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UNIVERSITY OF DURHAM

Thesis submitted in fulfilment of the requirements for the Degree of
Doctor of Philosophy

TITLE

The interface between the Planning System and private organisations
in the case of large applications for Development: a theoretical and
empirical study

WILLIAM WALKER APEDAILE

2004

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Department of Economics, Finance & Business



- 3 DEC 2004

ABSTRACT

WILLIAM WALKER APEDAILE

TITLE

The interface between the Planning System and private organisations in the case of large applications for Development: a theoretical and empirical study.

This thesis focuses on the planning system as a complex and frequently difficult interface between the planning system and private organisations. The key questions asked in the thesis are first analytical, what are the relationships at the interface and secondly, managerial, can the interface be managed in a better way?

The theoretical approach adopted is based on the Institutional Approach to planning and more particularly the communicative version of that approach. A particular analytical method has been developed based on project issues and the investigation of five dimensions of planning: Command, Challenge, Collaboration, Contract and Culture (the 5Cs).

This research has a qualitative focus and is based on three case studies: a compulsory purchase by an Urban Development Corporation of a building owned by a major company whose challenge took the case to the Court of Appeal; a change of use of a site from bus depot to a supermarket raising highway, traffic, Conservation area, air pollution and cultural issues; a change of use from an industrial site to housing in which the Local Plan, employment and housing were key issues.

The thesis finds a dominant power of command in planning governance, a crucial importance of the right to challenge, and an absence of real collaboration and contractual relationships. The lack of discussion in practice of the importance of cultural differences and the impact on resources are also evident.

From these findings the thesis proposes a prescriptive model for the management of the public-private interface. This is based on a modified collaborative model of the Institutional Approach but is equally influenced by the analytical model of the 5 Cs developed in this thesis.

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DECLARATION

Some of the narrative material used in the East Quayside case study draws on the candidate's dissertation for the degree of Master of Science at the University of Northumbria at Newcastle.

This dissertation addressed the topic: -

Urban Developments Corporations
An Assessment of their use of Compulsory Purchase Orders

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STATEMENT OF COPYRIGHT

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CHAPTER 1 – THE PUBLIC-PRIVATE INTERFACE IN PLANNING: AN INTRODUCTION

1.1 Planning - A Problem Interface

In 1992, The Duke of Northumberland's Estate (the Estate) applied for Outline Planning Approval to develop some 16 acres of land at Willowburn on the outskirts of Alnwick, Northumberland, for a 50,000 sq.ft. scheme, including a 30,000 sq.ft. supermarket. The proposed site was designated for continuing agricultural use in the Structure Plan and furthermore, did not satisfy a specific government policy dealing with the impact of additional out of town retail development on existing town centre retailing. Despite an officer recommendation to approve, Alnwick District Council (the Council) rejected the application because it was inconsistent with the Structure Plan. This rejection resulted in a new application from the Estate for a much larger scheme, now including a 50,000 sq.ft. retail development. This scheme was approved late in 1993, despite objections from Alnwick Civic Society, the sole objector, on the grounds of the potential damage to retail trade in the town centre, a view supported by the Council's own expert consultants.

In 1995, Safeway plc bought half of the site and lodged a planning application for a 50,000 sq.ft. supermarket, a proposal supported by the Council leadership and the officers. Again the Objectors were the Civic Society but now supported by the Town Council and the Chamber of Trade. They objected to the scheme as being potentially damaging to town centre trade and the Council were ignoring their own consultants' advice. The Objectors also attempted, in vain, to persuade the Government Office in the North East (GONE), to call in the application.

On the day the Council was to consider the application in 1996, GONE intervened, severely criticizing the Council for its December 1993 decision to approve the scheme. The Council was held to have acted "grossly wrongly" in approving when they had clear evidence that the retail element in the scheme would have a severe impact on the viability of trade in the town centre. The Secretary of State was also minded to revoke the retail element of the scheme as contravening national, county and local policies on retailing. In November 1996, the Secretary of State confirmed his intention to modify the 1993 approval excluding the retail element of the scheme. The Council, backed by the Estate and Safeway, appealed against this decision, resulting in a Public Inquiry in June 1997.

At the two week long Inquiry, the applicant's case was the clear need for extra retailing (not contested by the Objectors) and the only logical solution was the Willowburn site. The Objectors questioned the legitimacy of the Council's actions, the non-conformity of the scheme with planning policy, the impact on town centre retailing and the choice of the Willowburn site as the only possible location for extra retailing.

The Inspector reported in three weeks but it was nine months before the Secretary of State's decision, accepting the report, was announced. The Inspector's report was a damning condemnation of the Council's actions. They were described as "grossly wrong" and "seriously perverse". They were also wrong in not accepting their own consultants' advice and also wrong in not implementing National & Structure Plan policies whereby the scheme ought to have been rejected. Following the decision, the Council and its insurers faced a £4 million compensation claim from Safeway who believed they had been misled over the security of the planning approval. The insurers insisted that the Council must apply for judicial review, where the judgement of the High Court judge was a round condemnation of the Council's actions.

1.2 The Significance of the Research Topic

A short account of the Alnwick case has been presented here to illustrate why the interface that is the subject of this thesis is indeed worthy of research. The technicalities that arise in such cases as this are investigated and explained in later chapters but there are a number of points to be noted here. First, the dysfunctional delay - the case took six years for what ought to have been a straightforward determination. Secondly, there was the prolonged uncertainty of outcome arising from the delays. Thirdly, the actions of the people in the Council were found to be wrong and perverse in policy interpretation and implementation. Fourthly, there were the serious financial consequences for the Council after Safeway made their compensation claim for lost opportunity costs. Lastly, there is power in the system to get wrongs righted where the public in this case forced a wrong decision to be corrected and were supported by the Secretary of State. Moreover, the case raises issues about the impact of government policy and local plans, the role of the Regional Government Office, the Secretary of State, local politicians and officers, public sector procedures, appeals and Public Inquiries, the strategic inconsistencies, uncertainty, resource costs and ethical issues.

The difficulties outlined here at Alnwick, together with the issues giving rise to them, are not unique in the author's experience. In a career lasting over thirty years with a major multi-national corporation, difficulties in this conflict-laden interface have been a regular experience. I have obtained permits to build factories and offices in the UK, US, France, Germany, Italy

and Spain. In the non-UK projects, there were at times very difficult problems to be resolved but these were invariably technical issues as distinct from political issues. As it happened, we were not faced with technical officers' decisions being rejected by councillors, conflicting strategies or intra-organisational conflicts in the public sector. Nor were we faced with the long delays and uncertainty that bedevilled so many UK projects as illustrated by Alnwick. This personal experience was the original motivation for undertaking this research as a search for understanding and it raised the question: -

How can we explain and understand what is going on in the current relationships in the planning interface between public authorities and private organisations?

There is however a second, wider point than this personal interest but arising from it. It is of little consequence to a business to know that of all the thousands of planning applications processed in a year, only a relatively small percentage fall into the types of cases exemplified by the Alnwick story. However, it is also the case that neither public nor private sector organisations can afford the time and resources to waste on this conflict-laden interface. At least the local authorities have specialist organisations devoted to planning matters whereas even very large private organisations rarely have such specialists. Even firms like Safeway depend on consultants and this is a firm that is constantly seeking planning consents for new sites. This then leads to the second question: -

In the interface between the planning system and private organisations, can a practical approach be developed that can improve the management of that interface to the benefit of both sides?

This is the big question for the research and this thesis will be seeking to provide such an approach.

1.3 The Focus of the Thesis

The focus of the thesis is on the conflict issues arising in cases like Alnwick and the problems they cause. It must be emphasised at the outset, that this thesis is not focussed on the planning system in general but only on the problem interface between private organisations and the system. The problems may be common to both sides but the private organisation may suffer particularly in terms of unexpectedly high resource costs and lost business opportunities. Taking Alnwick as an example, from the point of view of the private sector applicant, the main difficulties are, first, the dysfunctional delay e.g. six years to achieve the final determination. Secondly, the uncertainty of outcome e.g. the initial rejection of one scheme at Alnwick, then approval of a much larger scheme followed by eventual rejection of all proposals after a public inquiry and judicial review. Lastly, the disproportionate costs e.g. a massive compensation claim against the Council, arising from the lost business opportunities for Safeway.

From the illustrative example of Alnwick and from the author's personal experience, we can note that from a private organisation's point of view, the organisation has a single-minded objective to get its project successfully achieved. A well-run business has no energy to waste as much as six years embroiled in the planning process in the confines of a single project. Secondly, the open – ended negotiations frequently experienced in the planning process are not conducive to an efficient and effective process and in any case, negotiation, as distinct from collaboration, can take place in a very hostile environment. It is difficult to see collaboration taking place amid such hostility. Thirdly, the lack of real contractual relationships does not lead to an effective process. Fourth, culture has a big influence on public and private organisation and people, informing their very actions, yet is never openly discussed as a problem in the process.

Central and local government priorities may conflict, requiring clearer government guidance, more joined-up governance and better intelligence on central and local government priorities. There may be local political conflicts (e.g. legitimate objections) that may be capable of resolution with local interest groups. The private sector applicant may lack adequate knowledge and expertise to deal with the planning system. Here the solution could be improved collaboration and communication between the sectors, together with an adequate supply of good quality consultancy and advice. Public sector policy priorities may be competing or contradictory requiring more 'joined-up' government, but this may be a perfectly tenable position, say involving housing, transport and environmental policies. The planning process administration and management may be found wanting as it was at Alnwick. Solutions here may be improved standards of public administration, clearer and enforceable agreements between applicants and decision-makers. Lack of transparency may be a problem so that applicants are unable to minimise the risks of rejection, or assess opportunities and threats accurately and this may require greater efforts at transparency in the planning process. The Alnwick case provides a flavour of the complex nature of the planning process, as do the problems just outlined. It could be argued that the obvious solution to this complexity is major reform of the system. What I shall argue in this thesis is that such a level of reform is unrealistic in the context of a single project but nevertheless improvement to the process is still possible in that context.

1.4 The Research Questions

The difficulties we have encountered in the Alnwick case have already provided some support for the big question for this thesis. However, in order to answer that question, another series of questions arise, the research questions. These will be discussed in detail in Chapter 5, but they

are shown here in the context of the discussion in this chapter of the significance of the research, the research focus and the research objectives. The research questions are: -

- 1) Is there any theoretical basis for the way in which any or all of the participants in the system operate?
- 2) Are there critical factors, perhaps structural that are built into the system and are then prime causes of the problems even between public sector organisations and if so, what are they?
- 3) Why is so much uncertainty built into the process, could it be minimised and if so, how?
- 4) Are there methodologies for managing the process that will avoid or minimise conflict and what are they?
- 5) Are there policy and management implications, if so, what are they and how might they be implemented?
- 6) Do the public and private sectors assess the conflict in the system differently and if so, why and how?
- 7) Is it possible to develop an approach that will lead to improved working relationships in the planning process

There are many ways the relevant issues could be categorised but in the context of this thesis, we are concerned with policy and management. Policy is critical because it is the bedrock of public sector activities in its generation, interpretation and implementation. On the other hand, the private organisation is the supplicant and has no choice in the matter of having to deal with a public authority. Management is a critical element on both sides and the interface is complicated by the dual nature of the hierarchy in the planning system with elected councillors and officers.

1.5 Research Design & Methodology

The starting point of this research is to establish a theoretical framework. As the planning system has essentially developed since the 1939-45 War, it seems appropriate initially to look at the political context in which the development has taken place. This leads to an investigation of the theoretical backgrounds of the state, local government and planning itself through an extensive search through the literature. An important question here is whether any planning theory is reflected in the actual implementation of the planning process. At the same time, my own experience of many projects has developed a comprehensive set of project issues that arose repeatedly on projects. These issues about the planning process require detailed analysis of appropriate empirical evidence. This is the starting point for the development of the analytical method and its framework (dealt with in detail in Chapter 5) and the investigation of three case studies to provide empirical evidence.

The development of the analytical method also saw the evolution of five dimensions of the interface relationship. Command, Challenge, Collaboration, Contract and Culture all developed out of consideration of the project issues mentioned above and the thrusts that lay behind them. These five dimensions (the '5 Cs' -- a shorthand term used later in the thesis) are used in the analysis of the narratives in the case studies.

The thesis also develops a particular theoretical approach to the problems of the interface in planning. This approach starts from the basis of Institutional theory but is specifically an adaptation of the collaborative evolution of that theory as it applies to planning and developed in particular by Healey in her book 'Collaborative Planning' (Healey 1997). This theoretical approach is discussed in detail in Chapter 4.

1.6 Organisation of the Thesis

This thesis is presented in ten further chapters.

Chapter 2 elaborates the framework, policy and process of the planning system in which the public –private interface is set.

Chapter 3 sets out the development of planning over the last sixty years and discusses ideas about the relationship and roles of the state, local government and planning.

Chapter 4 outlines the Institutional Approach to the design of governance and discusses the ideas that informed the evolution of Institutionalism into the current 'communicative approach' or 'collaborative approach'. This theoretical approach is discussed in some detail together with a short discussion of recent critiques of the approach. Finally, the adoption of a modified collaborative approach is elaborated for use in this thesis based on the work of Healey.

Chapter 5 presents the empirical methodology adopted in this research, the research approaches and framework, the choice of case studies and the evolution of the analytical method.

Chapter 6 provides a narrative account of the case and analysis of the first case study involving the regeneration of East Quayside at Newcastle. This case deals with the direct impact on a private organisation of a specific government policy, regeneration by an Urban Development Corporation and the use of a Compulsory Purchase Order.

Chapter 7 likewise provides a narrative account and analysis of the second case, a new Safeway supermarket at Bath that involved change of use of a site with highway and environmental problems arising from its location on the main London Road in Bath.

Chapter 8 provides a narrative account and analysis of the third case study involving the proposed change of use for housing of a disused and semi derelict factory site at Francis Avenue, Bournemouth. This case raised issues of retention of employment land, need for more housing stock and changes to the Local Plan.

Chapter 9 examines the empirical evidence of the three cases using the analytical method and reflecting the five dimensions of the planning interface (the 5 Cs).

Chapter 10 examines the implications of the empirical evidence for planning theory.

Chapter 11 moves from theory to practice. A perspective on the implications of the research for policy and management are followed by an outline of a prescriptive collaborative approach.

1.7 Conclusions

This introductory chapter has illustrated some of the difficulties that arise in the planning interface. The illustrative Alnwick case has shown the conflicts, delays, uncertainties, impact on resources and costs that can occur. Furthermore, it has illustrated the role of objectors as stakeholders, the importance of the right to challenge through public inquiries and the roles played by all the actors. Here we have an example of conflict arising from implementation rather than policy. The crux of the case was the failure of the Council to comply with their own local policies as well as clear government policy guidance on out of town retail development. It has clearly shown up the impact of the role of the elected members and officers and the impact on the process in a case where they have acted perversely. This case illustrates a process that is unacceptable to all the participants and is consistent, in many of its aspects of difficulty, with many of my own experiences with the system. This is why I have undertaken this research.

This thesis will seek to show that it is possible to develop a more project based and collaborative approach to management of the planning process that, with a more emphasis on explicitly contractual arrangements, will improve the efficiency and effectiveness of the process and minimise if not avoid many of these difficulties. Such improvements are possible without obstructing the key purpose of the planning system, which is to protect the public interest. This

collaborative approach will be developed, drawing on empirical examples and an adapted version of Healey's collaborative approach.

This chapter has attempted to provide some understanding of why the big question was worth addressing and some indication of the path to answering the question. We now set out along that path.

CHAPTER 2 -THE PLANNING SYSTEM, FRAMEWORK, POLICY & PROCESS

2.1 Introduction

The planning system has gradually evolved from a focus on housing and public health issues into a regulatory system focussing on land use and spatial planning. In the context of government policy, this regulation is achieved through a legal framework empowering government ministers, civil servants and local authority councillors and officers to administer the system. In addition, the courts may become involved through the appeal system allowed under the law.

This chapter provides an outline of this complex system because it is relevant to this thesis. Thus a short account of the crucial legal framework provides the background against which the organisation of the system, the component institutions and the individuals can be considered. The importance of central government Orders, policy guidance notes, and statutory instruments is outlined because of their critical influence reflecting changes in government policy in the planning process.

The core elements of the planning process, Development Plans and Development Control including the appeal and decision systems are described in some detail as the guts of the process. A description of Urban Development Corporations is provided for two reasons. First one of my case studies concerns an extensive conflict with a UDC. Secondly, the UDCs were a crucial element in the Thatcher administration's policy commitment to achieving urban regeneration. This involved, among many other effects, the removal of planning powers from the relevant local authority for the specifically designated area. In achieving this property led regeneration, one of the vitally important powers given to the UDCs was that of compulsory purchase. A brief account of the compulsory purchase process and compensation is therefore provided at appropriate points, as this is a key factor in one of the case studies. As the administrative powers stem from a legal basis that is the starting point for this chapter.

2.2 The Legal Framework

The planning system in the UK is based on a legal structure that has evolved from the Housing, Town Planning etc. Act 1909 with its somewhat elementary provisions giving local authorities powers to prepare schemes

. . . with the general objective of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of the land.

Dissatisfaction with the provisions of this and later inter-war Planning Acts led to government commissioned investigations into various aspects of planning in the late 1930s. The resulting reports, the Barlow Report (1940) on Distribution of the Industrial Population, the Scott Report (1942) on Land Utilisation in Rural Areas and the Uthwatt Report (1942) on Compensation and Betterment all significantly influenced thinking on a new land use regulatory system. Eventually this led to the enactment of the Town and Country Planning Act 1947 (the 1947 Act) and this has been the basis of planning over the past half century.

The 1947 Act not only created local planning authorities but also required them to prepare a development plan for their administrative area indicating the way land should be used and how such development should be carried out. In addition, all land was to be subject to development control to be guided by the development plan. Because of increasing complications and many decisions of the courts, further consolidation of planning legislation was necessary in Acts of 1953, 1962, 1971 and 1990 (the 1990 Act) and three ancillary Acts.

Because it is not possible to change legislation substantially in a consolidation Act, i.e. the 1990 Act, separate legislation was necessary, consequently the Planning & Compensation Act 1991 (the 1991 Act) was enacted. This Act made important changes to the law on planning relating to development plans, the definition of development, appeals, enforcement, compensation for compulsory acquisition of land and other matters. A crucial effect of this Act was to insert in the 1990 Act a provision which gave the development plan a prime place vis a vis other material considerations in the development control process. Section 26 of the 1991 Act provided that the following provision should be added at the end of Part II of the 1990 Act:

S.54 (a). Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

This new provision was crucial as it led to what is termed 'plan-led' decisions compared with earlier consideration of the development plan as merely one of the material considerations that was given no special weight. Moore (2000 p.204) points out that the mandatory terms of this provision leave no room for discretion in its application. He suggests that only if there is no policy in the plan relevant to an application or if there is conflicting policy advice, may there be a case for disregarding S.54 (a). In addition, adherence or otherwise to the development plan carries considerable weight with the Secretary of State and Inspector in the call-in and appeal processes. This weight was evident at Alnwick and is a key factor in one of the case studies. In both cases, the issue was a practical one of implementation of policy in development plans.

2.3 The Organisation

There are essentially two main tiers of the organisation of the planning system, central government in the guise of the Secretary of State (together with the Regional Government Offices) and local government in the guise of the local planning authorities. A brief description of the responsibilities of the various participants is necessary before describing the actual process.

The Secretary of State

The planning system has from the outset been organised on the basis that day to day running of the system is the direct responsibility of local planning authorities. The law does not prescribe the responsibilities of the Secretary of State (the Minister) nevertheless he or she has wide powers to exercise overall supervision and co-ordination of the way in which the planning authorities operate to ensure they follow government policy. The Minister proposes legislation to Parliament, can issue regulations or orders fleshing out detail in the 1990 Act, issues important policy guidance notes, can call-in a draft development plan for his or her determination, although this is infrequent, likewise he or she can call-in a planning application for determination under Article 14 of the General Development Order 1988, orders public local inquiries, determines appeals under Section 78 of the 1990 Act against refusal of permission or conditions attached to an approval and confirms Compulsory Purchase Orders for authorities under his jurisdiction e.g. Urban Development Corporations. With this array of intervention available, he or she is, as noted by Moore (1997 pp. 12-13), at the apex of a pyramid of power. Moore goes on to point out that, in the end, the final say over determination of the use of the smallest parcel of land is given in law to the Minister. In all of these activities, the Minister is of course, acting with advice from civil service staff, both national and regional. Furthermore, the Minister is under no obligation to reveal information available to him or to his officials.

It is important to put in context the Minister's role in the decision making over called-in applications, appeals, and confirmation of Compulsory Purchase Orders etc. The Courts have said that the role of the Minister is not simply to adjudicate between two parties. Lord Diplock made clear that the public interest must be treated as paramount and Lord Green in *B. Johnson & Co (Builders) Ltd. v Minister of Health (1947)*, made clear that: -

. . . it is the function of the Minister to consider the rights and interests of the public.

Lord Green has also enunciated principles known as the 'Wednesbury principles' laying down constraints about what the Minister must take into account in exercising a discretionary power. The decision must not be so unreasonable that no reasonable Minister would have made it. In another case, specifically about a CPO, Lord Denning said the Court can only interfere if the

minister has not complied with the powers available in the Act. The Minister must therefore consider all the evidence, treat the public interest as paramount, and be mindful of the Wednesbury principles.

The Secretary of State can be seen as the apex of a power pyramid as suggested by Moore but he or she is subject to constraints in terms of legality, public interest, parliamentary support, media criticism and of course lobby groups.

Regional Government Offices

These are multi-Departmental offices located in the regions, e.g. in the North East. The Government Office for the North East (GONE) is staffed by civil servants under a Regional Director. The Department of Environment is represented in these offices by staff who can become actively involved in a planning application. This would occur in advising the Minister on a decision to call-in the application or when an appeal is made resulting in an Inquiry requiring Ministerial involvement e.g. at Alnwick. There is an element of networking between these civil servants and local authority officers from which applicants are excluded. Applicants have no negotiating access to the civil servants.

Local Authorities

In the planning system, the local authority has responsibility for development of planning policy through the Structure or Local Plans and for day-to-day processing of planning applications through Development Control.

The local authority normally sets up a Planning Committee of elected councillors. This committee will consider and decide on formal recommendations made by the professional planning officers for determination of an application. In important cases, the full council may eventually take the final decision. In the democratic process, the elected members are finally responsible for the planning activities of the authority. This can be a conflict-laden responsibility when members may accept or reject recommendations of officers, must at times address conflicting government and local policies, have conflicting priorities vis-s-vis adjacent local authorities or even with their own electorate e.g. the first two points here were germane to the Alnwick case. Essex (1996 pp. 156-167) points to the difficulties members may have in getting involved in depth with Development Plan evolution also dealing with numerous and sometimes complex planning applications indeed members can reach overload.

Local authorities employ professionally qualified staff to advise members on planning matters, in policy areas, develop and obtain approval for the authority's policies through the statutory plans and other policy statements, through development control, examine and make recommendations for acceptance or otherwise of planning applications. Frequently, powers are delegated to officers to determine non-contentious planning application. The role of the officers is pivotal in the planning process.

2.4 The Planning Process

Having outlined the legal framework and the organisation of planning we now turn to the planning process. The core of the planning system in the UK is concerned with land use and spatial planning and consists of two key elements: -

- 1) Development plans that provide overall guidance;
- 2) Development control that is the familiar planning process operated at local level on a case-by-case basis by the local authority.

Development Plans

In non-metropolitan areas, a two-tier system prevails involving a Structure Plan and a Local Plan and it is these two plans we will discuss here following the flow chart (Figure 2.1)

The preparation of the structure plan is based on a survey of the relevant area by the local authority, usually the county council. This survey generates the data on which policies contained in the Structure plan will be based. Section 30 of the Town & Country Planning Act 1990 (the 1990 Act), specifies a number of topics that are to be kept under review and examined. These are: -

- The principal physical and economic characteristics of the area, including the principal uses to which the land is put;
- The size, composition and distribution of the population;
- Communications, transport and traffic characteristics;
- Such other matters as the Secretary of State may from time to time direct.

Adequate publicity is to be given to this survey activity to allow due consideration of representations from interested persons. Thomas (1996 p.171) notes the difficulties of involving public participation at this stage.

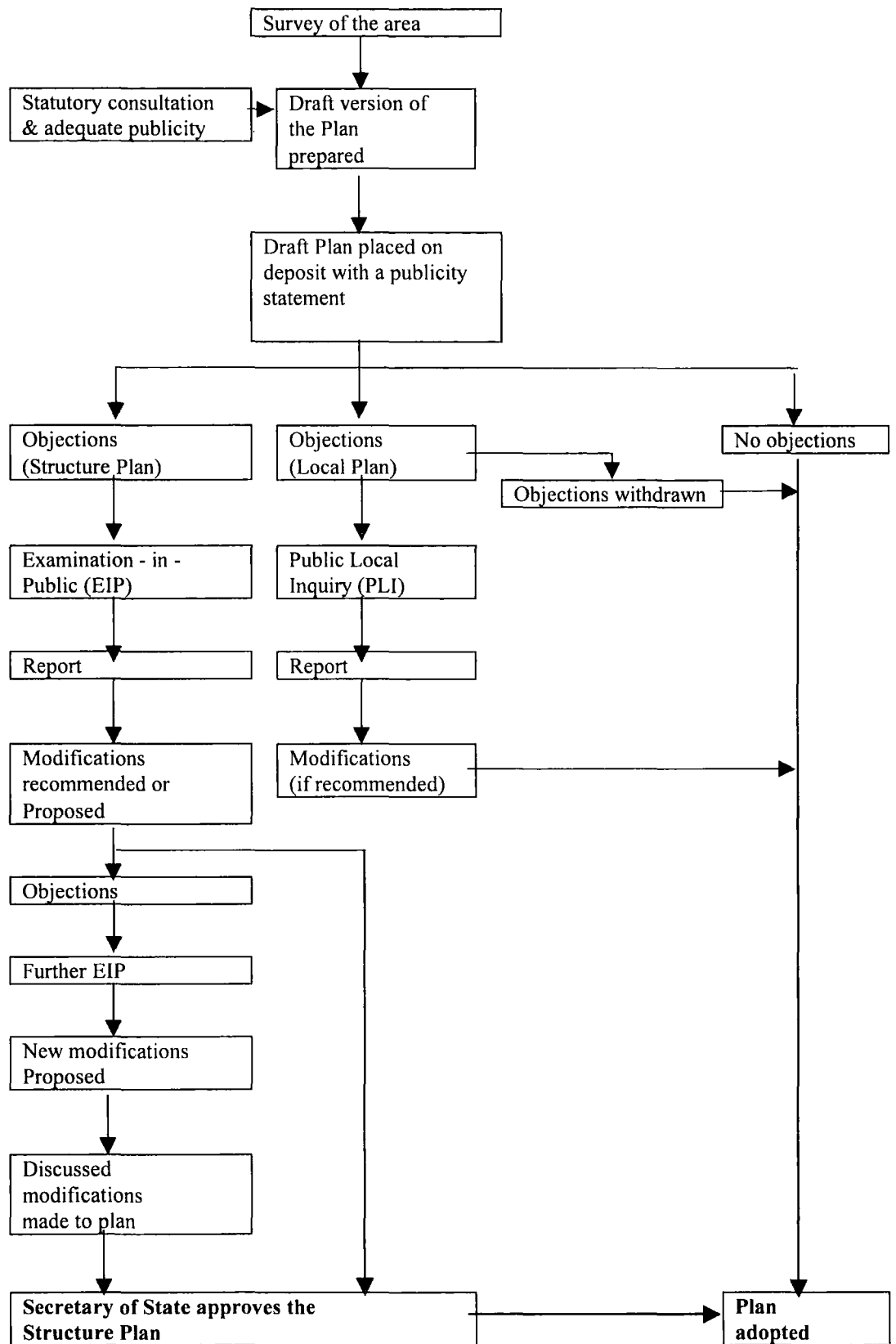


Figure 2.1 - Development Plan Process

Based on a diagram in Rydin (1993 p. 89) rev1 1/9/2003

A draft version of the plan is prepared, based on the survey and setting out policies in relation to development and land use covering amenity, areas of natural beauty, improvement of physical environment and traffic management. This is a 'broad brush' written statement although illustrative diagrams and the like are allowed.

Key topics to be covered are new housing, green belts and conservation, rural economy, strategic transport and highway plans, major employment developments, minerals, waste disposal, land reclamation, tourism, leisure and recreation. Economic issues must be considered also social issues but only in terms of land use.

This Draft Plan must enjoy wide publicity, consultation and public participation in its preparation and review. Government guidance in PPG12 *Development Plans and Regional Guidance* points to the importance of such publicity and participation but Thomas (1996 pp. 168-188) among others argues that this is not so easily achieved. In fact, government pressures on speed and efficiency in the preparation and adoption of these plans does not easily fit with the time needed to deal with objections which may be more numerous the more wide public participation is encouraged. The Draft Plan is placed on deposit for a stipulated period and again must enjoy adequate publicity.

If there are no objections and the Secretary of State approves, the structure plan is adopted. Normally however and certainly if there are objections, the Secretary of State appoints a panel to conduct an Examination-in Public (EIP) to consider and report upon selected matters. The local authority that prepared the plan makes this selection of matters and the panel is not appointed to consider objections. There is no right of hearing at the EIP, invitations are essentially extended to those who are relevant to the discussions. Following the Report of the panel, modifications to the plan may be recommended and this may produce further objections and another EIP. Finally, agreed modifications may be made and the structure plan submitted to the Secretary of State for approval. If approved, the plan is then formally adopted. The life of the plan is expected to be ten to fifteen years. It must be noted that the process described here obtained until provisions of the Planning & Compensation Act 1991, amended the 1990 Act to allow county councils to approve their own plans. Nevertheless, the Secretary of State retains considerable powers of intervention in the process.

The local plan follows much the same process as the Structure plan but does not start with the survey. In fact it sets out detailed policies and proposals for development and use of land in the area within the context of the relevant structure plan. The preparation of a district local plan is

mandatory and as we shall see, plays an important role in the use of a specific piece of land, unlike the structure plan. The content of the local plan is again a written statement and diagrams but must also include a map showing the existing and proposed land use in the area. The local plan will also normally include policies covering improvement of the physical environment and management of traffic.

The local plan process allows for a public local inquiry to consider objections to the draft local plan rather than consideration of selected matters of the Examination-in-Public. This step is avoidable if after appropriate consultations and negotiations, objections are withdrawn. Following the inquiry and the Inspector's report, the local authority is required to give due consideration to the report and to give reasons for not following the Inspector's recommendations. Moore (2000 p. 71) emphasises the heavy responsibility laid on the local authority to discharge this duty with due care and diligence. Modifications to the draft plan may then be made with due publicity and the plan adopted. Adoption of the local plan is subject to its conformity to the structure plan and to that end a Certificate of Conformity has to be issued by the county council. The Secretary of State has powers to call-in a local plan for his or her approval but this likely to be only in exceptional circumstances.

Development Control

Permission to develop must be obtained prior to commencement of works, this being defined in Section 55 of the 1990 Act covering broadly all building, engineering, mining works and all material change of use of land and buildings. Again a flow chart is the best way of showing this process (Figure 2.2).

In the majority of cases, the development control process is straightforward and leads to a permission to develop. Normally two types of planning application are available: -

- 1) Outline, which establishes in principle permission to develop but with reserved matters e.g. siting, design, landscaping, access, external appearance left until the required full application is submitted usually within three years;
- 2) Full, which completes the outline process or an application where full details are submitted at the outset.

Discussion and negotiation with the officers during scheme development is normal and is likely to lead to an application incorporating any specific requirements of the council. The elected councillors are not involved in negotiations and at best some local authorities permit a short presentation to the planning committee. Following the submission of the application, publicity

is mandatory, particularly among those immediately affected by the proposal as is statutory consultation with other authorities e.g. highway, utilities, the Environmental Agency, rail etc.

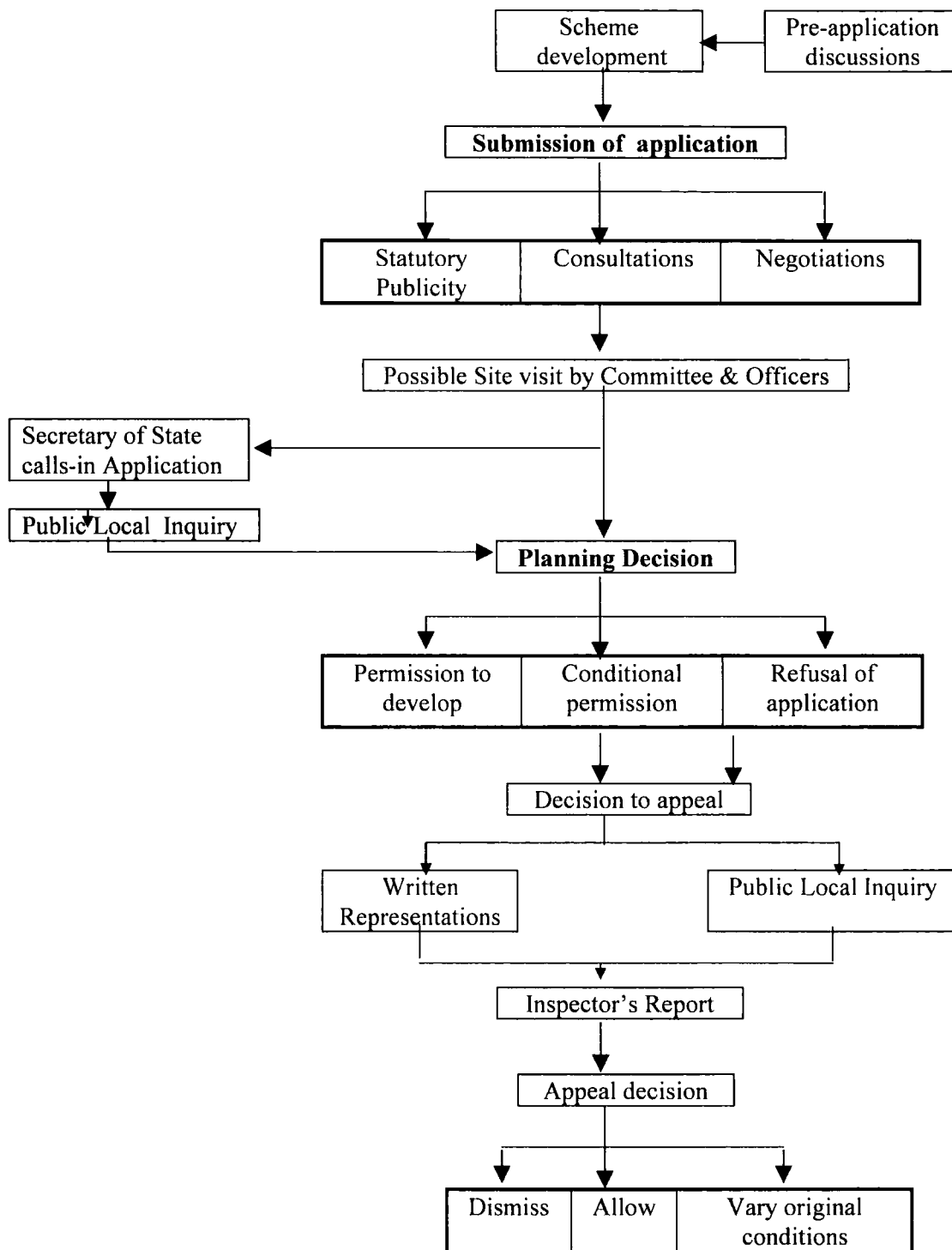


Figure 2.2 - Development Control Process

Based on a Diagram in Rydin (1993 p. 97)

Normally the application is permitted and the scheme can be started. A time limit of eight weeks is laid down for the planning decision to be made but with the agreement of the applicant this can be extended, particularly with complex projects. As previously noted, the decision is made by elected councillors on the planning committee following formal recommendations by the planning officers. The committee does not necessarily accept these recommendations as we saw at Alnwick.

Conditions are normally attached to an approval most being of a standard nature e.g. maximum size of development and approval of actual materials of construction. However, special conditions may be attached relating to specific circumstances e.g. flood protection, soil contamination clean up etc. Under Section 106 of the 1990 Act planning authorities were entitled to enter into agreements with applicants which, after the 1991 Act, were given the terminology of 'planning obligations'. Such Section 106 agreements were used particularly where the applicant would be obliged to carry out local road improvements.

As we have seen from the description of the role of the Secretary of State, that Minister can prevent a decision being made and can call-in an application for his or her own determination. Such a call-in will normally lead to a public local inquiry being held where in most cases the appointed Inspector will enjoy delegated powers and make the decision.

Provision exists for appeal to the Secretary of State for the Environment by the applicant against a refusal or against what he or she considers unduly onerous conditions. Rydin (1993) notes that in 1990-91, 26,000 appeals were decided in England & Wales. In a minor case, the appeal may be by written representations which an Inspector will consider and decide quite quickly. In more difficult situations, the appointed Inspector will hold a public local inquiry. The Inspector is normally a member of the Planning Inspectorate that was formerly a Directorate of the DoE. This led to charges of potential lack of independence of Inspectors but in 1992 this organisation became an executive agency of the DoE. The Inspector will hear the evidence, take into account material considerations, report and if delegated powers are available, make the decision to approve or to vary the original conditions.

It is in the Development Control area of the planning system where most of the conflicts occur. Alnwick illustrates this point where Safeway were caught between conflicting implementation of policy and determination over two applications, conflicts between members and officers and

the public eventually getting a wrong righted. However the causes of conflict may well lie in policy areas and the interpretation and-or the implementation of those policies at local level.

The Public Local Inquiry

As we have seen in the description of the planning process, Public Local Inquiries are an important feature of the system so an attempt will be made here to highlight a few key features germane to this thesis.

A public inquiry is set up to hear objections or an appeal against a decision and is normally conducted subject to two sets of rules, first, Statutory Rules of Procedure and secondly, the rules of natural justice, to ensure that the administrative process is carried out fairly. There are separate rules for normal planning matters and for compulsory purchase matters. The Statutory Rules are intended to ensure that the parties know that by following these rules the rules of natural justice are unlikely to be transgressed. Another benefit is that since 1988 and further revision in 1992, the procedure rules have imposed discipline on all participants in terms of the programme and timing of events up to, through and after the inquiry. The timing is based on the 'relevant date'. i.e. the date on which the Secretary of State formally notifies the appellant, the authority and statutory parties or objectors that an inquiry is to be held. Clearly, the common law rules of natural justice are a key feature of the inquiry. It is important to note here, that if there has been a breach of either of these rules, an order can be challenged in the Courts. Under Rule 6 of the Rules, the local authority must submit a 'statement of case' within six weeks of the relevant date to all the other parties, the Secretary of State, the appellant and any statutory party. The statement of case is a written statement giving full particulars of the case it is intended to submit at the inquiry together with a list of any supporting documents or evidence. Within a further three weeks, the appellant is likewise required to submit to all the other parties a statement of case.

Except as otherwise required by the Rules, the conduct of the inquiry is at the discretion of the Inspector. The appellant, the authority and the statutory objectors are entitled to call evidence and to cross-examine witnesses. Specialist barristers normally represent the major participants as all the evidence is formally presented and is then subject to cross-examination. In complex cases the inquiry may last for some weeks. At any time, the Inspector may make a visit to the site, accompanied or otherwise as he or she sees fit.

Following the inquiry, the inspector must write to the Secretary of State summarising the evidence, reporting his findings of fact and his recommendations. The Secretary of State then

makes the formal decision, notifying in writing all the participants at the inquiry and giving reasons for the decision. A copy of the Inspector's report or a summary is normally attached. The Secretary of State may allow the appeal, reject it, or vary the permission. The time taken for this decision can vary from weeks to many months and it is extremely difficult for the applicant to discover what is happening. The decision is normally final but provision is also made for challenge in the courts. Increasingly, the Inspector is taking the decision on the appeal on behalf of the Secretary of State and this does of course speed up the process.

The importance of the Public Local Inquiry is exemplified by the Alnwick case where the Inspector roundly condemned the Council's actions and was supported by the Secretary of State and the Judge at judicial review. Here, the public view was heard by an independent official when the local authority did not appear to be listening.

2.5 Planning Policy

We have seen in Section 2.2 that the planning system is based on a legal framework. However, government policy is not static and in any case, the courts are constantly making decisions that can and do influence policy and the law. This section will discuss some of the instruments used by government in implementing these changes, Orders and Regulations made under the Acts, and provision of planning policy guidance.

Orders

Much of the 1990 Act lays down no more than general principles, thus the Secretary of State is given powers in the 1990 Act to make Regulations and Orders by the use of Statutory Instruments (SIs). These SIs are normally subject only to a negative resolution of either House of Parliament within a forty-day period otherwise the SI comes into force automatically. The Cabinet Office confirmed that the present government had issued 4,150 Statutory Instruments in 2001 (*Sunday Telegraph* Report of January 20, 2002). Until 1992, this figure had never exceeded 3,000. These figure do of course cover all areas of government.

Orders enable the Secretary of State to vary many important provisions of the Planning Act. Two Orders of particular importance in the context of this thesis are: -

The Town and Country Planning (Use Classes) Order 1987 (SI No. 764)

This Order defines eleven 'use classes' and lays down that if a change of use in the same class is proposed, there is no material change of use and planning approval is not therefore required. The importance of this Order may be gauged by the comments of Grant (1989 pp. 2-3) who

notes that the courts have been closely guided by the use classes in their interpretation of what does and what does not constitute a material change of use.

The Town & Country Planning (General Development) Order 1988. (SI No. 1813)

Among other matters, this Order covers the procedures to be followed in processing planning applications. This includes powers for the Secretary of State to give direction to local authorities under Article 14 restricting their power to grant an approval, indefinitely or for a specified period. This may be done simply to allow the Secretary of State time to determine whether or not to call in the application for his or her own determination. Article 23 (2) (a) lays down that determination of an application must be within eight weeks from the date the application was received unless an extension of time is agreed with the applicant. Grant (1989 p. 124-125) notes that this timing is a target rather than being realistic and goes on to quote Department of Environment statistics for April–June 1988 showing only 56% of all applications in that period having been determined within the eight weeks. The applicant's remedy for failure to determine within the statutory period is of course appeal to the Secretary of State. As we have seen at Alnwick and will see in all the case studies, this issue of delays, uncertainties and consequent costs is one of the key problem areas in the planning system.

Planning Policy Guidance

At present there are 25 PPGs and 13 RPGs in force in various editions, re-issues being made at times to reflect changes or new initiatives in government policy. It may be noted that there were 852 pages of PPG's alone in late 2001 (Planning Green Paper 2001).

These documents are of utmost importance to local authorities and others concerned with planning matters. For example PPG1 General Policy & Principles provides strategic commentary on government's planning policies, PPG6 Town Centres & Retail Development on the other hand deals with policy on retail developments and tests for assessment of proposals, PPG12 Development Plans deals with the role and importance of Development Plans. RPG1 Strategic Guidance for Tyne & Wear is an example of Regional Planning Guidance. A critically important issue with these policy documents is the weight attaching to them as material considerations which the planning authorities and indeed the Secretary of State must take into account in determining an application or an appeal e.g. Alnwick. Accusations are levelled at planning officers that they slavishly follow the policy guidance as a given. In a judgement on PPGs, Lord Justice Purchas said

The only statutory obligation upon the local planning authority is 'to have regard to them'. They are in no way bound by them. (Carpets of Worth Ltd. v Wyre Forest District Council 1991)

However, LJ Purchas later pointed out the importance of planning authorities observing the guidance and departing from it only for clear reasons that should be stated. We can note here that PPG 6 dealing with out of town retail development and its effect on town centre retailing was ignored at Alnwick with serious consequences for the council.

2.6 Urban Development Corporations

A rather different manifestation of government policy but one of the utmost importance through the 1980s and 1990s was the institution of Urban Development Corporations. The first Thatcher administration quickly expressed dissatisfaction with the record and performance of the public sector in solving the urban regeneration problem. The Secretary of State, Hesletine, argued that: -

There is a need for a single minded determination not possible for the local authorities concerned with their much broader responsibilities (DoE 1979)

Engagement of the private sector was seen to be an important element of the solution to this problem and action quickly followed.

Government Policy

In the light of the new policy, the Local Government, Planning and Land Act - 1980 (the 1980 Act) was enacted empowering the Secretary of State to designate any area of land as a designated area provided he was of the opinion that it was expedient in the national interest to do so. Following such designation of an Urban Development Area (UDA), the Secretary of State could then set up an Urban Development Corporation (UDC). The objective of the UDCs was stated to be securing the regeneration of the UDAs that were generally areas of urban or industrial dereliction. No definition of urban generation was provided in the 1980 Act, although guidance was given on how it might be achieved. This was stated in Section 136 of the Act in these terms: -

To secure the regeneration of its area by bringing land and buildings into effective use, encouraging development of new and existing commerce/industry, creating an attractive environment and ensuring availability of housing and social facilities, thus encouraging people to live and work in the area.

No subsequent definition of regeneration was offered by the DoE. However, this lack of definition caused problems that were widely recognised. The question was whether regeneration meant the physical improvement of sites, buildings, infrastructure etc. or that it included elements of welfare and community centred interest. This was addressed by the House of Commons Public Accounts Committee (1989), the Employment Committee (1989) and by many writers e.g. Colenutt (1988), Colenutt & Tansley (C.L.E.S. 1989) and Parkinson (1988).

Judge (1989) summed up these arguments when he commented on the differences between Parkinson (1988) and a response from Shields (1988). To quote Judge (1989): -

. . . the lack of definition in the Act is key when Parkinson argues for a wider definition reflecting people's needs and Shields argues that such a definition would involve UDCs in a task they were never designed to fulfil.

This was noted by Stoker (1988) when he said of physical regeneration that: -

. . . the UDCs' single minded focus on this task is seen as one of their central characteristics.

It must be noted that the designation of a UDA and setting up of UDCs was based on the opinion of the Secretary of State, the expediency of the national interest and that no prior consultation was required with the people, relevant Local Authorities, business or indeed anyone. Compared with the setting up of the post-war New Town Development Corporations, the UDCs were not subject to the consultation and possible public inquiry process of the New Towns. The potential delays caused by such processes were not acceptable to the government (Cullingworth 1994 p. 205). To achieve regeneration and to implement Hesletine's 'single minded determination' required avoidance of long planning delays and effective acquisition of UDA land, usually in multiple ownerships. Consequently, thirteen UDC's were eventually set up in five phases between 1981 and 1993 including the Tyne & Wear Development Corporation (TWDC) in 1987. The UDCs were to be non-elected agencies, set up and controlled by the DoE wherein rested the powers to designate the UDA, appoint its Board and Chief Executive, control its funding by grant-in-aid, agree its important annual corporate plan, give it statutory powers for development control and compulsory purchase and eventually decide its life span. In appointing the Board, the DoE had to have regard to the desirability of securing the services of people having special knowledge of the area (Colenutt & Tansley 1989).

Powers

The 1980 Act gave crucially important powers to UDCs, in relation to the UDA and adjacent lands. For example, Section 136 of the 1980 Act stated that UDCs may acquire, hold, manage, reclaim and dispose of land and other property, carry out building and other operations, seek to ensure the provision of water, electricity, gas, sewage and other services, carry on any business or undertaking for the purpose of the object and generally do anything necessary or expedient for the purposes of the object or for purposes incidental to that purpose. However, they must act within the general law. In addition, Section 149 of the Act allowed transfer of Development Control powers in the designated UDA from the relevant Local Authority to the UDC by an Order. The UDCs were to take note of and work within Local Plans while the local authority,

now with only a consulting-advisory role, had to recognize the impact of the plans developed by the UDCs.

Generous funding by central government, together with the powers granted by the 1980 Act, would enable UDCs to lever in up to three times more private sector finance to effect regeneration of the relevant UDA. They were not expected to be developers in their own right. Imrie & Thomas (1993) noted that funding of the UDCs for 1989 - 92 ranged between £480- £500 million each year.

In practice then, the UDCs saw their task as physical regeneration of land involving land assembly, infrastructure improvements and the consequent attraction of private developers and their money. Conceptually, the thrust was "comprehensive regeneration" of a totally cleared site within the UDA by the removal or relocation of obstacles e.g. existing businesses of the wrong type. This meant businesses that could not be located on the new business parks as well as 'non- conforming or bad neighbours' i.e. uses likely to cause environmental, aesthetic or similar problems (Colenutt C.L.E.S. Report No.2 1992), (Imrie & Thomas 1992). This strategy led to extensive use of Compulsory Purchase Orders (CPOs).

2.7 Compulsory Purchase by UDCs

A Compulsory Purchase Order (CPO) is a legal device that allows Government, a Local Authority or any organisation possessing appropriate Statutory Powers to acquire land for stated purposes. Denyer- Green (1989) points out that since Parliament grants compulsory purchase powers on behalf of the community, it is unlikely that it would do so unless it was satisfied that, one, there is to be some public benefit and two, where private property is taken, compensation would be provided. Unlike a sale by a willing owner, compulsory purchase means the acquiring authority can unilaterally prepare the conveyances thus effectively passing title to itself. After serving the proper notice, the authority can then take possession of the land even against the owner's will. Statutory powers are crucial for three reasons (Denyer-Green 1989), one, to authorise the compulsory purchase approach, two, to legalise an otherwise unlawful activity and three, to give powers to statutory authorities to carry out a particular activity.

A Public General Act of Parliament is normally used to authorise the taking of unspecified land for a specific purpose by compulsory purchase followed by a CPO that specifies the land required. This procedure, allows the Secretary of State to confirm the CPO without further reference to Parliament.

The actual procedures for making and confirming a CPO are generally governed by the Acquisition of Land Act 1981. Matters common to every compulsory purchase e.g. conveyance of title, refusal of an owner to sell or give possession etc., are now covered by the Compulsory Purchase Act 1965, Section 7 of this Act providing the right of compensation when land is taken. Assessment of compensation is largely covered by the Land Compensation Act 1961 together with many decisions of the Courts.

Section 142 of the 1980 Act, empowered compulsory acquisition of land by UDCs, inside the designated UDA and even adjacent to it or elsewhere, if in these cases, acquisition was deemed necessary for proper discharge of the UDC's functions. Where a UDA comprised parcels of land in multiple ownerships, an owner or owners absolutely refusing to sell could clearly seriously compromise comprehensive site assembly. It is important to note here that there were special features and particular policies relevant to CPOs made by UDCs and these were set out in DoE Circular 23 / 88 - Compulsory Purchase by Urban Development Corporations. Before confirming a CPO, the Secretary of State would have in mind the statutory objectives of the UDC and would, *inter alia*, wish to consider the following points:-

- 1) Whether the UDC had demonstrated that the land was in need of regeneration.
- 2) What alternative proposals (if any) had been put forward for regeneration by land owners (or others).
- 3) Whether regeneration was, on balance, more likely to be achieved if the land was acquired by the UDC.
- 4) The recent history of the land.
- 5) Whether the land was in an area for which the UDC had proposals for a comprehensive regeneration scheme.
- 6) The quality and timescale of both the UDC's regeneration proposals and any alternative proposals.

Before submission of an Order to the Secretary of State for confirmation, the UDC had to notify every owner, lessee or occupier of affected land and publicise in newspapers the intention to make the order. This enabled any person to object to the Order within 21 days and these objections had to be considered by the Secretary of State.

After confirmation of the Order and in order to acquire the land, the authority had to serve the affected persons with notice to treat. A number of consequences arose from receipt of this notice: -

- 1) The owner had 21 days in which to state his interest and his claim in respect of the land.

- 2) The owner was free to sell his interest in the land but must not create new interests with a view to obtaining increased compensation.
- 3) The authority had the right to take possession upon giving notice of entry.

Compensation for Compulsory Purchase

As noted earlier, the acquiring authority must compensate the owner for loss of land taken by compulsory purchase. Once the owner's claim has been submitted, compensation has to be agreed and if disputed, referred to the Lands Tribunal. There are a number of very important points to be noted about compensation. First, under the Land Compensation Act 1961 (the 1961 Act) purchase price is determined on open market value as if there was to be no scheme. Section 5 of this Act also states that no allowance shall be made because the acquisition is compulsory and assumes that the land is being sold by a willing seller. Second, the disturbance costs, i.e. the relocation and business interruption costs are all claimable by the affected owner. Third, the amount of compensation together with the disturbance costs, must be agreed and stamped by the District Valuer (DV) thus protecting the public from excessive expenditure.

An important final point is that the compensation very often falls well short of the capital cost or ongoing new rental costs of replacing the owner's property in another location. This alone may offer sufficient cause for objection being made to a CPO. (Thomas, Imrie & Griffiths (1989) note such shortfalls and their effects in the Cardiff Bay UDC's Cardiff Docklands UDA

2.8 Challenges to a Compulsory Purchase Order

Objections

If any properly submitted objection is not subsequently withdrawn, the Minister must have the objection heard before an Inspector, normally at a Public Local Inquiry. Denyer-Green (1989) notes there are three groups of objectors. Firstly, 'statutory objectors', who are directly affected by the Order, owners, lessees or occupiers of affected land, but also neighbours, wishing to see the scheme modified in some way. Secondly, those accepting the proposed scheme but seeking a new site to which they can relocate. Finally are those objectors who seek to prevent the proposals being carried out at all. It will be seen that these disparate groups can constitute a formidable barrier to the CPO. The Public Local Inquiry is therefore the vehicle by which the objectors can hope to influence the Minister. Unless the Secretary of State has quashed the Order, the way is then open for the compulsory acquisition of the land.

Challenges in the Courts

Section 23 of the 1981 Act permits any person with an interest in the land covered by the Order to challenge the validity of a CPO in the High Court on the grounds that, one, there are no powers in the enabling Act or in the 1981 Act authorising the Order, i.e. it is *ultra vires* and /or the essentially procedural requirements of the Acts and Regulations which apply to the CPO process have not been complied with, thus prejudicing the interests of the applicant.

The *ultra vires* point can be sub-divided into three issues, one, the use of CPO powers outside the actual wording of the statutory legislation, two, misuse of the powers (note the Wednesbury principles), three, a breach of the rules of natural justice. The second of these grounds requires that to successfully challenge an Order on the grounds of procedural irregularity, the challenger must show substantial prejudice to himself. It is very important to understand the restrictions on the points which can be considered by the court because the merits, or otherwise of the Order, the reasons for it and Government Policy cannot be challenged. In addition to this procedure, a decision by the Secretary of State may be subject to judicial review under Order 53 of the Rules of the Supreme Court.

Application must be made to a High Court judge for judicial review which may or may not be granted. The overriding rule is that of "sufficient interest" to the appellant. In civil cases, the case must be sufficiently arguable. A High Court judge will hear the appellant's case which may be rejected or one of three types of relief granted: -

- 1) Certiorari - a decision is brought to the High Court to be quashed;
- 2) Prohibition - a restriction is made to prevent an action that is *ultra vires*;
- 3) Mandamus - a requirement is made to carry out a duty.

If the appellant's case is rejected leave may then be given to go to the Court of Appeal and ultimately even to the House of Lords, if the case is deemed to be of landmark importance.

2.9 Conclusions

This chapter has set out the context of the research by providing an outline of the planning system. The outline shows the importance of the legal framework in underpinning the administrative powers exercised by the Secretary of State, civil servants and local authorities. On the other hand, as we have seen in the Alwick case, it also provides remedies for an aggrieved party for challenge through the appeal procedures, even as far as the courts.

The crucial role in the system of government in the guise of the Secretary of State can be seen all the way from the generation of policies, e.g. the conception and implementation of UDCs, to the other end of the scale, e.g. detailed intervention in a particular planning application at Alnwick.

Alnwick also enables us to see the roles of regional government offices i.e. GONE and the local authority, both members and officers, in their interpretation and implementation of policy. This is a particularly good example of the consequences of perverse actions by the local authority; delay, uncertainty and serious cost implications for all sides. The importance of development plans, specifically the Structure Plan, is highlighted at Alnwick, particularly the consequences of ignoring both that plan and relevant government policy on out of town retail development.

The actual planning process appears to be covered concisely but considering the focus of the empirical evidence, this is sufficient for our purpose. As Alnwick illustrated and because of the importance of the objections and appeals in all three case studies, this area of planning has been covered in some detail.

The subject of UDCs has also been covered at some length because one of the cases revolves around the activities of a specific UDC. This vehicle for urban regeneration, the brainchild of one particular Secretary of State, Michael Hesletine, brought its own problems, as we shall see in the first case study. Because it became the key issue in that case, the subject of compulsory purchase and compensation has also been covered at some length in this chapter.

Overall, this chapter gives a picture of a complex system of government policies, legally underpinned and being interpreted and implemented by public sector actors, themselves empowered by that legal underpinning. These actors are attempting to deal with a very wide variety of planning applications, possibly from a house extension to a major facility, e.g. an office building, factory or supermarket bringing attendant infrastructure problems. What we have already seen at Alnwick and we shall see in investigating the empirical evidence, the legal framework may be in place; government guidance may be available, development plans and policies all clear but when the specific planning application is submitted, interpretation and implementation by people is the essence of the interface. As we have seen at Alnwick and we shall see more in the empirical evidence, even experienced private sector organisations can have considerable difficulty in coping with the system.

This chapter then, has already set the context in which the planning system exists and the influences, particularly from government that can complicate a particular application. The next chapter will examine the political and theoretical background to planning in the post-war years.

CHAPTER 3 - THE DEVELOPMENT OF PLANNING IN ITS POST WAR CONTEXT

3.1 Introduction

As we have seen in Chapter 2, the post war planning system is based on the 1947 Act, passed by the immediate post war Labour Government. With its focus on the state ownership and management of many of the country's assets, this government also regarded public sector control of the development of land use as an important component of its strategy. The continuing development and implementation of the planning process in the post war period must therefore be considered in the context of the philosophies adopted by the unvarying actors in the process, namely the government, local government and the planners. Consequently, this chapter will review a number of theories that are chosen and discussed for two main reasons. First, because they appear to have informed the strands of political activity identifiable in each of the actors over the last fifteen years, the period covered by the research project. Secondly, it seemed necessary to provide at least an outline of the antecedents of these theories particularly as no one theory at any level of governance can be said to be totally representative of the particular climate at that time. For example, New Right thinking informed much of the Thatcher administration's activities whilst, at the same time, the New Urban Left clearly demonstrated a totally opposed ideological standpoint, for example in London.

The chapter will start by attempting to understand what we mean by 'the state'. Each of the actors, government, local government and planners will then be considered in turn, in terms of the theoretical approaches that seem to have characterised their activities in the post war period. Also included here will be a review of sub-central government which covers agencies, networks and communities, at times including and overlapping the three sets of actors we have already mentioned.

3.2 The State

We have already seen in Chapter 2 that the planning system is a regulatory process instituted by the state, legalised by the state and managed by the state. It is important to gain at least some understanding of what we mean by the term 'state'.

Hampton (1991 pp. 220-233) suggests that we need to consider two key questions; how is the state to be conceptualised and who controls the state? It is surprisingly difficult to define 'the state' but it must be said at the outset that we are assuming the state, in this case the UK, to be a liberal democracy with the following characteristics. There is representative government by majority rule with regular elections and choice among candidates. The representative body, i.e.

Parliament, has the right of legislation, taxation and an effective opposition. Some individual rights are protected from interference by the state, e.g. religious tolerance and free speech.

Dunleavy and O'Leary (1987 pp. 2 - 5) have suggested a useful definition in both organizational and functional terms. Organizationally, they define the state as a set of recognizably separate institutions or set of institutions so differentiated from the rest of its society as to create identifiable public and private spheres. The state is sovereign, or the supreme power, within its territory, and by definition the ultimate authority for all law, i.e. binding rules supported by coercive sanctions. Public law is made by state officials and backed by a formal monopoly of force. The state's sovereignty extends to all the individuals within a given territory and applies equally, even to those in formal positions of government or rule making. Thus sovereignty is distinct from the personnel who at any given time occupy a particular role within the state. The modern state's personnel are mostly recruited and trained for management in a bureaucratic manner. Finally, the state has the capacity to extract monetary revenues (taxation) to finance its activities from its subject population. Functionally, they define the state as a set of institutions that carries out particular goals, purposes or objectives. The state is also defined by its consequences i.e. maintenance of social order, which means the identification of the state with institutions or patterns of behaviour which are stabilizing in their effects.

The Constitutional basis of the State

In the UK political system, with its unwritten constitution, Parliament is sovereign. In practical terms this reduces to the House of Commons as the unelected House of Lords only has limited blocking and revising powers although, in the short term, the Lords can cause a lot of problems for the government within a specific Bill. However, although government may choose to take aboard amendments proposed by the Lords, in the end, by invoking the Parliament Act 1911, the will of the House of Commons must prevail. Unlike the United States, there are no really effective formal checks and balances on the powers of a determined government. With a good working majority legislation can be driven through Parliament although this is often at a political price. Dearlove & Saunders (1991 p. 215) note that from the point of view of the established theory, Parliament can make and unmake any law whatsoever; there is no higher legislative authority; and no Court is in a position to declare properly passed Acts of Parliament invalid or unconstitutional. Consequently the question of control of the state is particularly difficult in this country. The simple view is that democratic control is exercised by the citizen through regular elections but this view is contradicted two factors. First, once the election has taken place, the voter has no effective control over the activities of government until the next election. Secondly, the distortions produced by the normal results of the British first-past-the-post electoral system. Oliver (1991 p. 130) notes that every government since the war has been

elected with less than 50% of the votes cast and this includes Labour majorities of 146 (1945), 99 (1966), 179 (1997) and Conservative majorities of 59 (1955), 100 (1959), 43 (1979), 100 (1987). In addition, even these figures are supported by a turnout of voters of only around 75%. With overall majorities, the limited powers of the House of Lords and the discipline of the main parties in the party system in the UK, a government is clearly able to force its legislation through Parliament.

In effect, each party claims a mandate based on its election manifesto and then claims legitimacy for its actions despite its minority of voter support in the election. In a similar vein Dunleavy and O'Leary (1987 p. 24) note what they describe as the constitutional fictions of Parliamentary sovereignty in the UK. Cerny (1990 p. 142) describes the Prime Minister as the "institutional fulcrum of power". Hutton (1999 p.259) argues that it is remarkable but in a democracy, profoundly dangerous, that Blair is now in more control of his government, party and country than even Thatcher at her zenith. Note that by 2003-2004 this degree of control over his party has been somewhat dented e.g. over University top up fees.

Apart from the informal checks and balances constituted by pressure groups, public opinion and the media, there are two other extra-Parliamentary checks on government actions. These are judicial review and human rights legislation, both of which are of increasing concern to government. Nevertheless, as we have seen in Chapter 2, only a specific point of law will be considered at judicial review, not government policy itself. Recourse to the European Court on a matter of human rights is limited to very few cases although here, government policy may be discussed and may be the issue.

3.3 Post war government in the UK

Throughout the post war period, the political complexion of government has simply appeared to vary between Conservative and Labour. However, the theoretical context against which the parties have implemented their policies has been much more complex. Here we will consider three theoretical aspects of how these governments appear to have carried out their role.

Post war Pluralism in the UK

Despite the position outlined above in Section 3.2, the post-war period has been marked by the activities and influence of a plethora of interest groups. Dearlove & Saunders (1991 p.132) note the difference between 'interest' and 'promotional' groups. Interest groups e.g. Trade Unions, the British Medical Association, the National Farmers' Union, Teachers' Unions and employers' organizations such as the CBI, advanced the sectional interests of their members. Promotional groups on the other hand e.g. Shelter, Greenpeace, advanced causes that were not

in the self-interest of only their own members. The activities of these groups led to explanatory theories offered by pluralist thinkers. These theories focused on the crucial importance of the process of policy making, interest groups as the all-powerful actors in that process rather than individuals and saw interest groups as enhancing democracy. Traditional liberal-democratic theories of the constitution and the ideal of participatory democracy are rejected because they are unrealistic in a highly complex age. Competitive interaction of interest groups and government are the answer to this problem and the resultant public policies are a reasonable approximation of society's preferences. The state is divorced from the interests of any one class or interest group and government exists to provide an arena for debate and resolution of issues. Government is seen as the referee. Interest groups rather than classes, individuals or parties are crucial elements of British polity and since anyone is free to join, leave or form groups; no interests are left outside the groups. Political power is fragmented because resources are widely dispersed and non-cumulative and no one interest group is dominant in the process.

This approach has been heavily criticized from various perspectives, Marxist, Feminist and the New Right. While it can be seen to have some merit, there are clear weaknesses, not least the dominant position of trade unions with their industrial muscle and their financial and historical control on the Labour Party, hence on Labour administrations. Also, as Birch (1993 p. 168) points out, pressure groups in the UK, no matter their power and influence, can rarely prevent a government using its parliamentary majority to do as it wishes. Government is not neutral and is not just a referee. However, the UK does have a level of plurality given the number and effect of interest groups attempting to influence policy. There is little doubt that, at times, such groups have had an influential effect on government policies and actions, particularly the trade unions.

