borough of Islington direct. Thus a total of 14 of the houses were already in the Council's ownership, that is to say 17.5% of the property - a significant proportion.

With the exception of those properties sold to the Council, there had been no major changes in the occupancy of the houses affected, that is to say there had been no change in owner occupation and little change in tenancies by the time of the public enquiry.

The ownership and occupancy situation can be approximately summarised as follows: the leases of 16 houses had almost expired, having only  $2\frac{1}{2}$  years to run, 15 had 24 years to run before expiring and 8 were freehold. There were 19 tenanted houses left occupied. (92)

Generally, the evidence given by officers of the London Borough of Islington and professional advisors to the statutory objectors was given both verbally and in writing. Copies of the written proofs of evidence were handed round to all interested parties before each witness took the stand and the proofs were then read out as evidence.

Other objectors, both statutory and non-statutory, gave verbal evidence at the enquiry and these will be identified and referred to later in this work.

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(92) Obtained from information collected by Miss Rohan Bell of Barnsbury Association and Mr. Roger Walter of Thornhill Estates Association, between November 1971 and January 1972

The Inspector opened the enquiry by introducing himself and explaining the reason for the hearing. He then asked those presenting the cases for the Council and statutory objectors to identify themselves.

Following completion of the legal preliminaries, to the hearing, he called upon the London Borough of Islington to state their case.

ii. Summary of Evidence Presented by the London Borough of Islington

The London Borough of Islington took the unusual precaution of employing Counsel to conduct the case.

Counsel opened on behalf of the London Borough of Islington by setting out the framework of the Councils' duties in regard to unsatisfactory properties and he summarised the case to be presented.

He then listed the Councils' witnesses as follows:

- a. The Deputy Medical Officer of Health
- b. A Building Surveyor from the Borough Architects Department
- c. An Estate Manager/Planner for the Borough Planning Department
- d. A Senior Public Health Officer
- e. A Chief Public Health Officer

The Council's basic case, as presented, was very similar to that submitted to the Town Planning & Development Committee. Therefore, to avoid repetition it would be worthwhile noting only those extra points which were either included in written submission, proofs of evidence or points which emerged as a result of cross-examination of witnesses.

The first witness was the Deputy Medical Officer of Health, who stated the statutory reasons for representing the Compulsory Purchase Order area in the wording of Part III of the Housing Act. She stated that she knew the area well and that the houses in the area were unfit by virtue of their poor internal arrangement and their layout in the street. See map fig. 4.28.

Under cross-examination, she was asked in which way the houses were badly arranged internally, since the plan form of these buildings was typical of most of Barnsbury, and indeed much of pre-war housing throughout the United Kingdom, and if her statement was to be accepted, then all these houses would be representable as slums.

In response to this question she simply reiterated the statement she had previously made, quoting the Act verbatim and re-stated that this was her medical opinion. She was then asked in what specific way the houses were





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badly arranged in the street and again she simply quoted the Act verbatim and stated that this was her medical opinion.

At this point the Inspector asked that this line of questioning be dropped. However, the Barnsbury Association's solicitor refused to do so, stating that the layout of the housing was absolutely typical of Georgian London and that, if the Medical Officer of Health's contention were to be upheld, then almost all the housing in Barnsbury would be unfit too.

At this point, Counsel for the London Borough of Islington made a statement withdrawing this part of the Medical Officer of Health's evidence. However, the Medical Officer of Health still maintained that the houses were badly arranged and Counsel had to repeat that this point was withdrawn.

The presentation of evidence setting out the detailed points of unfitness in the houses was made by a senior London Borough of Islington Public Health Officer, who submitted the results of a house-by-house survey, which had been carried out at the end of December 1971. Copies of this had been formally issued to the statutory objectors on 31st January 1972, over the signature of the Town Clerk.

It is worth noting at this stage that the statutory requirement for the issuing of this information is "not less than fourteen days before the enquiry", thus the London Borough of Islington had been quite fair in giving a considerably longer period than the minimum required by law. This point will be referred to in other case examples later in this work.

The Senior Public Health Officer stated his findings as set out in the formal notices, and stated their contents as his case for alleging the unfitness of the houses for human habitation.

When cross-examined, he was asked whether he considered the houses were unstable and he stated that he thought they were. However, he admitted that he had not informed the District Surveyor, whose responsibility it was to deal with unstable buildings, neither was this a factor shown on the great majority of statutory lists of points of alleged unfitness.

He explained that his verbal reference to instability related primarily to elements of the houses; for example - loose chimney pots, leaning chimney stacks, sagging ceilings or settled staircases or floors and some external walls.

When questioned about his evidence on the subject of the dampness and below-standard light and ventilation of basements, he admitted that these problems applied generally to all housing in Barnsbury and agreed that these problems had been dealt with satisfactorily in many properties in Barnsbury.

He also admitted under cross-examination that the houses to the west side of Matilda Street had identical basement conditions to those included in the Compulsory Purchase Order, and he stated that, in his opinion, the owners of these buildings - the Greater London Council - would eventually decide to demolish this terrace, for the same reasons that the London Borough of Islington were seeking to demolish the east side of Matilda Street and the rest of the houses in the Compulsory Purchase Order area.

Finally, he stated under cross-examination that the most important factor in making the representation was that the houses were not capable of being made fit at reasonable cost.

The Chief Public Health Officer gave evidence that he too knew the area well and agreed with the Senior Public Health Officers' findings.

Counsel called a building surveyor to present the Council's evidence, to prove that the housing could not be made fit at reasonable cost.

The surveyor submitted an 'Appendix B' calculation for a notional scheme of renovation for the area, and explained why it was not economically viable.

When questioned as to how the figures were calculated, he stated that they were produced by the architects, quantity surveyors and valuers of the London Borough of Islington.

At this point he was asked to prove this and he stated that he saw no reason to do so, whereupon the solicitor acting for the Barnsbury Association asked the Inspector to call the London Borough of Islington's Director of Development for cross-examination.

The Inspector asked why this request had been made, and he was told that the calculations and notional scheme had not been produced by the London Borough of Islington and that the Public Health Officer's evidence was therefore incorrect.

The Inspector asked why this allegation had been made and the Barnsbury Association's solicitor explained that it was the writer's scheme and costings which had been quoted by the Public Health Officer, and that if the London Borough of Islington had so much confidence in the scheme and costs they had produced as evidence for their case, it was hoped that they would continue to have confidence in the evidence which would be presented on

behalf of the statutory objectors by the writer later in the enquiry.

The Inspector asked for proof of the Barnsbury Association's solicitor's statement and the writer gave the Inspector a copy of the Barnsbury Housing Association's report of May 1970. At this point the Council's surveyor withdrew his statement.

The witness was cross-examined on the subject of the life expectancy of the houses and the percentage quality compared with a new development, but he refused to accept the Barnsbury Associations' arguments on this subject.

This part of the evidence was crucial to the Council's case and to the ultimate decision made by the Inspector. The 'Appendix B' calculation will be examined in detail later in this work.

The Town Planning witness, commenting upon the Barnsbury Association's contention that to extend the public open space westward to encapsulate the Compulsory Purchase Order was not desirable since Hemingford Road, (a major local distributor road), would need to be closed, stated, "as part of the Council's re-appraisal of the scheme, an alternative allowing the closure of the road has been proposed". He also stated .... "In the long term it is anticipated that the closure of the road will be facilitated following improvements to the major road network in the district."

He submitted a drawing showing a possible layout of the public open space, see map fig. 4.29.

The witness also commented upon the quality of the architecture and townscape of the Compulsory Purchase Order area ...."The area covered by the Compulsory Purchase Order is on the periphery of the Conservation Area; it does not include any listed buildings and has not the architectural cohesion of other parts of the Conservation Area." He also stated ...."the layout of this area as an open space would not in my view detract from the character of the area ....."

Under cross-examination by the solicitor acting for the Barnsbury Association, the witness stated that, in his opinion the Council were legally forbidden to grant town planning consents for anything which would intensify the use of the existing housing in the area. That is to say any sub-division of, or extension to, houses in the area zoned for public open space, or any other related ancillary development such as garaging, since to do so would represent a major departure from the Initial Development Plan and would therefore be ultra vires.

Under cross-examination he asserted that the Council's attitude would mean that no discretionary or statutory grants could be provided for the houses, since no town planning consent for works would be obtainable and the houses would not have the statutorily required future 'life' expectancy.



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When told that his legal opinion was completely contrary to that given by Mr. John Fraser M.P. - a partner in Lord Silkin's practice, he stated that he still believed his own legal interpretation was correct and that it was supported by a legal opinion given by the Council's Town Clerk.

iii. Summary of Evidence Presented by the Barnsbury Association

The case for the majority of the statutory objectors was presented by T.W. Blyth - a local independent Councillor and a solicitor in private practice.

He started by relating the historical background to the present state of the area, and drew attention to the resultant planning blight suffered by the occupants for twenty-one years. He remarked on the unfairness of the blight, which inevitably resulted in the housing falling below standard. Thus the planning authority had created the climate which caused the poor condition of the housing and then that same authority took slum clearance action.

He also pointed out that the houses proposed for clearance were located within the Barnsbury Conservation Area, which had subsequently been legally defined since the original representation.

He summarised the attitudes of owners and occupants for whom he acted and explained the basis of the evidence which had been produced for submission at the enquiry. He commenced by stating that he was not acting for the owners of houses in the Copenhagen Street frontage, or 17 and 18 Shirley Street which it was accepted were probably unsatisfactory and should be demolished.

He then listed recent decisions made by the London Borough Islington, where they had rescinded part III Compulsory Purchase Orders - he said these decisions were inconsistent with proceeding with the Hemingford Road Compulsory Purchase Order. One of these was the Keystone Crescent Compulsory Purchase Order, which is analysed in case example 4 in the thesis.

He also listed other examples where the Greater London Council or London Borough of Islington had decided to rehabilitate buildings and pointed out that this was consistent with a current move towards conservation rather than redevelopment of large areas in inner London.

Mr. Blyth listed his witnesses as follows:

- a) A structural engineer
- b) An architect
- c) An architect/planner
- d) A housing economist
- e) The secretary of the Barnsbury Association

The first witness called was the chartered structural engineer, who stated that in his opinion, as an erst-while District Surveyor, the houses were not unstable and were in reasonable condition, considering their age and the effects of planning blight.

The second witness was a chartered architect, who stated that the plan form of the houses was suitable for conversion. He stated that the plan of the houses was similar to those upon which he was currently working for a large housing association in south London.

He explained how the basements could be provided with chemical damp-proof courses and how adequate light and ventilation could be achieved.

The witness then submitted plans and costs showing the conversion potential of houses, and outlined the approach which had been adopted to show that the houses could be made fit at reasonable cost. He explained that six typical houses had been selected, surveyed thoroughly and then re-planned to modern standards. The conversion schemes were costed on up-to-date prices, based upon similar schemes being carried out at that time. The house selection was based upon the following criteria:

- a) Tenure - owner occupied and tenanted houses were represented
- b) Frontage - wide frontage and narrow frontage houses were represented

- c) Location - houses had been represented from all four streets
- d) Condition - best and worst conditions had both been represented
- e) Use - single family improvement and two unit conversion had been considered.

The proposed conversions are illustrated in figs. 4.30, 4.31 and 4.32.

The writer was the next witness called to give evidence as an architect/planner. The evidence presented stated that the houses were not badly arranged internally, or in relation to the street layout of the area, nor were they cramped or badly overlooked. The streets were wide and the housing low, thus creating an air of spaceousness.

Photographs were submitted to illustrate this point, (see photographs figs. 4.05 to 4.17).

