

**Communities and demolition – findings from a Workshop at  
Trafford Hall, the National Communities Resource Centre  
27<sup>th</sup> June 2007**

**Anne Power, LSE Housing, CASE**



# CONTENTS

## **1. Why oppose demolition?**

- Why another workshop?

## **2. What is happening to HMR Pathfinders?**

- Government no longer advocates large scale demolition
- Alternatives to demolition are many
- Vehicles for reinvestment are essential
- Urban pioneers can generate renewal
- Area Recovery Plans are urgently needed
- Government must support renewal

## **3. Community Heritage**

- Why save terraced streets?
- What is community heritage?
- Why communities oppose demolition?
- What is characterisation?

## **4. The legal right to oppose compulsory purchase**

- Poor quality Government decisions
- The right of communities to defend local assets
- How to oppose

## **5. Examples of help for groups opposing demolition**

- Looking for alternatives

## **6. Brainstorming session on ways forward**

- Barriers
- Help

## **7. Redeploying HMR Pathfinder funds to continuing renewal rather than demolition**

## **8. Conclusion**

### **Annexes**

1. Essential steps in developing local improvement areas and outcomes
2. 'Why save empty homes and semi abandoned streets', Adam Wilkinson, SAVE Britain's Heritage
3. 'The claimant's view: how to resist a CPO', Martin Edwards, 39 Essex Street
4. Extract from Court of Appeal: 24<sup>th</sup> September 1982. Lord Denning M.R., Watkins L.J. and Fox L.J.
5. Extract from Town and Country Planning Act, 1990 as amended by Planning and Compulsory Purchase Act 2004
6. Programme of event

## **Acknowledgements**

Presentations by Adam Wilkinson, SAVE Britain's Heritage; Martin Edwards, Barristers, 39 Essex St; John Earnshaw, Lansdown Housing & Regeneration Consultancy; Dave Hannay, Community North West.

Participation by groups in touch with "Homes Under Threat (HUT)", a self-support network, based in the East Lancs. Pathfinder area (Elevate).

Event and report funded by Glasshouse Trust. The National Communities Research Centre at Trafford Hall hosted the event. Report by Anne Power, LSE.

## 1. Why oppose demolition?

### *Housing and neighbourhood*

Conditions have changed radically since the Sustainable Communities Plan proposed “large-scale clearance” as a central part of the regeneration and renewal of old streets of terraced housing and more recently built council estates. One thing has not changed: community divisions and polarisation over these proposals and vocal resident campaigns against them, particularly in the North, but also in London and many other places.

Three important ideas lie behind this report:

- firstly, the government no longer embraces with any enthusiasm new proposals for large-scale demolition that meet with community opposition, and many pending demolition proposals have been reigned in or cut down;
- secondly, widespread recognition of “community heritage” has driven up values in previously run-down areas, closely linked to rising demand, economic growth and over-pressured environments; and
- thirdly, residents who are directly affected by top-down government interventions, of which compulsory purchase is an extreme example, have the right to full legal protection, defence of their case and their community, and a voice in shaping plans that will conserve rather than destroy what they love.

### *Why another workshop?*

LSE Housing was asked by the Homes under Threat Network to organise a second “Communities against Demolition” Workshop, following the first in July 2005 to help community groups struggling to save their communities. Groups particularly wanted legal advice and an update on current housing policy in proposed demolition areas. Many groups live in areas under threat of clearance with pending compulsory purchase orders (CPO). Conditions in these areas are deteriorating rapidly and residents are gradually being forced to accept alternative offers of housing as a result of appalling conditions, even where they did not originally support the decision. The Glasshouse Trust agreed to support the workshop at cost and Trafford Hall agreed to host it.

The workshop attracted 38 participants, representing 15 different community-based groups, mostly in housing market renewal areas but a few from council estates due for demolition, including a couple from London. Most of the participants were from Northern cities and towns, stretching from Bootle to Gateshead.

The workshop was in four main parts:

- The changing political environment
- Community heritage and demolition plans
- The legal challenge of compulsory purchase and efforts to save communities
- Alternatives to demolition

The day ended with a “brainstorming” session, with all participants contributing their ideas on the main barriers to saving and rebuilding established communities and on what would most help. This short report reflects the main ideas that arose during the day. The Annexes offer some more detailed information about legal, heritage and policy aspects of demolition.

## **2. What is happening to housing market renewal pathfinders?**

*The government no longer advocates large scale demolition*

The government has taken the position that if the housing market has changed, regeneration bodies should change their plans. This de-facto calls into question wide-scale demolition in Pathfinder areas. House prices are catching up between unaffordable areas of the South-East, more popular areas in the North and the less popular lower demand areas that were the target of the Pathfinder programme.

*Affordability is a hot issue*

It has become clear that trying to push prices in low-demand areas up to the level of higher demand areas is a terrible mistake since that would simply spread unaffordability across a wider range of stock. It is much more important to make cheap housing more attractive so that it can be saved from demolition, thereby increasing the affordable supply. Services greatly add to the viability of rundown areas, particularly improved public transport, local shops and schools within walking distance. Terraced housing in existing streets in inner locations offers a density and layout that make regular local services within walking distance possible. Most targeted demolition areas have these advantages.

*The alternatives to demolition are many*

Investing an average of £25,000 per property in existing homes would make most homes and streets attractive. More would be needed for some extremely dilapidated properties. Existing occupiers can be helped through extending the Decent Homes Programme to all homes in Pathfinder areas alongside small renewal grants and the Fuel Poverty Programme. This upgrading can hold a community together and improve an area sufficiently to attract additional investment in empty homes and infill sites.

Demolition is an expensive option and there are already many bare sites within existing communities throughout the Pathfinder areas that can be used for new building. There is no need for more clearance to create space since most brownfield capacity is in rundown Northern areas and variety is not the problem since less than a fifth of our housing is in terraced Victorian streets and only a tenth in council estates.

There is evidence that environmental gains can be made from refurbishment. Previously extremely run-down low-value areas, such as Langworthy in Salford and Anfield in Liverpool are being made attractive through restoration. The work of Urban Splash and the Affordable Housing Development Company has highlighted this. Ironically, Urban Splash was forced to demolish most of the structure of the houses they were trying to save because of VAT on repair.

#### *Vehicles for reinvestment*

The role of housing associations or other community-based investment vehicles in helping to deliver Local Improvement Areas is extremely important. Although refurbishing a property costs on average under half the cost of demolition and rebuilding, communities still need incentives and support to renovate property blighted by demolition threats. Community organisations need formal legal structures to take on the challenge of renewal and attract significant investment. This applies particularly in communities where outside bodies are not willing or able to deliver investment in improvements quickly. Community groups need to get backing from established and recognised local bodies such as banks, regeneration organisations, local authorities, lawyers, local housing associations, and local leaders such as MPs, councillors, churches, and businesses. New development and reinvestment companies are already emerging in some areas, to take on this work.

