

Declining Public Value within Contemporary Public Management:
A UK Planning, JR and Urban Regeneration Narrative

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Abstract

The decline of Public Value and the paramount importance of Judicial Review protection are in some cases a lifeline to those directly affected by contemporary regeneration projects throughout the UK that leave little or no consideration for the public in the areas targeted for redevelopment. Many cases of contemporary regeneration see the public seek to defend themselves against a largely economically focused planning system and unreliable team of developers and City Councils who sacrifice social capital for economic gain. The public in many urban regeneration projects in the UK have become secondary to profit goals and have no formal means of promoting and securing their social interests in the development process. Reform of JR in the UK has drawn attention to the level of public vulnerability in the development arena and has demonstrated how gentrification, displacement and non-compliance with policy and procedure are fast becoming traits in a bid for cities to become economically and globally competitive. Such findings highlight the need to promote understanding and appreciation of the importance and role of Public Value within public administration so ethical and moral responsibility to publicly social outcomes within contemporary development can be adequately served.

Abbreviations

BMAP – Belfast Metropolitan Area Plan

CASE – Centre for Analysis and Social Exclusion

CBD – Central Business District

CG – Cressingham Gardens CGW

CGW– Clyde Gateway

CPO – Compulsory Purchase Order

CWG – Commonwealth Games

ECHR – European Convention on Human Rights

EU – European Union

IOC – International Olympic Committee

JCHR – Joint Committee on Human Rights

JR – Judicial Review

NGO – Non-Government Organisation

NI – Northern Ireland

NPM – New Public Management NPV

NPV - Net Present Value

PFI – Private Finance Initiative

PPP – Public Private Partnership

PPS – Planning Policy Statement

PV – Public Value

PVM – Public Value Management QDA

QDA - Qualitative Data Analysis

RCI – Rational Choice Institutionalism SPPS

SPPS - Strategic Planning Policy Statement

SPV – Special Purpose Vehicle

TCPA – Town and Country Planning Act

URC – Urban Regeneration Company

WPR – Western Peripheral Route

Chapter One: Introduction

Chapter 1: Introduction

True freedom requires the rule of law and justice, and a judicial system in which the rights of some are not secured by the denial of rights to others. (Sacks, cited in Norwegian Ministry of Foreign Affairs, pg. 27, 2015)

1.0 Synopsis

This introductory chapter sets out the underpinning rationale and background to the research. Furthermore, it will lay the basis of the core subject areas in the research of planning, Judicial Review (JR), Urban Regeneration and Public Value (PV) providing a basic understanding of the concepts and their interrelations.

1.1 Introduction

Following introduction of the key themes of planning, JR, urban regeneration and PV and how they have contributed to this research the chapter will then set out the chosen research context followed by both the research aims and objectives. Finally, it will conclude with a brief description of the deployed research methodology following with a summative brief of the chosen case studies and what this research proposes to contribute to knowledge for progressive public management.

1.2 Understanding Public Value

Globalization has profoundly altered the work of political scientists, intensifying communication and dialogue on issues pertaining to the manner in which communities, societies, nations and the world are governed (Hoffmann, 2014). The public value (PV) approach to public management can – better than other approaches – represent a ‘glue’ capable of bringing together debates involving ‘values, institutions, systems, processes, and people in contemporary public decision making (Smith, 2004, p. 18). Public value for the purpose of this thesis can be understood as the production and account of social outcomes. The PV concept coined by Moore (1997) is described as ‘the value that an organisation contributes to society’ and adopts a differing approach to public management than

previously existing forms of public management as will be discussed later in the thesis. The PV concept unlike other forms of public management suggests that a better understanding and account of social values be included and accounted for within contemporary public body decision making. This puts an onus on public body decision makers to treat the relevant public as stakeholders in the decision-making process approaching each public decision on a case by case basis, unearthing expressed social values through consultation methods and hence aiming to derive the maximum socially valuable outcomes from each case. The PV approach also makes it possible to reshape performance measurement and performance management systems by enforcing public managers to incorporate and take account of expressed public values and whether such have been delivered at the end of a given project or decision. The public value management (PVM) approach, as will be discussed in further detail later in the thesis, provides a crucial step in ensuring that social values are embedded within public sector reform, policies and procedures (Marcon, 2014). PVM helps build upon the concept of community and public engagement ensuring that social values as illustrated by the public are adequately delivered and accounted for within the realms of contemporary governance. For the purpose of this research public value will be evaluated in relation to both urban regeneration and planning judicial review as they are the focus areas of this research. Urban regeneration, planning and judicial review will be examined in the UK context investigating how the systems contemporary forms and practices support and foster publicly social outcomes. The following sections will address public value in relation to urban regeneration, public administration and JR, providing the basis on how the interrelating themes collectively demonstrate declining PV within contemporary public administration in the UK.

1.3 Urban Regeneration and the Loss of Public Value

In light of the current economic situation in the UK which is marked by growing economic tensions and budget austerity the invention or reinvention of systems of governance have become much more vital. In the midst of such changes it can be difficult to ensure that social,

economic and political issues are addressed in a fair and consistent manner. In particular contemporary trends of urban regeneration in the UK have highlighted cause for concern as multiple regeneration projects such as Cressingham Gardens and the Heygate Estate both in South London (and will be addressed later in the thesis), demonstrate a loss of PV in favour of enhanced economic gain. Further to Estate Regeneration Event Led regeneration in the form of the Clyde Gateway project (also addressed in full detail later in the thesis), demonstrates that social outcomes in the UK regeneration arena could be better cemented and supported within both contemporary policy and decision making. The same declining traits of PV also extends to retail regeneration as will be discussed in the John Lewis case study later in the thesis. This case in particular illustrates existing conflictions within UK policy when it comes to achieving both social and economic goals. The growing tensions within contemporary urban regeneration projects in the UK and the need for economic growth and prosperity have put regenerative development projects under increased pressures to be as profitable as possible. This has rendered social outcomes as less of a priority with literature surrounding contemporary urban regeneration exposing growing trends of displacement, gentrification and the consistent use of estate regeneration as a means to generate profit in prime London locations at the expense of increased social outcomes. The PV concept as discussed briefly in section 1.2 however presents a means to mitigate the loss of social outcomes within contemporary urban regeneration and will be addressed in full detail later in the thesis.

1.4 Declining Public Value and Public Administration

Regeneration however has not been the only public sector to experience a decline in the production of PV in recent years. It has become apparent that as public policies progress and transform their obligation to PV fluctuates. The term PV as stated earlier for the purpose of this thesis will refer to the creation of socially valuable outcomes. Professor Mark Moore of Harvard University in his expansive research of PV and its management within public administration presents an attractive option on how to manage and curtail such negligence through use of a

Public Value Management (PVM) framework. This is something the research will later explore as means of promoting transparency and knowledge exchange within public administration between public bodies and the public they serve.

It has been argued by Cheshire et al (2012) that the process of planning has been vastly influenced and amended to satisfy economic pressures over the years, one need only review a chronology of UK planning policy from its inception in the 1940's to present day to see how economically and regionally focused planning has become at the expense of localised community planning (McKay et al, 2017). The purpose and introduction of the Housing and Town Planning Act across the UK in the early 1900's greatly differs from the approach of using CPOs and displacement techniques towards social housing tenants as will be demonstrated in the following research case studies. Planning policy has seen a great shift since its consolidation to present day where it once assisted to facilitate a quality standard of housing to social tenants much of its policy within the UK context now promotes regional significance and the replacement of the social tenants in the inner-city areas it once sought to assist (Slater, 2011).

However, whilst such policies may have compromised the level of consideration afforded to PV inclusion and consideration, solace could be sought in the notion that these decisions would be made in a fair and lawful manner, and that accountability from those making decisions remained intact with the separation of legal powers afforded by the process of JR. Now that this entitlement has too been compromised, reviewing the approach of public administration toward security and consistency of public rights and value consideration within policy and reform seem adequately justified. As research developed, the contemporary trends surrounding JR and its importance within today's development have become evidentially more transparent, particularly in urban environments where the need to attain economic prosperity is of high importance. Current regeneration methods in the inner-city areas of the UK are permitting developers, councils and industry investors to be negligent of both their social and environmental responsibilities in order to aid prosperous regeneration and economic regrowth (Lees, 2008). The ease of access to the JR process has never been more important when economic concerns

appear to leave little regard for alternative planning that is sensitive to social need and wellbeing. This declining nature of PV and the paramount importance of JR protection are in some cases a lifeline to those directly affected by contemporary regeneration projects throughout the UK that leave little or no consideration for the public in the areas targeted for redevelopment. Some of these cases have become largely dependent on the process of JR as the public seek to defend themselves against a largely economically focused planning system and unreliable team of developers and City Councils. Equally however there are development cases that do not deploy the use of JR but can still be found to have struggles with PV inclusion in the midst of regeneration. Such findings highlight the need to promote understanding and appreciation of the importance and purpose of JR and the concept of PV within public administration in attempt to enhance ethical and moral responsibility to the public within the realms of contemporary public administration.

Whilst it is understood that governments naturally and rightly need to encourage investment and redevelopment in order to sustain growth and prosperity, equally important is ensuring such is done in a non-destructive and publicly sensitive manner. This is something however that will be demonstrated and addressed in further detail in the case study chapters. In essence what has become evident from research regarding JR reform and contemporary planning and urban regeneration is that publicly social consideration is steadily losing its significance and level of importance. Such issues are worthy of more attention in an age of social democracy and enhanced public wellbeing.

1.5 Judicial Review and the Loss of Social Value

As noted by Sacks (2015), a truly free judicial system should not secure the rights of some at the expense of others. However, contemporary debates in the UK have argued that the process of JR poses threat and complication to progressive development and economic investment. This belief forced the JR system in England and Wales into a state of reform in 2014. The reforms curtailed the judicial system particularly in relation to development matters and will be

progressively explored throughout the research.

The JR process is firmly embedded within the European Convention on Human Rights (ECHR) to which the UK comply as a signatory of the Human Rights Act of 1998. The system provides the ability for individuals to hold public bodies accountable for unlawful or irrational decision making, ensuring that public bodies take account of individual rights and fundamental freedoms when entrusted with decision making in the public interest (Betten, 1999). The initiation of this research into the declining concept of PV within contemporary planning and JR in the UK was a result of the proposed and systematic changes that occurred to the JR system through the period 2012-2014 in England and Wales. This small timeframe produced a vast number of changes particularly in relation to time scales to the JR procedure within both jurisdictions and introduced specific regulations relating to those seeking JR on planning matters (Rice, 2016). The new nature of reform in both England and Wales did not only arguably lessen the scope for accountability within the planning system but it also fragmented the levels of access to justice across the devolved regions of the UK. Both Scotland and Northern Ireland did not follow the same system of reform as England and Wales. This means that depending upon where in the UK you reside, England, Wales, Scotland or Northern Ireland this will ultimately bare stature on the cost and ease of access a person will sustain in order to pursue a planning JR case. Such changes marked a pivotal turning point in the accessing of JR justice across the devolved UK and highlighted public vulnerability within contemporary public administration.

The JR reforms did not only change the structured process of how to bring a case for JR of planning matters, but raised questions surrounding the protection of fundamental rights and social value consideration within the reformed JR system in both England and Wales and perhaps even the wider system of public administration in general. The reasons behind such logic rest upon the notion that the reforms appeared to impose upon the purpose of human and conventional rights, not to mention democratic governance, as it is undemocratic for a government to perceive if and to what extent their public bodies should be held to account in practice (Coleman, 2014). Furthermore, given the fact that the UK do not have third party rights

of appeal from the planning system (see following sub section for explanation), it would seem appropriate to re-evaluate public inclusion and the protection of PV within public administration. This research specifically focuses on planning and JR to develop a better understanding of PV in the context of urban regeneration. PV is an all-encompassing concept, but for the purposes of this research emphasis is placed on the social dimensions.

This research is important as such decisions ultimately shape the formation and functioning of the society in which we dwell. Furthermore, JR reforms shed light on the vulnerability of the public in the wake of public administrative reform. What became apparent in the case of JR reform is how reliant (and vulnerable) the public are on public managers to adequately consider and include them in decision making processes. Additionally, there is no formal public management framework to promote PV outcomes consistently within public body decision making processes. Seeking redress and ensuring PV prevails in public body decision making is vital especially in the UK planning system where there remains no right to third party appeal, this will be addressed further in the following section.

1.6. Third Party Appeal

The lack of third party appeal within the UK planning system means that once a planning decision has been made only the applicant can appeal against that decision. This means no third party/person has the right of appeal should they disagree with the local council's decision. It should be noted that anyone can challenge a planning decision in the courts, however, only if they have evidence that a planning decision has been made failing to follow proper procedures, rules or regulations and has therefore been reached unlawfully (CPRE, 2017). The absence of the process of third party appeal within the UK planning system makes accessibility to court action to rectify planning matters that have been unjustly or inadequately determined increasingly more important. Court action or redress through use of planning JR remains the only viable option for a third party to seek review on a planning decision. However as previously discussed only where a decision has been reached unlawfully or without following procedure

and protocol (Purcell, 2004). It should be noted at this point that the Republic of Ireland do have third party appeal rights within their planning system, however this is not relevant to this study as this research focuses upon matters in a UK only context.

Proposal to bring the right of third party appeal into the Northern Ireland Planning system was included in the Northern Ireland Planning Reform consultation paper in 2009 however was then removed. In light of such participatory restrictions within the UK planning and development system it is highly important that the function of JR is easily accessible and without restriction so as to ensure public protection in the midst of public body decision making and to further enforce public bodies to ensure legitimacy in their decision making.

1.7 The Case for Judicial Review Reform

Prior to reform (2010-2014) it was claimed by the UK government that the state of contemporary JR in the UK, particularly within England and Wales was in a problematic state of growth, as increased numbers of applications and misuse of the system was stalling the stabilisation and regrowth of the British economy. The stalling of economic regrowth was deemed to be stemming in part from a vast increase in the number of planning JR applications. Many of these applications were accused of being time wasting and without merit as proclaimed in a speech announcing the need for JR reform consultation by then UK Justice Secretary Chris Grayling in 2012.

Announcing the initial call for consultation and the need for reform on JR matters for England and Wales, former Justice Secretary Chris Grayling stated in the speech made in December 2012:

We have seen a huge surge in JR cases in recent years. The system is becoming mired in large numbers of applications, many of which are weak or ill-founded, and they are taking up large amounts of judicial time, costing the court system money and can be hugely frustrating for the bodies involved in them (Grayling, 2012).

Grayling continued that he was concerned JR was being used by various organisations for PR purposes or simply to generate a headline. It was argued that there was a need to return to a system of JR that was available for genuine claims, where access to justice would be available when needed however where irrelevant and time-wasting cases could be weeded out early. It was this governmental state of mind that led to the issuing of the consultation paper ‘Judicial Review: Proposals for Reform’ in December 2012. The Paper set out the then Prime Minister, David Cameron’s plans to tackle the red tape, promote growth and stimulate economic recovery, highlighting reform of JR as a key element of this plan (Ministry of Justice, 2012). The initial proposal reforms set out three main areas of reform which the government deemed to be in need of change in the JR process overall. They included:

- i) The time limit for bringing proceedings.
- ii) The procedure for applying for permission to bring a claim.
- iii) A review of the fees for JR proceedings.¹

Despite the diverse nature of the JR process and the numerous public bodies against whom it may be used, the proposed reforms, would apply across the board and ensure that weak or hopeless cases were filtered out at an early stage, so that genuine claims could proceed quickly and efficiently to a conclusion (Grayling, 2012). Grayling continued to argue that there was need to ensure the right balance was struck between maintaining access to justice and the rule of law, whilst reducing burdens on public services and removing any unnecessary obstacles to economic recovery on the other (Grayling, 2012).

¹ The reforms will be discussed in further detail in section 3.1

1.8 Judicial Review Reform and Planning

One of the targeted areas for specified change in relation to the JR procedure was that relating to planning matters. In relation to JR planning matters are those which relate to planning permission, development consent, Compulsory Purchase Orders (CPO), highways and other rights of way and decisions under EU environmental legislation (HM Courts and Tribunal, 2017).

In summary the perceived problems with JR and planning lay in the following key issues:

A) Too many planning applications for JR were unwarranted, proceeding to hearing even when there was little validity in the proclaimed case.

B) There was also a growing fear that the JR system was being exploited by certain developers who were using the system solely to hold up development that posed possible competition to them, (*Tesco Stores v Dundee City Council* [2012] UKSC 13).

C) JR of planning applications were deemed to be taking too long to be determined, with some cases not making it to a court hearing in 12 months. This was resulting in negative economic effects, as delays were hindering economic investment opportunity and job creation in the UK.

It was the government's claim that JR was becoming an unreliable and lengthy process causing supposed anguish for developers and investors and doing little to help boost economic growth in the UK, which has been endeavouring to rebuild itself since the financial crisis of 2008 (Coleman, 2014). Former Prime Minister David Cameron went so far as to say that the process of JR was becoming somewhat of an industry in the UK and needed to be curtailed. In short, the supposed inefficient system of JR relating to planning matters was perceived by government to be one of the barriers stalling the stabilisation and regrowth of the British economy, and was deemed to be unfit for purpose as it was posing more problems than that it was solving.

This coupled with the speculation that the system was open to manipulation forced the government to take action and initiate change to the JR procedural structure in England and Wales. This was in attempt to make the process fairer and a more reliable system that disposed

of weak and frivolous claims early. Amongst the general proposal changes mentioned in consultation paper 'JR: Proposals for Reform' (2012), the specific concern for planning in this paper regarded the lengthy time scale for decision making. However, the government's push for change against the inefficient time frame of decision making did not appear to lie solely with concern over the individual and how their development rights were affected by such undue delay. Rather they were seen by those who opposed any JR reform as a consequence of the effects that the delay imposed upon public finance, major infrastructure projects, confidence and reassurance in industry investors and the need to hastily rectify the economic deficit of a recovering economy (Wintour, 2012).

With the noted impact that planning JRs were claimed to be having in England and Wales, and the need to propose time limits in a bid to speed up the process, a reduced time frame for bringing a JR of a planning case was introduced in July 2013. This meant the permitted time for bringing a planning JR was reduced from three months upon the issuing of a decision to six weeks in both England and Wales, and so began a series of changes that would alter public body accountability and a primary piece of human rights legislation for those dwelling within England and Wales.

Such reforms however weren't without consternation as concern surrounding the new JR format of planning matters which was fulfilled in its entirety by 2014, grew further and were expressed by both the general public and several environmentalist and human rights groups (see the Joint Committee on Human Rights (JCHR) report entitled 'The implications for access to justice of the Governments proposals to reform JR' April, 2014). Further to this was the absence of adequate justification surrounding the uncontrollable number of planning JRs that had forced such change and made it difficult for those who opposed reform to accept.

In evidence given to the JCHR in 2014 Professor Maurice Sunkin from the School of Law at the University of Essex stated:

If one leaves aside the immigration case load, the evidence does not show that there has been a substantial increase in the use of JR. In fact, the official statistics

reveal that, in non-immigration civil JRs over the last 15 years or so, case numbers have remained fairly constant at just over 2,000 a year. By any measure, that is not a large number compared with the number of decisions taken by Government annually (JCHR, 2014).

This evidence alone would suggest that perhaps planning JR reform was unjustified and unnecessary, both matters that have yet to be addressed within literature and are worthy of further exploration.

To date, little clarity has yet to be produced to justify the reforms and little evaluation exists to help understand exactly how the benefits from change would be felt (Justice, 2016). Further to this there has been little attempt to promote a solid and simplified understanding of the purpose and role of JR for public use in order to rectify the supposed public misuse and misunderstanding of the JR system. Moreover, there has been minimal consideration on how reform has meant a fraction of loss to an important mechanism of public protection against public body abuse of power.

However, what has emerged from the case of JR reform is how vulnerable the public are at the discretion of public body decision making. Furthermore, reform has demonstrated how PV concerns within public administration can often rely upon methods of redress for enhanced consideration. The restricting of JR has the potential to compromise redress of public concerns or cases where PV has been grossly disregarded. In wake of this insight stemming from the role and reform of JR, research will seek to address PV assessment within public administration and the transcending role of PV within planning and JR in recent years.

1.9 Research Area Context

The UK is the chosen area of study as research seeks to examine the reformed state of JR in England (and Wales) and provide an overall analysis of the underlying connections between planning JR, urban regeneration and PV in a UK comparative context. It is an objective of research to look deeper into the relations between PV, planning and JR within the devolved UK context, so multiple and contrasting approaches to regeneration and JR can be better understood

and examined in light of the PV concept. The devolved UK provides the perfect platform for such comparisons and investigation to be made as prior to devolution approaches to both planning and JR throughout the UK followed the same systematic approach.

1.9.1 Understanding Devolution

Devolution refers to the statutory granting of powers from the Parliament of the United Kingdom to the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and the London Assembly and to their associated executive bodies the Scottish Government, the Welsh Government, the Northern Ireland Executive and in England, the Greater London Authority and combined authorities (Cabinet Office,2013). The process of devolution granted the transferring of some powers to the regional government structures allowing them to influence and shape certain policy and legislation. Some of the devolved powers included those relating to planning and environment and further justice and legal powers including that of JR. Further devolved powers were also granted to the Northern Ireland, Scotland and Welsh regions while some powers remained reserved, as can be seen in table 1 below. Reserved powers in essence means the powers that were retained by UK Parliament (Leyland, 2011). Table 1 below illustrates powers that were devolved to the various regions while Table 2 illustrating reserved powers. It must be noted however that this research is only concerned with the reassigning of JR and planning powers to the devolved regions as it supports an appropriate compare and contrast context for research as the areas once similar in approach have since evolved individually in their approaches to planning JR and regeneration.

Table 1.1: Major Devolved Powers

Scotland	Wales	N. Ireland
Agriculture, forestry & fishing	Agriculture, forestry & fishing	Agriculture
Education	Education	Education
Environment	Environment	Environment
Health	Health & social welfare	Health
Housing	Housing	Enterprise, trade & investment
Justice, policing & courts	Local government	Social Services
Local government	Fire & rescue services	Justice & policing
Fire service	Highways & transport	
Economic development	Economic development	
Some transport		

Table 1.2: Major Non-Devolved Powers

Scotland	Wales	N. Ireland
Constitution	Defence & national security	Defence & national security
Defence & national security	Economic policy	Foreign Policy
Foreign Policy	Foreign Policy	Nationality
Energy	Energy	Energy
Immigration & nationality	Immigration & nationality	
Trade & industry		
Some transport		
Social security		

(Leyland, 2001)

As discussed above following devolution the devolved parliaments of Scotland, Wales and Northern Ireland obtained new found power, including those regarding planning and justice (the latter not relevant to Wales as such power has been reserved). As a result, differences in the approaches to both planning and JR began to emerge as the devolved regions began to tailor and restructure some of their policies and administrative systems. The devolved regions provide the ability to compare similar yet different approaches over time and the geographical dynamic in

relation to both location and size of the devolved regions also means that compare and contrast analysis can be further justified.

1.10 Aim

To investigate the decline of public value in the context of urban regeneration, planning and judicial review in the UK.

1.11 Objectives

1. To examine and conceptualise JR in the UK in relation to planning matters.
2. To investigate the underlying connection and issues between contemporary urban regeneration and the concept of PV.
3. To critically analyse the extent to which planning and regeneration policy and practice support PV delivery in the UK.
4. To promote a new framework to support the delivery of social outcomes in urban regeneration projects.

1.12 Summary of Methodological Approach

The research follows a mixed qualitative case study approach. The case study approach is appropriate for research as it allows for:

Understanding of a complex issue and can extend experience or add strength to what is already known through previous research. Case studies emphasize detailed contextual analysis of a limited number of events or conditions and their relationships (Kumar, pg.49, 2008).

For the purpose of this research the case studies will reflect matters involving planning, JR, urban regeneration and PV so their complex relationship can be better understood within the realms of contemporary development. Below is a short summary of each of the case studies used for this research, noting why they were chosen and what they add to this investigation. It should be noted that not all case studies chosen involve the use of JR as there appeared to be a

minimal number of planning JR case studies that proved useful to research. This however can be deemed as a significant finding as there appeared little evidence of an overwhelming number of planning JR cases in the UK context, which had been claimed prior to the implementation of reform in England and Wales.

1.12.1 Case Study 1 – Cressingham Gardens, England

Cressingham Gardens (CG) is a large social housing development situated in the Lambeth Borough of South London. The site has been proposed for redevelopment of new housing meaning the loss of social housing and the displacement of many residents to various other locations throughout London. The Cressingham regeneration proposal has been subject to two JR's hearings due to the unfair and irrational behaviour of the City Council towards the estates residents in their attempt to demolition and rebuild the estate (Billings, 2015).

1.12.2 Case Study 2 - Heygate Estate, England.

Heygate Estate was a housing estate located in the Southwark area of South London. The Heygate estate was demolished between 2011 and 2014 as part of the urban regeneration of the Elephant and Castle area which resulted in the displacement of its existing residents with the promise of the development of new affordable housing (Moore, 2011). Although the Heygate case does not involve a JR it brings valuable insight to contemporary urban regeneration and the role for PV in its midst.

1.12.3 Case Study 3 – Clyde Gateway and the Commonwealth Games, Scotland.

This case study is unique in that it refers to the occurrence of regeneration in Dalmarnock in Glasgow to aid the hosting of a mega event. The event was that of the 2014 Commonwealth Games (CWG). Despite the case not deploying the use of JR it is useful to the research as it depicts the conflicting relationship between contemporary urban regeneration and PV production.

1.12.4 Case Study 4 – John Lewis, Northern Ireland

This case refers to the proposed development of a John Lewis store at Sprucefield retail centre in Northern Ireland. The John Lewis case is one that is saturated in litigation from court appeals and objections to the use of JR itself (McDonald, 2005). Perhaps of most interest about this case is that it demonstrates a difference in attitude from City Councils towards the consequences of investment and development and the local impact such may incur.

Yin (1984, pg.23) defines the case study research method as 'an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used'. This approach is of particular use to research as it seeks to explore the interrelating issues of PV, planning JR and urban regeneration and monitor their effects. Further to this the case study approach is most appropriate as research expands this study over England, Northern Ireland and Scotland in a bid to better understand the planning JR, PV and regeneration relationship in what were both similar but now adapted approaches following reform in England and Wales. The case study approach also allows multiple contexts to be examined providing a more precise understanding of the scale of any emerging issues and will further assist in examining the problematic scale of planning JR across the devolved UK whilst permitting its importance in various contexts and geographical regions to be illustrated (Gillham, 2000).

The case study approach is also the most appropriate option as there remains little existing research on the issues of planning, JR, PV and urban regeneration collectively.

1.13 Contribution to Knowledge

There is an extensive contribution to knowledge which can be offered through this research, not only are the issues above of high importance in ensuring that public bodies are as transparent

and accountable within public administrative decision making but they are newly emerging problems that have yet to be examined from a non-theoretical perspective. Although there exists research in the importance and role of PV and the concept of a PVM framework most notably by Moore (1997), Stoker (2006) and O'Flynn (2007) none of this research addresses the subject in relation to planning, regeneration or JR perspective or even from within a UK context. Further to this despite Palmer (2007) addressing issues regarding socio-economic rights and JR in the UK there is no reference to the presence of this particular issue regarding urban regeneration. Whilst McIntyre (2016) also discusses the concept and risks of JR reform within England and Wales there remains no deeper discussion surrounding such change in relation to planning matters specifically or JR as a PV protection mechanism.

Although individually aspects of this research have been examined in their own right there remains no existing research that draws all the subject areas together and investigates their underlying connection and dependency on one another. JR reform is a new area having only been established in 2014 and there exists little research or deeper understanding of what such change means in practice. Further to this however in beginning to examine the reformed role of JR research uncovered a deeper issue relating to public vulnerability within public administration which collectively involves the subject areas as listed above and highlights their interdependency which current existing research within the UK has yet to address.

What became apparent at the early stages of the research was that as contemporary public administration moves forward in the form of planning, JR and policy and decision making regarding regeneration, it is important that public rights and PVs are adequately considered and maintained in such systems of public decision making. Collective collaboration between the public and public bodies is needed to ensure effective and efficient service delivery that is reflective of public need. To limit access to justice and encourage an economically centred public administration which began to emerge in the initial stages of research findings seemed rather like a step back than forward for both democratic and collaborative governance.

In essence there is need to provide a more thorough understanding of the JR process in its

reformed state and demonstrate through example why and how it is a public protection mechanism which should not forego restriction. The value of JR alone bears great importance for public administration in its entirety as the process helps to reassure public confidence in the purpose and practice of public bodies and in some of the case studies used that has been demonstrated.

Further to this and perhaps the biggest contribution to knowledge from this research is in highlighting and proposing solution to the PV deficit within contemporary urban regeneration and public body decision making in the UK. Further contribution to knowledge is in proposing an adapted PV framework going forward as a means to address PV in a formal and transparent manner that ensures its consistent inclusion in public body decision making.

1.14 Structure of Thesis

Table 1.3: Structure of Thesis

<p>Chapter 1: Introduction</p>	<p>This chapter will consist of a brief introduction to research followed by an introduction to the case studies, chosen methodology and contextual insight. The chapter will conclude with a brief outline regarding contribution to knowledge.</p>
<p>Chapter 2: Public Value and New Institutionalism: Towards a Theoretical Framework</p>	<p>This chapter will review PV and its management form. The chapter will then evaluate New Institutionalism as a further supporting concept for the research.</p>
<p>Chapter 3: Literature Review</p>	<p>This chapter will present a formative review of the relevant and supporting literature for the research. This will include literature on the subjects of planning, JR, PV and regeneration.</p>
<p>Chapter 4: Methodology</p>	<p>This chapter will analyse the methods used in addressing, processing and analysing the collection and dissemination of data.</p>
<p>Chapter 5: Planning and Judicial Review in the UK: A Contextual Analysis</p>	<p>This chapter will explore the contextual background and linkages between Land Use Planning and JR.</p>
<p>Chapter 6: England: An Estate Regeneration Narrative</p>	<p>This chapter will use two English case studies to investigate the contemporary relationship between urban regeneration, PV and JR.</p>
<p>Chapter 7: Scotland: Value vs Legacy</p>	<p>This chapter will critically investigate the impacts of urban regeneration in the context of a mega event. It will include exploration of the social, economic and political issues in relation to event led regeneration and the PV concept.</p>
<p>Chapter 8: Northern Ireland: Balancing Local and Regional Value</p>	<p>This chapter will examine the conflicting complexities between local and global regeneration efforts. It will provide an alternative viewpoint on public body attitudes towards JR and highlights conflict between contemporary development policy and practice.</p>
<p>Chapter 9: Conclusion</p>	<p>This chapter will provide a concluding and brief analysis on key research findings.</p>

1.15 Conclusion

In conclusion there is a pressing need to re-evaluate how we plan for and include PV within contemporary public administration based on case study findings, the nature of JR reforms and the emphasis placed upon economic value within contemporary planning, JR and regeneration policy in the UK. Revision of such aims at balancing the power struggle between public obligation and political priority. Both planning and public administration risk losing public confidence completely if they cannot manage to formally safeguard PV within legislation and policy reform. The same can also be said for the nature and dynamic of contemporary urban regeneration projects and social housing clearance. As the research will explore, there may be solace to be sought in Moore's 1997 notion of establishing a PVM tool within public administration, as this could level the scales of looming threat upon social and individual rights in the planning and development arena. In the age of social democracy, it is alarming to find that our ability to ensure public bodies are held to account has been so highly compromised and an aspect of Section 6 of the Human Rights Act 1998 which relates to unlawful public authority action so easily altered. Furthermore, the destructive approach to urban regeneration leaves much to be desired in relation to community planning, public engagement and social wellbeing to be delivered through collective social planning from the bottom up. The idea of planning for people, not for profit (Brenner et al, 2012), and Lord Dyson's notion as stated in 2012 that 'There is no principle more basic to our system of law than the maintenance of rule of law itself and the constitutional protection afforded by JR' appear to be steadily dwindling within contemporary public administrative frameworks relating to planning and development in the UK (Jowell, 2012). The research aims to address such issues and propose a way forward where public body decision making puts the public at the centre of decisions and provides a formal commitment and transparency to decisions made by public bodies in their (the public's) interest. This chapter has addressed research objective one in conceptualising the issues regarding JR in relation to planning in the UK, setting the foundation for the progression of the research. The following chapter will address the underlying theoretical perspectives underpinning research

relating to both PV and new institutionalism theory.