Evidence was submitted regarding the daylighting and ventilation to the basements and attention was drawn to other schemes of rehabilitation being carried out by the Greater London Council on almost identical houses in Brooksby Street, which demonstrated how these points could be dealt with adequately.

fig. 4.30

TYPICAL PLAN OF CONVERSION AS PRESENTED BY THE  
BARNSBURY HOUSING ASSOCIATION AT THE PUBLIC ENQUIRY

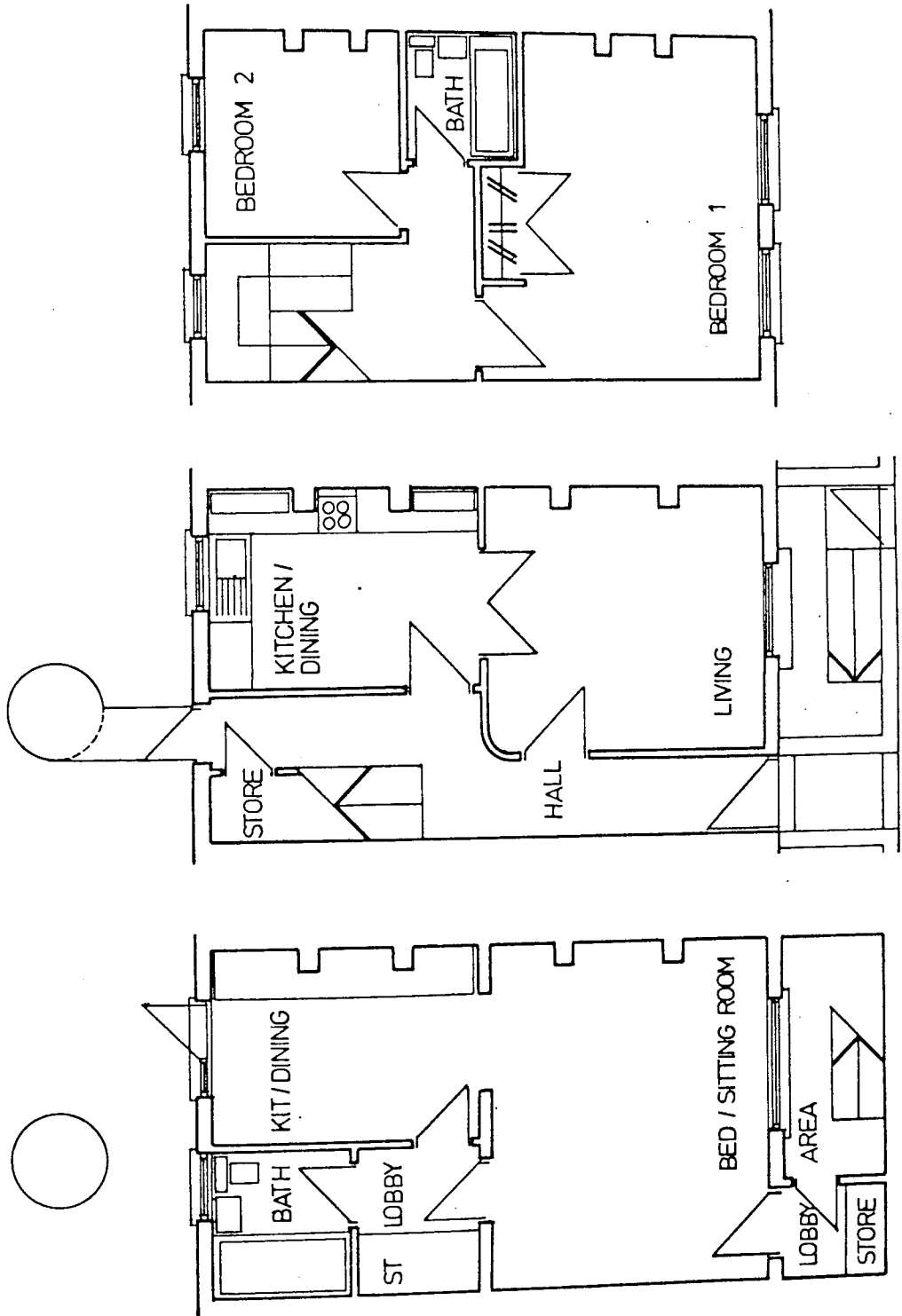


fig. 4.31

TYPICAL PLAN OF CONVERSION AS PRESENTED BY THE  
BARNSBURY HOUSING ASSOCIATION AT THE PUBLIC ENQUIRY

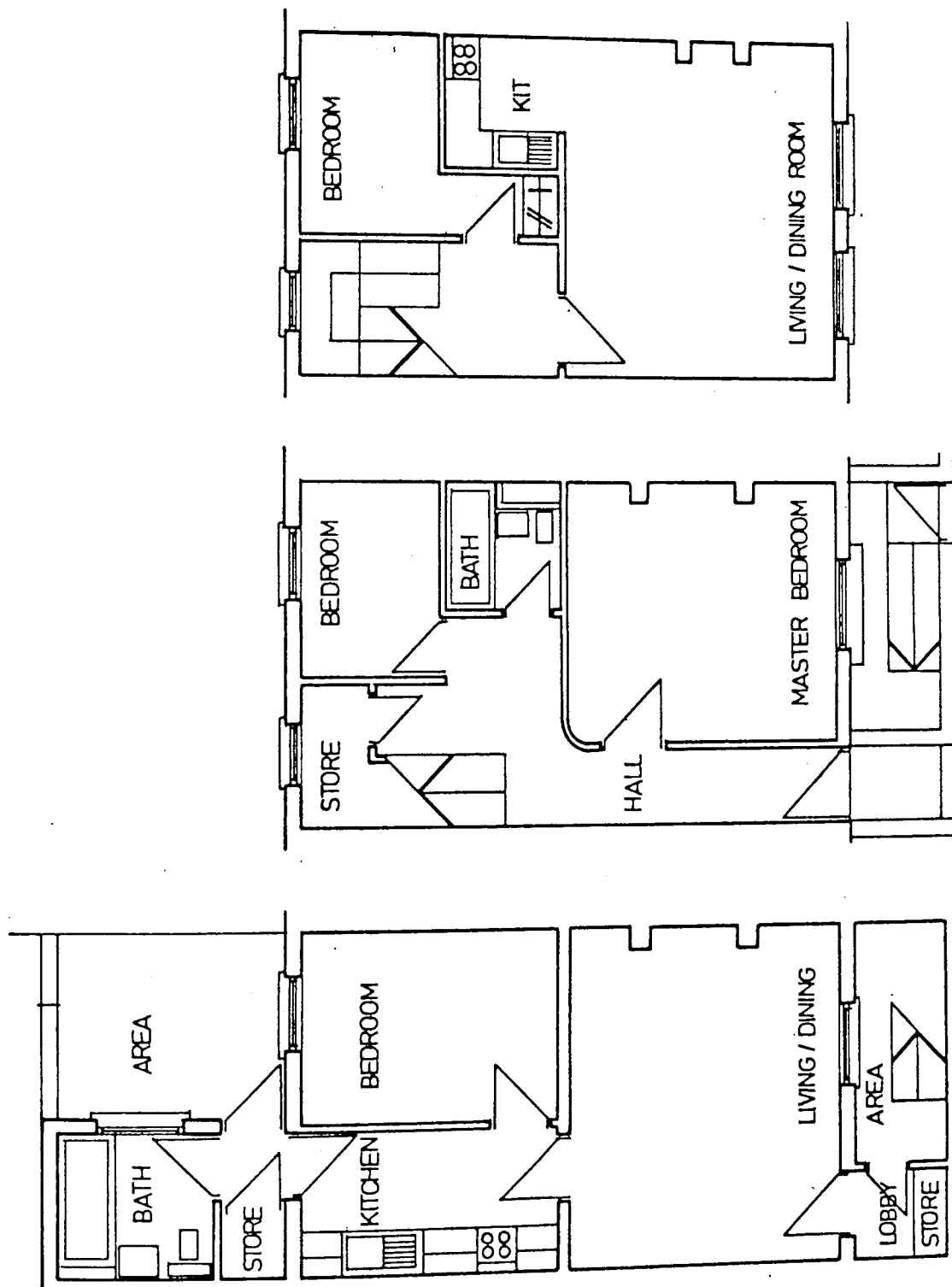
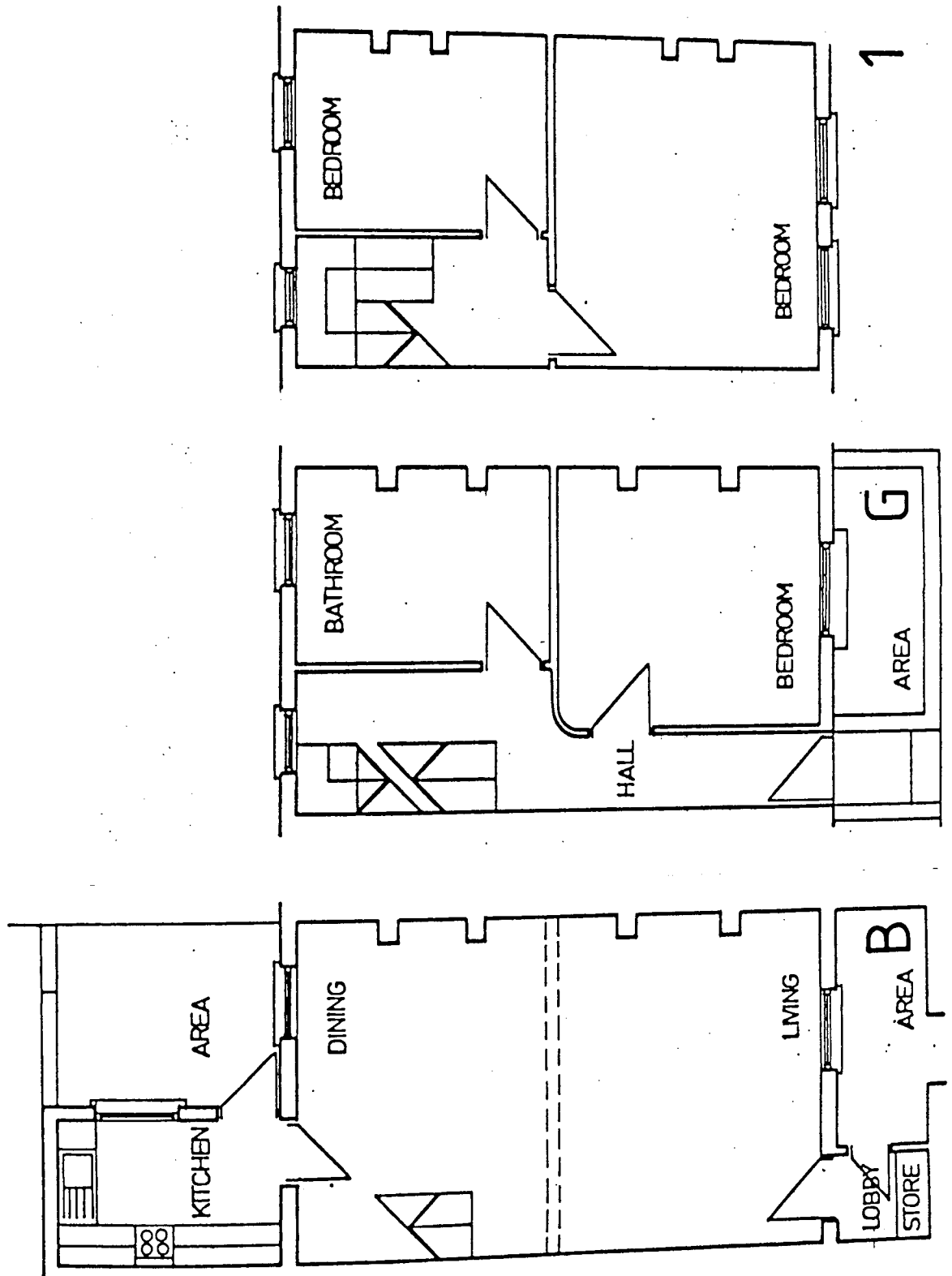


fig. 4.32

TYPICAL PLAN OF CONVERSION AS PRESENTED BY THE  
BARNSBURY HOUSING ASSOCIATION AT THE PUBLIC ENQUIRY



Evidence was given on the architectural and townscape character of the area and on the incentives for renovation contained in the Housing Act 1972.

The next witness called was a housing economist who was an employee of the London Borough of Southwark. He gave evidence on the 'Appendix B' formula calculation for a renovation scheme for the area.

He explained the likely affects of the Housing Act 1972, as set out in the white paper "A Fair Deal for Housing", which would alter the subsidy arrangements in force at that time, to the extent that the renovation of the Compulsory Purchase Order area would be viable.

The witness explained that the figures presented by the London Borough of Islington were accurate but:

- a. they related to a different and smaller scheme - i.e. the original proposed Greater London Council Compulsory Purchase Order and not the larger London Borough of Islington Compulsory Purchase Order area;
- b. the calculations were out of date since they did not include the subsidy provision about to be introduced in mid-1969 (The Housing Finance Act);



- c. costs had changed due to inflation since the London Borough of Islington figures were originally calculated by the witness;
- d. the costs failed to compare like with like in terms of density and assumed lower percentage valuations for the rehabilitated property than those claimed by the Barnsbury Association.