Attempts at Corporatism and its failure

The post-war period in the UK had been marked by what may be seen as a relative consensus irrespective of the Party in power. While the immediate post war Labour government was elected on a socialist programme of nationalisation of private property and industry, in fact this was carried out only to a limited extent in its first two or so years of office. With its acute economic difficulties, shortages of materials, food etc., the UK increasingly adopted a Keynesian approach to state intervention. This approach involved an economic consensus that largely obtained throughout the 1950's even with a Conservative government. Hutton (1996 P.29) describes post - war Conservatism as settling for continuing with the Labour 1945 settlement in a kind of 'grand bargain'. Cox (1988 pp. 198-207) argues that in this period, the UK had a form of the state that could be described as pluralist with a Keynesian policy bias. Cerny (1990 p.148) identifies the period up to the late 1970's as characterized by a "partial corporatism" as by then he suggests there had been some vacillation between a corporate bias

and a pluralistic backlash. On the other hand, Cox (1988 pp. 207-211) argues that this was in fact failed-corporatism. This was because attempts by the Conservatives in 1962 and Labour in 1974 to develop some degree of corporatist types of arrangements had failed. Tri-partite decision making institutions were set up e.g. the National Economic Development Council, involving government, trade unions and employers, with voluntary participation, no government controls or sanctions and unions and employers could not control their membership. Cox argues the reason for this was the strength of trade unions with their commitment to unfettered free collective bargaining, the City of London's role in the international financial system, the nature and organisation of industry and the critical attitude of the people to the interventions of the state.

From the foregoing it appears that attempts at forging corporatist arrangements in the post war UK have eventually failed. At no time was the government, of whatever political persuasion, able to 'incorporate' capital and labour into the state. Government was not able to avail itself of powers that would compel labour, employers and the financial world to deliver on agreed strategies and promises. For example the trade union leaders were only able to carry their members on any agreement to wage restraints between 1975-1977. Thus one of the key tenets of a corporatist approach was never capable of implementation in the UK political climate. With Mrs. Thatcher came New Right thinking, which Dunleavy and O'Leary (1987 p.135) suggest has had the most recent and extensive impact on government decision making.

The New Right and Mrs. Thatcher

This normative approach is characterised by a conservative, scientific approach to orthodox economics, based on public choice theory, the importance of the individual in terms of self-help and as a consumer, pushing back on the state and trade unionism, commitment to free markets and perfect competition. A New Right perspective argued there was an overload of demands because, one, the public had unrealistic expectations about the services the state could 'realistically' deliver. The causes were, the adversarial party system and the welfare state ethic of 'equality.' Secondly, the personal stake of the bureaucrats involved in public service provision as a powerful lobby for more services. Causes here were the public sector unions and the 'professional' public service ethic. Thirdly, local authorities in major urban areas were often Left-wing labour controlled with ever increasing demands from local interest groups - they then became such a group demanding more central government funds. Lastly, the trade unions were too powerful. They were dominant and uncontrolled in the pluralist world.

However we can say that there are two fundamental concerns of the New Right theoretical approach. First was the central belief in individual freedom and minimal state interference with

that freedom. The state has, of course, a legitimate law and order function in protecting its citizens. Secondly was a firm belief in free markets. New Right thinking sees the citizens as individuals, consumers, competition as essentially beneficial and believes that such markets are the essential means of innovation, wealth creation and social co-ordination. These concerns lead of course to a profound rejection of state intervention, economically and in attempts to plan for and deliver 'social justice'. Many state institutions e.g. the civil service, local government are seen as self-serving, costly and far from solving problems are indeed part of the problem. Bureaucracy is seen as endemic in the public sector and in line with the need for individual freedom, has to be cut back. Thatcher saw the post-war performance (or lack of it) of the UK as stemming from failure to adhere to what she saw as fundamental principles.

The title of Hugo Young's book 'One of Us' (1990) exemplifies the Thatcher administration's attitudes. Enemies were legion: socialists, trade unions (particularly the miners whom she memorably described on July 19, 1984 (Young 1990 p. 371) as 'the enemy within, which is more difficult to fight and more dangerous to liberty'), welfare 'scroungers', the professions, 'wets' (fellow Conservatives who did not share her convictions), Left-wing run local authorities and many others. Consultation and planning were anathema to a government that believed that state intervention had been the cause of many of the problems besetting the UK and market forces were the answer. Monetary policy, privatisation of nationalised organizations, changes in the welfare-state e.g. the running of the Health Service, education policies, fiscal control over local government and emasculating of trade union rights, attempted reduction of planning powers of local authorities, the defeat of the miners, determination not to intervene in industry, the 'pole tax' are all examples of her government's approaches or 'Thatcherism' as it became known. There were many contradictions in this period of governance of the UK. Despite major increases in levels of unemployment to 6% rising at one stage to 14% in the 1980s, Thatcher was returned at three General Elections.

There is much evidence that Thatcherism changed the political map of the UK and much of that change is continuing even under a Labour administration. On the other hand, despite the New Right push to 'get the state off peoples backs', Britain is still a highly centralised country. At the same time, as we will see later, reform of local government became a key feature of the government's activities. Thus it can be argued that, until the New Right adventures of the 1980's and 1990's, apart from the statist activity by Labour in 1945-47, Cox's 'pluralism with Keynesian policy bias' has largely prevailed with some failed attempts at the introduction of corporatist institutions.

One common aspect of the UK state, irrespective of the political hue of the governing party has been the existence of an elite. Dunleavy and O'Leary (1987 p.179) note the role of Cabinet government masking an almost presidential rule by Prime Ministers. Further comment is made about how a 'politically neutered' Parliament dominated by the party leadership disguises the 'constitutionally uncontrolled power' within the executive branch in the UK. It can be shown that throughout most of the post war period, Government (particularly the Cabinet), the top echelons of the Civil Service, the judiciary and the Bar, many of the major financial institutions and major industrial organisations were dominated by men who had been to public schools often followed by Oxford or Cambridge Universities. This indicates a significant potential for networking, at the very highest levels in the state. We must now turn to consideration of the second major element in the state namely local government.

3.4 Theoretical aspects of Local Government

In the planning process the local authority is the key interface in the decision making process. Furthermore, we have two key sets of actors, elected members and officers and as we have seen at Alnwick, important tensions can exist between them. It is therefore essential in this context to look at theories of local government that may underpin the process and practices of these authorities. First, we will consider local government from the point of view of its place constitutionally.

The Classical Constitutional Model

The foundation of this model is the legal framework (Hampton 1991). Local government in the UK exists only as far as Parliament provides powers to local authorities to carry out specific functions. Formation and subsequent abolition of the GLC is a good example of this legal basis. The concept of *ultra vires* is vital in the operation of local government where any actions taken outside the powers granted by Parliament can lead to swingeing penalties attaching to councillors. Nevertheless they enjoy considerable discretion in exercising their powers (Cochrane 1993 p 9, Stewart 1983 p.3). Within a specific Act of Parliament, Government does not necessarily wish to control the detailed decisions that are to be made, recognising that delivery of services locally reflects some degree of local choice. Authorities have no powers of general competence to act in the interests of their citizens as, say, in France.

Within this model, Bulpitt (1983 pp. 52-66) argues that from the late 20s to early 60s the territorial politics of the UK were in the form of a 'dual polity' in which national and local polities were largely divorced from one another. Contacts were bureaucratic and depoliticised and the centre enjoyed its desired relative separation from peripheral issues in order to pursue

'high politics'. The general party politicisation of local government occurred post-war, as did the welfare state and its implications for the enhanced role of local government.

Local government in the Pre - Thatcher Era

Reference has been made earlier in this Chapter to the relative consensus obtaining in the early post-war decades. Cochrane (1993 p.7) suggests that the concept of these decades as the "golden age" of local government, with increasing budgets and responsibilities, is at the least misleading. He quotes Gyford (1985) as saying: -

Usually it did the right things for people; but sometimes it could do the wrong things to people; and only rarely had it previously discussed either of those things with people.

(Cochrane 1993 p. 8)

Cochrane goes on to suggest that, nevertheless, local government was a relatively unproblematic part of the political system. The post-war period saw local government gaining massively in resources and activity as a key part of the welfare state. Its task was professional delivery of fairly clearly defined services, council housing, social services, primary and secondary education, while having local democratic accountability. The budgets were large but actual support from the voters was (and still is) weak. Planning, through the Town & Country Planning Act 1947 became a critical activity in post-war development while council housing and education became the dominant areas of local authority expenditure. Cochrane (1993 p. 13) quotes increases of local authority spending between 1950 and 1960 of 9 to 13% as a percentage of national income and 26 to 31% as a percentage of public expenditure. He goes on to quote a number of writers, Cockburn (1977), Dunleavy (1980), Saunders (1984) defining local government in terms of its role of collective or social consumption. Saunders (1981) had offered an empirical approach, his 'dual state' theory describing two distinct types of economic process, 'social investment' e.g. physical infrastructure contributing largely to private sector well-being and 'social consumption' e.g. welfare, housing etc. contributing to support for the working population. These produced tensions between economic functions, which left only three decision-making strategies available to the state, bureaucratic intervention, pluralist competition, and corporatism. Rhodes (1988 pp. 37-38) criticised this theory particularly because of difficulties with classification, allocation of functions and the excessively narrow range of decision-making strategies considered. Rhodes (1985 p. 40) argued that sub-central government was the prime vehicle for building the welfare state up to the 1970s. This suggests to Cochrane (1993 p.14) that: -

... this places local government at the heart of the post-war political compromise which has been called the Keynesian welfare state.

At the same time, the post war period has seen a shift to the total politicisation of local government in favour of the three main political parties. A consequence of this party politicisation has been the growth of what has been described as 'one party states'. For example, Brooke (1999 p. 55) quotes a recent 1997 survey in which one in five local authorities were found to have at least 80% of their councillors from one party. This situation appears to have been particularly prevalent in the major urban conurbations and cities under Labour control and Brooke goes on to question the 'representativeness' of the councils in such circumstances.

The organisation and staffing of local government with their multiplicity and many of their responsibilities covering the same services was a major post-war government preoccupation. Seven committees or commissions reported between Maud 1967 and Paterson 1973 on the need to re-organise the local government structure, to reorganise the procedures, to improve the quality of the councillors and officers and to take aboard private sector methods of management. Eventually, these reports resulted in the Local Government Act 1972 and in 1974 the structure of local government was massively overhauled. Councils were amalgamated resulting in new district councils, the county councils and metropolitan counties. All this was occurring at roughly the same time as the welfare state itself was under serious pressure as the country's economic performance declined.

In 1975, the Secretary of State for the Environment, Tony Crosland, announced cuts in public spending and declared: -

We have to come to terms with the harsh reality of the situation which we inherited. The party's over.

The focus was largely to exert central control on councils by financial restrictions that capped their expenditure and their rate raising capacity. Cochrane (1993 p. 29) points out that by this period, the level of central grant aid to local authorities had reached 66.5% of revenue based local authority spending in England & Wales. By 1980, there had been a significant reduction of 20% in local authority spending as a proportion of domestic spending.

Mrs. Thatcher and the New Right Years

With the arrival of the Thatcher administration in 1979, pressure on 'overspending and out of control' local councils increased massively. Stewart & Stoker (1995 p. 2) note there was no overall Tory strategy for their approach to local government, rather in fact a piecemeal approach evolving by gradual experience with occasional reverses e.g. the poll tax which proved calamitous and possibly the beginning of the end for Mrs. Thatcher. Local government was powerless to resist the New Right orthodoxy's which prevailed, tight financial constraints

market forces, public choice, focus on reduced public spending, less bureaucracy, enabling role, separation of responsibility for services from provision, more business-like management.

A consequence of the government attitude was a veritable deluge of legislation being enacted dealing with local government matters, Stewart and Stoker (1995 p. 2) pointing to some forty Acts of Parliament being passed between 1979 and 1987. More was to come including of course the Town and Country Planning Act of 1990. Councils were forced into compulsory competitive tendering for projects including services like refuse collection. Services like design and construction were hived off into the private sector although this has not so far been the fate of the planning services. In fact, in terms of issues like urban regeneration, local government was eventually seen as a major part of the problem, rather than the solution. This of course was a key ideological consideration behind the concept of UDCs, which removed regeneration from local authority control in a number of areas.

Harding & Garside (1995 pp. 167-168) argue that there was a clear inter-relationship between urban and economic development policies in this period and that in the 1980s the urban policy initiatives had some basic characteristics. These were, one, the vital importance of private sector involvement in achieving real lasting regeneration. Two, the role of government was to attract business to urban areas - benefits (Jobs) would trickle down automatically to local residents. Three, special urban programmes prioritised economic regeneration and employment particularly through physical environment adaptations by capital expenditure. Four, proliferation of independent initiatives each with its own limited financial resources, expenditure rules and delivery procedures. Five, initiatives were often short lived and responded to shocks e.g. the 1981 riots - money allocated to areas on perceived potential rather than actual need. Lastly, new implementation agencies e.g. UDCs, were dominated by business and regional figures not local authorities.

Local government was ambivalent about many of the centrally initiated policies even when their own powers were downgraded or even removed and their influence diminished. This said, until 1989 local authorities had no statutory powers in economic field, only creative use of statutory powers. One small resource was that under the Local Government Act 1972 - Section 137, the product of a 2p rate could be used in the interests of its area or people. Also, their local power as employers, contractors and purchasers was used to follow a people-based policy focused on local labour recruitment, equal opportunities, trade union organisation and anti-poverty campaigns. Key authorities were the GLC and six metropolitan councils in the use of these "alternative" economic strategies - antagonistic to central government that closed loopholes and eventually abolished these councils in 1986.

Harding & Garside (1995 pp. 170-172) argue that the Government's focus on single-purpose, unelected agencies and physical regeneration programmes appeared to provide limited benefits to local communities especially those disadvantaged and unemployed, there was little local residents' involvement in regeneration plans and complicated an already fragmented policy making environment and militated against a more holistic approach. Nevertheless, Local Authorities remain at the interface with the public and have general responsibilities for the social and economic well being of inhabitants in a complex system of local governance. Their leadership in such a system is critical despite lack of formal authority or sanctions against those agencies whose support is essential to promote change.

The Post -Fordist Model of the Thatcher years

A useful approach in looking at the Thatcher years is argued by Stoker and Mossberger in Stoker and Stewart (1995 pp. 210-225). This is derived from their analysis of the development of the post-Fordist local state where Fordism is the term used for the social arrangements obtaining in capitalist societies through the period of mass production and consumption until the early 1970's. These writers use regulation theory that argues the role of the state and local government as the product of social struggle in an unstable society. The role of the state and other economic and social institutions may reflect the strategic ambitions of key political forces but roles are also defined by the unintended and unanticipated outcomes of political conflict. Regulation theorists see the role of the state as intervening in the economy to manage and sustain demand for and provide the required infrastructure necessary for mass production. In addition the welfare state was an important adjunct.

The authors argue that since 1979 there has been a centralised Conservative approach to the post-Fordist local state in which Tory governments attempted to impose a new role on local government to meet the demands of a changing political economy. They made two key points, first that it was a piecemeal process of change with no real strategic vision and secondly local authorities have not been passive recipients of change but have sought initiatives to respond to the changing environment. In order to achieve the required changes, the authors argue that the Tory government top-down approach required the following conditions, one, knowing what you want to do, secondly, availability of requisite resources, thirdly, ability to marshal & control these resources to achieve the desired results and finally communicating requirements to those required to carry out tasks and controlling their performance. Failure to achieve these conditions led to an "implementation gap".

In examining the local government response to change, Stoker & Mossberger (1995 p 221) also note a useful typology of response by local authorities to change: -

- Early adherents: - display leadership & enthusiasm for implementing change;
- Pragmatic compliers: - second wave, seen to be up to date, avoid risks, seldom improve or expand;
- Critical compliers: - late adopters, re-shape policies to suit needs, delay is strategic, could surpass early adherents;
- Late adopters: little enthusiasm, little need for innovation, comply with minimal requirements, delay.

The authors also argue that there was an interconnected pattern of economic, social and political change: -

- Economic: - supply-side intervention, competition & labour flexibility, local economic strategies and attraction of capital - Local Authorities' fight for investment, bids for the Olympics, etc.
- Social: - constraints on public spending, two tier service provision - differentiated patterns of consumption-personal resources to use the private sector v reliance on no-frills provision.
- Political: - 'Networking' & external focus, EEC and transnational focus, private sector involvement in policy making - QUANGOS
- Managerial: - 'New management' thinking, dominance of pursuit of private sector methods - Compulsory Competitive Tendering.

A reaction to the post war consensus - The New Urban Left

One further important theoretical approach must be mentioned and that is the Urban Left. King (1995 pp. 228-248) discusses the political values of local government in the context of what he calls 'core liberal values'. These he defines first as, liberty - diffusing power in the political system providing a bulwark against the power of the state. Secondly, there is political participation, allowing citizens to participate in running their own local affairs. Lastly comes efficiency to ensure the most economically efficient way of allocating public goods and services. To these he adds social democratic values of redistribution and autonomy. Redistribution is of course the importance of concern for economic redistribution by means of progressive taxation but King points out the lack of resources and powers of local government to implement these policies. Likewise in the British system, autonomy is hardly achievable in the context of fiscal restraints and the issue of *ultra vires*.

An important development covering all of these points was the rise of the New Urban Left particularly in Inner London councils e.g. Islington, Lambeth and the Greater London Council. This political element has not been confined to these authorities but they have been key arenas

for action. The concept has been seen best in the form of potent actions by authorities over race relations, feminist and gender issues, the police and crucially, economic initiatives e.g. the GLC's Greater London Enterprise Board. Much Urban Left criticism of regeneration policies such as London Docklands (Colenutt & Tansley 1989) also arose. Essentially socialist, the approach has rejected the post-war statist brand of socialism with its emphasis on equality nationwide (King 1995 pp.238-241). Key elements in the theory are the rightful participation in decisions which effect them by local people, job creation by local authority intervention, active support, which is often financial, in new areas of conflict e.g. race, gender etc. An additional strand is the growth of communitarian arrangements, which focus directly on local citizen involvement, and even devolution of powers down to ward level i.e. housing.

An important different approach to those outlined above has been offered by Rhodes (1981,1986,1988) with his concept of sub-central government which avoids focusing on central-local relations and instead critically examines inter organizational communities and networks. This is the subject of the next section.

Rhodes' and the Theory of Sub - Central Government

The concept of Sub-Central Government (SCG) is important because it addresses the issues of networks and communities and their interactions, both public and private, rather than the models of local/central government we have discussed already. Rhodes (1988 p. 98) admits to a Neo-Pluralist basis for his work albeit from a Weberian theory of bureaucracy. From the point of view of the examination of relations between public and private sectors, Rhodes provides some useful concepts that will now be outlined.

Rhodes (1988) discusses the unit of analysis of governance as central/local activities but stresses the importance of inter-organizational relations in the public sector. He goes on to note three levels of analysis, first, the Micro-level, interactions within and between individual sub-central units of government, secondly, the Meso-level - patterns of interaction between sub-central and central units of government and finally, the Macro-level - the national socio economic and political context of the meso and micro levels of interactions.

Policy networks are a key element in the analysis of SCG (Rhodes 1988 pp. 77-78). Rhodes argues that they all have different characteristics of dependencies, constellations of interests, membership, vertical interdependence, horizontal interdependence and distribution of resources. He argues (Rhodes 1988 pp. 78-81) that there are different varieties of networks in SCG and distinguishes between highly integrated policy and territorial communities and less integrated professionalized, intergovernmental and producer networks.

Policy communities are those based on major functional interests e.g. fire, education and are networks characterized by stability of relationships, continuity of highly restricted membership, vertical interdependence based on shared service delivery responsibilities and insulation from other networks, invariably from the general public (including Parliament).

Territorial communities are those based on territorial interests e.g. Scotland, Wales and Northern Ireland. Issue networks, e.g. leisure and recreation, usually have a large number of participants; a limited degree of interdependence; stability and continuity are at a premium. No focal point for other actors to engage.

Professionalized networks e.g. the NHS, water, are characterized by interests of a particular profession, a substantial degree of vertical independence and insulation from other networks. There is a national level ideological system.

Intergovernmental networks are based on the representative organizations of local authorities where membership is topocratic, explicit exclusion of public sector unions, extensive constellation of interests (all services etc.) limited vertical interdependence (no service delivery responsibilities) but extensive horizontal ability to penetrate other networks.

Producer networks covering both private and public economic interests. Fluctuating membership, centre's dependence on industry for delivering desired goods and expertise, limited interdependence amongst the economic interests.

Accountability of policy networks (or the lack of it) is clearly an important issue. Marsh & Rhodes (1992 p. 265) point to the legitimacy of these networks from a point of superior expertise and improved effectiveness of service delivery rather than a political base. Access is very limited and certainly excludes the public. The coincidental growth of policy networks and the public sector professions is described as a true symbiosis. The implications for the planning profession are clear and will be discussed in the next section.

Marsh & Rhodes (1992 pp. 266 – 268) also discuss the relationship between policy networks and various theories of the state, which have been reviewed already in this chapter. A neo-pluralist account of policy networks sees their impact in terms of professional influence, the logic of technical rationality, the privileged position of select groups of interests and the complex interdependencies within decentralised government structures. Richardson & Marsh (1979) point to a 'vertically compartmentalised' policy making, virtually impenetrable by 'unrecognised groups' or the general public. In their view, this is entirely consistent with

pluralism. New Right concerns with the corporate state are seen by Marsh & Rhodes (1992 p. 267 - 268) as a clear part of the policy network concept. Professional monopolies, bureaucracy, limitations on competition, consumer choice were all New Right concerns. They raise a key point here in the importance of understanding the concepts of policy networks in examining resistance to change; the ways in which political institutions and practices adapt or not as the case may be. They go on to point out that the concept must be used in conjunction with one of the political theories of the state to provide a full explanation of the policy process and its outcomes.

Although Rhodes' work on networks is valuable and can offer some useful pointers for analysis, it must be said that not all networks are obvious and the opportunity to join or influence policy through this means may simply not exist, particularly for private organisations. As we have seen above for policy communities, professional networks and intergovernmental networks, membership is restricted and does not allow inclusion of apparently powerful players e.g. large companies. Having looked at its local government context, we turn now to the planning system itself.

3.5 Early Post War Planning - its underlying philosophy and purpose

Eversley (1973 p. 5) defines the planner as an allocator of scarce resources. In the aftermath of war, resources were scarce and the welfare state was seen as the means of achieving a 'better life' for the people. This was in terms of health, education, housing, jobs, environment and social security. Planning was a key element in this strategy Eversley (1973 p. 160). Initially, he argues, (p. 47), that it was the nineteenth century Utilitarian social reformers who were the true begetters of modern planning. Furthermore, he suggests (p. 46) that Bentham's belief in the power of a democratic state as the only means of providing the 'greatest happiness for the greatest number' led inexorably to the growth of central government power as we see it now. Eversley (1973 pp. 77-81) and Hall et al (1973 Vol II pp. 59-62) elaborate on the influence of Ebenezer Howard on pre war thinking through his concept of garden cities forming stellar networks of settlements outside the great conurbations. As we saw in Chapter 2.2, in the 1930's government had commissioned Reports into various aspects of planning by Barlow (1940), Scott (1942), Uthwatt (1942) and later Reith in 1945. Hall et al (1973 Vol 1 pp. 91 & 92) argue that Barlow was the philosophical basis of post war planning - it was the logical distillation of all that had gone before.

Barlow argued for the correction of regional employment imbalance and the containment of urban growth with these two strategies linked together as a single policy. A minority Report,

signed by Abercrombie among others argued for comprehensive control over the location of industry (Hall et al 1973 Vol 1p.91). Scott reinforced Barlow's view on urban growth through his concept of the conservation of agricultural land as a priceless national asset and even suggested the 'onus of proof' should be on the developer to show that the use of agricultural land would be in the public interest. Reith contributed the concept of the planning and organisation of new towns eventually coming to fruition via the New Towns Act 1945. Here planners were seen to have the right and responsibility to try to shape the life of the community through physical arrangements (Hall et al 1973 Vol 1p.110). Abercrombie (Greater London Plan of 1944), among others, posited the development of a desirable end-state plan, a fixed master plan. Eversley (1973 p. 11) argues that, following Barlow, the timescale for identifying and substantial advances towards a solution, have shortened compared to earlier times.

The original purposes of the planning system followed the philosophy outlined above. Urban areas were to be contained and the overspill housed in self contained and balanced communities e.g. new towns; thirty-five new towns were built. Regional balance was a key objective in terms of economic growth and population change but this relied heavily on the location of industry, which was controlled by the Board of Trade. This involved the use of Industrial Development Certificates without which, industrial development of a particular site was impossible. The importance of protection of the countryside was always a critical underlying objective e.g. through Green Belt policies.

Uthwatt's Report led to the effective nationalisation of development rights to all land with all increased values resulting from development taken by the state. There were also objectives at the local level of segregation of land uses so that for instance, residential areas, schools, hospitals and recreational uses would not be subject to the environmental externalities of industrial pollution, heavy traffic impact on local road systems. Statutory Plan making and the rigorous development control system for individual areas of land were the key purposes of newly established local authority planning departments set up under the 1947 Act. These remain core activities of the planners.

3.6 The Planning System and its theoretical basis

Healey (1997 p. 9) argues that the massive industrial, commercial and urban expansions of the 19th century with the economic consequences and their impact on the people, led to increasing interest in management of social and spatial relations. Key resources for managing the planning for the future, avoiding the volatility of markets and power of industrialists were seen to be improving scientific knowledge which could provide an objective basis for identifying present

problems and predicting future possibilities and 'instrumental rationality' - focusing on relating means to ends in logical and systematic ways. Impartial reason was seen as a key measure of such planning.

The post war period has seen a burgeoning world of theoretical development. There is no 'overarching' theory of planning and indeed there is considerable argument about 'what planning theory is.' Alexander (1997), Forester (1989), Taylor (1998), (Yftachel & Huxley 2000). Alexander (1997 p.3) discusses two aspects of planning theory, normative (what ought to be done) and positive (how to do it).

Forester (1989 p. 137) offers a concept of theory as: -

Planning theory is what planners need when they are stuck: another way of formulating a problem, a way to anticipate outcomes, a source of reminders about what is important, a way of paying attention that provides direction, strategy and coherence.

Taylor (1998 pp. v-vi) argues that planning theory addresses the general understanding of the nature of town planning. This means that fundamental questions have to be asked – What sort of activity is it? What should planning be aiming to do? What are the effects of planning? (Yftachel & Huxley (2000 pp. 907 – 912) quote the Oxford English Dictionary definition as: -

Explaining a phenomenon - a sphere of speculation and concepts as distinguished from practice..

Alexander (1997 pp. 3-6) posits a theory–practice gap and that the gap is likely to be unbridgeable because unlike say engineering, the facility to translate theories such as planning theory into application simply does not seem possible in the social sciences. Here, theory seems to be more assimilated through enlightenment. Harris (1997 pp. 799 – 801) argues that the gap may matter more to theoreticians than to practitioners but whether it can be bridged may depend on definitions of theory and practice and who is responsible for attempting to close the gap. Allmendinger and Tewdyr–Jones (1997 pp. 802 – 806) agree with Alexander that the gap is likely to be unbridgeable but disagree with his reasons. They argue for a more 'political–realist' perspective and point to the discursive nature of theory as one of its greatest strengths. It is used as a tool in a continuous power game. They comment that nobody seems to have thought why there has been little interest in bridging the gap from practitioners. A planning theory which provided an absolute truth would be likely to reduce the discretion and power of the planners. Despite these arguments, there is no shortage of planning theories and the key ones impacting the British scene are now discussed.

Rydin (1993 pp. 17-57) shows an evolution from environmental determinism of the 19th and early 20th Centuries through naïve public administration to procedural planning theory in the

1970's followed by the critiques of this theory in the 1980s (See Exhibit 3.1 for a summary of the theories and critiques). Environmental determinism, which lasted until post-war, is described by Rydin (1993 p. 22) as "the creation of an environment through careful, expert physical design, which not only improved the living standards but also improved the inhabitants physically, morally and socially". This was followed in the immediate post war years by what Rydin calls Naïve Public Administration and this we shall consider first.

Naïve Public Administration

The economic, social and political problems of the 1930s led post war to the passing of the crucially important Town & Country Planning Act 1947 which, for the first time compelled all local authorities to carry out planning activities. This required area based plans to be developed and development was to be controlled on a project-by-project basis. This immediate post war period was marked by policies of public sector direction of land use, including land taxation, policies predicated on the general acceptance of a socialist solution to problems. Rydin (1993 p. 53) points out there had been two major attempts in 1967 and in 1975-76 to direct development by nationalisation of land which had both proved abject failures. The apolitical, technical approach of planners assumed that given the political will of the politicians, appropriate powers and technical skills, planning was relatively problem free.

Taylor (1998 pp. 3 – 28) shows immediate post war planning to be based on physical, design-based strategies, planners very often coming from an architectural background. Critiques of the planning process of this period noted an absence of any real attempt by the planners to understand the social implications of the planning activity, e.g. of 'how a community actually operates'. The thinking appeared to be that a 'neighbourhood' could be designed physically. There was deemed to be a consensus as to what constituted the values and ideals of planning, nevertheless there was trenchant criticism of both layout and aesthetic design (Richards 1950), (Nairn 1955). There was no consultation with the people as to how they saw their needs (Gower 1977). The theoretical explanation of this process from an academic standpoint was that of naïve public administration (Rydin 1993 p. 31). This view arose from what was perceived as a naïve view of success with little thought given to the impact of economic processes and thus possible failure to implement solutions and deliver successful outcomes.

From naivety to rationality - Rational Planning

With the economic growth in the post war period, need for jobs, housing, roads, leisure activities et al, planning was becoming much more a specialist profession and planners were claiming wider expertise, becoming more than purely technical, urban design officials. This was a period of Keynesian demand management, maintenance of full employment buttressed by

social welfare policies, really the last decades of Fordism. Increasingly planners attempted to gather all the necessary data in order to select between options and achieve optimal solutions to problems. Taylor (1998 pp. 61- 74) discusses this 'rational' approach as a theory of the process of planning, what Faludi (1973 Ch 1.) considered to be a 'procedural' theory. Thus, the prevailing orthodoxy in the immediate post war period was instrumental rationality or procedural theory, regarded widely as the dominant paradigm in planning theory. Alexander (1996 p. 46) argues that it filled the role of a 'general theory of planning' over a considerable period and goes on to suggest that despite all the criticism, rationality has not yet been adequately superseded as it has generated a significant body of concepts and useful applications. Low (1991 p. 259) also argues that: -

Contrary to the arguments of some planning theorists, the 'rational paradigm' cannot be superseded. The breakdown of rationality is simply an aspect of the dilemma generated by the professionalisation, hence the rationalisation, of decision-making about something, urban development, which is the subject of political struggle.

The theoretical explanation of planning at this stage was of a rational process with the planners as rational decision makers. However as noted by Rydin (1993 p. 53), the changes to the procedures and reorganisation of planning had not led to improvements in efficiency *or effectiveness* (my italics). This rational approach suffered because of the difficulties with the quantity and quality of data to be collected and assessed, difficulties with the process and lack of consideration of economic impacts. Indeed the approach failed to cope with the eventual collapse in the 1970s of the growth of the previous decades.

A scientific approach - Systems Theory

A parallel approach was systems theory, which was developed from Operations Research and allied fields. It must be said here that this is not really a 'planning theory' as it was a tool much used across industry. Nevertheless, it provided planners with the tools for a much more sophisticated approach to the complexities of large scale urban planning. Furthermore, it had currency in the field of Organisation Development along with behavioural science techniques, where the organisation itself would be the subject of investigation. Systems theory is concerned with investigating understanding and control of systems using mathematical and similar techniques. A system here is a complex of interconnected parts, which are interdependent and therefore form a complex whole e.g. the human body, a city, a large organisation. It is important to recognise the fact that a system will exist in an environment e.g. a human being is dependent on air for survival. Taylor (1998 pp. 63-64) points out that the abstruse language, highly technical abstraction of systems theory was not a normal tool in the planning department

concerned with local plans and a myriad of planning applications to be handled. It did however have its uses in the development of structure plans at a more strategic level.

Critiques of rational planning

Taylor (1998 p. 95) points to rational planning and systems planning as being dominant into the 1970s and by this time rational planning, commonly termed 'instrumental rationality' was generally considered to be procedural planning theory. In fact, Faludi (1973) was claiming that planning theory was synonymous with procedural theory. Rydin (1993 pp. 53-57) argues that, following the economic problems of the mid 1970's and the failure to solve many of the problems of society, planning became subject to much criticism. Planners had to rethink their activities while major academic critiques of the procedural approach were made using emerging social science disciplines. Healey (1997 pp. 10-27) points to criticisms of these planning activities being enunciated by many writers. They drew attention to the sheer quantity of empirical knowledge and data required to identify and evaluate all the possible options as well as the unlikelihood of politicians being willing to comply with rational planning processes. Lindblom (Braybrook & Lindblom 1963) argued instead for "disjointed incrementalism". Davidoff & Reiner (1962) argued for "strict separation of fact from values". Gans (1969) argued for planners to have two clients, the customer for his or her services and the citizens affected by the customers' proposals. Barrett & Fudge (1981) suggested that policies were just as likely to be articulated through the ongoing flow of events as in formal policy making. Taylor separates critiques of rational planning into two strands, one the effects and two the implementation of planning.

The effects of planning

Taylor (1998 Chapter 6) cites Hall et al (1973) who published *'The Containment of Urban England'* in which they investigated the actual effects of post war planning. Their conclusions were that three main effects were apparent, urban containment, suburbanisation and lastly inflationary effects on land and property prices. This last issue was consistent with a political economic critique where the influence of planning as compared to more potent influences of social and economic forces. Here Taylor (1998 pp. 102-103) cites the work of Pickvance in this area. Rydin (1993 p.82) argues that liberal political economy has seen something of a revival due to environmental economic arguments.

A contrasting analysis was that from a Marxist political economy perspective. Whereas Pickvance saw planning and the market in opposition, this radical analysis saw the two in partnership. As Rydin (1993 p. 56) observes, this Marxist critique saw planning as supporting capital accumulation, a political process and the planners as agents of a capitalist state, deeply

involved in political activity. Outcomes were dependent on conflicts between capital and classes.

The implementation of planning

Taylor (1998 Chapter 7) suggests that rational planning was much about plan making and evaluation rather than a plan for rational action. He points out (p. 127 Note 1) that post war planning is replete with plans never implemented. He cites, in particular, Friedmann (1996) for his critique of rationalism for ignoring 'action'. Taylor (1998 p. 117) suggests that if planners are to be successful implementers of plans and policies, they need three skills, one the ability to identify the other actors relevant to the implementation, two, they must establish contact and third, they need negotiating skills as the other actors may well have different objectives.

Planning and the New Right

The problems of the planners and the various attempts to provide theoretical underpinning and justification for their activities received further jolts by the arrival of the Thatcher government. The 1980s saw new developments under governments hostile to bureaucracy. New Right attitudes were exemplified by the concept of the 'enabling authority' proposed by Ridley (1988) as Secretary of State (Cochrane 1993 p. 52). At the same time, the New Urban Left developed as people wanted community involvement and a change in behaviour of what should be less-professionalized planners to be supporters and advocates - the people wanted to decide. This was seen as a struggle for the allocation of resources between political groups by Rydin (1993 p. 72).

The major thrust of the 1980s was New Right theory, which arose from the New Right economic theory adopted by the Thatcher government. The ideological importance of pushing back the state, public choice and market forces were key elements in this theory. This again was a critique of post war planning, focusing as it did on the rejection of local authorities and their bureaucrats as the best vehicles for the achievement of economic and spatial regeneration. Economic and social planning was seen as a burden and the public sector intervention seen as part of the problem. This approach led among other initiatives to the formation of UDCs to solve the urban regeneration problem. To resolve the perceived failure of the public sector in this area, planning powers in the designated areas were stripped away from the relevant local authorities and given to the UDC. A key role of the UDCs was to collaborate with the private sector in order to lever in private capital for the regeneration projects leading to bricks and mortar regeneration. On the other hand, UDCs were given wide powers of Compulsory Purchase to enable efficient acquisition of land where owners might strenuously resist sale of their property. Economic and social needs of local people were largely ignored, not being seen as part of the UDC remit. In new Right thinking, participants in the planning process are seen as

consumers and the planners as state bureaucrats. Planners were to become agents of economic development supporting private enterprise even where their powers were restricted or removed. This was essentially a prescriptive theory proposing new ways of achieving desirable outcomes.

The New Left – a reaction to the New Right

New Left approaches developed in reaction to the implementation of the New Right approaches of the government. Left wing local authorities supported a new agenda in which minority, feminist and other similar claims for resources had so far been largely disregarded. The Greater London Council under Livingstone, Liverpool Council under Hatton were important examples. Community participation is a key component of this approach. This prescriptive theory looks for a distributive element in the sense of allocation of resources in ways in which disadvantaged people can gain an increased and better share in developments which effect housing, jobs, amenities etc. This approach has emphasised not only the plight of the poor and unemployed but has been heavily focused on race, gender and sexuality. Community participation is seen as a vital element in the process. Planners' relationships with capital and other economic interests are questioned as are their performance in achieving appropriate allocation of resources. De-professionalisation of planning is urged whereby planners would become merely advocates in a local form of pluralism.

3.7 Conclusions

In Section 3.2, I have argued that, from a theoretical view, the prevailing post war approach of governments was Cox's 'pluralism with a Keynesian policy bias'. This was despite the immediate post war Labour government's socialist approach and later failed attempts at corporatism. Thatcher's arrival with the New Right approach ended this relative consensus. Thus, the post war period may be summed up as having three separate theoretical thrusts, initial socialism, modified pluralism and the New Right.

In all three of these periods, local government has been shown to be essentially the handmaid of government given the overwhelming powers of the centre to dictate and control. However, it has also been recognised as being at the heart of the post war welfare state (Rhodes 1985) (Cochrane 1993). Thus the Classical Constitutional model would appear to be relevant to a consideration of local government theory. Apart from the massive structural overhaul in 1974, the major post war impact on local government was the Thatcher administration's New Right approach. This resulted in the rise of a New Urban Left in some Labour led councils, particularly in London. Also, the Post-Fordist model argued by Stoker and Mossberger (1995) has some relevance to the reactions of local authorities of different political persuasions to the

government's approach. Rhodes' work on Sub-Central government also has relevance to theories of local government particularly in his consideration of communities and networks.

In planning terms, we have seen how the underlying philosophy and purposes of planning in the early post war period were translated into a heavily design based physical process – regarded as based on procedural theory. From the standpoint of the planners, all the approaches outlined in Section 3.6 were critiques of or developments of the procedural theory, which had developed and were not theories promoted by planners themselves. A key question here is how the planners have seen these approaches. As we saw at the beginning of that Section, there was no disagreement with Alexander's identification of a gap between theory and practice. Indeed, it was suggested that the issue of whether the gap matters was probably only of concern to the theoreticians. Until the arrival of Thatcher's New Right approaches, planning theory had little or nothing to say about politics despite the day-to-day impact of the politicians, local and national, on the activities of the planners (Forrester 1989), (Hoch 1996), (Brooks 1996), (Allen 1996), Baum (1996) and Taylor (1999). Baum (1996 p. 366) makes the point that rationalist planning had little to say about politics and how to operate in the political world. He argues that more recent critiques have recognised the context of politics, otherwise they say no more than the rationalists. He suggests that: -

The key is to understand theorists as practitioners of theorizing.

Reade (1987) argues that planning lacks any credible theoretical basis also arguing that planners take on board new ideas, theories etc. without due consideration or appropriate grounding in the knowledge. Planners had, since the advent of professional planning in the post war period, operated in a physical development tradition with little or no interest in economic influences of indeed the impact of social dynamics. The technical problems associated with developing spatial plans and subsequent controls of development were their key concerns, in other words, instrumental rationality.

This chapter has been concerned with setting planning in its post war context. It is important to recognise the radically different state of governance today, nearly sixty years on from the passing of the Town and Country Planning Act 1947. Government itself is more complex because of many different pressures it must sustain. There is the influence of Europe in terms of policy directives as well as the issues raised by human rights legislation. Global issues such as the environment. The global nature of business. The advent of more sophisticated lobby groups. Conflicts inside the arguments about the public interest e.g. in housing and transport terms. The interaction of policy initiatives where resolving one problem raises another e.g. the creation of centres in rural areas for proper processing of immigrants and the public reaction.

Planning itself is a good example of this more complex world as we saw in Chapter 2. Inspection of only the titles of the PPGs shows the Secretary of State offering guidance on Town Centres and Retail Developments (PPG6), Telecommunications (PPG8), Transport (PPG13), Renewable Energy (PPG22), Planning and Pollution (PPG23 and so on. Supermarkets, mobile phone masts, modern levels of transport and pollution, renewable energy are just some examples of topics that were unheard of but are now subject to government and indeed often European policy. Moore (2000 p. 375) graphically illustrates the complexity of issues of policy and management in describing the Public Inquiry into the Heathrow Airport Terminal 5 project. This inquiry enjoyed 524 sitting days and together with linked and related proposals considered 21 planning applications. In addition it considered 6 highway orders, 5 Acquisition of Land Act 1981 orders among others. The Inspector took evidence from 750 witnesses, received 25,000 written representations and considered 5,400 inquiry documents. In the end, this has to result in a government policy decision for which the focal point is the Secretary of State. All this seems a far cry from Alnwick and the empirical evidence in this thesis, yet, as we saw in Chapter 1, we have delay, very high levels of uncertainty and very onerous potential costs and demands on resources for all sides. Terminal 5 projects and Inquiries may be very important but what might appear to be a little local difficulty at Alnwick turned into a £4 million problem for the District Council because of their perverse actions.

Having set the context of the planning system, it is now against the background of the New Right approaches that we turn in the next chapter to a consideration of a radically different theoretical approach namely Institutional theory and its development, the communicative turn. The collaborative or communicative turn in urban planning theory has almost dominated the theoretical planning literature over the last two decades. Based on the work of Habermas and Giddens, it focuses on participation, possibilities of changing structures of governance etc., ideal means of communication, a different role for the planner and so on. It clearly turns its back on instrumental rationality as the dominant paradigm in planning theory and even if it is not itself the dominant paradigm it is certainly at the forefront of the debate. Because of its importance to this thesis, this approach to planning theory is discussed separately in the next Chapter.

THEORETICAL PLANNING APPROACHES

EXHIBIT 3.1

	Naive Public Admin	Procedural	Organisation Theory	Liberal political economy	Radical political economy
Definition of Planning	Public sector direction of land use	Generic decision makers	Policy implementation	Redressing market failure	Supporting capital accumulation
View of Planners	Public sector urban managers	Rational decision makers	Net workers	Assessors of environmental impact	Agents of a capitalist state
Process	Policy formulation & implementation	Decision making	Negotiation	Economic assessment	Influencing circuits of capital
Relation to the economy	External direction of economy	Nil	Nil	Intervention basis on quasi - market valuations	Responding to drive for profit
Relation to politics	Implementation of socialist plans	Goals set by political process	Planners bargain with interested parties	Nil	Example of functional role of state
Outcomes	Naïve view of success		Dependent on handling of resource constraints	Dependent on assumptions used in assessments	Dependent on capital & class conflicts
Research focus	Particular policies	Profession planners	Local Authorities & Quangos	Social markets	Production & collective consumption processes
Theoretical antecedents	Nil	Generalisation of Naïve Public Admin.	Critique of Procedural theory	Contextualising development of Procedural theory	Radical critique of NPA & Procedural theories

	Political sociology	New Right	New Left	Institutional
Definition of Planning	Local politics	Economic development	Community participation	Arena for mediation
View of Planners	Urban gatekeepers	State bureaucrats	Advocates	One sectional interest among many
Process	Allocation of scarce resources	Potentially facilitating development	Struggle for local power	Mediation
Relation to the economy	Economics a source of conflicts	Intervention in free markets	Economics constraining community goals	Economics as one source of structuration
Relation to politics	Planning is political	Potentially as if an authoritarian state	Local pluralism	Planning involves conflict between sectional interests
Outcomes	Inequality in distribution	Dependent on planning goals v market signals	Dependent on ability to control public & private sectors	Dependent on relations between factors
Research focus	Political groupings	Markets	Communities	Local case studies
Theoretical antecedents	Critique of Procedural theory	Critique of Procedural & Liberal political economy	Integrating Political sociology & Radical political economy	Integrating development of Organisation theory, Liberal & Radical political economy & Political sociology

Summarised from Rydin (1993)

CHAPTER 4 - TOWARDS A COLLABORATIVE APPROACH

4.1 Introduction

As we saw in the last Chapter, the prevailing orthodoxy in the immediate post war period was instrumental rationality or procedural theory, regarded widely as the dominant paradigm in planning theory. However, over more than two decades, this rational theoretical approach has been subjected to sustained critique Forrester (1989), Healey (1997), Hoch (1996), Mandelbaum (1996), and Sager (1994). It has been argued that if rationality was the dominant paradigm in planning theory, it is now being overtaken by an emerging paradigm namely 'communicative action' (Innes 1995 p.183). Allmendinger and Tewdyr-Jones (2002 p. 5) point out that the 'communicative turn' as they describe it has dominated theoretical discourse since the 1980's but it has gone through a number of mutations. They point to 'planning through debate' (Healey 1992), 'communicative planning' (Healey 1993), (Innes 1995), 'argumentative planning' (Fischer and Forester 1993), 'collaborative planning' (Healey 1997) and 'deliberative planning' (Forester 1999). Furthermore, they note that academic concern in relation to governance processes and institutional structures have, following Giddens, led to a focus on a 'new institutionalism'.

Healey (1997 p.5), defines institutional theory as an approach based on "new ways of thinking about the institutional design of governance". Two strands to this development are discussed: -

a) An *institutionalist* approach to urban and regional change focussing on the social relations involving the conduct of daily life and work and the way these relations interweave. The range of stakes which people have in the local environment, the different ways of asserting claims for policy attention, power relations and how these affect and inhibit the participants in the power game are all emphasised in this approach.

b) A *communicative* approach to design of governance systems and practices - ways of fostering collaborative, consensus building practices. This approach looks for a shared power world, investigates the design of governance processes to achieve this and takes a normative position for an ethical commitment to enabling all stakeholders to have a voice. Transforming ways of thinking is a key element in this approach. Healey argues that such an approach could provide the means of realising real participatory democracy in pluralist societies.

Healey considers both strands at some length in Part I of her book but importantly for this thesis moves on in Part III to consideration of design of processes for 'collaborative planning'. This collaborative approach uses both strands in supporting her stated purpose, which is to

provide a normative concept of collaborative planning as a style of governance and proposing some methods for achieving it (Healey 1997 p. 204).

It must be made clear at this stage that Healey's standpoint on advocating collaborative planning is from consideration of a widely based spatial planning arena with all that entails. This thesis focuses on a much narrower arena where we shall be investigating the restricted context of the interface between the planning system and private sector organisations.

An outline of the institutional and the communicative approaches will be followed by a short discussion of current critiques of the communicative approach. Given the claims made for the approach by a number of theorists, it is important to recognise that some of its precepts are under rigorous scrutiny by other theorists. An outline of my adaptation of Healey's collaborative approach and the resulting framework will end the chapter.

4.2 The Institutional Approach

This section will start with an account of the institutionalist perspective of the state followed by a similar account of local government. My purpose is to tie the institutional perspective in these areas into the background described in Chapter 3. The planning system is dealt with much more fully as it is the main thrust of this thesis.

The State

Writings on institutional theories of the state embrace the whole state and its institutions i.e. central and local government, business etc. Such approaches have economic as well as political theoretical foundations. Much of this can be found in neo-pluralist thinking described by Dunleavy and O'Leary (1987 Ch. 6). Here they point to the departure from conventional pluralist analysis by thinkers such as Dahl, Lindblom and Galbraith as they responded to social crises in Western nations caused by economic failures and civil unrest in the 1960s and 1970s. This was the basis of neo-pluralism, an approach that attempted to critique the differences between modern advanced industrial societies and previous eras. Neo-pluralism started with rejection of out-dated methodologies in economics and political science, e.g. in New Right thinking. The protagonists embraced unorthodox economic ideas, realizing the limitations on democratic choices caused by the activities of business corporations, argued the development of a professionalized state, the influence of systems theory, use of policy analysis incorporating organizational theory and overall a thrust for empirical realism. Dunleavy and O'Leary (1987 pp. 273 - 274) suggest that unorthodox economics has a heavily institutionalist bias, trying to

show how social values and organisational arrangements exert an important influence upon supposedly separate economic operations.

Galbraith's normative approach in "The Good Society" (1996 pp. 1-2) attempts to explore and define what an achievable 'good society' would be. He asks, among other questions, how economic policy could contribute to closing the gap between 'haves' and 'have nots'. How can public services be made more equitably and efficiently available? He is concerned with the 'achievable' not the 'perfect' society. These are clearly the types of questions raised by institutionalist thinking particularly when he goes on to discuss (pp. 17-18) the power and influence of business and its bureaucratic nature. He argues (pp. 19 -20) that as comprehensive socialism has all but disappeared, an opposing ideology, privatisation has emerged and that broadly, they rank with each other in irrelevance. He goes on to suggest that while there is a significant area where the market should be unchallenged, there is a large range of activities that increases with increasing economic well being where the services and functions of the state are either necessary or socially superior. In the good and intelligent society there is one dominant rule: decision must be made on the social and economic merits of the particular case and not subordinate to ideology and to doctrine. Action must be based on the ruling facts of the specific case. This point raises interesting questions for the planning system. How does a private organisation cope when a local authority acts perversely in the face of the facts e.g. Alnwick Council disregarding the Structure Plan and government retail policy?

Acknowledging his debt to Galbraith, among others, Hutton in 'The Stakeholding Society' (1999) champions the 'stakeholder society' as a normative approach to the state. He addresses a number of issues, which can be seen as institutionalist. Like Galbraith, he notes the 'ideological injunction' informing New Right thinking - private is good - public is bad. He argues (p.4) that the Conservatives have succeeded in creating a new public language in which choice and individual rights are seen as the overwhelmingly dominant values rather than responsibility, mutualisation of obligation and social duty. Opposed to this is how he describes (p. 74) the unifying idea of stakeholding, which is inclusion - the individual is a member, a citizen and a potential partner. Inclusion is not a one way street, there are reciprocal obligations on the individual as well as rights - in every domain and in every social class - could be a voluntary code or be codified into law. The institutions that grow out of these relationships foster relations of trust and commitment; they tend to be high investing, attentive to human capital and highly creative. He argues further (p.80) that stakeholding has profound implications for economic, social and political organisation. Workers are seen as members of firms rather than locked into employer/labour antagonisms. Firms become social organizations embedded in a

complex skein of rights and moral obligations. There is a different vocabulary - social inclusion, membership, trust, co-operation, long-termism, equality of opportunity, participation, active citizenship, rights and obligations versus the New Right vocabulary - opting out, privatisation, individual choice, maximisation of shareholder value, the 'burden' of welfare and the public sector.

In discussing business Hutton (pp. 81-84) describes the firm as a network of reciprocal claims between shareholders, employees, bankers, suppliers, managers and consumers. (Many firms would regard the consumer as the prime claimant, including this author's former employer). A business is doing something unique. It holds a franchise, in the widest sense of that word, through a network of co-operative working relationships cemented by trust and a desire to sustain a good reputation. At the same time controls of various kinds govern how people build these relationships, legal, financial. He suggests that the right to be a member of a functioning economic community is among the most important of individual rights. The key stakeholder value is inclusion rather than the 'equality' sought by the old left or the 'individual autonomy' of the New Right. All markets are social and political as well as economic. They are made to work by real people embedded in a real culture, interacting in real institutions.

Finally, Hutton offers some prescriptive approaches (pp. 90-95) where he argues the necessity to rebuild the intermediate institutions between the individual and the state so that they incorporate stakeholder values while simultaneously reforming state structures so that they are more open, accountable and responsive to the balance of public opinion. The task is to reinvent a value system in which obligations are stressed along with rights, so underpinning democracy and the wider society. This stakeholder economy and society needs to be buttressed by a revived democracy that offers the capacity for local elites to engage in debate and public service is worthwhile; nobody from whatever level in society wants to become a cipher of ideas decided at the centre - the condition of local democracy in contemporary Britain. We have already seen at Alnwick that consideration of stakeholder or public opinion played little part in the process until it came to challenge. A more collaborative approach between council and people may have avoided the conflict.

Rydin (1993 pp. 276- 281) argues that institutionalists have a normative analysis of the state, which promotes a role for public policy in redressing economic and social inequalities. This contrasts with much of the New Right approach of the Thatcher government.

Healey (1997 p. 207) argues that institutionalism is a normative theory which emphasises the complex interactions between the activities of formal government bodies, economic activity and social life, inter-linked through social networks and cultural assumptions and practices which cut across formal organizations. It has a thrust of policy development and strategy making which is inclusive, collaborative and communicative. Strategies must be seen to be effective and legitimate in terms of being clearly understood. It seeks to involve and hear all stakeholders. This compares with a corporatist approach, which concentrates, on a small number of powerful interest groups or a pluralist approach attempting to involve a plurality of interest groups (Healey 1997 p. 247). It again contrasts with a New Right approach, which for example deliberately shunned organised labour. It questions governance duties, competences and the division of tasks. Subsidiarity is a key question as opposed to the increasing centralising tendencies of the governments of recent times. The erosion of local government powers over the last three decades under governments of all persuasions is a direct contrast here. Finally, it stresses that those in governance must be able to justify their actions and be subject to challenge. This point is one, which is not generally comfortable for any British government. Critically, resources to effect challenges must be made available.

Rydin (1993 pp. 183-189) argues that this institutional approach is not seen to be useful to the executive as its normative view on the mediating role that the state can play is minimised by lack of consultation and negotiation over many areas of policy and by inequitable structuring of any mediation, which does occur.

Local Government

This level of governance is covered by much the same philosophy and process as outlined above for central government. Clearly, as we have seen in Chapter 2, central government is the key policy generator and source of powers for local and sub-central government. These latter on the other hand would be much more affected by the key stakeholder issues of inclusion, participation, trust, communication and challenge. Rydin (1993 pp. 189-198) and Rhodes (1988) discuss a complicated pattern or mesh of communications, intra-organisational and inter-organisational, involving the functions and organisation of local government. Rydin suggests that the institutional approach is particularly useful at identifying and analysing these forms of local governance activity. In the context of resolution of actual and potential conflicts between tiers of governance and departments of governance, these communications networks are seen as vital. These interactions and conflicts were clearly illustrated at Alnwick. Such conflicts are clearly likely to occur when she shows for example, that in 1993 (Rydin 1993 p. 186), in England alone, fourteen Whitehall Departmental organisations were relevant to the planning

system. Furthermore, the continuing erosion of local government powers has provided a fertile ground for conflicts between the two tiers of governance.

The Planning System

As we have seen in Chapter 3, the post war period saw planning as a rational, bureaucratic, physical design based process with the planners seen as apparently apolitical experts attempting to meet utopian objectives. Significant critique of this prevailing orthodoxy started in the US with critical assessments of political and business influences on development. Healey suggests this led to a policy analysis basis of planning. This itself came under serious critique led by Lindblom (Lindblom and Braybrooke 1963) where Lindblom attacked the possibility of comprehensive 'rational decision making', evaluating all the available options and then choosing the best (Dunleavy and O'Leary 1987 pp. 54-55). Lindblom instead argued for 'disjointed incrementalism'. Other writers raised the issue of values i.e. the planners were people and could not be value free. Hitherto this had not been seen as problematic in the prevailing consensus. Davidoff (1965) argued that it was impossible for planners to be value free in their decision making. Gans (1969) was arguing for planners to be aware of a wider interest than the direct client i.e. the citizens affected by the proposal.

Healey (1997 pp. 31-43) discusses the issue of resolution of conflict over spatial plans and frameworks and argues that in Britain, conflicts have been managed by a kind of pluralist interest group politics, which has simply meant that conflicts were repeated on a project-by-project basis. Participants became skilled in adversarial conflict. Mutual suspicion and lack of trust became entrenched and the nature of the power relations causing the conflict did not become transparent. A key issue in this thesis is the resolution of conflicts within the framework discussed by Healey. Dispute resolution mechanisms work eventually e.g. at Alnwick and as we shall see in the case studies. However, the delays, uncertainties, demands on resources and costs may be exacerbated by the process.

As we saw in Chapter 3, the New Right approach was market focused using performance criteria to measure results. This of course still allows conflict over what criteria are relevant and how they should be used. Again, as we shall see later, such criteria can easily prove to be contestable. Healey goes on to point out other issues such as institutional constraints. She talks of deeply embedded institutional constraints against collaboration in the British state with hyper-centralisation, the "pillar" type of organisation of government departments and the resulting complexities in local conflicts.

A crucially important background development in the rise of the 'new institutionalism' was the 'modernist v post modernist' debate. Taylor (1998 p. 164) suggests that in terms of planning, 'modernism' was an intellectual position based on reason and science. This fostered an optimistic belief that, through rationality and science, human beings could develop a better world. This thesis was seriously undermined by the post war utopian attempts at planning producing for example the despised tower blocks. Healey (1997 pp. 38-43) argues that modernism has been subject to much critique, where the belief in the "objectivity of science" was rejected by critics suggesting that science was actually socially produced and framed by constructs which held together only because groups of scientists believed in them. This critique it is argued has led to increasing distrust of what Habbermas (1984) calls 'abstract systems' of social, political and economic organisation. The rejection of the modernist intellectual position has led to post modernism where at the extreme, even rational discourse itself is impossible (Taylor 1998 p. 165). As far as planning is concerned, Taylor goes on to argue that what post-modernism is really criticising is comprehensive, 'clean sweep' planning not planning per se. Reason in planning, he points out, is as relevant as ever (Taylor 1998 p. 165).

Post-modernism nevertheless provides a focus on the way we live our lives. Healey (1997 p. 39) uses the word 'betrayal' in suggesting that this is our sense today of the modernist world that has been our experience. This is primarily because the governance institutions set up to improve everyone's material circumstances through science and technology has created new ways of making people unequal. She goes on to say this has led to increasing awareness of the cultural embeddedness of much of our life and its organisation. Culture is defined here as systems of meaning and frames of reference through which people socially shape their institutional practices, where values are seen not as individual preferences but to derive from modes of thought. This leads to identifying change away from homogenous cultural communities to encounters between people of different cultural communities. Each person may live in a number of different cultural communities involving many networks, family, work, social, sport etc. Healey poses a crucial question - 'is it possible to reconstruct a public realm within which we can debate and manage our collective concerns in as inclusive a way as possible'?

This is essentially where 'institutionalism' starts, largely, as Healey argues, underpinned by Giddens with his work on 'structuration' and Habbermas with his work on 'theory of communicative action'. Healey (1997 pp. 45 -49) describes Giddens' theory of structuration as follows: -

- a) Our working out of our individual identities and social relations are “structured” by what has gone before and we are embedded in these structures by all types of rules and systems of which planning of land use is one. These rules and systems may seem to have the quality of engineering and managerial techniques but all have been “made” at some time and are continually being remade. Modes of thought are very powerful e.g. in planning, assumptions of regulatory permits or plan making.
- b) We are all active agents and we make these structures ourselves i.e. structures shape agents just as agents shape structures. Planners make daily choices such as “whether to follow the rules or change them”. In other words, change the structure.
- c) Individuals are neither fully autonomous nor automatons.
- d) We have power to change if we recognise the situation (Transformative Power) by changing the rules, changing the flow of resources and most significantly, change the way we think about things.

Ball (1998 p. 1512) notes that in what he calls the Agency-Structure-Healey model of institutionalism, no precise definition is given of what constitutes a 'structure', an 'agency' or an 'institution'.

Structure seems to be aspects of the broad context in which agents operate. Agents seem to be key people working in the institutions, in which case institutions become wrongly personified as people.

However, Rydin (1993 pp. 73-75) notes that 'structure' is defined by the way actors operate with and against rules, resources and ideas as they pursue their specific strategies. Key definitions in the context of development are one, rules are political and judicial rules that define the limits of development, two, resources are channelled through financial systems and the interplay of supply and demand and lastly, the ideas and values that inform what should be built, what environment is desirable. The state is seen as a mediating agent in the conflicts between different interests.

McDougall (1996 pp. 189-200) notes that Giddens defines 'structures' as organised sets of rules and resources that are produced and reproduced through human action. Continuity is dependent on the knowledge of the human actors who concretise and reproduce through thought and action, the routinised patterns of social life. Giddens' definition of 'agency' is in terms of the ability of individuals to intervene in social life through their action. Action is an issue of choice, to act or not to act, to act differently and whatever the choice, if they wish exercise control. This issue of choice and how it is exercised implies power, which Giddens sees as lubricating the relationship between structure and agency. McDougall suggests that this

possibility of choice of actions and the extent to which planners exercise these choices is a central issue in planning.

Bolan (1996 p. 505) defines resources in two ways; command over allocative resources and command over authoritative resources. While the first involves control over material goods and natural resources, the second is the control over human beings. He cites Giddens saying,

Power may be at its most alarming and quite often its most horrifying when applied as a sanction of force. But it is typically at its most intense and durable when running through the repetition of institutionalised practices (Giddens 1995 p.9).

This concept of authoritative power is important in the context of planning because of the role of the actors in the planning system from Secretary of State down to elected council members and officers. We saw examples of this at Alnwick but more will be seen in the case studies.

All of this rejects the notion that we are autonomous individuals merely pursuing our own preferences in order to obtain material satisfaction - the utilities of neo-classical economic theory. Instead, it argues for 'socially constructed' individual identities. All of our daily actions seeing, knowing and behaving take place in kinds of social relations with others and are therefore embedded in particular social contexts. The particular geographies and histories of these contexts are crucial in framing attitudes and values. Systems of meaning and frames of reference arise from these contexts. Crucially important are differences in systems of meaning, in cultures. Social life is therefore actively made and socially constructed as we live our lives.

All these constructs are acted on by powerful structures which impact on our daily activities. Nevertheless, the institutionalist approach argues that we are not merely passive cogs in someone else's machine - i.e. we have choices. We continually make relationships; we have shared understandings, mutual trust, we belong to many networks, all resources, which can be called upon in future. This is the creation of intellectual and social capital.

Vigar et al (2000 pp. 49-51) provide the following summary of the 'new institutional' approach to the analysis of policy practices. First, the approach is founded on a dynamic and relational view of the world, which focuses on the processes through which living and acting are accomplished and how patterns or continuities are established, maintained and changed, rather than seeking to analyse the particular patterns, which arise per se. Secondly, the approach gives people, as active agents, a key role in shaping and inventing processes of change. Recognises the power of agency along with that of driving forces. Emphasises the importance of the network of relations with others that all actors carry with them. These networks are not

just support mechanisms or means of access to resources. They focus on nodal points in networks. Thirdly, the approach takes for granted that the social worlds of people in formal agencies of government are intertwined with wider social forces, embedding governance processes in the wider relations of economic activity and civil society. Fourth, the approach puts a major emphasis on the analysis of policy ideas and the often taken for granted frames of reference used by members of 'cultural communities'. Lastly, the approach provides an empirical way of seeing how the power of external forces is made manifest in specific instances, and the extent to which these influences are accepted, reinterpreted, and struggled over.

Writing on property development and the institutions involved, Ball (1998 pp. 1511-1512) discusses Healey's approach to institutional analysis in the context of Giddens' structure and agency. Ball suggests the objective of this type of analysis is to relate the agency's roles, strategies and interests to the underlying structural resources, rules and ideas. He goes on to show a four-step framework based on Healey's work.

A mapping exercise has to be undertaken describing what happens in the development process.

A relational analysis is made; who does what and to whom?

The strategies and interests of significant actors are analysed and related to the structural rules, resources and ideas.

This goes beyond empirical work and connects back to underlying social theories, Giddens, Habbermas et al.

Ball goes on to say that several attempts have been made to use this particular model but difficulties experienced may have been due to what was attempted with the model.

All this suggests the institutional approach is concerned with policy analysis of spatial planning at an urban, regional level and new ways of thinking in attempting to influence change in the processes of such planning. We can now turn to the communicative approach dealing with human interaction at a more detailed level.

4.3 The Communicative Approach

This approach is based on the work of Jurgen Habermas who has had major influence on thinking among planning theorists through his work on the theory of communicative action (Healey 1997 pp. 49-54) (Taylor 1998 pp. 123-124). Habbermas talks of the constraints on daily life as 'abstract systems', which are, economic (the market place) and political

(bureaucracy) and are opposed to our lifeworld of personal experience. He is concerned with distortions of communication, hence his theory of communicative action.

Normatively, Habermas (1984 pp.307-308) argues that there are four critical conditions for an effective communication between two or more people: -

- 1) What is being communicated is comprehensible;
- 2) Something must be communicated which is factually true;
- 3) The communicator must be sincere;
- 4) An understanding is being sought so the communication must be legitimate within certain moral norms and conventions shared by all parties to the communication.

Practical reasoning frequently does not separate facts from values or emotions from our deployment of material resources, as there is often a total mix up of data, issues and priorities.