Chapter 2:
Public Value and New Institutionalism: Towards a Theoretical Framework

Chapter 2: Public Value and New Institutionalism: Towards a Theoretical Framework

2.0 Synopsis

This chapter provides the theoretical basis for the research by bringing together existing frameworks on PVM and New Institutionalism. The PV concept will be introduced and discussion on public management and the PVM framework in accordance with Moore will also be analysed. The chapter will also investigate the New Institutionalism theory and examine its relevance in supporting the research.

2.1 Introduction

This chapter has two key sections. First, it will critically examine the concept of PV and approaches to PVM. Here, the work of Moore (1995, 2013) is specifically critiqued in terms of its potential relevance to this research. Second, New Institutionalism, as an analogous concept that further supports the formation of the research, is discussed. In particular this section will evaluate the role of institutions and public managers within public administration and the power they retain in shaping and affecting society. A background and understanding of the institutional theory will be developed before exploration of three of the most popular forms of institutionalism will be carried out, one of which will be used for the purposes of the research. Together both theoretical concepts of PVM and New Institutionalism will provide the basis for exploring PV in large scale regeneration projects as will be discussed in the following chapters.

2.2 Introducing the Concept of Public Value

Put succinctly, PV refers to the value that an organisation contributes to society as stated in the previous chapter. Bozeman cited in DeVries (pg.1, 2011) states that PV is the ‘normative consensus about:

- (1) ‘The right benefits and prerogatives to which citizens should be entitled to’.
- (2) The principles on which governments and policies should be based’.

Similarly, Benington (2011) interprets PV as the combining, safeguarding and enrichment of the 'public sphere' with delivery of 'what the public values are'. Perhaps the most important contribution that the PV concept holds is that it assists organisations in maintaining their legitimacy in the eyes of the public.

The concept of PV is one which in its growth is argued to be steadily providing an alternative view to the operational and management capacity within contemporary public administration.

As argued by Blaug et al (pg.4, 2006):

PV addresses many of the contemporary concerns facing public managers. These include problems of securing legitimacy for decision making, resource allocation and measuring service outcomes.

The emergence of the PV concept can be linked to the deep rooted and conflicting issues within public management, including the debate surrounding democracy versus bureaucracy (Christiano, pg.211, 2005). This debate centres around varying and individual formulation of opinion on the roles of politicians and public servants, the influence that each bare on governance and the extent and consideration that is afforded to issues such as 'public interest'.

2.2.1 Understanding the Public Value and Public Interest

In the late nineteenth and early twentieth century, 'prominent efforts were made to formulate public administration as independent from narrow political interests in order to minimize corruption by state political forces' (Turkel, pg.1, 2016). During this period of economic change and fiscal restraint, a new form of public management would transpire in the form of PV that unlike NPM which focused on market led public administration and economic efficiency, would transcend the tensions that characterized such approaches with an increased transparent and democratic political framework (Osborne, 1992). Neither the traditional or NPM concepts promoted transparency in their governing policy and practice approaches. Unlike the concept of 'public interest' that has appeared in both systems of traditional and NPM, the PV and its management approach seek to bring transparency and clarity to the generating of social outcomes

in a public context (Bozeman, 2007). In accordance with the Market Foundation report entitled 'Acting in the Public Interest' (2018), the concept of public interest is an abstract notion that claims that an action will benefit the public overall and therefore direct benefit will be derived for every individual. This all-encompassing and non-refined definition of 'public interest' has caused the concept to be largely debated for many years as there is no concise definition of what constitutes the 'public interest' and how collective interests can be adequately met in the public domain.

To invoke and lay claim to the 'public interest' requires justification of an ability and right to decide what is for the greater good and it is difficult to determine if those proposing an action in the 'public interest' are actually acting in their own interests or that of the preconceived public. Whilst the concept of 'public interest' proposes that all interests have been equally satisfied and the common good has been reached the PV concept instead adopts a looser approach that allows for variation in circumstances and public interest meaning (Dahl, 2014). The PV concept understands that the interest of the public cannot be served collectively and instead that the relevant public within varying situations can identify what they value and wish to obtain from a particular public decision/process and therefore work towards obtaining that value with the public-sector managers. This allows the public to determine what is valuable in a given context and provides a non-static transparent and consistently relevant production of valued outcomes (Talbot, 2010). The PVM framework which will be discussed later in this chapter aims to enhance the responsibilities and accountability within both the public and private sectors to ensure social outcomes are adequately and consistently accounted for within contemporary policy and decision making. The following section will examine the progression of public management approaches over time and will further explore the concept of PV in the context of public management.

2.2.2 Approaches to Public Management

In accordance with the Work Foundation (2006), there are three main underpinning approaches to public management:

1) Principal Agent: This theory refers to politicians being at the centre of policy making and control, where the role of the public manager is to simply implement the policies they issue.

2) New Public Management (NPM): This approach is deemed to be heavily influential in the role of UK policy making in recent years (Work Foundation, 2006). NPM is a system of public management that is highly focused on the efficiency of decision making, often making efficiency the key goal in management success. This may result in decline in social value production and a breakdown in the democratic process due to loss of responsiveness and legitimacy from the top down. As the process is highly target driven public managers are less engaged in being responsive to the public and therefore fail to legitimately cater to the public need.

3) Public Value: The theory of PV offers an alternative approach to public management arguing 'for a renewed emphasis on the important role public managers can play in maintaining an organisation's legitimacy in the eyes of the public' (Blaug et al, pg.6, 2006). The PV concept does not wish to promote a system of inefficient public management, rather it 'calls for more rounded accountability whereby organisations face their citizens as well as their political masters, rather than static, top-down models that focus public managers on meeting centrally driven targets and performance management' (Blaug et al, 2006. p.6.).

Whilst the three approaches referred to above are viable forms of public management their approach and focus in relation to management technique differs. For example, the PV approach adopts a bottom up form of public management placing greater emphasis upon public engagement and social outcomes; thus, encouraging public managers to be more responsive to public need.

Essentially the PVM approach asks that the public weigh in on public body decisions. Following DeVries (2014), PV can be demonstrated in the dynamic process between authorisation, creation and measurement:

Authorisation refers to the understanding of what citizens' preferences are and not allowing politicians and senior public managers to determine what is publicly valuable. This requires increased public engagement to ensure that the views of those delivering public services and the

views of the individuals receiving them are taken into account in equal measure. Failing to uncover what the public need can result in a failure of publicly valuable outcomes from services. Although not an easy task there is scope for public managers and politicians to work with the public emerging preferences in a co- operative and collective manner. This helps promote transparency and bottom up collaborative governance (O'Flynn, 2007). It is important that such authorisation is conducted at an early stage to minimise preconceived influence from the top down.

Creation: whilst PV is authorised by the public it is still derived, moulded and created by the public service organisations in the services they choose to offer. It is for public managers and politicians in these cases to justify their allocation of resources and develop management practices that are consistent with PV production. It is important in the creation element that there is an understanding in the value and quality to be provided by that given service, so resource allocation can be fairly managed.

Measurement: In order for PV to become a public management tool a framework is required so public managers can monitor value creation. The PV concept does not cast aside existing measurement frameworks; however, it does propose that there is a current failure in capturing and measuring the exact value that a given public service is creating or at least could be and that current measurement systems can promote PV decline. For example, there is a tendency to focus on what is common between public bodies and then rank them according to how well they achieve these common standards, as done in the Comprehensive Performance Assessment within local government. This is an assessment carried out by the UK Audit Commission to examine the performance of every local authority and the services they provide for local people.

However, this fails to capture what is different between local authorities (Blaug et al, 2006). This results in goal orientated targets focused upon inaccurate and generalised indicators of performance that hinder each specific public service from generating the value to be derived in its domain, often to the detriment of social outcomes.

The challenge that remains, however, is in concisely defining the PV concept and uncovering a means through which the PV concept can be adopted and delivered within practice. This however is something which will be addressed later in the thesis.

2.3 Conflicting Definitions of the Public Value Concept

As one of the key figures in the discussion on PV, Bozeman (2007) highlights the key terms of PV to be equity, justice, honesty, fairness, transparency, responsiveness and continuity. There are however various other definitions and theories within existing literature surrounding the PV concept. Moving beyond the work of Bozeman (2007), DeVries and Kim (2011, p.9.) define PV as the:

‘Broad preferences concerning appropriate courses of action or outcomes, as such values reflect a persons, organisations, or country’s sense of right and wrong, what is good or bad and help people in choosing solutions for common human problems as well as being crucial on a higher level for the survival and further development of caring and compassionate organisation and on a still higher level to contribute to the development of the good life in a society showing among other things.....wisdom, courage, moderation and justice’.

DeVries and Kim (2011) definition suggests that PV is consolidated by a sense of moral obligation in what is right and wrong. This depicts the importance of compassion and justice within society, proposed to steer solutions to human problems.

Most definitions concede that ‘value’ is an ethically social attribute to which citizens should be entitled to. The phrase ‘public interest’ is defined as the benefit or advantage of the community as a whole within the English Oxford Dictionary (2018). However, the PV concept produces an alternative concept suggesting that decisions being made on behalf of the public should be done so in a fair procedural manner that aids public wellbeing outcomes. PV is concerned with both the process as well as the outcome in the deliverance of PV as it considers value from conception to delivery. In this way the PV concept suggests a need to secure and generate social value that is responsive to public need and promotes enhanced public engagement with an increased bottom up approach.

In accordance with Moore (1995), PV is perceived as a means of producing shareholder value within the realms of public management. Moore's (1995) proposal focuses upon an entrepreneurial role for public managers within public administration, where PV provide managers with a notion of how entrepreneurial activity could contribute to the common good within the public sphere. This entrepreneurial attitude encourages public managers to be actively seeking and responding to public needs on the ground as opposed to simply those depicted in theory or policy. This encourages meaningful and proactive service delivery, responsive to the desired public need. In this sense Moore suggests that there are two sources of value production that occur:

- 1) Value that results from improving government and enhancing it as an asset to society
- 2) Value that results from specific and direct benefit delivery to persons or groups

The pressing question however in relation to Moore's theory is how an entrepreneurial approach is beneficial for public sector management. Although invigorating as a positive attribute to public service delivery and administration, the PV concept is contested on a number of levels. Some critics of the PV concept such as those from Rhodes and Wanna (2007) include that the PV concept is a justification for increased authority of public sector managers and that it borrows too heavily from theories of private sector management. Rhodes and Wanna (2007) further claim that compliance of public managers with the PV concept is promoting rebellion against the system of standard politics. Alford and O'Flynn (2009) also refute the concept describing it as a political rhetoric which defends the sectional interests of public sector organisations and by definition the individuals who constitute them. Such criticisms query the operational capacity of the theory and focus upon the boundaries of control and decision making. However, this can be addressed upon further revision of Moore's approach to PV and its management formation as outlined in the following section.

2.4 Refining the Public Value Concept

Moore (1995) has gained much recognition for his work in comprehending, breaking down and

measuring the PV concept. In Moore's account of PV (1995), he discusses how value cannot be legitimately defined in one definition as he acknowledges its various and multiple existing forms. Moore asserts that value must be measured and addressed on a case by case basis relevant to the situation and circumstances in which it exists. His formulation of a PVM concept ultimately promotes the role of the public manager within public administration to think more effectively about how value can be produced and maintained within the delivery of public service. His method promotes reflecting and understanding what PV is being produced by a given body and how it may be improved, whilst bearing in mind the limitations and authorisation elements in doing so. It is important to note that Moore's perception of PV is focused upon the social contribution of values by a given public service/body. This perception is therefore appropriate for this research as it focuses specifically on the production of social outcomes.

To understand how Moore's concept differs from other forms of public management, it is necessary to further review both the earlier theories of Traditional Public Management and that of NPM, (De Vires et al, 2014). Reviewing both the traditional and NPM forms of administration assists in evaluating the changes and challenges that exist within contemporary governance and demonstrates the potential contribution to be made by a PVM framework.

2.5 Public Management Progression

Traditional public administration is heavily laden in bureaucratic processes and political input. What this means is that 'public administrators are compliance oriented and risk-averse officials whose commitment to the PV and citizen participation is tenuous at best' (De Vires and Kim, 2014). Ultimately control of public service, hierarchy, rules and stability are what characterise the traditional public administrative system. However, moving away from this form of bureaucratic public administration that has phased out over time with the emerging of new political agendas, the era of NPM was born. This era of NPM in the UK is often linked to the Thatcher era (1979-1990).

The system of NPM is highly concerned with breaking the monopoly of Weberian bureaucracy

that had existed (Lane, 2000). NPM emerged in the UK in the 1970's almost in tandem with the spread of Neo Liberalism (Connell et al, 2009). The concept of Neo Liberalism in short, refers to economic and social transformation under the free market and arguably transpired during the Thatcher era (1979-1990) in UK governance. The transcendence of NPM within public administration, spurred considerable restructuring to the operational capacity of public service delivery with deregulation and privatisation of markets among the earliest and most important neo liberal policies (Harvey, 2005). NPM played a significant role in the restructuring of public services and their delivery:

Needs formerly met by public agencies on a principle of citizen rights, or through personal relationships in communities are now increasingly likely to be met by companies selling services in a market (Connell, pg.2, 2013).

Unlike traditional public management NPM became transfixed on the introduction of incentives to promote behavioural change, the instigation of performance targets and the general empowerment of employees and consumers of public service. In order to achieve such goals, the outsourcing or contracting of public service was required. In essence the system of NPM was deemed to be 'instrumental for both improved economic efficiency and effectiveness in development' (Kajimbwa, 2013). However, the system did not give equal consideration to the creation of value gain for the public in the midst of such privatisation of public services. Instead what was produced was surrendered state obligation to ensuring maximum social and publicly valuable outcomes for citizens. It could be argued here that this is where the changing attitude and value deficit that now exists within contemporary public service and administration began. Such concern relates to the 'management of values in the contract state, which denotes relationships between public administrators/new public managers and private vendors' (De Vires, pg.70, 1992). NPM in its outsourcing of services raised questions surrounding the lacking security and production of PV within contemporary administration. The system of NPM also raises concern of moral and ethical issues within the field of public administration due to the conflicting interests of public-private partnerships and the heavy duty placed upon economic

gain within contemporary regeneration projects as this research will explore. It is argued by Devries and Kim (pg.2, 2014) that ‘since morality and ethics are now core factors of public affairs around the world, virtues and values should be more widely discussed, taught and promoted within the field of public administration’. The role of NPM is argued by Christensen & Lægreid (2007) to be in its post phase known as post-NPM reform which claims to ‘gradually counteract the disintegration or fragmentation brought about under NPM and to restore public-sector organizations to a situation of greater integration and coordination’.

The supposed era of ‘post-NPM’ reform advocates a more holistic strategy (Bogdanor 2005). Post-NPM aims to coordinate service delivery and government policy across organisational boundaries. However, the notion that ‘working across organisational boundaries will enable more efficient and/or effective policy development, implementation and service delivery, runs counter to the NPM claim that greater efficiency can be achieved via more fragmented arrangements’ (Christensen, 2012). The argument for post NPM is that there is a need to re-establish a “common ethic” and a “cohesive culture” in the public sector because of the reported corrosion of loyalty and increasing mistrust brought about by NPM, which was rooted in diverse economic theories (Norman 1995). Although little evidence or strategy exists for the post NPM concept, its basic concept provides elements of support for the PV concept as it recognises that value-based management, participation, trust and collaboration are important factors to contemporary public management (Ling, 2002). The post NPM theory also acknowledges that the NPM phase has many short comings and has reduced the maximum social value to be obtained from public bodies, particularly due to the conflicting nature of public and private interests. Furthermore, the post NPM phase demonstrates that the NPM phase has run its course and a more socially valuable form of public management is now favoured.

PVM presents a socially robust way of examining contemporary administrative decision making and is appropriate with the use of historical institutionalism (to be discussed later) in understanding how issues within public administration are socially constructed over time. Unlike post NPM, which discusses governance efforts at large, PVM offers a means of

measuring, focusing and evaluating value production efforts on a more specific basis, relevant to the body, policy or decision at hand. This means PV can be sought, defined and evaluated on a case by case basis. Distinguishing between traditional public administration, NPM and PVM is vital in understanding the changing role and attitude towards contemporary public administration. Table 2.1 provides an overview of the key differences between these concepts.

Table 2.1: Public Management Frameworks

	Traditional Public Management	New Public Management	Public Value Management
Primary theoretical foundations	Political theory, social and political commentary augmented by naive social science	Economic theory, more sophisticated dialogue based on positivist social science	Democratic theory, varied approaches to knowledge including positive interpretive, critical and post modern
Prevailing rationality/modes of human behaviour	Synoptic rationality 'administrative man'	Technical & economic rationality 'economic man' or the self-interested decision maker	Strategic rationality, multiple tests of rationality (political, economic, organisational)
Conception of the public interest	Politically defined and expressed in law	Represents the aggregation of individual interests	Result of a dialogue about shared values
To whom are public servants responsive?	Clients and Constituents	Customers	Citizens
Role of Government	Designing and implementing politics focusing on a single politically defined objective	Steering- acting like a catalyst to unleash market forces	Serving- negotiating and brokering interests among citizens and community groups, creating shared values
Mechanisms for achieving policy objectives	Administering programmes through existing government agencies	Create mechanisms and incentive structures to meet policy objectives through private and non-profit agencies	Building coalitions of public, non-profit and private agencies to meet mutually agreed needs
Approach to accountability	Hierarchical- administrators are responsible to democratically elected political leaders	Market driven- the accumulation of self- interest will result in outcomes desired by broad groups of citizens – for customers.	Multi- Faceted- public servants must attend to law, community value, political norms, professional standards and citizen interests
Administrative discretion	Administrative officials allowed limited discretion	Wide latitude to meeting entrepreneurial goals	Discretion needed, but constrained and accountable

Assumed organisational structure	Bureaucratic organisations marked by top down authority in agencies and control or regulation of clients	Decentralised public organisations with primary control remaining with the agency	Collaborative structures with leadership shared internally and externally
Motivational basis of public servants and administrators	Pay and benefits, civil service protection	Entrepreneurial spirit, ideological desire to reduce size of government	Public service, desire to contribute to society

(Adapted from Denhardt and Denhardt, 2000)

As the NPM approach is becoming increasingly less influential and popular within contemporary public management, there is an increasing call for a renewed view on public management. PV and its management formation produced by Moore present a plausible alternative formation to public management than that offered by NPM.

2.6 Public Value Management: Reflections on Moore

Moore's (2013) research on PV has produced guidance on how to measure and implement PV into practice. One of the forward thinkers in public administration and an advocate for the PV concept, he describes PV as asking public officials to consider the benefits and costs of public services not only in terms of finance, but also in terms of how government actions affect important civic and democratic principles (Moore, 2013).

Moore challenges public managers to review what is valuable about the service they offer and how effective management can enhance this. He asks that they commence evaluation around considerations such as: What is this organisation for? To whom are we accountable? And how do we know if we have been successful? (Moore, 2013).

Moore argues that such reflections ensure that public managers are responsive and retain the principles and purpose they set out to serve, therefore helping to promote transparency and trust between public and public bodies.

Moore's concept of PV is one that is slowly gaining popularity and emerging into the world of public administration as he addresses the challenges the concept presents in both defining and

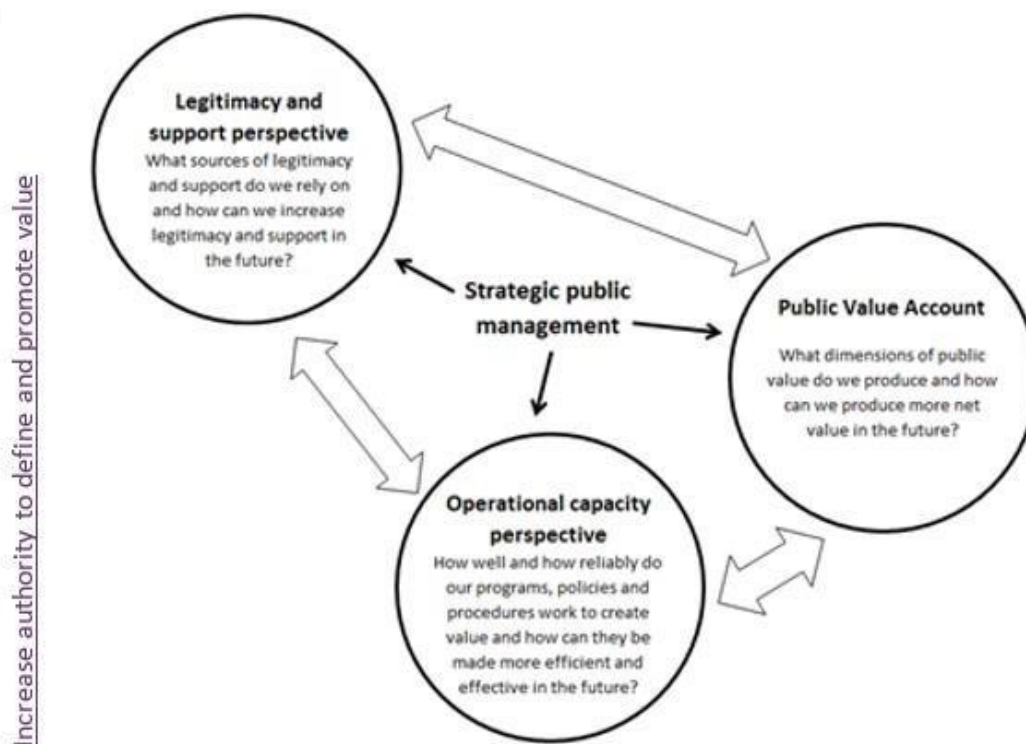
implementing its purpose and existence (O'Flynn, 2007).

2.7 Measuring Value: The Strategic Triangle

Moore began his writings on PV in 1995 by exploring the notion that public managers could translate the ideas of PV into a system of management and resource performance. A presenting challenge and critique to the PV concept was how such could be performed in practice. In order to implement and manage PV within administration Moore formulated 'The Strategic Triangle' concept (2004), which demonstrates the creation of PV where a strategy or action has democratic legitimacy (for example when the community is in support of such action). Further to this and also required by the strategic triangle method is the support of the authorising environment (government body). The method also accounts for operational capacity, meaning the government has the capacity to implement the strategy into action.

Additionally, and included in Moore's following diagram (figure 2.1) is the ability to obtain feedback included within the strategic triangle strategy, meaning when PV is created through the existence of the named components above so too is legitimacy and support. Moore argues this helps ensure greater level of trust between citizens, elected individuals and government. Finally, this also is proposed to see operational capacity increase as resources both financially and otherwise can become easier to obtain. In essence the 'strategic triangle' (figure 2.1) provides a measurement and support mechanism for public managers to test ideas and scope for increasing publicly valuable outcomes in response to public need.

Figure 2.1: The Strategic Triangle for Public Value Management



Direction of Policy Development, Implementation and Impact

Adapted from Moore (2013) *Recognising Public Value*

2.8 A Critique of Moore

Moore's (1995) strategic triangle provides three ways of measuring and assessing PV:

- 1- First is to find what the current value being produced is, defining where the authorising environment stands and what the existing capabilities and limitations are.
- 2- What can be changed, therefore what value would like to be produced and how far the authorising environment and operations capability accommodate such.
- 3- As a measurement tool for public bodies to examine how effective they have been in accounting for such factors in the management and deliverance of the given task (reflective future element).

The functionality of PV in practice is quite simple if policy and reform are tested using Moore's strategic triangle. The concept does not claim that it is possible to give the public exactly what they want nor does it claim that political and government guidance be diminished or dismissed. The strategic triangle illustrates the constraint that the political system still retains, while the limits of authorisation and legitimacy ensure that the concept is used as a 'think tank'. This allows public managers/bodies to propose, test and modify plausible solutions to public service and policy reform, whilst conforming to the politicians who will then influence them. Further to this the triangle is also beneficial as it can be applied to explore or justify the use or non-use of public preferences gathered through engagement so more open dialogue and solutions can be reached collaboratively between public bodies and the responsive public.

In summary Moore argues for public managers in charge of public bodies, public service delivery and deliberation of public policy reforms to quite literally speak up. Moore urges this increasingly for cases of policy reform so public managers may begin to encourage value production from within.

It is here where the theory becomes of particular relevance and suited to research involving planning JR and urban regeneration. What can be gathered from the PV concept is that public managers have a vital role to play in policy development through negotiating with politicians and deliberating with the public to enhance the viability and value of decision making for the public. In a democratic society policy making should too reflect the spirit and attributes of democracy, as will be seen later when exploring JR reform.

The concept of PVM is an attractive one as it would appear to enhance the prospects of value production within public administration. Furthermore, it offers a solution to the growing issue in present day governance of how to adequately balance democracy and efficiency in the midst of a budget deficit. As there has been considerable rendering of public services, heightened by policy reform in a bid to increase efficiency in the public domain for economic purposes, an alternative public management approach may be a welcome change.

There are several theorists who support PV and validate the contribution it has to offer to public management. They include both Christensen and Laegreid (2011), who agree that the concept could contribute positively to contemporary public management by producing more accurate reforms and policies that are reflective of public need. Most notably Stoker (cited in Alford et al, pg.13, 2009), stated that PVM offers ‘a new paradigm and a different narrative of reform’. Stoker also explains in relation to PVM that:

Its strength lies in its redefinition of how to meet the challenges of efficiency, accountability, and equity and in its ability to point to a motivational force that does not rely on rules or incentives to drive public sector reform.

There are however sceptics who query the concepts validity and reliability such as Roberts (cited in Bozeman 2007), who declares that PV allows for abuse of power from public managers and is none other than a smokescreen for manipulation. However extensive research conducted by Paarlberg & Perry (2007), into public service motivation discredits Roberts’s ideas. It instead argues that this type of public management abuse would be difficult to achieve as the key political actors act as barriers and regulators to this type of activity. This is something Moore has addressed and demonstrated within the limitations section of the triangle concept.

Unlike the private sector, public bodies have a duty and responsibility for the production and supply of socially valuable outcomes within public sector services, as they are operating on consensual tax payer money in the hope of return. In addressing the duty and responsibility of public bodies to produce value, Moore (pg.5, 2004) argued that public bodies are:

Principle source of money both financial capital and operating revenues is not generated by investors or consumers making individual choices to invest and buy, it is citizens, taxpayers, clients, clients of government, and their elected representatives making a collective choice that there is a result that can plausibly be produced by the government organisation that is worth taxing individuals to produce.

In this regard, Moore appears to suggest that public bodies are therefore taxed with providing a service to citizens that produces value towards citizen or civic wellbeing. In this sense public

bodies have a duty and responsibility to be responsive to the public. Therefore, without reflective PV account public bodies risk minimising their legitimacy in the eyes of the public they serve, which could have further adverse consequences.

2.9 Understanding Public Value Management in the Context of the UK

Unlike the private sector where managers gauge their success and satisfactory performance through financial measures, it is much more difficult for the public sector to obtain performance and success measures of their organisations, given that their goal is not revenue driven, or at least should not be entirely. Public managers have a difficult task in determining net value creation as they are unable to rely on the magnitude of the revenues earned by the sale of goods and services to willing customers as an indication of value production and success. Moore (2004, pg.7) provide an example scenario of how significant this is for public management:

Consider what a private sector manager- say an automobile manufacturer would do in a world where he could have all the cost information he wanted but could not have any information about the price of the cars and the revenue earned by selling them. What that manager would be missing is an objective measure of the gross value of what he was producing that he could use to set against his costs to discover whether he was a net value creator or not.

In this case it is crucial that the manager has another way of measuring net value, possibly asking how many of those who bought his cars liked them or by asking engineers if they thought his cars were good from a technical perspective. Using this example Moore argues that private manager in this instance are being tasked with what public managers are forced to rely on to measure the value of their actions and activities. It is clear that a manager's ability to create value through creation of value services, allocation of resources to the highest value use and widening the gap between costs and the value of what is being produced in certain product lines is extremely difficult if there is a lacking precise objective and quantitative availability of information about the value of the products and services being produced (Moore, 2004).

In this sense, and of relevant to this research, Moore suggests public sector managers have an increasingly hard role in monitoring value production where there are competing interests

surrounding what value should be produced. Contemporary JR reform gives adequate consideration to production of financial gains to be accumulated within the built environment as research will later explore. However, as the above scenario describes, economic factors are not all the information that public-sector services rely on to ensure they are successful in fulfilling their role in its entirety. There are environmental considerations as well as social considerations to be fulfilled in equal measure, the latter being the primary focus of the research as focuses is placed upon PV as the production of positive social outcomes.

As discussed above it is less difficult to facilitate financial measurements, for the public sector this is most often job creation and the attracting and investing of corporate business, however this does not account for the 'net value' production to which public bodies are responsible for.

It is argued that since the era of NPM securing PV from public sector delivery became increasingly more difficult to attain as the outsourcing of public services to private business meant a conflict in valuable and interest-based production (Hood, 1991). This produced a gap in the transparency and production of PV. Whilst it could be argued that public bodies do account for social value production through the allocation of anticipated social outcomes there is no guarantee that such will transpire. According to Moore (2004), the allocation of 'anticipated social outcomes' is a costly process and proves difficult to distinguish and measure government action. Moore insisted the reasoning for this was 'because the desired results often occur some years after the government has acted, in a place that has become far removed from the government agency's current operations', he continued 'even if we can see a change we cannot be sure it can be attributed to the government's action rather than some other cause' (Moore, 2004, pg.7). The approach of PVM however assess the value you want produced prior to implementing action so that the public manager's decisions facilitate the implementation of such value as opposed to generalising and predicting social outcomes that may or may not occur. This helps address the social value production deficit enhancing the legitimacy of public service delivery from a public perspective and ensuring social value is not neglected, hence addressing the key aim of the research.