#### *“Urban pioneers”*

Areas with a history of low demand and with some empty derelict property will revitalise more quickly if young people in work can be attracted in. These incomers looking for low cost homes are what we call “urban pioneers” because they are ground breakers in the future of low-demand areas. Older residents recognise the need for younger people both to stay and to move in, and they want positive and youthful residents to contribute to their survival. The “homesteading” model, with incentives for occupying and doing up property simultaneously, fits this approach.

#### *Area Recovery Plan*

It is necessary to have a wider plan for the area to cover open spaces, trees, play areas, social and community facilities such as schools, nurseries, shops, churches, pubs, all of which can be renovated, remodelled and reused. By listing all the assets and all the problems of an area, literally valuing the

assets and costing the solutions, it is possible to agree an area action plan. Some of this is already happening. For example, there are areas where local associations are selling empty homes to low income owner occupiers to carry out refurbishment on a time-limited basis, helped by a small grant. In other areas, the local council hands over empty property to a renovation company to be done up and either sold or let to local residents. On the other hand, many of the targeted communities are now so decimated by demolition blight that community spirit is hard to drum up and existing residents have given up. But since even derelict areas are usually cheaper to save than demolish and rebuild, the Council with a partner, may need to take the initiative. Anfield is an example of this.

#### *Government responsibility*

Given the legacy of HMR Pathfinder policy and the potential of derelict and empty property for providing affordable homes, a new strategy for restoring communities, a 21<sup>st</sup> century equivalent of the 1970s Housing Action Areas to renovate blighted Victorian streets is urgently needed (see annex 1). Introducing the three incentives proposed by Kate Barker would help: a tax on empty buildings; a development levy on new land; an incentive to develop infill sites.

### **3. Community heritage**

#### *Why save terraced streets?*

There is a powerful case for saving streets of terraced housing and for keeping communities together rather than dispersing communities and losing heritage through demolition. A core argument is that there are already people living in a ready supply of affordable housing which can be done up using small local builders, attracting additional investment and generating local jobs. Terraced housing offers high density in an attractive form and can therefore support the provision of community facilities and public transport, reducing car use. These terraced streets offer a framework for sustaining existing communities.

Older stone or brick-built housing is adaptable and can provide both larger family homes if necessary by joining two houses together and also an employment base by incorporating live-work offices. Many sole operating professionals and small companies such as architects, printers, craft workers, sewing, music etc are moving to these areas for this reason.

#### *Community heritage*

Terraced housing has preserved the social and architectural coherence of community heritage. This does not mean grand-scale buildings but a smaller, living, people-based heritage, offering a sense of

belonging and a physical backdrop to everyday life that people find attractive. Community heritage is not defined by experts but by the people who live there.

#### *Community opposition to demolition*

Local authorities, developers and regeneration agencies often see community opposition to demolition as selfish and an impediment to progress; in fact, it is people fighting for what they know and love; what for them has real value. Intervening regeneration agencies do not recognise typical “*non-glamorous*” buildings as an unrecognised, semi-hidden focus for community links. Community heritage in these areas is part of everyday life, providing a townscape and setting for social links that people value.

#### *Characterisation*

English Heritage has developed an approach to community heritage, called characterisation, which identifies community values as a way of assessing what is good and worth saving in an area. The collective sense of identity and collective memory of a community is what many residents are most reluctant to give up, particularly older residents, but also families with children. People should not be forced to lose what gives them their sense of security and belonging. (See annex two for more detailed arguments).

#### **4. The legal right to oppose compulsory purchase orders**

Community groups had specially requested legal advice. Martin Edwards, barrister based in chambers in Essex Street, London, came to Chester to share his extensive experience of both opposing and supporting CPOs. There were three main points to his advice:

- The poor quality preparation of compulsory purchase orders by local authorities and government agencies;
- The “*heroic*” nature of community defence of local areas by opposing demolition proposals in the wider public interest;
- The complexities and unequal conditions facing community groups opposing compulsory purchase, with some suggestions of how community groups could go about securing the future of their areas. The following notes from the legal session in the workshop summarise crucial legal advice and expertise (see annex three for fuller text).

### *Poor quality government decisions*

Local government has a “*big head of steam up*” on the use of compulsory purchase; referred to as “*a mania to get orders through, come what may*”. Many proposals were ill conceived and amateurish. Often local authorities got facts and arguments wrong because inexperienced CPO offices were leading the process. In one CPO application in a declining coastal town in East Anglia the council was seeking to close six functioning local businesses in order to make space for a new town hall.

Local authorities could see nothing wrong with the approach that they were adopting; yet it involved a “*cynical use of power*” which amounted to abuse of those powers. Some local authority officers were “*so incompetent*” that they should not be allowed to hold positions of such power over community futures. Many adopted an “*end justifies the means*” approach which is open to challenge on the basis of legal precedent.

### *The right of communities to oppose demolition*

The suggestion that community opposition is a form of NIMBYism standing in the way of progress is “*nothing short of scandalous*”. Lord Denning, and Lord Justice Watkins described community objectors to the use of sweeping compulsory purchase powers as “*doughty fighters*”, protecting often not only their personal property but also community assets. Two important legal cases make it clear that courts must protect citizens’ private property rights in any case where there is any reasonable doubt about benefits. Whoever the acquiring authority for a property is, and including the Secretary of State if the case is referred, must show “*a compelling case*” in the public interest for overriding community opposition.

**If circumstances change along the way of achieving this public interest aim, then those changes must be taken into account, and plans adapted accordingly.** In the case of the HMR Pathfinders, where the costs of compulsory purchase, of acquiring property by force and of demolishing properties have escalated far beyond expectations, the change in circumstances should lead to a change in plan, as central government is saying.

There is now an overwhelming case for reconsidering plans in many proposed demolition areas because conditions have changed, even where compulsory purchase has been confirmed. But there is a powerful regeneration industry riding rough-shod over communities which is “*almost sinister*”.

### *How to oppose?*

A huge volume of work is involved in objecting to compulsory purchase, requiring significant funds. It is not usually enough to rely on pro bono work. Objectors need independent, consistent and long-term

advice in order to overthrow a process where a single official can often rubberstamp decisions and elected representatives often don't know what decisions are being taken.

The main advice is:

- use the freedom of information act;
- have as many community representatives as possible in the courtroom to hear everything that goes on;
- look for legal errors in the process, particularly around the public interest; and
- check the finances and costs.

Annex 4 gives details of the Lord Justice Watkins case where the CPO was thrown out on the grounds of changing costs and other conditions.

#### *Advice on tackling “real injustice”*

Many participants raised questions on legal issues. The following is a summary of key points of advice.