Habermas argues there are three forms of reasoning and “validity” claims which each demands: -

- 1) Instrumental -technical reasoning (ends to means, evidence to conclusions);
- 2) Moral reasoning (focused around values and ethics);
- 3) Emotive -aesthetic reasoning (derived from emotive experiences).

Habermas argues that the second and the third forms have been crowded out by the first, the scientific, rational type of reasoning because it is more associated with economic and political life, treated as outside reason. All three should be given equal weight and the language of all three types of reasoning must be included in discourse. The theory of communicative action with communicative ethics can be summed up as – ‘dialogue and conversation’. Critically important is the avoidance of one-sided conversations where the hearer is marginalised. Healey (1999 p. 1131) sees this work of Habermas’ as being normative criteria for critiquing governance practices, used as an evaluative ideal practice against which to evaluate actual governance practices. She sees Habermas’ criteria as being tools for continual critique of the flow of governance processes, as argumentative tools for ‘excavating’ embedded power relations for wide scrutiny. These perspectives on effective communication and types of reasoning resonate with the difficulties experienced in the interface we are considering. Both public and private sector actors can be faulted for communication problems that arise as we saw at Alnwick and will be only too evident in the case studies.

Forester (1989 p. 224 Note 14) sees the difference between the work of Giddens and Habermas as the attention each gives to the question, ‘How does the reproduction of social relations reproduce or subvert illegitimate’ authority’. He suggests that Giddens assesses the reproduction of social action but ignores the question. By contrast, the issue of legitimate

authority and its reproduction lies at the heart of Habermas' entire perspective on assessing 'systematically distorted communication'.

Healey (1997 pp. 28-29) suggests that while numerous theories have evolved to some extent to take into account social processes and diversity in the ways people have of thinking and valuing, a communicative planning theory has also evolved in the last three decades. She suggests the key elements are: -

- 1) Recognition that all forms of knowledge are socially constructed, scientific and expert knowledge and techniques are not so different from practical reasoning.
- 2) Development and communication of knowledge and reasoning can take many forms.
- 3) Individuals do not decide on their preferences independently but develop them in social contexts and interaction.
- 4) People have different interests and expectations. Power relations can be dominant through taken for granted assumptions and practices, not only through distribution of material resources.
- 5) Ownership and knowledge of public policies concerned with planning and which are efficient, effective and accountable need to be shared and involve the stakeholders.
- 6) All of this leads to collaborative consensus building, transform ways of organising and discussing and in the end build cultures.
- 7) Planning has the capacity to challenge and change relationships through its approach to planning practices.

It is clear that many elements of this normative theory are consistent with the institutional approach already described.

4.4 Critiques of Communicative Planning

Innes (1995) wrote of communicative action as 'Planning Theory's emerging paradigm' and in succeeding years, an increasing level of critique of the approach has been evident. This section will attempt to illustrate some of the key points in this critique. Although other critiques will be mentioned, the paper by Tewdyr-Jones and Allmendinger (1998) will be the main focus as it deals with many points that are of specific interest in this thesis.

First with Innes's proposition of the 'emerging paradigm', Huxley and Yiftachel (1998) argue that this claim goes too far and indeed, if we consider paradigms in the Khunian sense, the dominant paradigm would still be instrumental rationality as it pervades practice. Taylor (1998 pp. 157-159) helpfully enunciates Khun's view that a paradigm is a given theoretical perspective that is dominant in the scientific community for long periods until some other

empirical evidence arises which does not fit prevailing theories. Eventually, a new theoretical framework is developed that accounts not only for the new evidence but also the old evidence. A new paradigm then replaces the old paradigm. This is revolutionary not evolutionary and such 'paradigm shifts' occur infrequently e.g. the shift from Newton to Einstein. Taylor counsels against regarding the communicative approach as necessarily being a paradigm shift, for example, the view of planners as having specialist knowledge and planners as 'communicators' and 'mediators' could be merged.

Allmendinger and Tewdyr-Jones (2002 pp. 11-13) follow similar lines of thought. They note that communicative action may be the dominant theoretical paradigm but there are healthy arguments for other parallel theories. They point to Feyarabend criticising Khun for concentrating on dominant and emerging paradigms when there may well be a host of other theories competing and overlapping. These theories may not emerge from a paradigmatic crisis but may well emerge for many other reasons. Their overall concern over treating the approach as a dominant paradigm is what they see as the attempt to force the shape of urban planning into the particular perspectives of a small number of prominent urban planning theorists.

One of the issues with institutionalism has already been mentioned with Ball (1998) and his criticism of the ambiguities involved with structure, agency and institutions. Allmendinger and Tewdyr-Jones (2002 p. 18) pick up this point and suggest that a number of key aspects are downplayed including intra and inter agency/institutional conflict, strategies that may be the product of other external forces, overestimating the impact of agency upon structural change and under-theorising the dynamics of change (Ball 1998).

In general terms of critique, Tewdyr-Jones and Allmendinger (1998 pp. 1975-1989), in a paper entitled "Deconstructing communicative rationality: a critique of Habermasian collaborative planning" offered a critique suggesting it fails to deal adequately with the peculiar political and professional nuances existing in planning practice. They go on to argue that communicative planning has reached a defining moment for three reasons. First is a questioning of its theoretical foundations. This has to do with its seeming lack of concern with outcomes, its seeming neutrality of process emphasising uncoerced and undistorted communication hiding some important assumptions regarding participatory democracy v representative democracy and the theorists' distaste for free market economies. This lack of concern with outcomes is a key problem for private organisations. The difficulties in reaching honest, lasting consensus and how failure to do so will be mediated are seen as important issues. Recourse to the courts hardly seems consistent with the approach. Second are practical problems with implementation

of the communicative approach into realistic projects where the focus has been on process as opposed to outcome. The roles, strategies, agendas, aims and values of all the stakeholders present difficulties for Tewdyr-Jones and Allmendinger. Also, if the expert role of the planner is questioned, the need for professional planners at all comes under question, as does the issue of who takes a lead in getting the stakeholders together. They question Healey's notion that the power dimension can be transformed through a restructuring of power relations and social contexts, as a process to be recognised by stakeholders, where an alternative to existing power structures is to be sought (Healey 1997 p. 86).

Tewdyr-Jones and Allmendinger question Habermas's notion of four social concepts of action with communicative action being an alternative to teleological action, normatively regulated action or dramaturgical action. They argue that these three are inherent within communicative action. They note first that an actor may act teleologically using strategies in the discourse to achieve his or her desired ends. Secondly, even within collaborative planning, members of groups may have shared agendas and values supporting their intention to succeed in the debate even if they have agreed open and honest rules of discourse. There is thus a possibility of normatively regulated action. Third, stakeholders may present a particular image in the discourse in order to present an acceptable image to the audience or to present a false impression in order to avoid argument. Healey is noted as not covering this point in her work although Forester does, using the concept of dramaturgical action. The conclusion from this is that a truly collaborative action is not feasible because individuals will not wish to build trust and new relations of power or to

. . . generate social, intellectual and political capital which can endure beyond the particular collaborative effort Healey (1997 p. 264).

Tewdyr-Jones and Allmendinger (1998) argue that in such a heavily politicised arena as planning, consensus is a utopian dream; there will always be winners and losers. Furthermore, they are critical of the lack of focus on outcomes at the expense of diligent analysis of process. They point to failures in practice where the approach has been attempted and the resulting dissatisfaction felt by stakeholders and planners (Phelps and Tewdyr-Jones 1998). Here, despite real attempts at collaboration, the expectations of the stakeholders could not be met because some issues were not allowed to be included in the development plan for statutory reasons and the format and language of the plan as laid down by statute militated against the needs of the stakeholders. Needless to say, the stakeholders' heightened expectations were not met and this outcome was not well received.

The issue of values raises four questions for Tewdyr-Jones and Allmendinger (1998 pp. 1984-1987). First, the position of the professional planner and whether such an individual is even needed under this approach. Secondly, the point that actors adopt more open style and practices, although why they cannot already do this is open to question. They point out that planners have never been encouraged to act democratically by the state, their professional body, or education. They forcibly argue that in the UK, the planner is not under any obligation to facilitate the process of learning, nor is the planner grounded in an ethic of inclusion. Planners may not believe the system should address these matters and may indeed fear participation and inclusion as potential threats to their autonomy and expert professional position. Third is the issue of stakeholders' knowledge about the issues to be discussed and the supposition that they possess the same knowledge or even perfect knowledge to enable an honest debate to occur with integrity. Fourth, the theorists state that they are not offering a prescription for planning practice, although they argue that Healey in various writings e.g. Healey (1997 pp. 288-289) discusses pointers to good practice which lead to the conclusion that a programme for collaborative planning practice is being developed. Lastly, is the question of how decisions taken by stakeholders in the collaborative approach would be challenged? Clearly, allowing for this means the view developed in the arena of discourse could be challenged and overturned. What then? Healey (1997 p. 310) even recognises the need for an appeals arbitration process as a "backstop formal arrangement" in the event of a breakdown in agreement. This seems at odds with the Habermas ideal of communicative rationality.

Tewdyr-Jones and Allmendinger believe there to be a growing dissatisfaction with the unfulfilled promises of the approach as well as their belief that the proponents of communicative action seek to speak on behalf of those who do not hold similar views. They state that collaborative planning has caused a sea change in the parameters of how theorists consider planning but do not agree that a shift is occurring in planning practice. Any attempts at this approach are being undertaken in a 'top down' institutional, political and legal framework. They argue that when planners try to transpose stakeholders' desires into practical policy outcomes, the 'hierarchical regulatory and institutionalised planning context' wins the day. They go on to note that a bottom-up democratic process will only be effective when the political culture and institutional design of the planning system are transformed. This critique constitutes, in their view, a serious undermining of 'high' Habermasian communicative rationality. They believe this has caused some of the main proponents of the approach to redefine and reposition their interpretation into a pale imitation termed 'collaborative planning', which is close to enhanced participation. Nevertheless, the authors conclude that the theorists of communicative and collaborative action have made a major contribution, in line with critical

theory, to reveal and question. Furthermore, they argue that such critique is not attempting to demolish the communicative approach but to open up the debate and indeed help to strengthen its appeal. The questions they finally raise are: what holds current planning practices in place, how far are these factors likely to change, how could the critique of communicative practices help to open up the possibilities of change and how far could the design of different communicative practices help to develop alternative pathways for planning practices, both in individual instances and in the design of the system as a whole?

In a response to this critique, Healey (1999) argues that Tewdyr-Jones and Allmendinger are arguing from a utilitarian perspective because they suggest that collaboration would only be natural if it was in the interests of the parties concerned. An institutional approach, on the other hand, would question ways of thinking and acting being taken as natural. Healey also argues that the communicative approach is not in any way 'power blind' and indeed seeks to determine how to achieve 'power to' enable change in contradistinction to a command position of 'power over'. Healey's response to the question of whether it works in practice goes back to Habermas's critical theory approach, where the analysis is an argumentative tool to critically scrutinise governance processes, a process for 'excavating' embedded power relations for wider scrutiny. Finally, she comments on the British system and suggests that land-use planning practices in Britain have become deeply embedded in routines of state procedure and allowed to privilege certain interests over others. There are some peculiar characteristics of the way the system has evolved over the last two decades, which have constrained the trajectory of communicative action.

In their later paper, Allmendinger and Tewdyr-Jones (2002 pp. 13-16) argue that the argumentative or deliberative approach proposed by the communicative action view are not the only valid methods of collective decision making. Bargaining and voting are normal methods and all four modes of decision making are valid and of proper use under different circumstances. They go on to discuss the contention that open discussion will expose multifarious interests in the force of better argument. They point out that actors may act 'strategically' but under a veneer of public interest or seemingly for the public good and in other words powerful interests may not be transformed. They make a crucial point about the communicative approach when they say on page 14: -

We await a reasoned justification from the proponents of the communicative turn in urban planning to demonstrate why and in what circumstances the communicative approach is superior to others.

This point is addressed in the next section.

4.5 An Adaptation of Institutional-Collaborative Approach.

Why adopt this Approach?

This thesis is restricted in its scope and does not attempt to deal with the broad sweep of urban planning. It cannot therefore embrace all the elements of communicative action described and critiqued in this chapter. Therefore, despite the critiques of 'communicative action' discussed above, it seems that at least in a modified form, it is a theoretical approach that has something to offer in the context of this thesis. The methodology used in the thesis will be described more fully in Chapter 5 but this section will simply explain which elements of communicative or collaborative theory have been used to form a potential theoretical approach for use in this thesis.

As a result of the literature search, initial acquaintance was made with institutional theory and then with Healey's work, particularly her book "Collaborative Planning" (Healey 1997). At the same time a framework of project issues surfaced during the selection of the cases and it became apparent that some form of Healey's collaborative approach might well have something useful to say about these project issues. Consequently, a selective approach has been taken to Healey's work where aspects of her collaborative approach appear to be of significant analytical use in this thesis. My work is based essentially on Chapter 9 of her book (Healey 1997). This chapter entitled 'Systemic Institutional Design for Collaborative Planning' offers a normative theoretical approach to planning.

My adaptation of Healey's collaborative approach arises from specific issues of conflicts that are shown up in the empirical evidence and have already been seen at Alnwick. The attraction of this collaborative approach (adapted) is that it can be used analytically to address a number of issues, which are germane to the empirical evidence. In the context of this thesis, these issues are: -

Governance strategies, duties, responsibilities, competences and accountability.

Challenges to decisions and the criteria for those challenges.

Stakeholders

Resources and their use.

Different cultures and their impact on each other.

The transformative issue of 'how things could be made different'.

The approach addresses aspects of the process of governance, the issues of challenge, comprehensively addresses the issues of collaboration, resources and not least culture. One of the causes of problems in the planning system is that people often confront each other from

very different positions, with no past history of encounters. These are meetings of strangers. Healey suggests that the planning systems aim to provide a framework for dealing with such encounters, which can be seen as conflicts between cultural communities. Problems can arise therefore not just about the proposals but also about the concepts behind the proposal, organisation forms, power relations, types of discussion and language. These will all need to be addressed. The institutionalist approach suggests that transformation is possible through discussion, collaboration etc. which through building up relations between networks can build institutional capacity - social qualities which appear to make a difference to local economic performance. It is important to recognise that in attempting to solve problems of collaboration across cultural differences, first, cultural dimensions must be recognised i.e. "where they are coming from" and second, participants must make shared systems of meaning and ways of acting into a new layer of cultural formation. Healey (1997 p.64) very carefully defines culture as: -

The continuously re-shaped product of the processes through which systems of meaning and modes of thought are generated.

Planners are seen as mediating professionals in a system where planning itself provides the arena for mediation to take place. Rydin (1993 p. 83) notes that this approach concerns the way in which planners perceive the social and economic stakes involved and how they negotiate with individuals representing social and economic interests in society. How and whether the planners can influence these actors is a key question.

The Modified Collaborative Approach

The approach taken here has been to attempt an adaptation of Healey's work to suit the needs of my narrower focus. For use in analysis, a Framework summary document has been assembled (Exhibit 4.1) that is entitled, 'A Modified Institutional-Collaborative Framework'. This Framework acknowledges the foundations of Institutionalism but then picks out the elements of Healey's Collaborative Approach deemed relevant to this thesis. Here, we are concentrating only on the issues arising in the adaptation of Healey's approach, hence the use of her headings of Governance, Challenge, Collaboration, Resource, costs and uncertainty and lastly Culture

Governance

The first area of concern is governance itself. Healey addresses three key elements, the strategies that are selected, the duties of those in governance and governance competences. The

impact of these three elements has already been noted at Alnwick where all three were key factors in the conflict. As we shall see, they play a similarly important role in the case studies.

The duties of those in governance to be democratic, effective and accountable seem to be unarguable. However, Healey throughout her discussions argues for promotion of participative governance, which is contested by some critics as we have seen earlier in this chapter. Nevertheless, Alnwick highlights the importance of the possible impact of more public participation where it was public input that eventually prevailed.

Governance competences, who does what, where, at what level, with whom, the use of expertise, interaction with wider society, roles and interactions inside governance are all important issues in the cases and are necessary items for analysis. These issues were nicely illustrated by Alnwick and their importance in the case studies will be seen in later chapters.

Challenge

The importance of the right to challenge is born out in the cases and is of incontestable importance as a major element in the planning process. The process and arenas of dispute resolution and the type and quality of information available are all key issues for any appellant, as the case studies will demonstrate. The criteria for challenge again may vary for different appellants but the ones selected here all have particular resonance in the cases. The issue of the process acknowledging diverse ways of thinking of the whole community may seem an odd choice but again there were issues of mutual misunderstanding of views, language and arguments involved in all the cases.

Collaboration

The involvement of all the stakeholders, inclusion v exclusion, who is included, when, how and the arenas for discussion are all relevant issues if a collaborative v adversarial and non-participatory process is to be followed. This is equally true of the routines, rituals, language and even the choice of topics for discussion. Again, the cases will illustrate the importance of all these points. Habermasian communicative ethics could be a useful analytical tool as Taylor (1998 p.124) points out in citing Kemp's analysis of the Public Inquiry held into the Windscale nuclear reprocessing plant in 1997 (Kemp 1980). As we shall see, in all the case studies in this thesis, there were clear issues of distorted communication and Habermas may offer some assistance in examining these issues.

Resource, cost and uncertainty issues

In all the case studies, we shall see that these were major issues for all sides, public sector as well as the private organisations. It does not seem that the planning system is intended to minimise resource costs and uncertainty, so questions need to be asked about why and how this happens.

Culture

This topic is never discussed in planning negotiations in my experience and yet is a pervading influence on all the participants. If this is the case, as we shall see in the case studies, it seems important to address the cultural issue, the differences in cultures, how they can be taken into account and whether ethical and moral issues arise and need to be considered.

As stated earlier in this section, the detail of the choice of issues, choice of cases, the development of this collaborative approach and the initial model (Exhibit 4.1), will be set out in Chapter 5 on Methodology.

4.6 Conclusions

This chapter has set out to provide an Institutional background to the development of an adapted collaborative approach to planning for use in this thesis and to give an indication of what this adapted approach will be. It is my proposition that conflicts could be minimised at the very least by open discussion of the themes identified by Healey and outlined here.

We have briefly examined an Institutional perspective on the state, which, from all the points of view represented, is a normative analysis of the state, as Healey concedes (Healey 1997 p. 207). In particular, it is hardly a description of Mrs. Thatcher's New Right approach that is the background to the cases we will investigate in the empirical evidence. Collaboration, except in terms of collaborating with the market, was not on the New Right agenda.

In terms of local government, as centralisation has tightened its grip, the potential for conflict in the relationship with government has heightened. Much of the tension arises from the fiscal control exerted from the centre but as we have seen at Alnwick, the council was at odds not only with GONE and the Secretary of State but also with the electors. As we saw in Chapter 2, the Thatcherite New Right attitude to local government, exemplified by the very concept of UDCs, was designed by government to get the public sector out of the equation. This picture of local government relationships hardly accords with an Institutional approach. Rydin (1993 pp.

289-298) rightly speaks of the usefulness of the Institutional approach as a tool of analysis of the complexity of local government activity.

The planning system appears to be a fertile field for theorising not least in the claims and counter claims made about the communicative turn or Healey's collaborative approach. However, as we have seen in these arguments, instrumental rationality or procedural theory is still likely to be the prevailing orthodoxy in the planning office. Despite the arguments about whether the 'communicative turn' represents a paradigm shift, the relationship between institutional, collaborative and communicative approaches, and the critiques of these approaches, there are resonances here with many of the issues raised in the case studies. Issues of governance strategies, challenge, collaboration or the lack of it, uncertainty, resource costs and culture are all issues raised by the cases. The issues and ensuing conflicts that arise in the planning interface we are considering in this thesis are eventually resolved, even if not to the satisfaction of all the parties. The significance of all these issues for the case studies will be demonstrated in later chapters.

Another point to be made briefly about the adapted collaborative approach is its relevance to the research questions stated in Chapter 1. All the themes outlined in Section 4.5 of this chapter speak to one or more of these questions. It offers a framework for analysis of governance; it addresses structural issues in the system as it does uncertainty. It clearly addresses policy and management implications and offers normative perspectives on managing the process. Lastly, the adapted collaborative approach may also provide some prescriptive help but this will be determined in later chapters. The limited area of Habermasian communicative ethics may prove particularly useful but this will be explored further in the next chapter.

The next step is to review the development of the empirical methodology and show how the adapted collaborative approach will be made ready for use in analysis and so we move to the next chapter.

A MODIFIED INSTITUTIONAL/COLLABORATIVE FRAMEWORK

	ISSUES
1) GOVERNANCE	a) Strategies are selected that are (i) EFFECTIVE - with regard to resource allocation and regulatory power. (ii) LEGITIMATE - In terms of general understanding.-
	b) Duties of those in governance roles to be i) Democratic - promote participative governance - respect for concerns ii) Effective - to deliver (performance criteria?) iii) Accountable - operating and reporting within openly agreed principles
	c) Governance competences i) Who performs governance tasks and where? Subsidiarity - regional & local levels ii) Each level of governance can be a stakeholder at another level iii) Interaction between formal government and wider society iv) Use of administrative and technical expertise
2) CHALLENGE	a) Right to Challenge - to allow formal challenge to governance decisions
	b) Dispute resolution - Appeals, Inquiries, Courts, Mediation
	c) Information of high quality to be available to all parties at accessible cost.
	d) Criteria for challenges i) Those in governance required to give good reasons for decisions ii) Decisions should be justified in terms of impacts on the whole community iii) Decisions should be justified by reference to agreed strategies and argumentation iv) Process to acknowledge the diverse ways of thinking of the whole community, the diversity of ways in which views and claims and forms of argument (technical, moral etc.) may be expressed, the agreed strategies of other areas of governance
3) COLLABORATION	a) Stakeholders - Who, where, why are they involved - involvement of majority - new membership?
	b) Collaborative process to be inclusionary v corporatist
	c) What and where are the arenas of discussion? Different arenas at different times?
	d) Ethical considerations? Who is included, when and how?
	e) Routines, rituals and styles of discussion - topics, language, how and by whom?
	f) Rights -voices must be heard and taken into account and given adequate information to allow knowledgeable participation
	g) Use of Habermasian <i>communicative ethics</i> in which the following three forms of reasoning are to be included in the discourse and given equal weight:- i) Instrumental -technical reasoning (ends to means, evidence to conclusions) ii) Moral reasoning (focused around values and ethics) iii) Emotive -aesthetic reasoning (derived from emotive experiences) Important to avoid one-sided discussions where the hearer is marginalised.
4) RESOURCES , COSTS & UNCERTAINTY	a) Decision making process to avoid undue delays and uncertainties
	b) Undue costs and diversion of resources to be avoided on all sides
	c) Impact of the project to be minimised e.g. traffic, environmental issues
	d) Applicant must deliver the agreed project
5) CULTURE	Cultural issues? Are they addressed? Differences identified? How? Moral duties?

CHAPTER 5 - EMPIRICAL METHODOLOGY

5.1 Introduction

In Chapter 1, the research problem posed the question - In the interface between public sector and private organisations in the planning system, can a practical approach be developed that can improve the management of the interface to the benefit of both sides?

The first part of this thesis has set the context in which this question will be addressed. Chapter 2 has provided an outline of the planning process in order to define the context of the research. Following an extensive literature search, Chapter 3 reviewed theories of the state, central and local government and planning in the context of the post 1939-45 war period. This set the governance context in which planning evolved after the war. Chapter 4 continued with a review of the Institutional Approach and paid particular attention to the theoretical theme of Healey in terms of her 'collaborative approach', this in turn leading to an adapted collaborative approach.

This chapter will explain the methodology adopted in this research, the research approaches and framework, the choice of case studies and the rationale for those choices. The evolution of the analytical method and its use in analysis of the empirical evidence is then discussed. Finally, the Research Questions, the sources of evidence and some comment on validation are covered. The research questions are the subject of the empirical investigations to be carried out in subsequent chapters.

5.2 Approaches to the research

As set out in Chapter 1, the first task was to carry out a literature review with the intention of establishing a theoretical foundation for the research. It seemed at that stage that such a foundation was necessary for analysis of the activities of the variety of actors in the system, from state to planners. To that end, considerable effort was expended on investigation of theories of the state, local government, sub-central government and planning. Further work, including ongoing literature review, led to Chapter 3 in its current form.

The second aspect of the research was the kind of research it would be. Phillips and Pugh (1994) suggest there are three basic types of research: -

Exploration: - tackling a new problem about which little is known.

Testing-out: - defining the limits of previously proposed generalisations.

Problem solving: - start with a 'real world' problem needing definition and a solution.

This research project started out from my own experiences in the planning process with the background of some success, some major failure, some collaboration, quite a lot of conflict and a lot of apparent dysfunction. From this standpoint it seemed very much a 'real world' problem, as the interface with planners is constantly occurring, day-by-day, up and down the country. There could also be an element of testing-out however, because of the specific project focus of the cases. This remains to be seen.

There was clearly much empirical evidence on which I could draw from my own experiences. It was not obvious to me that it would be possible to share these experiences and benefit from them if I had attempted a quantitative research study. In my view the empirical evidence could only be treated appropriately via a qualitative approach through a mix of case studies which would be likely to provide rich, deep, 'thick' description (Stake 1995 pp. 39-42). He quotes von Wright (1971) in his book *Explanation & Understanding* talking of empathy, creating in the mind the mental atmosphere, thoughts, feelings, motivation and intentionality of the actors. My intention was to attempt to get inside the cases to understand who was doing what to whom, how and why.

The third aspect was the aim of the research. At this stage, conflict was very much in mind as a recurring feature of planning in the author's experience with the system. The research consequently had an initial aim of investigating the sources and nature of this conflict in the planning system and to understand the impact of the various factors involved. Questions of how the participants assess these factors, how they manage the process, do they attempt to avoid conflict? These were all questions that led to the development of a number of Research Questions and these are discussed in Section 5.7 of this chapter.

5.3 The choice of Case Studies

The point has been made earlier in this chapter about the writer's desire to use project experiences that involved planning issues. At the same time, it was important that case studies be selected that could provide breadth as well as depth. The point has already been made about rich depth but cases are also needed that provide exposure to a wide spectrum of issues as well as issues unique to a particular case. Stake (1995 p. 4) argues that selection of cases should involve maximisation of what we can learn, be easy to access and are "hospitable to our inquiry" i.e. informants and actors are willing to be involved. He also emphasises the importance of consideration of the uniqueness and context of alternative choices. Another point is the need for at least three cases. Fewer than three and there is less variety in the type of case

available and no possibility of triangulation. Fewer cases are also unable to provide the experience of a variety of councils, planning authorities and other public sector bodies.

Initially, it was decided to use two cases with which the author was very familiar but with very different levels of involvement. They would also be cases of very different character. Ideally, the third case would be of a totally different character to the other two, in an unfamiliar location and completely outside the experience of the author. Thus, three primary cases with different characteristics would be available for empirical investigation.

The first case from the author's experience was at East Quayside in Newcastle upon Tyne. The case was selected because it is a direct policy driven case arising from the Conservative Government's use of Urban Development Corporations to achieve urban regeneration. This policy resulted in the formation of a UDC, the Tyne & Wear Development Corporation. There was a consequent loss of local democratic accountability, the emasculation of the local authority from a planning point of view and the loss of an important office facility to Procter & Gamble (P&G). P&G are a multi national company, which at that time had its UK headquarters in Newcastle. P&G took this case to the Court of Appeal. Here, the author was project manager for the P&G attempt to save its offices.

The second case from the author's experience was at Francis Avenue, Bournemouth. This case was selected because it involved proposals to use a disused former P&G cosmetics factory site for housing development including a large element of social housing. This meant amendment of the recently adopted Local Plan and the interaction of three local authorities with conflicts arising between Bournemouth Borough Council and its neighbouring Councils, Dorset County and Poole Borough. The key council, Bournemouth was intransigent in pursuing its policy of continued employment use for the site. Here the author was the P&G interface with the potential purchaser and developer of the site.

A third case was sought which would ideally be market driven in the sense of a firm's need to build a completely new facility on an existing urban site in order to meet an identified business need. I was fortunate because a former P&G colleague became a non-executive Director of Safeway Stores plc. He introduced me to the Property Director of Safeway who offered me a choice of cases. Among these was a case at Bath. This case was selected because it involved the change of use of a site on the main London Road into Bath. The site housed a working bus depot and change of use was to be sought for use as a new supermarket location. This case involved issues of World Heritage status, Conservation Area status, traffic density, highway

access, air pollution as well as the interactions of two local authorities. Safeway plc very kindly agreed to provide total access to all documents and all their consultants in the case.

An illustrative case was also selected for use in Chapter 1, namely Alnwick, although this case has not been used as part of the empirical evidence. It involved a successful attempt by local people to stop the council acting *ultra vires*, over the development of an out of town Safeway supermarket. The author had no personal connection with this case and the involvement of Safeway plc was coincidental.

5.4 The Research Framework

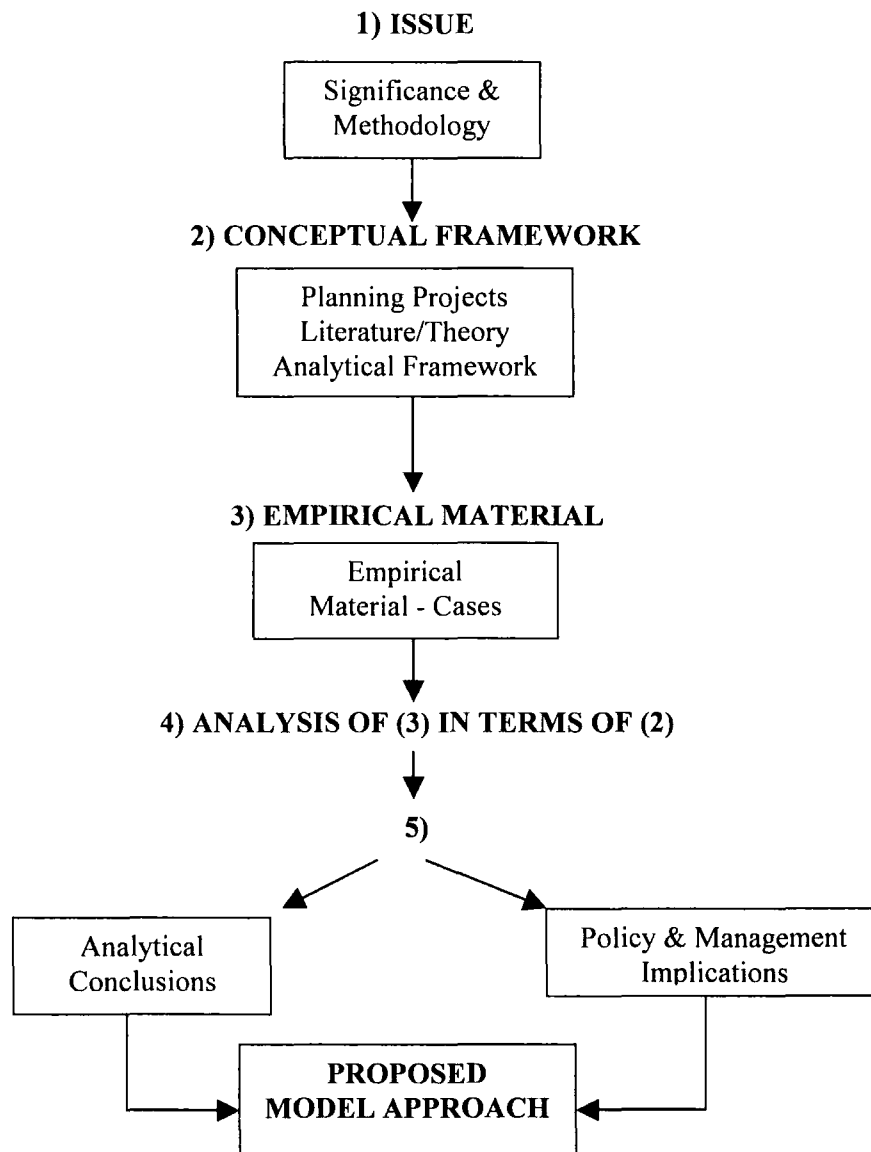


Figure 5.1 Research Framework

The decision to use a qualitative methodology based on case studies had also been made. The model for the research had already been partially developed in terms of the literature review, establishing the planning context for projects, investigating the theoretical approaches addressed in Chapter 3 and selecting the cases. This evolving model was formally developed into a Research Framework showing how the elements already in place would be complemented by the development of an Analytical Framework.

The three case studies would constitute the empirical material that would subsequently be analysed in terms of the Conceptual Framework using the Analytical Framework. The expectation was that analytical conclusions could then be drawn, whilst both policy and management implications of the research would be assessed. Finally, it was hoped that a prescriptive model would be produced for use in practice.

The Research Framework was finally developed into that shown in Figure 5.1 above.

5.5 The Analytical Method

The initial development

In parallel with a continuing literature search, an attempt was made to identify the planning issues that had arisen on projects in my own experience. These are shown in Exhibit 5.1 where potential issues were identified and then grouped in seven categories. These categories were selected because they appeared to be descriptive of the issues included within them. At this point, the East Quayside and Francis Avenue cases were already in mind so an attempt was made to see what these and other projects might say about these conflict issues. Three more P&G projects and even a local housing project were checked out. Exhibit 5.2 shows there was reasonable correlation given the totally different nature of all the projects. This exercise suggested that this project issue listing might form the basis of an effective analytical tool.

Further review of the categorization titles used in Exhibit 5.1 suggested that the terminology added nothing to the usefulness of these documents. A review of the project issues also suggested that some refinement could be effected in this area. These considerations gave rise to a further question, namely, whether there were themes or patterns, which might unite some of the issues. It was at this time that four themes emerged from a connection back to the result of theoretical exploration (Chapters 3 and 4). These themes were initially identified as Command, Contract, Collaboration and Culture, which are referred to by the shorthand term 'the 4Cs'.

Command covered government policy, law, objections, inquiries, strategies and public interest. These issues arise where, within a single project, the applicant has little or mostly no ability to

influence the issue e.g. the planning legal framework, Government officers, the Secretary of State, local politicians and public sector procedures. Contract covered a number of issues that are frequently the subject of some form of contractual relationship between the public and private organizations even if only implicitly so. In this context, Contract addresses uncertainty, resources, agreements, job issues, and the performance of private organizations. Collaboration addressed what appeared to be so many features where collaboration might have been expected but if anything offered so many negative aspects of planning. It addresses those issues to do with informing, participating, negotiating, communicating, interaction, conflict and suspicion and inclusion. Finally, Culture, as well as addressing cultural and ethical issues, also covered those issues that appeared to have cultural overtones, such as differences in thinking, procedures and operations. It attempts to address the conflict of cultures between public and private sectors. All of this was pulled together in an 'Analytical Framework' and used as an initial check on the East Quayside case (Exhibit 5.3).

At this stage, there were still only the 4Cs because there was no separate identification of Challenge, then included under Command. This had seemed reasonable as a first cut because the Challenge process is legally defined by government (See Chapter 2). Continuing work on the thesis with continuing literature review also involved review of the emerging analytical tools. The inclusion of objections, appeals, inquiries, and courts inside Command seemed to be denying the importance of Challenge and the crucial role it can play as a weapon in the armoury of the applicant and objectors. This was particularly relevant to the three chosen case studies that were to be included in the Analytical Framework. All this argued for a separation of these Challenge issues from Command. Accordingly, a new version of the Analytical Framework was produced but now having 5 Cs including Challenge (Exhibit 5.4). This has led to the use of 'the 5 Cs' as a generic term throughout the thesis.

As the Framework was developing, there was also some addition, deletion, revision and relocation of the project issues. Two new ones were included, the role of the Secretary of State in Challenge and Networks in Collaboration. Some issues were deleted because they were not relevant to any of the cases e.g. from Command, the Universal Business rate, time limits on Approvals. Green Belt and Conservation Areas were relocated into Government Policies, involvement of private organisations from Culture to Collaboration. Finally, suspicion and lack of trust was moved from Collaboration to Culture because it appeared to fit in with the cultural and ethical considerations of that aspect of planning. There were also a few re-descriptions of issues e.g. Parochiality was added to Local v Regional thinking. This latter issue was also wrongly noted as a Culture issue in Exhibit 5.4.

Analysis – final developments

The first draft narrative of the East Quayside case had been written by this time and an analysis of the case was to be attempted using the new Analytical Framework (Exhibit 5.4). The question was – how to use the Analytical Framework. One way would be to identify the project issues from the Framework each time they occurred in the text by annotation of the text margins. Notes were then made at intervals throughout the narrative text, collecting the annotations of project issues that had been identified and commenting upon them as in this example.

Note 11 (3a, b)

The attempt at informing and enabling deep participation with the public, owners & occupiers hardly fitted into an Institutional process of collaboration. Note the selection basis did not consider public needs or desires but did consider the Market

These comments were made to emphasise the relevance and importance of the particular project issue at that point in the narrative. The comments were also thought to have potential use in the eventual review of the empirical evidence. This exercise was useful as a first step as the Notes had certainly helped to highlight the occurrences of the various project issues.

Before making a start on the Bath case, the work already carried out on the East Quayside case was critically reviewed. The allocation of each project issue within the 5 Cs was reviewed and changes made e.g. the role of the Secretary of State reverted to Command. Allocation to Challenge, because of his role in that process, had not reflected his total role in governance. At this stage it was also decided to record each project issue in the Analytical Framework each time it occurred to give a more accurate picture of the impact of the project issues, thus of the 5 Cs. In the earlier stages of analysis, even if an issue occurred twice or three times in the envelope of one Note, it had only been recorded once in the Analytical Framework. A further analysis of the East Quayside narrative was duly carried out using this revised framework but again it became apparent that more refinement of allocation of project issues was necessary. This resulted in the final version of the Analytical Framework that became generally applicable across the cases as Exhibit 5.5.

With this Framework in hand, the narratives of all three cases were analysed using the Note system and thus producing a completed Analytical Framework for each case. The data available by now in the Analytical Frameworks could be summarized for each case to provide a picture of the overall impact of the project issues but also an impression of the relative impact of the 5

Cs. This became an Analysis Summary (Exhibit 5.6). It must be emphasized here that this is not a quantitative research project and no attempt has been made to weight the project issues for their relative importance. They are not even of the same relative importance to both sides. The public inquiry was a real nuisance to the public authority in each case whereas it was of crucial importance to each private organisation. This analytical exercise was carried out to attempt to provide at least an impression of the overall impact of the 5 Cs in each of the cases.

At this point, a major review of the thesis led to a revision of the presentation of the case studies arriving at what we have now in Chapters 6, 7 & 8. Here the Notes are presented alongside the narrative as a Commentary, with the annotations of the project issues in their appropriate place in the text. This Commentary is meant to 'flesh out' the specific annotation of a project issue and provides a source of data for use in Chapter 9. The Analytical framework has also been revised to include the Summary of the project issues in each of the cases, thus combining what had existed previously in the form of Exhibits 5.5 and 5.6. These changes allow a much clearer and more convenient way of presenting the analytical data (Exhibits 6.1, 7.1 & 8.1). These Exhibits are subsequently summarised in Exhibit 9.1 for use in Chapter 9, which provides a review of the empirical evidence.

5.6 The 5 Cs – Dimensions of planning

Having given an account of the development of the Analytical methodology in this thesis, something needs to be said in detail about the dimensions of planning that have been termed the 5 Cs. This section will provide a description of the project issues finally incorporated in each of the dimensions as used in the rest of the thesis.

Command

Chapter 2 provided some indications of the central government's legal and political powers to control the planning process. Likewise, in Chapter 3, we saw the 1947 Town & Country Planning Act was intended to exercise strict controls on why, where and how land was to be developed. Moore (2000 p.13) points out that, in the end, the final say over determination of the use of the smallest parcel of land is given in law to the Secretary of State. Command shows fourteen project issues where some common features appear to be shared.

First, the Secretary of State influences all of them to a greater or lesser extent. He or she can bring in new legislation, change the existing law, announce new policies and guidelines, enlarge or remove powers from Regional Government Offices and Local Authorities, call in individual applications for determination and indeed decide the extent of his or her own role. As we saw in Chapter 2, whilst the law and powers exercised there under are determined by

Parliament, large government majorities mean that a determined Secretary of State will achieve policy objectives. Secondly, the private organisation has little or mostly no ability to influence these issues. Indeed, with an individual planning application, the applicant largely has to work with the grain of the issues rather than against them. Thirdly, even Local Authorities can be powerless in the face of government i.e. the implementation of UDCs by Hesletine (when Secretary of State), which stripped powers away from Local Authorities despite their objections and the abolition of the Greater London Council. Another point needs to be made, namely that even the 'public interest' issue is not decided by the public but eventually by the Secretary of State. This is of course normally done through the law, regulations, guidelines etc. promulgated through Parliament. However, in the last resort, the Secretary of State can so determine by calling in the application and the applicant cannot prevent this action, nor indeed can the public.

All of this indicates Secretary of State very much in command of the system but in fact much of the detailed, day-to-day control is normally delegated to the Local Authority. Nevertheless, in the context of this thesis, when the private sector organisation starts to deal with a planning authority, the organisation may not even recognise it is actually playing in a game where many of the critical project issues it will face, are so heavily Command influenced. In the light of the argument advanced so far, it could be argued that this particular theme in the process may well have been called Control rather than Command. However, this situation seems more like that of the military position, where the Commander may well have many tanks, aircraft, ships etc. under that specific command, without knowing day-by-day what an individual unit is doing, that particular control being exercised by a local commander. This analogy rings true in the sense that by far the largest proportion of planning applications go through without the Secretary of State being aware of them.

Challenge

This simply means what it says. The four project issues all represent different aspects of this theme and as we have seen in Chapter 2, the right to object and or appeal is laid down by law and can clearly be of critical importance to an aggrieved private organisation. In one sense it is the reactive power that can be exercised against Command and constitutes a reciprocal, adversarial, vertical interaction with it. It must be recognised however, that there is nothing equal about the actors in this interactive power struggle. The private organisation may have the right to challenge a decision but even the process of Challenge is Command influenced because there are strictly laid down rules governing the process. There is a positive side to this situation of course, because the existence of such rules enables all the participants to know exactly how

to proceed. All this would suggest a strictly controlled process, however the appellant does possess one crucially important power, namely the ability to decide not to proceed with the Challenge at any stage. This may be a negative power but only the appellant can exercise it.

Collaboration

A key feature of the planning process is seen by all participants to be the process of negotiation. The applicant frequently turns up out of the blue, with project plans, in order to start negotiations with the planners. As we have seen in Chapter 2, this process will normally continue until an approval is obtained or a rejection which probably results in an appeal. If an approval is then achieved, further negotiations will take place until a final detailed planning approval is obtained. These negotiations are not necessarily Collaboration so what is the difference?

One key difference is that negotiations can be and are carried out in an atmosphere of mutual hostility. Planners and or elected members may not even wish to entertain the application whilst the applicant only wishes to get over this hurdle and get on with development. On the other hand, it is difficult to see Collaboration taking place in such an atmosphere, when the very concept of collaboration is one of support, striving towards a specific objective and how best to achieve it. Ten project issues are identified as having a collaborative bias.

First, public consultation can appear to be a problem to both applicant and planner but it has to be done by law. The planner may simply regard this as a procedural task and this is how it is normally done, the applicant being a bystander. This may not be a smart decision by the applicant because objections may be made and if regarded as significant could lead to a public inquiry. This is equally true of public participation, particularly where there is a possible public good involved. There is a crucial difference between the two however because of the right to be consulted where no such right necessarily exists for participation.

The issue of working with non-elected agencies, e.g. UDCs, is the subject of one of the case studies, but there is already much literature on this issue. See Colenutt (1988), Colenutt & Tansley (C.L.E.S. 1989) and Parkinson (1988), Judge (1989), Thomas & Imrie (1993), Byrne (1993). As we have seen in Chapter 2, planning powers were taken from local authorities and given to UDCs frequently causing much hostility as in the early UDCs, London Docklands and Merseyside. More will be said about this in Chapter 6 but Collaboration was not seen to be part of the UDCs' game plan by those involved in negotiating with them.

Networks are clearly in existence but usually inaccessible to the applicant. There is inter-local authority networking, networking with Regional Government Office and Whitehall officials but not the applicant, yet these officials can be critical actors in decision-making. Collaboration without involvement is somewhat difficult.

It is obvious that there will be frequent clashes between various levels of governance and business strategies. This again presents a significant problem because both sides may be intransigent for what they believe to be very good reasons. When a planning application is submitted which cuts across the council's strategy, hostility is an almost certain consequence and is thus inimical to collaboration.

The next two issues can be looked at as being similar in the sense that Collaboration can only be possible if both sides believe in it. How much a private sector organisation is allowed to collaborate is very much at the discretion of the officers. On the other hand, the involvement of the private sector may significantly affect the actions of the public sector, as we shall see in Chapter 6 with the influence of the chosen developers on TWDC.

Lack of contact between Members and the applicant is the norm and the lack of an interface clearly rules out real collaboration

Conflict between local authority departments and between local authorities is hardly conducive to a collaborative process. More will be said on this in Chapters 7 and 8 but suffice it to say here such conflicts do not involve Collaboration.

Unlike Command and Challenge, this theme in the planning process is essentially a horizontal interaction. After all, even the existence of a Command based system does not, of itself, rule out Collaboration. What it does do is to suggest that unless the public sector actors, at whatever level, wish to collaborate, it will not happen. Although it does not impact Challenge because of the adversarial nature of that particular theme, it clearly impacts on Contract because of the heavy potential influence of Collaboration.

Contract

This term has been used to describe that part of the process where the parties to an application have clear needs of the other side. We have six issues we can examine.

First is uncertainty. This may not bother the planners much but can be a nightmare for the applicant, as we shall see in later Chapters. Theoretically, the application should be determined in eight weeks, but this is impracticable with a difficult or large project. The question then arises, how long? There is no specific Contract between the parties on the issue of timing, which therefore turns out to be an imponderable.

The performance of the private organisation (the applicant) is crucial, not only in delivering an application in form and content to meet the requirements of the planners but also in eventually delivering the agreed project. Again, we shall see more of this in Chapters 7 and 8, but the Contract to deliver is clear.

The issue of resources and costs is clearly of great importance to all the participants. However there is never a Contract between them on this critical problem and as we shall see in the next three Chapters, all parties can be led almost unwittingly into expenditure of very large resource costs.

The next three issues have a common thread in the sense that apart from the actual subject facilities covered by the application, there may well be other issues to be formally agreed. Employment can be a two edged sword. The local authority may be desperately keen to get it or, because of its impact on infrastructure, schools, housing, roads etc. may be equally desperate to stop it. In the latter case, if the application is successful, conditions are often negotiated resulting in what is called 'planning gain' where the applicant agrees to provide some facility outside the actual scope of the project. This could be road works, an extension to a school etc. but is then almost always the subject of a legally binding Contract. This usually takes the form of a Section 106 Agreement named after the Section of the Act covering its use.

These project issues all have a Contract theme even if the contract is not recognised as, for example in uncertainty and use of resources. This theme in the planning process can again be seen to be a horizontal interaction because it can be involved in both Command and Challenge. In terms of Command, it is certainly involved in environmental, highway and aesthetic issues and a successful Challenge often results in conditions that must be met as a Contract.

Culture

This may be an obvious name for a theme in the process that is there but mostly hidden from view. An organisation existing to provide a service to the public like planning, starts from a different place than one set up to make a profit. Both organisations will have values, standards

and practices which are very often unspoken and maybe not even written down but nevertheless inform their activities, 'how they do business'. This provides 'glue' that binds together the members of that organisation in a particular way.

In the UK, the public sector service ethos has been well recognised as one of its great strengths. When we turn up at the planning office with an application and throughout its processing, we expect the officers to deal with us courteously, honourably, professionally, truthfully, efficiently and effectively. That these expectations are normally met is a credit to the public sector people involved and reflects an organisational culture that underpins these norms. There is of course another cultural determinant in local authorities and that is the culture of the elected members. This may be determined by place e.g. a city like Bath as a World Heritage City, by political party, by history, by long serving members. What is clear is that it will impact on the officers, the public and indeed on the planning applicant.

The private sector is often dismissed as only being interested in making profit and not worrying how this is done. Unfortunately, there has been much publicity that would support this view. However private organisations do have a culture and very often, as in the case of my own former company, P&G, a very strong one. The company took a strong position on ethical trading, on how business be conducted in every particular. Such a culture pervaded every action and the thinking behind it. One important feature of this culture was secrecy and by definition what could be said to the outside world about the business. As will be seen in Chapter 6, this tendency was not always beneficial to the company. Another issue regularly promoted by the top management of the company was that of 'being a good corporate citizen' wherever the company does business. As we will again see in Chapter 6, this is not as easy as it sounds because different people take different views on the meaning of corporate citizenship.

If the attitudes, behaviour and actions of participants in the planning process are so culturally influenced, the impact on the actual process might be considerable. From the point of view of a planner who moved to the private sector, Pell (1991 p. 99) makes a telling point: -

As a general comment on the relationship which we see between the private and public sectors, it is evident that despite the many attempts to bring public and private sectors together to carry out development there is still a very high degree of mistrust between the sectors which must be partly contributed to by personal misunderstandings of the roles, ethics and values of the other parties.

Nicholson (1991 pp. 53-62) on the other hand, talks of his difficulties in moving the other way and having to cope with the planning office culture.

What this implies is that this theme pervades all aspects of the planning process because of the cultural impact of their own organisations on the thinking and activities of all the actors involved. If this is so, it is at least surprising that this cultural issue is never specifically discussed during the planning process.

5.7 The Research Questions

In Chapter 1, the big question for the research and this thesis will be seeking to provide an approach in answer to the question: -

In the interface between the planning system and private organisations, can a practical approach be developed that can improve the management of the interface to the benefit of both sides?

This question leads to a number of ancillary questions leading back to the main question: -

- 1) Is there any theoretical basis for the way in which any or all of the participants in the system operate?
- 2) Are there critical factors, perhaps structural that are built into the system and are then prime causes of the problems even between public sector organisations and if so, what are they?
- 3) Why is so much uncertainty built into the process, could it be minimised and if so, how?
- 4) Are there methodologies for managing the process that will avoid or minimise conflict and what are they?
- 5) Are there policy and management implications, if so, what are they and how might they be implemented?
- 6) Do the public and private sectors assess the conflict in the system differently and if so, why and how?
- 7) Is it possible to develop an approach that will lead to improvement in working relationships in the planning process?

Question 1 has already been the subject of the work in Chapters 3 and 4 and the answer is already yes, there are theoretical bases for the operation of the participants in the system. These chapters have also partially at least, addressed Question 2, although this issue will also be addressed in the analysis of the empirical evidence as will Questions 3 and 6. Questions 4, 5 and 7 are the subject of the last three chapters in the thesis.

5.8 Sources for the Empirical Research

The first source for the three cases is access to the relevant papers. These comprise reports, correspondence, chronologies, legal papers i.e. submissions for appeals, judicial review and Planning Inspector's Reports for the cases. All the relevant documents for the East Quayside

case are in my possession whilst the developer, Primetower, has kindly made available the documents needed for the Francis Avenue case that were not in my possession. Safeway very kindly allowed me to have access to any and all the papers relating to the Bath case that were still in their possession and copied all the papers I requested. They also allowed me to have access to all their consultants who in turn gave me unfettered access to all the papers still available. Copies were made freely available to me. Finally press reports have been consulted.

In addition to the papers, other important sources are Acts of Parliament e.g. Town & Country Planning Act 1990, Planning and Regional Policy Guidance Notes, House of Commons Select Committee Reports e.g. Public Accounts Committee Report on UDC's in 1989 and National Audit Commission Reports and DoE Reports. Structure and Local Plans are also available for consultation as required. Books, specialist periodicals and other academic papers have also been consulted as shown in the Bibliography.

5.9 Triangulation and Validation

In carrying out research we are striving for accuracy and validity of observations and interpretation whether the research is quantitative or qualitative. Protocols are needed that are independent of the researcher's own good intentions to do it the right way, to get it right and to be 'objective'. Triangulation encompasses these protocols Stake (1995 p. 107). One problem in this thesis is the issue of my own objectivity, given my background in this interface and my participation in two of the cases. This was one of the reasons the third case was selected because it was completely outside my own experience.

Stake (1995 p. 112 goes on) to quote Denzin (1989) on the subject of triangulation in which Denzin sets out the following protocols:-

- a) Data source triangulation - Does the phenomenon or case remains the same at other times, in other spaces or with different interpersonal interactions?
- b) Investigator triangulation - Other researchers look at the same scene or phenomenon.
- c) Theory triangulation - To the extent that co-observers etc. describe the data with some similar detail the description is at least partially triangulated.
- d) Methodological triangulation - Multiple approaches to a study increase the likelihood of illuminating or nullifying extraneous influences.

Validation is another key issue and is no less applicable to qualitative as to quantitative research. Stake (1995) quotes Messick (1989) pressuring researchers to assure consequential validity for their measurements meaning the use of such measurements should be considered



part of the researcher's responsibility. He argues that qualitative researchers should not settle for less. Descriptions resulting in the case being held wrongfully in low esteem mean that such descriptions are not fully valid. He also argues that ethical obligations to minimise misunderstandings and misinterpretations are critical. Only important data and claims would be deliberately triangulated. A useful table is provided by Stake (1995 p.112) summarising the need for triangulation in our quest for validation.

Data situation	Need for triangulation
Uncontestable description	Needs little effort toward confirmation
Dubious and contested description	Needs confirmation
Data critical to an assertion	Need extra effort toward confirmation
Key interpretation	Need extra effort toward confirmation
Author's persuasions, so identified	Need little effort toward confirmation

For data source triangulation, the question is whether the phenomena being described remain the same at different times and in different places. The aim in this thesis has been to deal with these questions through two main channels, first the choice of cases and secondly the analytical methodology.

The cases were chosen on the following basis: -

- 1) Three cases were chosen to allow triangulation to be used.
- 2) Different policy issues were involved in each of the cases.
- 3) Different public sector bodies were involved in each of the cases.
- 4) Three different locations were involved.
- 5) The cases were different in timing.

As we have already seen in Section 5.5, the Analytical Method that has been used aimed to deal with the analysis, interpretation and the impact of the 5 Cs and the project issues across the cases. This analysis has been summarised in Exhibit 9.1. This would indicate common ground across the cases except in the situations where there was a specific issue in one particular case e.g. non-elected agencies and compulsory purchase at East Quayside. This suggests that in terms of data source triangulation, there is good correlation between the cases across location, time, authority, private organisation and policy issue.

In terms of methodological triangulation, the decision was taken to carry out some fieldwork in the form of interviews. There seemed little to be gained from pursuing this course of action for the East Quayside case given my personal knowledge of all the key actors and all the relevant documents and a detailed diary of events are in my possession. At Francis Avenue, there might be something to be gained, because of my peripheral involvement in the negotiations. The Bath

case seemed to have most to offer, as it was all completely new, even the Safeway people were unknown to me. It must be stressed that the interviews were not the fundamental part of the data gathering methodology in this thesis. They were very much used to allow clearer understanding of the story that was otherwise accessible only through the available papers.

Questions were generated for each of the participants that might have something to offer at interview. These were specific questions although of course, there were common questions too. Each request for an interview was granted and the interviews were carried out in the arena chosen by the interviewee. It was not possible to obtain interviews with politicians. The responses provided mostly corroborative data about the cases but also provided useful insights, particularly from Mrs. Maxwell at Bath.

A final word on fieldwork is to point out that early fieldwork was carried out in the visits to Bath, Bristol and Birmingham to access the papers for Bath. Likewise visits to Bournemouth in connection with Francis Avenue.

Neither investigator nor theory triangulation were attempted in this thesis. The reasons were firstly, data source triangulation appeared to be particularly strong given the quality and nature of the cases. Secondly, the use of methodological triangulation at Bath and Francis Avenue was an effective check on the validity of the descriptions in those cases. Lastly, was the difficulty in getting other researchers sufficiently deeply involved in investigation of the cases.

5.10 The Institutional position

In Chapter 4, an Institutional – Collaborative approach was developed and was summarised in a Framework document (Exhibit 4.1). This provides the analytical framework for use in Chapter 10 where the implications of the research for planning theory are discussed. For convenience in that use in Chapter 10, Exhibit 4.1 has been renumbered Exhibit 10.1 and placed at the end of that chapter.

5.11 Conclusions

The purpose of this chapter has been to provide an account of the approach to the research, the framework and the methodology used. The main aim of this research project is to investigate the nature of the relationship between public and private sectors in their interface in the planning process and to attempt to develop a model approach as to how this interface can be improved.

The previous chapters have already provided some indication of the complex world of planning. Chapter 1 has indicated some of the practical problems in planning through the Alnwick case. Chapter 2 gave some insight into the complexities of the planning system through a description of the process. The extensive literature search enabled a theoretical foundation to be established for consideration of the state, government, local government and planning in Chapter 3 and this went on to show up the complexities of the state, local government and planning itself from a theoretical perspective. This led in turn to investigation of Institutional theory and eventually to Healey's work and in Chapter 4 this theoretical complexity, particularly in the discussion of the debate around the communicative turn, was confirmed. In this chapter, the approach to the research has been outlined from a starting point of my own experiences in what I saw as a conflict laden planning interface. This experience, together with all the discussion of complexity suggests that the research is investigating a real world problem and, after proper definition of that problem, the search for solutions. This position pointed towards in-depth, analytical investigation of a small number of different types of case. Consequently, this research is a qualitative research project. This qualitative approach has resulted in the use of a widely differing range of cases to provide the necessary depth, breadth and quality of empirical data.

As we have seen, the analytical method has evolved over an extended period of time starting with my own original project issues and the analysis of the cases against these project issues leading to the identification of the five themes – the 5 Cs. The product of this work was the Analytical Framework as an analytical tool to be used in analysis of the empirical evidence. In addition, the Commentary on the narrative of the case studies developed out of a perceived need to flesh out the particular annotations with a potential for use in the later chapters of the thesis.

The research questions will mostly be dealt with in the later chapters of the thesis but the first question on a theoretical basis for participants' actions has already been the subject of Chapters 3 and 4.

Lastly, the choice of the three cases has allowed data source triangulation in all of the cases.

It is now time to turn to the cases themselves and the use of the analytical methodology in analysis of the evidence. In the next chapter we will consider the first case study, a study on the direct impact of government policy and the ensuing problems of implementation. This is the East Quayside project.

5) TIME / RESOURCES PROBLEMS

- a) Business/Planning Authority time conflicts
- b) Diversion of resources / impact on business - effects on management time
- c) Delay of projects

6) OTHER ISSUES

- a) Employment issues - few local people being employed from immediate locality - travel in from outside district
- b) Universal Business Rate - impact of local employer not perceived
- c) Commitment to deliver against the agreed plan by the developer
- d) Consultation process - by Local Authority - by developer
- e) Economic issues - business logic not understood or valued - costs of process and decisions
- f) Suspicion - lack of trust on both sides
- g) Ethical considerations - behaviour and attitude of developer and LA's (politicians and officers)

7) ENVIRONMENTAL ISSUES

- a) Already contaminated sites - lack of properly defined limits on ground water contamination in the UK - Agency unwilling to make long term, binding decision

SPECIFIC CASES

Conflict Sources	East Quayside	Francis Avenue	Egham		Brooklands Phase 2	Stamfordham Housing
			Rusham Park	Rusham Road		
1a	x	x	x	x	x	x
b	x					
c	x					
d	x					
e	x	x				
f	x	x	x	x	x	x
2a	x	x	x	x	x	x
b	x					x
c	x	x	x			
d	x	x	x	x	x	x
e	x	x	x	x	x	x
f		x	x			
g	x					
h		x	x	x		x
i	x					x
j		x				
k	x	x	x			
l	x	x	x	x	x	x
m		x	x	x	x	x
3a			x			x
b			x	x		
c						x
d			x	x		x
e				x		x
f			x			
g			x	x		
h			x	x	x	x
i		x	x		x	x
j	x	x	x	x	x	x
k		x	x	x	x	
l			x		x	
4 a	x	x	x			x
b	x	x	x			
5 a	x	x	x	x		
b	x	x	x	x		
c	x	x	x			
6 a	x	x	x	x	x	
b	x	x	x	x	x	
c	x	x	x	x	x	
d		x	x	x	x	x
e	x	x	x			
f	x	x	x			x
g	x	x			x	x
7				x	x	

ANALYTICAL FRAMEWORK - I

CASE - EAST QUAYSIDE

A) COMMAND	Issue in case?
a) Planning Law - the foundation of the process	x
b) Compulsory Purchase Law - reasons for CPO - powers to resist - valuation of property - adequacy of compensation for loss	x
c) Courts - adversarial process - amount of paperwork - all facts & data not always made available to the Court - appeals process	x
d) Judicial Review - permission required - limited scope for review	x
e) Public Inquiries - adversarial process - Inspectors not independent of Dept. of the Environment - decision making process - appeals	x
f) Objectors - quality of objections - impact on applications - strength of case	x
g) Impact of time limits on planning approvals	
h) Govt. Policies - UDCs, Enterprise Zones, Regional, economic policies	x
i) Green Belt - New development - development of existing facilities	
j) Conservation Areas - how effective and can they prevent development?	
k) Restrictions on use of facilities - Use Classes -change of use	
l) Universal Business Rate - financial impact of local employer not locally seen	
m) Strategic / Unitary / Local Plans - influence, timing, knowledge of plans	
n) Public Interest - What is it? Who defines it? Does the public agree?	x
B) CONTRACT	
a) Aesthetic Issues - who decides? how? Real impact on the area?	x
b) Private organisation's commitment to deliver against the agreed plan	x
c) Costs of process and decisions in resource and financial terms to all sides	x
d) Employment issues - local or external to area? Impact on schools etc.?	x
e) Contaminated sites - impact of potential future contamination and costs	
f) Section 106 Agreements - importance of legally binding agreements	x
g) Planning Gain - road improvements etc.	x
h) Traffic impact and its impact on the community	x
C) CULTURE	
a) Cultural situation - Public Sector - Private organisations	x
b) Local politics - role, attitudes and influence of decision makers	x
c) Public Sector Procedures - procedures - closed meetings	x
d) Ethical considerations - Public Sector and Private organisations	x
e) Local versus Regional thinking and understanding of business needs	
f) Private organisations' lack of knowledge and understanding of public sector	x
D) COLLABORATION	
a) Public information process - by Planning Authority - by Private organisations	x
b) Public participation	x
c) Lack of contact between councillors & developer - data not made available	x
d) Suspicion - lack of trust on both sides	x
e) Non-elected agencies - their processes and difficulties in negotiating with them	x
f) Uncertainty of decision making process - officers unable to predict outcomes	x
g) Intra Local Authority disputes - e.g. site located across LA boundaries	
h) Inter-Departmental conflicts in Local Authority e.g. Planning, Housing etc.	
i) Inconsistencies of strategies of Central Government, Local Government, non-elected agencies and the Private organisation	x

ANALYTICAL FRAMEWORK - II

	East Quayside	Francis Avenue	Bath
1) COMMAND			
a) Planning Law - the foundation of the process	x		
b) Compulsory Purchase Law - reasons for CPO - powers to resist	x		
c) Compensation - valuation of property - limitations of compensation	x		
d) Govt. Policies - UDC's, Enterprise Zones, Regional, economic Policies, Green Belt, Conservation Areas	x		
e) Strategic / Unitary / Local Plans - influence, timing, knowledge of plans			
f) Public Interest - what is it? Who defines it? Does the public agree?	x		
2) CHALLENGE			
a) Objections - quality of objections - strength of case - impact	x		
b) Public Inquiries - adversarial process - Inspectors not independent of the Dept. of the Environment - process - appeals	x		
c) Courts - adversarial process - amount of paperwork - all facts & data not always made available to the Court - appeals process	x		
d) Judicial Review - permission required - limited scope for review	x		
e) Role of Secretary of State for Environment	x		
3) COLLABORATION			
a) Public information process - how and by whom?	x		
b) Public participation - stakeholders	x		
c) Lack of contact between councillors & developer - inadequate data	x		
d) Non-elected agencies - difficulties in negotiating with them	x		
e) Uncertainty of process - officers unable to predict outcomes	x		
f) Intra Local Authority disputes - e.g. site straddling LA boundaries			
g) Conflicts in Local Authority e.g. between Planning, Housing etc.			
i) Inconsistencies of strategies of all levels of governance and private sector	x		
j) Involvement of private developers	x		
k) Networks - which ones & how is influence felt	x		
4) CONTRACT			
a) Aesthetic Issues - who decides? how? Real impact on the area?	x		
b) Private organisation's commitment to deliver against the agreed plan	x		
c) Resource costs of process and decisions to all sides	x		
d) Employment issues - local or external to area? Impact on schools etc.?	x		
e) Contaminated sites - impact of potential future contamination and costs			
f) Importance of legally binding agreements (Section 106)	x		
g) Planning Gain - road improvements etc.			
h) Traffic impact and its impact on the community	x		
5) CULTURE			
a) Cultural differences between Public Sector & Private organisations	x		
b) Local politics - role, attitudes and influence of decision makers	x		
c) Public Sector Procedures - procedures - closed meetings	x		
d) Ethical considerations - Public Sector and Private organisations	x		
e) Parochiality - local versus Regional thinking versus needs of business	x		
f) Suspicion - lack of trust on both sides	x		

NEWCASTLE EAST QUAYSIDE

CATEGORY	ANALYTICAL FRAMEWORK	
	PROJECT ISSUES	NOTES
1) Command	a) Planning & associated Law - foundation of the process	4 (2), 18, 19, 22
	b) Compulsory Purchase Law - resistance to Orders	11,12, 14, 16, 17, 18, 19, 22, 24
	c) Compensation - Limits - value of property	24
	d) Govt. Policies - Planning, Regeneration, Environmental	1(2), 2, 4, 5, 7, 19, 25
	e) Local Plans & Policies - land use, influence, timing	5
	f) Public Interest - what is it? who defines it?	8
	g) Regional Government Office role	
	h) Role of the Secretary of State for the Environment	1, 2, 5, 18, 22, 23
	j) Environmental issues e.g. Air Pollution	
	k) Aesthetic Issues - who decides? how? Real impact?	14, 16, 17, 19 (2)
	l) Highway & Traffic issues - impact on the community	3, 16, 17 (2),19 (2), 21, 22 (2), 23 (2)
	m) Local politicians - role, attitudes and influence	2, 3, 5, 9, 13, 15, 19, 21, 25
	n) Officers - role, attitudes and influence	9, 10, 11, 12, 13, 15 (2), 16, 17, 19, 21
	o) Public Sector Procedures & processes	8, 9(2), 10(2), 11(2), 12, 14, 15, 16 (2), 17(2), 18, 20, 21, 23, 25
	2) Challenge	a) Appeals - rights - process - resources
b) Objections - rights -quality of objections - strength of case - impact		14, 17, 24
c) Public Inquiries - the adversarial process - Inspectorate - appeals - decisions		18, 19 (2), 20, 22, 23(2)
d) Judicial Review (permission required & limited scope for review) & adversarial process of the Courts		23 (3)
3) Collaboration	a) Public information process - how and by whom?	1, 8
	b) Public participation - stakeholders	2, 3, 8
	c) Non-elected agencies - difficulties in negotiations	2, 10 (2), 11, 12, 13, 14 (2), 15, 17 (2)
	d) Networks - which ones, who is involved, how & why?	2, 8, 9 (2), 15, 19, 21
	e) Strategic inconsistencies between governance and the private sector	3, 4, 6, 11 (2), 12, 14, 16 (3), 17(2), 19, 20, 21
	f) Officer / private organisation interaction	10 (2), 12, 16, 17
	g) Private organisation involvement	3, 7, 8, 10, 12, 13, 14, 16, 25
	h) Lack of contact between Members & applicant	13
	i) Conflict between LA Depts and Intra LA disputes	5
	j) Suspicion - lack of trust on both sides	11, 12, 13 (2), 14 (2)
4) Contract	a) Uncertainty of process - outcomes & timing	10, 11, 12, 13, 14, 16, 17, 23, 25
	b) Private organisation performance	9, 10, 11, 12, 13, 14, 16, 19, 21, 25
	c) Resource costs of process and decisions to all sides	16, 19, 20, 24, 25(2)
	d) Employment issues - local or external to area?	6
	e) Planning Gain - new community facilities, road improvements etc.	
	f) Legal agreements - Section 106 Agreements	23
5) Culture	a) Cultural differences between Public & Private organisations	10, 11, 12, 13, 14, 15, 16(2), 17, 21
	b) Ethical issues - Public and Private sectors	9, 12, 13, 15(3), 16, 17, 21

ANALYSIS SUMMARY

NEWCASTLE EAST QUAYSIDE

	No. of Issues Raised	% of Total	MAIN PROJECT ISSUES	No.
COMMAND	86	41.3	Public sector procedures & processes	19
			Officers - roles, attitudes, influence	11
			Highways & traffic	11
			Local politicians	9
			Compulsory purchase	9
			Government policies	8
			Secretary of State role	6
				73
CHALLENGE	15	7.2	Public Inquiries	8
			Objections & objectors	3
			Judicial review	2
				13
COLLABORATION	61	29.3	Strategic inconsistencies	15
			Non elected agencies	11
			Property developers	10
			Networks	7
			Suspicion	6
			Officer / private organisation interaction	5
				54
CONTRACT	27	13.0	Private organisation performance	10
			Uncertainty of process	9
			Resource costs on all sides	6
				25
CULTURE	19	9.2	Differences in culture	10
			Ethical issues	9
				19
TOTAL	208			

CHAPTER 6 - CASE STUDY 1 - EAST QUAYSIDE AT NEWCASTLE

6.1 Introduction

In Chapter 2, we saw how a new Conservative government policy was developed to effect comprehensive regeneration of designated areas of urban dereliction through the use of Urban Development Corporations (UDCs). This case study demonstrates the direct impact on a large private organisation, Procter & Gamble (P&G), of implementation of this policy through the activities of one UDC, the Tyne and Wear Development Corporation (TWDC) in Newcastle.