Further attempts to address social value however have also been made with the introduction of the Public Services (Social Value) Act 2013 for England and Wales and the Procurement Reform Act Scotland 2014. The acts define social value as ‘the benefit to the community from a commissioning/procurement process over and above the direct purchasing of goods, services and outcomes’ and support the need for enhanced attention to social value production where public procurement and public service delivery are concerned. The Acts require commissioners of public services to consider how they can secure wider social, economic and environmental benefits and apply to contracts for public services including all public service markets from health and housing to transport and waste (Cabinet Office, 2012). The objective of both Acts is to encourage commissioners to factor social value into pre-procurement phase so social value is embedded in the service from the outset. This gives commissioners the freedom to determine what additional social, economic or environmental value would best serve the needs of the local community (Social Enterprise, 2014). It could be argued that such Acts are addressing the issue of social value within public administration. However, the Acts are not enforced as compulsory and adopt a combined approach to public service delivery reform. This meaning that the Acts also refer to enhancing economic and environmental value along with that of social value. Furthermore, the legislation surrounding the Procurement Reform (Scotland) Act 2014 is part of a broader agenda in keeping with the Scottish Governments inclusive growth strategy (Scottish Government, 2014). Despite generic combined efforts to address social value there remains no consolidated framework on how to singularly enhance and measure social value production within contemporary administration in the UK.

Northern Ireland has yet to produce a social value legislative act although it was confirmed in January 2017 that one would be introduced, however this has yet to be enacted due to the collapse of the Northern Ireland Executive. Social Enterprise NI has been at the forefront lobbying for the introduction of a social value Act similar to that in the rest of the UK to be introduced in Northern Ireland. The Social Enterprise Position Paper ‘A Social Value Act for Northern Ireland’ (2017) highlighted some of the emerging barriers identified by Conservative

politician Lord Young in relation to the Social Value Act England (2013). The main emerging issues in how the Act was being interpreted which was leading to inconsistencies in how it was being applied. The interpretative issues concerned the definition of social value and how, and when, to include it during the procurement process. Further to this was how to apply social value within a legal framework and clarifying its use in pre-procurement (Jess, 2017).

Additional concerns in the Social Value Act England (2013) related to the lack of a measurement system for social value within the Act. The recommendation to address such by Lord Young stated the need to develop a methodology that commissioners could use to assess the additional value provided by a social value contract. He also recommended in addressing such issues that a set of standards for measurement of social value be implemented considering degrees of measurement that may be required for different types of procurement. Finally, he also noted the need to promote adequate measurement principles for measuring value across sectors.

As short comings in this approach to addressing social value concerns emerge, Moore's PVM concept as discussed earlier in the chapter may arguably assist in addressing barriers such as how to apply and measure value within a legislative framework. The Social Value Acts across Scotland, England and Wales arguably do not sufficiently address promoting social value as they are not recommended as compulsory to follow, they do not propose a value measurement system, they do not promote transparency and engagement and they do not extend over planning as noted in the Social Enterprise Position Paper (2017).

What emerges from the proceeding discussion is the importance of institutions and their capacity to shape society and social wellbeing. There is a need to better understand the role they play managing and delivering the social dimensions of PV. Consequently, the following section will explore New Institutional theory as a means of examining how institutions and policies impact society. The concept of New Institutionalism allows for examination of the ways in which institutions and policies such as that of planning and JR effect society at large. In particular the historical institutional approach allows for investigation to be conducted over time so progressive change and its impact can be better understood.

2.10 New Institutionalism

An institution can be described as a ‘humanly devised constraint that shapes human interaction’ (North, 1990). The theory of institutionalism is one which seeks to understand the sociological view of institutions and the ways in which they effect society. Institutionalism provides an alternative view to the study of society and one that brings focus away from the traditional economic perspective. The key aims of the institutional theory are to form an understanding about why and how institutions emerge within particular contexts (Peters, 2011). This is achieved by looking at the role of institutions in multiple and varying contexts. One of the key findings to emerge from the new institutionalism approach has been the concept of ‘isomorphism’. This trend describes how institutions across various organisations have grown to become increasingly similar despite emerging in different contexts (DiMaggio, 1983). However perhaps the most important concept to arise from the institutional perspective and as noted by DiMaggio and Powell (1991), is the ability and influence that institutions perpetrate over their agents. This notion impinges on the idea that institutions retain the ability to shape the behaviour of agents, meaning those people operating within organisations and government etc. ultimately shaping their behaviours, actions and both their concept and compliance of societal norms and values (DiMaggio et al, 1991). In this sense the study of new institutionalism examines the various ways in which institutions shape behaviours and in turn how such behaviours affect society, a concept further built upon by PVM (Immergut, 1998). This is relevant to research as it helps to examine how institutional values shape the nature of decision making by key actors which in turn enforces standardised norms and values within society.

2.11 Background to Institutional Theory

The history of institutional theory dates back to the late 19th century when socialist theory began to emerge. The earliest forms of institutional theory can be connected to the work of Weber who was focused upon the organisational structure of society and how it denoted trends of bureaucracy (Greenwood, 1996). However, after the post war period in Britain the focus of

political institutions and their influence in the realm of political science dwindled. This form of institutionalism is now often referred to as ‘old’ institutionalism as it was highly focused upon the formal institutions of government and the state in a comparative perspective.

Following this, the ‘behavioural revolution’ emerged which sought to analyse politics through positivism, behaviours and rational choice theory. More valuable analysis was thought to come from analysing individuals as opposed to the institutions (Clegg and Hardy, 1999). However, following a paper published by Mayer in 1977 which reused and revived the concept of institutionalism, a new form of institutional analysis, in the form of ‘new institutionalism’ arguably began.

The concept of ‘new’ institutionalism promoted the notion of an ‘institutional environment’ believing institutions to operate in an open environment where there are other existing institutions, all of which collectively make up the institutional environment (Wegerich, 2001). New Institutionalism believes that institutions are influenced or pressured within this broader institutional environment, meaning institutional influence can shape and determine the behaviours of other existing institutions (Greenwood and Hinings, 1996). Further to this it also believes that for these institutions to thrive and survive the key is to gain legitimacy in their purpose and operation, meaning doing more than simply proving economically successful. This is both useful in relation to this research as legitimacy (in relation to PV provision) is something which could be argued to be lacking within both contemporary planning JR reform and urban regeneration, where emphasis tends to be placed on economic matters.

Human behaviour is also something examined by the new institutionalism approach as it considers the ways in which institutions influence human behaviour through the norms, rules and frameworks set out for society to comply and abide by. In this sense it is perceived within new institutionalism that individuals can be influenced to act in two main ways:

- 1) Individuals within institutions can maximise benefit production.
- 2) Individuals can conform to act out of duty as opposed to what they perceive they should

or are supposed to do.

A further dimension to the institutionalism approach in understanding institutional influence perceives that individuals' own compliance with institutional influence, derives from individuals' perceiving there to be no other alternative option other than that presented by the institution (Lecours, 2005). Highlighting individual behaviour within institutions in this way is fitting for this research when discussing how PV and its management encourages public managers within institutions to consciously maximise benefit production and not to conform to acting solely out of institutional duty.

PVM as discussed earlier in the chapter offers an alternative solution to public management and one that could perhaps address the social and legitimacy deficit that exists where economic gain retains priority. Further to this and in line with the new institutionalism approach, it proposes the concept of individuals/public managers within institutions maximising benefit production as opposed to the latter behaviour of inducing dutiful and less meaningful behaviour that is non-reflective of PV. Although the New Institutional view discusses this from an individual benefit production perspective, PV implies public managers assume this role and seek benefit production from the institutional environments within which they dwell for the betterment and growth of PV, which for the purpose of this research is public (social) value/gain.

The new institutionalism approach assists in adopting a wider socially constructed view of institutions by acknowledging how individuals and institutions are shaped by one another. The outcomes of such influence can be felt widely within society at both a micro and macro level and have the ability to shape perceived preferences into formal action (Lecours, 2005). Given its ability to examine and account for the socially constructed matters that influence society new institutionalism has become an increasingly important qualitative and explanatory theoretical research process within the political realm, making it fitting for the purposes of this research when examining societal and institutional relationships.

2.12 The Relevance of New Institutionalism

This research has selected the theory of new institutionalism for the purpose of this study as it presents itself as the most appropriate and profound method for studying aspects of political science and policy/legislative analysis in recent years. New institutionalism is often a hard method to define as it does not exist as a unified body with precise definition (Grenstad and Selle, 1995). It is for this reason however that it is the most appropriate method for carrying out this particular research as it allows for various perspectives and influential dimensions to be explored. New Institutionalism requires the need to better understand social embedded values, culture and history in influencing how a problem is socially constructed. The concept aims to explore the disparity between the potential public interest (value) and that expressed in political behaviour, providing a sociological view of institutions and the ways in which they interact and affect society (Greenwood, 1996). Ultimately the new institutionalism theory goal is to explain why and how institutions emerge in a certain way and within a particular context. This is particularly useful for this research as it seeks to examine the contemporary formation of planning JR and urban regeneration within the devolved UK.

New institutionalism analysis examines how institutions have developed to become similar despite being different organisations and having evolved in different ways and within different contexts (Immergut, 1998). This is also of particular significance for this research as it examines the similarities between both planning and JR in becoming increasingly economically focused and purpose driven. Perhaps one of the key advantages to adopting an institutionalists approach for this research is that it permits evaluation of how institutions shape the behaviour of agents, meaning the behaviour of government organisations and people (DiMaggio et al, 1983). This concept is key when examining policy reform and how it has shaped the contemporary state of both planning and JR, whilst altering public perception of acceptability towards access to justice and PV production within contemporary development. This argues that public notions of acceptability have become altered in relation to what the state/institutions perceive to be acceptable and fitting at that given time. This is particularly useful insight when examining the

progression of institutions and their policies over time and can assist in providing explanation of institutional and policy change over time.

2.13 Variations of New Institutionalism

New Institutionalism does not exist as a unified body and adopts several different approaches in its sociological views of institutions and the ways in which they affect society. The three main new institutionalism theories are Normative Institutionalism, Rational Choice Institutionalism (RCI) and Historical Institutionalism (Hall, 1996). Both Normative and RCI will be discussed in summary below, however further explanation on both these forms of institutionalism can be found in the appendix. Historical Institutionalism is the chosen approach for the research and will therefore be more extensively reviewed in this chapter. (Hall, 1996).

2.13.1 Normative Institutionalism

Normative Institutionalism which is referred to as the ‘original’ new institutionalism centres its theory on the existence of ‘a logic of appropriateness’. The normative approach believes that it is a logic of appropriateness which influences the behaviour of actors within a given institution. Normative institutionalism believes that it is both the rules and norms of an institution that will shape how those in an institution will act, essentially guiding their behaviour in a given situation (Faralli, 1993). The normative institutional approach as endorsed by March and Olsen (2006) highlights the important role of norms and values in examining and defining an institution. In this sense they argue that the norms and values/rules as formulated by a given institution will ultimately influence and shape the actions of those within the institution.

2.13.2 Rational Choice Institutionalism

Rational choice theory presents an alternative view on institutions, viewing them as a means for individuals to serve their own interests. RCI assumes that ‘institutions are a product of purposive agents coping with existential problems, forming alliances and pursuing their interests in a rational way (Little, 2016). RCI implies that actors use institutions to maximise their utility. However, in the same instance such actors are also faced with constraints and restrictions which

are provided by the institutional environment which in turn influence their behaviour. The RCI approach attempts to examine the behaviour of political actors within institutions, provide explanation as to how institutions are formed and to explain the outcome of interaction amongst such. The creation of institutions in accordance with the RCI approach is viewed as an attempt to reduce transaction costs of collective activity which would ultimately be increased without institutions (Rhodes, 2006). The rational choice method believes that institutions retain their existence and form long after their conception as they reduce uncertainty and facilitate gains from exchange, this meaning that there are individual benefits to be sought from the institutional structure.

2.13.3 Historical Institutionalism

For the purpose of this research the chosen new institutionalism approach that has been adopted is that of historical institutionalism. Historical institutionalism places emphasis on how history shapes institutions and bears influence over how they exist today (Pierson and Skocpol, 2002). This concept is known as 'path dependency' and whilst the research conforms to the idea that history bears influence on institutions that is not to say that such influence remains static over time. This research disputes the notion of 'path dependency' in accordance with the historical concept. The idea of 'path dependency' suggests that paths designated early within an institution tend to be followed throughout an institution's development. Research will demonstrate using both planning JR and urban regeneration that as institutions progress over time they do not always conform to the theory of path dependency and can deviate substantially from their initial conformity when contrasted to their contemporary state. However, research agrees with the historical method that institutions will have an agenda which is evident based on their development pattern as they progress both in a formal and informal context (i.e. laws, rules etc). Furthermore, this research agrees with the alternative view of 'path dependency' within the historical approach, which proposes the idea that decisions that are faced at present are limited by decisions that have been taken in the past (Mahoney, 2000). What this means is that past

decisions taken within an institution can affect the future, reshaping the institution and posing possible barriers. This point is particularly significant for this research as progressive and reformed policy within both UK planning and JR have influenced both the direction of the systems and the scope of decision making and public involvement within both systems today. This concept is known as a 'historical hangover' meaning impending influence of the past is still bearing some influence on the structure and shaping of decisions today. This is vital to understanding the importance of public management decision making and its ability to positively or negatively impact and influence the discourse of policy implementation that shapes society (Steinmo, 1992).

In the context of this research historical institutionalism allows for critical exploration of the institutions of UK planning and JR and their sequence of approaches relating to social, political and economic factors to be studied over time. This approach allows for each of the aspects to be examined not only over time, but it allows for both the formal, being the political/ legislative arrangements and the informal, being the social and economic factors to be considered in equal measure. This helps in examining how and why policy is influenced by institutions and how in turn the impacts of such are imposed by institutions into the wider environment and become socially embedded. It is argued that on occasion such impositions do not adequately reflect public need and social value, therefore meaning public administration can sometimes be a reflection of political aspiration as opposed to a public one. (Healey, 2015)

This approach is appropriate for this research as it allows for a more socially extensive and rounded analysis of how institutions are influenced over time by various political and economic discourses and become socially embedded in the wider environment. This approach is particularly useful for this research when examining the social impacts of planning JR reform and contemporary urban regeneration within the UK context. Further to this the historical approach allows for the courses of change in relation to UK planning and JR to be considered from different angles over time and is appropriate when measuring 'big structures, large processes, and [making] huge comparisons' (Tilly, 1984, p.10). The social element of this

approach enables analysis and insight to be drawn from the varying approaches to social inclusion and outcomes within contemporary planning, JR and urban regeneration over time. In this sense the role of PV relating to contemporary planning, JR and urban regeneration can be explored. This will be done using policy and case study analysis so that the social outcomes generated by the processes at different times and locations can be considered, along with the effects they impose.

The second part of the historical institutional approach deals with the political sphere and allows for its influence on institutions, namely planning and JR, to be studied over time. This will allow for thorough revision of how political interests or concerns have influenced and affected both UK planning and the reformed JR structure over time. This will be conducted via a literature review and case study approach examining how political needs and influence have shaped policy agendas and reform within the systems of UK planning and JR reform.

The third and final part of the historical institutional approach allows for examination of how the economy has influenced the institutions of planning and JR over time and the role of urban regeneration. This will allow for economic influence to be assessed whilst investigating whether economic priorities have impacted upon the pursuance of PV outcomes within planning, reformed JR and contemporary urban regeneration. In the same respect evaluating economic influence within planning policy will assist in determining the precedent and priority for development decision making. This will prove particularly useful for the case study phase, helping to identify the extent to which contemporary urban regeneration projects are primarily centred on economic gain irrespective of alternative costs.

2.14 Conclusion

This chapter has explored various approaches to public management and how the PVM concept differs. Moore's PVM framework has also been addressed whilst the supporting New Institutionalism theory which addresses institutional change over time has been identified.

It is necessary to adopt this variant approach as there are multiple underpinning elements and

influential factors to consider in achieving the research aim. Such factors include PV, planning, JR and urban regeneration all of which in the context of research require institutional understanding so social, economic and political influences shaping these processes can be understood over time.

This research will seek to investigate if PV production within UK contemporary planning, reformed JR and urban regeneration has altered as a result of contemporary political circumstance and economic ideology over time. The historical institutional approach assists in doing this as it permits analyses of various and contributing political, economic and social factors to produce a thorough review of an issue over time and space (Amin, 1999).

The historical institutional approach adopts a qualitative method where insight and reasoning can be established to explain a given situation (Steinmo, 1992). This research will be conducted via the use of semi structured interviews, extensive literature/policy review and case study analysis, all of which complement the historical and institutional approach.

The historical approach is useful for this research as it enables the use of institutions to search for sequences of social, political and economic behaviour over time. This allows for trends in social, economic and political behaviour within planning, JR reform and urban regeneration to be established whilst noting their impact and how they serve or deter from PV contribution. The historical method permits a comparative approach to study so contrasts between systems and policies across the devolved UK can be gathered. Furthermore, as research adopts a case study analysis approach the historical institutional method is even more appropriate as it is most effective when deployed for case study context. This chapter has addressed public management and identified a means to promote social outcomes in the form of PVM in line with research objective four. The following chapter will review further supporting and relevant literature for the research.

**Chapter 3:
Literature Review**

Chapter 3: Literature Review

"Judicial Review is increasingly essential if we have an increasingly powerful executive. It is an irritant to the executive, but it is a very important, fundamental control on the executive. And the fact that members of the executive know they are subject to JR helps ensure that they carry out their job properly." (Rozenburg,2013)

3.0 Synopsis

This chapter critically examines the relevant literature relating to the key subject areas of this research including PV, planning and JR and their public administrative roles. Further to this the chapter will also investigate the concept of urban regeneration with particular focus on estate regeneration.

3.1 Introduction

Having set the theoretical background for the research this chapter critically analyses and seeks to bring together literature on the concept of PV in relation to planning, JR and contemporary urban regeneration. This will assist in highlighting the interrelating links between the processes and some of the practical issues surrounding social accountability within contemporary public administrations.

3.2 Introducing Judicial Review

The process of JR (JR) provides a means of reassessing the legality of actions or decisions made by those in position of public authority or bodies. As stated by Neuberger (2013), it is a very important, fundamental control on the executive and public bodies to ensure they carry out their job lawfully. In essence the process allows for the legality of a decision in question to be re-examined in the court, ensuring that public authorities do not act in excess of their powers and that they abide by the set rules and regulations applicable to them. Following the words of

Sedley (1996) ‘the purpose of JR is to ensure that government is conducted within the law’. The process of JR is therefore a valuable asset to public administration ensuring fairness and consistency in public body decision making and is supported and upheld in the UK by the Human Rights Act 1998. Following the reform of JR in relation to planning matters in both England and Wales in 2014 it appeared that any means of preserving and attaining PV within public administration over time may prove challenging, particularly if in conflict with competing government agendas.

The changing role of both planning and JR became significantly apparent following the systematic changes that occurred to the JR system through the period 2012-2014 in England and Wales. This small timeframe produced vast changes to the JR procedure within mainland UK and introduced specific regulations relating to those seeking JR on planning matters. These included:

- Reduction of the time limit for bringing proceedings – This reduced the time for applying for JR from 3 months to 6 weeks, commencing upon the issuing of a decision.
- Introduction of the Planning Court in the High Court.
- The introduction of a new fee for an oral renewal hearing – This will occur where the claimant does not accept a refusal of permission on the papers.
- Removal of the right for applicants to seek a hearing in person - Only if their initial written application has been ruled as ‘totally without merit’.
- Introduction of a permission filter stage for section 288 of the Town Country Planning Act (TCPA) 1990 challenges.

Given that matters of JR exist to ensure lawful decision making by government public bodies, reform of the system appeared to lessen its public credibility as it demonstrated that government decide the circumstances and extent to which they can be held to account.

It could be suggested that the reform of JR in England and Wales demonstrated faltering commitment and production of PV within public administration. The reason for this being that

the changes demonstrated that publicly valuable concessions under government authority could be made at any cost. The absence of a structured process or obligation to highlight and justify the inclusion of PV (social value) outcomes within the process of policy making and reform, renders the public as vulnerable. Further to this both systems of UK planning and urban regeneration appear to demonstrate a declining commitment to PV production and a predominantly profit driven approach to development at PV expense, something which is worthy of further investigation.

3.3 Public Value, Planning and Judicial Review – Establishing the Link

Following the end of the Thatcher reign in 1990, NPM came to the forefront of the public management agenda. Though much less harsh it still maintains to pursue an economically driven public policy forum and management style, giving less preference to the ‘public/social value’ to be sought from public administration, its policies and reforms (Hood, 1995). There is a growing perception within literature that society at large is in the midst of an era of growing systematic change that is presenting individuals with the challenge of how to adapt, survive and thrive in what Beck has called a risk society (Benington, 2010). Beck notes that these changes have resulted in a ‘loss of traditional belief, structures and support networks which helped people to manage and make sense of their lives in the past’ (Benington and Moore, 2010). This perception was reinforced at a societal level with the wide adoption of 1980’s neo liberal ideologies, such ideologies saw ‘privileging of the private market over the public sphere, the individual over the community, the consumer over the citizen, the economic over the social’ (Benington and Moore, 2010 and Jessop, 2002). Ultimately neo liberalism resulted in restructuring of public management goals and priorities with the introduction of ‘privatisation of state assets, liberalisation of capital investments, deregulation of labour and trade markets and in general terms, the marketisation of society’ which have contributed over time to the loss of PV and the position of planning and JR reform which research explores (DeHaro, 2011). When discussing the importance and contemporary contribution of PV, the contemporary form of planning and JR offer an ideal platform upon which to do so. This is as the success and

failures of both processes have been highly influenced by the PV concept. However, in the age of neoliberalism the goal of public services has become altered and adequate consideration to the social elements of PV largely ignored. What this meant was that the collective social benefit to be supplied and obtained from public bodies/services became relaxed and the PV of such to be gained from public organisations fell into decline (DeHaro, 2011). This became particularly notable in the organisations/services that operated largely within a social context within the public sphere. In the context of planning, its purpose has always been to provide quality housing, sustainable development and healthy environment along with adequate provision of services. The systems value production is extensive and influential to the way we live our lives, and in shaping the environments in which we exist (Williams and Searer, 2011). Planning therefore has a responsibility in enhancing public betterment equally through the built environment whilst balancing other concerns such as the economy and environment in equal measure.

In relation to JR, PV can be defined as access to justice and the ability to hold public bodies to account for unlawful decision making as it is what the process contributes to society and the public at large. Furthermore, it is a value service that only the system can produce, and it does so in the interest of the public. Whilst JR still exists, its contemporary reforms within planning in England and Wales, as discussed previously, may prove to have limited its ability to exercise those powers to their full and rightful potential and hence produce maximum benefit of PV. As noted, the initial decline of PV within planning dates back to the period of neo liberalism, which ironically is the same period within which JR found its feet in the public law domain within the UK (Clifford and Tewdwr-Jones, 2013).

3.4 Public Value and its Erosion within Public Administration

As previously discussed, the concept of PV can be understood as the value that an organisation contributes to society. The term was initially introduced by Moore (1995) in his book 'Creating Public Value: Strategic Management in Government'. Moore (1995) perceived the concept to be a way of conceptualising and legitimising the concept of 'shareholder value' in the public management domain, conceptualising the public as a stakeholder with expectations to

adequately serve and the public bodies as the public managers who are responsible for value production. He believes PV to be the level of collective social outcome to be delivered by a service. This idea was later expanded upon by Benington and Moore (2010, p.31) in stating:

PV can be best understood and achieved within the notion of the public sphere, a democratic space which includes but is not coterminous with the state within which citizens address their collective concerns and through which individual liberties have to be protected.

This re-framing led to a redefinition of PV, not just in terms of what does the public most value but also in terms of what adds value to the public sphere. The growing scepticism by academics regarding PV namely surrounding its definition have no doubt contributed to its contemporary theoretical decline (Williams, 2011). Yet, by presenting a different approach to public management; 'public value brought the societal dimension back to the fore in public management and provided a counterweight to economic individualism' (Bozeman, 2007). It could be argued that the obscurity around the PV concept has restricted its growth within contemporary public administration and could in some form also be part of the reason value production has fallen into decline in contemporary systems of planning JR and urban regeneration. Further to this, the unrefined and all-encompassing understanding of the 'public interest' concept has contributed little in the way of supporting the feasibility of the PV concept, although both share different notions when it comes to securing social benefit (Jorgensen, 2007). In order to become aware of the decline of PV it is imperative to first highlight examples of its existence. One such example centres around the growing trend of private property rights which resulted in the confliction of private property versus public good and which should take preference in the process of development related decision making. The private property ownership trend, encouraged in the Thatcher era through the 'Right to Buy' scheme resulted in enhanced PV decline. The reason for this was that it promoted a culture of private property more concerned with individual property rights and land value to be derived from development than PV production (Beckett, 2015). As the UK again retains Conservative leadership under Theresa

May (2016-present), similar publicly disengaging policies can be seen transpiring. The reinstatement of the vacant building credit policy which was introduced by government into the UK National Planning Policy Guidance (NPPG) in May 2016 is an example of such. The NPPG document sets out the government's planning policies for England and how these are expected to be applied (Ministry of Housing, 2016). The vacant building credit policy in question allows developers to lessen their affordable housing contributions if they are bringing an empty building back into residential use or redeveloping a vacant brownfield site. This policy signals an apparent lack of concern within government towards the production of PV in the form of social benefit from both planning and contemporary regeneration. The current UK Conservative Manifesto (2017-present) identifies five key challenges the UK faces as a country:

- 1) The need for a strong economy.
- 2) Responding to Brexit and a changing world.
- 3) Tackling enduring social divisions.
- 4) Responding to an ageing society.
- 5) Facing up to fast-changing technology.

Challenge number one however may present difficulties for achieving challenge number three of the Conservative Government manifesto, particularly where contemporary urban regeneration approaches are concerned. This issue however will be addressed and discussed further in the case study chapters.

Contemporary urban regeneration schemes in the UK are showing worrisome signs that their economic focus is blinding them from the public need and adequate production of social value to be derived from new projects (Nicolson, 2017). Some of these cases either become subject to JR or at least highlight the important role it has to play in safeguarding the public against public body abuse within the regeneration and development arena. Many of these cases result in the absence or demolition of affordable or social housing and demonstrate various forms of public body abuse of power as the case studies in this research will illustrate.

Other major concerns to stem from economically driven regeneration projects relate to growing gentrification². Gentrification can be defined as class inequalities and injustices created by capitalist urban land markets and policies (Glass cited in Slater, pg.571, 2011). Davidson and Lee (2005) argue that new-build residential developments in city centres are promoting gentrification and that new-build gentrification is part of the maturation and mutation of the gentrification process during the post-recession era.

Given such growing conflicts it is concerning that contemporary JR particularly in relation to planning matters has been restructured. Furthermore, concerning to this is that democratic mechanisms for securing PV have been reframed as destructive barriers of red tape and harmful obstacles to economic growth (Wainwright, 2015). It would appear that social outcomes have become secondary to economic concerns and will continue to be so if there is no requirement or active framework which encourages PV consideration and growth.

Having established the concept of PV as that which relates to the value that an organisation contributes to society, it can be understood that where public rights have been compromised or sacrificed within an organisation in serving the public and their social requirements fairly, then PV has not been adequately obtained (Bennington and Moore, 2010). However, understanding what is meant by the PV concept is only one part of the picture, in order to validate the concept further it is necessary to understand how it is facilitated and controlled. It is therefore appropriate to further explore the notion of PV as a public management framework and measuring tool, as PV can only be facilitated and measured through successful public management. Furthermore, it is the responsibility of public managers to prevent any loss of PV in public administration in the future. It follows that the PV concept, both singularly and in its management, form need to be explored and their contribution in resolving some of the issues within contemporary public administration duly noted. Building on the critique of PVM in chapter two the following section

² Gentrification will be discussed in more detail in section 3.7.3.4.

explores the role of PV in contemporary public administration. *The Role of Public Value in Contemporary Public Administration*

As discussed PVM offers a new perspective on the trade-off between democracy and bureaucracy in practice as this research will highlight. The PVM approach must somehow locate and express public notions of value and be viable and effective in producing a more balanced approach towards the deliberation and deliverance of public management and policy. An orientation to PV recognises both the need for efficiency and for democracy' (Blaug et al, 2006). Furthermore, securing PV within public policy and management has never been more important when both the processes of planning JR and urban regeneration in the UK face a 'major accountability and PV production deficit' (Stoker, 2003). Stoker continues that the threat upon the public sphere is being ever increased by the private management structure that government is increasingly adopting within public management, centred on profit, performance and economy. PVM however goes beyond such concepts yet does not completely ignore them, it states the need to not limit thinking and action to the meeting of targets. Rather it challenges public bodies to think about what is valuable about the service they deliver and how effective management can allow that service to be the best it can be for the principles and public it is subject to serving. This approach is thought to enhance the quality and viability of decision making as it enforces public managers i.e. those involved in making and managing public policy and procedures, to engage with the wider public and obtain a sounder basis and variety of views upon which to make an informed and more accurate decision (Moore, 1995).

There are three main questions that form the basis and test for measuring PV, they remain the guidelines against which public bodies can measure their decision making and ensure that new decisions are taken carefully with the aims, outputs and outcomes adequately accounted for in equal measure. They also help to ensure a level of fairness and justification is encompassed in the decision-making process. The key measuring components are as follows:

- What is this organisation for?
- To whom are we accountable?
- How do we know if we have been successful?

PVM theory suggests the use of these check measures by public managers and organisations to help ensure that they are responsive, adhere to public preferences and do not deter from the principles and PV that the organisation/bodies are there to serve. Defining what the organisation/body is for assists in determining what its aims and objectives should be, whilst establishing to whom the organisation is accountable insists that justification and explanation is required prior to confirming decisions and reforms. As discussed in the previous chapter PVM requires that the public be viewed as stakeholders ‘who are on par with the government, industry, the judiciary and service users. PV managers must therefore seek democratic legitimacy for their actions by engaging with their authorising environment’ (Coats and Passmore, 2011, p.4).

The process of PVM alters the framework for establishing goals and measuring success in the public domain as the purpose of services have to be adequately established and considered using public input to ensure that the perceived notions of PV held by government and public bodies are consistent with those shared by the public. These notions can then be shaped and formalised by public bodies and government after discussion with the public, and adequate explanation can then be provided when decisions are finalised. Uncovering such expectations will equal clear goals that performance can be measured against whilst powers and objectives are devolved allowing more consideration and deliberation to be sought from the bottom up (Bovaird, 2012). In turn this will ensure that PV from public bodies and throughout reforms can be obtained, meaning slow progressive PV decline could be prevented.

The importance in understanding PVM is that it gives validity to the PV concept and providing a practical working framework for the concept in order to resist its decline (Bryson et al, 2014). PV in both its theoretical and management formation require that accountability for PV

production is consistently monitored within public administration so public gain is not compromised.

There is an important role for the PVM system to play in the midst of multiple public management and policy reform measures that are and will continue to take place within public administration over time. Key lessons can be learnt from deploying the three critical questions mentioned earlier to public management and policy reform prior to its implementation. Referring back to these questions and the first of them regarding defining what the service is for, requires that there is a level of sophisticated engagement with the public so 'public value becomes rooted in a model of deliberative governance' (Coats and Passmore, 2011, p.8).