- CPOs can only be confirmed if they contribute to economic or social well-being of the area (see Annex 5).
- Environmental impact is an important consideration. Not only must there be a clear strategic environmental assessment report, but recent EU decisions underline the seriousness of the environmental impact assessment process.
- Local authorities have a duty not only to respect private property but also not to let an area run down. They are under a legal obligation to maintain all the areas within their boundaries. Therefore it is not justified to let areas fall into the conditions that now prevail in some areas, either where they are already under a CPO or simply proposed for demolition. Communities have the right to challenge their Council on the state of their areas.
- It is wrong for local authorities involved in neighbourhood regeneration to refuse to produce full documentation of their plans for the public or to operate in any way that disadvantage minority groups who often occupy these areas.
- Community groups opposing need to choose the legal advice very carefully. The formal objector to the process needs to be on a sufficiently low income to qualify for legal aid as the process of objecting is long, complicated and costly.

## 5. Examples of help for groups opposing demolition

### *Community North-West*

Two sets of ideas were presented as ways of helping groups. Community North-West, founded by John Moores' Littlewoods, based in Nelson, is an independent community office working with groups in a 'David and Goliath' situation. Small groups fighting for their homes against huge multinational development companies who want to bulldoze their area is a "*shocking sight to see*". Community residents are the real experts and they need to battle on in opposition to plans to destroy their community. In the case of Whitefield, John Prescott (former Deputy Prime Minister) refused to confirm the demolition order. Pendle is now bringing forward new demolition proposals using "*slippery language*" such as the proposition that the existing conditions are "*non-conducive to a sustainable community*". It should be possible to argue that this is not a public interest argument of sufficient weight. Community representatives should call on sympathetic advisers to help them.

### *Local Community Partnerships*

The second idea came from Lansdown Housing & Regeneration Consultancy which offers help to communities looking for alternatives to demolition, through forming "local community partnerships". The idea is to form a consensus-seeking representative body for the area that can develop more locally acceptable plans. The proposal is that six local residents would be elected as representatives of their area to meet regularly with three local council representatives and three locally connected and agreed experts in area renewal, in order to negotiate a way forward in a regeneration area. One of these local community partnerships may be trialled in Liverpool. The legal structure of such a partnership and its remit and potential will only become clear when the idea is actually piloted on the ground. The investment in the renewal of existing blighted homes and the "rebranding" of the area for existing, returning and new residents, remain the major challenges, but the proposal to build a more consensual approach to resolving conflict over "demolition versus renewal" is very important.

## 6. Brainstorming on ways forward

Participants were asked to contribute their ideas in answer to two questions:

- What are the biggest barriers to finding alternatives to demolition in your communities?
- What do community groups most need help with?

## Barriers

The first table sums up the findings from participants on the major barriers they face. The box shows some ideas people wrote down during the “brainstorm”.

**Table 1: What are the biggest barriers facing community groups opposing demolition?**

Issue	How many times the issue has been mentioned
a) Local Authorities - HMR system / politics - Consultation	20
b) Information - Legal - Alternatives to demolition	16
c) Community - Abandonment - Scarce resources - Understanding	15
d) Government - Funding / Financial - Changing conditions of market - Complex systems - RSLs system / politics - Public / private interests	14
e) Local housing conditions / environment - Housing - Wider area	7

There was a strong emphasis on the need for clear plans, clear legal advice and clear funding proposals.

**Box 1: What are the biggest barriers facing community groups opposing demolition?**

<p><b>Local Authorities</b></p> <ul style="list-style-type: none"> <li>- <b>HMR system / politics</b></li> <li>- <b>Consultation</b></li> <li>- <i>LAs that are weak, incompetent, don't understand the issues facing them</i></li> <li>- <i>Councilors secrecy, decisions being made even before research is completed</i></li> <li>- <i>Tameside council lies and uses bullying tactics with community opposition of interest</i></li> <li>- <i>Council officers reluctant to enforce policy against RSLs due to personal conflict where they hope to join RSLs as employee in the future</i></li> <li>- <i>Councilors with other agenda or lack of ability to enforce on council officers</i></li> <li>- <i>Council planners constantly changing their minds – goal posts constantly being moved</i></li> <li>- <i>Conspiracy concealed within incompetence</i></li> <li>- <i>Pathfinder pulls all strings over Executive 'Local Council' committee</i></li> <li>- <i>Executive always seems to go with Pathfinders, not residents wishes</i></li> <li>- <i>Council won't discuss their consultation failings</i></li> <li>- <i>Not enough local people who can see through the slanted consultation process</i></li> <li>- <i>If LA wants to do it they will do it in the end, so better to get out now and then the LA can smash the community</i></li> </ul>
--

### **Information**

- *Constant lack of information being fed back to residents*
- *Accessing information and academic research – need a central library of all research*
- *Too much lying being done by opposing parties against each other*
- *Misinformation from council and media...Hard to get media to voice our opinions...Trying to find the truth around rumors*
- *Lack of thought about alternatives to demolition*
- *Lack of interest into community where demolition has already dispersed communities*
- *Lack of clarity on government position and funding*

### **Community**

- *Mobilising the community against it*
- *Fear and powerlessness in the community*
- *Ignorance and confusion within the community so easily led like lambs to the slaughter*
- *Community group “representing” residents’ interests but actually acting against their interests (wittingly or unwittingly). Being used by agencies to further their plans through being given finances, jobs and self-promotion. Hand-in-glove with them and largely unknown on the estate*
- *Existing residents seeing new people coming in as “gentrifiers” not potential investors in area who might join in and stay... How to pull existing groups of residents fighting to take next step*
- *Expert advice needed*
- *People moving out of areas before orders are being made. Those who want to stay are being driven out*
- *Lack of time, expertise, skills, financial resources, IT resources, etc*
- *Community indifference to demolition*
- *No access to the funds needed for a proper defence*

### **Government**

- *Arrogant assumption of government, local government and planners that they are “experts on us”*
- *This is partly about spending large amounts of public money – how can we not lose that and make progress on renewal without demolition?*
- *A fundamental problem facing HMR/PFI is that they are dealing with a dynamic situation where the context of the policy has changed – no longer low demand areas – and there is inertia in how to react to that – still “thinking demolition”*
- *People agreeing to “voluntary acquisition” under threat and perverse compensation culture to tenants on benefits*
- *Blurring of boundaries between public and private interests*

### **Local housing conditions and environment**

- *Abandonment of estate – poor lighting; antisocial behaviour*
  - *litter*
  - *flytipping*
  - *vandalised buildings*
  - *stolen roofs*
  - *cast iron gutters*
  - *copper, lead, etc*
  - *vermin*
  - *arson*
- *Need more security and environmental improvements*
- *Victorian terraces*
- *Social'-ist' ownership of housing stock*

*Blighting of wider area beyond the 2 streets*

## Help

The second table summarises the help that residents feel that they most need in opposing demolition plans and renewing their communities. Box two gives examples of residents' views.