These points will be examined in more detail later in this work.

The next witness called was the Secretary of the Barnsbury Association, who explained the Association's concern with the people living in the area and particularly the aged. There were various statements made by statutory and non-statutory objectors, but only two were significant.

iv. Summary of Evidence Presented by Other Statutory and Non-Statutory Objectors

An owner-occupier asked why the Public Health Officer had told him his house was fit, when he later found it had been represented as unfit. The Inspector stated that the objector did not understand the Act. The objector, who was a working-class old aged pensioner, repeated his question and was peremptorily ordered to be quiet by the Inspector.

Mr. Blyth felt that the Inspector had not treated the objector fairly and decided to call him as a witness in order that his views could be heard; thus the objection was officially placed on the record.

The other significant objector was a member of the Barnsbury Action Group who stated that, if the houses were not bought by the London Borough of Islington, they would be acquired by the new incoming middle-classes and would become 'gentrified'. Thus, he said, the working-class occupants would be deprived of their homes and it was better that they became Council tenants in these circumstances.

v. The Site Inspection

At the close of the enquiry, the Inspector visited the Compulsory Purchase Order area and was shown typical interiors. He was accompanied by the London Borough of Islington's Senior Public Health Officer and the writer.

The Inspector was also shown rehabilitated house elsewhere in Barnsbury, and in particular housing in Brooksby Street, since this is almost exactly similar to the Matilda Street housing.

Whilst driving around Barnsbury, the writer pointed out 16-62 Barnsbury Road and stated that this was earmarked for a further part III Compulsory Purchase Order,

whereupon the Inspector remarked, "I'd have the whole lot down!" This will be referred to in another case example later in this work.

On completion of his site visit, the Inspector had information from all interested parties upon which to make a decision whether to recommend approval or rejection of the London Borough of Islington's proposed Compulsory Purchase Order.

The Inspector also stated that the enquiry had lasted much longer than any he had dealt with before. Normally a part III Compulsory Purchase Order hearing would last about a morning and he had dealt with one in Gateshead in one and a half hours on one occasion.

vi. The Atmosphere of the Enquiry

At the close of the enquiry the Barnsbury Associations' witnesses and members discussed the evidence submitted and cross-examination of witnesses, and there was a unanimous opinion that the Inspector was biased, hostile and had approached the case with a closed mind.

This opinion resulted from:

- a. the peremptory way in which the Inspector spoke to statutory and non-statutory witnesses and to the Barnsbury Association's solicitor.

- b. his intervention when Council officers were being pressed to answer questions (e.g. the Deputy Medical Officer of Health on the subject of house and room arrangements and the Council's surveyor on the subject of the authorship of the London Borough of Islington's calculation presented as their own);
- c. his attitude at the site inspection;
- d. his statement that he would "have the lot down" in reference to 16-62 Barnsbury Road, made whilst he was being driven around Barnsbury by the writer;
- e. his statement that the part III Compulsory Purchase Order enquiries he presided over had never previously lasted more than a morning and were often dealt with in one and a half hours;
- f. his qualifications, which suggested he would not be sympathetic to the conservationist arguments presented.
- g. possibly his own preferences, as indicated by his own choice of residential area, (i.e. suburban in preference to inner city as will be shown later).

IV AFTER THE PUBLIC ENQUIRYi. The Bureaucratic Procedure in the Decision-Making Process Leading to the Publication of the Decision

The responsibility for deciding a Compulsory Purchase Order appeal technically rests with the Secretary of State for the Department of the Environment. However, the procedure actually adopted usually results in the final decision being made by officers in the Department of the Environment.

In this case example we have been able to actually identify the identity and grade of the officer delegated with the responsibility for the decision and his role and relationship with the Inspector and two other officers in the Department. The way in which this information was obtained will be explained later.

Following the Inspector's hearing of the appeal at the public enquiry and his subsequent inspection of the proposed clearance area, he wrote his report which he submitted to the Secretary of State on 24th April 1972, that is to say approximately five and a half weeks after the enquiry.

The report was passed to the Department of the Environment's Compulsory Purchase Order section for analysis by

a senior executive officer of the Department who in turn passed it to two executive officers to carry out a thorough examination of the Inspector's decision.

The examination included an evaluation of the Inspector's report, all written submissions of proofs of evidence, photographs and maps which had been presented to the enquiry.

On completion of this appraisal, the report was returned to the Senior Executive Officer for a final examination, before making his decision on behalf of the Secretary of State, and the Senior Executive Officer and the Inspector discussed the report and amended it slightly; this process will be examined later in this work. The Senior Executive Officer of the Department of the Environment wrote, on behalf of the Secretary of State, to the Director of Legal Services of the London Borough of Islington, stating ...

"The Inspector found that the properties in the clearance area were correctly represented as unfit houses except 5 Hemingford Road, 9 and 10 Everilda Street, 6 and 50 Matilda Street, which were not so far defective as property to be classed as unfit. He concluded that the most satisfactory method of dealing with the conditions in the clearance area as modified was the demolition of all the buildings."

Thus the decision-making process from the enquiry to the formal submission of the decision can be expressed diagrammatically, as illustrated in the decision-tree fig.

4.33.

Copies of the decision were sent to formal objectors who appeared at the enquiry and the London Borough of Islington's Legal Department informed all those who were affected by or who expressed an interest in the decision.

One senior officer of the London Borough of Islington expressed surprise at the rank of the Senior Executive Officer which he thought was of an unusually low grade to be given delegated power to act for the Secretary of State on a Compulsory Purchase Order.

ii. An Analysis of the Decision

The categories of evidence submitted by the London Borough of Islington and statutory and non-statutory objectors, can be summarised as follows:

- a. the effects of the public open space proposal for the area;
- b. the architectural and townscape value of the area;
- c. the effects of the Compulsory Purchase Order upon tenants and owners affected.
- d. the fitness of the houses.

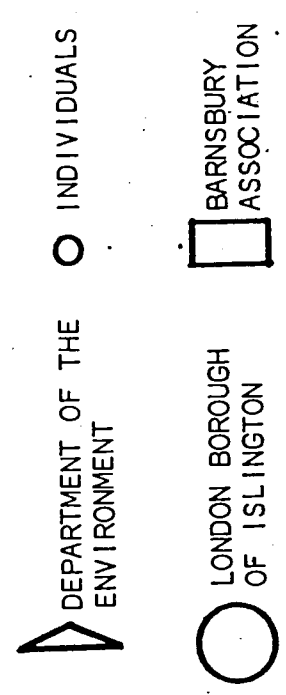
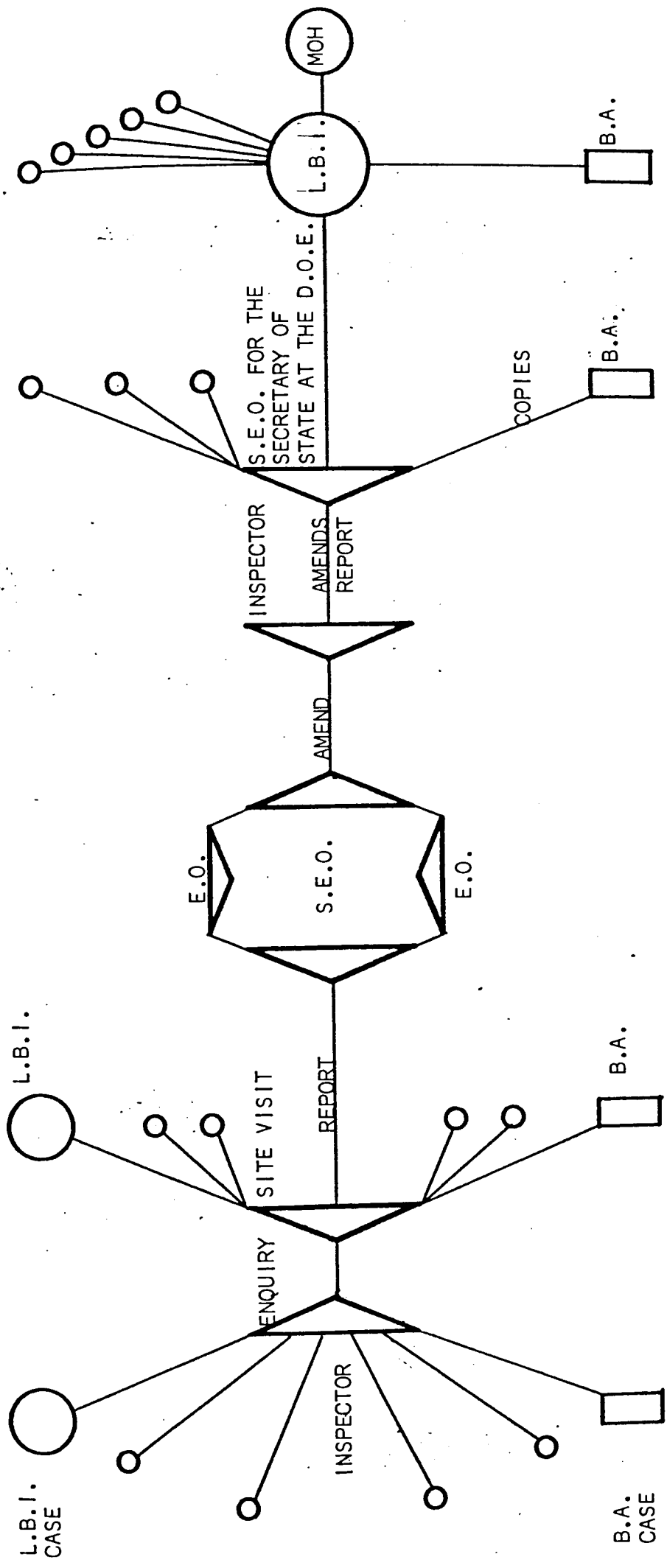


fig. 4.33 : DIAGRAMMATIC REPRESENTATION OF THE PUBLIC ENQUIRY AND THE PROCESSING OF THE EVIDENCE SUBMITTED.



Of these, the fundamental issue to be considered was whether the houses were or were not fit and whether the best means of dealing with unsatisfactory housing was by the demolition of all the houses in the Compulsory Purchase Order area.

It would be worth first examining the peripheral evidence to the central question of fitness, since this will provide an indication of the mood and background to the original decision to Compulsorily Purchase the area and the local response to that decision. Moreover, both the London Borough of Islington and the objectors were concerned to provide background evidence at the enquiry and this was, in some cases, seriously taken into account by the Inspector and commented upon by the Senior Executive of the Department of the Environment.

The analysis of the evidence presented can now be carried out with the benefit of hindsight and it will therefore be possible to compare some evidence given at the enquiry about predicted future trends and proposals with the reality of what has subsequently occurred.

a. The Effects of the Public Open Space Proposal for the Area

In Paragraph 13 of the decision, the Inspector refers to the London Borough of Islington's evidence in

relation to the westward expansion of the park, which was criticised by the Barnsbury Association because Hemingford Road had been up-graded as a local distributor road in the Barnsbury Environmental Traffic scheme, and had also become a bus route which would run through the open space. He notes that the London Borough of Islington would be taking action to ameliorate this situation ... "As part of the Council's re-appraisal of the traffic scheme an alternative allowing closure of the road has been proposed. These alternatives will be published for public discussion in the near future." (93) and ...

"In the long term it is expected that the closure of the road will be facilitated by improvements to the major road network in the district." (94)

The Barnsbury Environmental Traffic Scheme was approved by the Council on 28th March 1971 and since the scheme was experimental, it was technically subject to changes resulting from an evaluation of its effects; the 172 bus route was routed through Hemingford Road at the same time.