3.5 Promoting Democracy and Accountability in Public Value Administration

One of the core principles rooted in the PV concept centres around the importance of democracy described by Dahrendorf (2003) as, 'giving legitimacy to the exercise of political power' and accountability 'the readiness or preparedness to give an explanation or justification to relevant others (stakeholders) for one's judgments, intentions or acts' (Hunt cited in Bivins, pg.21, 2012). However as mentioned earlier PV does not neglect the importance of effectiveness, meaning that other key concerns are included and explained in the deliberative process. The importance of endorsing accountability supports the UK governments 'Nolan Principles' also known as the 'Seven Principles of Public Life'. The document notes the ethical standards that are expected of public office holders, meaning those who work in public office and are responsible for delivering public services. One of the principles states the importance of public officer accountability to the public within decision making, an important element of the PV practice (Committee on Standards in Public Life, 1995). The PV concept appreciates the government's need for effective policy and service provision yet does not downplay the value of democracy and accountability in the selection and delivery of such policy and processes in the public domain. Further to this the theory values the public and takes account of their social needs and expectations meaning that PV becomes accounted for whilst increased public engagement

heightens the democratic nature of the system (Talbot, 2010).

What is required is a better working relationship between government and politics, public bodies and the public. Adopting a PV approach to public management and policy/reform methods (i.e. of planning JR and urban regeneration) would perhaps lessen the level of public cynicism that many citizens feel due to selfish and disconnected decisions made by government and local councils on behalf of the public (Burall et al, 2009). Too often such decisions are far removed from the public's actual wants and desires as will be explored later in the case study chapters.

There is need for public management policy and processes to be adequately justified when they operate to serve the public and regulate democratically within society. What makes PV different from other measures of public management is that it requires public manager's i.e. public bodies/policy makers to look at participation from two angles. This involves adopting not only an 'inside out' approach but also an 'outside in' approach so that public managers can obtain an accurate idea of what the public's genuine needs and democratic rights are, before applying their expertise to situations of public management and policy reform (Stoker, 2006).

In its bid to be more publicly inclusive the process does not suggest that constant forms of consultation be required and that being answerable to the public at all times and giving them what they want is how to provide PV. It is however about how public managers/bodies process and make accurate use of this information once it has been collected. It is about providing constant deliberation to ensure that decisions being made have been sufficiently researched and informed before they are implemented.

PVM is a way of providing a value aspect to the management framework of public organisations, it suggests an alternative way to managing and balancing objectives which are too often imposed from central government with little valuable or meaningful inclusion of what the public expect or need from that public service/organisation. The PV aim is 'striking a balance between retaining a healthy respect for professional judgement without allowing professionals to hold the trump card when it comes to service and policy design or the

identification of publicly valuable outcomes' (Coats and Passmore, 2013, p.13). PV works when public bodies/managers recognise that they have a dual responsibility and are answerable to both politicians and the public in equal measure. The following section will address the value element supplied by the process of JR.

3.6 Securing Value through Judicial Review

The process of JR falls under the umbrella of public law and the ECHR and therefore the Human Rights Act of 1998, under section 6(1). The Human Rights Act of 1998, under section 6(1) (1) states that it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

The Human Rights Act altered the position of JR that had previously existed and regarded the measuring of fair decision making in relation to how reasonable the decision taken appeared to be. This is known as the Wednesbury principle which derived from the *Provincial Picture Houses Ltd v Wednesbury Corporation* case 1947. This was an English law case that set the standard of unreasonableness for public-body decisions that would make them liable to be quashed on JR (Bailii, 1947). Reasoning, or decisions are deemed as 'Wednesbury unreasonable' (or irrational) if it is so unreasonable that no reasonable person acting reasonably could have made it (Reuters, 2018).

In relation to the Human Rights Act however the process of JR imposed a justificatory burden upon primary decision makers that had not traditionally been a feature of English administrative law prior to the Human Rights enactment (Raine, 2012). The Act provided what is often referred to as a 'Culture of Justification' meaning that any exercise of power must be supported with sound reasoning. This gave great security to the public in the face of public authority decision making and is one of the aspects of PV produced by the process.

Further to this, the process of JR is based on the principle of the 'separation of powers' meaning that the judiciary whilst reviewing cases are a separate and independent branch of government,

meaning that public authorities and their decision making can be held completely accountable and that open revision of their decision making is made in a neutral court of law and in accordance with the rule of the law (Elliot, 2013). This is a publicly valuable asset of the system in ensuring the protection of the public against abuses of power.

Furthermore, the inclusion of the JR process within the Human Rights Act installed the obligation on the courts to be more concerned with the justification of decision making. This meant that no longer was it solely up to the applicant to provide the burden of proof for unfair or unlawful decision making but it placed greater weight on the public bodies or authorities being held accountable to prove that their decisions were justified and in compliance with all relevant legislation (Bondy et al, 2003). Building upon this, the Aarhus convention which came into force in 2001 added further strength to the JR process as it granted public rights in relation to public participation, access to information and access to justice in government decision making (Lee, 2003). The Aarhus convention encourages interaction between the public and public bodies and encourages the public to become more involved in the decisions being made by government, portraying such involvement as a public right. There is a need to investigate whether this open and engaging systematic concept is reflected in the reforms of planning JR.

JR holds a special significance in the development arena as the means for the public to hold the planning authority to account for any unlawful determination in decision making. The process therefore permits accountability to be sought from growing unlawful trends within urban regeneration projects. The relevant authorities in these cases can be called into question when they act unlawfully in navigating development processes and projected outcomes. As JR following reform in England and Wales has been compromised, an alternative means that puts the burden of justification surrounding public body decision making on public bodies and further promotes fair and cohesive levels of public engagement, could counteract what has been lost or compromised through JR reform. The following section will critique contemporary urban regeneration in relation to PV production concerns. Discussion on urban regeneration will then be further explored in the case study chapters.

3.7 Urban Regeneration: The Role and Purpose

Urban regeneration is one of the most important strategies used to address inner city decline and deprivation. Over the past 40 years urban regeneration in the UK has primarily been addressed through the use of economic and planning policies. These policies have been aimed towards both physical and economic renewal and revitalisation of local areas (Tsenkova, 2002). Roberts and Sykes (2000) defines urban regeneration as a 'comprehensive and integrated vision and action to address urban problems through a lasting improvement in the economic, physical, social and environmental condition of an area'. Further to this however Roberts and Sykes (2000) also consider urban regeneration to be a non-static concept and one that is subject to constant change. The changing approaches to urban regeneration in the UK over time has become increasingly apparent.

From its post Second World War reconstruction efforts to its present-day model of Public Private Partnerships (PPP) both the power and responsibility for the facilitation of tasks regarding urban regeneration have changed. This has occurred in a manner reflective of the broader conventions of social organisation and the powerful influence of political agendas (Hall, 1996).

This paradigm shift that evolved the role of urban regeneration beyond addressing physical decline and deprivation to produce enhanced city environments can be related to the conservative politics of 1980's Britain. This era saw the emergence of PPPs and saw regeneration efforts largely concerned with property development utilising land and property renewal as a process of economic development. However, the mid 1990's saw a shift in policy and practice towards urban regeneration encouraging a refocus of innovative efforts to be more inclusive of a wider range of economic, social and environmental factors in the regeneration process (Tallon, 2013). Despite this however it is argued that there remains a strong underpinning economic development agenda that still exists within contemporary planning policy and urban regeneration approaches in the UK (Glasson and Wood, 2012). Although there is a conscious mind-set that sustainable communities are to form part of contemporary urban

regenerative efforts both PPPs and political priorities can often neglect such, as will be explored in the case study chapters. In particular it has been argued that whilst the importance of a social dimension is widely accepted what this means and how such can always be secured is not clearly defined (Dempsey, 2009). The relative emphasis on the importance of economy within the urban regeneration structure is best understood in relation to the concept of urban economics.

3.8.1 Urban Economics and Urban Regeneration

Urban Economics can be understood as the economic study of an urban area/environment. The concept of urban economics is rooted within the location theories of Alonso, Chrisaller and Losch (1968) who first began the process of spatial economic analysis. Urban economics is more concisely defined as the study of economic resources across space within urban areas (Arnott, 2006). The concept is highly focused on the use of space within cities and the nature and development of cities themselves as they are centres of economic activity presenting opportunity for economic growth and gain. According to O'Sullivan (2003) the concept of urban economics can be divided into the following four relevant themes. The first of these concepts relates to land use in cities. Land use in cities is key to the concept of urban economics as it seeks to influence and understand the spatial organisation of activities within the urban environment. Examining patterns of land use help to identify prices and value of land and the economic forces that identify and promote land use controls such as zoning etc. This exposes how the economy influences particular development within certain locations in the urban environment. The next concept relates to urban issues and public policy (economic policy). Economic policy is often key to urban policy as it plays a significant role in attracting and sustaining investment within the urban environment. For this reason, there is a reliance that economic policy will assist in resolving urban problems, such as the notion that crime and poverty will find resolution from economic investment and development in the urban environment. Economic significance in the urban environment can be detrimental to other important factors that shape cities (McCann, 2001). Housing and public policy are a further concept important within urban economics as

they allow insight and deployed use of the market structure. This allows analysis of housing location choices in conjunction with market effects on housing policy. Insight can be drawn from housing location and the state of the urban market in a given area as urban economic factors of supply and demand in an area increase house prices. The final concept related to the role of market forces in the development of cities. Market forces play a vital role in the development of cities as the nature of markets rest largely upon their location, as does the performance of markets. Location is key to progressing market growth and is used within the study of urban economics to understand why cities develop the way they do and in particular urban areas within a city.

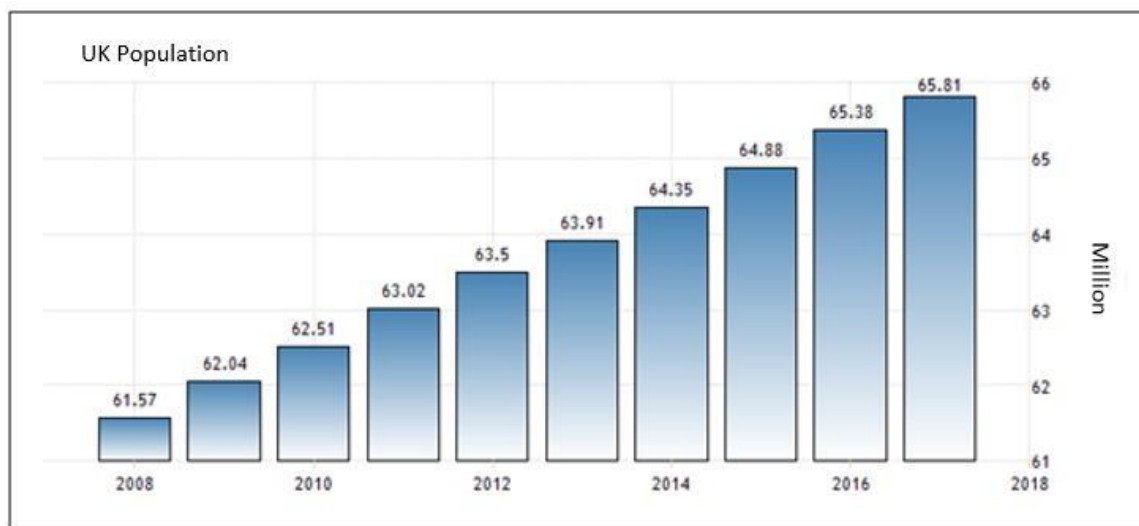
What can be gathered from the concept of urban economics is how influential the economy is in shaping the urban environment and therefore contemporary urban regeneration approaches. Woodcraft (2012) argues that despite increasing awareness within contemporary planning policy and legislation towards social sustainability and enhanced public engagement, there is growing evidence that such policy efforts are not translating effectively into practice. There is a need to investigate this policy-practice gap in the context of urban regeneration projects. There are many approaches to regeneration however for the purposes of this research, focus is placed on urban estate regeneration, retail led regeneration and event led regeneration. This is as these tend to be major projects with clear social priorities, such as the provision of homes and services, and leisure and recreation opportunities. Yet research will also show the tensions between the social and economic dimensions of such projects particularly within the local communities in which they take place.

3.8.2 Urban Estate Regeneration

This section will discuss estate regeneration in relation to issues surrounding housing solutions, population increase and social responsibility. Population growth throughout the devolved UK demands an increase in housing supply which has been dwindling since the 1970's and further hampered by schemes such as the 'Right to Buy' under the Thatcher government as discussed earlier (Brooker, 2017). The following figure 3.1 depicts the level of

UK population growth from 2008-2018.

Figure 3.1: UK Population Growth 2008 – 2018

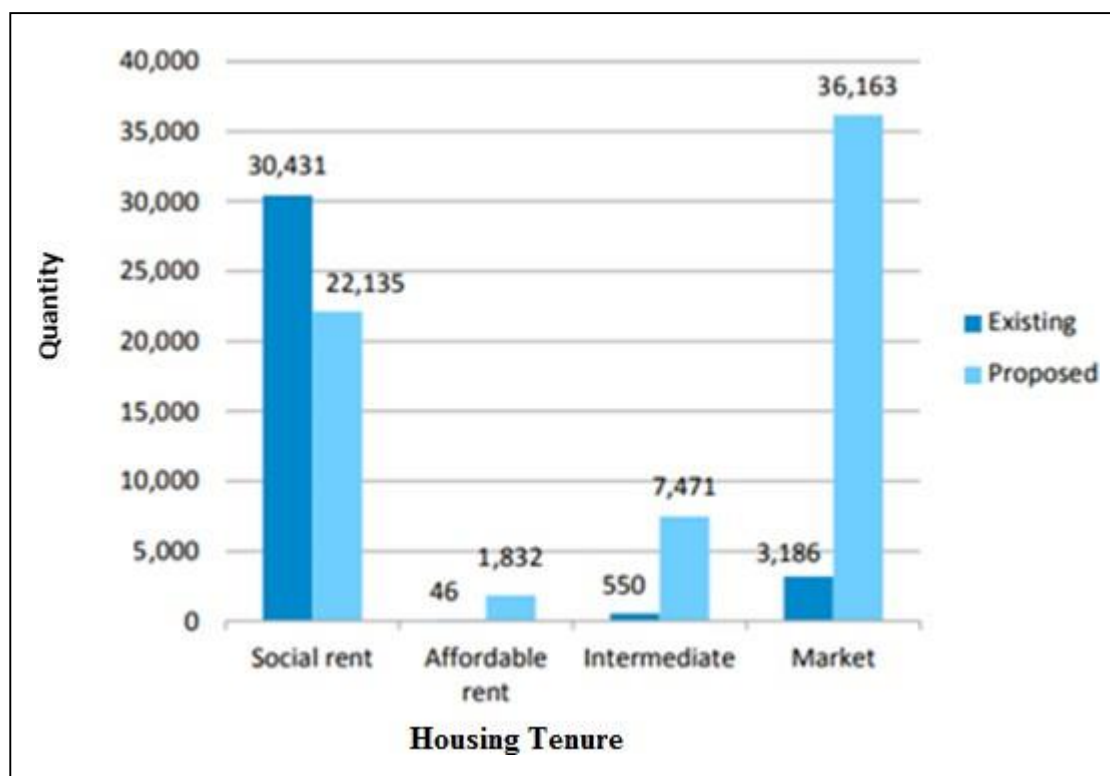


(Adapted from TradingEconomics.com 2018).

A combination of population growth and consequential increase in land values in the UK has given new meaning to the way in which local authorities and housing associations approach regeneration of social housing estates, particularly within the urban environment (London Assembly's Housing Committee, 2015). The past decade has seen planning permission granted for development of almost double the amount of new homes on demolished social housing sites than had existed previously (GLA London Development Database, 2014). Although the building of new homes are required to accommodate a growing UK population such development also causes vast impact upon the lives of existing social housing residents on the sites depicted for renewal. It also proves to further deplete social housing stock in urban areas as the number of social housing units following estate regeneration efforts are often less than before. Research carried out by the London Assembly Housing Committee in 2015 revealed that many cases of urban estate regeneration in the greater London area left existing residents in most cases feeling their interests were side lined and not included in the regenerative process. The same research reported that the majority of residents expressed feelings of exclusion and an inability to return to the reformed estates following regeneration due to a lack of replacement

social housing dwellings and an increase in social rent values. The following figure 3.2 depicts the housing tenures on regenerated estates in London in 2015.

Figure 3.2: London's Regenerated Estates Tenures (2015)



(Adapted from London Assembly's Housing Committee, 2015)

The growth and trend of urban estate regeneration in recent years in the UK is argued to have stemmed from a shortfall in meeting housing targets. The economic downturn has in part made housing targets increasingly more difficult to attain in the past decade. Many cities and councils across the UK in failing to meet their housing needs have had to deploy various tactics and partnerships in a bid to address housing shortages and generate profit where possible. Finding a solution to the lack of housing being produced has required extensive action on various fronts (Hill, 2017).

One option to tackle housing shortage and promote urban renewal at the same time has presented itself in the form of urban estate regeneration. This involves the demolition and the rebuilding of public housing estates to allow for rebuilding that promotes better design and use

of space that can ultimately lead to more houses being built. However, whilst in some cases there may be the opportunity to increase housing numbers, little attention has been given to the loss of social housing and the displacement of existing tenants that occur in its midst. In accordance with O'Rourke (2017) the key challenge in urban estate regeneration is in ensuring that estate regeneration improves the lives of current residents whilst also contributing to the broader effort of increased house building and urban renewal.

3.8.1.1 Urban Estate Regeneration and Social Responsibility

Following from the above section depicting how trends of exclusion and vulnerability via estate regeneration are becoming more apparent it is important to ensure that estate regeneration maintains a level of social diversity and inclusion in its redevelopment approach. However as contemporary urban estate regeneration with its decreasing commitment to social housing units and often contested definition of affordable housing persists, securing socially valuable and reflective outcomes from current trends of contemporary urban estate regeneration appear under threat (Derbyshire, 2016).

From a positive perspective, Duncan (2016) notes that there is a role for estate regeneration to play in creating new homes for buyers and renters and bringing urban renewal to an area. However, Duncan (2016) also argues that this should not be at the expense of generating social outcome and disregarding current social tenants on sites ear marked for regeneration. Whilst estate regeneration may have much to offer in closing in on housing targets within the UK it can be counterproductive if not approached in the appropriate manner.

In discussing the systematic approach to estate regeneration Derbyshire (2016) depicted the importance of:

- Engagement and involvement of residents.

- Delivery of what is discussed in consultation.
- Provision of real benefits for residents from the beginning.
- Decisions to be decisive and transparent.

All the above he deemed detrimental in obtaining residents cooperation and the overall success of estate regeneration projects at large that reflect publicly valuable traits from procedure to outcome.

3.8.1.2 Emerging Complexities of Estate Regeneration

The contemporary growth in the UK of estate regeneration has highlighted an emergent link between estate regeneration and trends of gentrification. It has been argued that gentrification is a by-product of urban estate regeneration as new homes are occupied by those more affluent than the previous occupying residents (Cameron, 2003). This therefore produces a profound effect on the make-up of the local community thereafter, particularly where urban estate regeneration involves social housing estates.

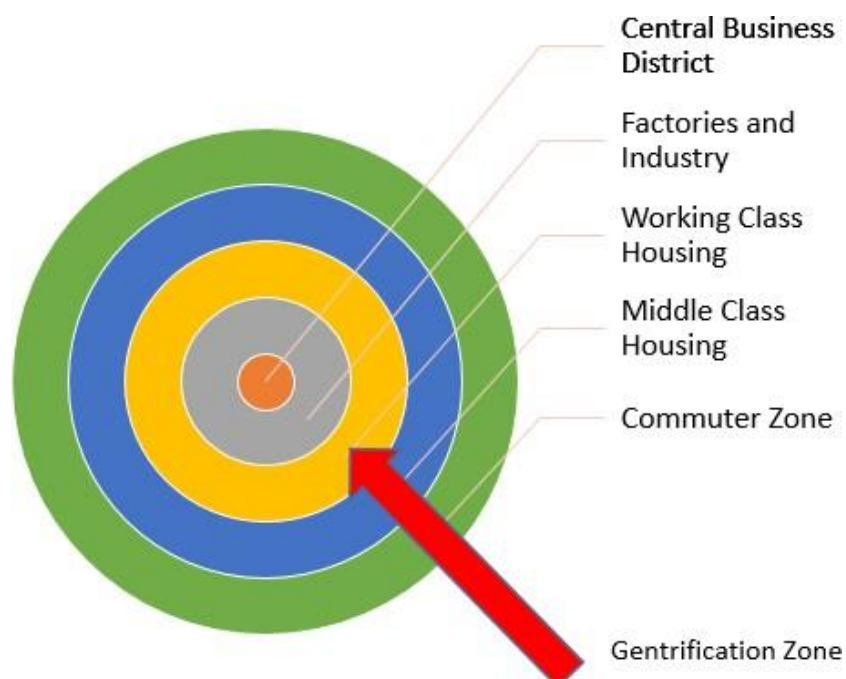
In accordance with the London Assembly 2015 while housing providers usually attempt to offer secure tenants new homes on a regenerated estate on a like-for-like basis (at the same level of rent), this is not always possible. Instead and as explained in the London Assembly Housing Committee report 'Knock it Down or Do it Up: The Challenge of Estate Regeneration' (2015), social rented homes (at rents of around 40 per cent of market rate) will increasingly be replaced by homes at affordable rent going forward, for London this means rent levels at an average of 65 per cent, but up to a maximum of 80 per cent of market rate and usually with less secure tenure, as permissions and completions under affordable rent gather pace (London Assembly, 2015). This highlights vulnerability of social housing tenants under threat of contemporary urban estate regeneration. Furthermore, it highlights the capacity for gentrification and social cleansing as a product of contemporary urban regeneration efforts via urban estate regeneration and its use of social housing tenant displacement.

3.8.1.3 Estate Regeneration and Gentrification

A considerable amount of contemporary literature in relation to residential change and urban regeneration/estate regeneration bears reference to the theme of gentrification. From the mid 1990's city regeneration has been linked to post recession regeneration and further to producing growth of the concept of gentrification (Lees, 2000).

Housing led regeneration from the mid 1990's in the UK resulted in a continued growth of working class social housing clearance as a means of promoting urban renewal and regeneration. In accordance with Smith (1996, p.32), gentrification 'is the process by which poor and working-class neighbourhoods in the inner city are refurbished by an influx of private capital and middle-class homebuyers'. This has often meant the clearance and displacement of many of the working class dwelling in the transition zone (working class housing zone) in social housing. The working-class housing zone as illustrated in the concentric zone model figure 3.3 depicts the area most affected by gentrification. The reason for this area being highly subject to gentrification is as it housed industry and the working class in social housing who were employed by industry during the period of industrialisation. Gentrification and its growth is highly linked with deindustrialisation as the spread of mass unemployment and limited access to jobs saw some urban areas fall into decline and a new emerging urban environment take its place (O'Hanlon, 2009). Figure 3.3 shows Burgess original concentric zone model prior to contemporary efforts of urban regeneration. The gentrification zone is also highlighted.

Figure 3.3: Burgess/Hoyt Original Concentric Zone Model (1940s)



Adapted from Torrens (2000)

The concept of gentrification although initially emerging as sporadic and a localised anomaly in the housing markets of some command centre cities is steadily becoming a generalised concept of urban strategy. As the dynamic of the city structure shifted post industrialisation there became a growth in private market investment in the districts close to the urban centre as they began to develop as capital business districts. The restructuring of the urban service economy promoted a growth in white collar jobs and the dynamic of the inner city began to transform from the industrial centre it had been. This employment service change and other cultural and commercial amenity change produced an alternative urban ‘gentry’ than had existed previously (Zuk et al, 2017). As a result of increased private investment and new emerging capital markets in a transforming urban environment, the transition zones that had been home to industry and accompanying social housing were prime target for urban renewal due to land value and close proximity to the Central Business District (CBD). The impacts of regeneration in these areas has meant clearance of social housing and the displacement of residents, all of which has formulated under the concept of urban estate regeneration. This has arguably changed the original concentric zone model as shown in figure 3.3, altering the zones by pushing working

class housing further from the CBD and middle-class housing closer, hence promoting the gentrification concept. This shift is illustrated in the adapted contemporary concentric zone model below in figure 3.4.

Figure 3.4: Contemporary Concentric Zone Model (Present)



Adapted from Torrens (2000)

The social impact of gentrification is vast and largely relevant to the working class as it is often the social housing neighbourhoods that are displaced to make way for renewed or regenerative development. In accordance to Lees (2007) gentrification in relation to regeneration ‘most often refers to the displacement of the lower class with the replacement of higher class within the revamped/ modified area’. In this sense gentrification has influence over the level and nature of social reproduction within the urban environment in which it ensues (Smith, 2002). Gentrification within the realms of urban estate regeneration raises questions in regard to who contemporary regeneration benefits. Further to this, the concept in its urban regenerative capacity produces fractured communities, increased house prices and is socially restrictive in its approach.

It follows that the challenge for estate regeneration in terms of PV is complex and multi-layered. It reflects the need for policy makers and regenerative processes to be more publicly inclusive and reflective of the communities who face change via the process of regeneration (Monk et al, 2011).

3.8.1.4 Public Private Partnerships in Estate Regeneration

A key feature within contemporary estate regeneration projects that have perhaps made balancing the conflicting social and economic factors of estate regeneration more difficult have been the establishment of PPPs. PPPs are collaborations between the public and private sector in a bid to deliver infrastructure, policies and services. The most common form of PPP is a Private Finance Initiative (PFI) where the delivery of a public service involves private sector investment (Hellowell et al, 2008). The PFI's process allows private investors to manage the design, build, finance and operation of public infrastructure. Examples of this include new schools, hospitals, social housing, prisons or road improvements. The infrastructure in these cases is supplied by the private sector and in most cases the government then makes use of the resource. In relation to estate regeneration some such projects involve an injection of private finance as well as additional resources that may be beyond the capacity of the public sector. Delivery of such finance is often done through the use of a Special Purpose Vehicle (SPV) which is a limited company that is set up purely for the delivery of PFI (Boxmeer et al, 2006). PPP's have allowed the private sector to play an increasing role within UK estate regeneration in recent years. It has brought with it many positives beyond capital such as new resources, skills and perspectives. However, the differing public and private sector motives are something both need to be more aware of. Public sector partners need to acknowledge the profit motives of the private sector, whilst at the same time the private sector need to be understanding of the socioeconomic responsibilities that the public sector is accountable for (Thornhill,2009).

The complexity of this kind of partnership requires complete transparency and high levels of representation from all those involved from public/private sector and community level, to help ensure credibility in both delivery and arrangements of projects. PPPs can run a risk of being

less attentive to social and affordable housing need as often there is minimal profit to be made here by the private developer. This fact alone can be costly to the communities and existing social housing unit numbers where estate regeneration is deployed (Gore, 2002). Accountability can also be an issue with these partnerships as they do not always deliver what they claim, particularly for communities involved (Miraftab, 2004). The departure in interests between public and private sector in estate regeneration can prove costly to the communities' earmarked for such regeneration. Due to the nature of such partnerships a PV framework would prove useful in monitoring levels of PV produced from a project at all the various stages of regeneration from proposal to consultation and final outcome.³ It could also help enforce a more productive level of public engagement that is reflective of PV on a case by case basis and enforces public bodies to be accountable in producing sustainable social outcomes.

3.8.1.5 The Role of Accountability

Accountability is highly important within estate regeneration for all partners involved, particularly for the communities and affected residents so that they may draw clarity and confidence in regeneration outcomes. The complexity of estate regeneration as it involves multiple policy areas may suggest that it is unrealistic for one body to be accountable for the delivery of differing and possibly conflicting areas. For example, development partners may not wish to concede responsibility for non-housing and non-development outcomes. Blurring the lines of responsibility may mean important considerations get lost in translation. The same may be said for the multiple expectations from local councils in promoting investment and promoting community which may sometimes prove challenging (Williams, 2017). This need for clarity and check measures surrounding assumed roles are highly important in ensuring all responsibilities are met and there is transparency surrounding who has accountability in the deliverance of such provisions (ECOTEC, 2009). The complexities and apparent negligence

³ An SPV is a private company owned and run by a local authority. Lambeth council plans to use its SPV to both build council accommodation and also to "undertake commercial development for the benefit of local people".

towards social elements of urban estate regeneration as discussed above could be supported by Moore's PV and accountability framework as discussed in chapter two.

In accordance with the Irish Centre for Housing research paper entitled 'Regenerating Local Authority Housing Estates: Review of Policy and Practice' (2006), delivering community value is essential. The paper declares all estate regeneration policies and plans should be developed from broad engagement with the community and stakeholders in order to understand local need and how the built environment and public services currently impact the lives of residents. However, ensuring that this is adhered to consistently and thoroughly requires that it becomes embedded within the regeneration process. The case studies as mentioned in chapter one will demonstrate this more concisely in the concluding chapters.

It is also argued that 'estate regeneration is most likely to succeed when it is a collaborative effort involving local authorities, housing associations, local public service providers, local business and residents and community groups (Shine, 2006). This holistic approach is vital in ensuring that regeneration is inclusive of the communities it implodes upon, is non-destructive to established community structures and produces outcomes that are publicly valuable.

Estate regeneration can be a controversial, complex, bruising business and its contemporary formation within the UK has seen it expressively linked to matters of social cleansing, heritage heresy and crimes against sustainability and profiteering. Perhaps whilst the intention of urban estate regeneration is to bring improvement, the manner in which contemporary estate regeneration involving social housing is being conducted in the UK context is falling short of such aim (Belotti, 2016).

In relation to the subject matter of estate regeneration Michael Holland Head of Regeneration Strategy for Pocket Living Limited, a London based property development company, stated:

Residents can act as a positive catalyst for estate regeneration and will welcome it if they are given the opportunity to influence density and share in the respective upsides (Holland cited in Sookhoo, 2016).

Supporting this notion, the Centre for Analysis and Social Exclusion (CASE, 2016) report from the London School of Economics entitled 'Estate Regeneration and Community Impacts Challenges and Lessons for Social Landlords, Developers and Local Councils' also expresses the need for estate regeneration to be attentive and inclusive of communities in the redevelopment process, ensuring that existing communities have a place in new urban regenerative developments.

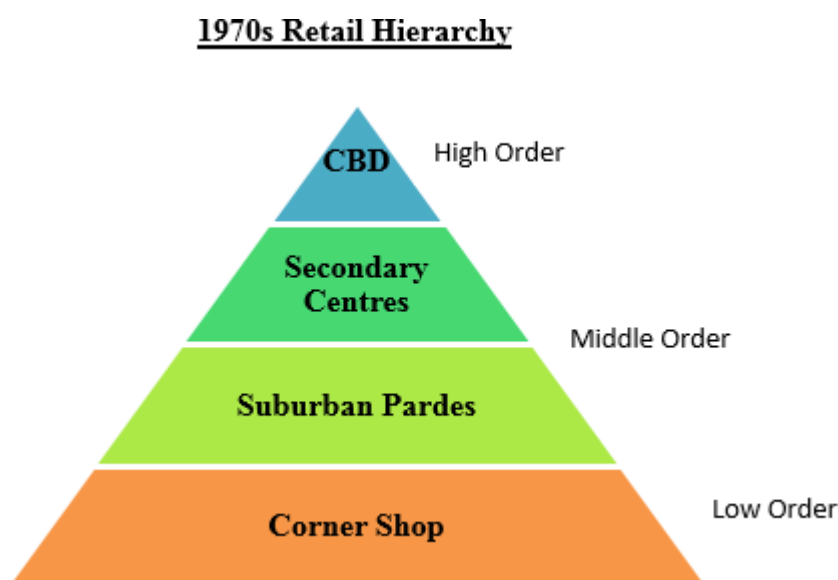
In relation to matters regarding trust and transparency the paper also notes that the procurement process for developer partners like those created via PPP's could include a corporate social responsibility framework. This social responsibility framework in accordance with CASE would 'require the developer to be fully transparent with the council and community representatives by disclosing the full details of the financial modelling used to determine viability'. This could be a key factor in ensuring the delivery of affordable or socially rented homes on regenerated estates as often developers can provide false financial information regarding their capacity to provide affordable housing and still make a profit. The following section will address the threat of retail led regeneration upon local PV production in the form of protection and promotion of town centres.