**Table 2: What do community groups need most help in?**

Issue	How many times the issue has been mentioned
a) Other kinds of helps <ul style="list-style-type: none"><li>- Publicity / media</li><li>- Time</li><li>- Community consultation / empowerment / engagement</li><li>- Education</li></ul>	13
b) Legal advice	10
c) Policy change/ Reform <ul style="list-style-type: none"><li>- Leadership / champions</li><li>- Local Authority reform / change</li></ul>	12
d) Other expert advice and support <ul style="list-style-type: none"><li>- Information</li><li>- Public accountability / transparency</li></ul>	14
e) Funding and investment	8

**Box 2: What do community groups need most help in?**

<p><b>Legal advice</b></p> <ul style="list-style-type: none"><li>- <i>On tap legal help, but at a price we can afford</i></li><li>- <i>Legal help at the start of the process of acquisitions, demolitions, CPO, understanding the documents associated with TCPA systems</i></li><li>- <i>Legal advice i.e. what to do next, how to prepare effectively for a public inquiry</i></li></ul> <p><b>Other expert advice and support</b></p> <ul style="list-style-type: none"><li>- <i>Good guidelines to help oppose proposals</i></li><li>- <i>Expert ideas re: taking our ideas forward, on how to get a group started and the community involved</i></li><li>- <i>Proper funding advice</i></li><li>- <i>Guide to relevant government policy'</i></li><li>- <i>Access to academic documents in central depository, also national press articles and documentaries</i></li><li>- <i>Ways to make clearer the council/consultant language</i></li></ul> <p><b>Funding and investment</b></p> <ul style="list-style-type: none"><li>- <i>Funding for various community development projects</i></li><li>- <i>Need investment in public housing</i></li></ul> <p><b>Alternatives</b></p> <ul style="list-style-type: none"><li>- <i>Demonstration of solutions that don't involve demolition</i></li><li>- <i>A clear alternative way forward and more actual examples</i></li><li>- <i>Alternative game plan with powerful partner</i></li><li>- <i>The media do not support groups so we get very little publicity</i></li><li>- <i>Publicity – national "blog"</i></li><li>- <i>More publicity – the more the public knows of what is really happening, the more they hate it</i></li></ul>
--

### **Policy change/ Reform**

- *High profile person to take our case to*
- *Someone who will listen*
- *Residents' advocate and local office – for open, honest advice and to coordinate people in initial stages of opposition*
- *Support for community “champions”*
- *Setting up a “body” or a “trust” to form alternative development plan*
- *Force councils and RSLs to value assets better, for example, sell some property to pay for refurbishment of others*
- *Severely reduce amount of public money available to Councils that allows them to waste it so much and leave valuable public assets empty with no penalty*
- *Make them have to work their assets (so it helps communities)*
- *Proper regulation and accountability in councils and RSLs*
- *Strengthen the law and have truly independent audit of what they are doing*
- *Stop councils and RSLs acting like speculators and developers*

## **7. Redeploying HMR Pathfinder funds to continuing renewal rather than demolition**

Some alternatives to demolition emerged in the course of the workshop:

- community trusts along the line proposed by the Development Trust Association;
- partnerships with housing association;
- community-based housing companies or associations on the Scottish model;
- cooperatives;
- local community partnerships;
- legally constituted community organisations to develop area plans.

Pathfinders could offer modest support so that residents willing to do up their homes could get over the hurdle of demolition blight. Funding proposals included the following:

- a low-level grant system for owner-occupiers willing to invest;
- a homesteading scheme where people are encouraged to take up the ownership of abandoned properties on condition they do them up;
- releasing empty properties slowly for sale in order to attract new owners without swamping the market.
- community ownership scheme equivalent to a “community right to buy” where residents can acquire a street or a small area to do it up and manage it (Danish private tenants have this collective right);
- infill building to fill in the gaps that already exist in HMR Pathfinder areas due to earlier demolitions and the closure of local enterprises and services;
- shared equity ownership for existing tenants so that people build up a stake in the area; and

- transferring derelict property to local trusts or companies willing to invest and do them up.

Some of these ideas are already being trialled successfully and could be turned into a coherent, costed alternative plan for the former demolition areas.

The following Box 3 presents the recommendations that members of the “Homes under Threat” group drew up, following the workshop.

### **Box 3: Homes under Threat Summary of Recommendations**

1. If the Housing Market has changed then the Government’s Policy toward what used to be low value areas also needs to change. Don’t assume Pathfinders and Regeneration Officers always know best... ask local people!

See local people as assets rather than obstacles! They are the real experts! However it is important local community groups get Legal Aid, Equality of Alms, etc to get proper advice and support, especially if there are Public Inquires.

2. There needs to be proper measures of judging schemes such as Pathfinders that include fiscal measures to judge Housing Market renewal. Measures that are conducted independently are more valuable than asking a Regeneration Board to judge itself. Tax empty properties owned by Councils and Housing Associations.
3. Look to refurbish people’s homes rather than demolish houses and thus keep communities together rather than break them up. Registered social landlords and the Local Authorities should have a “DUTY OF CARE” to other properties in the areas. There should be some way of “handing back” unused properties to the local community rather than leaving them boarded up for years.
4. Regeneration powers are too wide and take too long and need revising. Don’t let areas awaiting developments go to rack and ruin through cuts in cleansing, allowing fly tipping, graffiti, dog and other mess. This may need extra SSA to ensure mainstream services are kept up to standards. In specific cases grants for owner- occupiers needs re-instating. VAT relief on all repairs in refurbishment areas needs to be extended.
5. Long-term community cohesion especially in out inner cities means less reliance on apartments and a move towards more mixed community approach to new developments. There needs to be proper support for community involvement, including “capacity building” support to set up local community trusts. More support should be given towards initiatives like Community Co-operative Housing Schemes and that would support mixed tenures etc.
6. Don’t build any more houses on open space until the entire brown and “bare” sites have been properly redeveloped. This applies to all parts of the country. Derelict industrial sites should be cleaned up before other properties are demolished. Don’t build affordable housing on flood plains. This is a planning not an insurance issue.
7. Re-invest the money from sales into local areas especially via locally run Community Asset Schemes and sympathetic Housing Associations. This is one way of preventing blight.

8. Use understandable language and don't hide unpopular decision behind jargon that even Councilors responsible for major decision often fail to understand. Quangos should not be able to hide their decisions and must be accountable through the Freedom of Information Act.
9. Discourage housing officers to move to Housing Companies and have a time limited on when they can do this. Make sure that Councilors don't remain in situ on Quangos or have a conflict of interest.
10. Local Authorities and other bodies should be far more constrained in their use of CPO powers and should under all circumstances exhaustively seek alternative solutions, including alternative plans proposed by residents.