The 'Before' and 'After' flows can be seen on figs. 4.34 and 4.35, which indicate the prime grid of the traffic distributors system as implemented. (95)

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(93) S.J. Parnell, Inspector, Decision Report (24th April 1972) p.3, para. 13

(94) Ibid

(95) K. Pring, The Barnsbury Traffic Scheme, a thesis for the Diploma In Transport University of London (1972). The figures were based upon an abstraction taken from the Barnsbury Environmental Traffic Review Appendix C (March 1972)

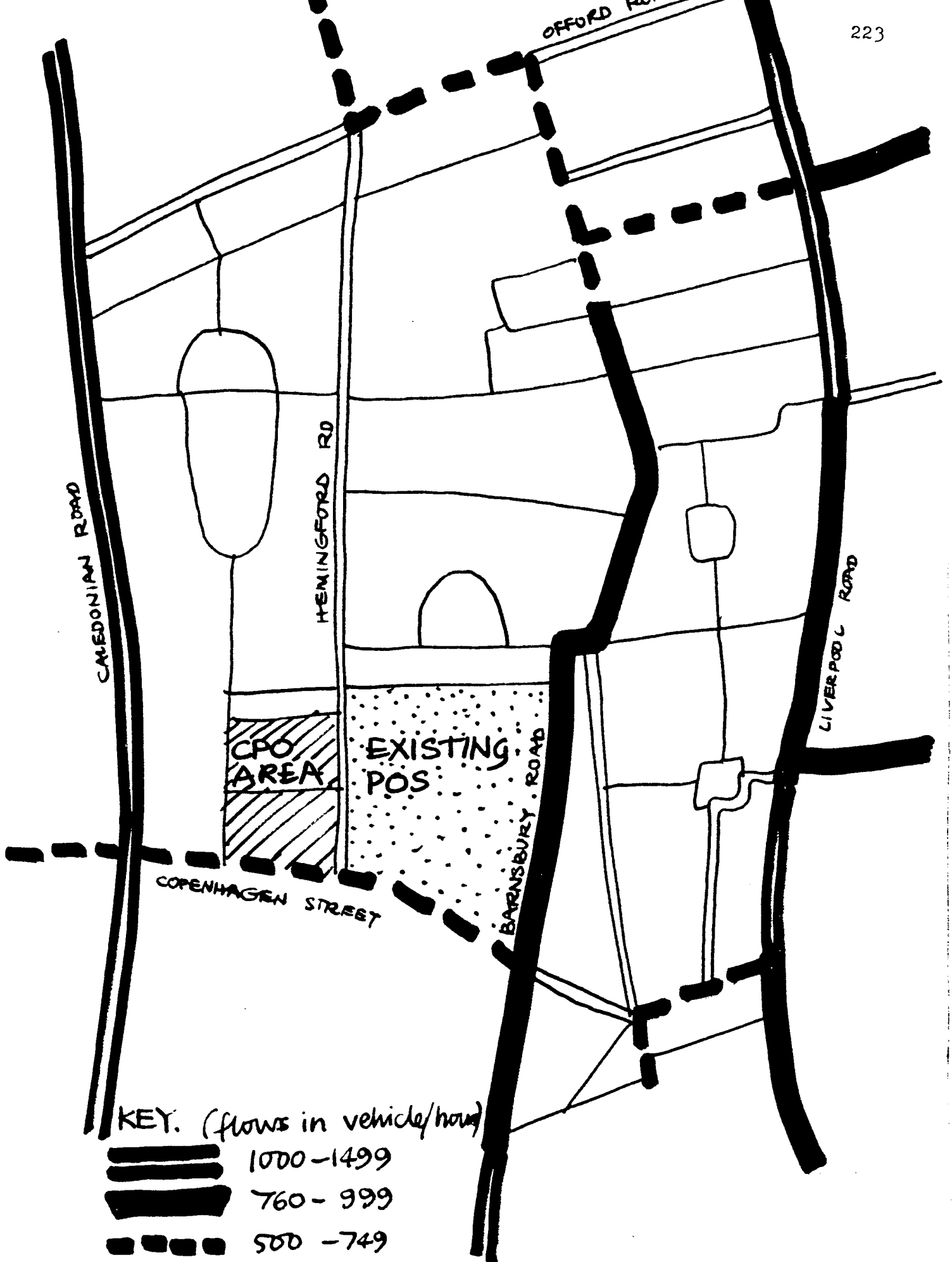


FIG. 4.34 "BEFORE" TRAFFIC FLOWS MORNING PEAK.

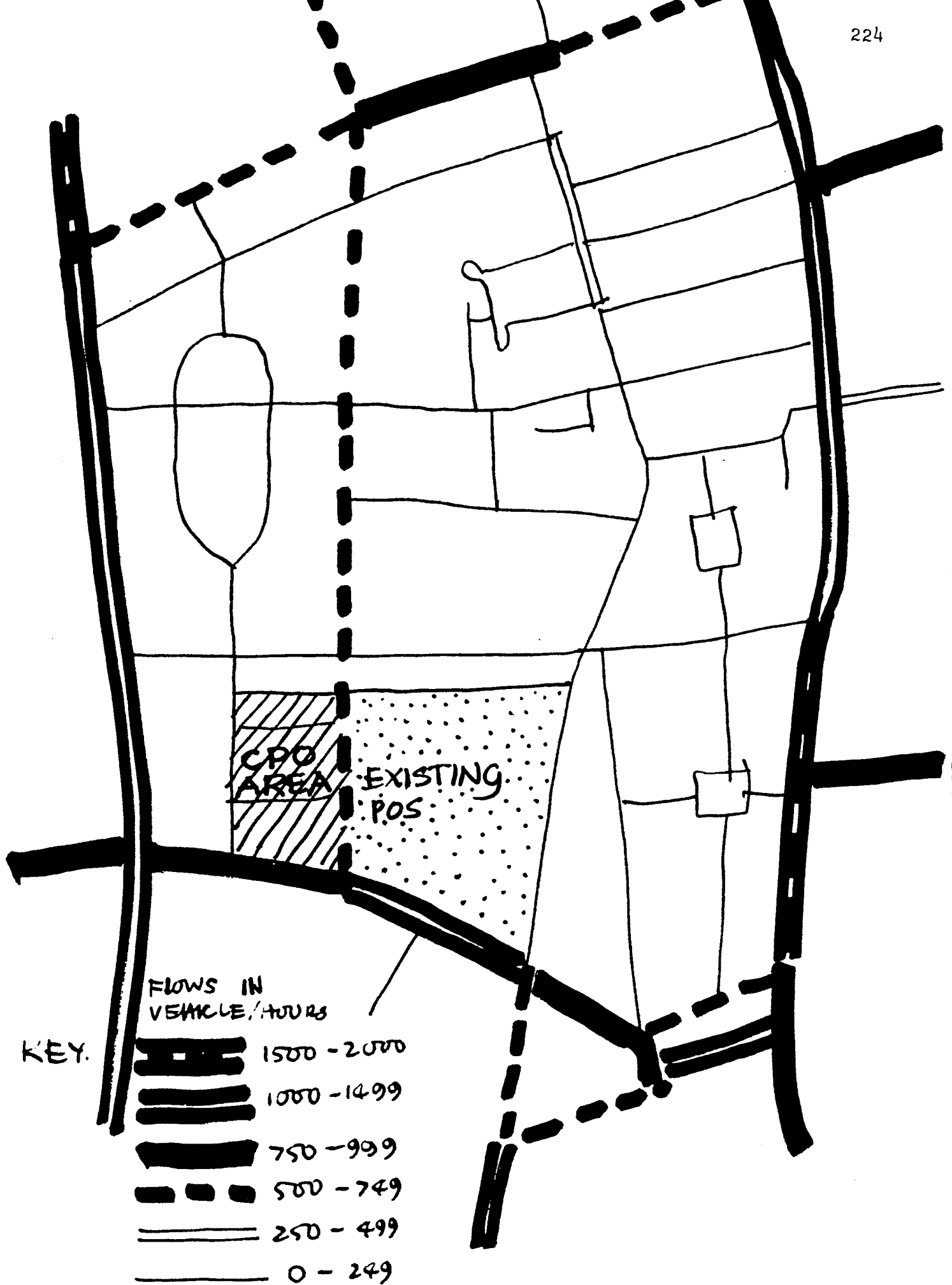


FIG. 4.35 "AFTER" TRAFFIC FLOWS MORNING PEAK .

AN ANALYSIS OF THE FINDINGS OF THE BARNSBURY ENVIRONMENTAL TRAFFIC MANAGEMENT REVIEW APPENDIX C (MARCH 1972)

Thus it is apparent that the Council's Town Planning witness' references to alternatives related to possible changes to the scheme envisaged at some future time.

In April 1972 the London Borough of Islington's Working Party Report was published and this proposed opening-up more north-south routes in Barnsbury, to reduce the density of traffic on local distributor roads such as Hemingford Road. (96) It is presumed that this was the proposal referred to by the Council's witness. However, the report contained suggestions neither to close Hemingford Road nor to change the 172 bus route.

The Barnsbury Environmental Traffic Scheme was amended in 1974 and there has been no appreciable reduction in traffic flows in Hemingford Road.

Hemingford Road is still a major local distributor road, is still the 172 bus route and there are no current plans to alter the status of the road. Indeed, the preference at the junction of Lofting Road/Hemingford Road had been altered in favour of the latter.

In addition there have been no improvements in the major road network to date, neither are there any known proposals for the future.

The park has now been laid out in sections leaving the existing road system intact - this can be seen on photographs figs. 4.36 and 4.37.

Thus it can be seen that the Council's Town Planning witness was over-optimistic, since both his predictions for the closure of Hemingford Road and the improvement of the major road grid have not been achieved to date - more than six years after the enquiry.

The Inspector was not convinced by this witness' argument and Paragraph 184 of the decision states... "Accordingly it is in my opinion doubtful if the public open space allocation as originally defined can now be justified as being reasonably practicable or acceptable. This is a point which was stressed by the objectors."

However, the Senior Executive Officer of the Department of the Environment wrote in his letter of 29th August 1972, in which paragraph 5 stated ... "The inquiry was held for the purposes of the Secretary of State's functions under the Housing Acts 1957-1969. These functions do not extend to an examination of the merits of the existing zoning of the order lands for open space purposes ....."

A VIEW OF ST. THOMAS SCHOOL, EVERILDA STREET  
LOOKING EAST TOWARDS HEMINGFORD ROAD

fig. 4.36



A VIEW FROM EVERILDA STREET TO SOUTH-EAST  
SHOWING THE NEW PUBLIC OPEN SPACE AND THE  
G.L.C.'S BARNSBURY ESTATE DEVELOPMENT

fig. 4.37



The Inspector's report refers frequently to the "short back gardens" of the houses and in this connection it is worth noting that in this case example the public open space was provided by depriving the residents of the Compulsory Purchase Order area of their private open space.

Moreover, the gardens were not small by Inner London standards; their approximate lengths being:

Hemingford Road	(west)	30' - 45'
Matilda Street	(east)	45'
Shirley Street	(south)	26'
Shirley Street	(north)	45'
Everilda Street	(north)	60'
Everilda Street	(south)	18' - 35'
Copenhagen Street	(north)	15'

shops

Thus the Inspector was incorrect in his statement in the context of the area.

Moreover, no evidence was provided by either the London Borough of Islington or the objectors on this subject - that is to say the shortness of the gardens was the Inspector's subjective judgement.



b. The Architectural and Townscape Value of the Area

The decision as to the architectural and townscape quality of buildings and their environment is of necessity a subjective and aesthetic judgement.

This judgement has to be faced when considering any work of art and technical perfection is not necessarily the most important factor in such a judgement. For example, there is a current taste for primitive painting and sculpture, extemporised music and vernacular architecture and the value of these is only quantifiable in financial terms by the action of market forces - that is to say by what somebody is prepared to pay for the work.

However, the market is influenced by the opinions of acknowledged experts in the particular art. This is true also in the judgement of housing but in this case example the market forces were not allowed to operate freely due to the effects of planning blight which have been described earlier in this work.

The Barnsbury Association did submit expert architectural evidence as to the aesthetic quality of the houses and the townscape setting for the Compulsory Purchase Order area. The London Borough of Islington on the other hand called an estate manager as their witness.

It is therefore interesting to examine the points taken by the Inspector in reaching his decision:

Paragraph 15 states:

1. ... "The order lands are on the periphery of the conservation area ..."
2. ... "They have not the architectural cohesion of other parts of the conservation area ..."
3. ... "The consideration behind a conservation area must be wider than buildings alone, they must extend to social and environmental aspects ..."
4. ... "The layout of this area as an open space would not detract from the character of the conservation area ..."

Paragraph 16 states:

5. ... "The properties in the Order as they are now, or even if improved, contribute nothing to the amenities of the area, in fact they detract from it."
6. ... "The layout is fragmented, there are various architectural styles, they are inferior to adjacent terraces which are being improved and retained."
7. ... "The Copenhagen Street frontage is particularly unattractive."

Paragraph 171 states:

8. ... "The Council's desire to clear this area does not conflict with the policy of the conservation area which does not carry with it the obligation to retain every house but simply to have constant regard to the character of the area."