3.9 Retail Led Regeneration

The retail sector is vital for economies across the globe. It has accounted for a steadily increasing proportion of total economic output over the last 20 years in the UK. As a sector, it is the largest employer of private sector employees in the UK (Ferne, 1995). Further to this the retail sector is one of the fastest moving sectors as a result of technological innovation, increasing growth in internet sales and the evolving consumer expectations and behaviour of contemporary society. All this has caused the retail domain to undergo significant changes with vast change being felt in the town centre local businesses sector (Coca-Stefaniak, 2005). The most damaging enforcing change to local business trade in town centres has been the development of out of town retail centres. Out of town shopping centres sprang up with the increase of car ownership in the UK

in the 1960s. By the year 2000 only 27.4% of UK households had no cars meaning the boundaries in accessing retail outlets had expanded. This coupled with newly implemented transport links including rail and bus opened up a new world to consumers enabling them to travel away from the CBDs and town centres (Harrison,2015). The growth in car ownership and the increasing accessibility to public transport allowed shopping centres to develop on the outskirts of cities. This move allowed developers to purchase cheaper land on the outskirts of cities to develop their stores on whilst also offering mass convenient car parking for the growing car owner consumer. Traditionally, ‘the shopping hierarchy was such that the CBD and town centres had the greatest sphere of influence but with the rise of out of town shopping centres, this position has been encroached’ (Blakely, 2010, p1). This has allowed town centre trade to fall impacting upon local business and hence employment. The following diagram depicts the change in the shopping hierarchy from 1970s to contemporary shopping.

Figure 3.5: Change in Shopping Hierarchy





Whilst it can be argued that out of town shopping developments undoubtedly bring wealth and employment to an area they also take that from other surrounding areas (Blakely, 2010). Despite its growth and convenience for shoppers throughout the UK the out of town shopping model has created deep rooted issues for town centre sustainability. The importance of town centres for economic and civic life mean the protection and investment in these central places must be strongly endorsed by planning policy and development initiatives and furthermore must be strictly abided by to enable town centres, the central hub of communities, to regain their vibrancy and vitality (Genecon,2011). The first introduction of policy aiming to protect town centre locations against out of town developments was introduced via English Planning Policy Guidance 6 ‘Town Centre First’ policy in 1996 (Office of the Deputy Prime Minister, 1996). This policy was implemented in tandem with a similar Welsh Planning Policy Guidance 6 framework in the same year (Welsh Government, 1996). Both policies recognised the impact and competitiveness of the large scale out of town developments and stated more centralised locations for development would be the preferred option going forward. Northern Ireland introduced a similar policy in the form of Planning Policy Statement (PPS) 5 entitled ‘Retailing and Town Centres’ in 1996, one of the stated policy aims was listed as the need to ‘sustain and enhance the vitality and viability of town centres’ (PPS5, 1996). In keeping with England, Wales and Northern Ireland, Circular 16 regarding Retail was introduced in Scotland in 1996. The aim of this Circular was to also promote town centres as the key locations for retail development in

order to encourage their regrowth and sustainability. Planning policy has recognised and acted upon the need to safeguard and rebuild town centres through contemporary ‘town centre first’ policy which is echoed within key planning frameworks for the devolved UK regions. These include the current Planning Policy Wales (Welsh Assembly), the Strategic Planning Policy Statements (SPPS) for Northern Ireland (DoE), National Planning Policy Framework England (ODPM) and National Planning Framework 3 Scotland (Scottish Government) which all acknowledge town centre revitalisation as key policy objectives in building valuable and sustainable urban communities.

The growth and dynamic of urban regeneration schemes and the power of PPPs within the retail development sector can make promoting ‘town centre first’ policy an increasingly difficult task for local governments. The conflict in this matter is how local and national governments can support town centres and make the most of the opportunities to become world leaders on a global stage? (Davey, 2016).

Urban Regeneration initiatives in some cases make this particularly difficult as their renewal strategies often target corporate retail investors which is counterproductive to planning ‘town centre first’ policies. As the importance of economic growth dominates within contemporary urban and retail regenerative projects local governments need to demonstrate resilience against such macro forces. This is important to ensure town centre locations can rebuild and revitalise as the sustainable community trading hubs that are fundamental to our society, and which have real social and economic worth to our communities (Portas, 2011). Chapter eight will explore these ideas further through case study analysis of the confliction within the Northern Ireland Executive in attempting to maintain town centre standards. Chapter eight will also examine the crucial role of JR in ensuring fairness and consistency within the realms of government decision making.

3.10 Event-Led Regeneration

Events have long been associated with being a catalyst for urban change (Essex & Chalkley,

1999). Yet often event regeneration does not clearly articulate the extent of changes to occur and for whom (Sadd, 2012). Mega events have assumed a key role in urban event-led regeneration and regional tourism, marketing and promotion. Nations, cities and corporations have used mega events to promote a favourable image to international tourists and the business market place (Hall, 2006). In this sense mega events are used as a means to both attract and retain mobile capital and people through enhancing and regenerating space. The redevelopment which occurs to aid mega events is undoubtedly a form of place promotion as the regeneration for the event may incur economic, social or physical legacies on the host communities which will last long after the event itself has taken place (McCaw, 1994). However, the development of legacy infrastructure and urban redevelopment strategies can leave undesired effects and consequences for the communities in the event area, despite the changes being successful for the short-term gains of the corporate interests and the event itself (Eisinger, 2000). Watt (2013) discusses the negative impact that legacy promises have for bidding countries in hosting mega events, he argues that legacy promises often lead to residential displacement in order to make way for the hosting and facilitating of such events. Acknowledging that such events have a 'dark side' Smith (2012) also confirms there can be negative consequences for the local people involved in redevelopment regarding mega events. Regeneration he declares is not always for the long-term betterment of the local people as existing residents and businesses are moved aside in order to facilitate the staging of games and large-scale sporting events. This further suggests that the PV concept as discussed previously in chapter two could be useful in mitigating and evaluating the social impact of decision making on a case by case basis even in the context of regeneration/renewal surrounding a mega event. This could perhaps reduce local residents in such scenarios becoming secondary to redevelopment decision making and assist them in carefully monitoring and understanding projected social change before it occurs.

Event-led regeneration in many cases does not reflect the needs of the localities and is a public expenditure that could be better placed in meeting growing housing demands amongst other basic needs. Whilst notions of legacy are appealing on the global stage and are attractive to

investors which provides a positive economic boost these outcomes often fail to trickle down and transpire within the local communities (Clark, 2016). There are undoubtedly benefits to be gained from renewal efforts that come along with event regeneration as it can revive deprived and underappreciated areas with the development of new facilities and the prospect of employment in some cases. Counteracting this however it is argued that the majority of employment associated with such regeneration is often short-term development contracts during the construction and event phase with minimal long-term employment prospects thereafter (Muller, 2015). While it may be a positive attribute in encouraging urban renewal of some areas and for the development of new facilities, in some cases this has resulted in the displacement of residents to enable new facilities to be constructed in their place and meet the needs of the event. In this sense event led regeneration is also considered to promote trends of gentrification as discussed earlier in the chapter. An example of this occurred following the event regeneration that occurred in Rio de Janeiro, in 'preparations for the 2014 Football World Cup and the 2016 Olympic Games which exacerbated socio-spatial polarisation, as authorities evicted and resettled tens of thousands of residents' (De Paula, 2014).

Further to this the forms of employment that are associated with such regeneration are often short-term development contracts during the construction and event phase itself with minimal long-term employment prospects. Rarely, if at all, do the organisers of major sporting events/festivals review the net community benefit of the event (Herrington, 2008). Ensuring that event led regeneration is done so in a collaborative and effective manner that provides long term sustainable benefit to the local community and is inclusive of the community in the development area is key to securing the developments effective long-term success. However, some contemporary examples of event led regeneration such as that regarding the 2014 CWG in Glasgow demonstrate the absence of PV inclusion within the event led regeneration process and unjust trends of gentrification and displacement. This case study will be explored later in the thesis in chapter seven where its relevance in support of the PVM framework will be discussed. In summary event led regeneration whilst presented as an enticing form of urban renewal poses

multiple deep-rooted effects for some communities that alter not only the dynamic of the space but in many cases those who live there. Despite its often political motives and perceived support there is need to evaluate by example some of the consequences induced via event led regeneration and explore collaborative solutions that may allow event regeneration to be an all-round winner.

3.11 The ‘Legacy’ Debate

It has been suggested by Watt (2013) that legacy impacts of large scale sporting events form patterns of revitalising that only benefit middle class communities. Watt argues that often the working-class communities that inhabit the area that is to undergo regeneration fail to feel significant benefits from the change. The concept of legacy is one most prominently notable in discussions surrounding collaborative working for regeneration within contemporary urban governance (Davies, 2002, Matthews 2012). Collaborative regeneration and the notion of legacy provoke questions surrounding the effectiveness of collaborative PPPs and the authenticity of the ‘legacy’ concept as justification for the effects of event led regeneration.

Rhodes (1988) characterised the collaboration between public and private actors in terms of ‘policy communities’ which can be described as the loose connection of civil servants, interest groups, academics, researchers or consultants etc. who engage to work on alternatives to policy problems within a specific policy field (Herweg, 2009). These partnerships are deemed to provide governance solutions to problems of public policy coordination and to emphasis structural relationships between political institutions (Marsh, 1998). Such collaborative partnerships have presented the idea of ‘legacy’ as a form of selling their joint regeneration efforts. For the purpose of event regeneration this involves presenting the hosting of a mega event as a means of transforming an area, promoting investment in the area and presenting an opportunity of renewal.

However, regeneration partnerships and collaborations that engage both public and private entities are not without challenges and are difficult to achieve in practice. This is due to their

differing and conflicting ideas with regards to benefits to be derived from the regeneration process, particularly where public accountability and social value expectations come in to play. Collaboration between public and private partnerships with competing agendas present challenges in the allocation of benefits to be derived. Unlike the private sector the public sector has a duty of responsibility to promote public inclusion and wellbeing in all decision making. The private sector however is freer to pursue their own tailored targets and goals which often centre upon financial gain meaning public expectations can go unfulfilled within PPP dynamics. The lacking ability to conform a concise overview of the social benefits to be derived and delivered from regeneration and development projects is difficult due to the absence of a supporting coherent theoretical framework (Agranoff and McGuire 2003). It is easy to understand economic benefit in the collaborative process as monetary value can be easily accounted for. However, accounting for social value is somewhat more difficult as there is no framework for measuring such. This often means that social/PV is unaccounted for as its presence or success is neither measured nor regarded in the formal process. This further supports the PVM framework concept as a means to ensure that public sector duties and responsibilities in service delivery and regeneration do not become enthralled by the nature of private sector consumerism and profit goals.

Returning to the concept of 'legacy' both Gratton and Preuss (2008, p.643) state that legacy is that which includes 'planned and unplanned, positive and negative, and tangible and intangible outcomes'. This suggests legacy should be judged through the entirety of change, benefits and consequences it delivers. There is growing scepticism surrounding the justification of 'legacy' in being sufficient reason to endorse large scale event lead regeneration (Davies, 2012). The increasing critical literature surrounding the concept of 'legacy' focuses largely on the lack of measurable outcomes, the negative impact imposed upon communities due to enforced displacement and its associated promoting of gentrification (Kennelly et al, 2011). There has also been increasing pressure to address issues of legacy within the hosting of mega sporting events particularly since the incidents of displacement and public neglect associated with the

2014 Brazil World Cup regeneration. Although not to the same scale and detriment, similar issues of displacement were also prevalent surrounding the CWG 2014 in Glasgow, this will be addressed further in case study chapter seven. There has been acknowledgment of the need to address the concept and use of legacy which has been confronted by the International Olympic Committee (IOC). The IOC are the authority responsible for the modern Olympic Games. Within their legacy framework they aim to address the need for enhanced strategic management and assessment of legacy planning and recognise legacy within specific and bounded contexts (Smith et al, 2007). However, what such frameworks do not do is promote the need to enhance social aspects of legacy, more specifically in the form of localised PV. In depicting their vision for social legacy, the IOC state both culture and education as social legacy outcome indicators. However, and in accordance with Preuss (2007) legacy should not be determined by the top down rather however it should be determined by the bottom-up. This approach requires further influence from the public of the area most impacted by any forcible change in determining legacy both prior to and following the event.

3.12 Conclusion

Questions are raised following discussions in this chapter in regard to the capacity of urban regeneration in fulfilling social responsibility and accountability. Furthermore, and reflective of the above it appears that current methods of estate regeneration must find a more inclusive role for communities in projected plans and adopt an increased bottom up approach which protects urban regenerative targeted communities. The discussed trends above highlight vulnerability within estate regeneration particularly for those in social housing. The system of urban estate regeneration can unfairly exploit the vulnerabilities of tenants in estates ear marked for regeneration and case study examples of this in practice will be explored in chapters six, seven and eight. The complexity and conflictions of urban estate regeneration as discussed in the above sections demonstrate why ease of access to justice and increased PV accountability are worth fighting for in the contemporary urban development arena. Estate, retail and event regeneration share the commonality that they do not appear to be reflective of PV in the areas they ensue

with the contemporary processes in place producing unfair, unlawful or unsatisfactory outcomes as will be demonstrated through the use of case study examples in chapters six-eight.

Public bodies operate in complex systems with vast volumes of policies and legislations that in some cases can prove to be challenging and contradictory. This chapter has spanned across the subject areas of planning and the multifaceted realms of regeneration and the challenges they pose for the public realm. It is obvious that understanding and incorporating PV on a case by case basis within development decisions will make for more sustainable communities and decision making that is reflective of public need.

This chapter has addressed research objective two in investigate the underlying connection and issues between contemporary urban regeneration in the form of estate regeneration and its relevance to the concept of PV. The following chapter will analyse the methods used for the collection and analysis of data for the purpose of the research.

**Chapter 4:
Methodology**

Chapter 4: Methodology

4.0 Synopsis

This chapter will analyse the methods used for this research in addressing, processing and analysing the collection and dissemination of data. The following sections will address the chosen research methods for the collection of data including justification surrounding the selection of research location and the methods of data analysis. The chapter will then conclude with discussion surrounding ethical considerations for the research and any limiting conditions to the study.

4.1 Introduction

This research relates to the role of PV in relation to contemporary planning, urban regeneration and JR reform in the UK. Research is concerned with investigating what reformed JR in England and Wales means and how reflective and inclusive contemporary planning and urban regeneration is in generating PV outcomes. Further to this however research aims to establish a link between the growing importance of JR in the contemporary urban regeneration arena and the need for enhanced PV accountability. The research is a multi-layered study that transcends across JR, planning, urban regeneration and the concept of PV. The importance of research is to establish the trends and linkages that exist between these areas and how they lend themselves to promoting a PVM framework within contemporary public administration. This is reflected in the set research objectives from chapter one, noted again below:

- 1) To examine and conceptualise Judicial Review in the UK in relation to planning matters.
- 2) To investigate the underlying connection and issues between contemporary urban regeneration and the concept of PV.

3) To critically analyse the extent to which planning and regeneration policy and practice support PV delivery in the UK.

4) To promote a new framework to support the delivery of social outcomes in urban regeneration projects.

Following literary and policy analysis as a foundation upon which to commence investigation, the research will conduct semi structured interviews with strategically selected individuals who have knowledge and understanding of the chosen research case studies. The research wishes to formulate a deep understanding of causes, effects and meanings which underpin the research aim, which is: to investigate PV delivery within the context of urban regeneration in the UK with reference to the process of JR.

In doing this research will make use of qualitative semi structured interviews as a method to inform the study. The qualitative method is the most appropriate for this research as it permits the feelings, values and perceptions that underlie and influence behaviour to be examined. Further to this the qualitative approach allows for a better understanding of the context and meaning of the data collected to be established (Service, 2008). This approach is necessary for research as it assists in the understanding and analysis of the issues and relationships between planning, JR, PV and urban regeneration. The qualitative approach allows for more in depth meaning and explanatory detail to be drawn from investigation and therefore allows for complex relationships and problems surrounding them to be understood (Taylor, 2015).

Qualitative analysis is also a useful research method to deploy when wanting to uncover strengths and weaknesses in research for compare and contrast analysis, a key element for this particular research. It is also understood that qualitative analysis is particularly useful when studying societal and public affair issues, making it ideal for this research involving the public, public bodies, policies and procedures.

The following subsections will explore the selected and supporting research methods of both data collection and analysis for the research.

4.2 Qualitative Data Analysis

The Qualitative Data Analysis (QDA) method will be deployed when processing and analysing the research data. QDA describes the process and procedure moving from the collection of qualitative data into the formulation, interpretation and understanding of the information and situations examined (Srivastava, 2009). QDA is purely an interpretive model of data analysis seeking to extract the meaning emerging from the qualitative findings. This means that data needs to be coded or categorised so emerging similarities and differences can be noted. Within QDA each researcher must establish a method for categorising/coding research findings, this is often referred to as content analysis. Content analysis means categorising data, so it can be examined, understood and summarised.

For the purpose of this research all data gathered which includes recorded telephone interviews, face to face and email interviews will be analysed by the researcher where key information will be organised into the coded categories as suggested by the content analysis method and explained in further detail below.

Content analysis can be split into two levels, the first is a basic level giving an account of what happened or what was said whilst the higher level of content analysis provides a more interpretive analysis that goes beyond the mere facts and looks at what may have been implied. The higher level seeks to provide a deeper understanding of the issues and their causes and effects going beyond the mere facts of the data. Content analysis of qualitative data aims to draw out the important findings to provide insightful understanding of the issues and is particularly useful when establishing links and connections between sources of data (Miles, 1986).

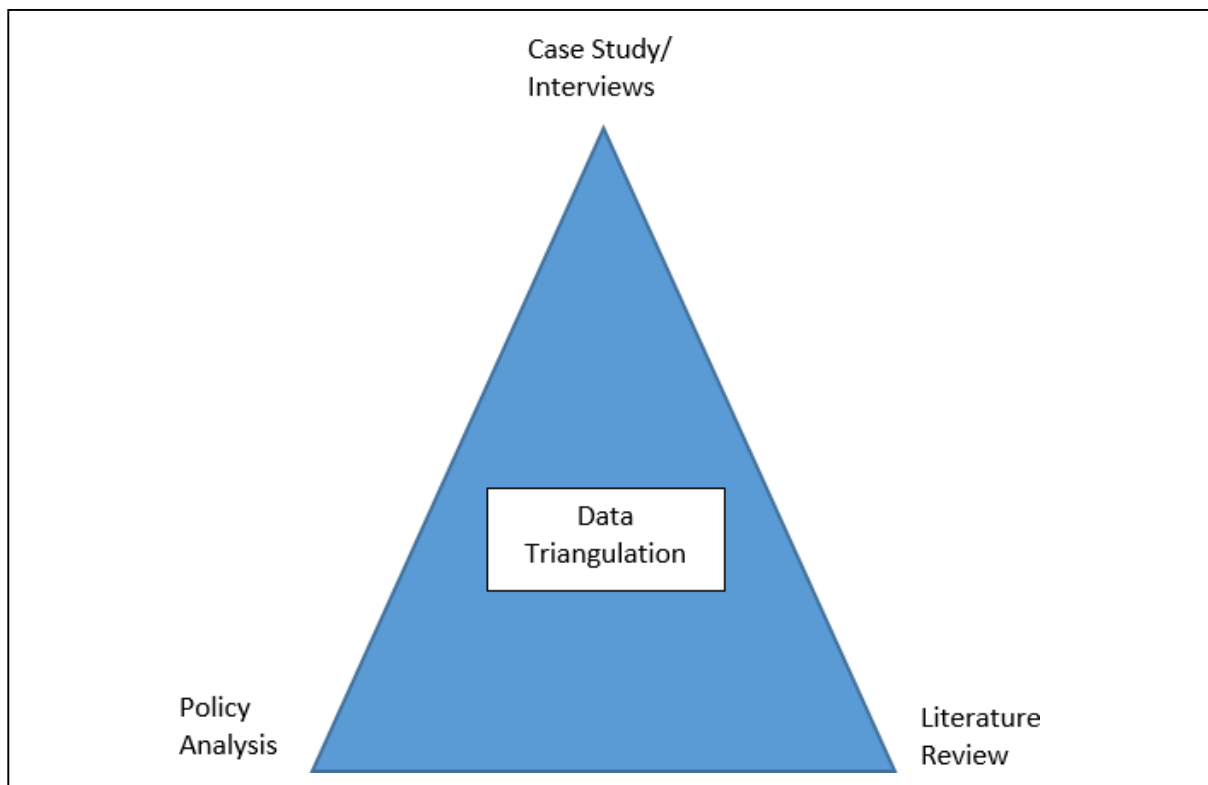
This method is particularly useful for this research as it adopts a qualitative semi-structured interview approach, whilst also wanting to establish connections and relationships between the subject areas of planning, JR, PV and urban regeneration. The Directed content analysis method

has been chosen for this research, the directed approach deploys relevant research findings as a guidance for setting codes in which research findings can be organised and analysed (Hsieh, 2005). The directed method of content analysis for this research will separate research findings into social, economic and political categories. These categorised findings can then be cross-examined among the selected case studies so linkages and trends relating to the subject areas of planning, JR, PV and urban regeneration can be better understood in both their individual and collective contexts.

A criticism of this approach suggests the use of researcher bias when analysing findings using the content approach, however maintaining the capacity for researcher interpretation ensures that the researcher can extract the data and establish key links and influences that may not otherwise appear. To ensure that researcher bias was controlled in this research multiple sources of data were used this is often known as data triangulation. The benefit of using the triangulation method is that it allows the researcher to find other sources of data to support interpretations. This provides the researcher with more confidence that what has been found is legitimate and therefore bias has been avoided. The triangulation method will be discussed in further detail below.

4.3 Triangulation of Data

The following figure shows a data triangulation diagram for the research depicting the origins of the multiple sources and methods of data informing this study.

Figure 4.1: Data Triangulation Diagram

The method of data triangulation will be deployed in this research as it permits two or more methods of investigation to be used in a study in order to enhance the robust and reliable nature of research findings. Reassurance in research findings is provided where various methods of investigation lead to the same result, meaning the triangulation method enhances the reliability of research findings. This method is particularly useful in establishing credibility of qualitative research. Further benefits of using the triangulation method include avoiding the likelihood of bias that may prevail when using one method of data investigation. The triangulation method is defined by Cohen and Manion (2000, p.254) as an ‘attempt to map or explain more fully, the richness and complexity of human behaviour by studying it from more than one standpoint’.

Data source triangulation is the most suitable method for this research as it allows the use of evidence from various data sources that may be primary or secondary. For the purpose of this research several methods of data collection will be used including literature review, policy analysis and interviews. Further benefits to using data triangulation include the provision of enhanced validity and verification of findings and ability for increased insight to be sought from multiple forms of data examining the same problems. Finally, it is easier to see the emergence

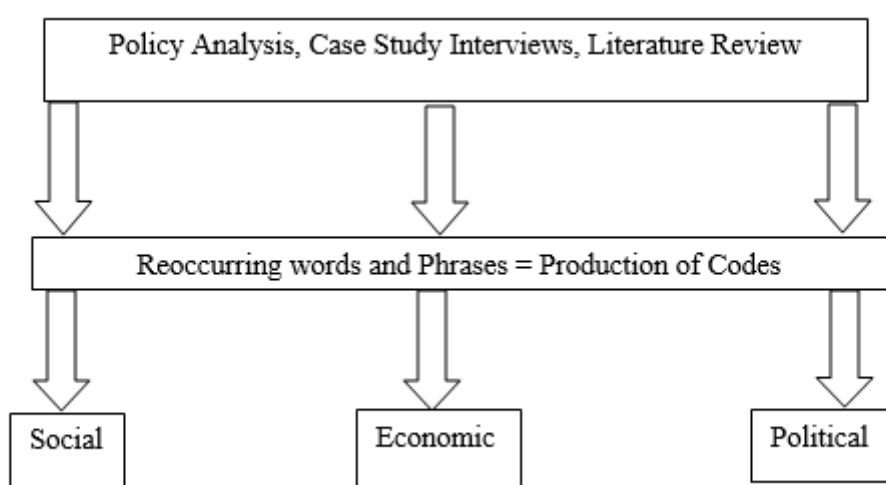
of inconsistencies where various investigations of the same issues yield different results (Lewis-Beck, 2004). The use of data triangulation produces a reassuring validity and confidence in the compilation of research findings. The figure above illustrates the collective data triangulation deployed in this research including literature review, policy analysis and case study interviews. This ensures that a vast scope of data is gathered from multiple perspectives, with secondary data (information collected from someone else) in the form of literary and policy review being gathered and primary data (data collected by the researcher) in the form of information yielded from interviews also being collected. Using multiple sources of data further helps to uncover reoccurring trends and themes within research which is useful for compare and contrast analysis and also for categorising and separating data for through analysis.

4.4 Coding and the Emergence of Themes

A code in qualitative research is most often a 'word or short phrase that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based or visual data' (Strauss, 1987, pg2). Examples of such data can be made from a number of sources such as interview transcripts, participant observation field notes, journals, documents, literature, policy, e-mail correspondence etc. The portion of data to be coded during the first cycle of the coding processes can range from a single word to a full sentence or entire page of text. In the second cycle of the coding processes, data can be the exact same units, longer portions of text or reconfiguration of codes so far. Strauss states 'just as a title represents and captures a book or film or poem's primary content and essence, so does a code represent and capture a datum's primary content and essence' (1987, pg.3). The codes established and used for the purpose of analysing and sorting data for this research were identified due to their consistent reoccurrence during the fieldwork stage. Social, Economic and Political were reoccurring themes that were repeatedly used across all case studies and which due to their repetitive use and frequency presented plausible codes under which research could be categorised and examined as they encapsulated the reoccurring expressed perspectives. The

codes represent categories of information gathered as an empirical generalization of relevant information in regard to the research (Keller, 2017). The coded information can then be furthered unpicked in relation to the research aim and objectives and relevant case studies. The following figure depicts the coding process in establishing the relevant codes for this research.

Figure 4.2 Data Coding



4.5 Legal Research- Reviewing Legislation, Case Law and Policy

There are two forms of legal research that will be deployed for the purpose of this study. Legal research is required for this investigation as it concerns matters regarding JR and also relies on the use of JR case law for the purpose of case study analysis. Legal research is important and valuable as the law is ever changing and amending, however evaluation of the effects of such change and their rate of success are often most evident in the aftermath of their implementation. This factor alone makes post-analysis of legal reform highly important in ensuring pre-indicative outcomes transpire accordingly. Legal research methods to be used within this research relate to the capacities of administrative law and policy and case law. Administrative law relates to the law that governs and is implemented through administrative government agencies, i.e. public bodies (McConville, 2007). Analysis of administrative law within this

research will be conducted through revision of policy from the relevant aspects of planning and JR. This means selected policy that makes up both systems and as chosen by the researcher for its relevance to this study this will include revision of the procedural structures of both planning and JR which are policy/legislative based. Further to this case law analysis will also be exploited which will involve using legal search engines such as Westlaw UK, Bailii and Lexis. This will provide access to JR hearing documents providing the details of the selected JR cases for the duration of their court proceedings and high court decision. These documents are highly valuable in providing detail and background information on cases from initiation to completion.

Legal research will assist in highlighting the importance not only of the issues surrounding planning, JR, PV and urban regeneration but also draw attention to the nature and role of the law within social science. In accordance with Posner (2009), treating law as a social science offers the opportunity to challenge the usefulness of court decisions and pieces of legislation from an external and often empirical perspective.

This view is particularly reflective of this research as law and policy are what ultimately shape the society and places in which we live, court decisions and legislation must be reflective and responsive to society and its needs in a just and fair manner.

4.6 Selecting Research Location and Case Studies

The UK is the area of study as this research aims to examine the contemporary relations between PV, planning, JR and regeneration within the UK context. It is the necessary location as this study relates in part to the JR reforms that were introduced to England and Wales as of April 2014. Research will include looking at the devolved UK regions and their adopted approaches towards planning and JR over time, whilst also identifying any effects or correlations such approaches impose upon PV production, particularly within the urban sphere. This is important in developing an understanding of the role of PV within contemporary urban development in the UK and the extent to which the administrative systems of planning and JR support such. This will also further assist in examining whether the now fragmented approach towards planning JR in the UK context demonstrates increasing vulnerability of the public domain within both forms

of contemporary public administration.

The UK provides an ideal platform for this investigation for a number of reasons. First, this study is concerned with the consequences of JR reform that occurred within the UK and can perhaps demonstrate what the non-reformed regions of both Scotland and Northern Ireland can learn. It is also appropriate that the regions of Scotland, Northern Ireland, England and Wales are of similar geographical stature for overall comparison purposes. The UK has been chosen as it is the area where changes to the system of planning JR occurred. Further to this the significance and contemporary use of planning JR across the devolved UK regions can be better understood, compared and contrasted when explored collectively.

4.6.1 Case Study Selection

It was imperative that the case studies chosen where possible reflected the subject matters of JR, contemporary planning and urban regeneration. It was also important that case studies were selected to equally demonstrate JR, PV and regeneration in multiple contexts, so their spanning importance and connections could be sufficiently understood. It was apparent from the outset of research that cases chosen would have to reflect the multi-layered nature and purpose of research. Therefore, cases selected within the UK context would be required to demonstrate singularly or collectively planning, JR or PV in various regenerative contexts. This ensures that all contributing aspects of research are adequately investigated, and interrelating connections established for compare and contrast analysis.

A case study was selected from Northern Ireland, England and Scotland for the purpose of research. The case studies were selected based on their topical compliance, context, timely relevance and ability to contribute to cross case analysis, this meaning ability to draw comparison against the over-arching research aim. All chosen case studies in this research demonstrate ability to contribute to the research debate on respective contemporary issues surrounding planning JR and PV within the relevant areas of planning, JR or contemporary urban regeneration. Using case law website Bailii a search was conducted for Planning JR cases in each of the regions as listed above within the last 10 years. The chosen JR cases of both

Cressingham Gardens and John Lewis in Northern Ireland appeared as the most recent planning JR cases at the time of the initiation of fieldwork. Furthermore, the cases were ongoing at time of selection and therefore present relevant and up to date case study examples. As regeneration transpired to be closely linked to planning JR cases through the literature review, it was appropriate that regeneration cases were then selected for Scotland as a case law search via Bailii showed no results of a contemporary JR case in the region. Following this it was decided to select a second regeneration case in England which would provide a balance to the case study research and also offer adequate compare and contrast analysis material between JR and urban regeneration cases through which PV could be equally explored.