## **8. Conclusion**

The biggest single barrier to new investment and regeneration is the state of the HMR "demolition" areas after years of blight. Some participants thought that the demolition proposals had gone so far that it was difficult to imagine an alternative rescue plan. One participant put it starkly: *"If it all stopped now, how would we overcome it? It's a hellhole. Can it be brought back?"*

Other people took the view: *"you need a longer term vision of how it could be"*. This happened in the 1970s when many areas, devastated by 'clearance blight' for decades, were brought back through general improvement areas, housing action areas and renovation grants. Small improvement grants or special loans seem to be key.

In order to restore neighbourhoods so that they become viable again, five main proposals came up:

### **Neighbourhood management**

Local authorities need to adopt a strong neighbourhood management role in order to create a safe and clean environment with street cleaning, recycling, service level agreements for neighbourhood delivery and better policing. Many aspects of neighbourhood conditions would work better with more careful investment of resources.

### **Youth**

Stopping nuisance and anti-social behaviour, particularly among young people requires more for young people to do. It needs community residents to get involved in working with and helping young people. There should be better run youth services and centres so that youth workers who aren't performing well can be replaced. Having better cared for parks, playgrounds and play areas would help families.

### **Business and Employment**

The idea that 'new is better' and that 'big builders are better' should be challenged. Small local firms should be used for refurbishment work. This would show that there was a better alternative than knocking down houses and using "cheap building kits" to put up alternatives. Local entrepreneurs in communities can also set up other local businesses. There should be supports to make this possible.

### **Community**

Councillors should have to listen to local people and be accountable to the local community. Local "people resources" should be used much better, as residents know their area. Councils and regeneration bodies should follow through on consultations – not just tick boxes. Government should back local people and force councils to deliver on people's ambitions. People in authority should not belittle community feelings about the area and should do all in their power to save what so many people, but not all, value.

### **Resources**

A lot of money is currently wasted in big regeneration schemes and many valuable community assets are destroyed. By redirecting resources towards revaluing and restoring local community infrastructure, government and development agencies would be helping some of the poorest urban neighbourhoods recover.

## **Annexes**

1. Essential steps in developing local improvement areas and outcomes
2. 'Why save empty homes and semi abandoned streets', Adam Wilkinson, SAVE Britain's Heritage
3. 'The claimant's view: how to resist a CPO', Martin Edwards, 39 Essex Street
4. Extract from Court of Appeal: 24<sup>th</sup> September 1982. Lord Denning M.R., Watkins L.J. and Fox L.J.
5. Extract from Town and Country Planning Act, 1990 as amended by Planning and Compulsory Purchase Act 2004
6. Programme of event

## **Annex 1: Essential steps in developing local improvement areas and outcomes**

### **Six Essential Steps**

- develop plans in close ongoing consultation with existing residents, and in close partnership with main local actors to ensure plans work.
- design carefully and to maximum quality additional infill buildings, to add to quality of area and to reach high environmental standards.
- revalue all existing assets including shops and flats over shops, churches, pubs, garages, workshops, scrap land, parks, play areas, streets - every physical component of an area, then maximise these assets by generating mixed uses.
- cost the inputs needed over time to improve the whole area to an attractive standard with the goal first of improving public spaces and streets; second recycling existing empty buildings and spare land; third doing-up existing homes in concert with current owners to the top energy rating possible; fourth modernising homes and halving waste simultaneously.
- identify sources of investment both private and public to transform neighbourhoods.
- develop a longer-term neighbourhood management structure to follow through and maintain local improvement areas.

### **Six Outcomes**

- producing a flow of new and renovated affordable homes within rather than without existing communities, mixing existing and new social and private flats and houses; using smaller younger architects and builders to develop smaller schemes.
- creating many more green spaces and play areas, maintained so families can unleash their children's energy in the outdoors.
- upgrading existing homes to high environmental standards, cutting energy use by 50% at relatively low cost (Empty Homes Agency, "How to do up an Empty House")
- remodeling eyesores, derelict buildings and land, making the area look cared for and creating new uses.
- attracting younger working people as "urban pioneers" into new and renovated homes with enough residents to improve bus frequency and sustain local shops.
- slowing climate change by improving cities and their communities, cutting materials, transport and land use to the minimum, and increasing efficiency in the existing stock by 50%.

## **Annex 2: 'Why save empty homes and semi abandoned streets', Adam Wilkinson, SAVE Britain's Heritage**

### *Looking for positive community value*

Rather than addressing a negative question, why not turn the idea on its head and ask what is positive about the areas of empty homes and semi-abandoned streets. The first, most basic and most excellent point is the people who are already there, who form the kernel of a community and who have the energy and spirit to resist the schemes that are blindly forced upon them.

The streets and homes represent a ready supply of housing, or at least would if they were made available to individuals and small builders to take on and repair. Before being released they should be properly mothballed to prevent deterioration and protect the investment that they represent.

By gradually releasing empty homes to the market, rather than to large scale developers, long term private investment is secured, and the short term investment in repair is more likely to make use of the local workforce and local suppliers. This leads to a local multiplier effect as that money is then pumped back into the local economy. This process is well documented in the USA where it has been used to provide the evidential base for tax incentives toward the repair of vacant historic buildings.

The environmental arguments are strong, with the buildings representing a significant investment of limited resources and embodied energy, and being densely packed together their reuse limits the need to build on Greenfield sites on the outskirts of town, while encouraging the use and support of local amenities and shops, reducing car usage.

### *An attempt to define Community Heritage*

The homes and streets are already a framework for a community, and provide a structure around which a community can be built in a way which is shown to work, encouraging informal social networks through the old fashioned means of the front door and the street.

The buildings themselves are generally robust and therefore highly adaptable – they can be altered, extended, knocked together and so forth without seriously affecting their character or the character of the streets, providing a variety of accommodation

There are of course wider and deeper questions of the employment base in these areas and the economic structure of the nation.

The buildings and streets represent an architectural legacy in their own right – this is after all what led to SAVE’s involvement in the scheme – with handsome buildings in streets forming important parts of towns’ landscapes. The terrace is a peculiarly English form of housing and one which has been proven to work well

The homes and streets have a very great value as part of the community heritage, they are not the great palaces that are un-lived in but well visited, but tell a different narrative and one that continues to this day – they are lived in and loved, and are alive, they are not museum pieces.

They impart a strong sense of place and consequently a sense of belonging or ownership, perhaps a sense of pride – as much from the social networks which have built up around them: this social capital is irreplaceable.

The buildings and streets are as important in heritage terms as the people who live in them, forming the backdrop to their everyday life, and also providing a focus for the community – pathfinder has shown how people rally around their buildings when the community is threatened. Community heritage is a case of heritage cutting across all aspects of life rather than being a single, easily definable object – it is also the collective memory of the area and the anchor of that memory. The townscape, the physical structure, provides is also a structure around which a map of the community’s memory is based – the corner where aunt so and so lived or the shop I used to buy sweets in as a kid, as well as the structure for the social networks which take a couple of generations to build up and develop.

Community heritage is not expert defined rather it is community defined in terms of the identity and history of the community and its individuals, although experts can be helpful in interpreting and articulating the definition of the community. At present there is no statutory protection for this living legacy, although in the current heritage white paper there is provision for a form of local listing.