Paragraph 158 contains a summary of the writer's assessment of the area, as described earlier in this case example.

In his conclusions, obtained from the evidence presented, the Inspector neither mentioned the fact that the Compulsory Purchase Order area was located within the Barnsbury Conservation Area, nor did he make any comments upon the arguments raised at the enquiry on the architectural character and townscape value of the area.

Although the Senior Executive Officer of the Department of the Environment summarised the case considered by the Inspector, he did not mention anything touching upon the points relating to conservation which had been made.

It would be reasonable to assume that either the Inspector and the Senior Executive Officer of the Department of the Environment had no views upon the character of the area, or, had they any, that they

preferred not to express them, due to their not being qualified to make a value judgement of this kind. If they already had a strong bias in favour of demolition, they had good reason not to show this at the enquiry or in the conclusions.

However, it would now be useful to try applying some objective judgements to the points raised in paragraphs 15, 16, 158 and 171 listed above, knowing this bias to be based on emotional and subjective leanings rather than factually proveable evidence.

1. "The order lands are on the periphery of the conservation area"

There are three points which emerge from an examination of this statement.

Firstly, the statement could be taken to suggest that since the Compulsory Purchase Order is on the edge of the Conservation Area, it is only marginal in architectural value and therefore expendable. This was the attitude expressed by the Borough Planning Officer, when the choice of the Conservation Area boundaries were being discussed with members of the Conservation Advisory Committee, as was mentioned earlier.

Secondly, Copenhagen Street is the boundary of the Conservation Area to the south of the Compulsory

Purchase Order area, and the south side of the road has been redeveloped with Greater London Council flats up to eight storeys in height, which relate in no way to the scale and texture of the Conservation Area, (see photographs figs. 4.37).

The housing in the Compulsory Purchase Order area defined the boundary of, and entry into, the character of the Conservation Area.

The demolition of this housing has allowed the fragmented and architecturally incohesive scale and texture of the Greater London Council's Barnsbury Estate to intrude visually further into the Conservation Area.

The third point is that the Civic Amenities Act 1967 specifically mentioned the need to consider developments adjoining the Conservation Area.

In this case example the Greater London Council Estate was in existence before the concept of the Conservation Area was envisaged however, the spirit of the Act would dictate the need to screen the Conservation Area from the visual intrusion of the Greater London Council Estate, and thus retention of the buildings which formed the periphery of the Conservation Area was of even greater significance.

The main point about the periphery of the Conservation Area is that it provides a boundary which if removed, inevitably erodes the value of the central core. The periphery represents the 'outer wrapping' which protects the integrity of the central focus of the area.

2. "They had not the architectural cohesion of other parts of the conservation area"

The concept of Conservation Areas as envisaged in the Civic Amenities Act 1967, was to conserve and enhance the character of the area. There is no implicit requirement that the buildings in the Conservation Area should be of the same character although it is the writer's opinion that the housing in the Compulsory Purchase Order area was of similar character to the rest of the Conservation Area; the houses were of the same period, were designed to the same principles of building and were built to similar architectural design and proportions, (with the exception of the Copenhagen Street frontage). The housing was uniform in scale with the adjoining housing which was excluded from the Compulsory Purchase Order and was built on the same terrace principle, (see photograph fig. 4.14).

Moreover, the housing to the east side of Matilda Street, both sides of Everilda Street and most of the houses in Hemingford Road are absolutely typical of the smaller scale housing in the area.

The only lack of cohesion in the area had been caused by bomb destruction or the Greater London Council's demolition of buildings and the intrusion of the St. Thomas's School which was out of character with the area but was nevertheless retained. The derelict sites could have been in-filled sympathetically to accord with the character of the area.

It is true that the two stuccoed terraces in Hemingford Road have a decorative treatment which is unique in Islington but this is an argument for their retention rather than for their demolition. The development of style in decoration is an essential ingredient in the historical development of architecture and it is now part of the policy of the Greater London Council's Historic Buildings Division to retain examples of this kind. Their policy even extends to the retention of early Victorian embellishments applied piecemeal to Georgian buildings since this is of historical interest in the life of the building.

3. "The consideration behind a conservation area must be wider than buildings alone, they must extend to social and environmental aspects."

It is clear from the cross-examination at the public enquiry that the witness was making the point that, simply because an area was designated as a Conservation Area, there was no implication that major social and environmental deficiencies in the area should not be ameliorated.

Having regard to the main stream of the witness' evidence, it is assumed that the reference to "social and environmental aspects" refer to the extension of the park into the Compulsory Purchase Order area.

It will be shown in case example 3, later in this work, that the London Borough of Islington and the Greater London Council had land in the immediate vicinity of the Compulsory Purchase Order area and outside the Conservation Area which, although then designated for housing, is now being considered for use as public open space; the site is cleared and is approximately the same area as the Compulsory Purchase Order area.

Bearing in mind that the park extension into the Compulsory Purchase Order area was subsequently



seriously circumscribed by the retention of the existing road pattern and the designated recreational uses were therefore constrained, there is no reason why the same uses could not have been accommodated on the alternative sites and thus avoided demolition of the housing in the Compulsory Purchase Order area.

The Inspector noted that the originally proposed 'District Park' design intended to encapsulate the Compulsory Purchase Order area was unlikely to be achieved. (97)

4. "Layout of this area as an open space would not detract from the character of the conservation area"

The arguments made in 1. above apply to this statement. However, there are three further points which would be worth considering.

The first is that the Conservation Area boundaries were chosen to encompass an area the character of which was considered worthy of conservation; the Compulsory Purchase Order lands were included in this area.

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(97) S.J. Parnell, Inspector, Decision Report (24th April 1972), p. 2 para. 12

It is obvious that the character of typical urban housing development of the early nineteenth century and the character of a large area of open space are quite different.

Secondly the designation of a Conservation Area carries with it the Council's duty to enhance the environment, and not to simply allow development which will not detract from its character.

Thirdly, in addition to the arguments set out in 1. above on the subject of retaining a well-defined edge to the Conservation Area, the effects of earlier demolition carried out to extend the park have had a very detrimental affect on the Conservation Area. This can be seen by comparing the photographs figs. 4.05-4.17 (showing the buildings before demolition), with the photograph fig. 4.37 which shows the park development which has replaced it.

5. "The properties in the Order as they are now, or even if improved, contribute nothing to the amenities of the area, in fact they detract from it."

By the time of the public enquiry, the housing in this area had suffered the effects of planning blight for twenty-one years, and indeed the blight probably extended back to 1949 when the Initial Development

Plan was being drawn up. It is hardly surprising therefore that the housing had become dilapidated. However, it is the writer's opinion that the buildings had remained remarkably attractive in spite of this. Even today it is very difficult for non-architects to imagine 'twilight' housing restored and renovated and it was far more difficult for laymen to appreciate the potential of old housing when the Compulsory Purchase Order resolution was recommended because there were very few examples of rehabilitation at that time and Local Authorities were still maintaining a 'clear fell' approach to urban renewal.

This difficulty can be clearly understood by comparing the 'before' and 'after' photographs of the North Terrace of Barnsbury Street, restored by the writer, (see photographs Appendices 4-i to 4-iv).

- 6. "The layout is fragmented, there are various architectural styles, they are inferior to adjacent terraces which are being improved and retained."

It is agreed that the terraces in Everilda Street and Shirley Street were inferior to those on the east side of Hemingford Road and west side of Matilda Street, which have been retained. However, the writer believes that the majority of the houses on the east side of Matilda Street and the west side of

Hemingford Road were not inherently inferior and were potentially attractive. This is a value judgement which, today, can only be made by reference to the photographic survey illustrated at the beginning of this case example.

7. "The Copenhagen Street frontage is particularly unattractive."

It is accepted that the shopping street frontage of Copenhagen Street was not of architectural merit, but it did provide a good edge to the entry into the Conservation Area and was in character with it.

This point can be demonstrated by comparing the 'before' and 'after' photographs figs. 4.38 and 4.39 which show the original shopping frontage of 112-130 Copenhagen Street, which was demolished by the Greater London Council and redeveloped for housing purposes. There can be no doubt that the original terrace was much more in character with the Conservation Area than the building which has replaced it.

The main policy point to consider is the question of the retention of the Conservation Area 'edge' as discussed earlier.

A VIEW OF THE TERRACE OF SHOPS ON THE NORTH SIDE OF COPENHAGEN ST. NOS. 112-130, BETWEEN MATILDA ST. AND CALEDONIAN RD. (SINCE DEMOLISHED) fig. 4.38



THE G.L.C.'S NEW INFILL DEVELOPMENT ON THE NORTH SIDE OF COPENHAGEN ST. BETWEEN MATILDA ST. AND COPENHAGEN ST. fig. 4.39



8. "The Council's desire to clear this area does not conflict with the policy of the conservation area which does not carry with it the obligation to retain every house but simply to have constant regard to the character of the area."

The arguments made for statements 1. to 7., together encapsulate the writer's attitude to the above statement.

c. The Effects of the Compulsory Purchase Order upon Tenants and Owners Affected

In Paragraph 29 the Inspector notes the London Borough of Islington's point ... "The Council are aware of the hardships which accompany clearance action, particularly the disturbance to elderly persons. It must however be realised that rehabilitation would also involve a disruption of the lives of the residents, they would be required to move out of their homes while work proceeded. It was to be doubted that those signing the petition were made aware of this."

In Paragraph 149 the Inspector notes the Barnsbury Association's point that ... "It is urged that the residents wish to remain and that their desires should be seriously considered", and in Paragraph 161 ... "A survey carried out by the Association reveals that 75% of the residents are in favour of rehabilitation and continued residence. A petition to this effect is

handed in (Document No. 6). Many of the residents are elderly and have lived here for a long time. They would find it difficult to adjust their lives if moved out of this present community."

In Paragraph 163, the Inspector notes the Thornhill Association's point that ... "It is contended that in dealing with the conditions in the area a method more satisfactory than demolition does not need to be ideal. It is suggested that if treated as a General Improvement Area the desire of the residents would be upheld, removal avoided, the conservation area preserved and an economic and socially rewarding result achieved." And Paragraph 165 ... "The retention of the properties is socially desirable as a buffer between the adjacent predominantly working class areas which enclose the increasing better class housing of the Barnsbury area."

And in Paragraph 166 ... "In any event it is urged that the properties of owner-occupiers in the area should not be compulsorily purchased without improvement opportunities having first been offered."

In Paragraph 167, the Inspector notes the Barnsbury Action Group's points that ... "On social grounds they ask that the order be confirmed. If the area is acquired by the council and redeveloped then it would be used for the benefit of Islington residents. If rehabilitated by owners to high standards then the working classes would be squeezed out as has been happening in the adjoining areas over the past 10 years."

And Paragraph 168 ... "Economic reasons for accepting rehabilitation may be offered but it is not made clear that only the owners will benefit. Tenants will need to move out while the work is done. They will return, if at all, to higher rents. It is more likely that the houses would be sold and not made available to local people."

And Paragraph 169 ... "In the public interest if rehabilitation is decided on then the houses should not be left in private ownership but should be in the council's control to be used to alleviate the local housing shortage."

In the Inspector's summary of conclusions which led him to his decision to recommend the confirmation of the Compulsory Purchase Order, there was only one reference to the residents of the affected housing. Paragraph 196 states ... "It is suggested by objectors that a decision on the order be deferred to allow time to reconsider re-zoning but this is to be rejected as it would only intensify the complaint stressed by many objectors that the houses have suffered planning blight for over 20 years and such a suggestion would only add to the period of blight."



d. The Fitness of the Houses

1) Preamble

Having discussed and examined some of the background factors in the Compulsory Purchase Order cases, which legally should not have influenced the decision, there is the final and fundamental factor of fitness which will now be analysed and evaluated.

At this point it is possible to illustrate the reduction of the field of decision in the case considered by the Inspector and the Senior Executive Officer, and this can be expressed diagrammatically (see fig. 4.40)

The Inspector was presented with evidence at the public enquiry on the subject of fitness, which can be summarised as follows:

- (a) Inherent unfitness due to poor arrangement of houses in their street setting;
- (b) Inherent unfitness due to poor internal arrangement in the houses;
- (c) The structural stability of the houses;
- (d) The extent to which the houses satisfied the 10 point standard;
- (e) The 'Appendix B' cost comparison formula calculation.