Technically, the case eventually hinged on five issues. One, the need for comprehensive regeneration of East Quayside at Newcastle, two, the architectural impact on the TWDC scheme of retaining an existing office building belonging to P&G, three, the need for road alterations, four, the extensive car parking requirements and finally, the economic impact of retaining the P&G office on the TWDC scheme. An important feature of the case is that the normal planning process was effectively neutralised because the City's planning functions for East Quayside were assumed by TWDC. The failure of the parties to agree the retention of the P&G office building led to the use of wide ranging compulsory purchase powers by TWDC and resulted in a conflict which P&G took to the Court of Appeal. The resulting delays, resource costs and diversion of people from their core tasks caused all the parties major problems.

In this case, the author was project manager for what was effectively a project to prevent TWDC acquiring and then demolishing a useful and much needed office building. The narrative attempts to provide a factual account of the key events in the project relying on reports, minutes of meetings, letters, press reports and diaries.

My thesis is that in the context of the planning system there is a dysfunctional interface between the planning system and private organizations. This case demonstrates a particularly difficult interface when the normal planning processes were set aside by government policy and the interpretation and implementation of that policy by a non-elected agency of government.

The narrative has been analysed using the methodology discussed in Chapter 5. The Commentary is based on annotations in the narrative related to the impact of the 5 Cs and the occurrence of project issues defined in the Analytical Log. (Exhibit 6.1). This document then records their frequency of occurrence in the text and also summarises the relative impact of these project issues and the relative influence of the 5 Cs, Command, Challenge, Collaboration, Contract and Culture in this case..

6.2 Participants

First we need to say something of the participants in the case. There were two main protagonists, the Tyne & Wear Development Corporation (TWDC) and Procter and Gamble (P&G). Playing less important roles but nevertheless having significant impact on the case was the Newcastle City Council and a private developer, Mr. Landau.

The Tyne & Wear Development Corporation was formally designated as one of the second generation UDCs in May 1987. **(1d)** Typical of the UDC's, TWDC had a Board and Chief Executive appointed by the Secretary of State **(1h)**, together with a relatively small staff of professional and support people under the Chief Executive. Sixty per cent of the ten member Board, including the Chairman were from business and the private sector emphasising the policy thrust towards private sector involvement.**(3g)**. There was no representation of the current Labour dominated Newcastle City Council despite the importance of East Quayside to regeneration needs in the city. **(1m; 3b)**

Procter & Gamble (P&G) had been located in Newcastle since 1837 and was one of the few major companies to have its UK corporate headquarters in the city. Apart from this headquarters, located in residential suburbs, the company also owned an important research facility located on a separate site, together with a disused factory and an occupied office building, New Sandgate House located on East Quayside. The long-term viability of this office facility was the key point of dispute with TWDC as the company supported the regeneration of East Quayside in principle. **(3g)**

The critical role of Newcastle City Council in this case was its status as Highway Authority. In this capacity, it was consulted by TWDC and was the final arbiter as to the

COMMENTARY

Command

The direct result of government regeneration policy

Command

These were crucial appointments by the Secretary of State.

Collaboration.

The private sector drawn into collaboration in government policy

Command

South Tyneside & Sunderland Councils were both represented.

Collaboration

No public participation.

Collaboration

P&G drawn into this interface created by this government policy.

acceptability of the changes to road layouts caused by the TWDC's regeneration proposals. A secondary role was to be consulted on the planning of East Quayside. (1f; 1m) Despite the long establishment of P&G in the city, the company had no relationship, formal or informal, with the City Council. (3g)

Mr. Landau was a Swiss private developer who bought up available properties on East Quayside aiming to develop these sites in partnership with TWDC. Unfortunately TWDC did not agree with this aim. (3e; 3g) As will be seen, one of the properties bought by Landau was the disused P&G factory.

6.3 The Site

East Quayside, in Newcastle upon Tyne, was part of the Tyne & Wear Urban Designated Area, designated by the Secretary of State in 1987. (1h) This comprised some 2375 Hectares of derelict industrial land mostly along the banks of the lower reaches of the Rivers Tyne and Wear. The East Quayside portion of the designated area, some 11.75 Ha in extent, lay along the north bank of the River Tyne as indicated on the Plan (See Plan 6.1). East Quayside comprised some 67 plots owned by a multitude of owners, some unidentifiable. By late 1989, about one third of the land had been acquired by the TWDC and its preferred developer. (1d) (See Plan 6.2). The P&G owned factory and the associated New Sandgate House offices together standing in about 1.4 Ha, were located along the north boundary of East Quayside (See Plan 6.3).

P&G had been making soap related products on this specific East Quayside site for around 120 years but because of operational difficulties, the factory closed down in 1987. The adjacent building, New Sandgate House was still in use as office accommodation. With growing staff accommodation problems in Newcastle, the Company had decided in 1984

Command

The City thus had a Command role for highways but only a Collaboration role for planning.

Collaboration

Despite its stakeholder status in the City, P&G had no relationship with governance.

Collaboration

There was a strategic conflict here because Landau wished to collaborate with TWDC.

Command

The Command role of the Secretary of State.

Command

The government's regeneration policy already having an impact

that New Sandgate House could provide office space for around two hundred people, thus alleviating its space problems. The cost of providing the same amount of space (c. 42, 000 sq.ft. net useable) on another local company site was estimated to be around £7 million. Strategically, the facility was seen as an essential long- term component of the company's corporate accommodation on Tyneside. Following the 1984 decision, initial expenditure of £600,000 had been made on partial refurbishment of the building that by 1987 housed around 100 people. The company had no plans for the disused factory that was fast becoming vandalised with no apparent market value for its original manufacturing use.

6.4 The Regeneration Proposals

The Consultants' Report in 1987 had recommended that 'Flagship' sites should be designated and that East Quayside should be one of them. Thus a scheme was proposed, estimated to cost £35.4m, of which the public sector (TWDC) would need to finance £8.7m. (3g)

Three developers had prepared schemes in response to the TWDC's request for proposals for East Quayside and these schemes were exhibited in public in July 1988. (3a; 3b; 3g) The schemes were very different in size and complexity as can be deduced from their estimated costs of £48m, £78m and £108m (4b). It was clear at this stage that only the £48m scheme would retain New Sandgate House. Without having seen the brief given to the developers, it was inconceivable to P&G that given the same brief, three schemes so widely different in scope and cost could have been produced. (1o) In September 1988, Newcastle Quayside Developments (NQD) was chosen by the TWDC as its preferred developer. The cost of this NQD scheme was £108m of which the TWDC would contribute £21m. Note that these figures compare with £35m & £8.7m respectively in the original Consultants' Report.

Collaboration

Private sector collaboration in developing government policy.

Collaboration

Public participation only occurring after the developers' proposals were already drawn up.

Contract

Note the widely different private organisations' performance on the basis of the same brief.

Command

This selection process ignored a basic rule of project management that proposals must be directly comparable.

Quoting from "Forward to 1991" (TWDC 1988), the TWDC Chief Executive, Alistair Balls was impressed by the sheer scale of the NQD scheme and said:-

It requires boldness, flair and excitement to bring it (Newcastle Quayside) back to life and we believe this development will do just that. (1o)

Balls went on to express his delight at the public preference for the NQD scheme, pointing out that almost 5,000 people visited the exhibition of which 46% preferred the NQD scheme. Note that this level of public interest compares with the population of Newcastle of some 200,000. (1f;1n;3a; 3b)

At a meeting of the Regional Capital Urban Development Sub-Committee of the Newcastle City Council, Balls said that: -

. . . the UDC were picking a partner rather than a scheme, someone who could work successfully with them on the site, It was clear that any scheme would not be entirely dissimilar to that suggested by the developer actually chosen although there would be scope for considerable negotiation. The TWDC Board would be considering selection on the basis that what was offered by the developer would be acceptable to the Market, the design satisfactory, the track records of the prospective partners were suitable and value for money was being achieved. (1o; 3g; 4b)

In February 1989, the Regional Capital & Urban Development Sub- Committee of the City Council considered and supported the NQD planning application. P&G later found out, via leaked documents, that the officers' recommendations which were highly critical of the scheme had been seriously amended between January 24 and the meeting on February 15, changing the thrust of the report to a supporting position. (1o)

Command

It is difficult to conceive a P&G executive taking this view over such a huge discrepancy between the original idea and the final proposal.

Command

The level of public interest hardly seemed to justify Balls' delight.

Collaboration

This hardly demonstrated enthusiastic public participation

Command

If the process was not about picking a scheme, the design of the process has to be questioned.

Collaboration

An insight into TWDC's understanding of collaboration with private organisations.

Contract

Potential performance of the developer was the real issue here.

Command

P&G understood that any report is subject to last minute changes but here they were absolutely fundamental.

The changes are too numerous to detail here but two examples may suffice. Under Recommendations: -

- 1) The Sub-Committee is recommended to inform the Urban Development Corporation that due to major unresolved issues surrounding this proposal and the unacceptability of many aspects of the scheme, it would be quite unrealistic and quite wrong to grant planning permission for the application as submitted.

became

The Sub-Committee is recommended to inform the Urban Development Corporation that it welcomes the principle of a major redevelopment of this important riverside location and considers that many elements of the scheme will assist in the regeneration of this area.

- 2) Whilst many desirable uses have been incorporated into the scheme the impression of the design and layout is for the most part a tightly packed jumble of buildings many of which are entirely inappropriate in design to this area or site. There are too many buildings, which are too fussy and too flimsy with too little useable open space. The character of the scheme is not appropriate for this location adjoining the well preserved buildings in the Quayside Conservation Area to the west of the development site. (1k; 1m; 1n; 3d; 4b; 5b)

These latter points were simply deleted and in March 1989, TWDC itself gave Outline Planning consent to its own developer's scheme. New Sandgate House was unaffected by these approved plans. (1d)

6.5 The Interface

The initial contact between TWDC and P&G occurred when Balls wrote to the company in May 1987 to explore the possibility of purchasing spare company land on East Quayside that might be made available to enable TWDC to begin the assembly process. (3f)

Command

The roles of members and officers appeared to be in conflict over layout and aesthetics.

Collaboration.

Perhaps the City was already committed to the TWDC scheme through networking

Contract

NQD had not got the City's officers on board.

Culture

An interesting ethical situation.

Command

The first example of TWDC's exercise of its planning powers.

Collaboration

A positive first attempt at Collaboration by Balls.

At a cordial meeting in July, P&G emphasised the crucial importance of New Sandgate House to its corporate plan but also the company's willingness to sell the factory subject to TWDC paying the costs of relocating into New Sandgate House some facilities still in use but then located in the factory buildings. Balls said that he could see New Sandgate House continuing in operation: -

. . . partly because of relocation costs but also by virtue of the value of over 100 people working in the area. (Cole 1989) (1n)

It was agreed to start immediate negotiations for the sale of the factory.

Nine months later, P&G wrote to Balls appraising him of a potential £6m investment in New Sandgate House and pointing out that P&G understood that our site was being included in NQD's plans despite Balls' assurances at the July 1987 meeting. P&G requested an early assurance that New Sandgate House was not to be acquired by TWDC. (3f) No negotiations for the sale of the factory had been started. (1o).

Balls responded immediately saying: -

We have explained to them (the developers) that our preference would be that your office facility should remain; and we have no plans to include it in the compulsory purchase order which we shortly intend to promote in the East Quayside. (1b) Nevertheless, we cannot prevent developers from coming forward with their own ideas, nor would we wish to. (1o) Our aim is to bring life into an area, which at present, particularly abutting on the Quayside, is largely dormant. You understand, therefore, that the last thing we would want to do is to discourage business, which is already active in the area; indeed we would want to see your employees remain as a source of custom for our developments in due course. (3g)

Command

This positive attitude of Balls was welcomed by P&G

Collaboration

Balls' behaviour was now causing some concern to P&G.

Command

Public sector processes very slow by P&G standards.

Command

The first mention of a CPO by TWDC.

Command

This ambiguous process was inconceivable to P&G in that TWDC did not 'instruct' the developer on the essential parameters of the scheme regarding New Sandgate House.

Collaboration

This seemed a positive invitation for P&G involvement

The second aspect of your letter refers to the possibility of using the site for a significant investment in a new facility by Procter and Gamble. If there is anyway we could assist you in this, either through our environmental or other powers, we would be happy to discuss it with you (Cole 1989). (1n; 3c; 3f; 4a)

Following the exhibition of the schemes in July 1988, P&G again registered concern at the proposed demolition of New Sandgate House in two of the schemes. Balls' short response again spoke of the freedom given to the developers saying that: -

.the future of New Sandgate House had not been specifically mentioned although the importance of P.&G as a major employer in the area was made clear to them (Cole 1989). (1o; 3c; 3e)

In October 1988 the TWDC resolved to make a Compulsory Purchase Order (CPO) on East Quayside and at a subsequent meeting between P&G, the TWDC and NQD in November 1988, the need for the demolition of New Sandgate House to aid comprehensive regeneration of East Quayside was discussed at length. (1b; 3f; 3g). NQD agreed to investigate the impact of all aspects of their scheme on New Sandgate House, at the same time opening negotiations on buying the factory. Note that this was sixteen months after the proposed start of 'immediate' negotiations. P&G emphasised that any attempt at compulsory purchase would be vigorously opposed. (Cole 1989). There was no follow up to this meeting despite repeated requests from the company and its advisors.

All this uncertainty was causing critical problems for the company as the Newcastle staffing numbers were increasing rapidly. (3c; 4a; 4b)

Command

A positive attitude from Balls

Collaboration

P&G were beginning to sense difficulties in dealing with Balls and TWDC.

Contract

Time was passing and no negotiations for the factory.

Command

The process was becoming ever more confusing.

Collaboration

P&G were increasingly concerned about the conflict of strategies.

Command

The CPO was now becoming a reality.

Collaboration

Perhaps negotiating with TWDC was a waste of time.

Collaboration

A low level of trust prevailed because of the difficulties in negotiating.

Contract

No clear schedule and growing uncertainty were by now major problems for P&G

Suddenly, in late January 1989 the TWDC's property advisor told the company, without giving reasons, that: -

We have had a great deal of discussion on planning and highways and it is now clear that it would be impossible to retain New Sandgate House if the East Quayside site is to be dealt with in a comprehensive manner (Cole 1989). (1d; 1f; 3e; 3g)

Nothing more was heard of the possible purchase of the factory until March 1989 when an offer was made by the TWDC, too late as it happened, because P&G had by then agreed to sell the facility to Mr. Landau. (1o; 3c; 4b) As the owner of adjacent property, Mr. Landau had suddenly approached the company with an offer that proved very acceptable, subject only to two conditions, that complete secrecy be maintained and that TWDC had not served a CPO Notice on New Sandgate House. (1b) When TWDC were informed of the factory sale, they and NQD were very upset. NQD demanded to know of P&G why they had not been given a chance? Balls called P&G to say they were disappointed, the effect on their scheme was to reduce it to dust, and asked was the sale irrevocable? (3f; 3g) Balls and his Chairman met with the Managing Director of P&G and at that meeting questioned the irrevocability of the sale of the factory, made clear their need to get us out of New Sandgate House but keep us on the Quayside, they said the CPO notices would be issued in a couple of weeks and that Balls would call a meeting in two weeks to discuss the future of New Sandgate House. Now twenty-one months had elapsed from the proposed start of the 'immediate' negotiations for the sale of the factory. (1n; 1o; 3e; 3f; 4a; 5a; 5b)

Following a request from NQD for a specification of the company's space needs to keep P&G on East Quayside, TWDC's property advisor submitted three offers to P&G in

Command

The first mention of highways as a regeneration issue on East Quayside

Collaboration

The conflict between strategies continued to worsen.

Command

This offer not based on negotiation.

Collaboration.

The interface was in a poor state

Contract.

In the absence of an offer from TWDC, P&G had no difficulty in doing this commercial deal

Command.

Landau already perceived the CPO as a threat even though he wished to collaborate with the TWDC.

Collaboration.

Whilst understandable, these reactions underlined the poor quality of interface and relationships that existed by this stage.

Command

Public sector attitudes and processes very different from those of P&G and Landau.

Collaboration

P&G became even more confused by Balls' strategy

Contract

Time seemed not to be an issue.

Culture

P&G's culture and ethics prevented any disclosure of the sale until Landau approved

May, one, for the freehold of the whole P&G site including the factory, another for the factory only and a third for New Sandgate House only. The factory now belonged to Landau. There was no proposal for alternative accommodation on the Quayside but there was an offer to sell back to the company a piece of its own land. Many of the 'facts' stated in these proposals about the existing New Sandgate House facilities were completely inaccurate. (1o; 3c; 4b)

Unlike TWDC with its regular media coverage, P&G had not sought any publicity for its position, believing that sense might prevail. Attempting to gain some support, the company invited Nick Brown, the local MP, local ward councillors and two members of the TWDC Board to tour NSH. The TWDC people did not attend because Balls had rung P&G objecting to the invitations to his members. Brown and the councillors gave unqualified support and much advice. Subsequently a Board member of TWDC was allowed to visit New Sandgate House (1m; 1n; 1o; 3f; 5a; 5b)

TWDC gave formal notification of the making of the CPO for East Quayside in June 1989 with a preliminary Statement of Reasons that did not comply with the Statutory Rules of Procedure and not mentioning P&G or New Sandgate House. P&G formally objected and in August, Official Notice was given of a Public Local Inquiry to be held in Newcastle in November 1989. (1b; 1o; 3c; 2b; 2c)

At that time, a new offer was made for New Sandgate House by NQD. The offer was rejected by P&G because the NQD proposal took the whole New Sandgate House site, provided a new office building nearby on the East Quayside at what NQD estimated to be a gain in asset value of £2.5million to P&G. It seemed to completely escape TWDC and NQD that any such gain could only be realised by selling the asset,

Command

P&G were totally confused by this process

Collaboration.

P&G despaired over the quality of the interface at this time.

Contract.

A clear gulf in understanding over P&G's actual needs and TWDC/NQD's efforts to help.

Command

Balls' seemed to wish to avoid exposure of his members to the facts of the P&G case.

Collaboration

Balls' response to the P&G invitation indicates the quality of the interface.

Command.

A helpful result of direct access to councillors.

Culture.

Culturally, P&G, TWDC and NQD were a long way apart.

Command

A public sector body not following the statutory rules.

Collaboration

A further highlight of dealing with TWDC.

Challenge

The Challenge process worked very smoothly.

leaving the company short of accommodation for 150 -200 people. (3e; 3g; 4a; 4b; 5a)

In August, TWDC attempted through their solicitors to make a direct approach to the company's top management in Cincinnati in the US. The following day, Balls called the P&G Managing Director saying that they had made an offer to P&G for the 'surplus land' and also that they wanted to make a direct approach to Cincinnati because of the 'pressure they were under to resolve the New Sandgate House issue'. Later in the week, TWDC confirmed that their direct approach to Cincinnati had indeed been made without the knowledge of P&G in Newcastle.(1n; 1o) The parent company, through its Cincinnati lawyers made very clear to the TWDC solicitors that their only point of contact with the company under any circumstances was through the local management in Newcastle. (3c; 3e; 5a; 5b)

At this time, P&G sought a meeting with Beecham (the Leader of the City Council) to inform him of the company's position. Beecham mentioned the road issue as a key problem and while there was some sympathy for the company's position, it was obvious that he was very keen to see the TWDC's regeneration project succeed. (1f; 1m)

The following day, the company was given a copy of a 'briefing note' written by Balls to the Council Leader on the morning of the meeting with P&G. (1n; 3d). In this leaked briefing note, Balls summarised the three reasons for acquisition of P&G property as being: -

- 1) Aesthetics (i.e. Urban design, Architecture, Environmental-Economic impact) (1j; 1k)
- 2) Highways (1l)
- 3) Essential car parking facilities (1l)

Collaboration

Different strategies and no collaboration

Contract.

Difficulties for P&G in coping with the unpredictability of NQD

Culture.

TWDC and NQD were operating in a wholly different culture from P&G.

Command

Balls' action may have been an act of desperation but it angered P&G in Newcastle and Cincinnati and this was not helpful to the interface.

Collaboration

Balls' action made P&G wonder whether he and TWDC could ever be trusted.

Culture

To P&G this was a most unethical action.

Command

Beecham was very clear about his position and though disappointing to P&G, his clarity was to be commended.

Command; Collaboration

Balls' actions gave the first clear insight of networking between TWDC and the City

Command

For P&G, all these issues were now clearly enunciated for the first time

He said that: -

...highways are a matter for the Council but the TWDC being aware of the sensitivity of the Council to the disturbance of such an important company, have consciously played down this important aspect.

He went on to say they would continue up to the Public Inquiry with this strategy, instead emphasising the comprehensive regeneration argument but the note stressed the pivotal importance of the highway matter. For this strategy in underplaying the highway issue,

..as a quid pro quo we would expect the Council's continued quiet support until the Inquiry at which time the facts will speak for themselves.

. (1f; 1n; 3c; 5a; 5b)

This episode, together with the direct approach to P&G in Cincinnati, totally confounded P&G management. They regarded the approach to Cincinnati as naïve, stupid and unforgivable. (3c; 3f; 5b) As for the City, the presence of the UK headquarters of a major multi-national company “*such an important company*” in Balls’ words and which had been in the city for around 160 years counted for nothing. The interface between P&G and TWDC had reached a new low at this time. (1m; 3c; 3e; 5a; 5b)

At a meeting on August 18, Balls told the company for the first time that there were four issues related to the future of New Sandgate House. At P&G’s mention of the briefing note, Balls’ responded that there were numerous leaks from his organisation and that in any case he would not know how to play dirty tricks. (1o; 3f; 5b) Maybe he did not always come across as having a professional approach. As far as the factory was concerned, P&G had not been clever to sell to Landau and the company could not walk away from its responsibilities with the consequence that we had blocked the scheme. (1n; 4b)

Command

This approach was in contradistinction to that of Beecham’s own openness.

Collaboration

Typical public sector behaviour or simply a non-elected agency in league with a developer?

Culture

Balls’ action did not imply a sound ethical or cultural situation in his organisation.

Collaboration

Collaborative hardly seemed an appropriate description of the interface.

Culture

A total conflict of cultures here

Command; Collaboration; Culture.

Behaviour, strategies and cultures were in conflict P&G and their advisors no longer understand the rules of the game.

Command

A contrast with the ‘need to know’ secrecy of P&G.

Collaboration

Balls appeared contrite at this stage.

Culture

Balls’ concept of ethical behaviour was interesting.

Command

Balls was quite emotional here.

Contract

P&G was not aware it had any responsibilities for the scheme.

P&G suggested the scheme was not blocked and in any case TWDC could use Compulsory Purchase. Balls said the CPO process was not all-powerful and the more land on East Quayside owned by Landau, the weaker the TWDC case. **(1b)** He then addressed the four issues related to the future of New Sandgate House.

First, in terms of comprehensive regeneration P&G involvement arose because the factory space was the most attractive commercial area and its acquisition was key. **(3g)**

Secondly, studies showed the architectural integrity of their scheme was spoiled by retention of New Sandgate House. Asked if he had seen the studies, he said no. **(1k; 1n)** It being pointed out that aesthetics depends on one's starting point Balls said that retaining New Sandgate House would devalue the most commercially attractive part of the site namely, office development. New Sandgate House with a potential rental value of £5/sq.ft would have a serious impact on NQD's new properties, aiming at a rental of £12-14/sq.ft. Balls said the company's demand for 50,000 sq.ft. of space when it was only using 20,000sq.ft. of New Sandgate House was a key issue and that TWDC was bound by the Compensation Code but NQD was not. In fact, in his recent proposal to P&G, the developer was taking a reduction of £2 million in his anticipated yield, based on a predicted value of a new building of £7.43 million with a net cost to P&G of £4.92 million). P&G pointed out that TWDC's logic was that the company spent £5 million to protect the developer's profits. **(3c; 3e; 3f; 4c)**

The third point was that car parking had to be built economically in one place against City Road and this was under the site of New Sandgate House, which would therefore have to be demolished.

Command

An interesting public sector perspective on the power of compulsory purchase.

Collaboration

No option for P&G about involvement

Command

Balls' mixing of aesthetics with economics was an interesting insight into his appreciation of the project. This was the first time economics had been mentioned.

Collaboration

P&G and TWDC were diverging even further on strategy.

Contract

To P&G, this looked like protection of the developer's profit at P&G's expense.

Lastly, there was the issue of highways that were the City's responsibility and although it was obvious that the scheme would increase traffic, the effect on New Sandgate House was not clear. (1f)

Balls said that with those four arguments the company must think of its position but of course P&G were entitled to say to hell with the scheme.(1n) Instead, P&G emphasised its support for comprehensive regeneration and that City Road appeared to be a rational boundary. However, it was also made clear that if forced out of New Sandgate House it was highly unlikely that the company would stay on East Quayside. Balls was reminded that the attractions of New Sandgate House were, it was there, it was large, flexible, good quality accommodation, accessible and could easily house more people. Balls said that they would bend over backwards to keep P&G on East Quayside but other sites could be made available. (3e) He also agreed that unless there was an acceptable road proposal, New Sandgate House was at risk. Asked whether P&G could enjoy equal disclosure of the City's road proposals, he thought yes. (1f; 1o; 3d; 3f)

It is worth noting that this discussion took place against the background of Balls' briefing note to Beecham only four days earlier confirming to the Leader of the City Council that the road issue was critical. Now, he was saying that the road issue was not clear, architecture and letting values were, together with parking, the critical issues. (1k; 1f; 1n; 3c; 3f; 4a; 5a; 5b)

Some days later, the City Traffic Engineer handed over to P&G data showing that the retention of New Sandgate House was not inimical to the NQD scheme. (1f; 1m; 3e) TWDC issued the statutory Statement of Reasons in October 1989. but this time New Sandgate House was actually mentioned.

Command

Balls was dodging the real highway issue that he had so clearly stated to Beecham.

Command

Balls' mixture of rational and emotive argument was not a helpful contribution.

Collaboration

The strategies of TWDC and P&G were totally divergent at this stage

Command

The TWDC processes over the highway issue still mystified P&G.

Collaboration

P&G did not believe that the networking between TWDC and the City would allow such disclosure.

Command; Collaboration

The meeting resolved nothing but increased P&G's confusion.

Contract

Timing not even discussed.

Culture

If Culture informs behaviour and attitudes, TWDC and P&G were worlds apart.

Command

A different view of the highway issue

Collaboration

Another strategic difference and yet more uncertainty

The relocation section was significantly amended, saying that: -

. . . the Corporation is mindful of the contribution made by the Company as a major employer to the economy of Newcastle and is endeavouring to agree a suitable site for relocation of this part of the company's activities. The Company is understood to own another site in the Newcastle area, which might be suitable for relocation. The Corporation is ready and willing to assist the Company to relocate in accordance with its relocation policy. (1b; 3c; 3e; 3g)

The section relating to proposals for closure of public highways still made no mention of the effect of such closures or any consequent new road works on New Sandgate House. (1f) The Statement of Reasons contained nothing about the other points raised verbally by Balls in the August 18 meeting i.e. architecture, highways or car parking. It will be noted that even at this stage, all P&G knew formally was that New Sandgate House must go in order to achieve comprehensive regeneration. (1g; 1o; 3c; 3f; 5a)

6.6 The Public Local Inquiry and Inspector's Report

The Inquiry was set up to consider the TWDC's application for confirmation of the East Quayside Compulsory Purchase Order and associated proposals to make an Order for Stopping-up various highways on the East Quayside. The first Order was for the purpose of securing regeneration of East Quayside and the second Order was to enable development to be carried out in accordance with the outline planning permission already granted. (1b; 1f) The 17 day long Inquiry started with the TWDC case followed by the two major objectors, P&G and Landau and then a few minor objectors. TWDC, with NQD support, advanced a largely property based case for comprehensive regeneration stressing the critical importance of removal of New Sandgate House as outlined by Balls on August 18. (1d; 2a; 2c)

Command

This document was less than comprehensive in relation to New Sandgate House .

Collaboration

Balls now introducing another strategy for P&G – relocation from East Quayside

Command

The highway issue was still an enigma to P&G

Command; Collaboration

This discrepancy was crucial in a supposed statutory document. This hardly represented any kind of collaboration and heightened uncertainty

Culture.

A cultural gulf in the approaches of the parties.

Command

Clarity was now emerging about the highway proposals

Command

An argument fully in line with government policy

Challenge

A courteous but adversarial process, the objectors on the defensive, perhaps because no attack was mounted on the merits and viability of the NQD scheme.

P&G rejected these arguments proposing instead three alternative highway solutions, proposals to minimise the effects on the parking scheme and proposals for spending £650,000 on aesthetic upgrading of New Sandgate House. (1k; 1f; 3g) Interestingly, a computerised model of the NQD scheme indicated that the impact of New Sandgate House on the architectural aspects of the NQD scheme was minimal.

The Inspector had announced at the start of the Inquiry that the criteria contained in paragraph 6 of DoE Circular 23/88 would be central to the Secretary of State's decision on whether or not to confirm the CPO. (1b; 1d; 1h; 2c) These criteria were: -

- a) Need for regeneration
- b) Alternative proposals
- c) Balance of advantage
- d) History of the land
- e) Comprehensive proposals
- f) Quality & programming of proposals

As far as the P&G case was concerned, the Inspector said: - The submissions made on behalf of Procter and Gamble relate to the use of powers under Section 142 of the 1980 Act by the acquiring authority. My conclusions are that these powers appear to have been properly used in relation to the acquisition of the land, which is needed for incidental highway improvements. In addition, the point is made that the essential legal test is the end to which the land so acquired is to be put. In this case I am left in no doubt that the road improvements required by the local highway authority are reasonably necessary to secure the regeneration of East Quayside in that appear to have been properly used in relation to the they are the subject of detailed negotiations and agreement between the TWDC and Newcastle City Council. (1a; 1b; 1f; 1n; 3d)

Command

P&G believed these were very good solutions to the problems as stated by Balls.

Collaboration

P&G had expended considerable expertise and resources on the development of these proposals.

Command

These appeared to be eminently sound criteria

Challenge

P&G had no issue with points a) and d)

Command

The wide interpretation of the law was difficult to counter. The other argument barely stood up to scrutiny. If the highway improvements were only "reasonably necessary" because of the collaboration between TWDC, NQD and the City, why should P&G be forced to pay to replace its own building?

Collaboration

Reference to the networking between TWDC and the City.

On the agreed assumption that most of the P&G site would be incorporated in the Order lands, the exclusion of a small part of the plot containing the 1936-49 building (0.14 Ha out of 11.75Ha) would result in New Sandgate House forming the sole fragment of the western ensemble fronting City Road. An odd circulation pattern would be established such that the main pedestrian entrance would remain at the upper street level and the ancillary parking provision would be made within the multi-level decks at some considerable vertical distance below. Such a prominent oddity would do little to enhance the attractiveness of the regeneration scheme as a whole. **(1b; 1k; 1f; 2c)** From the Balance of Advantage standpoint, the retention of New Sandgate House may to an extent be separately assessed in relation to the NQD scheme. It is virtually common ground that only the building itself need be retained. Even neglecting the cumulative effect of excluding the Landau land, the result of amending the NQD layout to accommodate both the building and necessary ancillary parking for the P&G building would be financially onerous. Not only would a loss of profitability ensue from the reduced office content but there would also be, as yet wholly unquantified, cost penalties associated with probably expensive and certainly inconvenient engineering works needed to underpin the structure. **(1o)** There is very little doubt that the existing building might well be improved to provide future office accommodation for the parent company but the utility of such floor space must be in some doubt considering the company's present pattern of dispersal within the city and surrounding area. **(2c; 3e; 4c)**

The decisive objection to retaining New Sandgate House is probably that of the pattern of traffic management, which it would impose upon the area, which surrounds East Quayside. Any solution of the problem of absorbing more traffic along the restricted width of City Road would seem to require area

Command

Pedestrian and car access was surely a matter of normal logistics not aesthetics it did not seem to be an unusual solution.

Challenge

This seemed to P&G to be a very subjective view.

Command

It was difficult to understand these conclusions in the absence of relevant cost data.

Challenge

The Inspector's opinion on the dispersal of P&G staff was irrelevant.

Collaboration

P&G's space strategy was totally inconsistent with this view.

Contract

The Inspector did not weigh the relocation resource costs to P&G.

traffic management involving some degree of one-way working within residential areas. Such proposals are seemingly not acceptable to the City Council and are in marked contrast to those comprehensively agreed between the latter and the Development Corporation. (1f; 3d; 3e)

The history of the land is one of virtually total inaction within the East Quayside area during the decade of the 1980's argues powerfully for immediate action now. Such action is doubly urgent in the light of the centrality, visibility and potential for regeneration of this part of the quayside area. The bulk of the land has been acquired relatively recently by the TWDC and by the NQD consortium. In contrast to this orderly sequence of land assembly, it may be felt that the piecemeal acquisition and disposal of land and property by Herr Landau and by P&G respectively has been less than forthright and far less conducive to the proper planning and ultimate successful regeneration of the area.

My overall conclusion is that a choice must be made between the high probability of securing regeneration by compulsory acquisition and the very distinct possibility of confounding such a worthy aim by leaving the land in divided ownerships as a result of failure to confirm the order substantially as made.(1d; 1o; 2c; 4b; 5a; 5b)

The Inspector firmly recommended to the Minister the confirmation of the order.

6.7 The Decision

The Secretary of State's formal decision was given on 3 July 1990. The decision read: -

After careful consideration of all the material before him, the Secretary of State wholly agrees with the Inspector's conclusions and accepts his recommendations.

Command

The highway issue appeared to be the demolition tool for New Sandgate House.

Collaboration

In the normal planning process, P&G would have been able to work with the officers of TWDC and the City to arrive at acceptable solutions.

Command

This orderly acquisition of land allowed such delays as to allow Landau to buy the P&G factory – “ the most attractive commercial area” (Balls August 1998).

Challenge.

The Inspector's views were not appreciated by the objectors.

Contract

Landau's business like approach to acquisition compared to TWDC may have arisen from different cultural perspectives or possibly more complex procedures between public and private sectors.

Culture

Accusations of 'lack of forthrightness' against the objectors seemed one sided in the context of the activities of TWDC, NQD and the City.

He is satisfied that the Order must be confirmed so that the regeneration of the Order land may be secured. The Secretary of State has accordingly decided to confirm the Order with the modifications shown on it and this letter conveys his decision to that effect. As regards the legal submissions made at the inquiry about the power of the Corporation to compulsorily purchase land which will become highway, the Secretary of State is satisfied that the Corporation does have the power to compulsorily purchase such land as part of its regeneration of the area. Indeed the provisions of Section 157 of the Local Government, Planning and Land Act 1980 indicate that it was contemplated that an Urban Development Corporation might have to carry out private street works and then compel the highway authority to take them over as highway. **(1a; 1b; 1h; 1i; 1o; 2c; 3e)**

Thus almost three years after the first meeting with the Chief Executive of the TWDC, the company had lost the first battle for New Sandgate House and decided to appeal. **(2a; 3f; 4a)**

6.8 The Appeals

As we saw in Chapter 2, it must be remembered that there was no possibility of questioning the advice or opinions given by the Inspector in his report to the Minister. At most, the company could seek to apply for a judicial review of its case. **(1b; 1o; 2c; 2d)**

The case for judicial review rested on the following points: -

First, the CPO was made for the securing of regeneration of East Quayside. It was confirmed (by the Secretary of State) primarily for collateral purposes of enabling the City highway authority to widen City Road to facilitate development of other projects. This was unlawful and *ultra vires*.

Command

The wide interpretation of the powers of the TWDC was a hammer blow to the objectors.

Challenge

A question arose as to the extent of the 'material before him' considered by the Secretary of State. Was it only the Inspector's report?

Collaboration

TWDC's strategy appeared to be totally vindicated compared with that of P&G.

Command; Collaboration;

Contract

If Balls had been clear at the outset about his intention to remove New Sandgate House, all this trouble might well have been avoided.

Command

It would be an interesting development if the objectors could review and comment on the Inspector's report before submission.

Challenge

Judicial review is a crucial safeguard for objectors

Secondly, there was no evidence that the P & G land (plot 11) was required for highway widening for East Quayside. The evidence was that East Quayside could be regenerated without impinging on Plot 11 and that the highway authority wished to carry out general highway improvements. This was unlawful.

Finally, P&G's objection should have been considered separately from Landau's. However the Inspector and the Minister linked the objections and thus took account of irrelevant considerations. Attention was drawn to the use of the word "decisive" by the Inspector in Paragraph 13 of his Conclusions when he said that: -

The decisive objection to the retention of New Sandgate House is probably that of the pattern of traffic management it would impose on the area surrounding East Quayside

(1a; 1b; 1d; 1h; 1i; 2c; 2d)

Awaiting the judicial review and with the possibility of a successful appeal, formal legal agreements were reached between P&G and TWDC over the aesthetic upgrade of New Sandgate House, car parking arrangements and the minimum amount of land required to operate New Sandgate House.

(1k; 1i; 3f; 4a; 4f)

The three-day appeal was heard in February 1991. The judgement was delivered in June 1991 comprehensively rejecting the company's arguments. However, leave was given to appeal to the Court of Appeal. This appeal was heard in October 1991 and again the company's case was emphatically rejected. Leave to appeal to the House of Lords was refused.

(2a)

Command

The appeal was firmly based on Command issues.

Challenge

Note the very limited scope for Challenge trying to prove actions as *ultra vires* and unlawful.

**Command. Collaboration;
Contract.**

Whilst TWDC were very confident that they would 'win' they were prepared to negotiate Legal Agreements for New Sandgate House in the event they lost, thus saving time.

Challenge

P&G at least had the satisfaction that they had gone as far as they could to have their case heard by objective judges.

6.9 The Consequences

The company's failure to save New Sandgate House left only basic negotiations between TWDC and P&G on compensation and the timing of the formal acquisition by TWDC consistent with the company's need to acquire, lease or construct a replacement facility. As noted in Chapter 2, TWDC had to compensate P&G for the compulsory purchase of New Sandgate House in accordance with a strictly laid down set of rules. However, this compensation fell well short of the cost of replacing the accommodation. Thomas, Imrie & Griffiths (1989) point out very forcibly that in the Cardiff Docklands, the value which owners placed on their property often fell far short of the figures offered by the acquiring authority. (1b; 1c; 3f)

The company eventually decided to replace New Sandgate House with an extension to its headquarters. Even this was not straightforward since Newcastle City Council gave planning approval for the building by only one vote and the Leader of the Conservatives vociferously opposed the application. He did this despite his initial opposition to compulsory purchase of New Sandgate House resulting from his own government's policies. The new building was completed and occupied in October 1993. Thus some six and a half years after the formation of the TWDC, the company finally vacated New Sandgate House. This is in the context of an original presumed life of the TWDC itself of some seven years. (1m; 1o; 3e; 4a; 4b)

In terms of resource impact, P&G was forced to spend c. £3 million of its own money on a new building to replace only 50% of the New Sandgate House space. This was in addition to costs incurred of c. £400,000 to fight the CPO and pay TWDC's costs for the appeals in both Courts. It is estimated that about four years of management time was diverted from P&G's core business activities because of an external

Command

As Balls had said earlier, room for negotiation on compensation is very limited.

Collaboration

TWDC officers were very helpful now the battle had been won and lost.

Command

The performance of the City councillors did not impress P&G who had just lost New Sandgate House as result of public policy.

Collaboration

City and P&G strategies now seemed divergent.

Contract

The uncertainty that had prevailed over nearly four years had impacted on the P&G business in terms of the efficiency of its operations.

intervention, which the company did not want, and was none of the company's own making. (1b; 4a; 4b; 4c) Resource figures for TWDC are not available but TWDC was estimated to spend c. £300,000 to win the East Quayside CPO (Fazey – Financial Times 1992). One crucial impact of the case was the collapse of the TWDC's preferred developer, NQD and the subsequent appointment of their successors, AMEC. Thus the scheme shown originally to the public by NQD in 1988 was by now, five years later, a different scheme with a different developer and substantially increased public investment. (3a; 3b; 3e; 4a; 4b; 4c) The 1992 Report of TWDC showed that at that time, the actual cost of the East Quayside scheme was £183 million of which TWDC had contributed £64 million. This compares with figures of £35.4 million and £8.7 million respectively proposed in the original Price Waterhouse Report to the Department of the Environment. (1d; 1e; 4b)

Command

This gives some indication of the impact of a CPO on a private organisation.

Contract

The resource impact on P&G was seriously resented by management

Collaboration

Not a successful outcome for the TWDC strategy of picking a partner or for public information and involvement

Contract

The uncertainty, the performance of all the parties involved and the resource impact of the delays could not be foreseen and were unacceptable to them all.

Command

Hardly what Hesletine envisaged when he conceived UDC's.

Contract

Cost and schedule overruns of this magnitude would be totally unacceptable in P&G.

6.10 Conclusions

This case is a clear demonstration of Command, demonstrating the powerful impact of a specific government policy on a very large private organisation and the conflicts that ensued. As a measure of this impact, nearly half of the project issues raised by the case were Command influenced (Exhibit 6.1). This is hardly surprising given the nature of the case and the directness of its relation to a government policy that granted such wide planning and compulsory purchase powers to a willing user. The practical problems caused by this Command situation were really implementation problems. TWDC may have always intended to use compulsory purchase powers but it took them a long time to get there and at great cost. It has to be said that the government policy was successful in that a regenerated semi derelict East Quayside area is now a thriving centre of both business and leisure activity.

Although Challenge only accounted for a small number of the occurrences of the issues raised by the case (Exhibit 6.1), the case demonstrated the vigour of the Challenge process. P&G was able to exercise its right of Challenge as far as the Court of Appeal and therefore could not complain that its case had not been heard. There was anecdotal evidence that other UDCs were watching this case with some concern because of the precedence it could set if TWDC lost. It became increasingly clear towards the end, that there was no chance of the company winning and in hindsight, the case was probably not worth fighting.

Collaboration may have the second highest incidence of occurrences of the issues in the narrative (Exhibit 6.1) but in a sense Collaboration in this case is a negative reflection of events. Collaboration never really happened. Here we had a major divergence of business strategies between TWDC and their developers versus P&G. There was also the difficulty for P&G of dealing with a non-elected agency. Balls in particular saw P&G as having a contributory role to the success of his scheme whereas P&G took no such view. P&G played a game of business logic as they saw it, far away from the somewhat emotional position taken at times by TWDC and their developers. What had started as a cordial interface gradually evolved into one of suspicion and mistrust. P&G also regretted a lack of any sort of relationship with the City Council because there was no support available to the company from that quarter, despite the company's 'importance' as a corporate citizen of nearly 160 years standing.

Contract only accounted for a small number of the issues (Exhibit 6.1), but these issues were a major problem for all the participants; long delay, uncertainty, rising costs, diversion of resources etc. One point that is worth raising here is that it is virtually impossible to forecast the

resource costs of a case like this. Even expert advisors, counsel, surveyors, traffic experts, all with plenty of experience of compulsory purchase cases could not make realistic predictions of the resource impact. From comments made by senior managers in the company after the events, it is unlikely they would have been willing to commit to this fight if there had been any early indication of the eventual drain on the company's resources.

Although Culture again represented a small number of occurrences (Exhibit 6.1), it was clearly a significant influence between all the participants but was never discussed. There was clear evidence of behaviour that was held by the other side as unethical but this only raised the question – whose definition of ethical behaviour is to be used to judge that behaviour?

A final point to make is that for the first time since 1832, there is no longer any P&G presence in the City of Newcastle. The new building that replaced New Sandgate House at the Gosforth headquarters site has just been demolished along with the 1950s and 1960s buildings. It is not possible to conclude that the experience of East Quayside was a major factor in the demise of the company's presence in the city, but it could not have been helpful experience.

This chapter has dealt with a problem of a very large company's inability to cope with a local arm of government and thus government itself. The next chapter deals with a different type of case that was more 'normal' in the sense that the planning and appeals process followed the normal development control process. Nevertheless it is a miserable story of frustration, confusion, delay, cost and uncertainty for all parties.

ANALYTICAL LOG

This Log records the number of times a specific project issue is noted in the narrative.

5 Cs	PROJECT ISSUES	LOG	% of TOTAL
1) Command	a) Planning & associated Law - foundation of the process	3	
	b) Compulsory Purchase Law - resistance to Orders	15	
	c) Compensation - Limits - value of property	1	
	d) Govt. Policies - Planning, Regeneration, Environment	9	
	e) Local Plans & Policies - land use, influence, timing		
	f) Public Interest - what is it? Who defines it?	1	
	g) Regional Government Office role		
	h) Role of the Secretary of State for the Environment	5	
	j) Environmental issues e.g. Air Pollution	1	
	k) Aesthetic Issues - who decides? how? Real impact?	7	
	l) Highway & Traffic issues - impact on the community	20	
	m) Local politicians - role, attitudes and influence	8	
	n) Officers - role, attitudes and influence	13	
	o) Public Sector Procedures & processes	22	
	TOTAL of Command	105	43.7
2) Challenge	a) Appeals - rights - process - resources	3	
	b) Objections - rights - quality & strength of case - impact	1	
	c) Public Inquiries - the adversarial process - Inspectorate - appeals - decisions	9	
	d) Judicial Review (permission required & limited scope for review) & adversarial process of the Courts	2	
		TOTAL of Challenge	15
3) Collaboration	a) Public information process - how and by whom?	3	
	b) Public participation - stakeholders	4	
	c) Non-elected agencies - difficulties in negotiations	14	
	d) Networks - which ones, who is involved, how & why?	5	
	e) Strategic differences between public & private sectors	16	
	f) Officer / private organisation interaction	16	
	g) Private organisation involvement	15	
	h) Lack of contact between Members & applicant		
	j) Conflict between LA depts and Intra LA disputes		
		TOTAL of Collaboration	73
4) Contract	a) Schedule - delays and uncertainties	10	
	b) Private organisation performance	13	
	c) Resource costs of process and decisions to all sides	4	
	d) Employment issues - local or external to area?		
	e) Planning Gain - community facilities, roads, etc.		
	f) Legal agreements - Section 106 Agreements	1	
		TOTAL of Contract	28
5) Culture	a) Cultural differences between Public & Private sectors	9	
	b) Ethical issues - Public and Private sectors	10	
		TOTAL of Culture	19
	TOTAL NUMBER OF ISSUES	240	

CHAPTER 7 - CASE STUDY 2 - SAFEWAY STORE AT BATH

7.1 Introduction

Unlike the first case study, this case focuses on the operation of the Development Control process within the planning system and challenges to the decisions made under that process. The major interface was that between the applicant, Safeway plc, and Bath City Council engaging in a dispute over the change of use of an operating bus depot into a supermarket site.

Technically, the case eventually hinged on five issues. One, the use of the site for retail purposes, two, the local highway and traffic conditions, three, the visual impact of a supermarket in a Conservation Area of a World Heritage City, four, air quality and lastly, whether demonstrable harm would outweigh likely benefits.

The consistent failure of the parties to resolve these five issues and the late appearance of the air quality issue, led to three Public Inquiries. Apparently, this was the first planning application to hinge on this air quality issue. The extended timescale of the project and its consequent effect on strategies and resources for all the parties involved was a particular feature of this case.

In this case, the author had no connection with the project at all. The attempt to provide a factual narrative account of the key events in the project therefore relies on reports, minutes of meetings, letters, press reports, diaries and interviews with key participants on all sides.

My thesis is that there is potentially a dysfunctional interface between the planning system and private organisations. This case demonstrates a process of confusion, frustration, government intervention, unacceptable delay and finally, the crucial importance of the right to Challenge.

The narrative has been analysed using the methodology discussed in Chapter 5. The Commentary is based on annotations in the narrative related to the impact of the 5 Cs and the occurrence of project issues defined in the Analytical Log (Exhibit 7.1). This document then records their frequency of occurrence in the text and also summarises the relative impact of these project issues and the relative influence of the 5 Cs, Command, Challenge, Collaboration, Contract and Culture in this case.

7.2 The Participants

The participants in this case included two local authorities, the site owner and the potential developer, Safeway plc. Avon County Council was the strategic planning and highway authority for the area. Bath City Council, later the Bath & North East Somerset District Council, was responsible for Planning, Environmental and local traffic management. Safeway plc was the third largest supermarket chain in the UK and were seeking a site in Bath to meet a perceived market need. Dolsett Estates Ltd. owned the Kensington bus depot site as the property arm of bus operators, Badgerline.

7.3 The Site

The 1.8 Ha Kensington site is located in the North East area of Bath, lying to the south of the very busy London Road, the main traffic route into Bath from the east but largely screened from the road by domestic and minor retail properties (See Plan 7.1). The other site boundaries are on the east, some playing fields, to the south the River Avon and on the west a mixture of warehousing etc. Almost all the buildings on both sides of London Road adjacent to the site are Listed at least Grade II.

Safeway's choice of the site was based on the substantial population living within the walk - in catchment area and the number of bus services passing the site and serving a large area of Bath. Having found an agreed alternative site for the bus depot elsewhere in Bath, Safeway agreed to the purchase of the Kensington site in March 1990.

Bath is almost a museum of fine Georgian buildings and in 1987 was designated by UNESCO as a World Heritage Site, the only complete city to be so designated in the UK. Not surprisingly, around two thirds of the city is included in the 1,915 Ha Bath Conservation Area and this includes the Kensington site (1k) (See Plan 7.2).

Command

This status dominates the planning philosophy of Bath according to a Planner at interview

7.4 The Planning Context

Two Development Plans, the Avon Structure Plan and the Bath City Plan covered the site.

The Second Alteration of Avon Structure Plan was approved in October 1989. Avon County Council approved a proposed Third Alteration to this plan in September 1991, effectively rolling forward policies covering the period 1989 to 2001. This alteration was subject to public consultation between October and December 1991 Policies RT1, RT2 & RT3 related to shopping issues, notably the protection of the city centre and other major centres, the provision of convenience stores and the criteria governing approval of such stores. These included lack of adequate sites adjacent to the existing centres, accessibility by public transport, cars and traffic issues **(1e; 1f; 3a)**.

The Bath City Plan was adopted in June 1990. Because of later legislation, this plan had the status of a 'saved non-compliant plan' because it was non-conforming to the Structure Plan. A replacement City Plan was then being pursued. **(1e)** Three principal issues were the focus of these plans. One, the underlying philosophy of conservation, two, growing concern for the effects of new development with increasing traffic congestion and consequent restraint policies and lastly, the inability of the city to grow in physical terms. **(1k; 1l)** The council accepted that Bath is not and must not become a museum and the needs and aspirations of its citizens could not be satisfied without change. Shopping strategies were addressed in policies R1, R2, R9 and R13.

As in the Structure Plan, these policies sought to protect existing shopping in the city centre and major district centres. The Kensington site was close to one of these centres and Policy R13 stated that substantial convenience stores would not normally be permitted outside the defined central or

Command

Traffic and shopping were key issues in this strategic plan.

Collaboration

Public consultation was in line with planning law.

Command

Potential conflict here with the two Plans out of step and the time needed to replace an existing Plan.

Command

This traffic situation was and is a constant issue in Bath.

suburban centres if it caused potential harm to the existing retail structure of the city, was in the green belt, was allocated for other uses or had traffic and transportation problems. Interestingly, Policy R16 in the draft replacement city plan proposed that up to 30,000 sq. ft. net of convenience store space would be permitted, provided it would not contravene the conditions set out in the existing Policy R13 (1e; 1f)

In a 'Bath Shopping Needs' study commissioned by the Bath City Council in 1989, Nathaniel Lichfield & Partners, argued there was a quantitative and qualitative need for additional supermarket capacity in the city, best met by a store of 25,000 to 30,000 sq.ft. net to be located in the North East of the city. It must be noted here that all the Safeway Planning Applications proposed a supermarket of around 40,000 sq.ft. gross (25,000 sq.ft. net) (1f; 3b).

7.5 The Interface

An initial meeting with the Chief Planning Officer was held in November 1989 proposing a plan for a store of 42,000 sq. ft. gross with 334 car parking spaces (3f). Subsequently on January 12, 1990, Safeway made their first formal application for Outline Planning Consent for a supermarket on the Kensington site conforming to the recommendations of the Lichfield Study (Application No. 4519/10).

Following negotiation, the size of the store was reduced to 39,000 sq. ft. and the number of parking spaces increased to 347. The Chief Planning Officer reported to Committee in May 1990 that the site was the preferred site for bulk food retailing on the East side of Bath but determination should be withheld until after an *ad hoc* meeting with Avon County Councillors (1n).

At this stage the Avon position was that, pending completion of the Batheaston to Swainswick by-pass and parking and

Command

Conservation, shopping and traffic philosophies were all in potential conflict here.

Command

This marked a serious attempt by the Council to determine the public interest.

Collaboration

Involving the stakeholders

Collaboration

This was felt by Safeway to be an effective, collaborative start to negotiations.

Command

This appeared to Safeway to be a positive and sensible position for the Planning Officer to take.

highway works the application was premature and must be subject to a binding legal agreement (1f; 4f). In January 1991, Avon County Council officers advised that on both traffic flows and parking matters no further highway objections could be sustained and their objections should be withdrawn (1n). The members rejected this advice and resolved to advise Bath councillors that the application should be rejected on highway safety and environmental grounds (1j; 1m). Anticipating rejection of this application, Safeway submitted a second parallel duplicate application on February 6, 1991 (Application No. 4519/12). (1a)

On March 13, 1991 Bath City Council Planning Committee, rejected the first application against officers' advice, on the grounds that: -

01 the proposals would be likely to cause an excessive increase of traffic on this public highway (A4 London Road) and thus be detrimental to highway safety and the local environment.

02 the proposal would involve over-development of the site, resulting in inadequate on-site parking provision leading to a detrimental effect on the amenities of surrounding residents by reason of congestion likely to result at the entrance to the site and the adjacent road systems.

The principle of retail use of the site and all other aspects of the amended application were accepted (1f; 1m; 1n; 4a). Following further amendments to the second application, Bath City Council's traffic consultants, Travers Morgan, advised that there were no sustainable traffic grounds for rejection of this application (1f).

Consequently in September 1991 Bath Planning Committee referred the second application for acceptance by the full City Council. on September 24 (3f; 4b).

Command; Contract

This attitude of Avon highlights the importance of the highway issues

Command

Note that this was a technical assessment based on the data currently available.

Command

Members' rejection of technical advice and introduction of a new issue of environment.

Command

A normal action for an applicant to take in these circumstances

Command

Bath Councillors had acted on Avon's advice to the letter.

Contract

Uncertainty was already an issue after fifteen months of negotiation with two councils

Command.

Again a technically based argument from traffic experts.

Collaboration; Contract

It had taken twenty-two months to get to this stage. Safeway's performance could be questioned in not getting the technical issues resolved more quickly.

On the morning of the meeting, the Government Office for the South West (GOSW) faxed instructions to the Council under Article 14 of the Town & Country Planning General Development Order 1988, not to approve the application on the grounds that the Secretary of State wished to consider whether he should call in the application for his own determination **(1g; 1h)**. The Council nevertheless resolved by a majority of 30 to 9 to delegate authority to determine the application to the City Planning Officer and for him to recognise the Council's wish to approve subject only to the Secretary of State not calling in the application, which he duly did on November 21, 1991 **(1h; 1m; 1n; 1o)**.

A three-day Public Inquiry was held in December 1991 to hear Safeway's appeal against rejection of the first application. Immediately prior to this Inquiry, the Department of the Environment issued instructions that the first and second Safeway applications be considered together with another scheme for a site elsewhere in Bath proposed jointly by Tesco and Bath Rugby Football Club. This resulted in a three week long Public Inquiry into Safeway's first application and the Tesco/Bath RFC scheme in October 1992 and a five-day Inquiry by the same Inspector into Safeway's second application in January 1993 **(1h; 1o; 2c)**.

In March 1994, the Secretary of State confirmed the Inspector's rejection of all the schemes, Safeway's second application proposals being rejected for a number of reasons. **(1h)** He was not satisfied with the site access design, had concerns about possible archaeological finds and the issue of continuing permanent access to adjacent private properties in Lower East Hayes and Kensington Place **(1f; 3f)** He stated that on balance, the development would enhance the character and appearance of this part of the conservation area. The location met the advice in the Bath Shopping Needs Study; it was accessible by different modes of transport and that it

Command

A critical intervention by the Secretary of State.

Command

A process and policy mess with councillors ignoring instructions of the Secretary of State, which they had no power to do.

Command

The Secretary of State again overriding local decision making.

Challenge

The intervention caused a messy Public Inquiry process through no fault of either Bath Council or Safeway.

Command

The Command power of the Secretary of State well illustrated by now.

Command; Collaboration

There was no excuse for this access being an issue at this stage

could revitalise the run-down London Road shopping area (1k; 1f). He concluded that the proposal was acceptable on retail impact grounds and was broadly consistent with the PPG 6 - Town Centres and Retail Developments and the then draft PPG13 – Transport (1d; 2c).

After further discussion, Bath Planning Committee announced that access proposals for Lower East Hayes must be subject to a Section 106 Agreement (1f; 1m; 4f).

By the end of September 1994 it seemed that all the concerns expressed by the Secretary of State had been resolved, subject only to formalising the Section 106 agreement. It may be noted here that almost five years and two public inquiries had passed since the first meeting with the Bath Planning Officer in November 1989 (1h; 1o; 2c).

7.6 The Final Application

On October 5, 1994 Safeway submitted a third planning application, (Application No. 4519/13). In November, the site owners, Dolsett were informed that two local residents claimed ownership interests in the access road to Lower East Hayes. (1f; 2b) As any planning approval was crucially dependent on resolution of this issue, Dolsett notified the Council that they intended to give formal notification to local residents stating the intention of entering into Section 106 Agreement in an attempt to clarify access road ownership claims. (3g; 4f)

A month later Dolsett wrote to the Council complaining that the Bath Legal Department was refusing to provide sight of a deed purporting to support the claims of one of the residents. Furthermore, the Legal Department had suggested they would adjudicate between the local residents' claims and Dolsett's submission that the access was a public right of way (1o).

Command

This was an important declaration and might be thought to end any further arguments in these areas.

Command

An important policy statement.

Challenge

The Public Inquiry process had at least produced some positive results.

Command Contract

This was seen as a sound precaution that would ensure that no one could claim ownership of the access road or prevent use by others.

Command; Contract

Not what any of the parties had in mind initially.

Command; Challenge

Sudden objections to the very issue raised by the Inspector.

Collaboration; Contract

This action should have occurred as soon as the Inspector raised the issue.

Command

A potential conflict of interests

More problems arose in December when the Avon County engineers wrote informing Safeway's traffic consultants, Arup, of their dissatisfaction with traffic data and access junction layout design (1f; 1n). They suggested it might be premature to report to Committee on December 22 as intended and called for further discussions to avoid a negative recommendation. Arup responded, accepting some of the engineers' input but pressing them to advise their Committee to consider the application on December 22 as originally planned (1n; 1o).

At this time, Bath planners were informed that no archaeological remains had been found by the expert survey but there would be a watching brief throughout construction. The need for consideration of the Planning Application on January 18, 1995 was emphasised. Bath had employed new traffic consultants, Halcrow Fox who, in a report to the council requested a full traffic impact assessment but also raising a number of technical issues already resolved (1f; 1o). Arup responded immediately rejecting this input and pointing out that only issues raised by the Inspector should be under consideration.

On December 16 Avon Council engineers wrote to Arup with a new request that Safeway agree to pay £120000 towards a new traffic signalling system at the site entrance (1n; 4e). This would be the first phase of the Avon Council's desired long-term SCOOT project, that is, a computerised urban traffic control system. After minor amendments, Safeway agreed to pay £108,500 towards the scheme so the Avon Engineering Director could make a positive recommendation on technical matters to the December 22 meeting of his Committee subject only to a Section 106 Agreement (4b; 4f).

At the December 22 meeting of the Avon Planning Sub – Committee, they resolved to hold an *ad hoc* meeting with the

Command

This new input was almost three years after the same people said they could not sustain a rejection on these grounds.

Command

This highlights the key role of officers in the public sector process

Command

Bath's new consultants were effectively trying to start from square one.

Command

Both councils had now raised new issues after four years of 'negotiations'.

Contract

This planning gain was a new but not unreasonable demand.

Contract

Safeway tried to support this demand and it was appropriate to require a legal agreement.