No two people looking at a townscape necessarily see it in the same way as they attach particular values to it – however when they attach the same values to parts of it, it become the framework for community – in the same way in which, for example, railway enthusiasts look at a station and see it differently from the everyday commuter who uses it, and thus a community is formed. This is the same for much in the heritage world where the communities that are fighting for historic buildings can be geographically diverse – for example former employees of a business which was based in a particular building to which they ascribe a set of values, perhaps related to the business’s illustrious history. However, in the case of local communities fighting for their places the lines between heritage and place become blurred by the very strong (and rightly so) sense of ownership over that place.

Consequently campaigns for historic buildings and areas where there is strong local backing are the most effective. The resistance the Housing Market Renewal Initiative has met on the ground from communities is based on this – people viewing places as theirs, representing their story, their community's narrative and their history, providing them with a solid base. Consequently, intervening with these places using blunt tools such as demolition is dangerous and foolish, and has side effects well beyond the simple obliteration of place.

*“Singing the land”*

The map of a place is as much a mental map of memories and associations as it is a physical map of streets and terraces, and the destruction of this mental map is careless and bound to be traumatic.

The memories and values that are attached to places by the community in effect democratise that place and make it a place for everyone. This does not require complex and professional interpretation of the place's architectural history and morphology, it is a matter of a series of personal relationships with that place, a dialogue between the person and place, democracy embodied in brick and mortar. It is perhaps a primal link with place that is expressed clearly by aboriginal communities in Australia, as they “sing the land”, where rocks, water holes and other features form the mindscape and the spirit map of medicine men, but it does not take an altered state of consciousness to understand it. It is however no more primal than the greed that drives the bulldozers, expressed as objective economic arguments.

We are lucky that in the concept of community heritage there is little room for deference and patriarchal society, that in defending what is rightly their communities are willing to stand in the way of the authorities that chose to tell the communities what is good for them without ever really considering whether the application or macroeconomic theory to the reality of the community's mindscape is a sensible idea in the first place. Consequently we should not be surprised for one minute that communities stand and fight so vociferously. The community and its collective knowledge of a place should be looked to for solutions, not at best ignored or at worst told what to think.

### **Annex 3: ‘The claimant’s view: how to resist a CPO’, Martin Edwards, 39 Essex Street**

#### **What to do**

The starting point for considering objections to compulsory purchase orders is the fact that a compulsory purchase order seeks to take a person’s property from them against their will. It is a draconian step and the significance of this is well recognised in English compulsory purchase law and procedure. This is best demonstrated by the fact that it has been long established government policy, currently found in ODPM circular 06/2004, that an acquiring authority is required to demonstrate a “compelling case in the public interest” that justifies compulsory acquisition – see paragraph 18. Furthermore, where there is some legal uncertainty about the process it is not uncommon for the confirming Minister to refuse to confirm a compulsory purchase – see paragraph 30 of the circular. To this must be added the human rights dimension which reinforces this by recognising in Articles 8 and 1 of the First Protocol to the ECHR a person’s qualified right to enjoy their property and possessions.

However the best explanation for the approach adopted by the courts is that of Watkins LJ in *Prest and Straker and others v Secretary of State for Wales and the Welsh Water Authority* [1983] JPL 112 when he noted that what was at stake with any compulsory purchase was the right of a man to retain his land or to dispose of it when and how and to whom he chose. Watkins LJ then went on to say that in the sphere of compulsory land acquisition, the onus of showing that a CPO has been properly confirmed rested squarely on the acquiring authority and, if he sought to support his own decision, on the Secretary of State. The taking of a person’s land against his will was a serious invasion of his proprietary rights. The use of statutory authority for the destruction of those rights required to be most carefully scrutinised. The courts had to be vigilant to see to it that that authority was not abused. It was not to be used unless it was clear that the Secretary of State had allowed those rights to be violated by a decision based upon the right legal principles, adequate evidence and proper consideration of the factor which swayed his mind into confirmation of the order sought.

For a telling example of how the Secretary of State can get it wrong with regard to the right legal principles see *Pascoe v First Secretary of State and the Urban Regeneration Agency and Liverpool City Council* [2006] EWHC 2356 (Admin).

It follows from this that it is the inherent right of every property owner affected by the threatened compulsory acquisition of their property to object to the compulsory purchase of their property and to have the objection heard at a public local inquiry. This allows the property owner to test, by evidence and cross-examination, whether the case for the compulsory purchase of their property has been made out. It is important to stress that the affected property owner does not have to establish

anything. It is for the acquiring authority to demonstrate the compelling case in the public interest. If it fails to do so then the order will not be confirmed. This position is recognised in circular 8/93: Awards of Costs incurred in planning and other (including compulsory purchase order) proceedings at Annex 6 where it states:

1. "There is a distinction between cases where appellants take the initiative, such as in applying for planning permission or undertaking development allegedly without planning permission, and cases where objectors are defending their rights, or protecting their interests, which are the subject of a compulsory purchase order. If a statutory objector to such an order is successful, an award of costs will be made in his favour unless there are exceptional reasons for not doing so. The award will be made against the authority who made the order: it does not, of itself, imply unreasonable behaviour by the authority.
2. **To enable an award to be made on grounds of success the claimant must have made a formal objection to the order; the order must have been the subject of a local inquiry which the claimant must have attended (or been represented at); and the claimant must have been heard as a statutory objector. In addition, the claimant must have had the objection sustained by the Secretary of State's refusal to confirm the order, or by his decision to exclude from the order the whole or part of the objector's property.**
3. No application for costs need be made at the inquiry by a successful statutory objector; the Secretary of State will write to the parties concerned. There are some circumstances in which an award of costs may be made to an unsuccessful objector or to an order-making authority because of unreasonable behaviour by the other party. In practice such an award is likely to relate to procedural matters, such as failing to submit grounds of objection or serve a statement of case, resulting in unnecessary expense – for example, because the inquiry has to be adjourned or is unnecessarily prolonged. In these cases an application for costs should be made to the Secretary of State immediately after the inquiry. An award of costs cannot be made both on grounds of success and unreasonable behaviour in such cases; but an award to a successful objector may be reduced if he has acted unreasonably and caused unnecessary expense in the proceedings – as, for example, where his conduct leads to an adjournment which ought not to have been necessary."

It can be seen from paragraph 2 that it is vitally important that an objection to the order should be made and the objection heard at inquiry.

### **How and when to lodge an objection**

Rarely will it be the case that a compulsory purchase order comes like a bolt from the blue. Normally there will have been attempts to negotiate a purchase by agreement and requests for information regarding interests in the property. In many cases there may be development plan documents or relevant committee reports that lead up to the formal resolution to acquire the land.