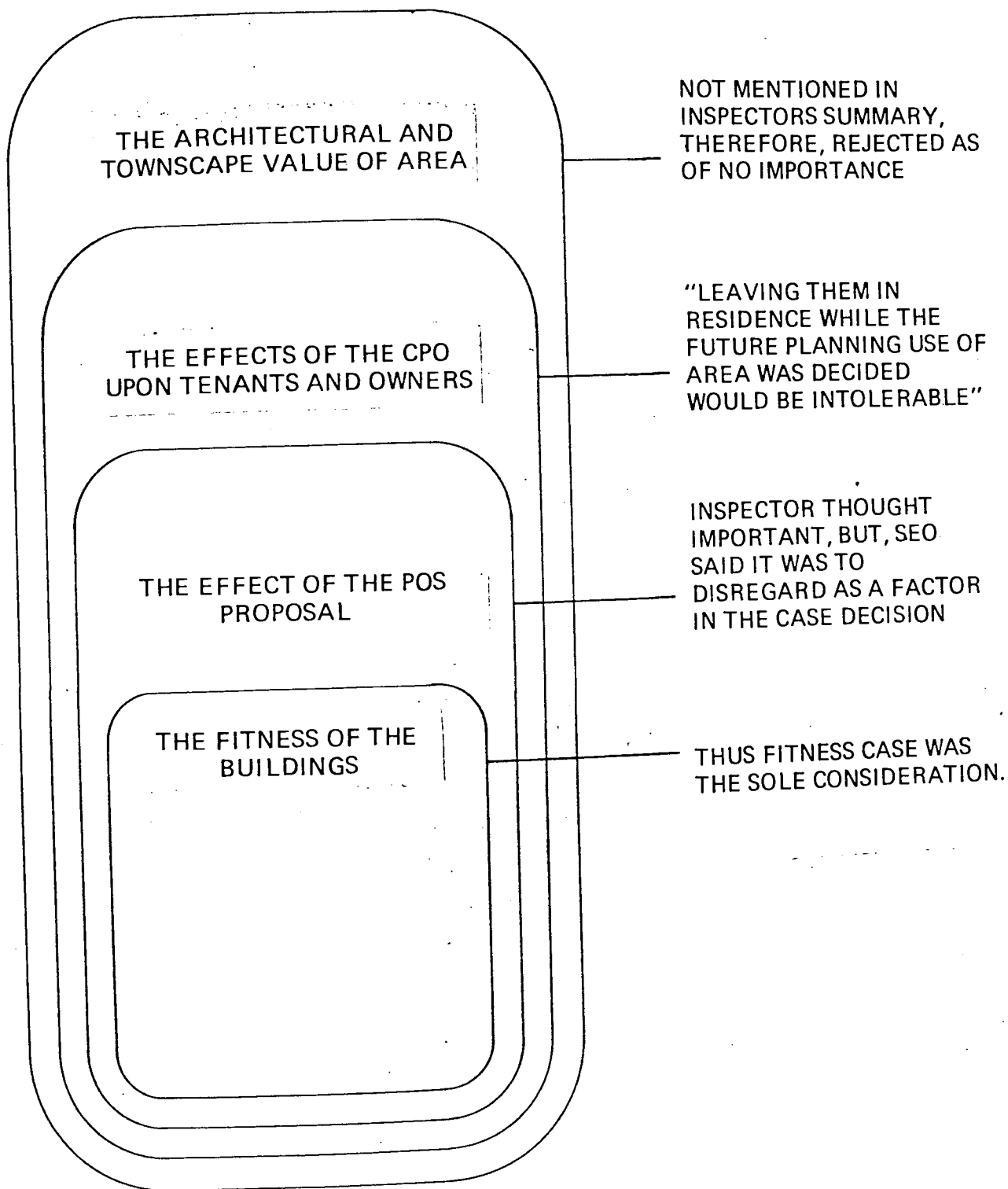


fig. 4:40 REDUCTION OF FIELD OF DECISION BY THE INSPECTOR AND SEO OF DOE FOLLOWING PUBLIC ENQUIRY INTO THE ISLINGTON (HEMINGFORD ROAD) COMPULSORY PURCHASE ORDER

Of these, the two fundamental issues to be decided were; firstly, whether or not the arrangement of the houses in the street was satisfactory enough for them to be converted into good housing and secondly, whether or not the costs which would be incurred in renovation were reasonable as judged by the 'Appendix B' calculation.

Clearly, the 'Appendix B' calculation would have to include any works necessary to deal with instability, internal rearrangement and the compliance with the ten point standard, inherent in a scheme of renovation.

2) Inherent unfitness due to poor arrangement of houses in their street setting

As was explained earlier, the Deputy Medical Officer of Health's evidence, contending that the houses were poorly arranged in the street, was withdrawn at the enquiry by Counsel for the London Borough of Islington. Yet it is possible that the Inspector agreed with the Medical Officer of Health to a certain extent, since Paragraph 186 of his report states:

"If rehabilitation is to be acceptable it must go further than the internal improvement of dwellings. It will need to include infilling, the closing of highways, the provision of garages, car parking facilities and amenity areas ..."

This statement could be assumed to suggest that the housing was laid out such, that these environmental improvements he considered necessary could not be incorporated in the existing configuration of streets and house layout.

However, large areas of housing in Barnsbury are of similar scale and character to that in the Compulsory Purchase Order area and have been bought and converted by people from the higher income group for owner-occupation, without the environmental improvements envisaged by the Inspector which he apparently considered to be a pre-requisite for any rehabilitation scheme in the Compulsory Purchase Order area.

Very few middle class residents in Barnsbury have the use of a garage or private car parking space and, with the exception of the housing around Georgian squares, no local amenity spaces exist and neither have they been proposed.

The Inspector was therefore applying standards for the environmental improvement of the Compulsory Purchase Order area which even the relatively wealthy did not demand.

Furthermore, the writer's scheme presented to the public enquiry included a reasonable level of environmental improvement related to standards

acceptable to Government, that is to say, similar to those set out in the Deeplish Report (98), see fig. 4.41.

The Inspector's statement in Paragraph 186, was made in reference to the town planning background to the case but he also referred to other related matters in Paragraph 189 which are specifically concerned with the relationship of the houses to their environment. These will be examined in the context of the next factor below.

3) Inherent unfitness due to poor internal arrangement of the houses

Although the Inspector does not refer to this aspect of the Housing Act 1957 in the summary of his conclusions, he did mention several points in his general description of the housing in the Compulsory Purchase Order area and in the opinions he expressed with reference to his site inspections, certain items related to the internal arrangement of the houses.

The Inspector's attitude can be summed up in Paragraph 189, which states:

"This judgement of quality as compared with that of new building includes a considerable factor of personal

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(98) H.M.S.O., Deeplish Report, (1966)



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opinion, it cannot be calculated precisely.

Having regard to the narrow frontages, the basement rooms 'which in 6 houses are so bad as to be the subject of closing orders', the steep stairs, the difficulties of materially altering the internal arrangement, the closeness of the street, the absence of garages, the congestion on the site ..."

It would be worthwhile now examining these criticisms of the housing against objective standards:

(a) "Narrow Frontages"

The average width of the houses between party walls is 15' and within this width it is possible to accommodate rooms of adequate dimensions in units of residential accommodation, which provide the fundamental amenities of internal bath and w.c. and kitchens, (see plan figs. 4.30 to 4.32).

The Inspector's statement regarding the narrowness of the frontage can be compared with the Government's standards, as set out in the National Building Agency recommended plan types and, as can be seen in fig. 4.42 a & b, the narrowest National Building Agency house plan is 11'3" between the party walls and this is narrower than the houses in the Compulsory Purchase Order area.

garden side



dining room

st.

kitchen

P

WC

st.

B

3:02:16p



ground floor

34'

living room

bedroom

first floor

bedroom

bathroom

bedroom

second floor

3:02:1

NATIONAL BUILDING AGENCY RECOMMENDED PLAN TYPES

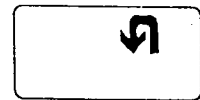
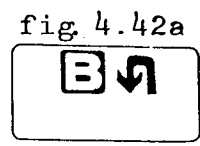


fig 4.42a

4.42



generic plan number

3:02:1

dwelling form



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This proves conclusively that, when measured against the Government's recommendation for home design, the housing in the Compulsory Purchase Order area was actually better than the recommended minimum requirement as regards house widths.

(b) "Basement Rooms"

Although the Inspector's report stated that the rear basement rooms of some of the houses were at garden level, the fact was that all such rooms were at garden level; it is evident therefore that the Inspector over-stated this factor.

However, by virtue of the rear basement room being at the garden level, the need to carry out works to increase the provision of natural light and ventilation would be confined to the front rooms.

The means by which the London Borough of Islington's underground room legislation can be complied with was mentioned earlier in this case study and will be dealt with in more detail in the case study concerned with 16-62 Barnsbury Road later in this work. It is sufficient to note at this point that the necessary works were included in the writer's scheme and costing exercise, which had been accepted in principle by the London Borough of Islington and the Greater London Council.

It is obvious that occupants' attitudes and preferences are extremely varied, but although the social and historical reason for the development of basement rooms is associated with servants working, and sometimes living, 'below stairs', this has not had a great effect on the market prices for basement flats. Some comparison sale prices between different categories of accommodation will be discussed in the 16-62 Barnsbury Road case study, later in this work, but there are certain distinct advantages in basement flats which go some way to off-set the obvious disadvantages, for example:

1. They can be completely self-contained by the provision of a staircase access via the front area to a private front door;
2. They have direct access to the garden;
3. They provide a larger occupiable floor plan than one-floor flats on higher floor levels, achieved by the removal of the staircase from ground floor to basement.

Finally, it is worth noting that the situation of basements in the houses in the Compulsory Purchase Order area were virtually identical to those in the houses to the west side of Matilda Street which the Greater London Council have subsequently renovated.

(c) "Closing Orders ..."

The subject of closing orders will be dealt with in more detail in the case example of 16-62 Barnsbury Road, later in this work. However, the means of dealing with these basement conditions were allowed for in the cost calculation submitted at the enquiry.

The carrying out of works and the implementation of the procedure for the removal of closing orders are routine work for any architect or surveyor working in the Inner Urban ring of London and will be described later in this work. However, the task of remedying the defects and complying with the legal procedures necessary for the removal of a closing order might well be considered as almost insurmountable by the average laymen and was certainly considered a major problem by the Inspector.

Moreover, there were closing orders on seven houses in the west side of Matilda Street which were dealt with by the Greater London Council as a matter of course during their conversion programme.

(d) "Steep Stairs ..."

The Inspector refers to steep stairs in his descriptions of houses in the area and it is assumed that

this refers to the staircases between ground and basement floors where the 'going' was not adequate for modern standards. This was probably due to the fact that, when the houses were originally built, the staircase would have been used mainly by servants.

The cost implications of removing and replacing unsatisfactory staircases were allowed for in the 'Appendix B' calculation.

(e) ... "The difficulties of materially altering the internal arrangement ..."

The scheme of renovation which the writer presented initially to the Greater London Council and the London Borough of Islington, and later to the public enquiry, was never criticised and the Inspector asked no question of the Barnsbury Associations' professional witnesses on this matter.

The conversion proposed was designed to minimise interference with the existing structure of the buildings, and alternative plans submitted were all standard methods used for the conversion of housing of this type. Indeed, the plans were very similar to those used subsequently by the Greater London Council in their scheme for the west side of Matilda Street.

(f) ..."the closeness of the street ..."

The distance from the front facade of the houses to the back of pavement line was average for the area and virtually identical to that in the housing to the west side of Matilda Street, (see photographs figs. 4.43 and 4.44). The space was occupied by a basement area which provided a physical division between the house and the street.

The front area and garden to the east side of Hemingford Road were approximately twice as wide as the average for the Barnsbury area (see photographs figs. 4.12 and 4.13).

(g) ..."the absence of garages ..."

As has already been mentioned, this factor has not prevented Barnsbury from becoming a fashionable and expensive area in which upper income groups choose to live. This highlights the area of confusion which exists where matters of planning criteria are brought to bear on a housing decision. A value judgement wrongly achieves the status of a criterion.

A TYPICAL VIEW OF THE G.L.C.'S RESTORATION  
ON THE WEST SIDE OF MATILDA STREET COMPLETED 1977

fig. 4.43



TYPICAL TERRACE HOUSING ON THE WEST SIDE OF  
MATILDA STREET

fig. 4.44



(h) ... "the congestion on the site ..."