The Clyde Gateway regeneration project in Scotland was selected as a case study as it is the largest contemporary regeneration project in Scotland and was occurring during the time in which research was being carried out. Furthermore, the Clyde Gateway project and its development approaches for the Commonwealth Games in Glasgow in 2014 presented ideal circumstances to investigate PV delivery in a mass regeneration project that had commenced in tandem with this research. Further to this the Heygate case study in South London presented itself as a large scale disruptive regeneration project that bore similar traits to that of Cressingham Gardens and therefore offered ideal compare and contrast ability for two large scale urban regeneration displacement projects in South London, one successful abstaining displacement due to the use of JR and one unsuccessful in preventing demolition with the absence of JR. In relation to Northern Ireland the John Lewis case was identified via Bailii as the most prominent and significant case of planning JR that Northern Ireland has had in many years. It is also a JR case that has yet to find solution and therefore worthy of further exploration. This case study was also selected due to its ability to portray the use of JR from a political perspective in the midst of regeneration attempts at Sprucefield.

In summary the cases as described above were identified and used as they were the more recent JR planning case for the selected region at the time that research commenced. However, in the absence of JR as described above regeneration cases were selected that allowed for PV to be

examined in a contemporary urban context. All case studies permitted JR and/or PV to be examined in relation to urban regeneration meaning compare and contrast analysis of the role of public value in different contexts could be better examined and understood.

The following sections will provide further individual explanation on the selection and contribution of the chosen cases, figure 6 will also provide a summative justification surrounding each case study selection.

4.6.2 England

The two case studies chosen for the England and Wales area were selected due to their inherent ability to allow analysis on the contemporary subject matters of planning JR, urban regeneration and PV. Further to this the chosen case studies were recent and reflective of the increasingly important role for planning JR and PV in the midst of contemporary urban regeneration efforts. A brief summary of the cases selected for the England region are as follows and will be discussed in greater detail in the following case study chapters:

Cressingham Gardens Case

This case involved a JR case pursued by a group of social housing residents in Lambeth South London. The case provided research with the ability to better understand the importance of the JR system as a method of PV protection in the face of contemporary regeneration. The case commenced in July 2015 when the residents pursued their first JR regarding unlawful behaviour adopted by Lambeth council surrounding the proposals to redevelop the CG estate (Lambeth Council, 2016). The proposed redevelopment would see the loss of much social housing on this council estate and its replacement with private apartments most of which would be for sale in the private sector. The Cressingham case as will be discussed in chapter 6 demonstrated public body abuse of power and a growing PV deficit in contemporary methods of urban regeneration.

Heygate Estate Case

This case study was chosen due to its ability to relate to the concept of PV decline within contemporary urban regeneration of social housing. Although similar to the Cressingham case in that it involved urban regeneration regarding social housing this case did not involve a JR case. However, this case does illustrate the importance of JR and the need for the concept to be without restraint and additional complexity or restriction for those who are unlawfully or unfairly treated within contemporary public administration. The Heygate case permits the analysis of PV within a contemporary urban regeneration and development case, whilst providing additional contribution to knowledge in relation to CPOs and market pricing of properties affected by contemporary urban regeneration (EAN, 2016). The issues relating to CPO and market pricing of properties in these regeneration cases adds further strength to the JR reform debate and therefore is a worthy case study for investigation.

4.6.3 Scotland

Clyde Gateway Regeneration – The Glasgow Commonwealth Games

Clyde Gateway (CGW) regeneration case addresses issues surrounding contemporary urban regeneration and PV production in aid of the Glasgow CWG 2014. Although not involving a JR application this case bares similarities to the cases selected in England demonstrating public vulnerability and examples of non-compliance by public bodies to rules or regulations. This is significant when discussing the system and process of JR and the responsibility it has in securing fairness within public administrative decision making. Ensuring ease of accessibility and understanding of the process of JR is highly important for the public in some cases when faced with contemporary urban regeneration efforts (Mooney, 2014).

4.6.4 Northern Ireland

John Lewis- Sprucefield

The John Lewis case was chosen as it is one of the few prominent retail development JR cases

in recent times in Northern Ireland. This case demonstrates the use of JR beyond the public domain and instead amongst government ministers themselves regarding amendments of the Belfast Metropolitan Area Plan (BMAP, 2014) which distinguishes areas for specific development within the greater Belfast area. The John Lewis case as will be discussed in chapter eight considers the important role of JR in ensuring compliance with procedure and protocol from government officials. Further to this the case displays some highly important issues surrounding JR and PV and presents a contrasting view to the previous cases involving JR and urban regenerative initiatives as it argues in the interest of the local economy. This broadens the investigation for research and offers alternative perspectives for evaluation allowing enhanced compare and contrast analysis to be conducted. Figure 6 below provides a summative justification for the previously discussed and selected case studies for this research.

4.7 Case Study Method Approach

The case study approach has been adopted for this research as it allows for exploration of complex issues and the ability to develop a deep understanding into a chosen research area. It is a robust research method particularly when a holistic, in-depth investigation is required (Simons, 2009). The case study method is useful when the researcher wishes to look at something within a particular context, often consisting of a set geographical location with a limited number of individuals to be involved in the study (Baxter et al, 2008). Case studies are useful when exploring real life situations by analysing an event(s), the conditions surrounding such events and then establishing existing relationships between them.

Yin (2003, p.23) defines the case study research method as:

An empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used.

The case study approach is appropriate for this research as it explores the complex relationships

between planning, JR, PV and urban regeneration within a real life contemporary context. Further to this the case study approach is the most useful method when seeking to demonstrate elements of compare and contrast as research will do across the different disciplines involved in this research and the devolved UK regions. There are multiple advantages in using the case study method including its ability to enhance analytical capacity, communication skills and the ability to deal with multiple and varying perspectives. Further to this, the case study method allows for vast amounts of data to be collected which is beneficial for research overall (Tellis, 2007). Case studies are most appropriate for this research as they allow the four devolved regions of England, Wales, Scotland and Northern Ireland to be examined individually in relation to both planning and JR before comparative analysis can be made between the areas regarding further matters concerning both PV and urban regeneration.

However, there can be negative consequences in using the case study approach, the main criticism being that case studies cannot usually be generalised to the wider population and are only particularly useful for qualitative data (Stake, 1995). However, this criticism does not apply to this study as this research is focused upon the specific circumstances and reforms that apply to the UK context and wishes to obtain maximum qualitative data from this study. It should be noted in this case however that research findings from this study relating to the principles and effect of PV are something that most likely will be able to be generalised and will not only appear useful in relation to the UK context. As this study follows a completely qualitative approach the case study approach is the most fitting and provides a high level of reliable qualitative data for compare and contrast analysis.

Table 4.1: Case Study Selection Justification

Jurisdiction	Appropriate Case	Justification
England	Cressingham Gardens, Lambeth South London.	JR case illustrating the PV protection provided by JR.
England	Heygate Estate, Walworth, Southwark, South London. Elephant Park case study.	Case illustrating PV decline within planning and regeneration, helping to illustrate the importance of JR
Scotland	Clyde Gateway Project, Commonwealth Games, Glasgow 2014.	This case demonstrates declining PV within a large scale urban regeneration project. The need for JR to be as accessible and feasible as possible can also be drawn from this case.
Northern Ireland	John Lewis	This case illustrates the importance of JR in supporting PV and local economy.

It should be noted that two case studies were selected for the England area. The reasoning for this is that there were no appropriate JR case studies in Wales that demonstrated the complexity of issues relevant to research and worthy of further investigation. This however may be viewed as a finding in itself, as planning JR growth in England and Wales is not as prevalent as had been suggested prior to reform.

Revision of the table above demonstrates that all case studies selected either have been subject to JR due to urban regeneration or present circumstances where PV as a result of urban regeneration has been largely neglected. The case studies not involving a JR case present conflicting public body conduct and non-compliance both of which call for JR to be as accessible and comprehensive for the public domain as possible.

4.8 Sampling Technique Developing Case Studies

The research will use several sampling techniques in order to obtain the data required from the multiple variables involved within the research case studies. The various sample techniques are required in this research as there needs to be adequate representation from key individuals and professionals due to the knowledge specific nature of the chosen case studies.

4.8.1 Purposive Sampling

The purposive sampling technique is a form of selective sampling when the researcher uses their judgement in choosing the participants for their study. The purposive technique is useful in assisting the researcher to establish a representative sample when needing to obtain specific information from particular individuals. This method is particularly effective when a limited number of people can serve as primary data sources due to the particular research design or its specific aims or objectives (Teddy et al, 2007). Purposive sampling requires the researcher to use their own insight and intuition to choose the cases that best answer the research questions and achieve the research objectives and overarching research aim. Further to this it permits the researcher to obtain a range of contributing views from multiple contributing stakeholders who hold differing degrees of knowledge in relation to the chosen case. There are several advantages to using the purposive technique, the first is that it is both cost effective and time effective as the researcher has control and influence over those participating. Further to this and for the purpose of the research it was also the most appropriate as there were a minimal number of sources that could provide primary data for the chosen case studies (Etikan, 2015). This point is particularly important and makes this method the most fitting for this research as there is a restricted number of individuals to serve as primary sources of data when reviewing the relevant JR cases for this study. This method is also useful where the discovery of meaning is important, which is the case for this research (Tongco, 2007). The purposive method is fitting for this research as it permits insight from particular and knowledgeable individuals to be obtained so

enhanced meaning and understanding can be sought across the interrelating sectors of this study.

However, there are also negative elements to the purposive approach which should also be noted. These include the possibility of high levels of bias, judgemental error by the researcher or that findings can often not be generalised (Teddle et al, 2007). The nature of this research however with its relatively small number of primary data sources and the fact that research relates to specific circumstances in the UK context mean that such negative influences can be counteracted.

4.8.2 Expert Sampling

The expert sampling method is one used when research requires the opinions and assessment of skilled individuals who possess expert knowledge or insight. This method helps target the experts relevant to the field you are studying. One of the advantages of the expert method is that it provides a rich source of primary data, often experts have an extensive comprehension of the chosen research topic and are able to offer valuable information and insight. It is important to note that when determining who embodies an 'expert' it may not always mean highly educated and skilled in a particular field. As explained by Kitayama & Cohen (2010, p.212) in their study of culture they define expert as:

The people most immersed in, most competent in, or who most embody a culture in its pure form.

This insight is particularly useful in relation to this research as some of the defined experts will be members of the public who have been subject to the JR process or have first-hand experience of the subject areas being investigated. These individuals therefore offer front line rich insight from a publicly valuable perspective.

The main disadvantage in using the expert method argues that experts' opinions can be wrong or even present elements of bias. However, when wanting to obtain multiple perspectives from those most immersed and involved in a particular topic the expert method is the most appropriate

for doing so (Tongco, 2007). Given that planning, JR, and urban regeneration are not generic topics and involve expert decision making it is important that research includes expert input as it bears influence on the overall context of this investigation.

4.8.3 Diversity Sampling

The diversity sample method is another sub method of the purposive technique and is used when needing to obtain a wider range of views in different subject areas. This method is particularly useful in this research as multiple and varying perspectives need to be gathered from the range of research topic areas including planning, JR, PV and urban regeneration. One of the advantages to this sampling method is that it permits study of a wide range of subjects and collection of various views. Diversity sampling is needed when a research study is broad involving more than one subject area such as in the case of this research. A criticism of the diversity technique is its inability to ensure consistency when it permits selective participation from a vast and multiple range of individuals (Sandelowski, 1995). However, in the case of this research the scope and range of participant selection is largely curtailed by the knowledge specific nature of this study.

Research must avail of the various sampling techniques discussed above as it seeks to produce multiple views and perspectives in relation to the research objective. The following section will explore the methods used for the collection of data for the research.

4.9 Data Collection and Analysis

The collection of data will provide solid basis for the case study approach, data will be gathered via means of extensive literature review, policy and case law analysis and the process of semi structured interviews. The triangulation methodology as will be discussed later allows multiple sources of data collection to inform the study (Berman, 2011). Both primary and secondary data sources will be used in the collection of data, primary data will be collected via the gathering of interview material whilst secondary data will be sourced through the revision of literature and policy/case law. The following table illustrates the projected methods of data collection to

address each of the research objectives.

Figure 4.3 – Research Objectives and Data Collection Methods Table

Research Objectives	Establish the role and purpose of JR in UK	Investigate the implications of JR reforms in England and Wales in relation to planning matters	Understand the issues between planning, JR and urban regeneration in relation to the concept of public value.	Demonstrate whether public value has been compromised by JR reform in England and Wales	propose a means of supporting and promoting the public value concept
Research Methods	Literature Review, Policy analysis, Case Study analysis Interviews	Literature Review, Policy analysis, Case Study analysis Interviews	Literature Review, Policy analysis, Case Study analysis Interviews	Literature Review, Policy analysis, Case Study analysis Interviews	Literature Review, Policy analysis, Case Study analysis Interviews

4.9.1 Literature Review

The literature review will provide detailed insight into the separate topic areas of planning, JR, PV and urban regeneration. This will assist in developing a background and understanding on each of the individual topic areas, how they relate to one another and this research. The literature review including the material which relates to the theoretical perspectives of New Institutionalism and Public Value (chapter 2), will provide a knowledge basis upon which the chosen case studies can then be explored and examined. The literature review conducted on the theoretical perspective of New Institutionalism forms a basis for evaluating the role of institutions and public managers within public administration and the power they retain in shaping and affecting society, a vital starting point in this research.

There are multiple benefits in using the literature review method some of which can be identified as follows (Webster, 2002)

A) Allows current research conducted on the topic to be explored- Once research areas have been identified a search of relevant information in that area will reveal what has already been researched in relation to that topic and help to identify any gaps in knowledge.

B) Help identify key experts- A literature review helps to identify who the key experts are in your research area by highlighting those who have written extensively on the topic for a

considerable time and therefore are a reliable and knowledgeable source of information. This helps to identify key resources for research, helping pinpoint the best sources for information. In relation to this research the key knowledgeable individuals relating to JR reform, PV and urban regeneration could be sourced. This provides a valuable starting point for sourcing data and unearthing further key contacts for research.

C) Identifying contribution to knowledge - Conducting a literature review also helps to raise the key questions in your chosen research that have perhaps never been asked before. Reviewing existing literature helps to distinguish any gaps in knowledge and therefore assists in determining what the new contribution to knowledge from your research may be. This is key in ensuring both the value and purpose of your research. Knowledge gaps in relation to JR reform and contemporary urban regeneration and public management were identified as existing research gaps in this study and therefore worthy contributions to knowledge could be made from this research.

D) Determining methodology- Literature review analysis can assist in providing examples of similar studies that have been carried out previously, highlighting approaches that may be useful or beneficial to your given research. According to Boote (2005), examining of previous methodologies may also give rise to insight regarding new angles to approach and conduct research. Literary review provided research with examples of fieldwork methodologies and data gathering conducting using the interview method following which the researcher could make an informed decision on the most suitable method of semi-structured interviews for this particular study.

In summary a literature review on the key topic areas and theories in relation to research provides a solid foundation and basis for data collection as discussed above. It also provides a formative direction for new research in identifying research gaps whilst also providing the researcher with a knowledge base on their topic upon which they can build upon and add to.

4.9.2 Policy Analysis

The method of policy analysis is deployed in research when examining progression of planning policy over time and when reviewing the varying policy/legislative approaches to JR across the devolved UK. This allows for trends in policy growth over time in relation to development and PV to be gauged. It also permits the process and changes introduced to JR reform in England and Wales as of 2014 to be understood and used in the greater context of research. The process of policy analysis can be understood as the reviewing of what governments do, the reasoning of such action and the impact it has on society, if any (Dye, 2010). Policy analysis is important in terms of understanding and evaluating the purpose and usefulness of a policy in fulfilling particular objectives, for example research will track key planning policy across the devolved regions from initial Housing and Planning Act in the early 1900s to the present day strategic national policy initiatives to gauge the changes in policy objectives and if PV has been affected by the changes. The aim of policy analysis is to establish whether or not an existing policy and its resultant activities and services continue to be effective and efficient in promoting the general welfare of citizens (Meiring, 2007). The importance of policy analysis lies 'in the question whether or not the unique amalgam of resources, material and administrative arrangements and role-determined tasks that comprise each project and programme seem to lead to it achieving its objectives' (Meiring, 2007, p.1). This is particularly useful to research when examining policy changes and comparing and contrasting changes to the system of JR following reform. The process of policy analysis involves the dissecting, examining and explaining policy phenomena in order to build a clear image of the effectiveness and efficiency of that policy in practice and to assist in examining if that policy is fulfilling its determined goal/goals and to highlight any transpiring shortcomings in relation to such policy. Policy analysis is important within any system of democratic governance as it promotes and secures the general welfare of citizens. While government has a commitment to citizens in the form of issued policy objectives, it is difficult to ensure such is being delivered without adequate policy analysis and evaluation. Policy analysis requires collecting of information, so a frame of reference can be established

which makes analysis and then evaluation possible. This method is important as it provides a revised insight into rationale and reasoning for government action (Weimer, 2017). The analysis of policy occurs following the implementation of policy and ‘involves looking at a primary concern with an explanation rather than prescription’ (Dye, 2010). The process does not conclude with a solution to policy issues rather however it seeks to provide explanation and reasoning behind policy. This is particularly useful in providing insight and examining measures of regulation in relation to government action (Hajer, 2003). Policy analysis is an appropriate data collection method that is useful in this research for a number of reasons. The first of such reasoning is that the research requires policy revision to review the public processes and policies relating to planning JR, urban regeneration and PV as it forms the basic context of this research. The policy analysis method is therefore both fitting and useful when evaluating the above systems for this research as the processes are formulated on policy from which this research seeks to further investigate.

Further to this policy analysis permits the revision of policy documents at multiple levels across various context and disciplines allowing any influential trends and links across policy sectors to be identified and examined. Policy analysis will also allow the various JR formats in the devolved regions to be highlighted, permitting investigation of JR policy in the reformed and non-reformed systems across the devolved UK. This analytical approach to policy will help in examining the varying levels of PV commitment across the processes noted above over time. Any causes and consequences of fluctuating levels of PV production can then be examined from a policy perspective. Finally, policy analysis will also allow for contrasting approaches to be viewed between early planning policy and its contemporary form whilst also allowing contemporary approaches to urban regeneration to also be reflected upon.

4.9.3 Semi Structured Interviews

The research will conduct semi structured interviews on a face to face basis, meaning meeting with the interview subject to conduct interviews, however where this may not be possible and

telephone interview will be the secondary option. Telephone interviews will only be conducted where the interviewee states that this is their preferred or most convenient method of participating. The telephone interview method however does allow the researcher to have non-restricted geographical access to interview candidates.

Semi-structured interviews were selected to provide a partial open framework allowing informal conversational communication. The semi structured interview approach for this research will require questions be set out prior to the interview (see Appendix F for interview questions). Despite this however the interviewer is free to stray from such guidelines should alternative appropriate information arise which may be interesting and worth exploring further for the purpose of research (Irvine et al, 2013). This means that not all questions are created ahead of the interview therefore there is an element of flexibility allowing both the interviewee and interviewer to expand upon detail if and when necessary. It is important during semi structured interviews to talk openly whilst ensuring that the in-depth information that is required for research purposes is also being obtained. The preparation for a semi-structured interview for this research follows the approach set out by Keller et al, (2010) as follows:

- Contact the respondent in advance and explain to them the goal of the interview.
- Obtain his/her permission.
- Schedule an appointment and agree on where the interview will be held. Send the consent form and the interview plan to the respondent.
- Furthermore, if required, prepare equipment for recording the interview.
- Always contact the respondent again to confirm the date and location of the interview.

There are many advantages to using the semi structured interview method which include the ability to prepare questions in advance, resultant provision of reliable qualitative data, freedom for interviewees to express their own views on their own terms, providing an opportunity to learn more about the research topic and allowing reasoning for answers to also be explored (Leech, 2003).

Further to this the semi structured informal approach is thought to make it easier for interviewees to discuss sensitive topic areas which in a formal setting they may feel uncomfortable doing (Longhurst, 2016). This is important for this research as some interviews will be conducted with subjects that have been involved in sensitive JR court cases. The semi structured approach allows for this research to gather rich qualitative and reliable data with the freedom to explore other relevant and important issues should they arise.

However, some disadvantages that can be noted in relation to the semi structured approach include the method being time consuming and resource intensive with further scepticism arising around the methods ability to ensure questions are non-leading and that confidentiality is maintained where requested (Clough and Nutbrown, 2007). These criticisms however can be addressed in ensuring adequate time management skills and careful preparation of interview questions to ensure questions are not leading in their approach. This research will ensure that interview questions will remain open-ended so as not to influence the interviewee response. Further to this confidentiality agreements can be maintained through simply asking the interviewee if they wish to impose confidentiality terms for the researcher to abide by and then by following the agreed terms and ensuring all information gathered from the interview is securely stored by the researcher (Kitchin and Tate, 2000). This approach is appropriate for this study as research requires and values participant opinion and insight in relation to the subject matters of PV, JR and urban regeneration.

4.9.4 Face to Face, Telephone and Email Interview Method

A total of 16 out of the 44 interviews conducted for this research were carried out using the face to face method as this was the number of interviewees who agreed and committed to meeting to be interviewed in person. The reasons given by those who were unable to meet face-face related to work commitments and inability to assign time for interview. However, there are multiple advantages in using face-face method when possible as the researcher is able to maintain the focus of the interview and is also able to capture alternative information such as emotions and other behaviour (Oltmann, 2016). This assists in adding further value to data collected.

Disadvantages to this method however include that it can be costly, time consuming and can often mean a limited sample size (Opdenakker, 2006). Given that this research expands over the devolved regions of the UK it was therefore required that alternative methods to face to face were also used to ensure a sufficient sample size was maintained. The face to face method promotes the collection of reliable and insightful data, enhancing the knowledgeable contribution to be gained from this research. Further reasoning behind expressed views were able to be gathered when using the face to face method in this research. Interviewees elaborated more extensively on both feelings and insight when the face to face method was used in comparison with the other deployed interview techniques.

As mentioned previously the telephone interview method was used where it was not possible to meet interview subjects face to face or where they were unable to or did not wish to agree to a face to face meeting. As discussed previously many who did not agree to a face to face interview suggested busy working schedules as a barrier whilst others stated the telephone method was simply a more convenient option for them. Although the telephone method was adopted as the secondary option for conducting the semi structured interviews it was still a resourceful option in this research for obtaining and collecting data. The advantages of using this as an alternative option for data collection include that it was both cost and time effective, maximum data was still obtained, and it permitted long distance interviews which was useful for research as interviewees were from various areas throughout the devolved UK. This meant there is was no locational restriction when gathering data to inform the selected case studies (Carr, 2001). However, unlike the face to face interviews the telephone method proved more restrictive in that it did not permit the gathering of behavioural insight that had been available using face to face. Furthermore, it was difficult to build a connection with the interviewee as the setting was less personal. However, this method is useful for conducting the semi structured interviews for this research where face to face option was not possible. As a result of the reasons listed above a total of 22 out of the 44 interviews completed for this research were conducted via telephone.

The remaining and final 6 interviews were carried out via email. This meant that interview

questions were sent via email to the interviewee who then completed the questions and returned them via email. This method was only used when it was requested by the interviewee and stated as the only means through which they were prepared to participate. The advantage of using this method was that interviews were not lost as the interviewee was able to answer questions in a time frame that most suited them (Meho, 2006). Further to this responses via email in this research proved to be detailed and also included links to alternative information which did not occur in any of the other interview methods. Email responses therefore proved informative for building additional information surrounding case studies and allowed for some prominent political and legal viewpoints to be included in this study.

The following table depicts the number of interviews conducted, the method in which they were conducted and the relevant sectors from which the selected interviewees present for each case study.

Table 4.2: Breakdown of Case Study Interviewees and Interview Methods Used.

Interviewee Category	Telephone	Face to Face	Email	Total Number of Interviews
Solicitors / Barristers	2	2	1	5
Public relevant to case studies	5	2	1	8
Planning specialists	4	2	1	7
Regeneration specialist	5	2	1	8
Developers	3	1	1	5
Public value Consultants/ academics	3	2	2	7
Other	1	3	0	4
TOTAL	23	14	7	44

H- Heygate **CG** - Cressingham Gardens **CWG** - Clyde Gateway **JL** - John Lewis

Table 4.3

England and Wales	Scotland	Northern Ireland
<u>Solicitors/Barristers</u> H 8 H 14 CG 3 CG 10	<u>Solicitors/Barristers</u> CWG 1	<u>Solicitors/Barristers</u> JL 7
<u>Public relevant to case studies</u> H 3 H 11 CG 1 CG 6	<u>Public relevant to case studies</u> CWG 2 CWG 4 CWG 11	<u>Public relevant to case studies</u> JL 5
<u>Planning Specialists</u>	<u>Planning specialists</u>	<u>Planning specialists</u>

H 9 H 4 CG 4 CG 8	CWG 6	JL 1 JL 6
<u>Regeneration Consultants</u> H12 H13 H5 CG 5 CG 7	<u>Regeneration Consultants</u> CWG 1 CWG 12	<u>Regeneration Consultants</u> JL 8
<u>Developers</u> H1 CG11	<u>Developers</u> CWG 3 CWG 10	<u>Developers</u> JL 3
<u>Public Value Consultants</u> H2 H 6 CG 2 CG 9	<u>Public value Consultants</u> CWG 5 CWG 8	<u>Public value Consultants</u> JL 4
<u>Other</u> H7 H10	<u>Other</u> CWG 9	<u>Other</u> JL 2

4.10 Ethical Considerations

The important ethical issues to consider in the research concern consent, confidentiality and anonymity. These matters relate to the interaction between the researcher and the research

subject during the process of data collection. Ethics can be thought of as the study of good conduct and of the grounds for making judgements about what is good conduct (Birch et al., 2002). The ethical concerns involved in the research are relatively minimal and apply to the rights of the participant and their privacy. Ethical approval was sought and received by the University prior to the commencement of research. This process involved filling out the relevant ethical approval form which required detailed information about the fieldwork to be carried out and the potential interviewee subjects. Research could then not be commenced until the form was reviewed and approved by the relevant departmental research committee at the University. It should be noted that no ethical concerns were raised within this research.

Consideration of ethical matters ensures that no participants are negatively affected through their co-operation and that their wishes and preferences are taken on board. Further to this, ethical evaluation also provides security for the researcher in showing that all participants consent to being involved and that their rights and concerns have been accounted for. In relation to matters of consent research was required to receive consent from participants regarding their involvement. This proves the participants' understanding and willingness to be involved in the research. Participants for this research were supplied with information in the form of a letter (Appendix E), regarding the study and their requested involvement so they could make an informed decision as to whether or not they wished to participate (Halai, 2006). Prospective interviewees were required to read this information before agreeing to participate and signing their consent form. All information sent to participants inviting them to take part stated that their participation would be voluntary and withdrawal at any time from the study fully acceptable. Confidentiality and anonymity are also extremely important ethical issues to consider particularly in this research which involves interaction with human subjects for interview. Confidentiality and anonymity offer both respect and protection for participants in ensuring confidentiality of the information provided whilst also agreeing not to reveal the name or institutional identity of any participant, if they do not wish for such information to be disclosed (Halai, 2006). In order to ensure identities were protected in this research interviewee names

were replaced using a coding technique for example interviewees from the Heygate case study will be individually identified as **H1, H2, H3** etc.

All ethical considerations as discussed applied to all research subjects selected for interview. Invitations to participate in research with the relevant information regarding the study and seeking consent were emailed to all participants. This included an outline briefing of research informing the possible participant of the nature and aim of research and further requesting their participation. A copy of this email can be found in the attached appendix. It is important to note that no vulnerable groups were involved in data collection for the research.

In accordance with the ethical review process the research was considered to be low risk.

4.11 Limitations of the Study

There are a couple of limiting conditions to this research which form slight restrictive boundaries or may affect the extensive outcome of this research. Such limitations are beyond the control of the researcher as they are conditions which cannot be managed or prevented by the researcher. It is important to note such limitations so influential factors and limits enforcing boundaries on this research are understood clearly from the outset. This ensures the researcher is aware of any complexities which may arise and that all efforts are made to extract the highest level of information and data for the purpose of this study. There are several notable limiting conditions within this particular research, the first is that research is specific to the UK. This research study has a locational boundary of the UK as it relates to UK contextual policy in the discipline of both planning and JR. This can prove a limitation as research is therefore specific to UK conditions possibly preventing it from being used in a wider global context.

Further limitations include confidentiality conditions as research involves the study of some JR cases there may be possible complications in obtaining interviews with some of the direct legal representatives involved in that particular case. This is due to client confidentiality agreements and clauses which may prevent certain interview subjects being involved and available for

research i.e. representing solicitors/ barristers from the chosen case studies.

The final limitation in this research relates to interview quantity for JR cases as there are a limited number of people that will have direct knowledge of particular JR cases. This may mean that potential interview subjects with extensive knowledge on the selected cases may be difficult to obtain. However, this limitation can also be viewed as an asset to this research as data obtained from directly linked sources will be both more reliable and highly qualitative.

4.12 Conclusion

In conclusion the methods and techniques chosen for conducting field work in this study provide the ability to obtain maximum qualitative and reliable data. The case study approach is most appropriate for building compare and contrast analysis of the key research subject areas. The combined data collection via literature review, policy analysis, case studies and interview method allow for thorough investigation to be conducted for the purpose of the research. Deploying the method of semi structured interviews has been chosen as the most appropriate for this study as it requires extraction of information from a select and knowledgeable group of individuals. This allows additional scope for unforeseen issues and information to be further explored.

The sampling technique for the research required more than one approach as it needed to be selective, expert and diverse in the gathering of participants and qualitative information. Research has also been careful in ensuring that all ethical approvals and considerations were met prior to the commencement of fieldwork. As explained earlier in the chapter the use of mainly professionals for the interview process meant that ethical considerations were not a cause for concern. Further to this the use of professionals added an extensive knowledge dimension to research findings as research deals with a relatively small knowledge cohort due to the complex and specialised nature of the research. As there is minimal existing combined research on the subject matters involving planning, JR reform, urban regeneration and PV, the research allows for new issues to be explored and a fresh contribution to knowledge to be made. The

research methods, techniques and analysis as discussed in this chapter are detailed and extensive as they need to encompass an array of complex yet interrelating issues. The chosen methods permit the highest form of qualitative data to be gathered in the most effective and productive manner for this complex and multi layered research study. The following chapter will examine the contextual background to the research including exploring the underpinning linkages between the subject areas of JR, land use planning and the PV concept.

Chapter 5:
Planning and Judicial Review in the UK: A Contextual Analysis

Chapter 5: Planning and Judicial Review in the UK: A Contextual Analysis

‘Policy must be based on sound moral principles; on the ideals of justice, fair play and the worth of the individual’.

(Skeffington cited in Child, p.485, 2015).

5.0 Synopsis

This chapter will explore the contextual background and linkages between Land Use Planning and the system of JR. This will include individual analysis of both subject areas, identifying their interrelation and their contemporary relevance to the PV concept.