The most important point to bear in mind at this stage is that an acquiring authority can only make use of its compulsory purchase powers under the Acquisition of Land Act 1981 if there is a statutory power, for example, in section 226 of the Town and Country Planning Act 1990, that authorises compulsory purchase. Therefore it is useful to identify as early as possible the precise powers that the acquiring authority intends to rely on. If there is any doubt about the applicability of the powers relied on then this should be challenged in correspondence before the Order is made. This can act as a deterrent.

On the assumption that the acquiring authority has resolved to press on with making the order it is useful to obtain as soon as possible all the relevant background information and reports regarding authorisation to make the Order. A claimant is fully entitled to ensure that the powers relied on are being correctly used. After all, the qualification to the rights protected under Articles 8 and 1 of the First Protocol depend upon the interference being in accordance with the law. In other words unless the acquisition is fully justified in law it should not go ahead.

When serving the notice of the making and effect of the Order on each person entitled to be served, the acquiring authority is also expected to send to each one a copy of the authority's Statement Of Reasons for making the order. This non-statutory Statement of Reasons should be as comprehensive as possible. It ought therefore to be possible for the acquiring authority to use it as the basis for the statement of case which is required to be served under Rule 7 of the 1990 Inquiries Procedure Rules where an inquiry is to be held (see paragraph 15 of Circular 1/90.). Consequently the Statement of Reasons should provide useful information on which to base the objection.

The Statement of Reasons should set out the legal basis for the compulsory purchase which underpins the acquiring authority's use of its compulsory purchase powers. Paragraphs 13-15 of Circular 06/2004 contain the relevant general advice on the powers of compulsory acquisition. It notes that there are a large number of such enabling powers, each of which specifies the purposes for which land can be acquired under that particular legislation and the types of acquiring authority by which it can be exercised. The purpose for which an authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought; and that, in turn, will influence the factors

which the confirming Minister will want to take into account in determining confirmation. Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power where unavoidable. Factors relevant to specific individual powers are considered in Appendices A to K to the circular and reference should be made to them by claimants before lodging an objection.

It is often the case that the precise power relied on by the acquiring authority dictates the scope of the issues that an objector need address. This can be amply demonstrated by analyzing Appendices A – K to Circular 06/2004. This deals with:

If there are legal objections to the Order the advice in paragraph 50 of Circular 06/2004 make it clear that whilst only the Courts can rule on the validity of a compulsory purchase order, the confirming Minister would not think it right to confirm an order if it appeared to be invalid, even if there had been no objections to it. Where this is the case, the relevant Minister will issue a formal, reasoned decision refusing to confirm the order. The decision letter will be copied to all those who were entitled to be served with notice of the making and effect of the order and to any other person who made a representation. This underlines how important it is for the acquiring authority to identify the correct legal basis for making the Order and addressing the procedural issues with utmost care.

Any person can make an objection in writing to an order. There is no prescribed format. **An objection must be sent to the appropriate confirming Minister within the time limit specified in the notices** published in the local newspapers or in the personal notices sent to affected owners, lessees and occupiers. If any objection which is duly made is not withdrawn then the confirming Minister is required to hold a public local inquiry or otherwise arrange for the objector to be heard by an inspector – see section 13(2) of the Acquisition of Land Act 1981. As an alternative changes were introduced by the Planning and Compulsory Purchase Act 1981 by which section 13A was inserted into the 1981 Act to enable objections to be determined under the 2004 Written Representation Regulations if all remaining objectors agree and the confirming Minister deems it appropriate.

Objections tend to fall into three groups:

- (i) those from persons who seek some modification of the land required for the purposes of the acquisition or a change in the detail of the development proposed by the acquiring authority. These objections may succeed in obtaining changes to the proposals e.g. to minimise noise or visual impact or solve other practical consequences of the proposals;

- (ii) those from persons who may accept the principal of the acquiring authority's scheme but seek an alternative site or route. In the case of an alternative route for a new road section 258 of the Highways Act 1980 requires the objector to send to the Minister at least 14 days before the inquiry sufficient information about the alternative route to enable it to be identified; or
- (iii) those from persons or groups who seek to prevent the acquiring authority's proposals from being carried out at all. These objectors see the right to object and the subsequent public inquiry as the public participation process for deciding the principal of the scheme behind the proposal to acquire the land. A good current example of this is the opposition to so-called "Pathfinder" urban renewal schemes such as the one in Pendle (see below).

When drafting an objection it is important to make sure that the points raised in the objection are ones that it is capable of being established at inquiry with evidence. Often objections are lodged at the last minute and prepared hastily. Normally this is because negotiations between the objector and the acquiring authority may be in a fairly advanced stage and the parties hopeful of settling the matter. However there is "many a slip twixt cup and lip" and it is unwise to disregard the possibility that a settlement cannot be reached.

### **Pursuing the objection to inquiry**

Section 13(3) of the 1981 Act enables the confirming Minister to require every person who makes a relevant objection to state the grounds of objection in writing. The confirming Minister can also require remaining objectors, and others who intend to appear at an inquiry, to provide a Statement of Case. Under Rule 7(5) of the 1990 Inquiries Procedure Rules, a person may be required to provide further information about matters contained in any Statement of Case.

### **Consideration of objections**

Although all remaining objectors have a right to be heard at an inquiry, acquiring authorities are encouraged to continue to negotiate with both remaining and other objectors after submitting an order for confirmation, with a view to securing the withdrawal of objections. In line with the advice in paragraph 26 of the Circular this should include employing such ADR techniques as may be agreed between the parties.

The 2004 Written Representations Regulations, made under section 13A of the 1981 Act, prescribe a procedure by which objections to an order can be considered in writing if all the remaining objectors agree and the confirming Minister deems it appropriate, as an alternative to holding an inquiry. The Secretary of State's practice is to offer the written representations procedure to objectors except

where it is clear from the outset that the scale or complexity of the order makes it unlikely that the procedure would be acceptable or appropriate. In such cases an inquiry will be called in the normal way.

### **Inquiries Procedure Rules**

The 1990 Inquiries Procedure Rules apply to non-Ministerial compulsory purchase orders made under the 1981 Act, and to compulsory rights orders. Detailed guidance is given in DoE Circular 1/90. Inquiries into Ministerial compulsory purchase orders which have been published in draft are governed by the Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1994 (SI 1994 No 3264).

### **Inquiry costs & written representations costs**

Advice on statutory objectors' inquiry costs is given in Annex 6 to Circular 8/93. Following the new powers introduced in the 2004 Act, the principles of the advice in Circular 8/93 now also apply to written representations procedure costs. When notifying successful objectors of the decision on the order under the 1990 Rules or the Written Representations Regulations, the Secretary of State will tell them that they may be entitled to claim inquiry or written representations procedure costs and invite them to submit an application for an award of costs.