As has been mentioned earlier, and as can be seen by the plan of the Compulsory Purchase Order area, the majority of the houses had rear gardens of average length for Barnsbury; the "congestion" mentioned presumably referred to the fact that some of the industrial non-conforming users in the area had encroached upon the gardens at the rear of their premises.

The Barnsbury Association's scheme had proposed the removal of these users, and the removal of the back-street industrial buildings had been allowed for in the costing of the scheme.

#### 4) Structural Stability

Although the Barnsbury Association had produced evidence from Ove Arup & Partners and Brian A. Morton & Partners that the housing was fundamentally structurally stable, the Inspector made various observations during his on-site inspection which led him to regard several of the houses as being potentially unstable. His report referred to bulged or tied walls and signs of settlement as external signs of continued instability, and sagging floors and ceilings as internal signs.



He did not seem to be aware of the fact that a fundamental principle of building until the turn of the century was to ensure that structures were flexible and could move independently.

The houses in the Compulsory Purchase Order area were built of porous bricks in lime mortar and internal partitions, floors, staircases and roof were in framed timber. This form of construction allowed the elements of the buildings to move independently until they reached a position of natural repose. The engineers who inspected the housing on behalf of the Barnsbury Association were aware of this, particularly Brian A. Morton Esq. who, as an erstwhile District Surveyor for Hammersmith, was familiar with the building techniques of the period in which the housing in this Compulsory Purchase area was built.

Modern methods of construction are based upon the concept of rigidity and little allowance is made for structural/vertical movement through the foundations. However, there is an increasing current awareness of the limitations of the rigid structure which has recently resulted in several dramatic structural failures and many engineers are currently advocating a return to the philosophy of flexibility in structural design, to allow limited movement of the elements of construction

not dissimilar to those adopted in the design of the housing in the Compulsory Purchase Order area.

The fundamental point is that, since the houses had stood for 130-140 years and, in spite of the effect of planning blight for 15-20% of that time, were still generally stable, they were therefore structurally capable of being converted for a further period of useful life.

The writer believes that the Inspector mis-read the apparent signs of distress in the fabric of the buildings, because the flexible structural design resulted in movement in the elements of the construction, which the Inspector took as proof that they were unstable - or would soon be so.

There is no evidence that he was given any technical advice by the Department of the Environment and this point will be considered later in this work.

There were structural elements in some of the houses which would have required rebuilding or repairing and these had been allowed for in the costing evidence submitted by the Barnsbury Association. Indeed, one house costing example submitted allowed for the rebuilding of one and a half storeys of external walling - and

this was accepted by the Inspector who classed the house as technically fit, since it could be made so at reasonable cost.

#### 5) The Ten Point Standard

It was recognised that most of the houses represented in the Compulsory Purchase Order area were deficient in one or more of the requirements of the ten point standard. However, the costs of damp-proofing basements, providing concrete floors, widening front basement windows, replacing steep stairs, providing modern heating, hot and cold water, electrical services and carrying out repairs, were all included in the writer's costs; these were generally accepted as reasonable by the Greater London Council and the London Borough of Islington. This point seems to have been accepted by the Inspector and Paragraph 188 of his report states...

"However, no great criticism is levelled by the Council at the figures produced by the objectors..."

The Inspector's description, observation and findings on the condition of the housing in the Compulsory Purchase Order area occupied approximately 52% of the report, although the Inspector was on-site with the writer for approximately one hour.

Thus it is assumed that the Inspector took a general view of the condition of the properties seen during this on-site inspection and then relied upon the lists of defects outlined in the statutory notices, which had been drawn up by the London Borough of Islington. Typical notices can be seen at the end of this work, Appendices 4-v & 4-vi.

There will be a discussion on this point later in this work.

iii. Analysis of the Department of the Environment's Judgement of the Evidence on Fitness

The Inspector recognised that his judgement of quality ... "includes a considerable factor of personal judgement ..." and this was clearly the case. Some people would regard any terraced house with a basement as a slum and, in the absence of any firm criteria against which to make a judgement, it is reasonable to presume that they would make a comparison of this type of housing against their own personal experience.

An individual's preference for living as a commuter in suburbia or in the country might have a profound influence upon his attitude to conditions in an Inner London 'twilight zone', such as the Compulsory Purchase Order area. Furthermore, it is very difficult for most people, including

many architects and surveyors, to imagine the quality and attractiveness of residential accommodation which can be achieved by converting old houses into new homes and, as was mentioned earlier, that situation was more likely in 1972 than at the present time. It is clear that an objective approach to this matter is desirable, but no such criterion is set out in the 'Appendix B' formula. A method of measuring the quality of housing achievable by conversion, compared with that obtained by new development, will be discussed later in this work.

The Senior Executive Officer of the Department of the Environment made no amendment to the points in the Inspector's report which were based upon his personal judgement. It appears that the Department of the Environment gave no guidance to their Inspector on these points, even though a number of them were capable of evaluation against standards which had been recommended by other Government organisations, such as the National Building Agency.

Recommendations for improving the assessment and processing of part III Compulsory Purchase Orders will be made later in this work.

iv. An Economic Appraisal of the Decision

a. Preamble

Circular 65/69 sets out the means by which Local Authorities should compare 'Improvement versus Re-development', in which two factors are to be considered:

- "1) how much is worth spending on improvements compared with redevelopment; and
- 2) how can areas for improvement be selected to secure best value for the resources used?"

In this case example the question of the alternative development had no legal bearing upon the decision. However, the most important criterion for judging whether or not a house is a slum rests upon whether or not it can be made fit at reasonable cost. It was for this reason that the Barnsbury Association submitted an 'Appendix B' calculation. They were not trying to prove that the case study area was more suitable for rehabilitation than other areas, as outlined in 2) above.

A pre-requisite of any choice between improvement and redevelopment is to ensure that the elements in the comparison are matched as fairly as possible.

The Barnsbury Housing Association's calculation submitted by the writer compared the following factors for the two theoretical options:

1. Density
2. Space standards
3. Costs

It would now be worthwhile examining these elements in the case.

1. Density

The zone density for this part of Islington was 136 persons to the acre and this could be achieved either by the redevelopment of the site to provide 115 dwellings or it could be achieved quite easily by conversion; indeed 40 extra people could be housed in the conversion scheme. The density calculations are set out in Appendix 4-vii.

Although a higher density could have been achieved by conversion, this benefit was omitted from the calculation in order to ensure a fair comparison.

2. Space Standards

The Barnsbury Housing Association's scheme provided for the rehabilitated housing to comply with the

Parker Morris space standards which were applicable to a new development.

The calculation of these areas and the type of accommodation proposed, is set out in Appendix 4-viii.

### 3. Costs

The Barnsbury Housing Association's scheme calculated the building costs of the two alternatives as follows:

(a) Redevelopment scheme	£590,850
(b) Rehabilitation scheme	£310,500

Two typical summaries of costings for two house types are set out in Appendices 4-ix & 4-x. It was assumed that land or building acquisition costs would be treated as equal for both schemes.

However, the London Borough of Islington's calculations submitted to the Town Planning & Development Committee on 23rd June 1970, made various assumptions not included in the Barnsbury Housing Association's cost analysis on the 'Appendix B' formula as follows:

- (a) that the conversion scheme would be more expensive than redevelopment;
- (b) that the acquisition cost of the land would be higher for the conversion option;



- (c) that the maintenance cost would be higher in the conversion option.

It must be remembered that this analysis was presented to the Town Planning & Development Committee in confidence, and the Barnsbury Housing Association were therefore given no opportunity to make comments or to question the computation of building, conversion and acquisition costs. A probable explanation for the different acquisition costs in the statement, is that the London Borough of Islington may have assumed that they would need to buy the houses for conversion under Part V of the Act; that is to say at full market value, rather than at the reduced value under Part III.

The London Borough of Islington's calculation can be seen in Appendix 4-xi.

If this were the explanation, it is not valid in the theoretical comparison, since the fundamental point was to compare like with like.

Thus, the Barnsbury Housing Association's scheme alternatives can be calculated as follows:

(a) Rehabilitation	£355,193	= 57%
(b) Redevelopment	£590,850	

This percentage should then be related to the table below, which shows notional comparison as set out in 'Appendix B', fig. 4.45.

Maximum cost of improvement per dwelling  
as proportion of cost of new building

Useful life (years)	Quality of improved dwelling as percentage of that of new dwelling					
	100	90	80	70	60	50
40	0.96	0.87	0.77	0.68	0.58	0.48
30	0.91	0.82	0.73	0.64	0.55	0.46
20	0.79	0.71	0.63	0.56	0.48	0.40
15	0.69	0.62	0.55	0.48	0.42	0.35

fig. 4.45 'APPENDIX B' FORMULA AS SET OUT IN  
CIRCULAR 65/69

It can be seen that the Barnsbury Housing Association's scheme is viable, assuming that the housing has a twenty year useful life and that quality comparison with new is 70%.

The London Borough of Islington's calculations referred to earlier, show by a direct comparison of the options that the rehabilitation of the houses was more expensive than the redevelopment of the site and was therefore not viable.

The London Borough of Islington's calculation showed conversion was 113.3% of the cost of re-development at 100 persons to the acre or 121.3% at 136 persons to the acre. However, the London Borough of Islington's calculations submitted to the enquiry were related to a comparison between a notional redevelopment scheme and the Greater London Council's rehabilitation scheme for the west side of Matilda Street.

This calculation showed a notional density achieved by conversion of 100 persons per acre, compared with the zoned density of 136 persons per acre.

As was mentioned earlier, the London Borough of Islington stated at the public enquiry, that they did not radically disagree with the Barnsbury Housing Association's comparison calculations of costs. The point at issue was the evaluation of the other elements in the comparison and how these were to relate to the table in 'Appendix B'. Paragraph 172 of the Inspector's report states:

"As regards the economics of rehabilitation accurate costs are very difficult to ascertain at this stage but the council does not radically disagree with the figures put forward by the Barnsbury Association although they would seek to add figures for the

soundproofing of dwellings where conversions take place and provision should be made for central heating adding £330-£500 to the total costs. The quality of the dwellings so produced is however very much a matter of judgement. The council assert that it is very unlikely to be 85-90%, it is more likely to be 60%. All these houses have basement rooms, they are close to the street, they have steep staircases. If the council's figure of 60% is accepted then rehabilitation is uneconomic, as is the council's contention."

However, the economic concept of whether or not a house is a slum relates to the question as to whether it can be made fit at reasonable cost. That is to say, could it be made stable, put into good repair and made to satisfy the ten point standard? The Barnsbury Association maintained that this work could be achieved for a cost of £2,400 per dwelling and the Inspector accepted this argument in three of the cases specially presented at the enquiry on behalf of owner-occupiers - that is to say three fifths of those represented. (The sixth person represented was an industrialist). Bearing in mind the method of choice in the selection of these houses, it is reasonable to presume that had detailed cases been presented for every house, a similar proportion might have been found technically fit.

Had this been the case, and bearing in mind the considerable area of 'added lands', the Compulsory Purchase Order would have been rejected by the Inspector. This factor of representing every house was one which had not been appreciated by the Barnsbury Association and, as a result of the knowledge gained at this public enquiry, an alternative interventionist approach was developed for the next part III Compulsory Purchase Order proposed by the London Borough of Islington in the Barnsbury Conservation Area.

It is accepted that since Circular 65/69 gave no guidance as to how comparisons for judging the quality of a rehabilitated house with a newly built one were made, the evidence provided and its evaluation by the Inspector was largely a matter of personal opinion.

V AFTER THE DECISIONi. The Legal Action Taken Against the Secretary of State for the Environment

Following the receipt of the decision to confirm the Compulsory Purchase Order and the Inspector's report and Senior Executive Officer's covering letter which set out the decision, the Barnsbury Association's professional team came to the conclusion that the Inspector had:

- a. made a bad decision;
- b. had not understood the Barnsbury Association's case;
- c. had not properly presented the Barnsbury Association's case to the Secretary of State;
- d. had accepted unsupported London Borough of Islington evidence and not mentioned Barnsbury Association supported evidence on the question of quality;
- e. had not mentioned the economist evidence at all;
- f. had not mentioned the social worker evidence at all.

Accordingly, the evidence was submitted to leading Counsel for an opinion and Counsel confirmed that there was a prima facie case for making an application to the court to have the Compulsory Purchase Order confirmation qualified.