5.1 Introduction

This research examines the changing role of contemporary planning, JR and urban regeneration in relation to the concept of PV within contemporary public administration. The changing role of both planning and JR became significantly apparent following the systematic reforms that occurred to the JR system through the period 2012-2014 in England and Wales. This small timeframe produced vast changes to the procedure within mainland UK and introduced specific regulations relating to those seeking JR on planning matters. Important within the research and as noted by Skeffington (1970), policy must be reflective of moral principle, justice and the worth of the individual and therefore so too should contemporary systems of planning and JR. This chapter will explore the underpinning background of planning and JR prior to JR reform and the effects that changes within the systems of planning and JR over time have imposed for PV production within both administrations.

The chapter will also review both the system of planning and JR separately noting the historical emergence of both systems and their systematic progression over time. This will assist in providing an analysis of changing trends and principles adopted by both planning and JR in the UK through their discourse to date.

Once the history and background have been addressed the chapter will further evolve to highlight the link between planning and JR in the UK context before finally addressing issues relating to contemporary planning JR reform and PV.

5.2 Land Use Planning: The Early Years of Planning

The 1947 Town and Country Planning Act (TCPA) was the key legislation that consolidated and bore the structure of the planning system in the UK. It required local authorities to produce development plans and policies and introduced the first concept of land use proposals. What this meant was that the use of land was now regulated by local authority and permission would be required for development (Cullingworth et al, 2002). The system continued to progress over the years in the UK with its main aim and legislation reflecting the need to promote public value within the built environment. This related to the need to increase standards of living and promote social wellbeing and civic responsibility.

By the 1950's UK planning had successfully grown and increased its public credibility, no longer solely producing value in the form of housing and environmental protection. The role and duties of planning instead had increased becoming relied upon also for the adequate distribution of services and amenities throughout the built environment (Healey, 1988).

The publicly valuable and social role of planning during this period was at its peak, not only in its ability to influence allocation of service and industry, but in the distributive role of public amenities such as parks, libraries, leisure centres etc. This approach contributed considerably to increasing PV output and further aiding general wellbeing through the fabric of the built environment. Planning's publicly valuable purpose was transparent and civilian centric (Ellis, 2015).

It was during the post war period that PV within UK planning was at its consummation as the key concerns revolved around promoting public betterment and stabilising social value through the built environment, something that had not existed in the years of industrialisation (Greed, 2014). Land use planning in the early 1900's was not solely driven by economic motives and national profit principles at the macro level. The Housing Act 1919 gave the Ministry of Health authority to approve the design of houses whilst the later Housing Act in 1930 required all slum housing to be cleared in the designated improvement areas. Responsive to the public need of that era planning's focus in the UK was how the system could better aid the lives of the public and the environment in which they lived. The visionary Ebenezer Howard who endorsed public health reform and its relationship with planning through his Garden City movement stated:

By so laying out a Garden City that, as it grows, the free gifts of 'Nature fresh air, sunlight, breathing room and playing room shall be still retained in all needed abundance. (Turner, pg.81, 2014).

However, whilst regional planning was active in minimalist form during this period it did not impose the same intense pressures of globalisation and reform that were to occur from the 1980s onwards. The 1980s altered the nature of the UK planning system and hence initiated an alternative approach to public management within planning. The contemporary planning system increasingly gives central government larger say over planning decisions.

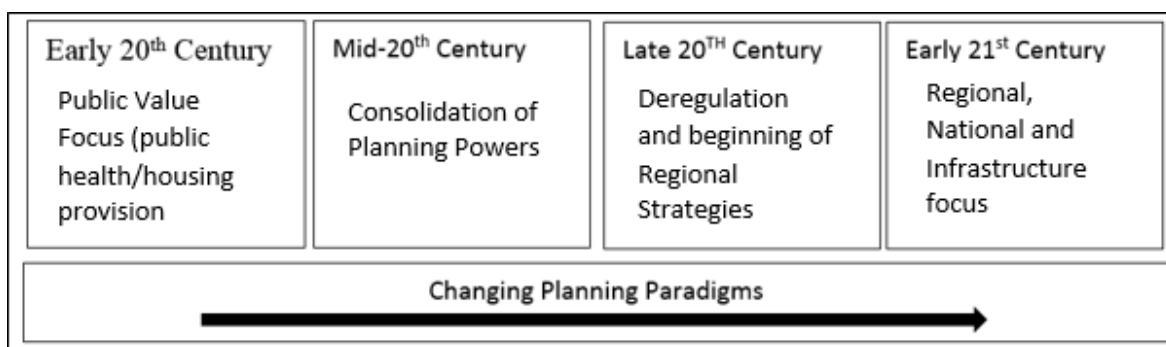
Regional Spatial Strategies mean local planning authorities are unable to avoid any non-compliance with central government targets, meaning local planning is extensively shaped by overarching regional objectives.

The planning system had thrived in a period of economic restoration after the Second World War as it restructured the built environment reinstating the social and structural value that was lacking and much needed. However, following the UK recession in the 1970's planning along with its primary goals to seek and deliver PV (social value) spiralled into a steady decline. As argued by Davoudi (2000) the golden age of planning at this point had ended and planners were

no longer free from political constraints. The recession of the 1970's was a period of economic stagnation in the UK where high unemployment met high inflation. It was during this period that much confidence in planning was lost as cuts to the public sector reduced planning's ability to continue with development and supply adequate provision of services and facilities (Marshall,2009). There are critics who in part blame the planning system for inefficiencies during this period due to unfinished development in certain towns and cities across the UK (Bertolini, 2011). However, this would seem rather naive as planning could not possibly continue to develop in a period of recession where there were major cuts to public spending, the relied upon funding source for such development to be carried out. It was following this recession that the role of planning and PV could be argued to have slipped into decline, taking on new form which focused more upon economic and regional goals.

What can be understood at this point is that the planning system and its policies had become a facilitator and regulator of PV in the midst of a chaotic post war urban environment. It provided strategic and structured development that stabilised and prioritised social wellbeing that otherwise would not have been delivered if not for such intervention and regulation. Further to this its land use principles provided for sound distribution of services and industry that aimed at facilitating towns, cities and their catchment areas adequately, often influencing placement of industry to prevent areas going into both social and economic decline (CPRE, 2016). Planning in this sense held a distinctive value purpose for the public and worked to secure public betterment within the public sphere.

It could be argued that planning policy was increasingly more localised prior to the 1970's and therefore more reflective of PVs. Planning policy in the 1970s and 80s in the UK largely centred upon Acts regarding compulsory purchase and the designation of enterprise zones. ⁴This gave planning an entrepreneurial role in shaping the environment for business which in tandem spurred PV decline within the system. Restructuring of the system in this sense coupled with globalisation caused the planners and the public to disconnect. The following table represents the summative changing paradigms of UK planning over time which depicts its changing focus.

Figure 5.1: Changing Planning Paradigms

(Adapted from Kidd and Ellis (2012))

5.2.1 The Emergence of Contemporary Planning

The early years of planning despite its magnitude of criticism and the increasing disrespect that has accumulated for the profession over recent years, suggest that its initiation arose from the need to maintain and promote social value. The production of such value is arguably what separates the public and private sector domains as the sole interest within the private sector often is dictated by the viable or profitable return to be gained from a project, with minimal concern being allocated to the production of social wellbeing (Van Der Wall, 2008).

As discussed in chapter two the concept of PV requires an organisations tactical use of public management. This ensures that systems maintain their social responsibility to the public, treating the public as private customers that are to gain and be satisfied with the delivery of a given public service i.e. ‘the customer comes first’. However, as UK planning has progressed over the years planning policy focus has shifted from prioritising the production of publicly social values to serving the political agendas of regional and national globalisation.

⁴1971 Planning and Land Compensation Act (N.I)

1981 The Enterprise Zones (NI) Order (N.I. 15)

1981 Enterprise zones Wales.

1980 Local Government, Planning and Land Act (England) – Land Compensation and Enterprise zones

1980 Local Government, planning and land act (Scotland) - Land Compensation and Enterprise zones

In this sense it can be argued that the PV associated with the planning discipline in its early years has been slowly disintegrating over the last 50 years in the UK. This notion is supported by the evidential shift in planning policy aims and objectives as regional strategies, economic principles and privatisation reforms have come to dominate progressive government agendas. In the 1960s planners believed in a future in which social problems could be tamed and humanity liberated from the constraints of scarcity and greed (Jencks, 1985; Hutcheon, 1987). By the 1980s the UK state had become more ideologically conservative and more subservient to the needs and demands of capital (Beauregard, 1989). This forced a disconnect between planning and the social value production that it bore from. Willis (pg.2-4, 1988) argued that during this period:

Planning became more and more legitimised as a method of decision making on the basis of procedural ideas. It became concerned with how to plan rather than with the outcome of planning. So, it was characterised as an approach, as a way of doing things or as a way of thinking, rather than as a way of examining what benefits or outputs it was producing.

This was the beginnings of a pivotal transition in planning, one which Klosterman (1985) argued questioned planning's status in Great Britain. This period would see increased deregulation and privatisation of the planning system which would alter the dynamic and role of planning significantly.

5.2.2 The Thatcher Years and Planning

This transitional period also marked the beginning of the Thatcher years in the UK which produced an era of privatisation, enterprise zones, increased home ownership and cuts to public services (Vinen, 2013). This could be argued to have assisted the decline of PV as planning incentives and initiatives were becoming less concerned with social need in lieu of wider international and economic agendas which enhanced private profit. This pivotal change in the planning agenda and decline of PV within planning can be seen following review of the chronology of planning legislation previously included for the various devolved regions. Upon brief evaluation of the legislation in question, policy can be seen shifting from localised public

priority agendas, to those of a more international and economic concern.

The Planning Compensation Act 1991 in the UK saw major reforms within planning and the decline of PV was predominantly evident on the forefront of policy agendas. Thatcher rendered the form of PV planning that had existed in the post war era and pursued private ownership of public services as the new economic strategy, reducing planning control on public service allocation and provision. This in turn left the public quite vulnerable and the prospect of retaining PV and social vitality through planning was somewhat removed from planning's control (Vinen, 2013). Planning policy had become more concerned with wider economic goals, whilst increasing home ownership created a new role for planning with the establishment of so called 'Nimbyism' which had scarcely persisted before. The concept of Nimbyism (Not in My Back Yard) is described by Gibson (2005) as 'local resistance to controversial land uses' transpiring from a point of self-interest. It could be argued at this point PV became 'public interest' as collective value had changed to individual perception of direct benefit with the increasing onus of home ownership and private property rights. This was a pivotal point within planning as increasing private property rights altered the role of planning allowing it to become a safeguarding mechanism for private property interests within the development arena. With increasing trends of privatisation, it appeared the value to be derived from planning was no longer as important as the profitable interests it could protect and serve. This would mean the PV approach that planning once conformed to be becoming increasingly profit driven with an individualistic interest sentiment (Allmendinger et al, 2003).

PV in the form of public rights were dissolved even further during the compulsory acquisition of land phase. Compulsory acquisition/purchase permitted the government to acquire the rights of land or to buy such land without the owner's consent in return for compensation. The act highlighted an increasing lack of concern toward social value derived and attached to the built environment, as the development of industry on a piece of land appeared to be more important than the individual who resided there. This trend is something which is further explored in the following case study chapters regarding urban regeneration. Not only does this approach affect

the individual and their home when exercised, but further results in fragmented community structures and opposes the community and bottom up planning approach that contemporary planning prides itself on. Compulsory acquisition during its initiation phase induced fears of public body and private corporation dominance within the public sphere as the method could be used to benefit private corporations although carried out through public body orders. An example of such can be seen within the Water Resources Act of 1991 which allows governments to use compulsory purchase powers to purchase property which then see profits go to the private shareholders of UK water companies (Gray, 1999). This same approach is used within some contemporary urban regeneration projects where private sector developers develop public land on behalf of local councils and retrieve sizeable profits following the completion and sale of the properties thereafter. This issue will be further explored in detail in case study chapter six. The dynamic however illustrates how planning powers have succumb to the private sector upon whom public bodies often now rely on for support and resources. In many cases this interdependency has caused PV to be side lined due to new formed political agendas and the differing perspectives within public and private partnerships. As argued by Owens and Cowell (2002) the use and development of land is in a persistent state of conflict proving a satisfactory balance in how planning deals with conflicting issues has yet to be reached.

The Thatcher years could be deemed as a period that offset PV decline in planning as the system lost sight of its social and public wellbeing principles. The UK planning system has yet to return the same level of social regard in both its legislation and management approach as it did prior to the late 1970s (Allmendinger, 2010). Further to this the effects of such changes are still being felt today as UK planning's contemporary form and regeneration principles continue to focus highly on financial gain at the cost of social wellbeing and public as priority.

Reflection upon the dominant role of National Planning Policy allows for further argument that planning has increasingly become a macro level development tool. The continued contemporary use of CPOs teamed with PPPs have seen planning powers succumb to assisting private sector dominance via urban regeneration projects (Heurkens, 2012). Instead of aiding PV and social

betterment, contemporary development and planning policy has placed vast emphasis on economic planning allowing its social counterpart to fall into decline (Ponzini, 2016). This is something which will be explored in the following chapters using examples of contemporary urban regeneration case studies.

5.2.3 Judicial Review and Planning: 1970's – 1980's Britain

Ironically the beginning of this transitional shift of PV within planning and development occurred around the same period within which JR came to the forefront of public justice in the UK in the late 1970's (Anthony, 2015). Parliamentary opposition to the executive during this period was weak and it has been suggested that judges may have perceived themselves to having a role in protecting the public interest in this period, stepping in to correct what was a democratic deficit (Coleman, 2014). The growth of JR during the late 1970's into the 1980's in the UK is deemed to be a result of multiple factors including the effects of transnational law, meaning the expanding influence of JR in Europe and its endorsement as part of the EU agreements (Gardbaum, 2014). In relation to planning, JR emerged at a time when the nature and purpose of the planning system was being altered to suit market led reforms and the capitalist agenda. This is significant as the JR system supports the separation of powers within government, preventing the concentration of power and dominance of the state. However, the JR reforms within England and Wales as discussed in earlier chapters would appear to revoke this protective purpose.

In tandem with the growth of UK JR the period of 1970s – 1980s partially forced planning out of its role concerning the deliverance of quality housing and the adequate and fair distribution of services. Planning in the UK particularly in England was absorbed during the Thatcher years with the centralising of planning, which involved restructuring many of its purposes and imposing a higher emphasis on regional strategy and growth of industry (Lawless, 1991).

Until this point the PV that planning brought to society had not only been the ability for planning to provide quality housing and adequate location of services, but also in its ability to prioritise

social concern and people. This included responding to the needs of the localities and supporting sustainable growth at both local and regional level (Booth, 2004). However the complexity and multitude of planning legislation and policy amendments that were being issued at a fast pace particularly during 1970s/80s Britain only caused the planning system to depart further from its socialist past. This steered UK planning towards a more profit driven economic system. People had become secondary to policy and legislation, and the complexity of such legislation further restricted their capacity for involvement. It appeared local priorities within UK planning had been compromised for those of regional and national importance (Clifford and Tewdwr-Jones, 2013).

Unlike its early form, contemporary planning has come to be largely associated with protection of private property rights and industry development, maintaining an almost private business approach to public management with economic concerns embedded at its core. While this transformation in planning progressed, the JR process continued to grow in tandem, enhancing the standard of UK public justice. The system of JR enabled the public to hold public bodies to account for any unlawful or unregulated decision making, perhaps easing the departure of planning policy from its social value commitment. However as pointed out by McAuslan (1980) the competing ideologies of planning law were always fraught with difficulty and confliction. McAuslan identified three distinct and competing ideological perspectives in UK planning law, the first was that the law should be used to protect private property, the second that the law should advance the public interest and the third that the law should be used to advance public participation (McAuslan, 1980, p. 2). These competing ideologies of public v profit versus private which still prevail in today's contemporary planning and urban regeneration systems in the UK are perhaps the same issues that give rise to planning JR cases whilst also demonstrating the need for an easily accessible JR system. The process of JR is highly valuable in ensuring fairness and consistency prevail in public body decision making where multiple influential and competing interests exist. This JR system is perhaps even more valuable where social concerns appear to be depleting within planning policy and PPPs are ever increasing in the urban

regeneration arena (Gore, 1991). The following section will explore the process of JR and its relevance to both planning and PV in relation to this research.

5.3 Understanding the Judicial Review Process and its Contemporary Planning Reforms

The following section will review the history of UK JR including discussion on the JR procedural process and revision of contemporary JR reform in England and Wales in relation to planning.

5.3.1 History of UK Judicial Review

Until the 1960's the process of JR had been one that was largely overlooked in the UK. Prior to this period the courts were quite unwilling to review decisions regarding parliamentary legislation and viewed public authorities as an extension of government will and were reluctant to interfere in such areas (Calabresi, 2014). There had been little use of JR in the UK in the early part of the 20th century with UK law seeing little need to disrupt the common law principles that had been operating effectively for years. During this period UK law had installed the norm and values that parliamentary decisions and those of public authorities were not to be refused, and hence produced a passive culture to the process.

However, during the 1960's academic thinkers such as Stanley de Smith and William Wade began writing on the topic and increasing European influence surrounding the purposeful and democratic role of JR began to filter its way into the UK. During this period the concept continued to awaken, and judges began to warm to its principles relating to PV and justice. By the 1970s there was a vast increase in the number of JR applications within the UK and the public law system now had full regard to the process that had been at the forefront of many other European legal systems for a considerable length of time. When speaking of the unwillingness of the UK system in adopting the process of JR in the early 1900's Anthony Trollope stated, 'We are so self-satisfied with our own customs that we hold up our hands with surprise at the

fatuity of men who presume to point out to us their defects." (Short, pg.65, 2013). From the 1970s onwards, JR in the UK grew and found its rightful place in public law growing in strength up to its consolidation within the ECHR (ECHR,2000), which was included as part of the Human Rights Act 1998 in the UK (enacted in the UK in October 2000). This was a turning point for JR within the UK system as it now became part of wider European Legislation and was an entitled right for citizens, providing them with a value system of protection and accountability against public body unlawful conduct. The emergence of JR enforced a culture of justice within the UK and presented itself as a valuable asset to the public within the realms of public management and administration.

5.3.2 The Judicial Review Process

The process of JR is exercised under the Civil Procedure Rule Part 54 (1981), and relates to:

- Decisions made by domestic tribunals.
- The legality of subordinate regulations.
- Decisions by parliament that are contradictory to European Law or the European Convention of Human Rights and the decisions made by public authorities.

The last point above is relevant to research as the planning system is a notable public body. In a JR proceeding the court will intervene where there has been an illegality in the reaching or issuing of a decision that does not conform to all the relevant primary and subordinate legislation that is subject to consideration in that given context. The court will then use its discretion to respond to the illegality in one of the following ways:

- 1) Quash, prevent or require a decision.
- 2) Clarify the Law.
- 3) Compensate the applicant.

(CPRE, 2014)

The most important thing to understand is that the process of JR does not exist as an alternative method of appeal to public body decision making, nor is it concerned with the policy merits of

a decision. What the process of JR is concerned with is the legality of the reaching and issuing of a decision and that the decision is also in compliance with EU and Human Rights Law (PLP, 2003). The process of JR can be a lengthy, costly and complex procedure, the stages of the process are listed and explained in the following table.

Table 5.1: UK Judicial Review Procedural Structure

Procedure	Explanation
The pre-action protocol	This concerns exploring any possible means of resolution to the issue before seeking JR. Where possible to apply the court does expect the concerned parties to have explored alternative means of solving the dispute prior to seeking JR.
Leave Application	The first step to understand in the leave application process is that the application must be made ex parte and in accordance with Order 53 rule 2 of the RSC. Two sets of documents must be lodged with the application, those include: a) A statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought (Order 53 statement). b) An affidavit/affidavits which confirm the facts relied upon for the case. This must be a signed sworn statement and sworn by an individual capable of administering oaths for the Court of Justice.
Leave on Paper	This is unusual and highly unlikely for judgement to be passed simply on the assessment of papers alone, if however, this does occur a notice of motion will be served by the applicant to the defendant within 14 days of leave being granted
The Leave Hearing	At this stage it is common for the respondent and any possible third parties who have requested to be involved to be present at the hearing stage. In accordance with practice note 01/2008 it can be expected for the applicant to be responsible for notifying the respondent and any other third parties of when the leave hearing will take place.
Granting of Leave	If the case is granted leave the applicant's solicitor will have 14 days from the granting of leave to then secure and serve a notice of motion (Order 53, rule 5 (5)) to those deemed to be 'directly affected' (Order 53, rule 5 (3)). It is the sole responsibility of the applicant's solicitor to carry out this act (Orbinson, 2009). Once the notice of motion has been served within the 14-day period the applicant's solicitor must also file an affidavit of service with the JR Office, to confirm that a notice of motion has been served and done so on time. The case can then proceed to hearing of the Application for Judicial Review.
The Substantive Hearing	A set of papers with all the relevant case information concerning the substantive hearing must be gathered and submitted to the JR Office and all other parties to attend the hearing must be notified by the applicant's solicitor at least 5 working days before the date of the hearing.
Remedies Hearings	Remedies hearings are a relatively new option in the jurisdiction of Northern Ireland. These are often sought by the respondent in the JR case and act as a means for them to seek remedies to the courts judgement. The remedies hearing is a request to the court for a separate hearing subsequent to the court delivering decision.

(Adapted from Ministry of Justice, 2014).

The process of JR is a vast undertaking and carries with it a relative degree of financial pressure as illustrated through the various and complex stages in table 5.1. However increased complexity and additional costs have now been exerted following the reform of planning JR within England and Wales in 2014 as discussed previously. Weighing up the costs and justifications of such changes is difficult however it is vital to revise why such changes were needed and the ways in which they have affected PV and public justice in the development arena (Coomber, 2014).

5.3.3 Understanding Contemporary Judicial Review Reform and Planning

Concerns surrounding the problematic state of JR in the UK surfaced in November 2012 when the then UK Prime Minister David Cameron stated in his CBI speech that the government was too slow in getting things done. He also declared there to be numerous factors slowing down growth and progression of the British economy. One of the barriers of growth was deemed to be JR and more specifically related to JR of planning matters.

Expressing concerns over growth and the economy Cameron stated:

You know the story. The Minister stands on a platform like this and announces a plan, then that plan goes through a three-month consultation period, there are impact assessments along the way and probably some Judicial Reviews to clog things up further (Cameron, CBI, 2012).

He subsequently declared there needed to be a cutting back on JR's as they were becoming a growth industry in Britain with applications having tripled in a decade from four and a half thousand in 1998. Cameron went on further to state that he understood some applications for JR were well founded however concluded his argument stating, 'but let's face it so many are completely pointless' (Cameron, CBI, 2012).

It was imminently after Cameron's declaration that the initial call for consultation on JR matters came in December 2012. The then Justice Secretary Chris Grayling called again for the need for reform stating there had been a huge surge in JR cases in recent years, many of which were proving to be without merit. Grayling expressed the concern this was causing in costing the court system money, wasting judicial time and admitted that he feared misuse of the JR system claiming that often the process was being used as a PR tactic to generate publicity (Grayling, 2012).

Continuing, Grayling expressed a desire to return to a system of JR that was available for genuine claims and that provided access to justice without the time wasting and meritless cases. This resulted in the issuing of consultation paper 'JR: Proposals for Reform' in December 2012. The aim of this consultation paper was to address the problematic state of JR and focused on reducing unnecessary applications and the wasting of judicial time and court expense which was draining the public purse.

Further aims within the consultation set about addressing concerns that JR in its then current state was creating negative impact upon economic growth and stability, whilst also hindering development and doing little to stimulate economic recovery (Ministry of Justice, 2012).

The reform proposals as mentioned briefly in the introduction set out the main areas which the government deemed to be in need of change in the JR process, they are conformed and concluded in the next table.

Table 5.2: Judicial Review Reforms

Reform	Explanation
Reduction of the time limit for bringing proceedings	This reduced the time for applying for JR from 3 months to 6 weeks, commencing upon the issuing of a decision.
The introduction of a new fee for an oral renewal hearing	This will occur where the claimant does not accept a refusal of permission on the papers.
Removal of the right for applicants to seek a hearing in person	Only if their initial written application has been ruled as ‘totally without merit’.
Introduction of a permission filter stage	Applying to section 288 of the TCPA, 1990 (planning challenges). This new test for leave/permission is a determination by the court as to whether there would be the ‘highly likely’ outcome of no ‘substantial difference’ following JR, if a hearing were to take place.
Introduction of the Planning Court	Part of the Administrative Court that deals with all JRs and statutory challenges involving planning matters.

5

It was hoped the proposed reforms would address the weak and meritless cases at an early stage and that the above tactics would suffice in supplying an efficient system of justice without

⁵Under section 288, an ‘aggrieved person or a directly concerned authority can challenge certain planning orders, decisions and directions, including the confirmation of CPOs, at the High Court’. This is on the basis that the ‘order or action concerned was beyond the power conferred by the Act, or that the procedural requirements in relation to the order or action were not complied with’. The effect of the reform is that the aggrieved person or directly concerned authority must now obtain leave of the court before the challenge can be brought (Wigley, 2014).⁵

posing threat to economic prosperity. Reform to the system of planning JR was key in addressing such economic growth and development hindrances.

5.4 Planning Matters and Judicial Review

The perceived problems with JR and planning in England and Wales lay in the hypothesis that many planning applications for JR were unwarranted, proceeding to hearing even when there was little validity in the proclaimed case. Further to this was a growing fear that the system was being exploited and used for an unintended purpose by developers who were using the process as a tactical tool to delay any development that posed competition to themselves (Orme et al, 2015), see case law example *Tesco Stores v Dundee City Council* [2012] UKSC 13. This case involved Tesco bringing a JR against Dundee City Council in 2010 for their granting planning permission for an Asda store within 800m of a Tesco store. Prior to Tesco developing their store in the West of the City the 'store had been subject to a lengthy development plan process and the adoption of a new local plan, in which it was recognised there was capacity for one store only to serve west Dundee. The South Road site was allocated to Tesco for this purpose by the council' (Carruthers, 2012). In 2009 a vacated factory also in west Dundee, 750m from the new Tesco development prompted the developer McDonald Estates and operator Asda to submit an application for a new superstore on the vacant site. The application was passed by Dundee City Council in January 2010 and planning permission was granted. Tesco raised JR proceedings immediately challenging the legality of the council's decision to approve the Asda application. Tesco disputed the meaning of the sequential policy approach within the development plan arguing the planning authority had made an error of law. Tesco in this case argued that Dundee City Council failed to follow the sequential approach as they had overlooked a vacant site in Lochee in West Dundee in the same catchment area which was suitable for retail development and had town centre status complying with the sequential approach. This approach states that all new development should be directed first to town centres. The court however ruled in this case that decisions were subject to planning judgement and that policy should not be read as

contractual wording would. The court perceived in this case that planning judgment could not be challenged as the decision to grant planning permission was not irrational or unlawful. The reason for this being that Paragraph 63 of the sequential approach, set out in Scottish Government's Planning Policy, states that 'out-of- centre locations for retail development should only be considered where all town centre, edge- of-town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable (Carruthers, 2012). Dundee City Council argued in their defence that the Lochee site suggested by Tesco was simply too small for the Asda store and not the required size the developer was seeking. In conclusion the court dismissed the appeal. This case however was significant in highlighting what was perceived as a superstore (Tesco) trying to delay a competitor developing too close to their premises and affecting their profitable catchment area whilst exploiting the justice system to do so. However, the case also raised questions surrounding local planning authorities and the extent of their commitment to the revival of town centres when faced with proposals from dominant superstores.

A further issue arousing concern surrounded the length of time for planning JR applications to be determined. This was suggested to be resulting in negative economic effects and delays for economic investment opportunity and job creation in the UK. In short, the problematic state of JR relating to planning matters was perceived by government to be one of the barriers stalling the stabilisation and regrowth of the British economy and was concluded to be in need of repair (Cameron, 2012).

It was as a result of these circumstances and the growing suspicion by government that the system of JR was open to manipulation and misuse that forced the government to take action and initiate change in the JR procedural structure. It was also hoped that such action would make the process fairer and a more reliable system that disposed of weak and frivolous claims early (Grayling 2012).

Among the general proposal changes mentioned in consultation paper Judicial Review:

Proposals for Reform 2012 as noted earlier, the specific concern for planning in this paper regarded the lengthy decision-making time frame. However, the government's instigation for change against the inefficient time frame of decision making did not lie solely with concern over individual development rights and how they would be affected by such delay. Rather however they were seen by those who opposed JR reform as a consequence of the effects that the delay imposed upon public finance, major infrastructure projects, confidence and reassurance in industry investors and the need to hastily rectify the economic deficit of a recovering economy (Kervick, 2015). The case for proposed reforms were received by opposing individuals as a 'war on JR' with even the key players, including The Law Society and the Bar Council for England and Wales expressing concerns over reform. They went so far as to state 'the claim that Judicial Review challenges to planning decisions are a drag on economic growth is no more than anecdotal assertion' (Wagner, para 16, 2013).

The impact that planning JRs were deemed to be causing from the government perspective coupled with the pressing need to speed up the process saw a reduced time frame for bringing a JR of a planning case introduced in July 2013. This saw the time limit for bringing a planning JR reduced from three months upon the issuing of a decision to six weeks in both England and Wales. This was in keeping with the initial JR reform consultation paper entitled 'Judicial Review – Proposals for Reform' 2012 despite 67% of the consultations respondents being opposed to any shortening to the JR application time frame. Following this change was furthered by the introduction of the Planning Fast Track to the administrative court in England and Wales in July 2013, which then appeared in detail in the second consultation paper 'Judicial Review - Proposals for further reform' issued in September 2013.

The aim of the Planning Fast Track was to identify significant infrastructure and investment applications for development early to ensure that they were dealt with as swiftly as possible. The fast track system expressed 'the need to identify planning related challenges and JRs at an early stage and to ensure that these cases are referred to the appropriate members of the judiciary' (Ministry of Justice, p.16, 2013). This would ensure quicker determinations of such

applications and the added hope of reinstating confidence in the system and to investors (Ministry of Justice, 2013). It could be argued that the fast track system did provide some level of confidence to investors and developers as its purpose was to get significant development applications with economic value through the system as quickly as possible. The very purpose of the fast track system alone illustrated the priority for government and it did not appear to be in safeguarding the JR process for its intended purpose, that being the ability for public bodies to be held to account. The fast track system highlighted that economic prosperity was priority on the government agenda as it was specifically developed to assist major development proposals allowing PV concern in relation to JR to become secondary.

The second consultation paper 'Judicial Review Proposals for Further Reform' noted that additional steps were to be put in place in the autumn of 2013 which removed the immigration and asylum JR's to the Upper Tier Immigration and Asylum Chamber, a move which expected and delivered significant reduction to backlogs in the Administrative Court, allowing planning cases amongst others to be dealt with more swiftly (Ministry of Justice, 2014).

The final planning reforms were confirmed in a government response paper entitled 'Judicial Review Proposals for further Reform - the Government Response', issued in February 2014 (Ministry of Justice, 2014). This paper drew together the changes that had been made as a result of the two consultation papers previously mentioned and concluded what further government action would be taken in relation to the issues regarding JR.