Bath Planning Committee to discuss the highway issues, hopefully at the meeting already scheduled for January 10, 1995. Despite the fact that these *ad hoc* meetings were forums for discussion, members could nevertheless decide on a joint recommendation (1f; 1m; 1o; 3d). Hopefully if this happened the recommendation would be reported to the January 18 meeting of BCC Planning Committee.

On January 5, 1995, Safeway was informed that Bath Planning Dept had said they would be unable to take the application to committee on January 18 because: -

- 1) Bath Legal Dept had not yet confirmed that the Lower East Hayes access road issue had been satisfactorily resolved.
- 2) The Planning Dept. had not forwarded Arup's drawings as agreed by the highway authority's officers on December 21, 1994.
- 3) The Planning Dept. had not been informed about the proposed *ad hoc* meeting (1n; 1o; 4a; 5a)

The next meeting of Bath Planning Committee would be on February 15 and if the items outlined above were resolved it would be possible to make a recommendation to the meeting. A couple of weeks after this new date was offered, confirmation was received that the *ad hoc* meeting would take place on January 31 and that Avon intended to convene an extraordinary meeting of their Planning Committee to ratify any decisions of the *ad hoc* meeting and then formally respond to Bath Planning Committee. (1m; 1o; 3d)

Four days before the *ad hoc* meeting, Safeway was informed that the Bath Planning Dept. now required an Air Quality Assessment report prior to the February 15 meeting of the Planning Committee. This issue had arisen at this particular time because of some recent comments on air quality issues by the Secretary of State, John Gummer. The officers

Command

Safeway felt the process to be in some disarray at this stage.

Collaboration

Safeway had no access to this network of members and officers

Command

The internal processes inside Bath Council were now of serious concern to Safeway.

Contract

Each new turn of events increased the levels of uncertainty.

Culture

An unbusiness-like culture seemed to prevail at Bath Council.

Command

No one and everyone seemed to have responsibility.

Collaboration

The project appeared to be bogged down in the network between the two councils.

anticipated that members of the Council would have questions on the issue. **(1h; 1j; 1m)** The report was to be put in hand immediately but the scope of the work was only agreed on February 13. **(1o)** Following the *ad hoc* meeting, consideration of the application by Bath Planning Committee was delayed until March 15. Bath also appeared hesitant about a clear title to the access road to Lower East Hayes. **(1n; 4a)** The Avon Officers' Report for the Planning, Highways & Transport Committee meeting on March 7 recommended that Bath be asked not to approve unless they were satisfied that the scheme would not result in increased air pollution in the vicinity. **(1j; 1n)** Furthermore, without a Section 106 Agreement covering the design of the access junction and contribution to the traffic control system, approval not be given. **(1f; 4f)**

On the morning of the meeting the Avon engineers were informed by Bath that their traffic consultants were still not satisfied with the site traffic access scheme and even though Avon as highway authority were satisfied by the Safeway scheme, Bath wanted full agreement between all the traffic experts. **(1f; 1n)** In addition, the Air Quality Report had not been received and this would prevent Bath Planning Committee determining the application on March 15. **(1j; 1o)** Bath requested that all these matters be brought before the Avon Planning Committee at the afternoon meeting. **(3d)** Notes taken of that meeting showed that a motion to defer the matter to an Urgency Sub-Committee was carried by a two-thirds majority. **(1m)** The Planning Officer argued that he was concerned that a rejection on the grounds of pollution would not stand up to an appeal and he considered there were no strategic or highway grounds on which to defend an appeal. **(1j; 1n; 2a)** The members did not accept this position and one councillor argued that the officers should seek ways to frustrate Safeway's ambitions for this site. She was concerned about traffic increases and while agreeing that

Command

This demand only had a precautionary rationale as Gummer was not stating current policy.

Command

Again a poor process.

Command; Contract

This issue continued to be a sore to Safeway and fuelled uncertainty.

Command

Avon appearing to leap on the new environmental bandwagon.

Command; Contract

This was an issue that could have been resolved in 1990

Command

An understandable desire but these technical matters appeared to be matters of opinion

Command

Bath making unrealistic schedule demands for such a major report.

Collaboration

Close networking between the Councils.

Command

This seemed ironic to Safeway as urgency had hardly figured in this project.

Command; Challenge

A professional, technical appreciation of the situation at last, but going unheeded.

they did not have a strong case she suggested that officers should find means to frustrate the scheme. (1m; 3e; 5b)

On March 13, Safeway's advisors complained to Bath Council that after seven months the Council were still holding up the process of establishing title on the Lower East Hayes access road. (1n; 1o; 4a) At the same time, Bath denied that they had obstructed Safeway's efforts to get together the traffic consultants on both sides to discuss outstanding issues. The letter expressed the Council's resentment that Safeway's traffic consultants, Arups, were focussing on the highway authorities' officers without reference to the concerns of Bath's own consultants, Halcrow Fox. Bath made very clear that as Planning Authority, they would make the final decision and would not do so until they were satisfied with conclusions on traffic and other related issues. In doing so, they would consider the views of BOTH (*their capitals*) the County Council and Halcrow Fox. To do otherwise would be irresponsible. (1f; 1n; 1o; 4b)

Safeway had written to Avon Council in mid-March complaining about the councillor's remarks in the March 7 Planning Committee meeting proposing frustration of Safeway's scheme. (3g; 5b) The County Solicitor rejected the complaints saying he did not recollect the remarks of the Councillor that in any case, would not have been minuted in detail. He went on to suggest that the remarks may have been taken out of context. (1m; 1n) Safeway could, if they wished, convey their further views or even address the Committee at the next meeting on April 12. (1o) The councillor concerned then wrote to Safeway defending her position but not addressing the key issue of her argument that the officers go and find ways of frustrating Safeway's plans. (1m; 5a)

Command

An interesting member's attitude.

Collaboration

A strategic gulf between strategies of Safeway and the councils.

Culture.

An interesting ethical and moral position for a councillor.

Command

Serious concerns arose from this extended public sector process.

Contract

This crucial contractual issue was becoming a nightmare for Safeway.

Command

This was not an unreasonable position for Bath to take.

Contract

Safeway's consultants were not performing effective coordination.

Collaboration

Safeway saw this attitude as a barrier to effective negotiation

Culture

Safeway saw this proposal as unethical.

Command

Not a convincing argument when the remarks had been recorded verbatim.

Command

Safeway did not regard this as any sort of compensatory device.

Command; Culture

Her attitude showed up the cultural divide between the sectors.

The Bath Planning Dept wrote on March 27 setting out the reasons for deferral of the application at their meeting on March 15 as follows: -

- 1) Unresolved traffic issues, mostly basic assumptions. (1f; 4b)
- 2) Members' concerns covering "rat running", pedestrian movements at the junction, air pollution, how the computerised traffic signalling would work and suggesting deferral until the Batheaston by-pass was completed and its effects could be measured. (1j; 1l)
- 3) More "user friendly" data presentation material required for any subsequent presentation to the Committee. (3f; 4b)

Following a meeting of Bath planners, Halcrow Fox and Arups on April 3, it was agreed that all outstanding material would be made ready for the Planning Committee meeting on May 17 but on May 4, Bath Planning Dept requested an extension until June 30. After some argument about responsibility for delays, a delay to June 14 was agreed. (1o; 4a; 5a)

An informal approach to the site owners by a supportive Bath Councillor suggested that much 'briefing' of councillors was taking place and a petition supporting the Safeway scheme of at least 500 signatures was needed - without it success was likely to be very difficult. (1m; 3b) This helpful suggestion was followed up with local residents groups such as the Bath West Indian Society and the Bath Multi Racial Club.

Around the end of May, Bath Legal Dept agreed that the Lower East Hayes access road issue was settled in principle and then Halcrow Fox agreed the Arup design of the site access junction with the London Road and also confirmed they had no further issues. (1f; 1n)

Command; Contract

For basic assumptions to be under question at this stage bordered on the farcical.

Command

Apart from air pollution, these issues were still being re-run after five and a half years.

Collaboration; Contract

This indicated poor communication between officers and Safeway's consultants which the latter ought to have resolved.

Command

The public sector processes were becoming an ongoing nightmare to Safeway at his stage.

Contract.

Uncertainty seemed to be the only certainty.

Culture.

Business culture and the public sector could hardly be farther apart.

Command.

At last some help and advice from a councillor.

Collaboration.

An interesting point that the public must be engaged.

Command.

The Lower East Hayes issue settled after fourteen months.

At their meeting on June 7, Bath Planning Committee deferred consideration of the application pending further consideration of the Air Quality Assessment and the views of Avon as highway authority. (1j; 1f; 1o) In any case, the DoE had written to Bath the day before directing that approval be not given except under special authority. The Secretary of State felt a need to take an interest considering the 'unprecedented' number of letters of objection thus, to decide on whether to call in the application. (1a; 1h; 2b)

Safeway's advisors responded arguing against call-in because the application did not raise issues of national or regional importance and had been thoroughly aired already at two Public Inquiries.(1d; 2c) The outstanding issues had been resolved and there was no case for a call in simply because of a 'substantial' amount of local objection. The costs involved in having a third Inquiry could not be justified. (2b; 4c)

By this time, Avon had granted highways consent subject to Safeway entering into the Section 106 Agreement on the agreed traffic engineering works. (1a; 1f; 4f) Conservative and Labour councillors had effectively forced the issue on the Lib Dem majority by insisting that a decision be made. (1m)

In order to protect their rights, Safeway submitted a second parallel planning application on June 9, 1995 on the grounds of non-determination of the current application that had already been running for twelve months. (1a; 4b) Bath Planning Dept. refused to accept and register this second application as they were entitled to do if, within the previous two years, either they or the Secretary of State had refused a similar application and there had subsequently been no change in the development plan or in other material considerations. (1a; 1o)

Command.

If Avon's views were not available, this meeting seemed an irrelevance.

Command; Challenge

Again the powers of the Secretary of State made apparent. Nothing seems to have been known about the levels of support for the scheme.

Command; Challenge

This seemed a valid argument as the outstanding issues were being resolved albeit slowly.

Challenge; Contract

Resource costs falling on Safeway and Bath, not the objectors.

Command; Contract

After five years a sensible agreement was achieved.

Command

This action had taken a long time to happen.

Command; Contract

This was a precautionary action often taken in these circumstances

Command

This is designed to prevent an aggrieved applicant trying to 'wear down' the planners with repeated applications. Nevertheless this was a strict interpretation of the law by Bath.

The Bath Planning Dept had agreed by now that the current application would be submitted to the Planning Committee on July 5 and possibly to the full council on July 17. (1o) However, on June 27 the Planning Dept sent Arups a copy of a letter they had received on June 19, from a Councillor Forrester. This appended two pages of detailed highly technical questions on traffic levels, traffic modelling, traffic patterns and air quality. The planners requested that Safeway's response to these questions be verified by Halcrow Fox and received in ample time for the July 5 committee meeting. (1j; 1k; 1m; 1n; 4a)

On June 28, Safeway discovered that Bath Planning Dept had still not forwarded the copies of the Safeway application documents requested on June 6 by the DoE, thus 'the clock had not started ticking'. The next day Safeway sent a complete file direct to the DOE covering the application. (1n; 1o)

On June 30, the Section 106 Agreement covering Lower East Hayes access road was finally resolved and the agreement signed. It had taken fifteen months to get this relatively small but crucially important piece of legal work executed! Note this agreement was a key requirement of the Secretary of State. (1n; 1o; 4a; 4f)

Despite support from the Transport Research Laboratory for Safeway's Air Quality Assessment, Councillor Forrester produced a paper "SAFEWAY - The Case for Refusal" for the Planning meeting on July 5. (1m) This paper implored his colleagues not to vote in favour of the application unless they were satisfied that all the key points had been addressed. They should reject on the 'precautionary principle'. The key points raised in the paper were, first, that air quality was already within less than 2% of the EC limit (1j). Secondly, the SCOOT computerised traffic control system would not

Command

Everything now appeared to be in place for a determination.

Command

This appeared to be a remarkably sophisticated input at this late stage.

Contract

Suspicion and uncertainty were now key ingredients of Safeway's attitude to this project

Command

Safeway were unimpressed by the failure of the officers to comply with this request.

Command

Safeway felt this to be a sad indictment of public sector processes.

Contract

The officer's attitudes to this crucial matter had been a continuing cause of uncertainty

Command

Another late input from this Councillor who was leading the fight against the project.

Command

This point should already be part of the technical assessment.

work. This was the system to which Safeway had contributed £108,000 through a Section 106 Agreement. (1f; 4e; 4f). Thirdly, Arup's Air Quality model was flawed because of the timing of the data collection, assumed traffic levels were too low, among other issues. Fourthly, Safeway's claimed savings of 780,000 miles in cross-city journeys was unfounded and in any case only represented 0.5% of the total mileage in Bath. (1j; 1f) Lastly, "Rat running" in local areas north of London Road would be exacerbated. (1f)

On July 5, Bath duly refused the application on the single issue of adverse effect on air quality. 1j; 1o) The Officers' Report said that the highway authority, Avon CC, had no objections to the highway aspects of the scheme and that clearly represented a significant material consideration. This reinforced the Bath officers' conclusion that refusal on highway grounds was not reasonably sustainable. (1f; 1n) An independent verification of the Air Quality Assessment should be a pre-requisite of approval and in any case the direction from the Secretary of State prevented approval at this time. (1h; 1j) Councillor Forrester's resolution to adopt the precautionary principle in refusing the application was accepted with a majority of 10 to 5.(1m; 1n) Notes of the meeting indicated that: -

First, the Air Quality Assessment did not convince the Councillors. (1j; 1m).

Secondly, Halcrow Fox' engineer in his presentation to the Committee on traffic had discredited the Air Quality Assessment by rubbishing the traffic figures used. (1j; 1f; 5b)

Thirdly, Bath's Environmental Health Officer did not clarify his own involvement in agreeing the parameters for the Air Quality Assessment. (1j; 3f)

Command; Contract

Remarkably, Safeway, had contributed to an 'unworkable' scheme at the behest of Avon's highway engineers whose studies indicated it would help relieve the traffic problems.

Command

All the engineers had already agreed these data.

Command

This was at best a subjective assessment.

Command

This now appeared to Safeway to be the 'peg' on which refusal depended.

Command

At last all the original issues seem to have been resolved with the officers.

Command

This was a non-negotiable position.

Command

This stance did not seem to accord with the declared need in the Local Plan to meet the needs of its citizens

Command

Councillors might have been convinced by a report from a pre-agreed independent consultant.

Command; Culture.

Halcrow Fox had offered no further objections to the traffic aspects of the scheme in early June.

Command; Collaboration

This officer's input had been key to the basic assumptions used.

Fourthly, several councillors, led by Councillor Forrester had been strongly against the application and the Chairman expressed a personal view against approval. (1m)

Lastly, the Planning Officer said he felt the issue should be decided on whether the disbenefits of increased pollution caused by the new junction would be outweighed by the reduction in pollutants throughout Bath. (1j; 1n)

A piece in the "Daily Telegraph" of July 7, 1995 reported that this was probably the first rejection of a planning application on the grounds of traffic air pollution. (1a; 1j) A letter received from Bath Planning Dept on July 11 confirmed their continued refusal to accept the parallel application first submitted on June 9, 1995. (1a; 1o)

7.7. The Final Appeal

Safeway lodged an appeal against the determination on July 20, 1995 on the grounds that there was no sound basis for refusal on the basis of air pollution. (1j; 2a) Safeway were highly concerned whether the impending Public Inquiry could be contained to the single issue of this refusal or if all the issues could be opened up once again. Advice was that it depended on the level of objections, the view the Inspector would take and how much all other issue could be agreed as not in dispute. (2c; 3f)

Some six weeks later on September 5, the Planning Inspectorate wrote offering May 22, 1996 as the earliest date They could offer nothing earlier because of a shortage of Inspectors and a management instruction they had received that they should concentrate their resources on Local Plan Inquiries. (2a; 2c) On the 26th of September, it was found that Bath had rejected May 22nd on the grounds of the impact of Local Authority reorganisation. Two weeks later, the Planning Inspectorate offered a cancellation date of

Command

Interesting that one councillor's views could outweigh the officers of two councils and all the technical experts.

Command

How this might be determined was an interesting technical problem.

Command

This was an interesting point because there was as yet no Government policy extant on this issue.

Command

This was hardly unexpected given the initial refusal.

Command; Challenge

An appropriate Challenge against a determination on unique grounds.

Challenge; Collaboration

Safeway were highly concerned because of the potential subjective nature of the Inspector's view.

Challenge

Given that Safeway had started out on this venture over five and a half years earlier this further delay was a blow.

February 13, 1996 and confirmed that they would impose this date on Bath. Later Bath tried to get a further delay but this was refused. **(1d; 1c; 4a)**

In an attempt to constrain the Inquiry to consideration of air pollution only, a joint paper was in production to demonstrate all areas of agreement. **(3f)** This was against a background of pressures from some councillors and local residents that traffic and retail impact issue should be re-opened. **(1f; 1m; 3b)** The consultants would jointly confirm there were no outstanding traffic issues that could justify refusal. A joint attempt would also be made to seek a pre-inquiry meeting to constrain the Inquiry to air pollution issues thus avoiding a wide ranging re-opening of other issues. As a consequence of this meeting, Halcrow Fox requested further traffic and air quality data from Arup. **(1j; 1f; 2c; 4a)**

The Public Inquiry duly started on February 13 with an Inspector assisted by a specialist Assessor to advise on air quality issues. The Planning Inspectorate, in pre-inquiry discussions had said they were confident the Inquiry could be completed in four days as the Inspector had all the evidence from the previous Inquiries and he would be unlikely to re-hear matters previously heard. However, the London Road Residents Association (LORARA), had been granted principal party status by the Inspectorate on January 17 and this status enabled them to be treated on a par with the Council and Safeway and to cross-examine witnesses. **(2b; 2c)**. After four days spent largely on air quality, the Inquiry was adjourned until April 16. **(1j)**. This second phase was largely given over to a re-run of all the new, or old objections, depending on the viewpoint. LORARA had submitted proofs of evidence on retail impact, location, design and landscaping all subjects of the previous Inquiries and now agreed between Bath Council and Safeway. Their submissions were in a sense illegal, as they had not been shared with the other parties in

Command; Contract

To Safeway this process represented a shambles with uncertainty the consistent norm.

Collaboration

The first real attempt at Collaboration.

Command; Collaboration

A combined attempt to constrain the scope of the Inquiry despite the wishes of the public. By now, the Avon councillor's wish to 'frustrate the scheme' seemed to permeate the whole process.

Command; Challenge

Arup could hardly believe this request.

Contract.

Already the attempt to Collaborate was looking uncertain before it started.

Challenge

LORARA's status appeared to nullify any attempt to constrain the scope of the Inquiry.

Command

This was the estimated four days on what had been thought to be the single issue.

advance and had had not complied with the Rules for Inquiries. Nevertheless the submissions were accepted (1a; 2b; 2c)

At the end of the first part of the Inquiry the Inspector had asked for a letter from Safeway confirming the situation on the Section 106 Agreement covering the traffic signalling system (SCOOT). On May 3, the Inspector was informed that a draft was under discussion but local government reorganisation had delayed securing final agreement. This would be achieved in the next week or so.(1d; 1f; 1o; 4f)

On July 9 the GOSW confirmed they had received the Inspector's report on July 4 but, due to the complexities of the case, it was likely to be at least eight weeks before a decision was made. (1g; 1o; 2c)

Proposals by the successors to Bath City Council, the Bath & North East Somerset Council to refer the draft Section 106 Agreement on SCOOT back to their Engineers were dropped when it was agreed that only the Inspector needed to see the document with confirmatory letters from each party agreeing the draft. (1f; 4f)

Shortly afterwards it was discovered that the draft Section 106 Agreement had been circulated to third parties for comment along with further letters received from protesters since the Inquiry. The Secretary of State had decided that such documents should be circulated prior to a decision being reached. Among the letters were further objections from a local MP and MEP. (1h; 1o; 2b; 4a) This saga continued when it was apparent that every time some one wrote in to GOSW or to the Council, the letter was circulated giving two weeks for comment. One of these was from Councillor Forrester with further adverse comment on traffic and air pollution matters raised by the letters he had received from

Command; Challenge

In the experience of this writer, LORARA appeared to be treated very leniently by the Inspector.

Command; Contract

This ought to have been capable of a simple response but in the context of this case even this was not so.

Command; Challenge

This was not an abnormal position.

Command; Contract

The draft ought to have been agreed by the engineers long before this point.

Command

Another example of Command powers exerted by the Secretary of State.

Challenge

The objectors were certainly being given every opportunity for input.

Contract

Further delays and uncertainty arising constantly.

the DoE. (1g; 1j; 1f; 1m; 1o; 3b)

GOSW wrote to all parties on December 16, 1996 offering an opportunity to comment on all the material submitted following the close of the Inquiry. On December 18, GOSW issued a Draft Local Authority Circular on Air Quality and Land Use Planning to all the parties to the Appeal, requesting comments by February 14, 1997. This Consultation draft was important because the Secretary of State would regard it as a material consideration in reaching his decision. Comments were indeed submitted by all the parties raising all the issues that had been fought out in the Inquiries. (1g; 1h; 1j; 2b; 2c)

On February 27, 1997, GOSW wrote saying that the Secretary of State had carefully considered all the material and now had sufficient evidence to proceed to a determination of the Appeal. He wished to close out written representations and in accordance with natural justice, offered Safeway, as appellant, ten days to make final comments on the material. (1g; 1h; 2b) One key issue raised by LORARA and Councillor Forrester was that government would not fund the proposed SCOOT system and the whole Safeway pollution case relied on this system to cancel out increases in pollution. Safeway refuted this point in their final comments. (1f; 1m; 2b)

7.8 The Decision

On March 21, Safeway were told that no decision would be made until after the May 1 General Election when the new government would decide. The decision was duly issued on November 19, 1997 and Safeway's Appeal was upheld. (1o; 2c)

The Secretary of State declared that despite Bath and Safeway agreeing that all matters apart from air pollution had

Command; Collaboration.
The barriers to progress seemed at this point to be almost insuperable as far as Safeway was concerned.

Command
A draft circulated by GOSW five months after the Inspector's report was submitted.

Challenge
If the Public Inquiry process is considered a vehicle to give the public its say, this appears a very good example, albeit only the dissenters seem to be having a hearing.

Command; Challenge
This looked to be at least the beginning of the end of the process.

Command; Challenge
Again, this issue of SCOOT and its benefits for the Safeway scheme were part of the Inspector's Report.

Command; Challenge
After seven and a half years another public sector barrier to progress but the process had eventually worked for Safeway.

been resolved, the Inspector had decided this was a new application and therefore had to be considered *de novo*.(1h; 1j; 2c; 3f) The Secretary of State shared this view and considered that the main issues were therefore: -

One, whether, having regard to the earlier conclusions of March 11, 1994, retail use of the site remained acceptable in terms of PPG6 (Retail Policy) and the recently adopted Bath Local Plan. (1d; 1e).

Two, the impact of the scheme upon local highway conditions. (1f).

Three, the visual impact on the surrounding Conservation Area having regard to Bath's designation as a World Heritage Site. (1k).

Four, the air quality impact. (1j)

Lastly, whether any demonstrable harm is sufficient to outweigh the need for any benefits arising from the proposed development. (1f)

All these issues were carefully considered and the Secretary of State supported the Inspector's views that all of them had been satisfactorily addressed. He therefore allowed the Appeal and an Outline Approval was granted. (1h; 2c)

7.9 Final Detailed Approval

This Outline Approval left a number of 'reserved matters' to be determined to achieve a final Detailed Approval, namely landscaping, site layout (but not the building itself), materials of construction and minor elevational treatment. (1a) This process lasted another thirteen months during which time, eight attempts had to be made to achieve a review of the documentation before submission of the application in June 1998. Furthermore, there were continuing difficulties in dealing with the officers.

Command; Challenge; Collaboration

The first real piece of Collaboration overturned by the Inspector, supported by the Secretary of State

Command

This was a reasonable re-appraisal of the situation after five years.

Command

A key issue in the previous Inquiries

Command

This was not surprising given Bath's Status.

Command

This was seen as the issue for this Inquiry.

Command

A public interest, therefore a political decision.

Command; Challenge

It seems astonishing that it had taken seventeen months to reach this agreement with the Inspector's conclusions.

Command

This is normally expected to be a restricted area of negotiation

On one occasion, they attempted to reopen fundamental matters such as the location of the building on site, the number of parking spots, the amount of landscaping. At a later meeting, officers were critical of the detailed design of the road junction, provision for public transport access, cycles and pedestrian access, excessive car parking at the expense of landscaping and safety considerations and minor concerns with the elevational treatment. They went on to request a more detailed response on the issue of sustainability i.e. recycled energy (heat and grey water), use of the site and future re-use of the building. These matters had been subject to three public inquiries and final decision by the Secretary of State. **(1h; 1j; 1k; 1n; 1o; 3f; 4a; 5a)**

It has to be understood that the Council possessed the 'weapon' of delay to seek to persuade Safeway to meet any of their requirements. **(1o)** Apart from persuasion, the only alternative open to Safeway was a second parallel application and an appeal on the existing one. This could mean a delay of a further nine to twelve months! **(1o; 2a; 3f; 4a; 5a; 5b)**

Despite an officer recommendation to approve the application at the November 11 meeting of the Development Control Sub-Committee, the application was deferred 'pending further information and consultation'. Following this meeting, Safeway's architect wrote to the Chairman of the Planning Committee heavily criticising the quality of the presentation to the Committee, after ten months had been spent working with the officers on developing the scheme and aids to presentation. He could only sympathise with councillors who complained they did not comprehend what they were being asked to approve. **(1m; 1n; 1o; 3f; 3g)** Detailed consent was finally granted on December 9, 1998 after three Public Inquiries and in just a month over nine years since Safeway submitted the original application to Bath City Council. Even the Third Application, including

Command

Normally these *ultra vires* activities of the officers are quickly corrected by senior officers.

Collaboration

The continuing obstruction of officers was straining the interface to the limit.

Contract

Uncertainty prevailed and no contract even seemed implicit in achieving an outcome.

Culture

A clash of cultures as officers seemed oblivious to the needs of Safeway to get a store built.

Command

A real Command issue.

Command

Persuasion not an easy option in a Command process

Challenge

Probably a reckless strategy.

Collaboration

Suspicion of officers' motives was a clear issue.

Contract

Yet another major dose of uncertainty.

Culture

The cultures were worlds apart.

Command; Collaboration

This was probably a fault of both sides if the presentation materials did not meet the needs of the officers and members

the Inquiry, had taken just over two years.(1a; 2c; 4a). The store was eventually opened to the public in March 2000.

The resource impact on the parties does not appear to have been quantified according to interviews with participants on all sides. The inefficiency of the process might be summed up by Safeway's architect who pointed out the wearisome task of picking up a project anew, many months after the last round of interactions. (4c) It was a very difficult process given that in the intervening period, the Safeway project had been completely out of his mind as he worked on other client's projects. (1a)

Command

Not an advertisement for the Command processes of the public sector..

Challenge

The importance of Challenge to the private sector is clear.

Contract

The uncertainty of every part of the process is clear.

Contract

This protracted process over nine years caused all the participants very large costs in terms of resource expenditure.

Command

It is difficult to comprehend that this is how the planning process is meant to work.

7.10 Conclusions

This case has illustrated the misery that can be generated for all sides out of what ought to be a straightforward change of use of site from a decrepit bus depot into a store, a use acknowledged early in the proceedings by the Secretary of State. Blame could be levelled in all directions but this has been a useful case study in terms of its insights into the interface between the planning system and private organisations. Command based issues came to the fore with two thirds of the occurrences noted in the narrative (Exhibit 7.1). This of course reflected the interventions of the Secretary of State and GOSW, the involvement of two separate Councils, the elected members and the officers. Until the advent of the air pollution issue, this was always a problem of implementation as distinct from policy. In principle, the siting of a supermarket on the Kensington site was established after the second Inquiry. Thereafter, the issues were technical and had all the hallmarks of a system based on instrumental rationality.

Challenge was a crucial dimension of this case although recording only a small fraction of the issues raised in the narratives. It must be noted of course that this case study has only dealt with the events leading up to the Final Public Inquiry in detail. It is unlikely that the planning system was designed to put an applicant through such a vexatious process, even if Safeway were eventually vindicated. Safeway's willingness to fight on seems to an outside observer almost suicidal yet, through the availability of the Challenge process, they succeeded in the end.

Collaboration shows a lower rate of occurrences of issues in the narrative than East Quayside, (Exhibit 7.1) but this reflects the existence of major strategic inconsistencies and non-elected agencies at East Quayside. Mrs. Maxwell's comment at interview that collaboration was not on the agenda at Bath was a telling insight from the inside. On her admission they fired their own traffic consultants because they were not trusted.

Contract, again showed a low number of occurrences (Exhibit 7.1) but was, nevertheless a reflection of the uncertainties, delays and resource costs expended on all sides in this case. East Quayside may have reflected serious delays and costs but at least the focus was clearly on the compulsory purchase issue. At Bath, the situation was much more complex with the wide range of actors, not least two local authorities and the interventions of the Secretary of State playing a critical part in the complexity of the Contract issues.

Culture accounted for only a tiny proportion of the issues in the narrative (Exhibit 7.1) but at times provided a revealing insight e.g. the Avon councillor's wish to find means sabotage the scheme even if the council did not have a case. At Bath, Culture seemed less an issue between

organisations as much as to do with the place. There is little doubt that the very culture of Bath as a World Heritage city plays a key part in the difficulties suffered by private organisations trying to develop in Bath. This point was noted by Mr. Webster, the architect, at interview and acknowledged by Mrs. Maxwell.

This case has demonstrated the unsatisfactory face of planning. It is difficult to comprehend that the planning system is inherently designed to cause the frustrations, delays, uncertainties and costs sustained by Safeway. If the company's lost opportunity costs were worth £4 million at Alnwick, it is hard to imagine what they might be at Bath. We can now move on to the third case, Francis Avenue, on the face of it, a simpler case than the others but we shall see whether the patterns identified in the first two cases will continue.

ANALYTICAL LOG

This Log records the number of times a specific project issue is noted in the narrative.

5 Cs	PROJECT ISSUES	LOG	% of TOTAL
1) Command	a) Planning & associated Law - foundation of the process	9	
	b) Compulsory Purchase Law - resistance to Orders		
	c) Compensation - Limits - value of property		
	d) Govt. Policies - Planning, Regeneration, Environment	5	
	e) Local Plans & Policies - land use, influence, timing	4	
	f) Public Interest - what is it? Who defines it?	2	
	g) Regional Government Office role	5	
	h) Role of the Secretary of State for the Environment	14	
	j) Environmental issues e.g. Air Pollution	25	
	k) Aesthetic Issues - who decides? how? Real impact?	4	
	l) Highway & Traffic issues - impact on the community	35	
	m) Local politicians - role, attitudes and influence	22	
	n) Officers - role, attitudes and influence	24	
	o) Public Sector Procedures & processes	34	
	TOTAL of Command	183	66.3
2) Challenge	a) Appeals - rights - process - resources	4	
	b) Objections - rights –quality & strength of case - impact	9	
	c) Public Inquiries - the adversarial process - Inspectorate - appeals - decisions	15	
	d) Judicial Review (permission required & limited scope for review) & adversarial process of the Courts		
	TOTAL of Challenge	28	10.1
3) Collaboration	a) Public information process - how and by whom?	1	
	b) Public participation - stakeholders	4	
	c) Non-elected agencies - difficulties in negotiations		
	d) Networks - which ones, who is involved, how & why?	3	
	e) Strategic differences between public & private sectors	1	
	f) Officer / private organisation interaction	11	
	g) Private organisation involvement	3	
	h) Lack of contact between Members & applicant		
	j) Conflict between LA depts and Intra LA disputes		
	TOTAL of Collaboration	23	8.3
4) Contract	a) Schedule – delays and uncertainties	13	
	b) Private organisation performance	6	
	c) Resource costs of process and decisions to all sides	2	
	d) Employment issues - local or external to area?		
	e) Planning Gain –community facilities, roads, etc.	2	
	f) Legal agreements - Section 106 Agreements	10	
	TOTAL of Contract	33	12.0
5) Culture	a) Cultural differences between Public & Private sectors	5	
	b) Ethical issues - Public and Private sectors	4	
	TOTAL of Culture	9	3.3
	TOTAL NUMBER OF ISSUES	276	

CHAPTER 8 - CASE STUDY 3

FRANCIS AVENUE FACTORY, BOURNEMOUTH

8.1 Introduction

In Chapter 2, we saw the importance of the two core elements of the planning process in the determination of a planning application namely development plans and the development control process. This case illustrates the critical role development plans may play in the eventual determination of an application.

When this case arose, government policy had determined that the planning process must become more 'plan-led' as development plans were to have a more important role than hitherto. The Francis Avenue site was subject to three existing development plans. These were the Dorset County Council Structure Plan and then two Local Plans prepared by Bournemouth and Poole Borough Councils respectively, both having jurisdiction over parts of the site.

Technically, the case hinged on three issues. First, the determination of Bournemouth Council to resist the loss of employment land within the borough boundaries, second, whether more affordable housing was needed and lastly whether approval of the scheme would be premature given the potential future changes to the Structure and Local Plans. The dispute primarily involved the applicant and Bournemouth Borough Council as the key planning authority. Neither Dorset nor Poole Councils was able to support Bournemouth Council.

In this case, the author as representative of the site owners was largely a frustrated onlooker in the planning process. The narrative is therefore an attempt to provide a factual account of the key project events relying on reports, minutes of meetings, letters, press reports and diaries.

My thesis is that in the context of the planning system, there is a dysfunctional interface between the planning system and private organisations. This case shows a picture of Council determined to stick to the Local Plan, confused strategies between the three local authorities and a developer who persisted because of his conviction of the strength of his case.

The narrative has been analysed using the methodology discussed in Chapter 5. The Commentary is based on annotations in the narrative related to the impact of the 5 Cs and the occurrence of project issues defined in the Analytical Log. (Exhibit 8.1). This document then records their frequency of occurrence in the text and also summarises the relative impact of these project issues and the relative influence of the 5 Cs, Command, Challenge, Collaboration, Contract and Culture in this case.

8.2 The Participants

The participants in this case included three Local Authorities, the developer and the owners of the industrial site.

Dorset County Council was the strategic planning and highway authority for the County of Dorset. Bournemouth Borough Council was the most influential local authority involved as this Council was responsible for Planning, Environmental, Highways and Housing matters and 77% of the site, including all the buildings, lay within its jurisdiction. Poole Borough Council had similar responsibilities for the remainder of the site, although this area was largely taken up with truck and car parking space. (3j)

The Procter & Gamble Company (P&G) had acquired the factory and its site as part of the purchase of the Revlon cosmetics group of which the Max Factor cosmetics operation was a constituent company. Max Factor had manufactured a range of cosmetics on site since 1946.

The developer, originally trading under the name UDE, was a local firm with a good track record of successfully negotiating planning approvals for this type of residential development and apparently well known to these Local Authorities. In August 1994, due to internal difficulties and financial restructuring, the firm became Primetower Properties.

8.3 The Site

The application site is located on the northwest edge of the South East Dorset conurbation (See Plan 8.1). The major part of the site, some 3.4 Ha, belonged to P&G and was largely occupied by a disused factory with ancillary offices, car and truck parking. This site was bounded on the south by detached 1930's bungalows (Francis Avenue), high-density housing to the north, the Northbourne golf course to the west and an old, rundown light industrial estate to the east (See Plan 8.2).

COMMENTARY

Collaboration

Potential for conflict with and between adjacent Local Authorities already existing.

The P&G owned site straddled the Administrative boundary between Bournemouth and Poole Borough Councils. The developer also acquired a strip of about 0.6 Ha by purchasing pieces of the adjacent gardens from the householders in Francis Avenue.

The site had originally been earmarked in the 1930's for housing development commencing with Francis Avenue. Following use in wartime to produce radar components, Max Factor acquired the site in 1946 and began the manufacture of a range of cosmetics in the existing buildings. A Planning Approval dated April 1949 gave permission for continued use of the buildings for these purposes and a number of further additions were made to the facilities into the 1960's. **(1a)** At its peak employment level, about 750 people worked on the site. **(4d)**. Procter & Gamble's development of its beauty care business through company acquisitions in Europe in the 1980's led to the need to rationalise production and distribution in the 1990's. Because of its age, layout and location, closure of the Francis Avenue factory was announced in June 1992. By this time, 450 people were employed on the site, around 70% of them female staff. Over 45% of the staff were relocated to other company locations including the nearby Wallisdown Road warehouse. **(3g; 4d)** Closure was completed by June 1993 and following professional advice, the site was placed on the market as it stood.

8.4 The Planning Context

Because of its location across an administrative boundary, the site was affected by three Development Plans produced by the three Local Authorities having jurisdiction. **(1e)**

Dorset County Council had produced the extant South East Dorset Structure Plan (First Alteration) approved in 1990 by

Command

This Approval provided early confirmation of existing use under the 1947 Act.

Contract

In those days the process was very labour intensive with much hand-packing.

Collaboration; Contract

There was no legal requirement to work collaboratively with the Local Authority over the plans for physical closure or the employment effects of these plans.

Command

An unfortunate geographical accident of boundary delineation.

the Secretary of State for the Environment. **(1e; 1h)** The plan called for provision of around 9100 new dwellings and about 24Ha of employment land in the Bournemouth area between 1986 and 2001. Following publication and consultation on a Draft Structure Plan for the whole of Dorset in 1994 a Deposit Structure Plan was published in 1996 for further consultation. **(1o; 3b)** This plan allocated to Bournemouth Borough, construction of 12,400 new dwellings between 1994 and 2011, this despite Bournemouth arguing for a reduced figure of 11,400. **(3j)** Economic Policy A of the Plan showed provision for 293 Ha of land for employment use in the same period and that Local Plans should ensure that an adequate mix of sites would be maintained. Bournemouth was to provide 14 Ha of this employment land.

The Bournemouth Borough Local Plan, adopted in 1995, showed industrial/office use of the site although the planning officer conceded that this use was a carry-over from that use existing' when the Local Plan was being prepared in around 1990. **(1e; 1o; 3b)**

Policy 3.25 – 3.29 addressed affordable housing and although the allocation in the Structure Plan had already been met, the Local Plan acknowledged the problem of lack of availability of a range of quality accommodation to buy or rent for those on lower incomes. **(3j)**

Policy 5.1 of the Local Plan focused on industrial land use and stated: -

Development likely to result in the loss of existing and proposed industrial sites will normally be refused planning permission except in the case of existing isolated industrial sites located in primarily residential areas that cause environmental problems. **(1a; 1j)**

The proposed change of use from industrial to residential was likely then to be a major issue for Bournemouth Council. **(4d)**

Command

Central approval of this plan by law.

Command; Collaboration

A complex, time consuming process but often failing to achieve the desired level of stakeholder involvement.

Collaboration

Already inter local authority conflict.

Command

A logical view on the evidence in his possession.

Collaboration

P&G's fault that it had no input to this plan.

Collaboration

An unresolved conflict between the Plans of the two Local Authorities.

Command

With its location and the poor aesthetics of the buildings, this almost described the P&G site.

Contract

The fundamental issue in the end

The Poole Borough Council Deposit Canford Heath Local Plan (1e) showed the area of the site inside the Poole boundary as existing parking but the adjacent Northbourne golf course was allocated for about 750 housing units. 15 Ha of land adjacent to the proposed relief road was designated for industrial use with excellent access to the local and national highway system. The use of the P&G site for housing would be entirely consistent with this Plan. (1f; 4d)

8.5 The Proposals

Procter & Gamble gave formal instructions to a London based firm of property consultants to sell Francis Avenue site in July 1992. The brief was to complete a sale for continuing industrial use by the final closure date of June 1993. This strategy would clearly avoid potential planning problems involving a change of use of the site. (1a; 1e; 3g)

Through a major international, national and local marketing campaign some 2,967 companies were eventually reached out of which 128 responded. Only two eventually pursued their interest in purchasing the site, Sapcote and Cornwall Parker plc. Sapcote quickly withdrew because their business plan was not economically viable given the costs of adaptation of the premises. Cornwall Parker planned to relocate a local subsidiary company on half the site, and to use the rest for a group warehousing operation. The sale of the premises was duly agreed in June, 1993 which was of course exactly in line with P&G's closure and sale strategy. Ten days later, Cornwall Parker withdrew for four reasons, one, projected savings from consolidation of operations could not justify the capital expenditure or the commercial risks of disruption of operations, two, the site layout proved operationally difficult particularly for warehousing activities, three, trading conditions were becoming more difficult and

Command

If the site had been wholly in Poole, this case is unlikely to have arisen.

Command

Unlike Francis Avenue, excellent road access.

Contract

Also much better potential employment land

Command

A wise if eventually forlorn strategy

Collaboration

It never occurred to P&G to ask Bournemouth the 'what if' question about change of use.

four, the cost of adaptation and refurbishment of the facilities was prohibitive.(4b)

Interest from residential developers had already been expressed during the earlier marketing activities so it was decided to advertise the site for residential use subject to the successful buyer obtaining planning consent for change of use to residential and completion of the sale by April 1994. (3g) P&G accepted the offer of a local developer, UDE, in September 1993, the sale to be completed by April 7, 1994. UDE planned a mix of social and private housing as a co-operative venture with Sovereign Housing Association and aimed at providing low cost affordable housing for rent and for sale. This plan was consistent with other similar developments the firm had executed in the south and south west of England on similar post-industrial sites. The scheme as originally envisaged called for around 130 dwellings.(4b)

8.6 The Interface

P&G was only peripherally involved in the planning process because UDE was obliged by the sale contract to obtain planning consent for change of use. (4b) Consequently, the interface was between UDE and Bournemouth Borough Council. (3f) The contract target dates were for a planning application to be submitted in November 1993, planning approval in March 1994 leading to final purchase in April 1994.

UDE missed the November date for three reasons. One, because they were not ready (4b). Two, because there were problems with changes in Government funding of Housing Associations (1d) and lastly, the need to acquire land from the occupants of Francis Avenue. This latter problem arose because of Bournemouth Council's requirements for a specific amount of open space in the development. (1o). The revised date for the application thus became February 1994.

Contract

Neither firm appeared to have done its homework

Collaboration

Even at this stage, P&G did not check with Bournemouth on this strategy.

Contract

A private sector plan without any local authority input.

Contract

P&G expected a timely delivery of the planning approval through UDE

Collaboration

UDE were understood to have good relations with Bournemouth

Contract

Partly due to input from Bournemouth officers

Command

Government policy changes were clearly not foreseeable

Command

Not an unreasonable requirement

However, in January 1994, the Director of Community Services of Bournemouth Council wrote to Sovereign Housing Association supporting the use of the site for low cost affordable housing. The letter stressed the success of similar schemes in the past and alluded to the need for a 'slightly higher number of properties for ownership in the programme'. (1n; 3f)

From August through December 1994, the main pre-occupation was the change of ownership of UDE to Primetower and consequent contractual issues with P&G. However in September 1994, Dorset County Council had clarified their position as Strategic Planning Authority saying they had no objection to the use of the site for 133 dwellings. Likewise, Poole Council had no basic objection to the change of use. (3j) Bournemouth at this time had indicated a number of technical issues requiring resolution but said that their Head of Policy would need to support the change of use. (1n; 3f) Primetower submitted a formal planning application to Bournemouth Council on December 14, 1994 forecasting an approval by mid to late 1995 (Optimistic) to mid - 1996 (Pessimistic) plus the possibility of judicial review. (1o; 4a)

Five key issues were raised by the Bournemouth officers in the ensuing negotiations. First, the members were unhappy about possible revision of the Local Plan particularly as they were reportedly reluctant to see an 'industrial site' disappear. (1e; 4d) Secondly, Bournemouth's Head of Policy and the Planning Director were opposed to the scheme. Third, the members and the officers (apart from the Housing Director) rejected the need for such a mix of residential development. (1m; 1n) Fourth, there were constant changes to the numbers and mix of social-private units that the officers felt they could recommend for approval. (3f) Lastly, the Transport Director rejected the use of the design parameters laid down in the locally accepted County Surveyor's guidelines for road design in housing. These standards were consistently applied in most

Command

A welcome initiative from an officer

Collaboration

Good collaboration between private and public sectors

Collaboration

These inputs highlighted Bournemouth's parochial position on employment land.

Command

This officer was known to be antagonistic towards the scheme.

Collaboration

Officers were constantly changing their requirements

Command

A poor reflection on implementation of the planning process

Contract

The aim is a determination in eight weeks

Command

Understandable as the Local Plan had only recently been approved.

Contract

Employment land a key point

Command

A united front based primarily on the employment land issue

Collaboration

A very poor interface and worsening relations.

local housing developments. (1f 1n)

By June 1995 Primetower had support in writing for the application from Dorset County and Poole Councils, likewise, there was written support from the Housing Director of Bournemouth Council. (1n; 3j) However, the Planning Director of Bournemouth was opposed to the application and the road design was not accepted. In addition, Bournemouth also required a topographical survey, noise survey and contamination report for the site. (1f 1n; 1o)

A revised planning application was made on June 30, 1995 and considered by the Development & Planning Services Sub - Committee two weeks later. At this meeting, the data on land available for housing in the Borough was deemed to be inadequate, consequently the Chairman requested that the Director of Development Services submit a report to their next meeting on the land bank available for housing purposes within the Borough. (1o) (5a) Despite this apparent lack of crucial data, the Committee recommended rejection; firstly, because of the loss of employment land, secondly, that the site had not been allocated for housing use and lastly, it was contrary to Policies 3.2 and 5.1 of the Local Plan. (1e; 1m; 3e; 4d)

The application was to be considered by the full Council a week later and permission was granted for a ten-minute presentation to be made to the Council Meeting on behalf of Primetower. (1o) Primetower's project team accompanied by the author of this narrative attended the meeting as spectators. The presentation was duly made, it was received in silence and there were no questions. It was expected that the project would then be discussed when the report of the Planning Sub-Committee was reached on the agenda. This report was accepted without discussion, thus after some three and a half hours, the meeting finished without any mention of the

Command

This officer was particularly difficult and his attitude had a major impact on the scheme.

Command

Interesting that the specialist officer supported housing.

Collaboration

Totally conflicting views of the neighbouring councils

Command

Officer opposition was one thing but the technical issues should have been resolved by this time.

Command

This situation did not reflect well on the Council's processes
Culture

Command

The Local Plan a major stumbling block to approval

Collaboration

Totally divergent strategies

Contract

Employment land at the heart of the members' concerns

Command

This appeared a promising concession

Francis Avenue site, nevertheless, the Primetower application had been rejected by virtue of the full Council's approval of the Sub-Committee Report. (1m; 1o; 4a)

This performance by the Council and its officers was greeted with incredulity and considerable anger by the Primetower team and P&G, particularly as some people had travelled considerable distances to hear the discussion. Very strong letters of complaint were addressed to the Mayor and Chief Planning Officer but apart from apologies for the wasted journeys, it was made clear that nothing unusual had occurred because, unless a Member wished to raise an issue, Council Standing Orders allowed acceptance of a Sub-Committee Report without discussion. (1m; 1n; 1o; 3f; 5a) Grounds for rejection were stated to be the loss of employment land, no overriding need for housing, a precedent could be set for similar sites and the scheme was premature given the current state of the Draft Local Plan. (1e; 1o; 3e; 3f; 4d)

Later, in August, Poole Council signified intention to reject the application covering their part of the site because of the Bournemouth decision. (1o; 3j)

On September 25, Notice of Appeal was given and negotiations with Poole continued around the use of a 'Grampian' condition. This simply meant that Poole's approval of residential use of the area of the site under its jurisdiction could be implemented only if Bournemouth approved such use for the remainder of the site. Poole Council's formal approval for residential development of their part of the site was given in early January 1996. (1a; 2a; 3j)

Official notice was received in November that a Public Local Inquiry would be held lasting four days and starting on June 18, 1996. (2c)

Command

This process and the apparent lack of interest of the members astonished the applicants.

Contract

Another major delay in prospect.

Command

The epitome of a Command situation

Collaboration

No prior discussion of the process with the officers.

Culture

P&G could not understand a culture that allowed this to happen.

Command; Collaboration; Contract

The failure to convince the officers had led to a clear enunciation of the issues

Command

Not surprising as they only had jurisdiction over the smaller part of the site.

Collaboration

Poole were known to disagree with the Bournemouth position

Command

A proper planning position for Poole to take

Challenge

The only resort left to Primetower

Collaboration

Poole had been a good example of collaboration

Challenge

A timely response to the appeal by the Inspectorate

Later in November, Bournemouth Planning Department wrote to the Dorset County Planning Officer seeking the County Council's support for Bournemouth's position at this Public Inquiry. The letter set out four issues as the thrust of Bournemouth's case. First, the loss of industrial land allocated in the Borough Local Plan. Secondly, a precedent would be set for potential loss of other industrial land in the Borough. Third, there was no need for additional residential land according to the Dorset County Structure Plan (First Alteration) or the Bournemouth Borough Local Plan. Last, approval would be premature pending the publication of the Dorset Structure Plan and Borough Local Plan which would roll forward the planning process in the Borough to 2011. (1e; 4d)

In reply, the County Planning Officer addressed housing allocations in the Borough and pointed out that the review of the existing Structure Plan envisaged 12,400 dwellings in Bournemouth in the period up to 2011 and the Deposit Plan, which represented County Council policy, would be issued in January 1996. As far as industrial land was concerned, the County Council took the view that employment land should be assessed on wider than district level. He went on to point out that sites were available in this area, one of the main industrial locations of Bournemouth and Poole, both in the short and long term. He concluded by saying -

My conclusion therefore is that it is unlikely that this proposal can be successfully resisted on appeal. (1e; 1n; 3e; 3j)

At this time, Primetower had instructed Consultants to carry out rigorous investigations and prepare reports on the housing situation in Bournemouth and the industrial land situation in Bournemouth and the surrounding area. (3g; 4b)

Command

This dependence on the Plans was noteworthy given Dorset's views already expressed.

Contract

Employment land the key factor

Command

Very clear position from this officer

Collaboration

Different strategies between the councils and support for Primetower

Collaboration

Primetower trying to help with Bournemouth's lack of data.

Contract

An important private initiative

Following discussions with the planning officers, Bournemouth's Head of Planning Services, Mr. Duckworth, wrote to Primetower on April 2, 1996. (3f) In his letter he discussed changes to the planning situation in Bournemouth since the rejection in July 1995 of Primetower's application. (3e) He conceded that these changes could be relevant to and supportive of Primetower's proposals and would no doubt be raised at the Public Inquiry in June. He said that

... It could be argued however that this Inquiry is the proper forum in which these changes, together with the substance of our respective proofs of evidence, should be assessed by an independent Inspector. (1n; 2c)

He goes on to say that he is mindful of the expense and delays in ongoing Inquiries and that material changes in the planning situation could be sufficient to cause the Council to reconsider its position. (1o; 4c) Accordingly he considers that this could be a case for reconsideration because of these changes and because of the evidence produced by Primetower. (4b) He goes on to suggest that if Primetower agree to submit a new application (without fee), he will present all the relevant fresh evidence at the May meeting of the Sub-Committee and the full Council meeting on June 4, 1996. (1n) If approval were to be forthcoming, Primetower would withdraw their appeal and not seek an award of costs against the Council. (5a; 5b)

He concludes

As indicated to you at our recent meeting, it is only very recently (and some three months later than had been anticipated) that we have had the chance to see and study your case, and furthermore, some of the relevant changes which have led me to suggest it might be in your interest to resubmit your proposals have only come to light recently. (1o)

This somewhat unexpected but nevertheless encouraging turn of events bought a positive response from Primetower. Revised plans were quickly prepared and submitted for a detailed planning application (7/95/16/BL).

Collaboration

The first sign of officer collaboration

Collaboration

Perhaps the strategies of the parties were coming together

Command; Challenge

An interesting view on Inquiries suggesting 'let the Inspector decide'.

Command

These material changes were not clear to Primetower

Contract

At last a consideration of costs and time

Contract

Primetower's evidence may have been part of the material changes

Command

An important change of heart by this officer

Culture

The council's culture was very confusing in the way they handled applicants

Command

The process had been going on for two years and only now had the case been studied

This revised scheme was believed to be fully in accordance with all the relevant standards and requirements of the Borough and County. Further, they had designed the mix of housing in accordance with the urgent needs identified in their Consultant's Housing Study. (4b; 4c) A highly detailed Officer's Report was submitted to the Planning Sub-Committee Meeting on May 20, focusing on the changes in circumstances that had led to the Officer's recommendation to approve.

The Officer's Report concluded -

Whilst I consider the reasons given for the refusal of the previous outline application were justifiable at the time, and that your officers will endeavour to continue to justify them should the current appeal proceed, (2a) I would concede that there have been changes in the planning policy situation since July 1995, which it could be argued, weaken those grounds for refusal and give more support to the applicant's present proposals. Weighing up all the points for and against the proposals, I am of the opinion that planning permission should now be granted. (1n; 1o; 5b)

Despite this recommendation, the Sub-Committee rejected the application by 12-2 with one abstention. (1m; 1n) The local ward Councillor said that housing was not a concern in his ward but he wanted to see comprehensive re-development with the adjacent half-vacated Webster site. Various non-planning issues were raised by the councillors, education facilities, infrastructure, park and ride. One member observed that the Local Plan was a bible and they should remain committed to maintaining employment. (1e; 4d) Another said he had heard too many can'ts -

Can't allow applications for anything apart from housing. Can't sell offices. Can't find land for schools. The officers have got it wrong and we should defend the refusal.

Contract

Primetower's initiative had proved useful albeit at considerable cost to the company

Challenge

The appeal appeared to be a useful tool for Bournemouth

Command

Hardly a ringing endorsement of the scheme

Culture

Different cultural standards seemed to obtain over Duckworth's attitude to defence of the Bournemouth position

Command

Little influence by officers over members here

Command

This view of the Local Plan is understandable from a member's standpoint

Contract

Employment re-emphasised as the key issue

Another asked -

How can we be weak on appeal if we are conforming with the plan? We seem to be driven by the Dorset Structure Plan demanding these wretched houses.

Who runs this town? (1e; 1m; 2a)

The Chairman had constantly reminded councillors that they could not win on appeal but on a motion from the local ward councillor demanding comprehensive re-development, the application was rejected. The application would still go to full Council on June 4 and the officers would still recommend to approve. Mr. Duckworth said that the grounds for refusal would remain as before. Given this refusal, confirmed by full Council, Primetower proceeded with their appeal.(1m; 1n; 2a; 4a)

8.7 The Public Local Inquiry

The Inspector held the three day Inquiry in June, 1996 when the only principal parties were Bournemouth Borough Council and Primetower.(2c).

Bournemouth Council's case was based on the four key points that they had stated so often and had been the reasons for refusal. First, the loss of industrial land allocated in the Borough Local Plan would be contrary to Policy 5.1 of that Plan. Second, a precedent would be set for potential loss of other industrial land in the Borough.(1e) Third, residential targets for the Borough were likely to be exceeded up to 2001 so there was no need for additional residential land according to the Dorset County Structure Plan (First Alteration) or the Bournemouth Borough Local Plan. Last, approval would be premature pending the publication of the Dorset Structure Plan and Borough Local Plan that would roll forward the planning process in the Borough to 2011. (1e) (3j)

Command

Who indeed if there was conflict over a basic issue like housing?

Challenge

A poor understanding of the reasons and process for appeals

Command

This process totally confused the applicant

Challenge

At least this route provided a rational process

Contract

Further delays and uncertainty

Challenge

An important challenge because Primetower believed the Council's case was absolutely flawed and the officers almost agreed

Command

The rigidity of Bournemouth's adherence to the Local Plan now to be tested.

Command

The importance of the Plans continued to be emphasised

Collaboration

These pending Plans were known to be in conflict

Primetower's case was a comprehensive document given the relatively straightforward issues at stake. This was because the applicant believed the Bournemouth Council case concerning availability of industrial land and affordable housing needs was flawed. (3g) As we have already seen, Primetower had commissioned significant studies in these areas proving the availability of sufficient employment land around Bournemouth and the needs for affordable housing in the Borough. (4b; 4d) In Primetower's view, the fact that Dorset and Poole Councils supported the application as well as the Bournemouth officers left the councillors at Bournemouth isolated and effectively without a case. (1m; 1n; 3j)

8.8 The Decision

The Inspector reported on the Inquiry very quickly on July 26 1996 (Taylor 1996). (2c) He regarded the relevant statutory Development Plans as being the South East Dorset Structure Plan First Alteration approved in 1990 and the Bournemouth Borough Local Plan adopted in 1995. He then suggested the most relevant policies from these plans were: -

1) The Structure Plan

In Policy 1.4A, Bournemouth had to provide for about 9100 new dwellings between 1986 and 2001.

In Policy 3.1, in the same period about 24 Ha of employment land (sites of 10 Ha and over), should be provided in the Bournemouth area..

2) The Local Plan

In Policy 5.1, The Council will seek to retain existing or allocated sites for industrial or major office use except in the case of existing isolated industrial or office uses located in residential areas that cause environmental problems.

He would focus only on these statutory Development Plans as they still had five years to run, thus were not out of date and he considered the figures projected in the 1996 Deposit

Collaboration

Primetower had involved themselves in this process far beyond P&G's expectations

Contract

The studies were comprehensive and convincing

Command; Collaboration

The members seemed to be in conflict with everyone

Challenge

This was a very professional performance by the Inspector

Structure Plan a long way from being finalised. There were the figures calling for Bournemouth to provide about 12,400 new dwellings and ensuring provision of about 14 Ha of land developed for employment uses in the period up to 2011.

(1e). He would also take into consideration the relevant government planning policies namely (1d): -

- PPG1 General Policy and Principles
- PPG3 Housing
- PPG4 Industrial and Commercial Developments and Small Firms
- PPG12 Development Plans
- PPG13 Transport

The draft Circular on Planning and Affordable Housing would also be a consideration.(1d) The Inspector argued that there were three main issues. First, whether the scheme would lead, on its own or cumulatively, to a shortage of employment land in the area. Second, how much harm or benefit the proposed housing scheme would bring to the area. Third, whether the scheme was premature pending the review of the structure plan and the local plan.

The Employment Land issue

Unemployment in Bournemouth was the highest in Dorset and there was a clear need for new jobs. There was no direct relationship between the amount of available employment land in the area and the number of new jobs being created. The main issue was employment land rather than jobs - too much land could be a wasting resource - too little could result in lost job opportunities. To decide on whether the site needed to be retained for possible future employment use, he would consider four points. One, how the site related to Policy 5.1 of the adopted Local Plan.. Two, the site's inherent potential for future employment use. Three, precedent, particularly in relation to the adjacent Webster site. Four, the employment land supply and demand situation. (1e; 4d) As the site was clearly an existing industrial site and was allocated for such use on the Proposals Map of the Local Plan, it was clear that

Command

This was a robust stance by the Inspector

Command

The PPG's seen here as important material considerations at an Inquiry

Command

Even a draft Circular was taken into account

Command; Contract

A rational approach to the employment issue

Policy 5.1 applied. Despite the general restrictions of Policy 3.2 preventing residential development of sites allocated for other purposes, Policy 5.1 makes an exception for existing industrial uses that are isolated in a residential area and that cause environmental problems. It was clear to the Inspector that the site was to be regarded as isolated. Similarly, he regarded the buildings on the site as an environmental nuisance for local residents. The Inspector concluded that the site fell within the exceptions category of Policy 5.1 and said

... this clearly points in the favour of the proposed development. (1e)

The Inspector argued that the marketing of the site had come to a premature end and had been over too short a period in a recession for him to conclude that it had no further future employment use. **(4b)** He pointed out there were nevertheless significant inherent problems with future use for employment purposes i.e. the planning status - what kind of industrial use, the unlikelihood of the existing premises being attractive for re-use either one major user or multiple users, difficulties with total demolition and redevelopment of the site having regard to potential cost and the proximity of existing and proposed residential areas. **(4a)** The trend in fact, locally and nationally seemed to be for firms to re-locate from older premises to new sites as both Max Factor and Webster actually did. The conclusion was that the site had only limited inherent potential for satisfactory future employment uses. **(3e)**

If the appeal was allowed on Francis Avenue the parties were in agreement that this could set a precedent for the future of the recently vacated Webster site. The Inspector disagreed saying that the two sites were not comparable. The Webster site had two possible access points straight onto the A348 compared to Max Factor having one onto a quiet cul-de-sac. The Webster site was less developed than the appeal site, had better circulation space, buildings of a different character and

Command

A widely different interpretation of Bournemouth's own policy

Contract

P&G was surprised by this view given the effort made to sell the site

Contract

This view itself implied a long timescale for potential further employment use

Collaboration

A strategic support for the P&G position.

the buildings that had no comparable visual impact on dwellings. Heavy goods traffic would present no problem on the Webster site and advertising its presence on a major road would not be a problem. Thus, the Inspector concluded that no such precedent would be set. **(1k; 1f; 2c; 3e)**

The Council's case on the supply and demand situation for employment land rested on five fundamental assumptions. One, the appropriate area of analysis was the administrative area of Bournemouth. Two, the analysis should appropriately be based on traditional industry i.e. Use Classes B1(c) - any industrial use and B8 - storage or distribution. Three, the current situation should be related to the time horizon of the deposit Structure Plan - 2011. Four, the future take up of all employment land by traditional industry would be the same in future as in the past 12 years, i.e. 37%. Lastly, having calculated the amount of land to be developed for traditional industry up to 2011, it would be reasonable to identify at least as much land again to allow for some of the land not being made available for development.

The Inspector rejected all these assumptions. **(1e; 4d)** He pointed out that industrialists and workers were not constrained by administrative boundaries and this view had been confirmed at previous Inquiries in the area in 1989 and 1990. **(2c; 3e)** He considered the identification of land for traditional use as misleading and unrealistic. He dismissed the other three points and concluded that little weight should be attached to the Council's analysis of supply and demand and the need to retain the site had not been demonstrated by the Council. **(1o)** He accepted Primetower's analysis that in his view confirmed that land was available if a wider-than-district view was taken, as he believed it should. **(4b)**

**Command; Challenge;
Collaboration**

The value of an independent Inspector's view of all the comparative issues on the two sites

Command; Contract

Bournemouth's strategic thinking totally undermined

Contract; Collaboration

A reminder of Bournemouth's previous failures

Command

A poor reflection on the Bournemouth procedures

Contract

Despite the success of this analysis, Primetower ought not to have needed to carry it out.

The Housing Issue

The Primetower case showing the need for low cost housing was proved. (4b) Provided that the mix of two and three bedroom dwellings was controlled by a planning condition, the Inspector saw a housing benefit as well as an environmental benefit arising from residential development of the site. (1a; 1j) It would be beneficial overall in augmenting the Borough's stock of lower-priced family dwellings and this had been accepted by the Bournemouth Director of Planning Services. (1n)

The Prematurity Issue

The Inspector rejected this point for three reasons. One, the site must be considered on its own merits and not in conjunction with the Webster site. Two, PPG1 indicates that where a development plan has been issued for consultation, a prematurity issue may arise. No such document had been issued here. Three, PPG1 suggested that only substantial or very significant proposals would be likely to prejudice the development plan process. This was not the case here. (1d; 1e)

His conclusions on these issues were: -

- a) The scheme would not lead to a shortage of employment land as it was isolated from any other industrial activity and the local plan allowed change of use in such circumstances, the land had limited inherent potential employment use, there would be no precedent set for a nearby small industrial site and there was no under supply of employment land in the conurbation. The Inspector rejected as an issue lack of employment land actually located in the Borough. (1e; 3e; 4d)
- b) The scheme, with a properly controlled mix of housing, would be beneficial in terms of the Borough's supply of lower priced housing, would make good use of a vacant urban site, would environmentally improve the situation for existing residents and would do no harm. (1j)

Contract

Again, not Primetower's responsibility

Command

A normal requirement and an endorsement of the Primetower proposals

Command

Support for one of the Bournemouth officers

Command

The importance of PPG's in interpreting Local Plans

Command; Collaboration; Contract

A complete rejection of Bournemouth's employment land strategy

Command

A vindication of the scheme from an environmental standpoint

- c) The scheme was not premature as the impact was small, there was no extant consultation document on the Local Plan and the County supported the development in relation to the structure plan. (1e; 3b; 3j)
- d) The concerns expressed by the Environmental Agency about possible contamination were an expression of well-founded caution and a standard condition relating to such contamination would be imposed. (1a; 1j)

Command; Collaboration

The Local Plan proved not to be a 'bible' and the strategic authority's view vindicated

Command

A sensible precaution

Command; Challenge

The challenge process had proved its worth from Primetower's standpoint

Accordingly, the Inspector granted Outline Consent. (1a; 2c)

8.9 The Consequences

Following the Inspector's decision, the sale of the site to Primetower was completed in August 1996. Thus three years had elapsed between the first approach of Primetower's original company and the grant of an Outline planning consent. (1o) The drain on Primetower's resources had been such that eventually they had to join another company with greater resources to jointly develop the site. In around a year they decided to pull out of Francis Avenue completely. (4b; 4c) In a recent interview with the Managing Director, of Primetower, he said that his relations with the planners and other officers at Bournemouth Council are now very good and he is treated with much respect. He puts this down to the fact that he fought them through an Inquiry and won. (2a; 3f)

Command

Not a process to be recommended

Contract

Success was gained but at what price for a small developer?