Under the Act, the confirmation of a Compulsory Purchase Order can be challenged in the courts on points of law within six months of the publication of the decision by the Secretary of State for the Environment.

Accordingly, a writ was issued against the Secretary of State and the London Borough of Islington on the 26th October 1972, the grounds of which were that the evidence presented by the Barnsbury Association to the Inspector at the public enquiry were misrepresented to the Secretary of State, who was therefore unable to form an accurate judgement; "The Inspector failed to take into account matters which he ought to have taken into account and took into account matters which he ought not to have taken into account when making his decision to confirm the said Compulsory Purchase Order." (99)

The analysis of the Inspector's report related to the evidence submitted was also issued under cover of sworn affidavits confirming that these were a true representation of the facts.

For this reason, the Compulsory Purchase Order was suspended, pending the decision of the courts, and the London Borough of Islington's valuers did not commence the acquisition of the houses.

ii. The Secretary of State's Response

In March 1973, the Department of the Environment presented their case via the courts by the submission of affidavits and these were examined by the Barnsbury

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(99) Queens Bench Division of High Court, Writ served on Secretary of State for the Environment, c/o Treasury Solicitor & Town Clerk, London Borough of Islington, (15th March 1973)

Association's leading Counsel. The affidavits set out the Inspectors' actions in the writing of his report and the roles of the Chief Inspector and the Senior Executive Officer of the Department of the Environment.

These affidavits revealed that the Inspector's report was submitted to the Chief Inspector. This was then submitted to the Decisions Officer, who raised certain legal queries with the Chief Inspector, who in turn consulted the Inspector. As a result the Inspector agreed certain revisions to and deletions from his report; a copy of the original report was attached to the affidavit to show these deletions and revisions.

The fundamental point made by the Treasury Solicitor was that, although it was admitted that the Inspector had not included all evidence and had omitted two witnesses from the report, all the written proofs of evidence submitted at the enquiry were attached to the report as sent to the Decisions Officer. Thus it was argued to the Senior Executive Officer, when confirming the Compulsory Purchase Order on behalf of the Secretary of State for the Environment, he did so having seen all the evidence.

iii. The Confirmation of the Part III Compulsory Purchase Order

On receipt of this information, leading Counsel for the Barnsbury Association advised that the case be dropped



since it was likely to fail and considerable legal costs could be incurred. The writ was therefore withdrawn and the Compulsory Purchase Order was accordingly formally confirmed in April 1973.

However, the legal exercise was useful in several ways in this case example. Firstly, by virtue of the legal action, it disclosed the procedural means by which the Secretary of State's decision was made and revealed the bureaucratic framework in the Department of the Environment for processing appeals.

Secondly, the addresses of the Inspector and Senior Executive Officer were discovered to be in Redhill and Chessington in Surrey respectively and as was discussed earlier this may have been a significant subjective factor in the decision as to whether the houses were or were not slums, since it could indicate the background biases to the decision-making procedure.

Thirdly, the fact that the Decisions Officer for the case was very junior in the Department of the Environment hierarchy suggests that the Department did not consider the Compulsory Purchase Order very significant or important.

VI THE CURRENT SITUATION

Following the formal confirmation of the Compulsory Purchase Order in April 1973, the London Borough of Islington's valuers acquired all of the houses in the Order lands. Some owner-occupiers bought houses and moved out of the area, since their compensation ranged from £4,000 to £6,000 and was insufficient to allow them to buy another house or flat in Barnsbury. The other owner-occupiers and tenants were rehoused by the Greater London Council, under an agreement reached between the London Borough of Islington and Greater London Council during the transfer of responsibility for the public open space programme referred to earlier.

The buildings were subsequently demolished during 1973-1975 and the site was fenced with corrugated iron.

In 1977 the area bounded by Copenhagen Street, Matilda Street, Everilda Street and Hemingford Road was landscaped as public open space, (see photograph figs. 4.36 & 4.37).

In 1979 the site to the study area north, which is bounded by Everilda Street, Matilda Street, Hemingford Road and Shirley Street, has been similarly laid-out as open space six years after the confirmation of the Compulsory Purchase Order.

The Greater London Council has restored the housing to the west of the case example and these houses are being let at the present time, (see photographs figs. 4.46 & 4.47).

MATILDA STREET LOOKING SOUTH TO THE G.L.C.'S  
BARNBURY ESTATE. THE G.L.C. RESTORATION OF  
NOS. 5 - 41 IS ON THE RIGHT

fig. 4.46



MATILDA STREET LOOKING NORTH TOWARDS THORNHILL  
SQUARE SHOWING NOS. 5 - 41 MATILDA STREET AS  
RESTORED BY THE G.L.C.

fig. 4.47



## VII SUMMARY OF CONCLUSIONS AND IDENTIFICATION OF AREAS FOR FUTURE RESEARCH

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

There were a number of factors which influenced the decisions of the Greater London Council, the London Borough of Islington, the Inspector and finally the Secretary of State for the Environment, which can be broken down into four main categories as follows:

- a. matters of fact;
- b. matters of opinion incorrectly presented as facts;
- c. matters of opinion admitted as personal judgements;
- d. matters of sub-conscious judgement which are not recognised as such.

It would be worthwhile identifying the factors in these four categories, although there was clearly a significant degree of overlap between the various influences.

#### a. Matters of Fact

The case study area had been blighted for upwards of 21 years by the public open space proposals of the Initial Development Plan 1951 and this was the prime reason for the houses falling into a state of dereliction.

Therefore, as a matter of natural justice, part III should not have been used for the acquisition of the houses so blighted, although there is no legal barrier in principle to the use of slum clearance powers.

The Greater London Council's Housing Committee and the London Borough of Islington's Town Planning & Development Committee were both informed that the public open space was definitely required and had to be provided. This was accepted by both Councils, but at the enquiry the Inspector expressed his opinion that the Initial Development Plan proposals neither would be or indeed could be adhered to. With hindsight it can be seen that the Inspector and the Barnsbury Association were correct, since the boundaries of Barnsbury Park have been significantly changed from those shown in the Initial Development Plan by the subsequent decisions to retain most of the houses on the east side of Hemingford Road, the south side of Richmond Avenue numbers 163-185 Barnsbury Road and numbers 16-62 Barnsbury Road.

Thus it can be shown conclusively that the information given to the Greater London Council and the London Borough of Islington, which resulted in the implementation of part III action and which was a major factor in the decision taken, was in fact far less important than was thought to be the case.

Moreover, from a strictly legal point of view, the public open space proposal should not have been a factor for consideration, as was shown in the legal opinion and the Senior Executive Officer's statement earlier in this case example. However, the Inspector, who was presumably experienced in his work, concluded that it would be absurd not to consider the future use of the Order land in reaching a decision on part III.

The Inspector clearly has a good point in this statement, but the fundamental issue was related to whether or not the houses were slums. Had this not been the case, and had the Compulsory Purchase Order been under Section 112 of the Town & Country Planning Act 1971 or under the Open Spaces Act 1906, whereby the proper planning of the area, or the use of the area for public open space purposes were the issues to be decided, then his point would have been valid, both in law and in common sense. In this connection, it must be remembered that the non-occupier owners of slum property receive compensation for the land value of their property. That is to say no value is placed upon the house itself whereas, for example, under Section 112 the owners would have received the full market value of their land and buildings.

The other matter of fact in the decisions to implement and proceed with the part III Compulsory Purchase Order and the Inspector's decision, was that the houses were undeniably in poor repair. The land use and the conditions of the houses were inextricably intertwined.

The evidence presented at the public enquiry by the Barnsbury Association tried to unravel the various strands of argument into their constituent parts; it would have been useful had this been done by the Greater London Council and the London Borough of Islington officers when they made their reports to their respective Councils.

b. Matters of Opinion Incorrectly Presented as Facts

The London Borough of Islington's Town Planning Officer, in his evidence at the public enquiry, stated that in his opinion the Council could not give town planning consents for the conversion of the houses, since this would indicate a major departure from the Initial Development Plan.

He stated that this opinion was shared by the Town Clerk. However, this evidence was incorrect as a matter of law, as was shown in the legal opinion earlier and this point was accepted in principle by the Inspector. However, the Town Planning Department

gave no planning consents for development in this area following publication of the Initial Development Plan in 1951 and thus exacerbated the effects of blight. Moreover, appellants were often told they needed town planning consents when none were legally required. These two points will be illustrated in the case examples 2 & 3 where the London Borough of Islington planners were challenged on these points and where the principles of law were established.

Thus the Town Planning Officer was incorrect in his action prior to the Compulsory Purchase Order and his evidence was likewise incorrect in law.

c. Matters of Opinion Acknowledged as Personal Judgements

The important factor under this heading was the decision by the Public Health Officers and the Medical Officers of Health of the Greater London Council and the London Borough of Islington, that the houses were unsatisfactory. These officers were clearly qualified to establish that the houses were in poor repair and lacked the basic amenities in the ten point standard, but they were not capable of making a professional judgement on the other fundamental factors in Part III of the Housing Act 1957. That is to say, the stability of the houses, their arrangement in the street, their suitability for conversion and the cost exercise in



establishing that the houses could not be made good at reasonable cost.

The Greater London Council Housing Committee made their original part III Compulsory Purchase Order Resolution without considering any evidence under the 1957 Act, apart from the statement that the houses were considered unfit by the Medical Officer of Health.

The London Borough of Islington's Town Planning & Development Committee and the Barnsbury Steering Group did receive costing evidence related to the 'Appendix B' formula, but this did not compare like with like in the assessment of density, and the percentage quality comparisons between the rehabilitation and redevelopment options. The same applied to the London Borough of Islington evidence submitted to the Inspector at the public enquiry.

The evidence on the architectural and townscape value of the case study area falls into this category and although both the London Borough of Islington and the Barnsbury Association presented evidence on this subject, the Inspector expressed no opinion on this evidence.

d. Matters of Sub-Conscious Judgement which are not recognised as such

These factors are of course the most difficult to analyse, since they are inherent and concealed in the sub-conscious. However, it is possible to make some observations on the subject.

With a slight adjustment of vision, what appears as a slum to one person can be another person's ideal future home. A long disused cobbler's shop can become somebody's bijoux residence. Judgements of this kind often relate to other factors, such as fashion, economics, travel time to work and aesthetic judgement.

The whole issue of 'gentrification' in Inner London relates to such factors which influenced the decision of some of the middle-classes to live in Barnsbury.

On the other hand, people who are committed to the view of life as exemplified in the Ebenezer Howard ideal of suburban living might consider old inner urban terrace housing with basements as slums.

All the senior London Borough of Islington officers lived in the suburbs of London, as did the Inspector and the Senior Executive Officer. This could have been a significant factor in what was admitted to be a matter of personal judgement.

ii. Initial Conclusions

The analysis of this case example from 1965 when the original identification of the area for possible part III action was made, to the present time, indicates a number of identifiable problems which confront decision-makers in local Government.

The fundamental point is that, in a democratic process, the better the information officers provide to lay committees, the better their decisions will be. This implies the overriding requirement that the effects of alternative options should be clarified.

In this case example, it has been shown that lay committee members were misled in their decisions by inaccurate, incorrect or irrelevant information provided by officers.

It also emerged that in the fundamental issue of fitness, the criteria of 'Appendix B' were either not dealt with at all, or were presented in a way which prevented an objective comparison between rehabilitation and re-development.

The writer came to the conclusion that the London Borough of Islington, the Greater London Council and the Inspector had made bad decisions under Part III of the Act, and that this should be tested, if possible, through other case examples where similar issues to those which influenced the Hemingford Road case were involved.

The issues which were identified for the selection of a suitable future case example, were as follows:

- a. Housing in the Barnsbury area;
- b. Housing blighted since 1951;
- c. Housing proposed for future public open space;
- d. Housing proposed for Part III action;
- e. Housing of a similar age and condition.

The issues to be tested in such a case example were identified as follows:

- a. That the houses could be made fit at reasonable cost;
- b. That town planning consents could be obtained;
- c. That certain works of improvement required no town planning consent;
- d. That the land use zoning should not be a factor in the final decision;
- e. That land use zoning could be dealt with flexibly;
- f. That architectural and townscape quality should affect decisions;
- g. That objective means of deciding stability, arrangement of houses in their streets and room arrangements could be agreed.

Subsequently the Islington (Barnsbury Road) 1972 Compulsory Purchase Order was selected for action to test these theories.

An analysis of the points of similarity between the two areas is made in case example 2.

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