### **Judicial review and statutory challenge**

A compulsory purchase order may be challenged in the High Court under section 23 of the 1981 Act. It is important to ensure that the challenge is made at the right time i.e. not just within the 6 week period but also not before the period had begun. Furthermore a decision to make an order, or a decision by a confirming Minister not to confirm an order, may be the subject of judicial review under Part 54 of the CPR – see *Islington London Borough Council v Secretary of State for the Environment* [1980] JPL 739. Judicial review may also be used to challenge a decision by the acquiring authority to act on a notice to treat or general vesting declaration – *Simpsons Motor Sales v Hendon Corporation* [1964] AC 1088.

### **Human rights issues**

Paragraphs 16 – 18 of Part 1 of the Circular contains advice regarding human rights issues. It states that a compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.

The confirming Minister has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those whose interest in land it is proposed to acquire compulsorily. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be. But each case has to be considered on its own merits and the advice in this Part is not intended to imply that the confirming Minister will require any particular degree of justification for any specific order. Nor will a confirming Minister make any general presumption that, in order to show that there is a compelling case in the public interest, an acquiring authority must be able to demonstrate that the land is required immediately in order to secure the purpose for which it is to be acquired.

If an acquiring authority does not have a clear idea of how it intends to use the land which it is proposing to acquire, and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale, it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making. **Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss. The Human Rights Act reinforces that basic requirement.** The number of compulsory purchase order cases featuring human rights issues has, to date, been low and so it is hard to discern any trend emerging from the courts.

© Martin Edwards May 2007

**Annex 4: Extract from Court of Appeal: 24<sup>th</sup> September 1982. Lord Denning M.R., Watkins L.J. and Fox L.J.**

**Prest and others v. Secretary of State for Wales and another**

Compulsory purchase – Compulsory purchase order – Land for sewage works – Alternative sites offered – Inspector’s report based on construction costs of work – Subsequent request to Secretary of State to consider land acquisition costs – Confirmation of order without material as to acquisition costs – Secretary of State’s duty when considering others – Whether applicants estopped<sup>1</sup>.

*The use of compulsory powers*

The first is fundamental. To what extent is the Secretary of State entitled to use compulsory powers to acquire the land of a private individual? It is clear that no Minister or public authority can acquire any land compulsorily except the power to do so be given by Parliament: and Parliament only grants it, or should only grant it, when it is necessary in the public interest. In any case, therefore, where the scales are evenly balanced – for or against compulsory acquisition – the decision – by whomsoever it is made – should come down against compulsory acquisition. I regard it as a principle of our constitutional law that no citizen is to be deprived of his land by any public authority against his will, unless it is expressly authorised by Parliament and the public interest decisively so demands: and then only on the condition that proper compensation is paid...If there is any reasonable doubt on this matter, the balance must be resolved in favour of the citizen (p198).

“It seems to me that there is a very long and respectable tradition for the view that an authority that seeks to dispossess a citizen of this land must do so by showing that it is necessary... If, in fact, the acquiring authority is itself in possession of other suitable land – other land that is wholly suitable for that purpose – then it seems to me that no reasonable Secretary of State faced with that fact could come to the conclusion that it was necessary for the authority to acquire other land compulsorily for precisely the same purpose.” (p198)

Take a case where the Secretary of State has confirmed the compulsory purchase order. But after the confirmation the acquiring authority alter their proposals radically, or abandons them, or decides to use the land for a different purpose from that which they originally intended. In that case, the

---

<sup>1</sup> Estopped means the LA doing something different from their original CPO application e.g. they CPO for demolition and new-build houses, then proceed to build a block of offices or a school, or refurbish properties and put them back on the market

compulsory purchase order would no longer be available to them. The court would restrain the acquiring authority from going on with the purchase. (p199)

It is a public inquiry – at which the acquiring authority and the objectors are present and put forward their cases – but there is an unseen party who is vitally interested and is not represented. It is the public at large. It is the duty of the Secretary of State to have regard to the public interest. (p200)

In view of the fresh evidence it would be quite unreasonable for the acquiring authority to proceed with the compulsory purchase order. Yet on 18 May 1981 they gave notice to treat and have only held their hand pending these proceedings. (p202)

In the second place, even if the fresh evidence be disregarded, when the Secretary of State wrote the decision letter confirming the compulsory purchase order, he failed to take into account the cost of acquiring the CPO site as against the cost of acquiring the alternative site offered by Sir Brandon. This was a most relevant consideration. (p202)

**Annex 5: Extract from Town and Country Planning Act, 1990 as amended by Planning and Compulsory Purchase Act 2004**

226. Compulsory acquisition of land for development and other planning purposes

[(1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects:

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.]

## Annex 6: Programme of event

### Communities Under Threat Think Tank organised by the London School of Economics at Trafford Hall on behalf of Homes Under Threat

The event will be chaired by Professor Anne Power, LSE

- 10.00am – 10.30am Arrivals  
Tea / Coffee and informal exchange – trip round Trafford Hall
- 10.30am – 10.45am Introduction – **Anne Power**  
What is happening to HMR Pathfinders? What alternatives are there to demolition?
- 10.45am – 10.50am *Question and answer session*
- 10.50am – 11.05am **Martin Edwards, Barrister**  
What is legally possible for community groups opposing demolition?
- 11.05am – 11.10am *Question and answer session*
- 11.10am – 11.25am Coffee break
- 11.25am – 11.40am **Dave Hannay, Community North West**  
How can community groups get help?
- 11.40am – 11.45am *Question and answer session*
- 11.45am – 12.00pm **Adam Wilkinson, SAVE Britain's Heritage**  
Why should we save empty homes and semi-abandoned streets? What is the value of community heritage?
- 12.00pm – 12.05pm *Question and answer session (5 minutes)*
- 12.05pm – 12.45pm 2 break-out groups with experts and facilitator in each group:  
What are the biggest barriers?  
What do we most need help in?
- 12.45pm – 1.00pm Top ideas from each group – 3 only!
- 1.00pm – 1.40pm Lunch and time for fresh air
- 1.40pm – 1.55pm **John Earnshaw, regeneration consultant**  
How to do up empty homes? Costs, landlords, owner occupiers, tenants, business
- 1.55pm – 2.00pm *Question and answer session (5 minutes)*
- 2.00pm – 2.40pm 2 breakout groups with experts and facilitator in each group:  
What would you need in your area if demolition plans were scrapped?

- 2.40pm – 3.15pm      Realistic alternatives to demolition?  
- ownership  
- management  
- funding  
- prospective occupants  
- local environment  
- incentives and barriers
- Tea and biscuits available during this session
- 3.15pm – 3.45pm      Brainstorm on what to tell the government, local councils and the HMR  
Pathfinders
- 3.45pm – 4.15pm      Action plans and area proposals
- 4.15pm                  Round-up and next steps

*This event is made possible through the generous support of the Glass House Trust.*

*We are deeply indebted to Sylvia Wilson for her amazing support and organising, Trafford Hall for hosting the event, and to LSE and Liz Richardson for arranging the event.*