Challenge Collaboration

This does not appear to be the purpose for which Inquiries were designed

Contract

It was difficult to gain continuing P&G management support over this period

Command; Collaboration

The fierce adherence to the Local Plan of members and officers bedevilled the process

Contract

There is no doubt that P&G would have handled the process differently.

This whole process, the uncertainty and the time it all took had bemused P&G management. (4a) Having made a business decision to sell the site they found it difficult to understand why Bournemouth Council's parochial attitude to the provision of employment land could delay the sale of the Francis Avenue site for so long. (1m; 1n; 3e) It remained a point of conjecture whether it would have been better for P&G to get a planning consent for change of use of the site and then sell to Primetower. (4b)

8.10 Conclusions

Lacking the complications of Bath's World Heritage status, this ought to have been a relatively straightforward case of change of use of a semi derelict industrial site. Again we had Command in the ascendant with almost half of the occurrences of the issues in the narrative (Exhibit 8.1). The major issue here was the Local Plan although public sector procedures caused Primetower and P&G some problems. There was also the complexity of dealing with three councils although, unlike Bath, Primetower was only in conflict with one of them. Another important factor was the roles, attitudes and behaviour of the members and the officers. Mr. Garrett was clearly surprised by this situation at Bournemouth as he noted during interview.

Challenge accounted for a very small number of the occurrences of project issues (Exhibit 8.1) but, unlike Bath, this was, a straightforward, quick public inquiry. This does not detract from the importance of Challenge in this case as Primetower was absolutely vindicated at the inquiry, just as Safeway succeeded eventually at Bath.

Collaboration accounted for about one fifth of the issues raised in the narrative, less than the other cases (Exhibit 8.1). What we saw here were prolonged negotiations but no collaboration focussed on a mutually acceptable solution. However there were critical issues here. The interaction between the officers and the private organisations was difficult as the officers' demands changed and timing slipped. The conflicts between the planners and housing department at Bournemouth Council and the intra council conflicts were unhelpful to say the least. Then there was the head on confrontation over strategies between the protagonists.

Contract amounted to a fifth of the issues in the narrative (Exhibit 8.1) and here the key issues were employment land and private organisation performance. Employment land was the crux of the strategic differences between the parties and the short shrift given to the Council's case by the Inspector was to say the least illuminating. One has to question how this case was so prolonged when his objective insights so devastatingly demolished the Council's case.

Culture was a tiny figure (Exhibit 8.1) but there were the classical differences between the developer and the council. Interestingly, Mr. Yoeman of Primetower said at interview how much the interface had improved following the confrontation over Francis Avenue.

The three case studies have demonstrated a degree of similarity in their patterns but this will now be investigated in detail in the next chapter provides and overview of the evidence.

CASE STUDY 3 – FRANCIS AVENUE FACTORY - BOURNEMOUTH

ANALYTICAL LOG

This Log records the number of times a specific project issue is noted in the narrative.

5 Cs	PROJECT ISSUES	LOG	% of TOTAL
1) Command	a) Planning & associated Law - foundation of the process	7	
	b) Compulsory Purchase Law - resistance to Orders		
	c) Compensation - Limits - value of property		
	d) Govt. Policies - Planning, Regeneration, Environment	4	
	e) Local Plans & Policies - land use, influence, timing	21	
	f) Public Interest - what is it? Who defines it?		
	g) Regional Government Office role		
	h) Role of the Secretary of State for the Environment	1	
	j) Environmental issues e.g. Air Pollution	4	
	k) Aesthetic Issues - who decides? how? Real impact?	1	
	l) Highway & Traffic issues - impact on the community	4	
	m) Local politicians - role, attitudes and influence	8	
	n) Officers - role, attitudes and influence	16	
	o) Public Sector Procedures & processes	17	
	TOTAL of Command	83	48.8
2) Challenge	a) Appeals - rights - process - resources	5	
	b) Objections - rights - quality & strength of case - impact		
	c) Public Inquiries - the adversarial process - Inspectorate - appeals - decisions	7	
	d) Judicial Review (permission required & limited scope for review) & adversarial process of the Courts		
	TOTAL of Challenge	12	7.0
3) Collaboration	a) Public information process - how and by whom?		
	b) Public participation - stakeholders	3	
	c) Non-elected agencies - difficulties in negotiations		
	d) Networks - which ones, who is involved, how & why?		
	e) Strategic differences between public & private sectors	9	
	f) Officer / private organisation interaction	8	
	g) Private organisation involvement	5	
	h) Lack of contact between Members & applicant		
	j) Conflict between LA depts and Intra LA disputes	11	
	TOTAL of Collaboration	36	21.2
4) Contract	a) Schedule – delays and uncertainties	5	
	b) Private organisation performance	13	
	c) Resource costs of process and decisions to all sides	3	
	d) Employment issues - local or external to area?	13	
	e) Planning Gain –community facilities, roads, etc.		
	f) Legal agreements - Section 106 Agreements		
	TOTAL of Contract	34	20.0
5) Culture	a) Cultural differences between Public & Private sectors	3	
	b) Ethical issues - Public and Private sectors	2	
	TOTAL of Culture	5	3.0
	TOTAL NUMBER OF ISSUES	170	

CHAPTER 9 – AN OVERVIEW OF THE EMPIRICAL EVIDENCE

9.1 Introduction

In this thesis the planning system has been examined from a number of standpoints. Chapter 2 outlined the elements and organisation of the planning process, the process of challenge and the legal and policy frameworks. Chapter 3 provided post war background to the planning system showing the varying political, policy and theoretical approaches underpinning the planning system during that period. Chapter 4 dealt with the development of the modified collaborative theoretical approach to planning applied in this thesis. Chapters 6, 7 and 8 constitute the body of empirical evidence in the form of narrative accounts of three cases, each subject to a form of analysis and commentary discussed in Chapter 5. Against this background, the question can now be posed in this chapter – what have we learnt empirically about the interface between local authorities, non-elected agencies and private organisations in the context of the planning system? This chapter will deal with that question in two ways. First, by reviewing the empirical evidence against the same analytical framework as was used in the case studies. Secondly, by focusing on the motives of the actors and the interfaces and relationships that developed in the cases.

As we saw in the case studies, the narratives were analysed by annotating the text for each occurrence of a specific project issue and summarising these occurrences in a framework document (Exhibits 6.1, 7.1, & 8.1). To gain an overall view for this chapter, these data for each of the case studies have been summarised by project issue and by each of the 5 Cs in Exhibit 9.1, PART I. This summary has then been further simplified in Exhibit 9.1, PART II which is a summary of the impact of the 5 Cs.

9.2 Command

Inspection of Exhibit 9.1, PART II shows Command representing comfortably the greatest number of occurrences in the narratives in each of the cases. This is not surprising because of the statutory basis of planning. In turn, this aspect of planning practice covers those project issues where the applicant has little or mostly no ability to exert real influence e.g. on government policy, the legal framework of planning, the Secretary of State, civil servants, local politicians and public sector procedures. The East Quayside case shows that very often a private organisation does not even understand that it is unable to exert influence in these areas e.g. P&G and many other companies who unwittingly became involved with UDCs. Likewise, the Bath case shows that even Safeway, who were constantly involved in the planning system, found their inability to exert influence was a major problem. What can we say then about the planning system in terms of Command?

The first thing we can see from the evidence is the influence and power of the government in the guise of the Secretary of State. This was clearly illustrated by the East Quayside and Bath cases. Despite the resources P&G could command, the company could not retain its own property in the face of the wide powers given to TWDC as a local agency of government. Through legislation government had removed from the City Council the normal planning mechanisms for considering the TWDC's scheme and TWDC was actually its own planning authority. An insight into his motivation and the powers he used to develop new regeneration policy through UDCs is given in his autobiography by Michael Hesletine, Secretary of State for Environment in Thatcher's government in 1979 (Hesletine 2000, pp. 211–214).¹ He describes the strategies he developed over a period of time, which would avoid what he considered ineffective piecemeal attempts at regeneration by local government. Instead, he would bring in central government and the private sector. He describes at length, the opposition from the civil service and senior colleagues, which he was able to overcome once he had the backing of the Prime Minister. He also concedes that he had significant opposition from relevant local authorities.

In a different context we have seen in Bath how Safeway was bemused by the interventions of the Secretary of State and the multiplicity of Inquiries. The powers available to the Secretary of State were clearly illustrated when he instructed Bath City Council not to approve the application on the morning they were intending to do so. This instruction came via the GOSW and must have arisen from advice tendered by these local civil servants who had the requisite knowledge of the case and the facility for advising the Secretary of State. Again this represents a Command situation because the applicant has no access to these people. Apart from government policy and the law, the advice tendered by the civil servants to the Secretary of State is based only on the formal application submitted by the applicant together with any additional data supplied by the local authority. There is no provision for working discussions, explanation and argument involving the private organisation i.e. there is no interface. Furthermore, the advice is secret and the Secretary of State is not under any obligation to reveal it at any time.

At Bath we also had the situation where simply on the basis of a speech on air pollution by the Secretary of State, John Gummer, this issue eventually became the fundamental issue in the case, even though at that time there was no government policy guidance. Even at Francis Avenue, the case was only resolved at Public Inquiry by the agent of the Secretary of State, namely the Planning Inspector, deciding in favour of one side.

I have dwelt upon this issue at some length because the powers available to the Secretary of State, normally acting on civil service advice, have such impact in the area of planning we are

considering. He or she can have an idea for policy e.g. UDCs, persuade parliament to provide the necessary powers, provide non-elected agencies with sweeping powers including compulsory purchase, take powers away from local authorities. All of this without consultation with local politicians or local people and indeed through the use of Statutory Instruments, normally little challenge in Parliament. In other words it is a Command position without the possibility of effective Challenge to the policy, no Collaboration or Contract with the local people and no consideration of Cultural issues. There can be influences brought to bear on the Secretary of State and government by public opinion, the media, pressure groups such as Friends of the Earth, the CBI and of course European Directives. In the context of a single project, it is difficult to see any of these influences apart from Europe having any effect. As Moore (2000 p. 13) points out, in the end, the final say over determination of the use of the smallest parcel of land is given in law to the Secretary of State.

In Chapters 2 and 3, we saw how governments arrived at the need to control development particularly in the aftermath of war. Both East Quayside and Bath cases show that this policy of centralised desire to control, Command, still exists and that the influence of the Secretary of State is crucial in the development of government policy initiatives and guidance. This results of course in changes to the legal framework, initiated by the Secretary of State, i.e. Command. In most planning applications the law is seen as the essential underpinning of the system and not as a problem but it can become the problem when the parties come into conflict. The East Quayside case study well illustrates this where the use of wide Compulsory Purchase powers by TWDC caused problems for all the parties. Compulsory purchase is an excellent example of Command because the site owner is powerless to stop the site being taken. As in this case, a CPO is normally used 'in the public interest' but the question arises – who decides what is the public interest? It is the Secretary of State acting on behalf of the public.

Another element of the planning framework is the Development Plans and as we have seen in Chapter 2, the preparation of these plans is laid down by statute and is therefore a Command issue. However, there are also elements of Challenge, Collaboration and Contract. Following the statutory consultation process, which is of course a form of Collaboration, if there are objections, the Plan is subject to Challenge through an Inquiry procedure. The Francis Avenue case showed how P&G's failure to participate in these Collaboration and Challenge procedures was a cause of the eventual conflict with Bournemouth Council. The finally approved Plan is essentially a form of Contract with the public and government as to the development of the subject area. Francis Avenue provides a good example of how firmly the Council viewed this contract. This is an area of planning that is amenable to the influence of Collaboration and

Contract, provided the private sector organisation takes the trouble to know what is happening with the development of the Development Plans.

Environmental issues represent Command because the local authority is required to solicit the views of the environmental agencies on all planning applications and these views will constitute a material consideration. The conditions normally attached to any planning approval almost always include one or more environmental conditions, which are then mandatory. A condition of the planning approval is effectively a form of Contract, normally the subject of a Section 106 Agreement. It must be noted that if, after all the arguments, an environmental condition is attached which the applicant finds unduly onerous, the only recourse is an appeal or Challenge. This was the case for Safeway at Bath where air pollution suddenly became an issue because of a speech by the Secretary of State and despite all efforts at resolution it was finally the key issue at the Inquiry.² An important factor here is the potential for disagreement about measurement of pollution and the standards to be used and this again was a critical issue in Bath. This area is again amenable to Collaboration and Contract influences if the parties are determined to find mutually acceptable technical solutions.

Highway issues are very much a Command issue because the local authorities are essentially judge and jury in assessing highway proposals. Both at East Quayside and in Bath, highway and traffic were key problems and the highway authority was a crucial influence on the decision. There is also a significant element of subjectivity involved because what appears to one of the parties to be objective data is often an area of dispute as it was at Bath. As the City Engineer memorably stated in a meeting on East Quayside, he wanted a perfect highway solution. Despite three workable options being submitted by P&G he wanted only his own solution, which meant the demolition of New Sandgate House. As we also saw in Bath, two councils, three different consultants and the applicant took nearly ten years to resolve the issue. The narrative account describes how the Councils and their consultants disagreed, agreed and eventually disagreed with the work of Safeway's consultants and even eventually criticised the Road Transport Research Laboratories' work. The London Road Area Residents' Association (LORARA) and Forrester criticised everyone. Mrs. Maxwell (at interview) said Bath Council had even changed traffic Consultants because they believed their original Consultants were too close to Safeway's Consultants. Like environmental issues, this is a Command area amenable to Collaboration and Contract influences

Local politicians, as members of the Planning Committee, are the critical players in the initial determination of a planning application, as described in Chapter 2. They are in a Command

position as the decision makers. As Mr. Yeoman, Managing Director of Primetower said in interview on the Francis Avenue case: -

The situation is a monopoly – the applicant has no option but to go to the local authority for a planning consent.

A key question for the private organisation is just how the members will react to the application. The Third Nolan Report (1997) specifically addresses planning as 'probably the most contentious matter with which local government deals'. The empirical evidence in this thesis would seem to support this view. The motives, attitudes and influence of the elected members are all issues of considerable interest to the private organisation. Clearly, members are under a variety of pressures in making their decisions. Personal views, party political or ideological positions, the interests of the specific ward represented, the interests of the wider community, government pressures and potential conflicts of interest are all possible influences on decisions. As we saw at East Quayside, P&G could not ascertain the views of the elected members on the TWDC Board because the Chief Executive, Balls, prevented a visit to the disputed site by these members. At Bath and Francis Avenue, members appeared to take a community wide view although Councillor Forrester at Bath appeared to represent a somewhat ideological environmental position. A key question for the private organisation here is the objectivity or otherwise of the members in determining an application. Nolan (1997) speaks to this need for objectivity. Clearly, members must take very seriously issues like local employment and environmental externalities such as the project's impact on air pollution, traffic, aesthetic impact and the needs of the people. However, at both Bath and Francis Avenue, the applicants were not persuaded of the objectivity of the members. In both cases, the applicants believed that a rejection leading to an appeal and eventual decision by the Secretary of State was a way of getting the members 'off the hook'. A dilemma here is the perceived need to avoid contact between members and applicant to avoid any possible charges of corruption (Nolan 1997).

The three cases indicate that the role of the officers is not readily amenable to influence by the private organisation and is essentially a Command position. This is equally true of their influence, because the extent of both their role and influence is internal to the authority and governed by the relationship of the members to the officers. These issues are again of considerable interest to the applicant as the officers are the interface and form the conduits to the members for the applicant's case. At both Bath and Francis Avenue, the roles and influence of the officers appeared to be such that they were unable to dislodge members from entrenched positions. At East Quayside, Balls appeared to have a good degree of control over his members, at least over their ability to have contact with P&G. What may be possible is that the attitudes of the officers may be amenable to some external influence but even that depends upon the quality of the interface and their relationships with the applicant. As we see from the evidence in all

three cases, the quality of the interfaces and relationships with the applicants would not have supported such influence.

It is also clear from the evidence that in each case there was another interface, namely that of the public sector body with the public. TWDC successfully presented itself as the bringer of salvation to East Quayside. Bath Council was the protector of the traffic and environmental problems of the City, although Dunlop of LORARA ridiculed their weak stance at interview. Bournemouth on the other hand, was the protector of employment; at least of employment land even when it was proved that they could not substantiate their position.

The procedures of the public sector bodies, be they local authorities, government offices, non-governmental agencies frequently present problems for private organisations. This point has been shown up in all the narrative accounts but in these and other cases, in the author's experience, the decision-making processes in the public sector consistently bemuse private organisations. This is not only over issues such as Bournemouth council's treatment of the applicant at the full council meeting, but more generally over just how the public sector does its business. In Bath, the Council departments' processes were subject to much criticism in interviews with Safeway and their consultants but also by LORARA (Mr. Dunlop) and even by Mrs. Maxwell, formerly Principal Planning Officer at Bath. The private organisation is likely to see these processes as a Command situation. At Francis Avenue, the Housing, Highway and Planning Departments were at odds with each other with what were later proven at the Inquiry to be inadequate positions in their respective areas of competence.

The foregoing paints a picture of the powerful influence of the Secretary of State, representing government, in ultimate control of the whole process. How true a picture is it?

The first point to make is that if it is not true, the Secretary of State, his Department and the process must be capable of being influenced if not controlled. Parliament is the fountain of the law but the relevant Secretary of State is the initiator of new law and of changes to existing law. With the support of a working majority in the House of Commons and of the Prime Minister, the Secretary of State will legislate successfully. In addition we have already seen the burgeoning use of Statutory Instruments, which are rarely if ever debated despite the impact they have in the system. In the case of a major project, say to do with manufacturing, it is just possible some attempt at influence may be brought to bear by the Secretary of State for Trade and Industry. From personal experience, the author never found any assistance coming from that quarter. The Department's civil servants are clearly influential both in terms of the detail of legislation and advice on specific planning applications e.g. Bath. However, as we have seen in

the case of Hesletine and UDCs, civil servants are unlikely to overcome the wishes of a determined Secretary of State. The next influence might well be the Courts but as we have already seen, unless an action has been taken which is *ultra vires*, the Courts cannot intervene. Finally there is the public. The planning process does require public consultation but the effectiveness of this activity may be questioned. Despite information being published in newspapers etc. the response of the public tends to be apathetic, apart that is from people directly involved e.g. the neighbours. This was shown up on East Quayside where the involvement of the public was minimal. In Bath, the planners and main objectors admitted they did not know what the local people thought about the need for a new supermarket in Kensington. At Francis Avenue, the public appeared not to be involved at all and P&G did not even know the Local Plan was being revised.

All this suggests a process where, even if not under day-to-day command of the Secretary of State, the Command influence pervades the system. There is of course no possibility of an interface or relationship with the Secretary of State and the applicant. However the applicant is not altogether without hope as the law also admits the possibility of Challenge to planning decisions. This we will now consider.

9.3 Challenge

All three cases demonstrate the importance of this aspect of planning practice and the various degrees of complexity arising from it. The Challenge process has already been described in Chapter 2. The right to Challenge cannot be over-emphasised because as we have seen, in two of the three case studies, Bath and Francis Avenue, the appellant was successful. Exhibit 9.1 PART II shows Challenge with the lowest number of occurrences in the narratives. This is not an indication of unimportance because Challenge, unlike Command, is not a constantly recurring aspect of planning in the narratives. Objectors were a significant proportion of the Challenge category for Bath primarily because of the activities of LORARA.

The three cases provide a widely differing perspective on appeals, all the way from a simple short Inquiry at Bournemouth via multiple Public Inquiries at Bath through to the Court of Appeal at East Quayside. The law provides the right of appeal to the Secretary of State and this is therefore a clear and very important Challenge issue. After all, both Safeway and Primetower used this right with great success. However, there is even a Command element here as the right to Challenge and the process is carefully laid down by law. A key issue is that government policy cannot be questioned. This seems clear except for the fact that there can be confusion over the interpretation and implementation of Planning Policy Guidance notes by local authorities. As already explained in Chapter 2, the courts have rejected their use as having

statutory force – the planners should only ‘have regard to them’. However, their very existence is to reflect current government planning policy and the Inspectors at Bath and Francis Avenue placed great importance on the relevant PPG’s as material considerations.

Bath is a very good example of the availability and use of objectors’ rights although it seemed to Safeway that in this case, the Inspector had taken an unusually lenient approach to LORARA at the Final Public Inquiry. East Quayside also provides a good example of the rights to object, as P&G and Landau were both able to exercise these rights to the fullest extent. An Inspector will always have regard to the objections made although the objections may well be rejected as they were at East Quayside and Bath. This is primarily a Challenge issue.

Public Inquiries have both Challenge and Command aspects. Challenge because the Public Inquiry is the tribunal where the appeal process normally ends as the Francis Avenue case demonstrates. Bath, on the other hand demonstrated a different version of this point as it took three Inquiries to get there. However, there is a strong Command aspect of Inquiries for a number of reasons.

First, the applicant has no influence over the choice of the Inspector who will hear the appeal. Secondly, the law strictly lays down the Inquiry procedures. This has merit in that everyone involved should know what is to happen and how. Third, the Inspector can determine the scope of the Inquiry. At Bath, even though the parties agreed there was only one outstanding issue, air pollution, the Inspector allowed a complete re-run of issues already decided. Fourth, the inspector will subsequently report his decision only to the Secretary of State and not to the applicant or the wider community. Lastly, the Secretary of State need not disclose the advice on which the final decision on an appeal is made. Reasons for the decision are always given but the appellants may well see the decision as based on poor or wrong advice.

The Secretary of State, acting on advice, is essentially the final decision maker on an appeal. Increasingly, the Inspector takes that decision on behalf of the Secretary of State. This is clearly a problem from the appellants’ point of view as the only appeal against the decision is then in the courts and only on a point of law. Permission to proceed to judicial review must be given by a High Court judge. The point(s) of law will normally be quite narrow and will depend of course on proving unlawful action or inaction by the Secretary of State, or advisors. On East Quayside, Counsel for P&G sought to prove proposed actions by TWDC as *ultra vires* e.g. using CPO powers for collateral purposes, which were illegal. Again, this whole process is out-with the influence of the appellants and appears to have a significant Command element.

There is little more to be said about this aspect except to note the continuing influences of Command. In fact, Challenge might well be seen as a reciprocal and therefore democratic dimension of Command and so part of it. This was my initial view and as indicated earlier in Chapter 5, Challenge was only separated out because of its crucial importance to an aggrieved applicant. It could be argued that resort to Challenge indicates a breakdown in negotiations between the local authority and the applicant. It may well be, as in all three case studies that both parties are intransigent. It certainly is not normally the vehicle for resolution, which would ideally be chosen by either party. This is for the reasons we have seen in the empirical evidence, use of resources, cost, delay and the possibility of much further dispute until it results in a final approval or rejection. A Public Inquiry can present a daunting prospect for participants unused to such arenas and the language of discourse is legalistic and/or technical, certainly not tending to be inclusive. The process is also adversarial as it is in the Courts, although it must be said usually conducted with courtesy. Collaboration between the parties could well be an answer and this aspect of planning will now be examined.

9.4 Collaboration

Collaboration covers those issues to do with interfaces, relationships, informing, participating, negotiating, communicating, interaction, inclusion and conflict. Collaboration could be argued to be an element in each of the other aspects of planning. However, it can also be argued that the parties may think they are collaborating when they are simply negotiating. For this reason, various project issues have been separated out to examine what is really happening. As we have seen in the three case studies there was only a minor attempt at true collaboration at Bath and at Francis Avenue, neither of which was successful. In Habermasian terms of communicative ethics, the three cases showed strong instrumental reasoning, almost no moral reasoning and some one-sided emotive-aesthetic reasoning.

Inspection of Exhibit 9.1 PART II shows Collaboration as second in terms of occurrences in the narratives. This is hardly surprising as many of the issues included here recurred throughout the narratives.

The Public information process is Command in one sense because it is one of the essential procedures laid down in the planning process. It is included here under Collaboration because the reason for informing the public by newspaper, local notices, letters etc. is to allow any interested party i.e. stakeholder, to participate in the process. This may be by objection, support or observation. None of the cases demonstrated a successful public information process and at Francis Avenue, P&G was not even aware of the publicity about the Local Plan revision.

Public participation is included in Collaboration because, theoretically, stakeholders can become involved and collaborate. None of the case studies showed any significant level of public participation despite the public information process. This might have been expected at Francis Avenue where the grounds for the Council's case proved to be so flimsy. At East Quayside and Bath, it might have been expected to be the other way round. After all, if Hesletine's strategy for the use of UDCs was soundly based on a public interest in regeneration, where and how did the public demonstrate that interest? The answer to both questions is that they did not. In Bath, no one knew what the public thought because they were just not involved. This is particularly surprising because additional supermarket facilities may well have been thought to excite the public interest. There is a Command aspect here too because the degree of public participation is largely determined by the efforts of the relevant authority.

To the private organisation, influence on the non-elected agency can only be through Collaboration which is why the issue of non-elected agencies is included here. However, by the standards set on East Quayside, where P&G were completely unable to influence TWDC, Collaboration did not work and was therefore a negative issue in that case. The poor quality of the 'collaboration' can be put down to the development of a poor interface between the organisations and increasingly suspicious relationships on all sides.

In the narratives, the issue of networks arose primarily in the interactions between councils or on East Quayside, between TWDC and the City Council. Clearly there was collaboration here albeit without the applicant. However, the real issue is the invisible networking which impacts on the case, maybe crucially so. This is the sort of networking between planners and regional government offices and on to Whitehall e.g. Bath, between UDCs, regional government offices and again on to Whitehall as at East Quayside. In none of this can the private organisation be a participant. This again shows a Command thread but is in effect a negative Collaboration issue.

Strategic inconsistencies would appear to be a negative Collaboration issue. Clearly, organisations of all persuasions develop strategies to suit their core activities. We have seen in each of the case studies how public and private sector strategies came into conflict. If P&G had not needed New Sandgate House, there would probably have been only some haggling over the value of the building. As it was, the strategies were poles apart. Likewise, if P&G had participated in the Local Plan consultation process, alternative uses for the Francis Avenue site may have been agreed up front. On the other hand, in Bath, the Council had shown, through the shopping study, that a supermarket was needed. In this respect only, Bath City Council and Safeway strategies actually coincided. If these inconsistencies are to be avoided, mechanisms for Collaboration appear to be the only way to reach some accommodation.

Officer - private organisation interaction is a true Collaboration issue because it is the fulcrum for negotiation of the application and the officers form the conduit to the elected members who make the final decision. All three cases would indicate that this interaction was of poor quality and ineffective, leading to poor quality interfaces and relationships. After all, at Bath and Francis Avenue, the highly focused strategies of the officers were overturned and the applicant won. At East Quayside, the poor quality of interaction led to long delays, uncertainty and high expenditure of resources on all sides. There is also a Command thread, as the officers will determine the degree of actual collaboration as happened in all three cases.

Private organisation involvement is really the opposite side of the coin to the previous issue and is a true Collaboration point. The private organisation can hardly complain about the officers or the elected members if they are not themselves willing or able to collaborate effectively. I believe the narratives show each of the private organisations was found wanting in this respect. At East Quayside, P&G were naïve in their handling of TWDC and the developer and with more assertiveness the Company might well have initiated a more collaborative approach. P&G could also have been more assertive at Francis Avenue in insisting on more involvement with the process. Safeway's involvement in the process at Bath was not seen as positive by any of the interviewees I met. This was despite Safeway's undoubted experience in the planning process. Sadly, even when it attempted to be helpful, the planning officers did not always feel 'helped'.

In all three cases, contact between members and applicant was non-existent, hence no occurrences in the narratives. This is a built-in issue in the planning process and is again a negative Collaboration issue. The critical point here is the fact that the applicant cannot sit down with the planning committee members, setting out the need for the project, dealing with their concerns and providing relevant background information. At most, some councils do allow a short presentation by the applicant. Nevertheless this does not permit real interaction, discussion and argument. It must be noted the data available to members is essentially that contained in the recommendations of the officers together with responses to their questions in committee.

Conflicts between Local Authority Departments and intra Local Authority disputes are Collaboration issues because as we have seen in the narratives, each case involved more than one authority and certainly more than one department. Also, in each case, the private organisation was caught in the middle, e.g. TWDC and City Council 'collaboration' on East Quayside. In Bath we had Bath and Avon CC on highway and traffic issues. In Francis Avenue, Bournemouth BC were at loggerheads with both Dorset CC and Poole BC. Here we also had the Housing Director in total disagreement with planners, policy and highways over the application.

There is also an element of Command because the applicant is really unable to do much to influence the process.

The three cases all demonstrate the absence of true collaboration, poor quality of interface and relationships with the consequences outlined in the narratives. What actually occurred in all the cases was basic negotiation and on the evidence of the narratives, mostly of a hostile nature. As we have also seen, the Command thread was a consistent element in most of the project issues.

9.5 Contract

All three cases were good examples of the issues addressed here, uncertainty, resources and costs, agreements, job issues & performance of private organizations in the process. The planning process can be seen as one in which a Contract is developed between the local authority and the applicant. The authority delivers an approval for a specific project and the applicant has to deliver that project. Determination of an application is supposed to be made within eight weeks of submission but this side of the contract is rarely delivered particularly in the case of large, complex and or disputed projects. The project issues arising are of great importance even if Exhibit 9.1 PART II indicates a relatively low number of occurrences in the narratives. This is particularly the case with uncertainty and resource costs, as they were a constant source of concern throughout each of the cases.

Uncertainty is one of the most significant issues in the whole planning process and well illustrated by the case studies. As an issue, it could have easily fitted into Command as part of the public sector procedures issue. It was included here under Contract because the important elements of any contract are agreements over what is to be delivered, when, how and at what cost. What is crucial here is the impact of such uncertainty on the applicant. All three case studies illustrate this. None of the private organisations expected to find themselves involved in such prolonged uncertainty and nor probably, did the public sector organisations. Safeway's grim determination to fight on through three Inquiries surprised everyone involved at Bath. P&G had no concept of what they were getting into, despite expert advice from those who might have been expected to know. Primetower had similar problems of uncertainty at Francis Avenue. Inability to influence this uncertainty suggests to the applicants that this may involve another thread of Command.

Private organisation's performance is included to note how the private organisation contributes to the process and how it performs in delivering the finally agreed project. Clearly the main contribution of the organisation is to co-operate with the local authority to achieve an approval and then to deliver the agreed project. This last point is absolutely crucial. The cases show the

private organisations all left something to be desired in their performance as far as collaboration was concerned. TWDC might be forgiven for deeming P&G's contribution to East Quayside as being the main cause of years of delay. What all three cases demonstrate is that none of the private organisations had an effective strategy in place for the task of dealing with the problems they faced. Co-operation may be difficult, as it was in all three case studies but delivery is completely under the control of the private organisation and there should be no doubt as to the willingness of the organisation to do so. This really is a Contract issue because an approval must be met with delivery of what has been approved. In fact, both Safeway and Primetower did deliver the agreed project or at least Primetower did until they sold the land part way through development.

Resource costs has a relatively low occurrence rate in the narratives because it was only discussed towards the end of the narratives. In the three case studies, we saw good examples of the high and unexpected ongoing demand on resources on all sides. This is a Contract issue because throughout the negotiations and even through appeals, either side can withdraw from its position i.e. the authority can grant the approval or the applicant can withdraw an appeal or objection. Thus demand on resources will be reduced. In our cases, all three private organisations fought on, committing increasing levels of resource for an indeterminate period and forcing the public sector authorities to do likewise. None of the parties wished to be in this situation.

Employment can be looked at a number of different ways in terms of the planning process.

- a) It can be a Contract or even Collaboration issue where the local authority wants to bring in jobs or preserve employment land as at Francis Avenue.
- b) It can be a major cause of dispute where the local authority does not want more jobs as in a fast growing P&G corporate headquarters site in Surrey. This was because of the impact on existing schools, housing, roads and the general infrastructure.
- c) It can be a Command issue where the employment is 'of the wrong type' as was frequently the case with the UDCs.³

Employment is included here under Contract because it normally forms part of the negotiations and can be critical, particularly over the number of parking spaces to be provided in a project.

Planning Gain is a Contract issue with a strong Command thread. As we saw in Bath, the highway authority, Avon CC suddenly announced they wanted Safeway to pay £120,000 towards the costs of a new traffic control system. Although this figure was slightly reduced after negotiations, Safeway had no choice but to pay. No pay – no supermarket. This was clearly a Command situation but the payment was essentially part of the Contract for approval. This issue

is often contentious when the local authority makes a demand, which is seen by the applicant as unduly onerous and thus a basis for an appeal.

Legal agreements are a clear Contract issue with a strong Command overtone. The legal agreement is almost always a requirement of the local authority as it was at Bath over the traffic signalling and the access to Lower East Hayes and Kensington Place. Clearly the agreement forms a Contract between the two parties but again, no legal agreement, no planning approval – very much Command. Having said that, it is often the case that rather than applying a simple condition to the approval, the local authority must have absolute certainty that the applicant will deliver whatever has been agreed.

There is no evidence in these cases that a contractual concept was present in the negotiations until, at Bath, the eventual Section 106 Agreements were signed for Lower East Hayes and the traffic signalling system. All the applicants have said that it would have been difficult to pursue the course of action they actually took if the uncertainties, time and resource costs of the project had been clearly understood at the outset. Both sides in all these cases would surely have benefited from the establishment of a relationship involving Collaboration and Contract at the outset. However, even here in Contract, we can see a strong Command contractual relationship running through this dimension of planning. In all three cases, even at East Quayside, the parties were, in a sense, forced into a contract. Bath and Bournemouth were effectively forced into approval by the decision of the Secretary of State. Even then Bath procrastinated over the final approval when they tried to reopen issues already agreed by the Secretary of State.

9.6 Culture

This dimension of planning covers the potential conflict of cultures between public & private sectors and ethical issues that may arise. Cultural issues may have a relatively low rate of occurrence in the narratives as indicated in Exhibit 9.1 PART II but the importance of the two issues raised here cannot be overestimated. Culture is a critical part of the fabric of any organisation and has a crucial impact on the attitudes and behaviour of those working in the organisation. It clearly informs an organisation's participation in discussions and negotiations because it prescribes 'where the organisation and its people are coming from'.

All three cases demonstrate, to different extents, various differences in culture. There are clearly differences between the public and private sector cultures. At East Quayside, TWDC admitted their difficulty in understanding P&G and this sentiment was reciprocated. Both sides were always at a loss to understand another culture that seemed to permit conduct that was at least questionable if not dishonest. At Bath, the Avon councillor's statement that the planners ought

to be instructed to find a means of obstructing the project if there were really no grounds for rejection left Safeway wondering just what they were dealing with. At the same time, Safeway themselves were being cast as untrustworthy, 'typical supermarket operators' by councillors and objectors. Bath and Francis Avenue had similar issues in common in one particular respect namely the question of commercial enterprise. Neither Safeway nor Primetower ever came to terms with what they both perceived as a total lack of understanding of commerce by the planners and the councillors. Another aspect of this issue common to East Quayside and Bath was that P&G and Safeway were only involved in the process at all in order to protect their core business.

Cultural differences also occur between different organisations in the private sector as exemplified at Francis Avenue where there were clear differences between the cultures of P&G and Primetower causing many problems inside P&G.

Ethical issues are a difficult area but there are certainly times when the honesty and integrity of the other side is questioned, at least in private. This is particularly true when there is already a substantial degree of prejudice on one or both sides. This was clearly seen at East Quayside where both sides implied unethical behaviour by the other. TWDC and the Inspector in the Inquiry saw P&G's sale of the factory to Landau as having an unethical dimension. Equally, TWDC's undisclosed approach to Cincinnati and the leaked Balls' memo to Beecham were seen by P&G as virtually immoral behaviour. P&G also saw TWDC as a public sector agency, which might have a public service ethic but was actually in the hands of hard-nosed developers, with all that implied. P&G and TWDC's developer might both be private organisations but as far as P&G was concerned, there the comparison stopped.

Culture is a vital element in the fabric of any organisation. If, as I believe, it is true that culture informs the behaviour and attitudes of the people in the organisation, then it is also true that interaction between organisations must take culture into account. As we see in the case studies, the topic was never on the agenda. Nor indeed is it a topic given prominence in planning guidance from government.

9.7 Discussion

Chapter 2 provided an outline of a planning process that appears to be linear, the different steps occurring in a logical sequence (see Chapter 2 Figure 2.2). This can be seen as a vertical set of interactions where the application, consideration, approval or rejection follow a Command process as laid down by law, rejection leads to appeal and if successful an approval which leads

in turn to a form of Contract. However, as shown in the Bath case study, this can be a dynamic, iterative process, with repeated Command interventions by the Secretary of State, repeated Challenges and an iterative process of negotiation over the final approval i.e. Contract. Collaboration can be regarded as a horizontal interaction because this can apply at different parts of the process and in each of the different aspects of the process. On the other hand, Culture is an overall influence, all pervading even if it goes unrecognised. This is too simple a reading of the actual process as we can now see.

The perceived problems in the planning system were defined initially in Chapter 5 in the form of project issues giving rise in turn to the development of the 5 Cs. Examination of the empirical evidence in this chapter has demonstrated the various levels of impact of each of the 5 Cs on the three case studies. The evidence suggests that in all three cases, Command was the major governance influence running through almost all the project issues. At the same time, Collaboration was minimal and the impact of Culture unrecognised. Challenge was shown as a failure of Command, when governance decisions were unacceptable to the aggrieved private organisation and appealed. The right to Challenge was a positive benefit for Safeway and Primetower, although the costs and uncertainty highlighted under Contract were a real problem for all the parties involved. Contract issues were implicit throughout the process although again this was largely unrecognised. What has emerged from the empirical evidence is that the 5 Cs can be seen as representing different aspects of governance with different dynamics. Furthermore, they can be internally differentiated, which can mean variations in impact under different circumstances and this we will now examine.

The empirical evidence in the case studies confirmed a number of strands of Command already discussed in Chapter 2 that can be differentiated into policy, law, interpretation and implementation. Even so, these strands need to be differentiated further, policy for example at government and at local governance levels. Figure 9.1(below) shows in simple diagrammatic form this process from policy to implementation.

We have already seen how government policy is fundamental to the state of the law and the role the Secretary of State can play in initiating that policy. East Quayside illustrated this process where the Secretary of State decided to initiate a new regeneration policy that was given effect by legislation (the Local Government, Planning and Land Act 1980), the UDCs e.g. TWDC were formed, their mission was interpreted by the UDCs into specific local policies for regeneration of their Designated Areas and eventually implemented into concrete plans. Bath suffered from repeated intervention by the Secretary of State, albeit acting on advice, over retail, environmental and highway policy issues.

The law is the tool that gives effect to government policy so it is a critical element of Command. However, it can also be differentiated into the fundamental Act i.e. the Town & Country Planning Act 1990 and subsequent Orders, Regulations and Guidance which are interpreted, correctly or not by local governance into local policy and eventually implemented. This differentiation was also evident at Bath and Francis Avenue. In all three cases, it was these three, interpretation, local policy and implementation that were at the forefront of the various conflicts.

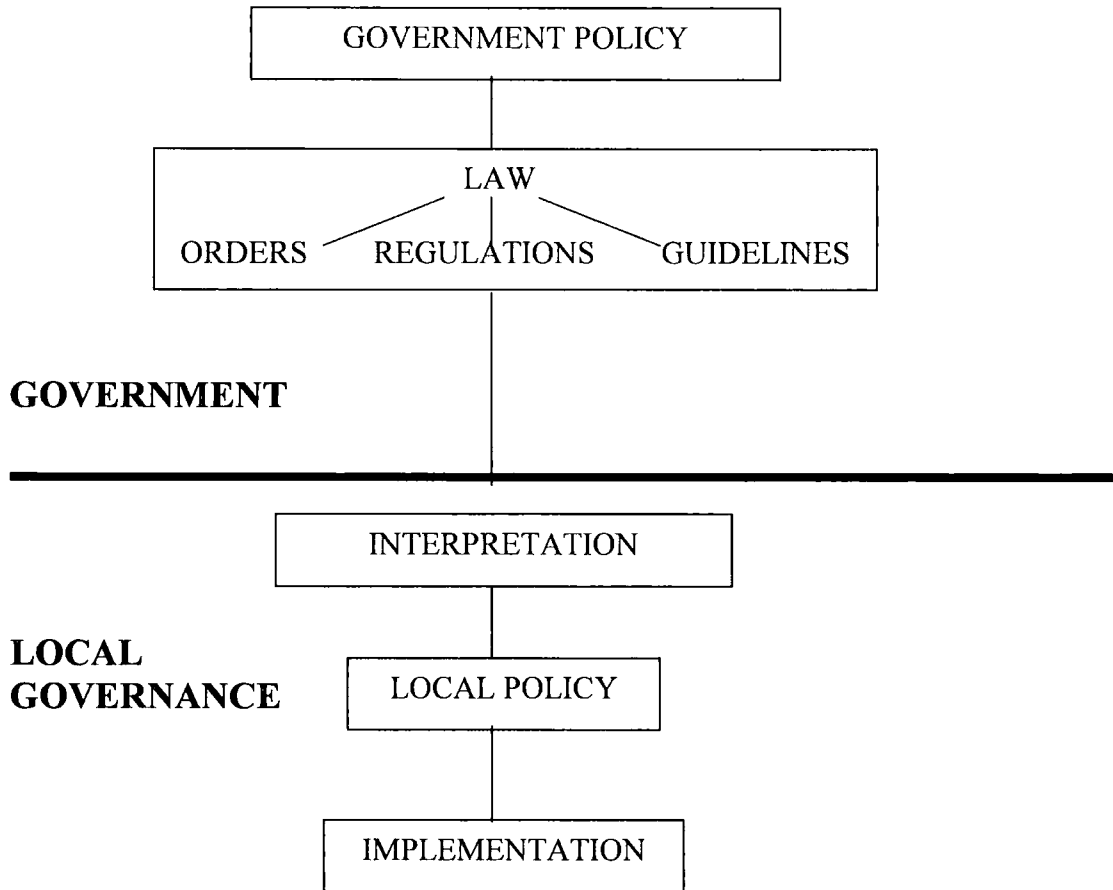


Figure 9.1 – Differentiation of Elements of Governance

Local Plans, environmental and highway issues are all subject to policy initiatives emanating from government but they are also subject to interpretation, local policy and implementation at the local level as demonstrated by the empirical evidence. In all three cases too, the roles, attitudes, influence and processes of local governance were problem areas where interpretation, local policy and implementation were important concerns.

All three cases showed Challenge as an essentially adversarial legal procedural mechanism that nevertheless must be triggered by a *bona fide* objector. Even here however, the model of Figure

9.1 is at least partially applicable. At East Quayside, the public inquiry was about TWDC's interpretation into local policy of the legal powers for Compulsory Purchase and its subsequent implementation of this policy. Both Bath and Francis Avenue described public inquiries about local policy and implementation that involved, to some degree, the local governance interpretation of government policy. This was mainly in the form of Planning Policy Guidance Notes where the Inspector considered some of these PPGs to be material considerations.

It has already been said that in the context of an individual project, it is difficult to see how the promoting private organisation would be able to change government policy or the law. Most organisations, even large ones, would not have the will, knowledge or resources to consider such an attempt. P&G's problems on East Quayside were caused by government policy and the legal powers given to TWDC but with all the potential resources it could muster, the company was absolutely unable to influence the fate of New Sandgate House. Note that P&G was not then a member of the CBI, Chamber of Commerce or like organisations and thus could not muster commercial or industrial support. In Bath, protestations were fruitless when the Secretary of State called in the retail planning applications for his own policy based decision. Industry support was not available to Safeway, indeed the first Inquiry considered competing proposals from Tesco as well as Safeway. It would seem therefore that in terms of Figure 9.1, while government policy and law might well be the fundamental problem, it is unrealistic to assume that these elements can be influenced in a single project by the private organisation. We might more profitably then turn our attention to the remaining three elements where there may be room for influence.

The empirical evidence does not provide evidence of government policy or legal influences on Collaboration but this leads to another question of differentiation, namely where it may be possible to Collaborate. In the context of the planning interface being discussed in this thesis, it is not possible to see Collaboration being achieved over government policy or law within a single project by the promoting private organisation. It is conceivable that Collaboration may be possible at local governance level as all the project issues here are concerned with interpretation, local policy and its implementation. Contract presents a similar type of differentiation in the sense of where a contractual relationship can exist. The empirical evidence in the three cases indicates that the project issues were mainly matters of interpretation, local policy and implementation by local governance. All were inflicted with uncertainty, resources issues and costs, suspicion and lack of trust.

With all this in mind, if we turn to the dimensions and dynamics of the 5 Cs, Figure 9.2 (below) is an attempt to demonstrate graphically what has just been described. Here we have

Government with Command controlling policy and the law. Local Governance is separated from government at the planning interface over interpretation, local policy and implementation. The private organisation stands outside this envelope of governance. The two dimensions of Collaboration and Contract connect local governance and the private organisation over interpretation, local policy and implementation with Challenge, if it happens, taking place at the same levels of local governance. However, there is also a Command dimension because the final approval of an application demands compliance by the applicant. This is clearly a one-way connection.

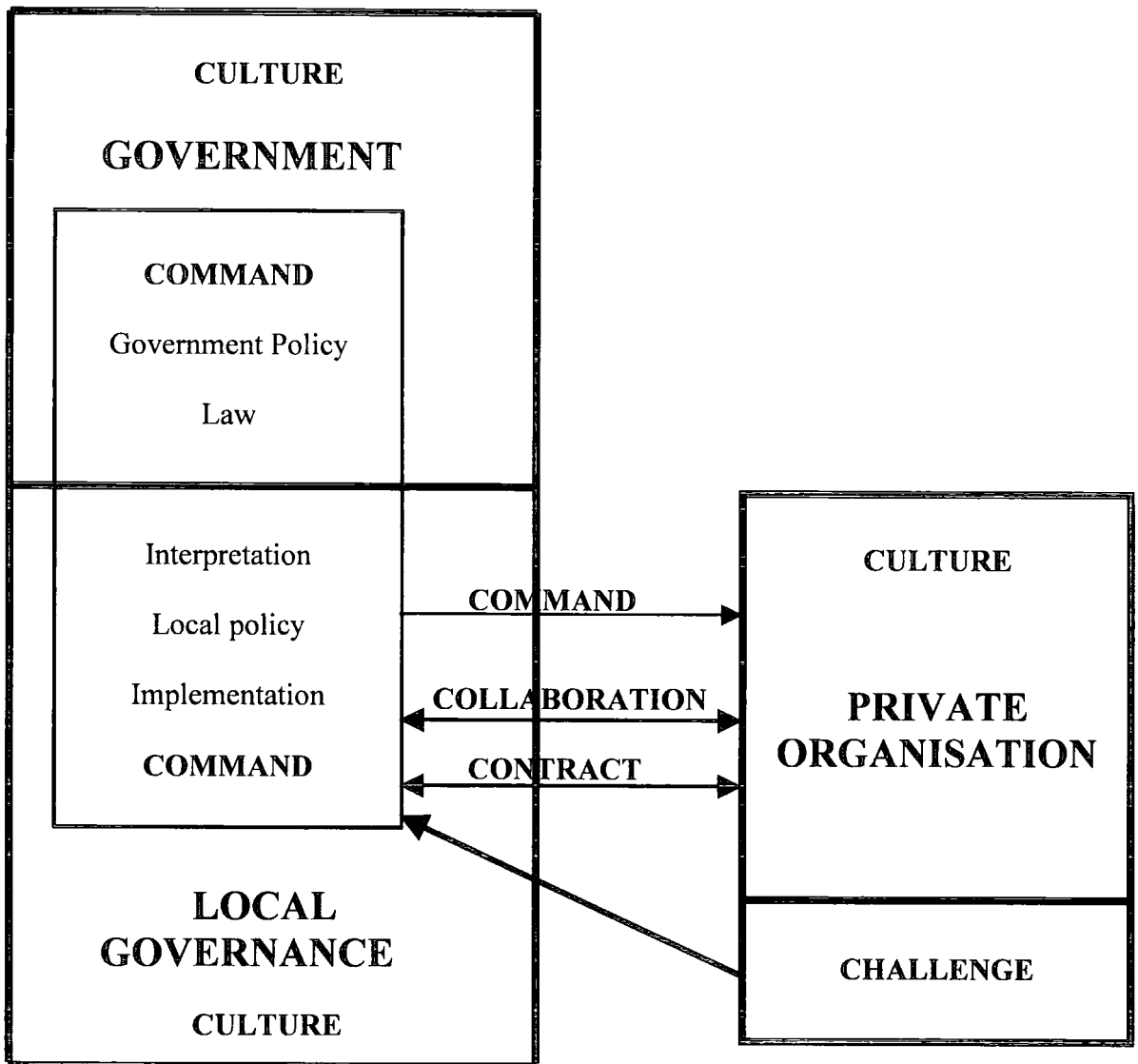


Figure 9.2 Dynamics of the 5 Cs in the Practice of Planning

Challenge is shown as a separate element of the private organisation because once the decision is made to challenge, that process is hostile, procedural, legalistic and virtually independent of the normal modes of operation of the opposing parties.

Culture as argued in this thesis may be all pervading but as the present government is finding out, it is not easily amenable to influence by government policy, much less the law. Even here, however, we have differentiation hence the separation of cultures in Figure 9.2. The East Quayside case showed how government policy is influenced by the culture of the governing political party i.e. Hesletine's approach to achieving his strategy for regeneration.

Civil service culture is constantly reported as an ongoing problem for government. Local governance culture has a long pedigree of public service ethos, as distinct from the market-based culture of a private organisation. There is even the local public culture to be considered where the Bath case showed the public participation of a highly organised group of local, professional people with a culture of involvement, although nothing was seen or heard of the public at large. In addition, there is the conservation culture of the City as a World Heritage City. Despite all these differences, it would seem possible, at least, to consider Culture in terms of interpretation, local policy and implementation because it is at local level where the different cultures are likely to collide.

Figure 9.3 (below) shows a variation of Figure 9.2, illustrating the arrangements involving a UDC i.e. TWDC on East Quayside. Here Government collaborated with the private sector e.g. a private developer, through the agency of the UDC, specifically created for the purpose. Local government was in effect replaced by this mechanism. This of course resulted in a contract for comprehensive regeneration using the government provided Command powers to achieve the desired ends. From the standpoint of the outside world, TWDC and developer became as one. P&G always negotiated with TWDC, not the developer. Figure 9.3 therefore shows the developer inside the same envelope as TWDC and on this project at least, sharing the same Culture. Here, Collaboration and Contract come into play albeit within the local governance, or TWDC orbit at the level of interpretation, local policy and implementation. Command also has a role, as before in relation to the private organisation, P&G, because of the impact of the implementation of compulsory purchase powers.

What Figures 9.2 & 9.3 both demonstrate is the strong Command linkage between government and local governance while the private organisation only has effective access at local governance level. The dimensions of Collaboration and Contract at this level have been shown by the empirical evidence to be very variable from weak to almost non-existent. Culture has its

unseen impacts but in reality has resembled the model in its separateness. What all this suggests is that in terms of the dimensions of the planning process so far described as the 5 Cs, the planning process is far from a vertical or linear process and is in reality a complex system.

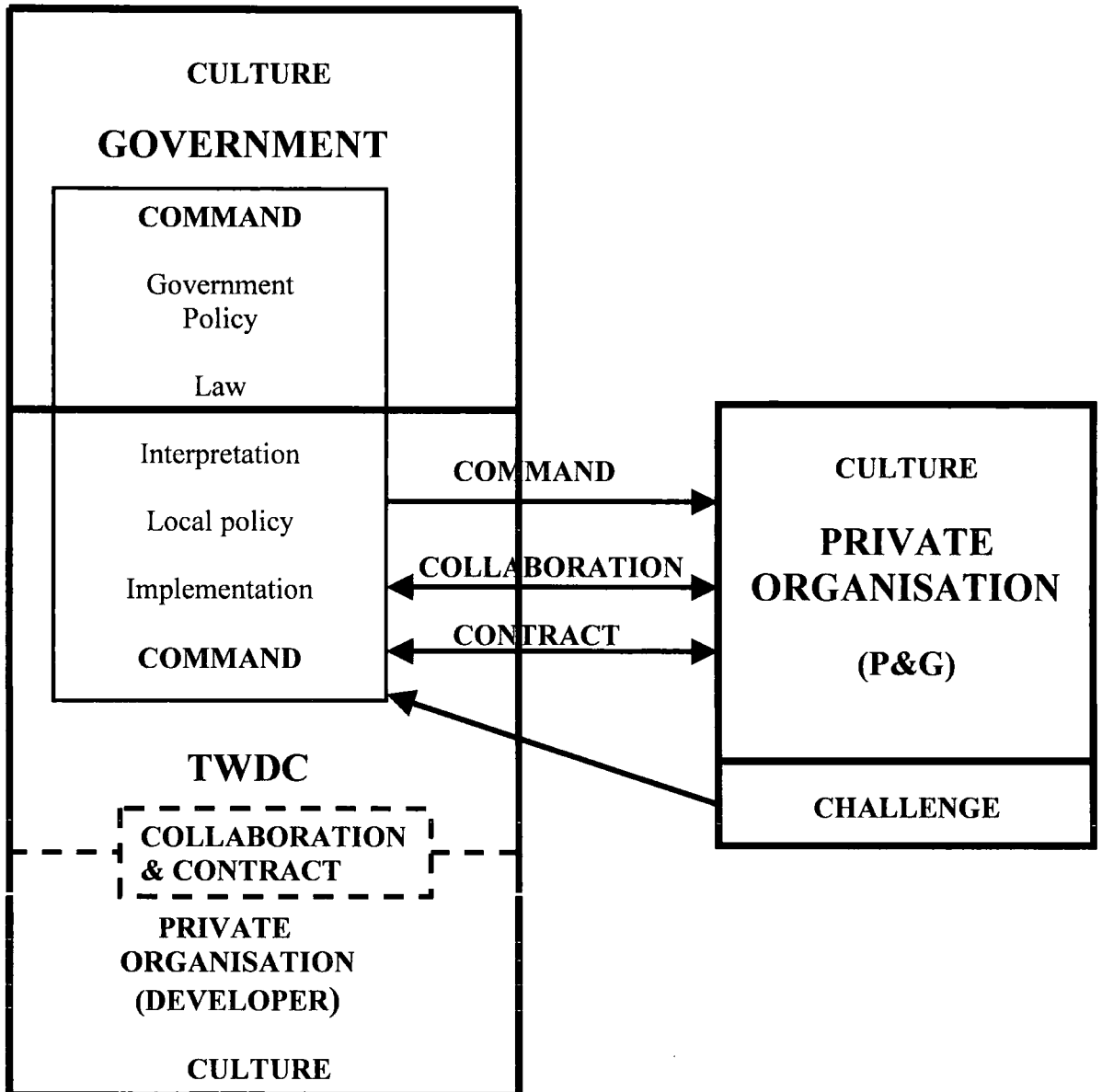


Figure 9.3 Dynamics of the 5 Cs on East Quayside

9.8 Conclusions

In the Introduction to this Chapter the question was posed – what have we learnt empirically about the planning system as an interface between government, local government, non-elected agencies and private organisations?

The first point to make is that the three very different types of case have provided ample evidence of a process that at times appears, at least to the private organisations involved, to be in disarray. It is difficult to believe that the process as described in Chapter 2 was designed in such a way that it would be operated in ways we have seen in the case studies. Nevertheless, the evidence has enabled some conclusions to be reached about the interface in this process.

The first conclusion we can draw is that planning is a complex Command based system and the impact of Command is felt throughout the system. . What needs to be emphasised here is that most private organisations are totally unaware of this impact of Command when they get involved in the process e.g. P&G at East Quayside. Even when the organisation might or perhaps should be aware because of previous experience, e.g. Safeway, it may completely underestimate the total impact of Command on the project as at Bath.

What we have also learnt however, is that Command can be differentiated into a number of elements i.e. government policy, law, interpretation, local policy and implementation as shown in Figure 9.2. The three cases have demonstrated that while government policy and law are fundamental to the system and may at times be the fundamental problem, e.g. at East Quayside, it is impossible in a single project for a private organisation to influence government policy or the law. We have seen that it is interpretation, local policy and implementation that have been the crux of the disputes because these three constitute the real interface areas between the conflicting parties. It may be possible to influence these three areas of Command, even in a single project if a more collaborative approach could be developed. This will be investigated in the next two chapters of the thesis.

The second conclusion is that the three cases also clearly demonstrate the crucial importance to the applicant of the right of Challenge even if, in the end, the Secretary of State, acting within his or her powers, may still be the final decision maker. The Bath and Francis Avenue cases are very good examples of this where exercise of this right bore fruit for Safeway and Primetower. There is still a Command influence here because the whole Challenge process is defined within a structure laid down by law. This structure does have benefits as the actual process can be clearly understood by all the participants even if the outcome is unpredictable. Also as we saw at Bath, when the Secretary of State calls in an application, the applicant is actually drawn into Challenge by this action.

The third conclusion is that the case studies did not provide evidence of even adequate levels of Collaboration across the project issues covered by that dimension of planning. Indeed, much of the conflict that arose was because of the poor quality of the relationships that developed, as the

various project issues became an increasing problem. Sadly, the studies demonstrate only the willingness of the opposing parties to fight on and that at length. Ideally, the level of Collaboration in the planning process would be such that each party trusted the other with the development of harmonious relationships throughout. As we have seen in our narratives, this is often far from the case. This can be because of prejudice such as hostile attitudes to multi national corporations as P&G found on East Quayside. There is prejudice against supermarket chains as demonstrated by councillors and local opposition in Bath. There are also personal suspicions that have a similar negative effect on the process as in all three cases. On the other side, there is frequently deep suspicion of the public sector by private sector people as was true in all the case studies. This is clearly a very important issue that rarely, if ever, receives the focus and attention it deserves.

Even in Collaboration we can still see the influence of Command. The public information process is a statutory requirement. Non-elected agencies are direct agencies of government and the key networks between civil service and sub central government are not accessible to the private organisation. All three cases demonstrated strategic inconsistencies, arising on the public sector side from government and/or local policies. As we have also seen, there is even an element of Command in the conflicts between Local Authorities and between departments. At the same time, Collaboration actually does have some influence on Command, at least the Local Policy element, in the preparation of Local Plans involving the public, site owners and developers (See Chapter 2, Figure 2.1). All three cases and indeed Alnwick displayed the need for significant improvement in this dimension of planning and this will be addressed in the next two chapters.

The fourth conclusion is that when there is major conflict, as in the case studies, the severity of the impact of the Contract issues on all the parties is clear, particularly the uncertainty, the commitment of resources and the costs. Whether Challenge has taken place or not and whether the parties recognise it or not, they enter into a form of contractual status by the granting of a planning approval and the acceptance of it. Oddly, this is never formally discussed as contractual issue. Even in this aspect of planning however, there is a Command influence in some of the issues. Planning gain and legal agreements are usually impositions as we saw at Bath with the traffic signalling costs and the Section 106 Agreement on highway access to Lower East Hayes and Kensington Place. If the applicant declines to agree to these impositions, there is no planning approval.

The uncertainty of the process and even some employment issues are all areas outside the control of the private organisation and yet the outcomes of these issues are essential components

of the finally agreed 'Contract.' Other influences can come to bear on this category however. Employment can involve Challenge as it did at Francis Avenue and indeed Collaboration or lack of it, again as at Francis Avenue. There may be room for more formal contractual arrangements throughout the planning process to minimise delays, uncertainty and costs. This subject will be developed further in the final chapters of this thesis.

Fifthly, we have seen that Culture is an aspect of practice that is never formally discussed and yet it informs the ethics, behaviour and attitudes of all organisations and the people in them. This as we have seen is an all-pervading influence and is truly an overall interaction. None of the other Cs or the project issues is immune from the impact of Culture. It affects the ideas, methodology and decision making process of Command, similarly Challenge, the potential for Collaboration and even the issues in Contract. As an influence in the process, the importance of Culture cannot be overestimated yet it is never discussed.

Finally, we have also seen the complexity of the interactions of the 5 Cs as dimensions of planning practice as shown in Figures 9.2 & 9.3. Command has been shown to have a major influence in the system and Culture is all pervading. However, the empirical evidence has demonstrated only too well, the fact that all these aspects may be at work in the system without being formally recognised as such.

Having considered the empirical findings from the evidence of the case studies in this chapter, the next chapter will investigate the theoretical implications from that evidence.

CHAPTER 9 - NOTES

1 In his autobiography (Hesletine 2000, pp. 211 –214), he describes how this original idea was resurrected by seeing the plight of thousands of acres of derelict land formerly the dockland areas east of London as well as those of Liverpool. He describes how the plan ran into the opposition of the civil servants but eventually was agreed when UDCs for London Docklands and Merseyside were to be proposed. He goes on to describe the opposition of Howe (Chancellor) and Keith Joseph and how this was overcome when he gained Mrs. Thatcher's support by telling her –

If we don't act as I propose, nothing will happen. The land is in public ownership, much of it is polluted and the whole place is in thrall to extreme left-wing councils that Reg Prentice tells me are almost certainly controlled by communists.

He goes on –

I had lit the blue touch paper. The rocket went up. I had won."

In discussing the Merseyside UDC, he remarks on the vociferous local opposition. Plans had been developed locally for regeneration and Hesletine remarks -

Who could fail to understand their frustration when the focus of their plans was whisked away, so to speak, from under their very noses. My decision was right in that it brought both money and executive coherence to the project, but that was not the way it seemed to the Council.

2 Likewise for P&G on a site at Brooklands in Surrey, purchased for long-term office and R&D development. The original owners, Vickers had built aircraft on the site in the War and had severely

polluted the site. P&G insisted on a clause in the purchase contract forcing the vendors to continue with remedial measures after the sale. This was because pollution of a very good nearby river, the River Wey, could have become a major liability for P&G with no possibility of recovering costs from the original polluter who had long gone. This is clearly a crucial issue with the development of 'brownfield' sites.

3 A CPO was frequently used to get rid of the offending business e.g. at East Quayside, Cardiff Bay, Sheffield. An offending business was deemed to be one that did not 'fit' the comprehensive regeneration concept because perhaps it was dirty, involving engineering or small manufacturing.

ANALYSIS SUMMARY

EXHIBIT 9.1

This Exhibit summarises the data contained in the Analytical Logs (Exhibits 6.1, 7.1 & 8.1).

PART I	PROJECT ISSUES	East Quayside	Bath	Francis Avenue
		No.	No.	No.
COMMAND	Planning Law	3	9	7
	Compulsory purchase	15		
	Compensation	1		
	Government policies	9	5	4
	Local Plans		4	21
	Public Interest	1	2	
	Regional Government Offices		5	
	Secretary of State role	5	14	1
	Environmental issues	1	25	4
	Aesthetic issues	7	4	1
	Highway & Traffic issues	20	35	4
	Local politicians - role, attitudes, influence	8	22	8
	Officers - roles, attitudes, influence	13	24	16
	Public sector procedures & processes	22	34	17
TOTALS	105	183	83	
CHALLENGE	Appeals, rights, process	3	4	5
	Objections & objectors	1	9	
	Public Inquiries	9	15	7
	Judicial review & Courts	2		
	TOTALS	15	28	12
COLLABORATION	Public information process	3	1	
	Public participation - stakeholders	4	3	3
	Non elected agencies	14		
	Networks	5	3	
	Strategic inconsistencies	16	1	9
	Officer / private organisation interaction	16	11	8
	Private organization involvement	15	3	5
	Members/Applicant - Lack of contact			
	Conflicts between LA Depts & Intra LA			11
TOTALS	73	22	36	
CONTRACT	Uncertainty of process	10	13	5
	Private organisation performance	13	6	13
	Resource costs on all sides	4	2	3
	Employment issues			13
	Planning Gain		2	
	Legal agreements - Section 106 agreements	1	10	
	TOTALS	28	33	34
CULTURE	Differences in culture	9	5	3
	Ethical issues	10	3	2
	TOTALS	19	9	5

PART II				
COMMAND		105	183	83
CHALLENGE		15	28	12
COLLABORATION		73	22	36
CONTRACT		28	33	34
CULTURE		19	9	5
TOTALS		240	275	170

CHAPTER 10 - IMPLICATIONS FOR PLANNING THEORY

10.1 Introduction

As we saw in Chapters 3 and 4, there appears to be a wide range of planning theories available almost as if from a shop. The instrumental rationality or procedural approach was for long in the post war period acknowledged as the dominant paradigm but has more recently been subject to much criticism as we saw in Chapter 4. More recently, in the context of the Institutional Approach, claims have been made for a new dominant paradigm, the 'communicative turn' or in Healey's terminology, Collaborative planning. As we have also seen, this approach is itself suffering criticism, not least the claims that it actually is a paradigm. In the 1980's, New Right, market based approaches were introduced by the Conservative government, constituting a break with the post war thinking.

The key question and our starting point is just which theories can the empirical evidence support? Do any of them describe what happened? Are they normative or prescriptive theories? Do they have explanatory power and/ or do they have predictive power? It is in this context that the claims of the Institutional approach will be explored, at least in its modified form as explained in Chapters 4 & 5. Here as we saw, a number of elements of Healey's approach were summarised into a Modified Institutional-Collaborative Framework (See Exhibit 4.1). However, following on from the empirical evidence and its analysis in Chapter 9, this Exhibit has been slightly amended to reflect the 5 Cs. Governance has been changed to Command and Resource costs and Uncertainty are changed to Contract. This revised Framework (Exhibit 10.1) will be the template for our exploration. We saw in Chapter 4 that a problem with Healey's approach is the lack of focus on outcomes and this thesis is of course very concerned with project outcomes and how they are achieved. Finally, the 5Cs will be examined to see whether the empirical evidence offers any support for theoretical powers beyond their usefulness as analytical tools.

10.2 The evidence and the theoretical approach

It must be noted that much of the work in planning theory is focused on policy analysis and critique of the existing system. Whether the planners and elected members actually do what is suggested by theory in the ordinary day-to-day activities of planning is at least debatable.

Typologies of Theory

It is useful to define here some of the typologies of theory e.g. what is meant by a normative theory, by a prescriptive theory, by explanatory powers and by predictive powers? Normative theory focuses on how things ought to be, a set of conditions or a state that is desirable and then argues why this should be the case. This type of theory deals with the question - 'what ought to

be'. However, Taylor addresses another aspect of this type of theory where he argues that a normative set of values underpinned the British planning system in the post war period (Taylor 1998 p. 20). This must be the case because the politicians at all levels as well as the planners were concerned to create an ideal physical environment. Prescriptive theory is concerned with the best way of achieving a desired state or set of conditions. It deals with the question of how?

In discussing explanatory power, it is important here to be clear about what is meant by explanation and to avoid confusion between explanation and understanding. Webb argues that the function of explanation is to reduce the unfamiliar to the familiar and that explanations are always from a point of view (Webb 1995 pp.128 -137). He quotes Ester (1982) saying that: -

The proper paradigm for the social sciences is a mixed causal-intentional explanation – intentional understanding of individual actions and causal explanation of their interaction.

Webb goes on to argue that people act for reasons not from causes. Cause and effect implies determination and lack of choice while reason and action implies autonomy and choice. Stake (1995 pp. 37-39) focuses on the difference between explanation and understanding when he quotes Von Wright (1971) saying that: -

Understanding is also connected with intentionality in a way that explanation is not.

Stake goes on to note the difference between cases focusing on cause and effect relationships and those seeking understanding of human relationships. In fact he points out the great difficulties in determining causes for many of the happenings shown up in case studies generally. Webb makes the point that the same antecedent conditions may give rise to different effects and different antecedent conditions may give rise to the same effects (Webb 1995 p. 133).

In discussing predictive power in the Social Sciences, Webb makes the point that whether prediction is possible depends upon the scale on which the prediction is made (Webb 1995 p.147). He uses the analogy of the path of a river to the sea, its direction is predictable but the exact path is not.

Typologies of planning theories

Before going on to examine what claims can be made for the theoretical approach adopted in this thesis, we need to look at what typologies of planning systems were actually encountered by the private organisations in the three cases.

In Chapters 3 and 4, planning theory was discussed from point of questioning whether there is such a thing through to the arguments for an emerging paradigm of communicative theory

replacing instrumental rationalism. In Chapter 3, Rydin's discussion of an evolutionary approach to theories of planning was summarised (see Exhibit 3.1). In that chapter, we also saw that many writers had argued that instrumental rationalism was the fundamental post-war approach that had been the dominant theoretical paradigm. Taylor (1998 pp. 152-153) quotes Faludi (1973 Chapter 1) as distinguishing between two types of planning theory: -

- 1) Substantive theory – about objects e.g. towns, and this includes theory which aims to improve our understanding of the problems planning faces.
- 2) Procedural planning theory – about the process of planning itself.

In the cases investigated here, there would appear to be two main theoretical approaches at work, namely procedural and the New Right, although there are normative elements too. Bath and Francis Avenue cases can both be seen as following the planning process and the challenge process outlined in Chapter 2. This is primarily a 'procedural approach' (Faludi 1973), (Rydin 1993) or 'regulative' planning (Brindley, Rydin & Stoker 1989). Faludi sees this process as procedural planning. Rydin sees this process as rational decision making by professional planners with no concern for the market. The regulative approach acknowledges the institutional arrangements as the local authorities, the decision making as technical/political and the principal beneficiaries as the property owners. Both cases can be seen to fit this process description.

In both cases, the approach by both the local authorities and the applicants was the rational, iterative decision-making process familiar to all the participants. If we refer to my summary of Rydin's summaries of theoretical planning approaches (Exhibit 3.1), we see that in the terms of procedural planning theory, there is a fit with both Bath and Francis Avenue cases. The planners were behaving as rational decision makers and the process was about decision-making on issues that are common features of applications. Changes of use of the site, highway and traffic matters, environmental concerns were all common features of applications dealt with by local authorities. Neither Safeway, nor Primetower were attempting to undermine policy initiatives at either central or local government levels.

The political process set the goals with no focus on outcomes. At Bath, the issues of the need for a supermarket and the suitability of the Kensington site to house it were established early in the process. The eventual focus on the air pollution issue by Bath City councillors was not even based on any existing policy, but on part of a speech by the then Secretary of State, John Gummer. At Francis Avenue, Bournemouth Council's policy on employment land was led by the councillors and was proved eventually to fly in the face of their own officers' views and Dorset County Council's overall regional employment strategy. What we had in both cases was

a normal type of application that fell foul of each Council's interpretation of its own and government policy.

There was no relationship to economics in either case. Bournemouth councillors did not understand, or did not want to understand, the economics of choosing a manufacturing site. They never came to terms with the fact that Francis Avenue site was hopeless from any modern manufacturing perspective.

In the end, the implementation of their policies by each of the Councils led, by the normal procedural processes, to a challenge by the applicant, in each case successful, though at a significant cost.

There are two more theoretical points to make. One is that we can also see at least an element of a normative approach at Francis Avenue where the Council had a clear idea of 'what ought to be'. This is in line with Faludi's substantive planning theory where the focus is on outcomes. Bournemouth Council was focussing on continued manufacturing on the Francis Avenue site and was determined to go to considerable lengths to get it. The fact that their strategy was wrong does not detract from this normative element in their approach. There was a similar situation at East Quayside where TWDC was focussed on comprehensive regeneration and had a very clear idea just what that meant. In both cases we have a clear understanding of the planning problem.

Secondly, there is a contrast between Bath and Francis Avenue cases in terms of Rhodes' Sub-central government theories. At Bath the evidence shows there was clearly an established active networking process between the two councils at member and officer levels. Mrs. Maxwell intimated at interview that both councils, at least at officer level were also networked with the Government Office for the South West. This latter was an important element in the case given the interventions by the Secretary of State that were based on advice tendered, at least initially by the Government Office for the South West. At Francis Avenue, there was no such networking; in fact the evidence shows Bournemouth Council completely at odds with its neighbours, Dorset and Poole.

There was a much different theoretical situation at East Quayside where there was initially a New Right, market orientated government policy approach resulting in the formation of the UDCs and collaboration with the private sector in the form of property developers. This resulted in a shift in the normal planning process from the local authority, no local accountability, a property based regeneration and the use of widely drawn powers including compulsory

purchase. Here, of course, P&G cut right across the TWDC interpretation and implementation of government policy. Here we had a prescriptive theoretical approach where government had a clear idea about how things must be done differently and implemented that approach through UDCs. Even here however, the process moved on to a procedural basis in the sense that P&G and others were able to challenge policy implementation of compulsory purchase, albeit unsuccessfully. There was also an aspect of Sub-central government here because it was obvious from the evidence of the networking between TWDC and the City Council and at the same time there was evidence of close interaction between TWDC and the Government Office of the North East. Incidentally, despite a number of attempts, P&G were never able to have any dialogue with the latter body.

The foregoing comments argue that what we have actually seen in operation in the empirical evidence is a process based overall on a procedural theoretical approach with some overtones of normative theory at Bath and Francis Avenue. There are also elements of Sub Central government approaches in all the cases. The procedural approach is certainly prescriptive as it is clearly about how things are actually done. There is also explanatory power in enabling us to see at least some cause and effect in the cases. If as noted above, we take Ester's point about understanding having to do with intentionality, we have some problems. The clarity of TWDC's intention to achieve the overall regeneration of East Quayside was never in doubt. However, their intentions regarding the acquisition of P&G's disused factory and later New Sandgate House were in considerable doubt. The predictive power of the procedural approach also seems to have shortcomings. No one could have predicted the path eventually taken at Bath, i.e. Webb's analogy of the river's path to the sea.

10.3 A Modified Institutional-Collaborative approach and the Empirical Evidence.

A brief summary of the Institutional Approach may be useful here. Rydin (1993 pp. 276 - 281) argues that Institutionalists have a normative analysis of the state, which promotes a role for public policy in redressing economic and social inequalities, in contrast with the market based New Right approach of the Thatcher government. Public policy analysis is a prime focus of the approach (Healey 1997, Vigar et al 2000).

Healey views Institutionalism as a normative approach, particularly as an approach to a collaborative model (Healey 1997 p. 204), (Healey 1999 p. 1131). The approach emphasises the complex interactions between the activities of formal government bodies, economic activity and social life, inter-linked through social networks and cultural assumptions and practices that cut across formal organizations. It has a thrust of policy development and strategy making which is inclusive, collaborative and communicative as compared with pluralist, corporatist and New

Right approaches. Strategies must be seen to be effective and legitimate in terms of being clearly understood. It seeks to involve and hear all stakeholders. It questions governance duties, competences and the division of tasks. Subsidiarity is a key question as opposed to the increasing centralising tendencies of the governments of recent times. The role of the planner is questioned and changes to the power base by the notion of making a difference by moving from 'power over' to the 'power to'. Cultural issues are also a significant feature of this approach. Finally, it stresses that those in governance must be able to justify their actions and be subject to challenge. Critically, resources to effect challenges must be made available.

As we have seen in Chapters 4 & 5, Habermasian communicative ethics are an important feature of this approach and indeed this has led to the development of the communicative turn and Healey's collaborative approach. It is this area of the approach that is of concern in the narrower focus of this

What does the evidence tell us about the Institutional-Collaborative approach?

This section will refer to Exhibit 10.1 as the framework for discussion.

There is no evidence in any of the case studies showing any attempt by planners or politicians to adopt policies leading to implementation of an Institutional, collaborative or communicative approach. We saw in Chapter 9 that the private organisations had no realistic hopes of influencing government policy or the law, within a single project. This was also true in the critical areas of interpretation by local governance of government policy into local policy and then implementation. This would suggest that the Command dimension of the Framework is normative because it is about what ought to be and the issues addressed in this dimension of planning will be considered and changes made only if governance institutions are willing to recognise them as problems to be resolved. Having said this, it is possible to believe that confronted with these issues, those in government would argue that these are not problems. For example, in all three cases, they would have argued the effectiveness and legitimacy of their strategies but this positive view was not shared by the private organisations involved. We have seen in Chapter 2 for instance, how there was much criticism of the strategies adopted by the UDCs where their effectiveness and legitimacy were called into question. It is also probable that they would be likely to have a similarly optimistic view of their performance of their duties and competences. However, the three cases all demonstrate aspects of these issues where there were shortcomings. In none of the cases could participative governance be seen as an obvious priority, nor could the performance of those in governance be said to lead to an economic, efficient and effective process. Likewise, competences were an issue. Subsidiarity was an issue in all three cases. The regeneration of East Quayside was not seen to be a locally driven process.

At Bath, the interventions of the Secretary of State disrupted the process at the local level on a number of occasions. Even at Francis Avenue a Bournemouth councillor asked the question 'who is running the town'. Interaction between government and the wider community was an issue in all three cases. The use of expertise was also an important issue in all three cases. Highways on East Quayside became a highly controversial technical issue between TWDC, the City Engineer and P&G's experts. At Bath, the highways and traffic issues can only be described as a shambles with the Bath Council even dismissing its consultants because they were not agreeing with the Council's desired outcome. At Francis Avenue, the Housing Director alone among the members and officers understood there to be a social housing need. All this would suggest that, whilst there is clearly room for considerable improvement in performance and execution around these issues, this is a normative dimension of the theory we are considering.

If we move to Challenge, clearly the rights to challenge and dispute resolution are legally embedded in the planning process and were well demonstrated in the cases. If, as we have seen in Chapter 4, Healey argues for Institutionalism enabling a change from 'power over' to 'power to', then what we can say from the empirical evidence is that the only evidence here of the 'power to' was the power to Challenge. Thus, while Institutionalism may emphasise the importance of the right to challenge, this is not specific to Institutionalism. The issue of the availability of information is crucially important and this is born out by the evidence. High quality information was not available to all parties not least to the Inspectors at the Inquiries. TWDC's first Statement of Reasons did not even mention P&G or New Sandgate House although this was corrected later. P&G certainly did not share all the information in the company's possession. Had we chosen to share all the information about the transaction with Landau over the sale of the factory, it would have been difficult for the Inspector to imply a P&G-Landau conspiracy to obstruct TWDC's land assembly strategy and the subsequent development. At Bath, Mrs. Maxwell's attempt to establish the common ground of 'facts' was rejected by the Inspector who allowed the whole case to be re-opened. At Francis Avenue, much of the evidence on which the Inspector made his decision was only available to him because Primetower funded crucial studies on social housing and employment land. The Council had no such data available. Those in governance could well see the criteria for challenges as being unexceptionable. However, to take one example, the language and formality of an Inquiry are hardly conducive to general understanding. Furthermore, at East Quayside, P&G did not believe that the Inspector's decisions were made from sound premises. For example, his statements about P&G's accommodation strategy in Newcastle were not well received by the company. Whether the company chose to house its staff in one facility in Newcastle or ten was none of his business. At Bath, the whole community was not involved in

the case so these criteria for challenges did not apply. These last two issues, information availability and criteria for challenges are normative but also have the possibility of being prescriptive. This will be discussed in a later section in this chapter.

The three cases provide no evidence of a collaborative process embracing the issues covered by the dimension of Collaboration in the Framework. In none of the cases were all the stakeholders involved, certainly in terms of public involvement. The process was essentially corporatist involving only governance and private organisation. The negotiations in all three cases followed normal routines, rituals, use of language, choice of arenas and inclusiveness was not an issue. Neither was the issue of rights and knowledgeable participation as the only participants were the warring parties. There was clearly no consideration of Habermasian communicative ethics in any of the cases. This dimension of planning as outlined in the framework is a normative approach. Again though, it is possible to see a potential for a prescriptive approach and at least in part, an explanatory power. These points will be dealt with shortly in this chapter.

In terms of Contract, the only issue that is not normative is the point about the applicant delivering the agreed project. This point is legally enforceable under planning law and there is little further to be said on the matter. The other three issues were all very well illustrated by the cases. There was no evidence of any attempt in any of the cases to employ decision-making processes that would avoid undue delay and uncertainty, quite the reverse. Unacceptable delays and uncertainty were dominant features of all the cases. Again, undue costs and diversion of resources were crucial features of all three cases and not foreseen by the participants. The issue of environmental impact was an issue in all three cases to some extent. At Bath it was the key issue whilst at East Quayside it was a subsidiary issue to the real issue of land acquisition. At Francis Avenue, the Council were prepared to ignore the aesthetic, environmental and traffic issues in their determination to secure further employment on the site. Here again, there is the potential for a prescriptive approach and again this will be discussed later in the chapter.

Finally, there is the Culture dimension of planning. This is clearly normative in the context of the empirical evidence as there was never any attempt, in any of the cases, to deal with cultural differences. This is despite the fact that these cultural differences were playing a part in the interfaces. TWDC and their developer, on their own admission, never coming to terms with the culture of P&G. The 'hard-nosed' supermarket firm, Safeway, arrived in the World Heritage city of Bath, with all that signified for the local residents and city fathers. The 'tricky', profit orientated developer, Primetower, was at odds with what he perceived as a local authority living in a past world. This is a normative dimension of this approach but also has a potential for a prescriptive approach.

Does the Institutional-Collaborative approach offer explanatory power?

If we consider these findings in the context of Webb's definition of reducing the unfamiliar to the familiar, it is difficult to see the Approach offering us much assistance in explanatory terms. There is one area, however, where some explanatory benefit might be obtained, namely the communicative ethics issue. In all three cases, the evidence shows poor interfaces and badly strained relationships. I would suggest that a key reason these situations developed was that the discussions and the reasoning were faulty by Habermasian standards. The evidence in all the cases demonstrates much one – sided argument, talking past the other side. At East Quayside, P&G could not understand how TWDC dismissed New Sandgate House as a poor quality building that could not be as important to P&G as the company were contending. Equally, P&G could not understand how TWDC thought P&G was 'walking away from its responsibilities' in Balls' words, because the company did not wish to spend significant sums of shareholders' money to further the objectives of TWDC. At Francis Avenue, Bournemouth Council did not hear Primetower's arguments about the availability of good employment land in the area and in that context, how unattractive the Francis Avenue site was. The Bath case showed how Bath and Avon Councils did not believe Safeway's absolutely bloody-minded determination that eventually, they would build a supermarket on the Kensington site.

All three cases were classic examples of 'instrumental reasoning' where technical people of various disciplines argued along rational lines towards what they believed would be a successful outcome for their case. In all the cases, 'moral reasoning' between the participants around values and ethics was not part of the process. Nevertheless there was a good deal of possession of moral high ground. At East Quayside, there was P&G's view of Balls' undisclosed approach directly to P&G's Cincinnati headquarters, the collusion between Balls and Beecham over the highway issue and the leaked planning documents. TWDC and the developer on the other hand regarded P&G's sale of the factory to Landau as almost immoral and likely to destroy their project. At Bath, Safeway and Dolsett were scandalised by the Avon councillor who suggested that the officers go away and find ways to frustrate the scheme even though she acknowledged they did not have a strong case. This did not appear to be a rational, moral, objective process.

There were emotional elements of reasoning in all three cases. At times on East Quayside, Balls was quite emotional in his attacks on P&G particularly over the sale of the factory to Landau. He and his organisation saw this as a major impediment to their scheme. The developer certainly did get emotional when he said to P&G that his scheme was just as important as P&G's presence on the Quayside. At Bath, there were moments when emotion played its part e.g. Dunlop's arguments had much emotional content and this came across very clearly in the interview. He rubbished the Shopping Survey, denounced the planners, and rubbished the

'experts' i.e. the consultants. He admitted that anything would go to stop the scheme. There was plenty of emotion but not much sign of moral reasoning here. At Francis Avenue the attitude of councillors to the loss of Max Factor and around 700 jobs, their determination to 'hold the line', their reaction to the lack of support from Dorset CC and its plans for more housing in Bournemouth all had a strong emotional content. On the other hand, there was strong emotion on the other side from Primetower and P&G over the presentation to the Council.

An important factor in this consideration of different types of reasoning is that in all the cases, these different types of reasoning were mixed up in the process. This is of course directly contradictory to Habermas's perspectives on ideal communications. The problem was that nobody recognised this as an issue.

Does the Institutional-Collaborative approach offer predictive power?

We have seen already how a development of the Institutional Approach is Healey's collaborative approach or the communicative turn. If we accept the arguments of Allmendinger and Tewdyr-Jones (2002) outlined in Chapter 4 of this thesis, one of the weaknesses of the communicative turn is the absence of focus on outcomes. Taylor (1998 p.123) suggests that the planning theorists who developed this approach were just not interested in implementation or 'how to get things done'. He goes on to argue that their real focus was on action and achievement through the ideals of democratic participation in the process. As has been said in this thesis more than once already, a private organisation is primarily interested in a timely approval of its project and any approach that is not focused on that success is hardly likely to enjoy much support. All this would suggest that if we mean by 'predictive power' the ability to forecast outcomes, the Institutional Approach has little predictive power but there is an area where even in a negative sense, it might be helpful. This is in relation to Habermasian communicative ethics.

We have seen in Chapter 4 that Habermas talks of three different modes of reasoning and the issue of marginalisation in a one-sided discussion. However, Habermas also helpfully speaks of four critical conditions for an effective communication between two or more people (Taylor 1998 p. 123). First that what is being communicated is comprehensible to all participants. Secondly, that something must be communicated which is factually true. Thirdly, that the communicator must be sincere. Finally, an understanding is being sought so the communication must be legitimate within certain moral norms and conventions shared by all parties to the communication. By these criteria, much of the discussion in all three cases studies was 'ineffective' thus likely to lead to misunderstanding and erosion of trust as indeed did happen. East Quayside showed failure on all four counts. If comprehensibility was an issue, it took a

long time for P&G to really understand the full implications of 'comprehensive regeneration'. Factual truth was at times at a premium, particularly over the importance of highway matters. Sincerity likewise was not an obvious value in the process as was the cases with moral norms and conventions. Bath and Francis Avenue showed similar failures in the process to meet these conditions, more particularly in these two cases, the issues of factual truth and sincerity. From all this, it could be deduced that failure to comply with these conditions for effective communication, seen as part of the Institutional-Collaborative Approach, would at least seem likely to allow a prediction of likely failure of the process to achieve desired outcomes.

In the light of the cases we have examined in this thesis, it is difficult to see any useful predictive power emanating from the Institutional Approach in terms of the issues raised in the modified Institutional-Collaborative Framework (Exhibit 10.1). However, as we have just seen, there may be some predictive use available in terms of the communicative element as argued by Habermas.

A prescriptive approach – or Modified Collaborative action

We now come to the question of whether this approach offers any assistance from a prescriptive standpoint. From points made earlier in this Section 10.3, I believe the answer is yes, at least in part.

The Command issues we have already discussed as being outside the possibility of prescription in the context of a single project. Challenge, on the other hand, offers a prescriptive approach through the issues of information availability and quality together with the issues of criteria for challenges. It is conceivable that agreement could be reached between public and private organisations on the availability, quality and cost of information. We saw belated if frustrated attempts to share improved quality information at both Bath and Francis Avenue. Appropriately shared 'factual' information on traffic and air quality at Bath may have saved much time, cost and aggravation. An ethical issue arises here about openness in terms of the quality of information. If information is withheld as it was on East Quayside, its utility is at least suspect.

The issue of the criteria for Challenge is again susceptible to prescription because again it is conceivable that these issues can all be agreed upon at the outset of a Challenge. All the issues raised here are important, not only to the participants but to the community at large. It is therefore incumbent on those in governance to ensure that the criteria against which decisions are made are clearly stated at the outset followed by clearly stated reasons and justification against these criteria and an the impact statement related to the community at large. The only case in the empirical evidence that got close to achieving this state of affairs was at Francis

Avenue where the Inspector clearly stated at the outset of the Inquiry, exactly what he would consider, against what criteria and the impact on the whole community. None of the parties disagreed with this position. At Bath, the situation was entirely reversed with the Inspector at the Final Inquiry opening up the whole case, even on issues already decided by the Secretary of State, when all the participants thought the focus was a single issue of air pollution. At East Quayside, the Inspector used criteria, some of which were contentious in that they allowed such a degree of subjective judgement. The history of the land and the need for regeneration were non-contentious. Consideration of alternative proposals, the comprehensiveness of the proposals, their quality & programming and finally the balance of advantage were all seen as contentious by the private organisations involved. Bath and East Quayside would have benefited from up front clarity on the criteria for challenge as laid out in the Framework.

In terms of Collaboration, this dimension of planning can offer a prescriptive approach because all the issues are susceptible to initial agreement that they be actively considered with the intention of incorporating them into the process. None of the issues of stakeholder identification and involvement, and inclusionary process, arenas of discussion, who is included, the routines of discussion and the right to be heard should all be non-contentious and therefore be clearly identified and implemented elements of the process. The empirical evidence would offer most support from the Bath case in terms of these issues because the major stakeholders in Bath, the potential customers of a Safeway store, were just not involved. Had they been included, the story might well have been very different. The communicative elements are in my view particularly important because a focus in this area of collaboration has real potential benefit. All three cases would have benefited from the avoidance of one-sided discussions and the consequent misunderstandings. Likewise, a recognition of and separation of instrumental, moral and emotive reasoning could have played a similarly important part in achieving clarity and avoidance of misunderstanding.

All the other issues of Contract are susceptible to a prescriptive approach. If a contractual relationship can be established at the outset of a project, a framework and schedule for efficient and effective deliverance of the project is also possible.¹ In all three cases, such a contractual relationship may well have been instrumental in saving months if not years in time and consequent resource costs. It is an intriguing insight into the planning system that neither the public sector nor a private organisation would enter into an open ended commercial commitment to the expenditure of time, money and diversion of resources without a formal contract.

Culture again lends itself to a prescriptive approach. As we have seen in Chapter 9, this is an all embracing dimension of planning and a crucial element in the behaviour of people and organisations. These issues are so important that it is astonishing that they can go unrecognised at least in any formal way.

The Framework adopted so far would appear to indicate some useful prescriptive elements among the issues we have explored. This takes us to a consideration of the 5Cs and their utility in theoretical terms.

10.4 The 5 Cs – have they any use in theory?

In this thesis, the 5Cs have been used only in an analytical function where they have proved to be useful diagnostic tools. However, they also have their uses from a theoretical standpoint. Firstly, there is some explanatory power. The use of the Analytical Framework based on the 5Cs, has enabled explanation of cause and effect in many of the project issues considered in these dimensions of planning. In addition, it has enabled some understanding of intention.

We have seen in both Chapter 2 and Chapter 9 that the facility of the Secretary of State to generate and change government policy, to legislate if necessary and then to direct that it be implemented, can best be described as Command. What we are considering here is that dimension of planning where the private organisation is ineffective in influencing policy, processes, procedures or attitudes and behaviour at the point of decision. In other words, it is the public sector rock on which a private organisations aspirations and business strategy can founder, as happened with P&G at East Quayside where P&G's challenge was effective but the law was against it. In the other two cases, the same thing would have happened to the business strategies of both Safeway and Primetower, had not these two organisations been so recalcitrant and resorted to effective challenge. In Chapter 9, exploration of the Command dimension of planning has also provided explanation of the differentiation between government and local governance aspects of planning and where in the process external influence may be brought to bear.

As we have seen in Chapter 9, Challenge is a crucial dimension of planning as far as the private organisation is concerned. However, the exploration of Challenge in the case studies has explained Challenge as a reflection of failure of Command or the democratic reciprocal of it. As we have already seen, government policy and the law cannot be challenged in the context of a single project but all three cases illustrated failure of Command in some aspect or other of the local interpretation of government policy, development of local policies and their

implementation. All three public sector organisations used their Command weaponry and all three suffered as a result when the relevant private organisation determined to Challenge.

If Command and Challenge are the two bastions of the planning system, Collaboration, Contract and Culture may appear to be bolt on options but this is not the case. As none of these Cs appeared to be dominant or pervasive features of the three cases, it could be questioned whether they have any theoretical use. Here again, the use of the Analytical Framework in the analysis of the narratives enabled explanation of cause and effect in considering the project issues and their interaction. Furthermore, the discussion in Chapter 9 illustrated the interaction of the 5Cs and how Collaboration, Contract and Culture were key dimensions of the process even in the Command based planning system (Figure 9.2).

Four of the Cs have normative implications for planning theory. The impact of Command is largely felt at the local level through project issues such as the influence and actions of Regional Government Offices, local authority members and officers. Bath, Francis Avenue and Alnwick all provided ample evidence of this local impact. Likewise, public sector procedures and processes were an issue in all the cases. How different the planning process in these cases might have been if civil servants, members and officers had acted differently and procedures had been more transparent.

Collaboration also has normative implications. As we have seen in the cases, much ought to have been different about this dimension of planning. More public participation at Bath and East Quayside, more collaborative officer-private organisation interaction in all the cases, improvement in private organization involvement, formal contacts between members and applicant and minimising the sorts of conflicts between local authority departments and between local authorities we saw at Bath and Francis Avenue.

Likewise, in the end, the parties do reach a form of Contract whether it is compensation for the loss of the facility as at East Quayside, or the conditions attaching to an approval as at Bath and Francis Avenue. What might have happened in all three cases if the participants had recognised a Contract relationship at the outset, placing limits on time, cost and use of resources as well as any final Contract for implementation? As we have seen earlier in this chapter, Habermas has some helpful criteria for effective communication.

Culture again has normative implications for planning theory. The impact of culture on organisations has been emphasised numerous times in this thesis. The differences in Culture between participants in all three cases were at least partly responsible for participants 'talking

past each other' as we have seen in Chapter 9. A greater awareness of cultural differences and their effects, together with some attempts to manage these differences may have produced marked improvement in the process in all the cases. Habermas and his communicative ethics may be able to provide some assistance with this problem, as we shall see later.

There is also the question of the predictive power of the 5 Cs. The cases studies offer a contrast in terms of prediction. Even the long history of procedural planning would hardly have allowed an accurate prediction of the events and outcomes of either Bath or Francis Avenue by any of the participants. At East Quayside, it could be argued that the Government's New Right approach to regeneration was a good example of Command where TWDC were provided with such wide legal powers, financial, political and moral support that a successful outcome for TWDC was entirely predictable. What could not be predicted was the strength of the reaction by P&G and the subsequent impact on TWDC's operations. This also illustrates that key to the outcome of any case is the situation regarding government policy. If the local interpretation of government policy is correct, then the outcome is predictable e.g. if government policy had been unequivocally against building new supermarkets in city centres, Bath City Council's case would have been unassailable. Even at Francis Avenue where the Inspector demolished Bournemouth's case at the Inquiry, he would not award costs to Primetower because Bournemouth had implemented the adopted Local Plan as they saw it. Another key issue is the role of the elected members. Both Bath and Francis Avenue cases showed that this body is the decision making body no matter what might be said about the planners' role.² Even at East Quayside, we saw evidence of the City Planners' initial report on the TWDC's scheme being severely amended through political interference.

In terms of predictive power, Collaboration and Culture do not appear to have much to offer. This may not be entirely true if we regard these dimensions as constituent elements of collaborative efforts to arrive at a Contract for the process as well as the eventual outcome. Even if there may be uncertainty over the final decision of the elected members, much certainty in the process may well be predictable. In the dimension of Collaboration, strategic inconsistencies have been shown to be a real issue between the authority and the private organisation. Nevertheless, all the other issues are amenable to control and influence by the officers with support from the applicant (See Endnote 1). Likewise, Culture must play a significant part if both sides are determined to behave ethically. The obverse of this particular coin is illustrated at Bath by the behaviour of the Avon County councillor, who was determined to stop Safeway even when she was told the Council did not have a case. If a culture of openness and collaboration is engendered on a project, predictability is more likely than when there is suspicion and lack of trust.

10.5 Conclusions

This chapter has considered the findings from the empirical evidence in terms of implications for planning theory. The first point to make is that, in terms of typologies of planning, the evidence shows a procedural process working along traditional lines at both Bath and Francis Avenue, as was outlined in Chapter 2. Even at East Quayside, once the compulsory purchase order had been initiated, the process was essentially procedural. However, that case did start from the basis of a prescriptive New Right approach by government in the context of the use of UDCs to achieve urban regeneration. Secondly, there was a normative element, in Faludi's terms a substantive element, at both East Quayside and Francis Avenue where the TWDC and Bournemouth Council respectively, had a clear vision of 'what ought to be' in terms of land use. Thirdly, there were elements of Rhodes' Sub-central government in all three cases in terms of networking. From this evidence and in the narrow context of this thesis where we are focussing on the planning process, procedural theory still appears to be the dominant approach. In particular, the evidence supports procedural theory as a descriptive theory in terms of what was happening. However, we have seen here that it is over simplistic to suggest that only one theoretical approach applies in a particular case. The procedural approach is prescriptive focussing on how things are actually done. There is also explanatory power in enabling us to see at least some cause and effect in the cases. The predictive power of the procedural approach seems to have shortcomings in terms of Webb's analogy of the river's path to the sea e.g. at Bath.

If we turn to the Institutional-Collaborative Approach, there was no evidence to show any attempt by planners or politicians to adopt this approach to planning in these cases. The evidence has shown the Command dimension of the Framework was almost wholly at odds with the Approach. This appears to conform to Healey's normative view of the Approach. The right to Challenge is a key dimension of the Approach and was an important element in each of the cases. This is hardly surprising as the right to challenge is in any case a key statutory element of the planning process. The issues in the Framework covered by Collaboration were not addressed in the cases which again are normative. In terms of Contract, only the issue of the applicant delivering the agreed project was a consideration in the three cases. Finally, Culture was never raised as an issue. What all this suggests is that the Approach as outlined in the Framework represents a normative view of the planning process particularly within the confines of the interface considered in this thesis.

The Approach is a normative approach but it has some limited explanatory power. This is where the various types of reasoning identified by Habermasian communicative ethics issues can be helpful. All three cases demonstrated the failings of communication leading to the poor quality

interfaces and strained relationships. Similar conclusions can be reached about the predictive power of the Approach. Here again, Habermasian communicative ethics might have something to offer predictively even if only from a negative point of view. All three cases were very good illustrations of inadequate communications as measured against Habermas's criteria.

Lastly, the Institutional-Collaborative Approach at least in part, has prescriptive utility. This is not true of the Command dimension of the Approach or indeed of the rights and dispute resolution elements of Challenge. However, the evidence supports the prescriptive potential for the issues of information availability and the criteria for Challenge.

What I am arguing is that it is in the dimension of Collaboration that scope for prescription mainly exists. All the issues raised there are susceptible to influence by the private organisation and particularly the area of communicative action. This is also true of Contract where some attempt at formal contractual arrangements could be possible in the confines of a single project. Likewise, Culture and the issues covered therein could be amenable to discussion and therefore potential influence across the project.

Up to this point I have used the term 'Institutional-Collaborative Approach' as the name of the approach I have been exploring. This was to retain some continuity with the Institutional antecedents of the approach in line with Healey's work. In the next chapter where I shall explore its prescriptive implications for practice, I shall use the term 'Modified Collaborative Approach'. This is because I see the prescriptive approach as heavily focused on the Collaboration dimension of the theory, even in consideration of the dimensions of Challenge, Contract and Culture.

Finally we come to the 5 Cs. As well as their analytical use, these dimensions of planning have been shown to have some theoretical use. They have some explanatory power as they have enabled explanation of cause and effect in many of the project issues considered in these dimensions of planning. In addition, they have enabled some understanding of intention. Command and Challenge both have the facility for offering predictive power but this depends on the strength of the Command case and the implementation of policy. At East Quayside, TWDC was always going to win given the power it possessed. At Alnwick, if the Council had abided by the Structure Plan and PPG6, the outcome was a foregone conclusion, even if it had gone to appeal - no supermarket. Collaboration and Culture do not appear to have any predictive power except insofar as they could contribute to an arrangement for a formal Contract.

Collaboration, Contract and Culture are normative dimensions of the planning process. However, they are critical dimensions and are the key areas of potential influence on Command and Challenge project issues. It has already been shown that they are also dimensions of the Modified Collaborative Approach and in that Approach have a prescriptive theoretical use.

In the next chapter, the potential for practical application of the Modified Collaborative Approach and the 5 Cs will be explored following an assessment of the policy and management implications of the research.

CHAPTER 10 – NOTES

¹ The writer had such success with the P&G project to build a new Headquarters at Brooklands in Surrey. The site already enjoyed outline consent for offices but the actual sizes of each building and all the other details of design, finishes, parking, landscaping etc. were to be determined by Elmbridge Council – a ‘difficult council’. At the first meeting with the Chief Planning Officer in August, I asked what was the date of the first meeting of the Planning Committee at which our application could be considered. He said theoretically mid November but from a practical standpoint it was impossible. My rejoinder was that it would be submitted for consideration on that date, the issue was simply what could P&G do to help the planners make it happen. A lot of collaborative effort ensued and the application was submitted to Committee on the mid November date and approved. The following morning, the Chief Planning Officer telephoned to say that in his view, the impossible had been achieved.

² At East Quayside, when P&G realised that New Sandgate House was likely to be lost, plans were submitted to the City Council for outline planning consent for a new, replacement building on their headquarters site in the city. The Leader of the Conservative Opposition on the City Council voted against P&G’s plans in the Planning Committee, despite the fact that he had supported the battle against TWDC over the CPO on New Sandgate House. The application was approved by only a couple of votes.

At P&G’s Egham headquarters in Surrey, a Master Plan for the long-term future of the site only scraped through the Planning Committee despite a strong officer recommendation to approve. As the Project Manager, I was asked on the morning of the meeting whether we would get our approval. To the consternation of the American manager concerned I answered – “I don’t know and nor do the officers”. He was not pleased and could not understand the uncertainty. The Planning meeting that evening started with a twenty minute denunciation of multi-national corporations by the local Lib Dem councillor followed by silence from the Labour group who eventually said they would vote against, as the aforementioned Lib Dem member clearly knew all about the situation. The application for a scheme that was vital to the business was approved by a couple of votes.

On their own admission, in neither of these cases were the officers able to predict these events.

A MODIFIED INSTITUTIONAL/COLLABORATIVE FRAMEWORK

	ISSUES
1) COMMAND	<p>a) Strategies are selected that are</p> <p>(i) EFFECTIVE - with regard to resource allocation and regulatory power.</p> <p>(ii) LEGITIMATE - In terms of general understanding.-</p> <p>b) Duties of those in governance roles to be</p> <p>i) Democratic - promote participative governance - respect for concerns</p> <p>ii) Effective - to deliver (performance criteria?)</p> <p>iii) Accountable - operating and reporting within openly agreed principles</p> <p>c) Governance competences</p> <p>i) Who performs governance tasks and where? Subsidiarity - regional & local levels</p> <p>ii) Each level of governance can be a stakeholder at another level</p> <p>iii) Interaction between formal government and wider society</p> <p>iv) Use of administrative and technical expertise</p>
2) CHALLENGE	<p>a) Right to Challenge - to allow formal challenge to governance decisions</p> <p>b) Dispute resolution - Appeals, Inquiries, Courts, Mediation</p> <p>c) Information of high quality to be available to all parties at accessible cost.</p> <p>d) Criteria for challenges</p> <p>i) Those in governance required to give good reasons for decisions</p> <p>ii) Decisions should be justified in terms of impacts on the whole community</p> <p>iii) Decisions should be justified by reference to agreed strategies and argumentation</p> <p>iv) Process to acknowledge the diverse ways of thinking of the whole community, the diversity of ways in which views and claims and forms of argument (technical, moral etc.) may be expressed, the agreed strategies of other areas of governance</p>
3) COLLABORATION	<p>a) Stakeholders - Who, where, why are they involved - involvement of majority - new membership?</p> <p>b) Collaborative process to be inclusionary v corporatist</p> <p>c) What and where are the arenas of discussion? Different arenas at different times?</p> <p>d) Ethical considerations? Who is included, when and how?</p> <p>e) Routines, rituals and styles of discussion - topics, language, how and by whom?</p> <p>f) Rights -voices must be heard and taken into account and given adequate information to allow knowledgeable participation</p> <p>g) Use of Habermasian <i>communicative ethics</i> in which the following three forms of reasoning are to be included in the discourse and given equal weight:-</p> <p>i) Instrumental -technical reasoning (ends to means, evidence to conclusions)</p> <p>ii) Moral reasoning (focused around values and ethics)</p> <p>iii) Emotive -aesthetic reasoning (derived from emotive experiences)</p> <p>Important to avoid one-sided discussions where the hearer is marginalised.</p>
4) CONTRACT	<p>a) Decision making process to avoid undue delays and uncertainties</p> <p>b) Undue costs and diversion of resources to be avoided on all sides</p> <p>c) Impact of the project to be minimised e.g. traffic, environmental issues</p> <p>d) Applicant must deliver the agreed project</p>
5) CULTURE	Cultural issues? Are they addressed? Differences identified? How? Moral duties?

CHAPTER 11 - FROM THEORY TO PRACTICE

11.1 Introduction

This research project arose initially from personal dissatisfaction with the decision-making mechanisms in the planning system. What I considered to be bad personal experiences on a number of commercial projects were confirmed by anecdotal evidence of similar types of experiences suffered by others, e.g. Alnwick. Thus my curiosity was aroused about the wider issues surrounding the interface between public and private organisations in the planning process. The big question followed on from this interest, namely: -

In the interface between the planning system and private organisations, can a practical approach be developed that can improve the management of that interface to the benefit of both sides?

This thesis is the outcome of research into the planning system in an attempt to answer this question. Furthermore, as a contribution to public management research, the thesis must address the management implications for both public sector and private organisations. In order to deal with these implications, it is clearly important to focus on the 'real' problems in the system from the standpoint of both sectors. It is easy to dismiss problems as being 'just part of the system' but what does that really mean? Problem definition is crucial to recognition of the real problem and to the possibility of generating potential solutions.

In order to reach an improved understanding of the planning system, this thesis has provided a detailed examination of the context of planning, its legal and political framework and an outline of the process. The investigation of planning theory in Chapter 4, led to the view that the Institutional Approach, or at least a modified version of it, may have something to offer in dealing with the problems encountered in the system. Chapter 5 then goes on to deal with the empirical methodology.

Empirical evidence from three disparate types of case study has been presented and analysed using the 5 Cs with the Analytical Framework of project issues as an analytical tool. An overview of the empirical evidence in Chapter 9 shows that the 5 Cs are dimensions of planning that have dynamic qualities as discussed in that chapter (Exhibit 9.1). This led, in Chapter 9 to a perspective, (see Figure 9.2), showing Command as comprising a number of components relating to policy namely, government policy itself, the law, interpretation, local policy and implementation. In Chapter 10, we explored what the empirical evidence said about planning theory and in particular about a modified form of Institutional theory.

In this final chapter, following a summary of the analytical conclusions, an assessment of the implications for policy and management leads to my proposals for a model approach that can, I believe, alleviate the problems of the management of the interface for both sides.

Having reached the final chapter of this thesis, we can now ask the question – what do we know now? This question needs to be addressed from both empirical and theoretical positions as we saw in Chapters 9 and 10.

11.2 Analytical Conclusions

Has the empirical evidence allowed definition of the real problems?

The answer to this question must be yes. From the review in Chapter 9, we can say that it has been a sound basis for analytical and theoretical exploration. We can say at once that all three case studies illustrated an undesirable quality of interface with strained relationships between public and private participants arousing high levels of suspicion and lack of trust. It must also be said that the empirical evidence rests upon one individual's narrative accounts of the three cases. Although every effort has been made to maintain objectivity, these accounts cannot contain all the available evidence and to that extent are selective. Despite this need for selectivity, the missing information was deemed to be of secondary importance and therefore, not critical to the accuracy of the narrative accounts.

The first point that can be made is that in each case, the participants were completely at odds over purpose. In starting off on any project, this is the big question - why do it? For nearly thirty years of involvement in project management, the writer has used a most useful framework (See Exhibit 11.1). This document identifies a number of key issues that must be addressed before starting the project. As we can see, Purpose is seen as the crucially important first issue to be addressed. I do not propose to work through the paper, only to show up the vital importance of purpose as seen in a private organisation.¹ From the evidence, all these cases started with a 'built in' problem, namely, the participants were at cross-purposes in each case over the future use of a site. These cross-purposes provided the seed bed for the ensuing conflicts.

Secondly, the 5 Cs were instrumental in exploring the interface showing up the different dimensions of the relationships at work between public and private organisations. The empirical evidence confirmed the importance of the 5 Cs as dimensions of planning. Initially, they were seen a potentially useful analytical tools and so they proved to be. However, their importance

as dimensions of planning was clearly demonstrated by the evidence. For example, all the cases underlined the impact of Command even on the other four Cs and as we have seen, much of this power of Command in the system was not always obvious.

Bolan (Mandelbaum, Mazza & Burchell 1996 p. 504-505) quotes Giddens: -

Power may be at its most alarming and quite often its most horrifying when applied as a sanction or force. It is typically at its most intense and durable when running silently through the repetition of institutionalised practices (Giddens).

This second sentence certainly has resonances in these three cases, particularly on East Quayside. These findings reinforced the view that the planning system is a Command system conceptually and in its operation. In Chapter 9 we saw the important possibility of differentiation of Command into five components and this allowed some insight into the real interface between the public and the private organisation (Figure 9.1). One needs to recognise that a problem for one party becomes, in some way or other, a problem for both parties e.g. the commitment of resources and uncertainty. The real interface and relationships are established around the interpretation of government policy into local policy and implementation at local governance level (Figure 9.2). This is the case whether local governance is the local authority or an agency such as TWDC (See Figure 9.3). The importance of Challenge and its value to the private organisation is clear from the evidence but it can itself be a problem when the process takes the tortuous path we saw at Bath. The prolonged, confusing process described here speaks to a range of problems for both public and private organisations, not least uncertainty, resource costs and impact on the business. The lack of any meaningful Collaboration has been clearly identified as a problem and the evidence shed light on the crucial difference between the negotiations that did take place and true collaboration that did not. The absence of any Contract relationships was shown up in all three cases. The outcomes were important to all the participants but only the three private organisations appeared to have any concern about timing and the demand on resources required to achieve the outcome. Uncertainty was a key factor in all three projects leading to expenditures of time and resources that were both unexpected and unwelcome for all parties. They were hardly models of good practice in process terms. Lastly, in terms of Culture, we have seen evidence of different cultures at work with no explicit recognition of the important influences culture can have on the interface. As these cases showed, planning cases are unique in every respect save the legally laid down process through which they must pass. Nevertheless, the patterns emerging from the evidence showed consistency across the cases.

The third point to make is that the Analytical Framework proved to be a useful tool for analysis. The key question here is - has the method of analysis and interpretation worked? My response

is yes. The Analytical Framework (Exhibit 11.2) provided two things. First the concept of the 5 Cs and that has proved to be an especially useful concept throughout the thesis. Secondly, a solid platform of project issues as a basis for analysis. This is hardly surprising given that these issues were culled from personal experience over many projects. The empirical evidence has vindicated the choice of these issues as we can see in Exhibit 9.1. The exercise of annotation of the narratives to determine the occurrences of the project issues was effective. This did not pretend to be a quantitative exercise but an attempt to assess the relative impact of the 5 Cs in each of the cases. In the event, the 5 Cs also proved to be a descriptor of planning and have some theoretical perspective. The Analytical Framework was the basis of the analysis and interpretation of the empirical evidence in Chapter 9. This analysis provided a perspective on what have we learnt empirically about the interface we have been considering and in particular, the impact of Command throughout the planning process. This in turn led to the development of the very useful differentiated model of Command (Exhibit 11.3). The Institutional Framework provided some reference back to the 5 Cs but also what appeared to be the more relevant issues arising from the collaborative approach of Healey. It has to be reiterated that Healey deals with a much wider canvas than the scope of this thesis so these issues are selected because of their relevance.

In all, I believe the analysis and interpretation of the empirical evidence has enabled useful conclusions to be reached in this thesis. At the same time, I would make three points about the method. First, the qualitative method has worked well for my purpose as it has been supported by the wide variety and strength of the cases. At the same time, it must be said that the annotation of the narratives is one person's assessment of the occurrences of the project issues. Another person carrying out the same exercise would be likely to produce somewhat different results. However, the three narratives are at least on a common framework because all the annotation is the work of one person. Secondly, the variety of the cases and the analytical method has allowed data source triangulation and some methodological triangulation. Lastly, the Commentary Notes complementing the annotation exercises have been primarily of use in highlighting and clarifying the annotations.

A political dimension of the problems

Something also needs to be said about the politics influencing the interface and the relationships. As we have seen in Chapters 2, 3 and 9, the process chosen for the regeneration of East Quayside was the direct outcome of a policy initiative of a Secretary of State who eschewed the orthodox post war political consensus. Regarding local government as the problem rather than part of the solution he simply removed them from the equation. Thus, the East Quayside case had a conceptual framework in planning terms based on a political

foundation that was absent from the other two cases. All three cases were however, subject to local political influences. At East Quayside, P&G were caught between factional conflicts in a massively Labour dominated Council. All the local Labour councillors in the East end of the city supported the P&G position but as it turned out, they were in conflict with the leadership and the majority. Initially, the Council had been antagonistic towards the Tory government strategy that removed their powers and gave them to a non-elected agency of government. It appeared from P&G's experiences, that an accommodation had been reached, at least at senior levels in TWDC and the City, because the Council came to see TWDC as their best hope for regeneration of the run down East Quayside. This appeared to be pragmatic politics.

At Bath, the case was not party political, but the local councillors at Bath and Avon Councils were the driving force in the local authority side of the case. An important factor in Bath is the presence of influential pressure groups largely arising from the city's heritage status. Mrs. Maxwell (at interview) talked of members and officers being subject to intense lobbying about planning decisions, even after the decision had been made. Having visited the site, it is understandable that the traffic and environmental impact of any development on the London Road would be a major concern in Bath. However, we saw here that at times, emotional reasoning displaced instrumental reasoning in the negotiations over these technical matters.

The Francis Avenue case involved only local politicians but the councillors at Bournemouth were the driving force in the Council's intransigence over the use of the site. This did not appear to be a part political issue. As we saw in Chapter 8, one councillor saw the Local Plan as the 'bible'; another demanded to know 'who is running the town, us or Dorset County Council'? This referred to the housing provisions in the Dorset Structure Plan. After the abortive presentation to the full Council, P&G, Primetower and Primetower's consultants all took the view that the elected members were not reflecting the views of the electorate but did reflect their own prejudices. Another point here is that Bournemouth were not able to enlist any support for their position on Francis Avenue site from the Dorset County councillors or Poole Borough councillors.

The theoretical findings

The theoretical findings in Chapter 10 have helped to answer the first of the Research Questions, namely that there is a theoretical basis on which the participants in the planning process operate. Bath and Francis Avenue cases followed procedural theory although the open consideration of planning theory was not apparent from the evidence. East Quayside on the other hand started off with a New Right approach albeit following procedural theory once challenge reared its head. It is important to recognise once again that much planning theory is

concerned with policy analysis and critique of spatial planning and indeed this is true of New Right theory. It is hardly surprising then, that procedural theory was the most obvious influence in the cases we have considered. Chapter 10 also showed, however, that there were indications of Rhodes' Sub-central government theory, if we consider the networking arrangements in each of the cases

Whilst procedural theory might provide the theoretical underpinning for practice, the findings have shown up the potential for further theoretical approaches. First, the findings confirmed the normative nature of the Institutional-Collaborative Approach. We also saw that the Command issues were realistically outside the influence of a private organisation. Challenge is non contentious as it is already a dimension of the planning process. However, we saw that, from the standpoint of Habermasian communicative ethics, this area of Collaboration offers some explanatory and predictive power. All three cases provided very good evidence of inadequate communications as measured against Habermas's communicative criteria. The findings also showed that the Modified Collaborative Approach does also have potential use as a prescriptive theory, at least in part. The dimensions of Collaboration, Contract and Culture appear to be the main area for a prescriptive use of the Approach. The issues of information availability and challenge criteria are elements of Challenge were seen to be important areas of potential collaboration in the interface. A model for the prescriptive use of the Approach will be proposed later in this chapter.

We have also seen in Chapter 10 that the 5 Cs can have some theoretical as well as analytical use. The analytical utility of the 5 Cs has been demonstrated in Chapters 6, 7, 8 and 9. The Analytical Framework enabled textual analysis of the narrative accounts of the cases. From this exercise, it became apparent that the 5 Cs are dimensions of planning and consequently provided an important conceptual framework for further analysis of the empirical evidence. Command has been shown to have an explanatory as well as a predictive element whilst Collaboration, Contract and Culture are normative dimensions of the process. However, it was shown in Chapter 10 that they are also dimensions of the Modified Collaborative Approach and in that Approach have a prescriptive theoretical use.

The overall analytical conclusion is that the empirical evidence is strong and varied yet demonstrates consistent patterns in the poor quality of the interface and relationships in all the cases. Furthermore, the evidence has provided a firm foundation for analysis using the design of the Analytical Framework in which the development of the 5 Cs has been an important contribution. The evidence had also provided a good basis for exploration of theory, the

development of the Modified Collaborative Approach and the use of the 5 Cs. We now turn to the implications of the research, in terms of policy and management.

11.3 Implications of the research

Policy implications

The first point we can make is that the evidence has shown that we can only deal effectively at the micro level of policy. Normatively, we can argue for changes at government policy levels and consequently in the law. From the evidence, we can say that possession of weaker powers by the Secretary of State could be a good start. Hesletine probably had no concept of the true eventual costs to all parties when he implemented his regeneration strategy. At Bath, the story could have been very different if the Secretary of State had not intervened to the extent he did. We also have the issues of Planning Guidance from the Secretary of State. Clarity about the status of these Guidance Notes as to whether they are only guidance or form key material considerations would be a helpful policy initiative. Improvements in decision-making in the planning system could result if more good quality training was made available for members and potential members of planning committees. These sorts of policy changes are of wide significance across planning and are effectively outside the narrow context of this thesis.

However, Chapter 9 showed that we were able to differentiate the Command dimension of planning. The evidence showed that from the point of view of local policy, we have seen the key issues are interpretation of government policy into local policy, local policy itself and subsequent implementation of that policy. Arising from this point are the questions, will the local policies be implemented and if so how. Thus, while many of the project issues have policy implications as we have seen in the evidence and subsequent analysis, these will invariably come back to the fundamental local policy issues stated above (See Exhibit 9.1). The issue of strategic differences between the public and private organisations is one example of this point in each of the three cases. Given the relationships in the three cases, local authority policy on how applicants are handled is another example e.g. Bournemouth Council's handling of the applicant's formal presentation. The overall point here is that in the context of a single application, awareness of potential policy issues and how they are to be resolved is critical.

Management implications

This thesis is the outcome of research into the planning system viewed as a difficult interface between the public sector and private organisations. The empirical evidence has shown that it can be a very difficult interface and underlines the 'big question' – is there a better way in which the interface can be managed by both sides to their mutual benefit?

A number of points need to be made. First, the case studies demonstrated that each planning application, or planning strategy in the case of a UDC, is a project in its own right. This is because it must lead to a successful approval in order that the applicant can execute the desired scheme and that the scheme is acceptable to the Local Authority on behalf of the people. Any project must be capable of withstanding scrutiny on a variety of grounds. Whether it has achieved its purpose, at what cost, the timescale for outcomes, the risks involved, the demand on resources and generally the effectiveness of the process. The empirical evidence suggests that against these criteria, all these cases were failures. As has been demonstrated many times already, even the local authority may not be fully in control of policies it is compelled to implement. What it is able to control is its management of its responsibilities. This is equally true of the private organisation. It could be argued that this is the real crux of the process because this is the one aspect that both sides have to implement. Furthermore, a well-managed process can be a positive influence on the resolution of difficulties, even those involving policy.

Something must be said here about the private organisations and their contribution to the problems. In all three cases the evidence may have tended to focus so far on the failings of the public sector organisations or their processes but the private sector organisations had their own shortcomings. From the evidence presented in the East Quayside and Francis Avenue cases, P&G's performance was found wanting. The analysis of the East Quayside case in this thesis has nicely illustrated the naivety of a private organisation operating outside its normal business environment and having no established relationship with the public sector. P&G never understood how TWDC operated, were far too willing to accept the original understandings from Balls and were naïve about the possibility of avoiding the Compulsory Purchase Order. The company only wanted to keep its building and really believed it could win when in fact the powers of the TWDC were so widely drawn that they could not be thwarted. Even the company's interface with the City Council was hopeless. The company had been located on at least one site in the city for around one hundred and fifty years, yet there were no established relationships with either councillors or officers in the City Council. It was no wonder that the company's appeal to the Leader of the Council for support was to fall on deaf ears. Another issue here was that P&G were managing the interface and relationship with TWDC through an internal committee and not through strong project management leadership.

At Francis Avenue, the project was so arranged that P&G had no influence over the planning negotiations, when, as owners of the site, the company was clearly a vital stakeholder. Most of the time, P&G did not know what was being said to the planners, when, how and to whom. Only P&G were likely to have resolved the employment issue with Bournemouth Council more effectively and that by direct discussion. As we have seen, as long as this was an unresolved

problem, a planning approval was to say the least unlikely. There was a case in these circumstances for P&G seeking the planning approval and then selling the site. The developer, Primetower disagrees with this view, believing that P&G would have failed, because the Bournemouth councillors saw the company as the villain anyway for closing down a manufacturing site. Another point here is that P&G would have pushed much harder than did Primetower for involvement of the senior officers. If the change of use of the site was of such concern to the council, continuing face-to-face discussion with the senior officers was an imperative. This type of involvement did not take place until late in the process.

At Bath, traffic and site access onto London Road were still unresolved issues until six months before the Final Inquiry. As these were the key problems for both Bath and Avon Councils from the beginning of negotiations on the project, it is difficult to see why Safeway did not manage this situation more effectively. Five years seems a long time for resolution of technical issues of such importance. Mrs. Maxwell said (at interview) that as the Principal Planning Officer involved in the Bath case, she did not get the support from Safeway and their consultants that she needed in terms of the right kind of documents and other presentation materials. This complicated matters for her in her dealings with the elected members who believed that Safeway were withholding information. This is an interesting point because Webster, the Safeway architect complained in strong terms about the inadequate use of presentational materials he had prepared for the officers. To say the least, this may have been the result of a misunderstanding but it was Safeway's responsibility to ensure that these things do not happen. Even after my detailed investigation of this case, I am still not clear about the role Safeway personnel played in the negotiations with Bath. There was no evidence of strong project management leadership.

In all three cases, the inability of the private organisation to influence interpretation or resulting local policy led to implementation of the relevant policies and the consequent challenge. It is clear that there are management problems on both sides of the interface.

In consideration of the management implications of the research, I return to my Project Management Model (Exhibit 11.1). If we regard the planning application on a particular project as a project in its own right, this model has considerable use for both sides of the planning interface.

Purpose and its vital importance and priority have already been established in this chapter. This dimension of project management enables early consideration of policy and legal implications for the application, particularly their implementation.² Expectations, criteria and measurement

of success, unique features of the application are all important considerations for both sides. A key question is how do the members and the planners 'see' a particular kind of project. Clearly, the Council would have warmly welcomed a scheme for a new factory located on the Francis Avenue site. Likewise, a modest amount of executive housing with large gardens may have been welcomed at Bath. Here we come back to purpose or possibly cross-purposes. It is in the interests of both sides to get real clarity on this environmental issue. Suspicions, fears and prejudices can be addressed and allayed but only if they are out in the open.

Consideration of Structure enables establishment of goals and the appropriate types and levels of resources to be allocated to the application. Goals on each side may be very different as they were in the three cases.

Process enables consideration of the decision-making process, meetings, information, critique and accountability. This has clear connections to the Collaborative aspects of the Analytical Framework and the Modified collaborative Approach. The environment in which collaboration might take place is of crucial importance. For example a key question is how do the planners and elected members 'see' planning? If the answer is that it is seen as a purely procedural, technical exercise with the applicant held at arms length, then attempts to collaborate are likely to be difficult. The same may be true of the way the planners and elected members 'see' private organisations. If there is already a suspicious attitude, perhaps because of a previous bad experience with a large company or an ingoing prejudice against certain types of organisation, there may well be a barrier to possible collaboration. This was the case at Bath (supermarket chains) and Francis Avenue (developers). This brings us to the issue of communication. All three cases illustrated inadequate communication that was itself a basic cause of problems. It is incumbent on management to ensure that misunderstandings are minimised and, at the very least, are not due to bad communications. In this context, I believe Habermas has something to offer with his communicative ethics and this will be addressed later in this chapter.

Roles are vitally important. Who does what is a question that can have important implications for an effective process if responsibilities can be shared. The planners may be only too pleased to be offered help but they must decide on the nature of the help, where that help is legitimate and how it is likely to be most effective. The last thing the planners need is a private organisation stumbling around causing even more problems.³ Who speaks for the project was highlighted by all the cases. A P&G 'committee' dealing with TWDC, Safeway's leadership of the project at Bath and absence of senior Council officer hierarchy involved at Francis Avenue. Another question is that of stakeholder involvement. This was an issue to one extent or another in each of the case studies and warrants a positive response. A series of issues arise from this

question. Who should be involved, how, to what level, where and by whom? These are important questions because they imply going further than the statutory information and consultation processes. The three cases demonstrated the weakness of this normal process. This stakeholder question might be taken further in the sense of the reaction of the wider public to the scheme. At East Quayside and Bath no one knew the opinion of the wider public about a project that was of real importance to the community.

In the public sector there is a critical issue in the relationship between the elected members and the planners. The management of this relationship is vital to the appropriate operation of the system. Conflict here can spell trouble and is outside the influence of the private organisation. Likewise, inter-department collaboration and relationships with other authorities may play an important role in the process as we saw in all three case studies. Certain councils, members and or planners are known to be 'difficult'. This may have been true in only one particular case but the label is still there. Very often in the writer's experience, this is an unfair assessment but it must be addressed.⁴ However, if it is actually true that one or more councillors is likely to attempt to 'sabotage' the scheme i.e. Bath and the Avon councillor, it is as well to be really clear about this issue. For the private organisation there are a number of points to be made about managing the interface. First, that there will only be one contact between the planners and the company. Other management, at whatever level, will only be involved as needed. This is critically important if confusion is to be avoided. Likewise, contact between planners and agents acting for the organisation e.g. surveyors, architects, must be carefully managed. Another point is that the company may have to be more open and transparent than normal commercial considerations would allow. This may be a risk but my experience has been that planners welcome such openness and it may provide crucial background data for them. It can help to explain where the applicant is coming from in ways not readily apparent from the details of the scheme. The organisation must be ready to help the planners in every possible way.

Whilst the overall objective for both sides is to get a determination of an application, it is also in the interests of the parties to achieve this effectively. This brings together the three project dimensions of Schedule, Cost and Quality. Resources and time are at a premium for everyone. This again suggests a collaborative approach so that potential barriers to effective action are recognised and dealt with at the earliest possible time. This approach clearly has to start at the outset of the project in areas such as policy. A Draft PPG might be relevant but debatable in its potential impact. The question then arises, how is it to be handled and by whom? The overall question is what is the schedule for getting the determination of the application? As noted in Endnote 3 in this chapter, nothing is impossible but every attempt must be made to avoid the situations we saw at Bath and Francis Avenue. The final point here is that what is agreed and

finally approved MUST be delivered and this applies to both sides. Many challenges have resulted from onerous conditions applied to an approval, particularly when they were applied at the last minute and unexpectedly. This comes back to the issue of community capital – credibility disappears when devious behaviour appears.

I have argued throughout this thesis that Culture is an all-pervading dimension of planning. This is because it is a crucial determinant in the way all organisations operate thus how their people operate. This raises numerous questions about the organisations at the interface we are considering but also in the environment in which they are operating. The question of the political climate in a particular council can be important. This can clearly have implications for policy and management but also importantly for the culture of the organisation. There is almost certainly a very different culture in an inner city Labour controlled council compared with a Tory controlled council in the shires. At the local level there is also the culture of the place to consider e.g. Bath's World Heritage City status. This culture has a very heavy influence on all planning activities in Bath as Mrs. Maxwell ruefully explained at interview. On the private side, there are also cultural issues to be addressed. The strength of P&G's culture was a key factor at East Quayside and Francis Avenue. Furthermore, a multi-national organisation may well be British managed but still subject to considerable influence from its parent. This is an issue in P&G because much of the introspective 'need to know' culture of the company emanates from the US.

Finally, we come to the issue of risk. All three cases demonstrated a timescale and demand on resources well beyond anything that the participants envisaged at the outset. If each side at the outset of the project had understood these risks, would they have been pursued to the bitter end? I can offer a piece of anecdotal comment - in the two P&G cases the answer would have been no.

11.4 The strengths and weaknesses of the Modified Collaborative Approach

What are the strengths and weaknesses of the theoretical approach? Following examination of this approach in Chapter 10, we saw the strengths of the approach to lie primarily in its focus on collaborative issues as shown in the Framework (Exhibit 10.1). Thus, it is possible to address issues of inclusion of stakeholders, information availability, modes of discussion, forms of reasoning and effective communication, all issues that arose in the three cases. There was no evidence of such focus in the examination of other planning theories in Chapter 3. In Chapter 4, critiques of the 'communicative turn', in other words, Healey's collaborative approach, were discussed, albeit in a much wider context than covered by this thesis. On the evidence available in this thesis it must be argued that too much is claimed for the approach. It certainly does not

appear to be a paradigm shift in planning as we have no evidence here of its implementation in practice in any of the three cases. This suggests the considerable width of the gap between theory and practice.

A major weakness in the approach is the lack of focus on outcomes. This is not surprising given its normative thrust and, as suggested by Taylor (1998 p. 123), the theoreticians' lack of interest in implementation. Practically, Phelps and Tewdyr-Jones (2000 pp.111-130) deal with the failure of the approach to achieve satisfactory outcomes in a particular case of development of a Local Plan. Of course, in the context of a single project, the outcome is critical and the process is only a means to that end. This weakness does not prevent the use of the approach, at least in limited form, as we shall see later.

Another weakness is the lack of focus on the role of elected members, where as we have seen, the final local decision-making powers rest. The approach addresses politics in the way it considers strategies adopted by and the duties and competences of governance. This follows from the critiques of the assumptions generally made about governance and how it works (Healey 1997 Chapters 7, 8 & 9).

The issue of power is another concern with this approach. Issues such as the government's wide use of Statutory Instruments with mostly little interference from parliament, compulsory purchase and its impact are not addressed. As we have seen in Chapter 4, despite criticisms by Tewdyr-Jones and Allmendinger (1998 p. 1980) among others, Healey (1999 pp. 1132-1133) argues about the nature of power where she sees it: -

Not as a question of power 'over' or 'power 'to' but as the power to 'make a difference', where public argumentation will have the potential to effect change.

The evidence suggests that this power to effect change is overestimated because as I have argued, the Command influence throughout the system is so strong. The evidence has demonstrated that this 'power to' may only be relevant in the dimension of Challenge and that, in any case, is almost the antithesis of the collaborative approach (Tewdyr-Jones and Allmendinger 1998 p. 1987).

As we have already noted in Chapter 4, there has been significant critique of Habermas's work, notably by Tewdyr-Jones & Allmendinger (1998 pp. 1975-1989). They have a specific focus on how stakeholders and other actors may act teleologically, normatively or dramaturgically and the lack of any guarantee that actors may act openly and honestly. These points are clearly valid but I would have to say that within the confines of the interface we are considering, such actions are normally hardly likely to be profitable. I say this because any private organisation e.g. Safeway

or P&G that is trying to put down roots in a particular location needs to build 'community capital'. By this I mean the need to be seen and accepted as a good citizen in the community. This clearly includes establishing a good relationship with the local authority, including the planners. This sort of long-term relationship is hardly possible if the evidence proves at some point that the first interactions have been less than open and honest. It will be noted that I am using a very limited area of Habermas's communicative work here as being germane to my thesis and from this standpoint, Habermas has some potential use as we shall see later.

11.5 What am I proposing?

The last two sections have discussed the policy and management implications of this research. These two sets of implications can be used as a basis for making prescriptive proposals for dealing with the interface between public and private organisations in the context of the planning system.

Summary of the argument

At the beginning of this chapter the big question was asked – is there a better way in which the interface can be managed by both sides to their mutual benefit? I believe the answer is yes. There cannot be an argument in favour of the kind of process described in the three case studies nor can there be any desire to work with such inadequate quality of interface and relationships. These views were confirmed in interviews carried out with participants at Bath and Francis Avenue and TWDC representatives did not demur when P&G made similar statements after the East Quayside Public Inquiry. A point here is that it is conceivable that a council may wish to have the decision taken out of their hands from a local political standpoint. This could have been an influence at Bath and at Francis Avenue. If the applicant is eventually forced to appeal, the final decision is then taken over the councillors' heads and they may thus avoid the 'blame' for the decision.

What then is the better way? First, I firmly believe in the avoidance of problems. Very often, this is possible through early recognition of potential problems in a project, not only what they are but also why they are problems and where they reside. In this thesis, I have already established two frameworks that I believe will help in this problem area. The overall framework, based on the differentiated dimension of Command (Exhibit 11.3) can enable discussion of purpose, policy and law and specifically the difference between government and local policy. The Analytical Framework (Exhibit 11.2) has proved to be a useful analytical tool and will bring detailed focus on specific problems together with the Project Management framework in Exhibit 11.1.

The second point is the importance of collaboration. I shall propose a framework that I see as a 'collaborative' model based on the modified version of Healey's approach with an emphasis on the utility of Habermasian communicative ethics. As we have seen in Chapter 10, there was little congruence between what actually happened in the cases and the Institutional Framework (Exhibit 10.1). Having said that, Healey's collaborative approach does cross connect with the 5 Cs and the Analytical Framework. Collaboration is a key dimension of both frameworks as are the Contract issues. The attraction of this modified collaborative approach is that it addresses a number of these issues that are not the focus of earlier approaches and by its very nature, is heavily focused on collaboration. In this context there is also consideration of the type and quality of communication, another problem area in the case studies. Here the Habermas model can help. Habermas's description of the different types of communication showed up, only too clearly, the imperfections in this area in our three cases.

The importance of Culture is also emphasised in this approach and we have seen the consequences of lack of understanding of this dimension of planning in the case studies.

Lastly, Challenge is recognised for its potential importance, particularly to the private organisation.

How to use the model

I would treat this model as I would treat a Master Plan. I have produced many Master Plans for manufacturing and commercial sites over the years and found them invaluable. Having said that, they can also be a cause of concern because people can assume that the plan is 'cast in stone'. This, of course, is far from the truth. It is no more than a snapshot in time of what might be possible but possibly will not happen. It is only as good as the current project and its effect on the plan. This is true of this model. As we have seen earlier, every project is different and different issues will arise and can be accommodated.

The important point is that both sides are made to think at the outset of their interface. The planners might very well use the model at an initial meeting to start this thinking process, particularly with an applicant having a large project and no experience of the planning system. It might be argued that such an applicant would have expert guidance from a consultant surveyor so why would any thing more be necessary. I have seen such an expert cause problems for the client when the expert did not know the area and brought 'London' thinking to a provincial council that was very unwilling to accept his input.

Neither side should have any fear of the issues shown up in the model. Ethics might be seen as a delicate topic but that is no reason for avoiding it. Indeed willingness to discuss topics of this nature may well be keys to a collaborative approach and the use of this model.

The Model

The model I am proposing brings together nine dimensions of planning that have been the subject of much of the work in these last three chapters of this thesis. These are combined with issues discussed in the Institutional-Collaborative Framework (Exhibit 10.1) and the project issues discussed in the Analytical Framework (Exhibit 11.2). This has all been summarised in a new document, Exhibit 11.4, which brings together all the strands outlined above in one summary document. In addition, two vitally important complementary parts of the model are the Project Management Framework (Exhibit 11.1) and the Dynamics of the Interaction Framework (Exhibit 11.2). Exhibit 11.4 brings together nine dimensions of planning That are familiar from the previous work in the thesis but nevertheless require some discussion.

1) Purpose

As I have already argued in this chapter, this is a fundamental issue that must be addressed at the outset. Disagreement over purpose is the first sign of impending troubles in the process.

2) Government policy

This fundamental dimension of planning has been discussed at length; suffice it to say here that in this model, I am specifically addressing issues from the Institutional-Collaborative Framework where government policy is a major determinant. Governance duties and competences are not only areas of government's own direct responsibility but government can and does determine these duties and competences at local level as a matter of policy. This may also be true of public sector procedures and processes. Phelps and Tewdyr-Jones (2000 pp.111-130) deal with this point in discussing reasons for the failure of the collaborative approach to achieve satisfactory outcomes in a particular case of development of a local plan. Despite deep involvement of the community, their expectations were not met in part because the language in which the Local Plan had to be written was not compatible with the views expressed by the members of the community.

3) Law

This is the crucial underpinning of government policy and the foundation of the planning process but there may be a specific legal issue that impacts the project e.g. a CPO.

4) Local Government

As we have already noted, a key point is the location of the issue as a matter of interpretation, local policy or implementation. From the standpoint of the private organisation, the location of this issue may be a critical factor in their ability to exert influence. The issues addressed in this model are an amalgam and re-arrangement of those already discussed in the Analytical and Institutional-Collaborative Frameworks. Consistency of strategies has been relocated here from Collaboration, as choice of strategies is clearly a matter of policy. Likewise, Public interest, Environmental, Aesthetic, Highway and Traffic and Employment issues, Local plans and Policies and internal conflicts in the public sector are all included here. This is because these issues are all matters of policy concern at local government level even though there may also be heavy government policy influence in these critical areas. This list of issues is not necessarily comprehensive and other issues may well arise in a specific project. As discussed in government policy above, governance competences and duties, together with public sector procedures and processes as also included here because these are all issues that can be subject to policy decisions. The same is true of the availability and use of expertise and this is of course an important consideration in the Institutional model.

5) Collaboration

This is really the dimension of planning I would wish to promote as an envelope containing all the other dimensions. A truly collaborative model might also show collaboration as the lubricating oil that gets into every crevice of the process. Another aspect is the ownership of the project. By this I mean that the officers can become almost co-owners of the project if of course they are completely convinced of the 'rightness' of the proposal in every sense. I have twice been in the fortunate position of seeing this occur. At Egham, the lady chairing the Planning Committee and the officers fought for acceptance of P&G's Master Plan for the site because they firmly believed that it was good for the community. They did this because the officers had been so involved in the development of the scheme, it was almost as if they had designed it themselves.

The issues included here are mostly those similarly covered in the Analytical and Institutional - Collaborative Frameworks. The involvement of the public and other stakeholders is amplified by inclusion of the issue of good understanding of policies. This speaks to Healey's point about the legitimacy of strategies in terms of their general understanding. Although networking does not appear to have been a major issue in the three cases, it did exist and at Bath it had some influence mostly between the City Council and GOSW. It may be important, therefore, to attempt to identify potential networks and how and why they are influential. The other issues

are obvious as they cover interaction between the private organisation and the politicians, officers and just how the private organisation is involved in the process.

6) Communication

This has been separated out from Collaboration as shown in the Institutional-Collaborative Framework (Exhibit 10.1). The reason for this separation is the importance I attach to the quality of communication and how the case studies illustrated consistently inadequate quality of communication. This is bad enough when it is occurring between the planners and private organisation but if other stakeholders become involved i.e. the public, objectors et al, the situation becomes much worse. This can be seen very well at a Public Inquiry when the proceedings can reach a level of technical/legal obfuscation leaving supposed 'experts' confounded. I believe we can benefit from some assistance from Habermas in this matter because he offers a rather simple framework that addresses the difficulties in communication.

Habermas argues that there are four critical conditions for an effective communication between two or more people: -

- 1) What is being communicated is comprehensible;
- 2) Something must be communicated which is factually true;
- 3) The communicator must be sincere;
- 4) An understanding is being sought so the communication must be legitimate within certain moral norms and conventions shared by all parties to the communication.

These simple conditions are important considerations in the validity of communications between participants in the interface we are considering. It would be interesting to see the results of the adoption of this framework at a Public Inquiry or in the Courts. ⁵ Taylor (1998 p. 124) draws attention to an investigation by Kemp into the Windscale public inquiry held in 1977, which found in favour of a nuclear reprocessing plant being built. Using Habermas's conditions outlined above, Kemp found the final report contained inconsistencies, omissions and misrepresentations of evidence, so failing the tests of factual truth and sincerity. Kemp went on to conclude that the final decision was made on the basis of distorted communication and not on the 'force of the better argument'.

Habermas continues with his three forms of reasoning. Instrumental - technical reasoning linking ends to means and evidence to conclusions. Moral reasoning, focused around values and ethics. Emotive - aesthetic reasoning, derived from emotive experiences. He argues that the second and third forms have been crowded out by the first, the scientific, rational type of reasoning because it is more associated with economic and political life. All three should be given equal weight and the language of all three types of reasoning must be included in

discourse. Practical reasoning frequently does not separate facts from values or emotions from our deployment of material resources, as there is often a total mix up of data, issues, priorities etc. Like the four conditions for effective communication, these three forms of reasoning all have resonances with the quality of communication in the three case studies.

I find these seven points are extremely helpful and potentially useful tools, particularly in a situation where communications are deteriorating. They are essential components of the Communication dimension of the model I am proposing if this model is to be effectively collaborative.

7) Contract

The importance of this dimension of planning cannot be overestimated. Both Analytical and Institutional-Collaborative Frameworks addressed this in similar ways and are so addressed in this model. Previously, I have suggested there are two contracts. One is the delivery of a determination of the application and there is an implicit contract for this 'project' to deliver this contract avoiding undue strain on resources, minimising uncertainty and meeting a specific date. There is nothing magical about this but it tends to be something that just happens eventually unless both parties are determined to have an effective process. This contract must be discussed at the outset if an effective process is to be put in place (See Endnote 4). The other contract is of course for the delivery of the project itself. It is an imperative that the private organisation delivers the scope of the project as agreed. This is also where strict compliance with the conditions attached to an approval, including planning gain and legal agreements, is absolutely vital. Given that unexpected and or onerous conditions are often the source of challenge, it must be said here that it is possible to influence the conditions. This is only a realistic possibility if there has been at least something resembling a collaborative approach. Handled properly, these matters can be crucial to the building of community capital.

8) Culture

The importance of this dimension of planning has been emphasised throughout this thesis but cannot be overemphasised. Sadly, as we saw at East Quayside, the ethical and moral issues raised by the behaviour of both sides, was only loosely addressed. If the private organisation really does not understand what makes the public sector organisation tick, why not say so? Why not say this is uncharted territory for us? If the councillors and officers said to a multinational company they really wanted to know what made it tick. I believe much misunderstanding could be avoided if discussion of culture was on the agenda. It is galling, to say the least, to sit through an attack on your own company when you know that the views being expressed can be wholly refuted by reference to the facts.

9) Challenge

Again, both the Analytical and Institutional-Collaborative Frameworks address this important dimension of the system. The issues addressed here combine both frameworks. Challenge has been placed at the bottom of the nine dimensions because it is an indication of failure of the process if resort has to be made to it. Whatever else, it ought not to be one of the topmost agenda items at the start of discussions with the planners.

The issue of suspicion and lack of trust has been left out of the model deliberately. It was originally included under Collaboration in the Analytical Framework. Whilst it was a feature of all three cases, it was the result of many other problems and thus a secondary issue. I would argue that if suspicion and lack of trust become apparent, they are sure indicators of a faltering process. They ought to have no place in a collaborative approach.

11.6 The Research Questions

The research questions have been answered and the answers are summarised here using the same numbering as in Chapter 1.

1) Chapter 10 has explored and explained the theoretical underpinning of the operation of the process as experienced in the cases. This confirmed the mainly procedural nature of planning as it operates in the context we are considering. At the same time, New Right and Sub Central Government influences were identified as well as normative elements at least in Faludi's concept of substantive planning theory dealing with outcomes. The 5 Cs have also been shown to have explanatory power as well as their utility in this thesis as analytical tools.

2) Critical factors built into the system are the powerful influence of Command, the negotiating process rather than a collaborative process, the regularly dysfunctional nature of the 'communicative process', the lack of a contractual relationship between the parties and the unrecognised cultural differences.

3) Much uncertainty existed in the three cases, with many different causes e.g. the interventions of the Secretary of State's at Bath, but much of the problem arose out of manageable issues e.g. technical issues. A successful application essentially completes the process with a contract between the local authority and the applicant but there is no contract dealing with how the process will be managed. Thus, while a contractual relationship may not resolve all uncertainty, it can be helpful in resolving many of the underlying problems.

4) There are methodologies for managing the planning process and they have been discussed at length in Chapter 10. The key factors are an approach involving Collaboration and the three cases demonstrated the need for a form of contractual relationship to avoid the uncertainty and

resource implications that existed. There were strong influence of Culture s at work in all the cases but there was no recognition of these influences and this critical dimension of planning.

5) The causes of the problems due to policy and implementation have been successfully investigated and analysed. Consequently, in this chapter, the implications for policy and management have been determined.

6) In all three cases and indeed at Alnwick, the delays, uncertainties and resource costs thus the ensuing conflicts seemed to be assessed differently. In each case, the private organisation wanted to get the problem resolved and get on with their business. This did not appear to be the case with the public sector organisations

7) The thesis has presented a prescriptive model that can offer improvements in the process for a better quality interface and improved relations for both sides.

11.7 Implications for future work

The model I am proposing needs first to be tested in a working situation. If I were still working, I would do this on my next project. Second, more work needs to be done on Healey's collaborative model. Whilst I subscribe to many of the points of critique made by Allmendinger and Tewdyr-Jones among others, I do believe this approach has something to offer but it has to be in a form that is useable by the planners. Thirdly, the question arises, can we generalise from these cases? It is not possible to generalise across the broad sweep of spatial planning given the narrow context of this thesis. However, we can suggest that if the cases were representative of the typical processes in the planning system, it would be possible to generalise in terms of projects. It has also been argued that the empirical evidence has supported the range of project issues summarised in Exhibit 9.1. Indeed, when shown an early copy of this Framework, the Property Director of Safeway said they were familiar to him across his projects. What these cases demonstrate is there are aspects of planning that are common features of all planning practice. Likewise, as we see in Exhibit 11.3, government policy, law, interpretation, local policy and implementation are all features likely to arise widely across practice. Within these limitations, it will be possible to generalise from these three cases.

11.8 Conclusions

This thesis has covered a wide range of territory in attempting to answer the big question –

In the interface between the planning system and private organisations, can a practical approach be developed that can improve the management of that interface to the benefit of both sides?

I believe this thesis reflects a research project that has fulfilled its aim of answering that question positively.

My experiences with the planning system have frequently been less than successful in terms of the conflicts that have arisen and far from ideal in terms of the quality of the interface. I believed there must be a better way. This conviction has been supported by anecdotal evidence from others and reinforced by the Property Director of Safeway plc, who immediately recognised the relevance of my Analytical Framework. Of course I had no idea what this better way might be but I began to realise that I had used a very elementary version of the collaborative approach in my last two projects. This was before I had discovered Institutionalism or Collaborative approaches. Neither of these projects was free of problems but at least I was able to establish with the officers, something of what I now recognise as a mild level of collaboration.

This thesis has provided a new conceptual framework together with a strong body of widely varied empirical evidence. The development of the Analytical Framework followed by the development of the concept of the 5 Cs as dynamic dimensions of planning has enabled a particular method of analysis of the case study narratives to be used. This methodology has shown up consistent patterns across these disparate cases and in particular, the overarching influence of Command in the planning process.

The literature search not only led to the outline of the development of the planning system in the post war period (Chapter 3) but also to the discovery of Healey's work. This work had attractions because of its attempts to deal with aspects of planning that complemented the issues I had already uncovered in the Analytical framework and the 5 Cs. The focus on collaboration, communication and culture appeared to be specifically applicable to the development of a 'better way'. This led in turn to the development of the Institutional-Collaborative - Approach and Framework.

The empirical evidence has illustrated the gap between theory and practice in the sense that what actually happened was far removed from the supposed new paradigm of the communicative turn. In practice, what we found was instrumental rationality or procedural planning apart from the New Right approach of East Quayside. Speaking as an engineer I would have to argue that theory is fine but the question is – can it be applied usefully? Institutionalism, the communicative turn, the collaborative approach or whatever version is under consideration is fine as an approach to policy analysis but has it been used effectively at the coalface? From my reading the answer is no but that does not prevent application of parts of the theory in an appropriate context.

The 5 Cs have been an important concept because as we can see in Exhibit 11.3, it enables an analysis of where there are areas of Command amenable to influence by Collaboration and-or Contract. What I have argued is that even within the law as it stands, it is possible to allow the dimensions of Collaboration and Contract to influence some aspects of Command and Challenge.

All this work has allowed the development of the final Collaborative Framework (Exhibit 11.4). This Framework is effectively a summary of my research and is, I believe, based on sound theoretical foundations supported by the strong empirical evidence. It has the added utility of practical use.

The approach to planning from public and private sectors is different, partly because of the power relationship but also because of the business orientation of the private organisation. As we have discussed earlier in this chapter, successfully obtaining a planning approval is critically important to the private organisation, hence the application itself can be seen as a project in its own right. This situation calls for effective management of the planning interface by the private organisation if they are not to find themselves potentially suffering a fate comparable with those described in the three cases. I believe it is in the interests of both sides to adopt a collaborative approach and my proposed model offers a framework for achieving an effective process. Thus my Project Management model (Exhibit 11.1) is an approach that has proved its effectiveness in over thirty years experience managing projects. As we have seen in this chapter, it raises issues and questions that cannot and must not be dodged if a project is to have a chance of success.

Much of planning theory focuses on 'the planners' giving the impression of faceless bureaucrats, where motives are at least suspect. Indeed within the concept of the communicative turn, planning might well be de-professionalised (Allmendinger & Tewdyr-Jones 2002 p. 17). This I find unacceptable. This thesis has demonstrated the complexity of the planning system and it is difficult to see how non-professionals could manage this crucially important public sector responsibility effectively. Another point is that they are people doing a difficult job where they are not even the final decision makers. This all brings me back to the big question. I believe the planners are critical actors in a process that, with their cooperation and goodwill would indeed lead to a better way.

This research has dealt with a complex subject covering many facets of what is a complex interface. Out of this complexity, I have developed a model approach that can be used in practice. The policy implications of the research have already been addressed earlier in this

chapter, as have been the management implications. The model addresses policy, project and management issues and is capable of reflecting additional issues specific to a particular case.

My fundamental conclusion is that a collaborative approach on the lines of this model is likely to ensure a smoother and more effective process. This means a process in which the delays, uncertainties and costs reflected by the empirical evidence can at the very least be minimised for both sectors, public and private. Have I found a better way? I believe I have shown the answer to be yes.

CHAPTER 11 - NOTES

¹ In P&G, Engineering led an activity to produce a 'Business Needs Statement' or purpose. This activity involved all the key actors from Manufacturing, R&D, Business management, Engineering etc. with a sheet of flip chart paper. The group attempted to write a statement of need that could withstand all attempts by that group to demolish it. Many favourite projects did not see the light of day after this exercise, much less submission to management, thus much useless effort was saved.

² The author succeeded in exercising influence in a major new factory in Germany. The policy called for warehouses of a maximum size of 5,000 sq. ft. and non-contiguous with the production area that was itself 120,000 sq. ft. By producing detailed technical arguments about the choice of fire-resistant materials of construction (concrete), heavy sprinkler densities, bigger than normal above ground dedicated fire water storage, the company's fire record in similar plants in the US and the company's insistence on safe practice, we were able to build three 100,000 sq. ft. warehouses for raw materials and finished product contiguous with the production area. This made a crucial difference to the efficient operation of the plant without compromising safety. Four years later, three more warehouses of the same individual size plus a further 80,000 sq.ft. of production area were added, all of the existing and new space being contiguous.

It must be understood that this was achieved with the full co-operation of the City and Fire authorities. Their support in persuading the permit granting authority was crucial. The company also understood that it would only be possible as long as the position of all the relevant authorities was not compromised in terms to their statutory duties and responsibilities to the public.

³ In two projects where the author was project manager, at Egham and Brooklands, P&G agreed to take responsibility for informing all possible local stakeholders about P&G, the site and the project. The Council officially informed the statutory authorities in accordance with practice. This was a highly successful initiative in both cases because it assisted the planners with their workload and it enabled the stakeholders to satisfy their concerns.

⁴ The author had such success with the P&G project to build a new Headquarters at Brooklands in Surrey. The site already enjoyed outline consent for offices but the actual sizes of each building and all the other details of design, finishes, parking, landscaping etc. were to be determined by Elmbridge Council – a 'difficult council'. At the first meeting with the Chief Planning Officer in August, I asked what was the date of the first meeting of the Planning Committee at which our application could be considered. He said theoretically mid November but from a practical standpoint it was impossible. My rejoinder was that it would be submitted on that date, the issue was simply what could P&G do to help the planners make it happen. A lot of collaborative effort ensued and the application was submitted to Committee on the mid November date and approved. The following morning, the Chief Planning Officer telephoned to say that in his view, the impossible had been achieved.

⁵ An illustration of this point occurred in a different context in a case in the Court of Appeal in which the author was involved. This involved a complex disagreement over a commercial lease for a building P&G had acquired through a takeover. The two QC's appearing for the owner and for P&G were two of the

top four silks at the commercial property bar. P&G's barrister opened the case when, after some minutes, the presiding Appeal Court judge, Lord Justice Staughton intervened saying: -

Mr. Neuburgher, I know nothing about commercial property law and if we continue in your present vein, we will be here for a long time because I shall be asking many questions. If however, we proceed in a language I understand, then things will be much improved.

Both QC's got the message and the process of the case was improved enormously, particularly for the layman.

PROJECT MANAGEMENT

NOTE - The impact of topics I to IV, outlined below, are set out in order of importance, i.e. Purpose must be clearly established first.

I) PURPOSE Why?

What is the task as seen by the hierarchy, the doers, the clients? (*Business Need Statement?*)
 What, if anything, is unique about the task? If unique, how is this issue to be addressed?
 What are the expectations of others who are involved, even those peripheral to the project?
 What are the measurements of success/failure? Who decides on these measures?
 Are there differing notions of success criteria between participants? How will these be handled?

II) STRUCTURE

Reporting lines - are they clear - solid/dotted/fuzzy - who reports to whom?
 Are goals clear - well understood?
 Resources - people of the right type and quality - enough people - right equipment?

III) PROCESS How?

What are the decision making mechanisms?
 Is accountability clearly defined and agreed?
 Feedback mechanisms - frequency - effectiveness - influence on process?
 Meetings - Type - Working, information only? Frequency? Agenda setting? Freedom to initiate meetings?
 Critique - How is critique to be handled and when - ongoing, mid task, on completion of task?

IV) ROLES Who?

Who speaks for the whole team to the outside world?
 Who does what?
 Is there a responsibility chart?
 Who manages key decisions?

OTHER ISSUES

A) CULTURE

Is there recognition of the different organisational, professional cultures of participants?
 Are such differences addressed? How?

B) COST

Is there a clearly understood and properly underwritten cost estimate?
 Are uncertainties in cost projections covered e.g. unlisted items, contingencies etc.?
 How is cost to be monitored? How will potential overruns be foreseen and corrected?

C) SCHEDULE

Is there a clearly understood schedule for the project?
 Is this schedule agreed at the outset by all participants?
 Monitoring of progress - when, how?
 How are potential delays foreseen and then resolved?

D) QUALITY

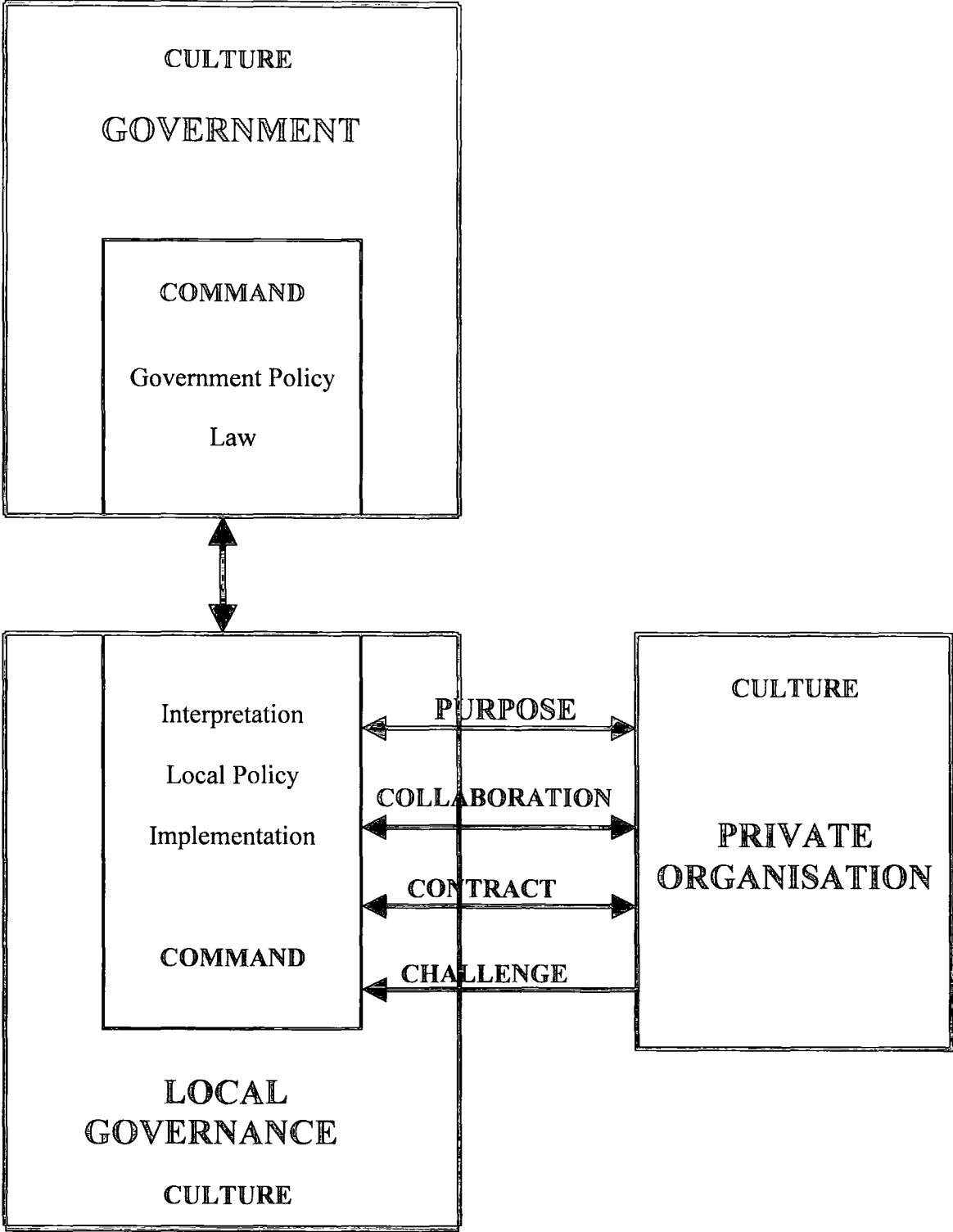
Has the issue of quality of outcomes both organisational and physical been addressed?
 How will this be measured?

E) RISK

What risks are involved? What levels of risk? Who can influence the risks?
 Is the level of risk justified?

ANALYTICAL FRAMEWORK - IV

ANALYTICAL FRAMEWORK		
	PROJECT ISSUES	NOTES
1) COMMAND	a) Planning & associated Law - foundation of the process	
	b) Compulsory Purchase Law - resistance to Orders	
	c) Compensation - Limits - value of property	
	d) Govt. Policies - Planning, Regeneration, Environmental	
	e) Local Plans & Policies - land use, influence, timing	
	f) Public Interest - what is it? who defines it?	
	g) Regional Government Office role	
	h) Role of the Secretary of State for the Environment	
	j) Environmental issues e.g. Air Pollution	
	k) Aesthetic Issues - who decides? how? Real impact?	
	l) Highway & Traffic issues - impact on the community	
	m) Local politicians - role, attitudes and influence	
	n) Officers - role, attitudes and influence	
	o) Public Sector Procedures & processes	
2) CHALLENGE	a) Appeals - rights - process - resources	
	b) Objections - rights -quality of objections - strength of case - impact	
	c) Public Inquiries - the adversarial process - Inspectorate - appeals - decisions	
	d) Judicial Review (permission required & limited scope for review) & adversarial process of the Courts	
3) COLLABORATION	a) Public information process - how and by whom?	
	b) Public participation - stakeholders	
	c) Non-elected agencies - difficulties in negotiations	
	d) Networks - which ones, who is involved, how & why?	
	e) Strategic inconsistencies between governance and the private sector	
	f) Officer / private organisation interaction	
	g) Private organisation involvement	
	h) Lack of contact between Members & applicant	
	i) Conflict between LA depts and Intra LA disputes	
	j) Suspicion - lack of trust on both sides	
4) CONTRACT	a) Uncertainty of process - outcomes & timing	
	b) Private organisation performance	
	c) Resource costs of process and decisions to all sides	
	d) Employment issues - local or external to area?	
	e) Planning Gain - new community facilities, road improvements etc.	
	f) Legal agreements - Section 106 Agreements	
5) CULTURE	a) Cultural differences between Public & Private organisations	
	b) Ethical issues - Public and Private sectors	



Dynamics of the Interaction

	ISSUES
1) Purpose	The congruence or lack of it between purposes of public sector & private organisations
2) Government Policy	a) Policies are Effective (Resource Allocation & Regulatory Power)
	b) Governance duties (Role, attitudes & influence) – Democratic, Effective, Accountable
	c) Governance competences Secretary of State Regional Govt. Offices
	d) Public Sector Procedures, processes & expertise
3) Law	a) Planning & associated Law
	b) Compulsory Purchase Law / Compensation Law
4) Local Government Location of the issue: - a) Interpretation OR b) Local policies OR c) Implementation	a) Consistency of strategies with private organisation
	b) Public Interest - what is it? who defines it?
	c) Environmental issues e.g. Air Pollution
	d) Aesthetic Issues - who decides? how? Real impact?
	e) Highway & Traffic issues - impact on the community
	f) Employment issues
	g) Local Plans & Policies - land use, influence, timing,
	h) Governance competences Local politicians and Officers
	i) Governance duties (Role, attitudes & influence) – Democratic, Effective, Accountable
	j) Public Sector Procedures, processes & expertise
	k) Conflict between LA Depts and Intra LA disputes
	5) Collaboration
b) Stakeholder involvement – Who? Why? When? Where? How?	
c) Policies are well understood	
d) Networks - which ones, who is involved, how & why?	
e) Officer / private organisation interaction	
f) Private organisation involvement	
g) Lack of contact between Members & applicant	
6) Communication	a) Instrumental - technical reasoning (linking ends to means & evidence to conclusions)
	b) Moral reasoning (focused around values and ethics)
	c) Emotive - aesthetic reasoning (derived from emotive experiences)
	d) What is being communicated is comprehensible.
	e) Something must be communicated which is factually true.
	f) The communicator must be sincere.
	g) An understanding is being sought so the communication must be legitimate within shared moral norms and conventions
7) Contract	a) Uncertainty of process - outcomes and timing
	b) Private organisation performance
	c) Resource costs to all sides of process and decisions
	d) Planning Gain - new community facilities, road improvements etc.
	e) Legal agreements - Section 106 Agreements
8) Culture	a) Conflict of cultures - Public & Private organisations
	b) Ethical issues - Public v Private sectors
9) Challenge	a) Appeals – rights, process, resources – accessibility of information
	b) Objections - rights -quality & strength of case - impact
	c) Public Inquiries - the adversarial process - decisions
	d) Courts - the adversarial process - Appeals
	e) Judicial Review - permission - limited scope

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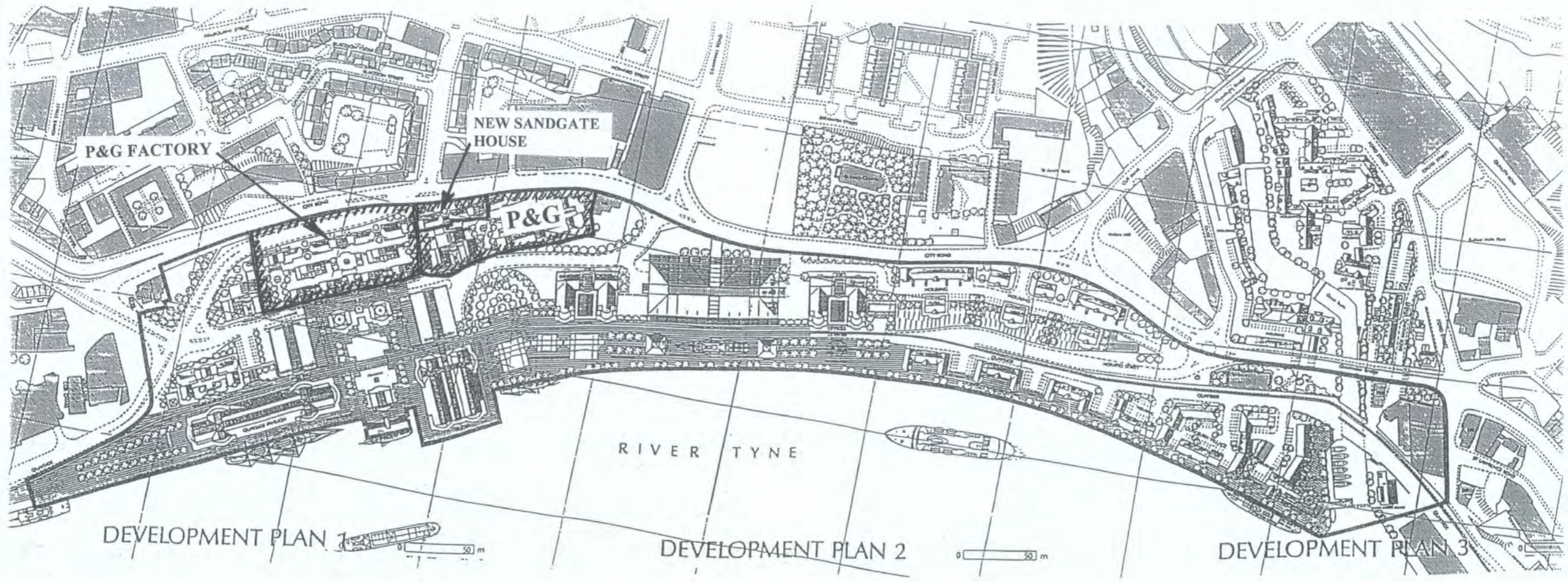
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Approved Outline Planning Permission

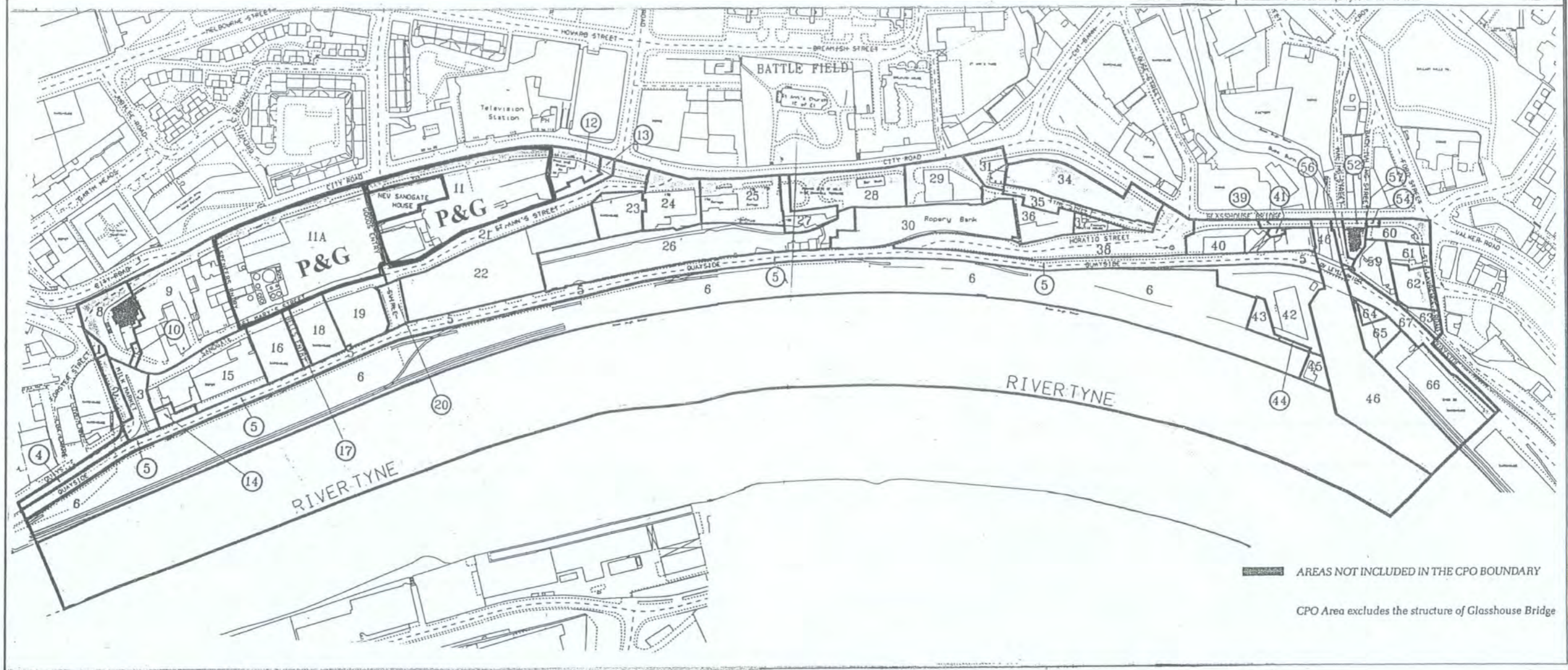
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East Quayside, Newcastle upon Tyne CPO
Public Inquiry: November 1989



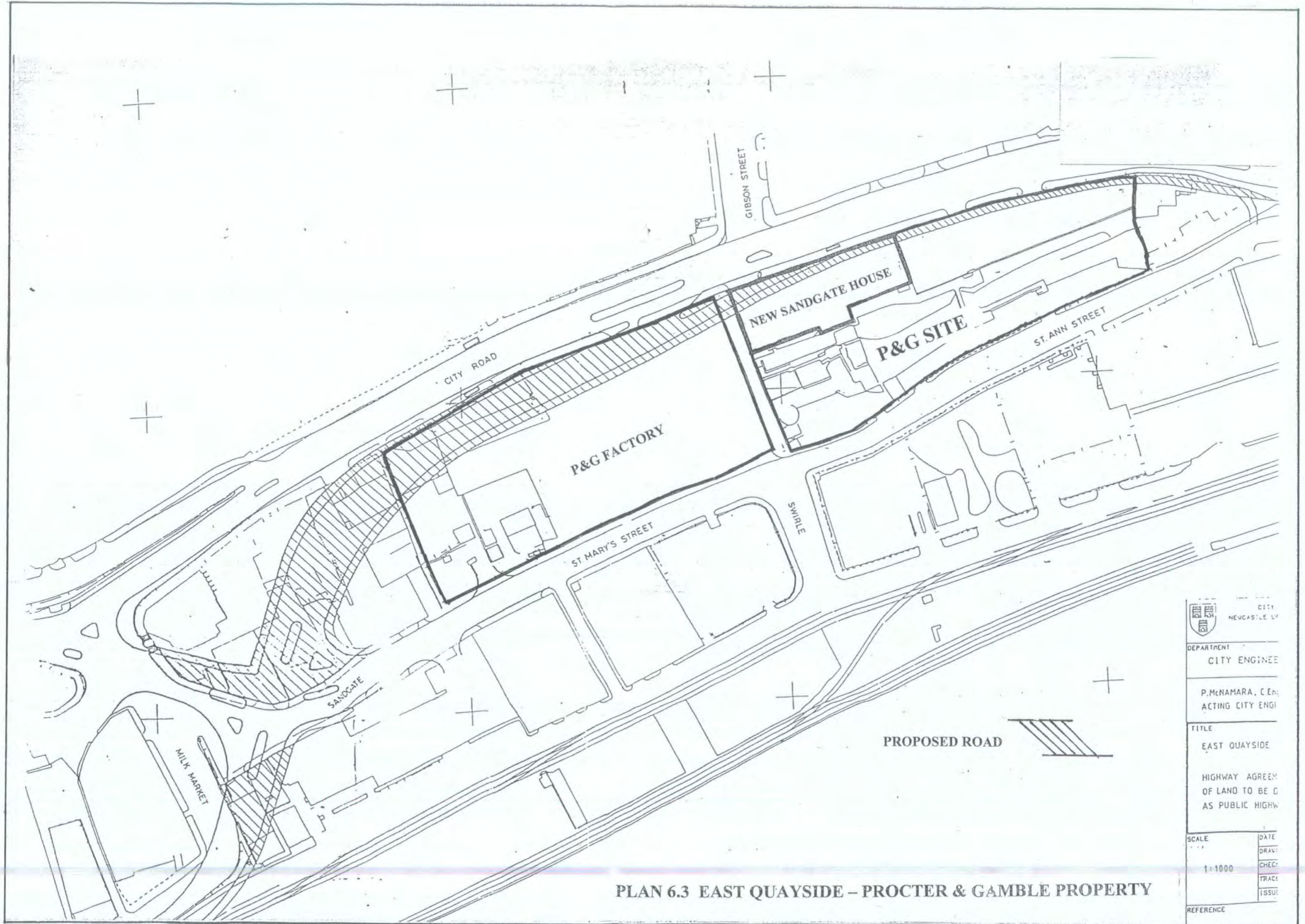
P&G SITES 

PLAN 6.1 EAST QUAYSIDE – DESIGNATED AREA


CPO Plan  TYNE AND WEAR DEVELOPMENT CORPORATION Plan
 East Quayside, Newcastle upon Tyne CPO
 Public Inquiry: November 1989 **D**

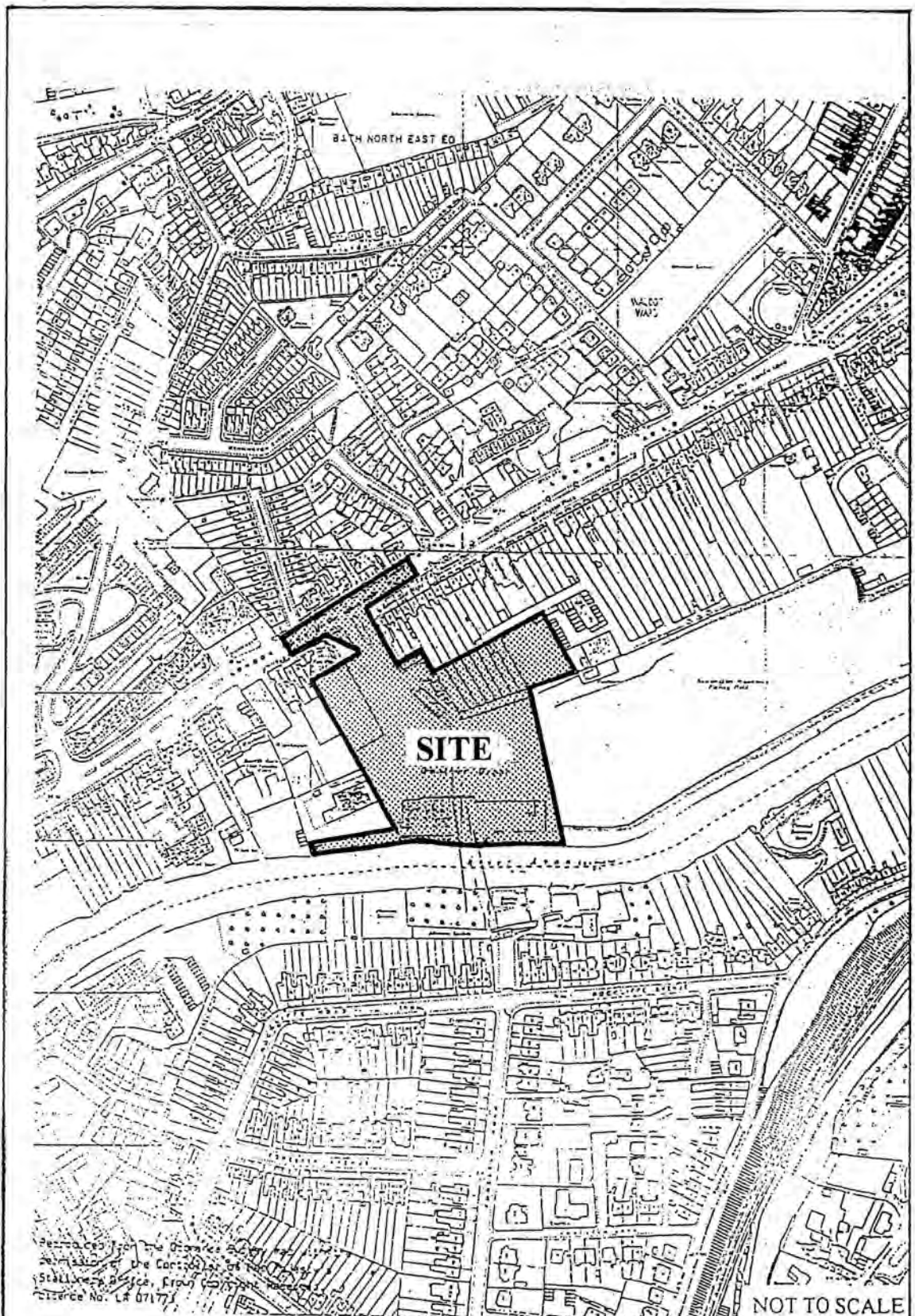


PLAN 6.2 EAST QUAYSIDE - LAND ASSEMBLY PLAN



PLAN 6.3 EAST QUAYSIDE - PROCTER & GAMBLE PROPERTY

 CITY OF NEWCASTLE UPON TYNE	
DEPARTMENT	
CITY ENGINEER	
P. McNAMARA, C. Eng.	
ACTING CITY ENGINEER	
TITLE	
EAST QUAYSIDE	
HIGHWAY AGREEMENT	
OF LAND TO BE DONATED	
AS PUBLIC HIGHWAY	
SCALE	DATE
1:1000	
	DRAWN
	CHECKED
	TRACED
	ISSUED
REFERENCE	



Permitted from the Planning Authority for the
development of the Corporation for the purpose of
Stallions Place, from the Planning Authority
Reference No. LA 071771

NOT TO SCALE

DEPARTMENT OF ENVIRONMENTAL SERVICES Bath City Council



APPEAL BY SAFEWAY PLC
FEBRUARY 1996
FIGURE NO. BCC1

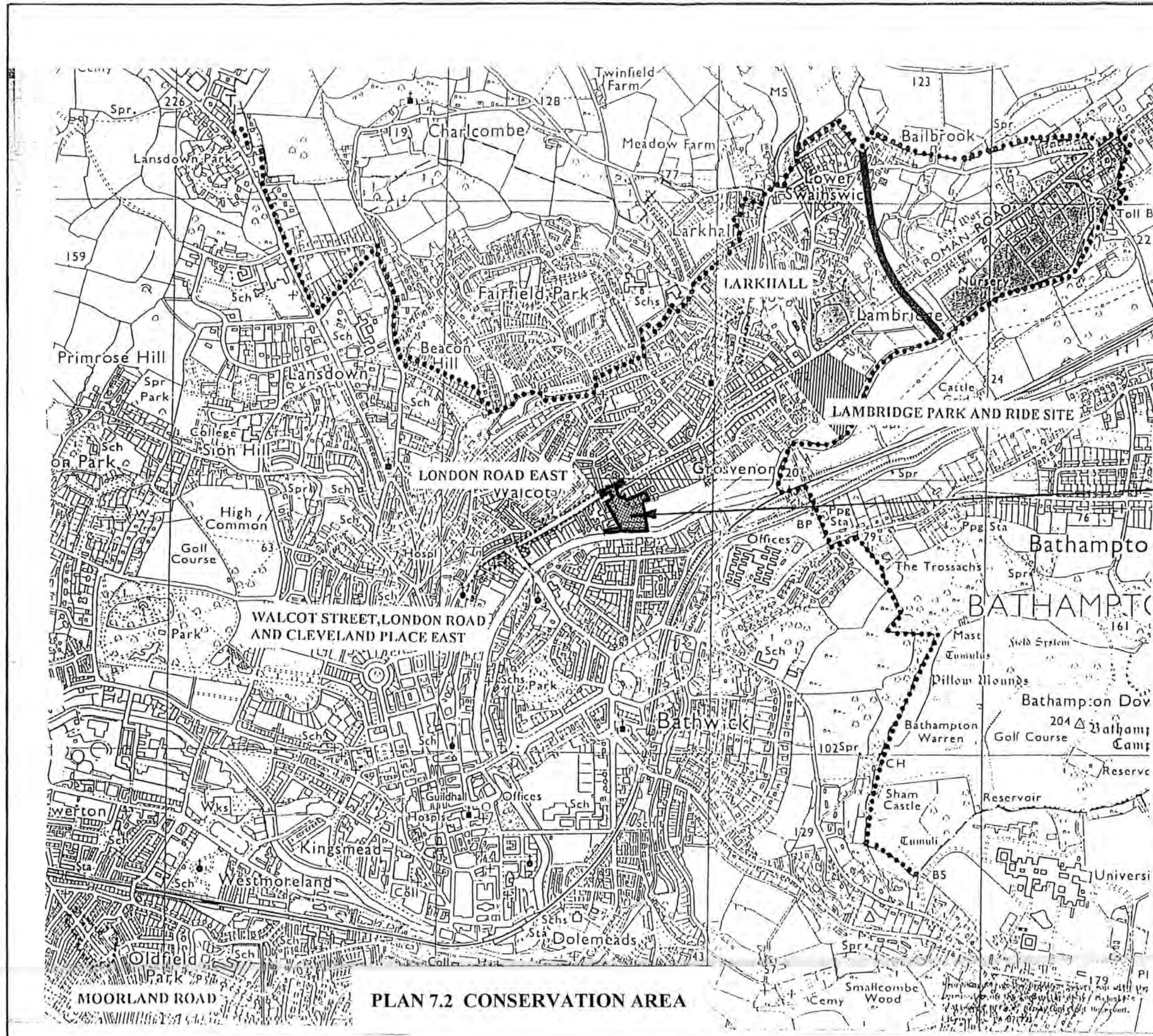


PLAN 7.1 BATH - SITE LOCATION

DEPARTMENT OF ENVIRONMENTAL SERVICES Bath City Council

APPEAL BY SAFEWAY PLC FEBRUARY 1996





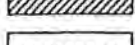
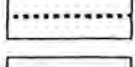
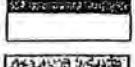
FIGURE NO. BCC3 LOCAL PLAN CONTEXT



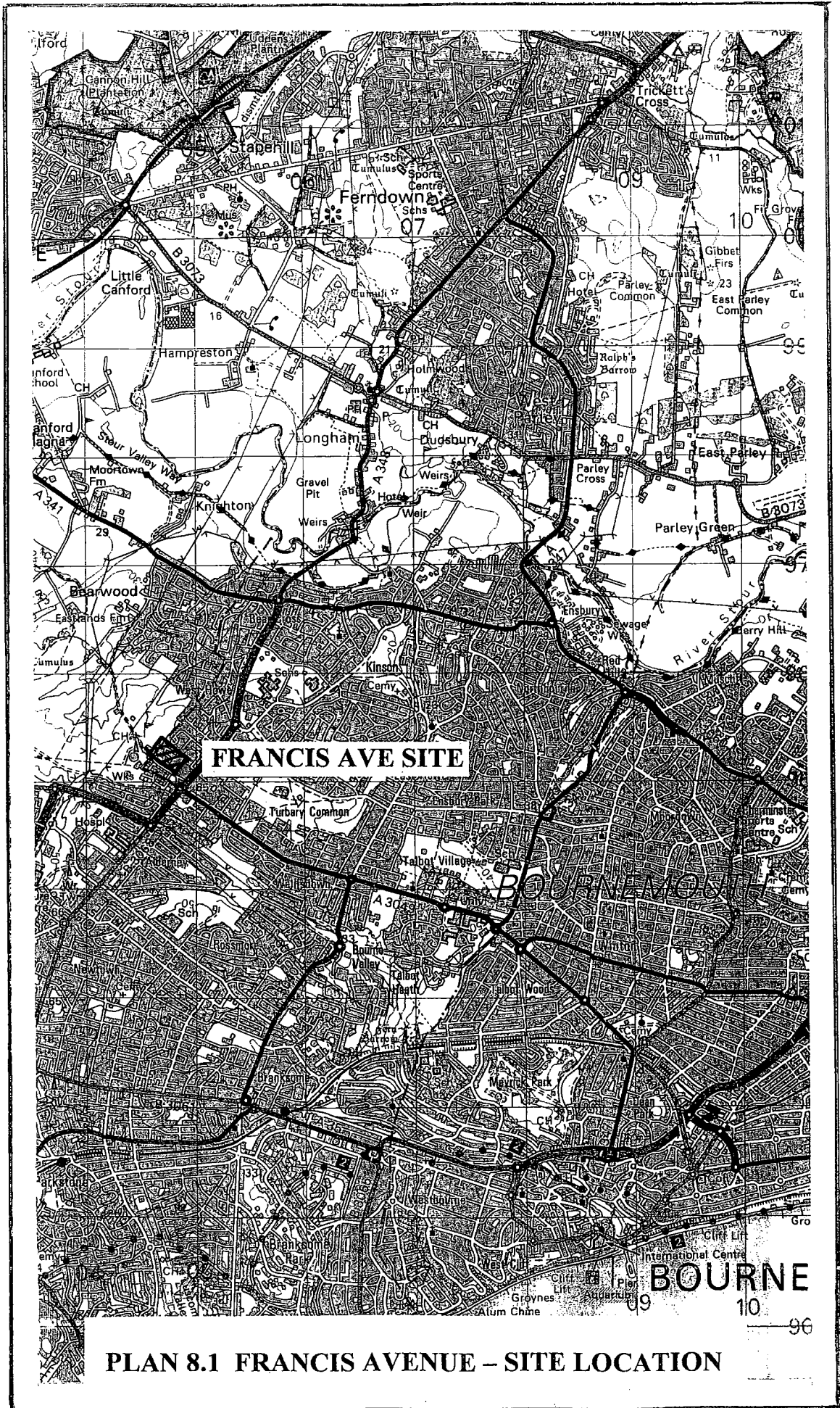
SITE



NOT TO SCALE

- KEY
-  Site
 -  Environmental Improvement Areas
 -  Conservation Area Boundary
 -  Park and Ride
 -  Suburban Shopping Centres
 -  Bathampton Bypass
 -  Green Belt

PLAN 7.2 CONSERVATION AREA

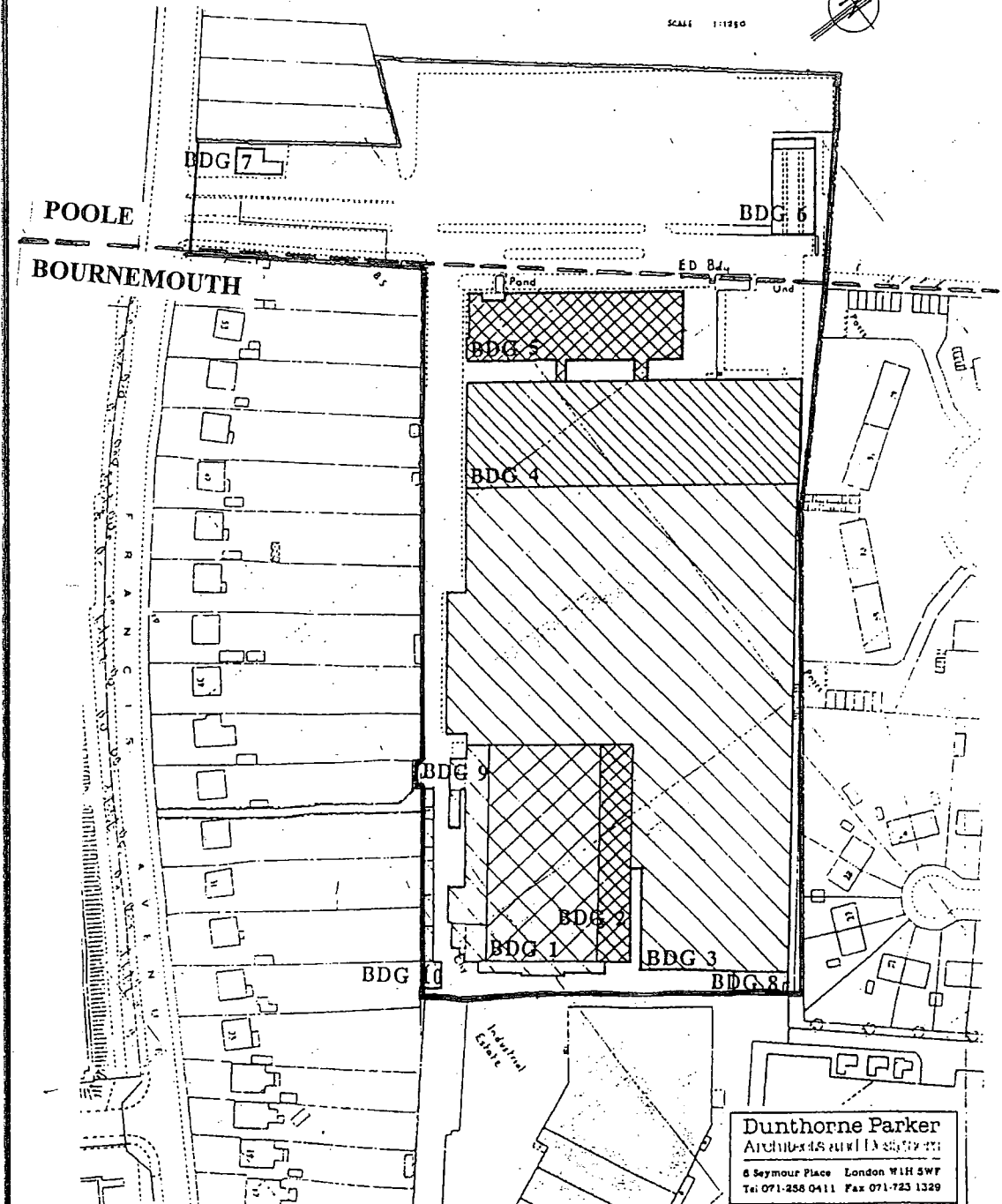


PLAN 8.1 FRANCIS AVENUE – SITE LOCATION

FRANCIS AVENUE, BOURNEMOUTH MANUFACTURING UNIT

GOLF COURSE

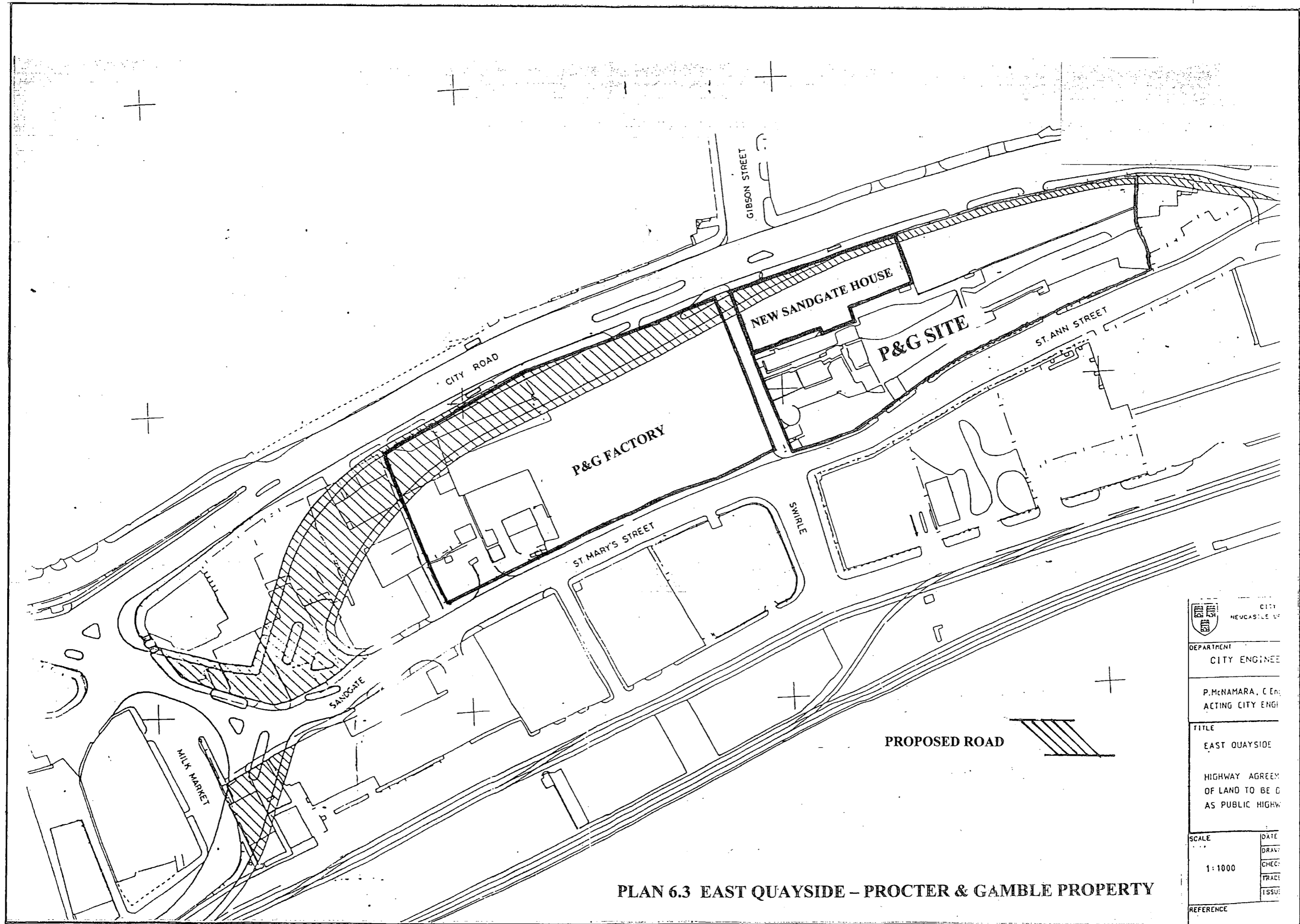
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BOROUGH BOUNDARY - - - -

PLAN 8.2 SITE PLAN





PLAN 6.3 EAST QUAYSIDE - PROCTER & GAMBLE PROPERTY

 CITY OF NEWCASTLE	
DEPARTMENT	
CITY ENGINEER	
P. McNAMARA, C. Eng.	
ACTING CITY ENGINEER	
TITLE	
EAST QUAYSIDE	
HIGHWAY AGREEMENT	
OF LAND TO BE GIVEN	
AS PUBLIC HIGHWAY	
SCALE	DATE
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	CHECKED
	TRACE
	ISSUED
REFERENCE	