For planning matters, further action for change came in the form of an extension to the already active 'Planning Fast Track' system. It was the government thought that building upon the fast track system would be beneficial in helping to further resolve the issues relating to accuracy and lengthy decision making of planning JR's. The senior judiciary suggested establishing a Planning Court in the High Court to help further deal with this issue and after some consideration the government agreed that a separate Planning Court with a separate case listing overseen by a specialist judge would be beneficial. The Planning Court came into operation in

both England and Wales in April 2014, with its primary base being established at the Royal Courts of Justice London but maintaining the ability to sit at other regional venues across England and Wales if and when necessary (HM Courts and Tribunals Service, 2017). In accordance with the Lord Chief Justice report to parliament in 2016 the Planning Court has reduced the time from lodging an application to the substantive hearing phase to 27.3 weeks as of 2015, it had previously taken 46.9 weeks on average to get from lodging to substantive hearing phase in February 2014.

Such changes however weren't without dismay as concern surrounding the new JR format of planning matters grew further and were expressed by both the general public, human rights and various professional and action groups (Rice,2016). The Birmingham Centre for the Rule of Law: Response to Ministry of Justice Consultation Paper Judicial Review: Proposals for Reform P.2 (2012) stated:

Significant changes to the Judicial Review system in this way represents a fundamental failure to formulate policy on the basis of demonstrable and contestable evidence and perpetuates myths about the purpose and effect of our public law.

Further to this the British Institute of Human Rights stated in relation to the reforms that the:

Justifications provided do not sufficiently recognise the constitutional importance of Judicial Review... we note that restrictions placed on accessing Judicial Review, may raise concerns under the Human Rights Act... The European Court of Human Rights has been clear that our ECHR rights must be "practical and effective" and not "theoretical or illusory (Wagner, 2013).

JR is of significant importance to the UK public at large and is crucial in supporting the role of democracy in contemporary governance and as previously stated is firmly embedded within the ECHR and the Human Rights Act of 1998, to which the UK is currently a signatory. It provides the ability for individuals to hold public bodies to account for unlawful or irrational decision making, ensuring that public bodies adhere to individual rights and fundamental freedoms when entrusted with decision making in the public interest (Betten, 1999). The reforms in question were therefore not only altering the structured process of how to bring a JR case on planning

matters, but raised questions surrounding the democratic and fundamental rights of individuals within the realm of public administration, potentially reducing public confidence in the very essence and purpose of Human and Conventional rights, not to mention democratic governance (CPRE, 2012). It is here that the concept of PV within contemporary planning JR became questionable and in need of further review.

5.5 Judicial Review: An Absence of Public Value?

Despite JR being a public service enforced to protect public rights there appeared little consideration of such within reform proposals and consultation papers. Although JR reform claimed to refine access to justice and make the system more efficient its key goal appeared for the amendments to facilitate economic goals with minimalist dedication to social outcome or what was being lost.

What is apparent from the enlisted policy tables and reformed JR is the lacking commitment and security afforded to PV outcomes within both systems. The contemporary systematic and procedural approaches of both appear to have steadily altered their principles, becoming heavily economically driven reducing adequate provision and facilitation of social outcome. Due to the impending economic focus that has been exerted within contemporary UK planning the concept of JR has become increasingly more valuable to the public. This is due to its protective capacity in offering the public a means of redress in the midst of highly privatised competing interests in the development arena.

Further to this JR also provides redress for the numerous NGO's and environmentalist groups that are still largely coherent with some of the initial protection principles of the planning system regarding the environment amongst other things. An example case demonstrating the need for ease of public intervention within planning law is demonstrated in case law *Walton v Scottish Ministers* 2012. This case concerned the objection by Mr Walton to a new bypass near his home close to the city of Aberdeen. Walton objected to the Scottish Ministers decision to allow the construction of a Western Peripheral Route (WPR) around Aberdeen. He sought appeal of the

decision after amendments were made to the bypass to include a 'Fastlink' which had not appeared as part of the planned works during the consultation. This however was not the main point in case as Walton then claimed that he had concerns regarding how the bypass would affect the environment and that there was an absence of Environmental Impact Assessment/Strategic Environmental Assessment in relation to the 'Fastlink' (Supreme Court, 2012). The court however rejected Walton's challenge questioning whether Walton was a 'person aggrieved' and if he had sufficient standing in the case (Public Law Project, 2003). Whilst it was then clarified that Walton did have standing in the case, Lord Reed then took the opportunity to discuss the approach to standing stating:

There will be instances where a person does not require to demonstrate a particular interest in a public authority's violation of the law in order to bring it before a court: The rule of law would not be maintained if, because everyone was equally affected by an unlawful act, no-one was able to bring proceedings to challenge it (O'Neill, 2013).

This raised vital points around environmental protection and who is deemed as having sufficient interest in standing to protect the environment. Lord Hope by way of example in the case referred to the Ospreys route to a fishing Loch being threatened by the development of wind turbines, meaning who would protect the Ospreys if they deemed to be in no one's direct interest. He concluded that the fact that something cannot be claimed to be directly affecting anyone's property rights or interests should not mean that it isn't open to individuals to challenge. Lord Hope stated that it would:

Seem to be contrary to the purpose of environmental law, which proceeds on the basis that the quality of the natural environment is of legitimate concern to everyone (McKie, 2013).

Any further restriction upon the access to JR is a further step towards public exclusion from participatory planning practice, as the reforms have assisted in limiting the scope for affected third parties to be heard fairly, should they have probable cause to do so. Further to this and as the Ospreys case demonstrates, there is minimal clarification surrounding in whose direct

interest is the environment? When thresholds for standing are becoming harsher, fees increasing and time frames restricting by way of reform it may deter those who act in the interest of the environment and effectively reduce levels of environmental protection (Public Law Project, 2013). It is apparent that social value may not be the only factor at risk of depletion in the case of JR planning reform.

5.6 Contemporary Planning Judicial Review Reform and Economic Prosperity

Whilst measures of JR reform seek to address issues of time wasting applications in order to promote growth and prosperity, often such abuses and concerns arise from the competing interests of the vast number of private and multinational corporations. On occasion such corporations have been deemed to have used the system as a means to stall their competitors from developing in their profitable territory *Tesco Stores v Dundee City Council* [2012] UKSC as discussed previously is one example. A further example is that of *Sainsbury's v Hillingdon Council* 2015. Hillingdon Council in the West of London granted proposals for a redevelopment in October 2014 that would see new homes, a Cineworld, Asda store and restaurants develop in South Ruislip. Following the development's approval Sainsbury's requested the decision be reviewed via JR claiming the council had been inconsistent in their decision making and had misapplied planning policy. Sainsbury's claims were found to be invalid and the case was dismissed however they had managed to delay the project for 6 months and cost the tax payer an estimated £200,000 for Hillingdon Council's legal fees (Clementine, 2015). These cases could be described as PR cases as they often grab attention of headlines due to their corporative status and are often also primary examples of misuse and abuse of the JR system. Ironically however the reforms have done little to deter corporations, in fact they could even be argued to have facilitated them through the introduction of target time scales for the hearing of 'significant cases' in the newly established planning court. The term 'significant cases' refers to those that relate to commercial, residential, or other developments which have significant economic impact either at a local level or beyond their immediate locality. The term also relates to those that raise important points of law and generate significant public interest.

Furthermore, it includes those that by virtue of the volume or nature of technical material, are best dealt with by judges with significant experience of handling such matters. (Harwood, 2014). Most importantly here is the condition relating to economic significance as cases which present financial gains due to their job creation ability and investing capacity will be held as priority in the JR justice process. As a result, these cases will be deemed as significantly more urgent and will be dealt with within prompter timescales to ensure they are resolved at pace. The timescales for determining "significant" Planning Court claims are as follows: (Department of Justice, 2017).

- Applications for permission to apply for JR are to be determined within three weeks of the expiry of the time limit for filing of the acknowledgment of service.
- Oral renewals of applications for permission to apply for JR are to be heard within one month of receipt of request for renewal.
- Applications for permission under section 289 TCPA 1990 (permits the ability to appeal a planning decision) are to be determined within one month of issue.
- Substantive statutory applications, including applications under section 288 TCPA 1990, are to be heard within six months of issue.
- JR's are to be heard within ten weeks of the expiry of the period for the submission of detailed grounds by the defendant or any other party (Nabarro, 2014).

In this instance it could be argued that the general public will bear the burden of consequence of reform. This further highlights the dominance of economic priority within contemporary governance as it spans over matters regarding environmental law and justice. The trend of prioritising development matters within the realms of public law is evident through previous discussion addressing the role and purpose of the planning fast track, the planning court and the process aimed at identifying significant cases.

5.7 Conclusion

Planning and JR, as two important forms of public administration have an obligation in providing a valued service to the public, as that is what legitimises their existence and purpose. The PV of JR could be described as being the provision of ability for individuals to hold public bodies to account as this is the benefit and purposeful contribution of JR to society (Coleman, 2014). However due to the planning JR reforms in England and Wales as discussed earlier this ability has been ultimately fragmented. The process arguably no longer provides the same degree of public protection and accountability against public body decision making that it once did. In this sense the PV of JR in relation to planning matters can be seen to have declined. It should also be noted that there remains minimal existing literary support in favour of planning JR reform as a positive asset to the realms of UK public law.

As the planning system has grown and progressed over the years with both planning policy and legislation altering at pace, planning goals have undoubtedly been restructured to better suit economic progression and national targets. With this the role of JR could be argued to have become a more publicly valued and required asset particularly within the realms of urban regeneration. This is a matter however that will be further explored in the following case study chapters.

In summary, the literature would suggest that the contemporary form of planning within the UK has lost a sense of its social credibility and PV that it once held at its core. As the case examples at Heygate, Cressingham and CGW will demonstrate economic prosperity is what is most valued to be derived from contemporary planning and development, often at the expense of social value. Increasingly economic matters retain considerable dominance and priority within contemporary UK planning policy and legislation, meaning social/PV production has been compromised. This trend is particularly reinforced and facilitated through contemporary urban regeneration projects that are developing at a thick and fast pace throughout the UK as a means to attract new investment and business.

As investment in development and economic growth continue to emerge at the forefront of policy and legislation:

There is a pressing need to understand and evaluate the PV concept and its role within public administration, before the consideration afforded to publicly social outcomes within public administration become further disintegrated (Bryson, 2011).

The devolved UK and reform regarding planning JR provide the ideal platform for examining contemporary trends of PV production within the realms of public administration and public law. The built environment and the policy and legislation that pertain to such are a worthy sector of exploration in relation to PV production as they retain significant influence in shaping the environments in which we dwell. These systems have a key role in shaping the way in which we live and have the potential to nurture or negatively impact PV and wellbeing if not delivered in a configurative balance (Healey, 2013).

Whilst contemporary planning and reformed JR have both become strategically economic in their policy pursuit, little is understood about the effects of this dynamic in practice. What is understood is that urban regeneration trends as discussed in the previous chapter also mirror the same economically focused policy, meaning social value production when it comes to contemporary development is undervalued and less enforced. The extent to which public policy in the realms of planning, reformed JR and urban regeneration serves the public's social needs requires investigation in an authentic context. This chapter has addressed both research objectives one and three in conceptualising the links between JR and planning and in further establishing the possibility of a PV deficit within contemporary UK planning and the reformed JR process.

The following case study chapters will explore urban regeneration cases in the UK context. Some case studies will highlight the importance of JR as a mechanism of PV protection, whilst others demonstrate a plausible need for an enhanced means of PV deliverance within the UK regeneration arena.

**Chapter 6:
England: An Estate Regeneration Narrative**

Chapter 6: England: An Estate Regeneration Narrative

6.0 Heygate Estate Case Study

‘We’re trying to move people from a benefit dependency culture to an enterprise culture’

(Manson cited in Moore, p.200, 2016).

6.1 Synopsis

This chapter focuses specifically on the contemporary relationship between urban regeneration, PV and the mediating role of JR. Two case studies will be examined in this chapter. The first case study is the Heygate Estate in South London which will examine the role and consequences of estate regeneration within contemporary urban regeneration efforts. The second case study to be examined in this chapter is Cressingham Gardens (CG) also located in South London. This case study compliments the Heygate case study in similarly highlighting PV depletion as a result of contemporary urban estate regeneration efforts. The Cressingham case unlike that of Heygate permits deeper analysis into the role of JR as a publicly valuable protection mechanism in the face of contemporary urban regeneration methods.

6.2 Introduction

As discussed in chapter three contemporary approaches to urban regeneration are producing negative results for PV production, particularly where methods of estate regeneration are being deployed. Both case studies in this chapter will examine the consequences of this approach and evaluate how the cases lend themselves to the increased need for PVM within contemporary public administration. This chapter will aim to address research objective two and three in investigating the issues within contemporary urban regeneration and its facilitation of PV in practice.

6.3 Introducing Heygate Estate

The Heygate estate was a large housing development built in the 1970's and located in Walworth, Southwark, South London: east of the Elephant and Castle road intersection as shown in the following figure 6.1:

Figure 6.1: Location of Heygate



(Adapted from Google Maps, 2018)

(Adapted from Conceptdraw.com, 2018)

The estate comprised 1,214 residential units of which 1,194 were social rented, housing over 3,000 people. At the time the development sought to address and fulfil the poor conditions and shortage of social housing that transpired during the post industrialisation period (Collins, 2001). The completed flats and maisonette units were viewed favourably and were considered desirable housing due to their central location, facilitation of light, space and open communal green areas (Walker, 2010).

However, over time the aesthetic appeal of the Heygate development became less desirable, the mass concrete residential blocks surrounding the central communal gardens linked by an array of concrete bridges grew to be viewed as unsightly and an isolating barrier to those beyond the Heygate boundary walls. The estate was perceived by some to be a 'mugger's paradise' and was portrayed in the media as a dilapidated and run-down area. Despite it being home to over 3,000 people to those on the outside, the Heygate was a dead space and a negative asset to the borough (Steadman, 2013).

Following regeneration proposals by Southwark council in the late 1990's the future of the Heygate Estate and its residents became questionable as the Heygate was ear marked for demolition as part of the urban regeneration of the Elephant and Castle area. Heygate was also selected due to high levels of neglect of the buildings on the estate and lacking maintenance it had experienced since its development in the 1970's. Following the proposals and procedures of regeneration to be adopted on the Heygate there appeared uncertainty surrounding the inclusion of the estate's current residents in the redeveloped site once complete. Transpiring resident exclusion in this case as a result of urban regeneration efforts highlighted significant problems in how contemporary development policy understands, protects and facilitates PV. The following sections explore the economic, social and political context of issues in relation to the Heygate regeneration project.

6.3.1 Economic Progression

In 2011 Southwark council launched a new development strategy for the borough. The main objectives of the 'Core Strategy' were to enhance the economic expansion of London and assist the council in reducing the concentrated levels of poverty in the Southwark Borough, along with revitalising the area and providing increased and better housing (Southwark Council, 2011). The council subsequently committed to make use of its assets to lever investment as if they were able to attract investment through disposals and re-investing resources in remaining assets then land, property and rents could increase by virtue of being more marketable. Emphasis thus was placed on the desire to generate profit and enhance the economic revenue of the borough, reflecting private sector business traits and objectives where financial return is central. Accordingly, less emphasis was placed on providing and securing affordable and social housing with a projected 25% affordable housing to be delivered on the redevelopment site, a figure which failed to meet the council's own policy which states that 35% of all housing should be affordable. Further to this a reported loss of 850 social rented housing units were also to be lost, with the price of affordable rents being too expensive to offer an alternative solution. The council's actions were therefore met with much refutation due to the proposed non-inclusive nature of the redevelopment and its lacking commitment to both affordable and social housing. This was despite an ongoing shortage of social housing as Southwark council reported over 17,000 people on its housing waiting list in 2013 (Hillel, 2013). Thus, the disposal and redevelopment of the Heygate only added additional pressure to an already overwhelming issue of social housing stock shortage.

This emphasis on economic growth has not gone unnoticed by the interviewees who now associate regeneration as primarily concerned with economic development:

Regeneration is heavily about economic growth and gain, other factors although important too are undoubtedly secondary, the Heygate demonstrates this, attracting economic gain is key **(H1)**.

This perspective differs from contemporary debates and definitions of urban regeneration, which advocate sustainability and the notion of public, private, community and voluntary sectors working together to improve the quality of life for all (Roberts, 2000). However, it has been argued by the interviewees that the economic focus dominating contemporary urban estate regeneration disproportionately affects the more deprived sections of community:

You could argue that those in social housing are most affected in this kind of contemporary regeneration process, inner cities present prime real estate and there is considerable social housing occupying such in and around the greater London area **(H1)**.

The growing trend of estate regeneration is worrying for social housing tenants in inner city areas. This is especially true where councils partner with private developers for regeneration purposes leaving them unable to retain the same level of control over regeneration projects. Maintaining consistency with public policy and objectives can be difficult in such PPPs due to confliction of desired outcomes from the regeneration project. The reliance on the private sector is because:

Councils are not financially equipped to develop and reinvent deprived areas on their own, hence private sector developers fill this void, sometimes at a public cost **(H1)**.

Reiterating the vulnerability of some individuals to this approach to contemporary regeneration,

H2 described how the estate regeneration of Heygate:

Took away the safety net from low earners and making it unaffordable for the working class to live in the inner city.

Elaborating on this point, **H6** declared:

The regeneration occurring in and around London favours the working professionals, the housing is too expensive, job creation is for the highly skilled, there is little being produced for the working class in my view.

Whilst urban regeneration can often be perceived as a positive act the Heygate case has highlighted an alternative view of the urban regeneration process and the nature of its use. It is perhaps useful at this point to draw upon the concept of welfare economics as it captures the need to balance and define acceptable outcome from a social policy perspective. The concepts one criterion, the Pareto condition, for judging public policy measures states that a social policy measure can be judged "desirable" if it results in either (1) everyone being made better off, or (2) someone being made better off without anyone being made worse off. This rule is, of course, an ethical proposition, but it requires a minimum of premises and should command wide assent (Davis, 1961). In the case of the regeneration of Heygate the absence of such wider social consideration has promoted a culture of urban regeneration that has resulted in adverse consequences and connotations for the most vulnerable in society. **H3** emphasised that no one was made better off through the estate's regeneration, most of the residents didn't want to leave. To most residents it seemed that the re-branding of the Heygate was more valued by the council than the loss of an entire community from the area. This evidently manifested into a level of resentment and discontent between local community members and the local authority, which may present a barrier to collaboration and joined-up working on future regeneration efforts.

The residents' notions that maintaining Heygate social housing was not the council's preferred option is supported by the outcome of a council housing stock report carried out in 1998, when concepts of regeneration on the Heygate were in their infancy. In early 1998 during the initial concept phases of the Elephant and Castle regeneration proposals, Southwark council commissioned a survey of its housing stocks entitled 'Southwark Housing: Stock Condition Survey 1998'. The results of the survey estimated the maintenance cost for the Heygate estate

at £21,742 per dwelling over 30 years. This was a figure significantly below other housing stock in the borough which was estimated on average at £23,363 per dwelling over 30 years. Despite its relatively low-cost maintenance plan the council decided to proceed with plans for the demolition and regeneration of the Heygate estate which were then agreed in late 1998. This proved that the council did not desire to retain the social housing estate when knowing it was feasible to maintain and would not add to social housing burdens for the borough. In accordance with the Strategic Committee report for the regeneration of Elephant and Castle there was need to move quickly and regenerate the Heygate as the borough was in competition with other strategic locations in other boroughs to attract investment and highlight economic potential of the area. This was particularly emphasised by **H4** who stated councils are always seeking ways to better their boroughs and make them prosperous which is a good thing, however not at the cost of dismantling local communities and displacing whole communities like that which occurred at Heygate. The unwillingness to maintain the Heygate, despite evidence suggesting that it was the more affordable option would support the notion that consideration of the Heygate residents was seemingly less important than the financial revenue that would be gained through the estates' redevelopment. In a similar view **H5**, one of London's leading regeneration consultants, concluded that it is difficult for councils to resist developers with lots of money and the ability to reinvent an area. Despite the attractive proposition of developer-led regeneration, public bodies have a responsibility to the public. This means adhering to codes of practice and ethical standards on the public behalf as it is paramount to public bodies in maintaining their legitimacy. In some cases, however like that of the Heygate this duty is often unfulfilled or unfairly executed.

Following Southwark Housing's commissioned survey for housing stock the Southwark Estates Initiative of Southwark Council consulted Allot & Lomax Ltd to carry out another survey of the buildings on the Heygate. This was to determine their condition further and provide a cost plan for demolition costs and repair/refurbishment costs. The results found that the buildings were structurally sound recommending refurbishment as sufficient and only recommending

redevelopment for the perimeter blocks on the estate (35percent, 2014). This factor suggests that economic gain through demolition was seemingly more beneficial than maintaining and regenerating the area for those who occupied it at that time, and who were predominantly social housing tenants. The vulnerability of the residents in this case is something which needs to be highlighted. Irrespective of the refurbishment option being the suggested option there was little desire to consider this option for development and retain the 1200 homes that occupied the Heygate. It would appear this approach was in keeping with thoughts of the then Director of regeneration for Southwark council, who claimed in a controversial statement that ‘social housing generates people on low incomes coming in and that generates poor school performances, middle-class people stay away’ (Tinker, 2014, p.1). This statement proved concerning and supported fears of gentrification occurring within urban estate regeneration projects. Gentrification as discussed earlier is argued in some cases to be ‘a trend whereby previously “underdeveloped” areas become "revitalized" as persons of relative affluence invest in homes and begin to "upgrade" the neighbourhood economically’ (McDougall,1981). This particular definition of gentrification appears fitting and relatable to that which occurred at the Heygate. McDougall describes how the gentrification process ‘often causes the eviction of the less affluent residents who can no longer afford the increasingly expensive housing in their neighbourhood’. In accordance with Cowley et al (1977), the term was introduced by London planners to signify the return of the middle classes to the city. Given that the Heygate redevelopment proposed the replacement of social housing with private housing and minimal inclusion of social rented property, this iconic definitive term would appear to be reflected in the urban renewal involving the Heygate estate.

Further to this the Heygate also demonstrates the vulnerability of the public at the hands of public body discretion, proving fairness and legitimacy in public body decision making is not always consistent. The use of prime real estate land in the inner-city regions to generate revenue in many cases can affect the most vulnerable in society as there is a considerable proportion of this land is occupied by social housing. The reason for this is as during the period of

industrialisation much social housing was built in the inner city as it was close to the factories which employed many of the working class on lower incomes who were employed there. However, this land is now highly valuable as inner cities have transformed themselves into CBDs, meaning premium market value is required for property developed within and close to such locations. Due to the high market value that such prime real estate demands, property developed on it also retains the ability to be highly priced. In this case maximum profits can be gained through the sale or lease of property in these locations to private home owners and renters as it permits the developer or council maximum financial return. This also means that social housing tenants cannot afford to live in such areas once they are redeveloped as they are simply too costly. The map below illustrates some of the social housing sites undergoing estate regeneration during the same period as the Heygate. The figure also demonstrates the correlation between property price and respective location to the city. The map (figure 6.2) depicts the vulnerability of social housing tenants occupying what is highly valuable and sought-after land.

Figure 6.2 – Map Illustrating Council Estates Undergoing Regeneration 2010-2014 with Correlating Increasing Property Prices (Economist, 2017)



In accordance with Figure 6.2 it is questionable how the growth of cities as shared spaces for all in society to avail of can be accomplished if the same regenerative development trends continue. The case in point of Heygate demonstrates that little attention is being given to the bigger problems that this form of land recall and regeneration in inner city regions may produce. The regeneration of the Heygate raises questions about the contemporary approach to urban estate regeneration and the extent to which renewal of inner city areas inclusively facilitates society as a whole. For example, the estimated cost of the Heygate development was projected at £15 million with £44 million to be spent on emptying and preparing the site for redevelopment and a final and further £21.5 million to be spent on progressing the redevelopment of the project. However, this level of investment in prime real estate in the inner city which offers little inclusion of those on lower incomes and in social housing seems fairly

undemocratic. Whilst working and lower income individuals continue to be priced out an area through regeneration efforts the building consensus would appear to suggest that there is little room for the working class in the contemporary urban environment.

Upon the council's refusal to consider the Heygate residents preferred refurbishment option, the council consolidated their preferred redevelopment plans in 2007 and private development company Lend Lease became the Council's chosen development partner. The progression of the Heygate project under the new developers Lend Lease saw the emergence of further issues in the sites redevelopment. Most notably was the lacking inclusive nature of the public in the redevelopment process and the inadequate consideration afforded to the provision of affordable housing as required by policy. The partnership between the council and Lend Lease in the Heygate development gave minimal consideration to regulation regarding social and affordable housing, **H7** declared:

Councillors were being persuaded to change the 'affordable' housing quota to 25% for the Heygate redevelopment rather than Southwark's stated policy of having 35% affordable housing quota on new developments.

Further highlighted by **H7** he continued:

I put 'affordable' in quote marks because 80% of market rate makes the term largely meaningless in today's London. The social housing stock on the Heygate footprint went from over 1,000 units to under 100. A vast impact as most people on the estate were social housing tenants.

This is a key point in the Heygate case as the duty of a public body is to promote its agreed policies in favour of the public, not to 'pick and choose' when to adhere and follow them. Legal expert **H8** stated in relation to this matter 'of course it is poor public body conduct to reduce affordable housing quotas, however figure fiddling is not uncommon by developers in this magnitude and scale of project'. Continuing to explain this **H8** concluded:

What this means is that often if developers can produce figures demonstrating that they can only provide housing at a particular rate, which will see them profit only what is acceptable, then this is often accepted, and development specs can change. In my experience private developers want to make the maximum profits possible and providing affordable housing will often not suffice for this. What

is troubling about the Heygate redevelopment in relation to this is the vulnerability of the affected public in the realms of public body decision making.

Heygate demonstrates that economic revenue is highly important even at the cost of over 1,000 homes, most of which are social housing in the midst of what was and continues to be a social housing shortage in London. Furthermore, the lacking regard for community, home and livelihood of those displaced from their homes signifies a move away from the civic principles of community and civic planning. Promoting the development of private high cost housing that excludes and removes low income or working-class individuals from occupying the inner city signifies growing gentrification trends. Contrary to this being seen as a preconceived ploy to rid the inner city of social housing tenants it is argued by some interviewees that it may not be intentional and perhaps a consequential by-product of contemporary regeneration. This is particularly argued to be the case in inner city areas that consistently seek to strive and attract investment. This perspective was supported by **H9** who stated:

Urban regeneration can't do anything other than gentrify an area, practitioners will rarely admit this, but the evidence is there. The Heygate estate is a good example of this. Residents who lived in social housing prior to redevelopment have been displaced, local communities have been broken up and locals can no longer afford to live there or anywhere else in South East London, it's simply the effects of renewal.

In any case there is sufficient evidence presented to assume that profit assumes position before people in the realms of contemporary urban estate regeneration principles. The following section will further explore the effects of estate regeneration regarding Heygate in a social context.

6.4 Social Regeneration

As discussed in the above section plans to proceed with the demolition and regeneration of the Heygate estate were agreed in 1998, however this was done prior to any consultation with the residents or the fulfilment of an options appraisal study. An options appraisal study is a means used to assess a number of potential options before developing a concept design for the preferred

option. The use of an options appraisal study is highly valuable for the inclusion of residents in a development program and valuable to community engagement and participatory planning (Forester, 1999). The absence of sufficient consultation with Heygate residents on such a vast redevelopment project is not in keeping with UK planning practice guidance for consultation and pre-decision matters which states ‘After a local planning authority has received a planning application, it will undertake a period of consultation where views on the proposed development can be expressed’ (DCLG,2014). Given that the Heygate residents were not included at the initial consultation stage when the proposed application for redevelopment of the Heygate was lodged, transparency and participation from the public perspective were lacking from the outset. The inclusion of residents and facilitation of numerous consultation stages is standard procedure within UK participatory planning practice particularly within redevelopment of this scale (DCLG, 2014). Although there was some minimal and controlled consultation conducted at the latter stages of the Heygate redevelopment, **H10** stated:

I didn’t feel this was done in a meaningful and co-operative way by the council, efforts to work with the residents were minimal, it seemed more like a tick box exercise than a collaborative effort to obtain public concerns or opinions.

Some interviewees stated that the councils lacking co-operation to work with the residents showed that they were intent on erasing the Heygate and those that lived there. There was also a common perception among many interviewees that the council’s negative preconceived notions of the Heygate enhanced their ignorance in failing to adequately understand that for many of the Heygate residents this was a long-established community that was worth holding on to. Despite the bad reputation that the Heygate was portrayed as having there were many interviewees who begged to differ with this consensus.

H1 confirmed that many former residents expressed attachment to the Heygate, continuing to express insight **H1** declared:

The community dynamic fostered within the Heygate was something many refused to acknowledge, one former resident described the maisonette buildings on the Heygate to me as being like the village she came from in Ireland.

The importance of understanding and fostering the connected relationship between people, place and community is something which can be lost in translation due to other pressing factors enforcing regeneration. In accordance with the National Research Council (2002) 'one must avoid the temptation to think of place only as a location or a piece of territory'. This idea is something that could perhaps be enhanced and fostered in the contemporary approach to urban estate regeneration in future cases to help avoid increased themes of gentrification and vast community displacement. Furthermore, this concept begs for deeper understanding to be drawn from what the PV about place so alternative views than economic significance can be equally enforced. This idea is particularly useful in promoting the PV concept within contemporary development decision making.

6.4.1 The Residents' Struggle

The Heygate residents opposed to the idea of demolition pushed for a refurbishment program as their preferred means of action for regeneration in 2002. However, in response to the residents' desire for refurbishment the council quoted the misinterpreted results of the 1999 opinion survey. This claimed that almost 70% of the Heygate residents wished to see the estate demolished and further to this that the council could not afford to fund refurbishment of the site. With the incoming liberal democratic administration, the same year a new program moving forward was then adopted for the Elephant and Castle regeneration including that of the Heygate Estate. Ken Shuttleworth of Foster & Partners, an architectural design and engineering firm based in London, were instructed to create a new masterplan for regeneration. It has been claimed by locals that in creating the new masterplan Foster & Partners were given a notable instruction by the council that community involvement was to be kept to an absolute minimum. The new approach allowed the council to retain even more control of the masterplan than they previously had to date. Once decided on their plan of action the council would then select a development partner who would simply implement their preferred plan into action. Causes for concern arose from the councils' approach to the new masterplan and their efforts to keep public inclusion to a minimum. Adequate facilitation of community participation and involvement is highly

important in shaping sustainable communities. Southwark Council's actions in adopting a publicly restrictive approach to community participation is both unlawful and unfair conduct by a public body. Southwark council demonstrated a lacking respect to the Heygate residents and their valuable perspectives, highlighting the main objective to be in growing the local economy by reinventing the area in a non-inclusive manner to those who currently occupied it.

H11 commented in relation to this concept that 'the former Heygate residents were not priority in the redevelopment, had they of been there would have been increased efforts to rehouse them there. There was no place for low income individuals on the regenerated Heygate'. This comment identifies with the gentrification concept and the need for regeneration projects to be widely inclusive of the public on all levels in planning and developing of urban space. Revision of the heavily focused economic nature of contemporary development is needed to ensure diverse and mixed sustainable societies.

In 2005 the council issued its rehousing information pack for the Heygate residents. Included in the 'New Homes for Heygate' booklet was a proposal to construct 15 early housing sites. The sites would provide the replacement housing for the decanted residents of the Heygate with a promise of return to the regenerated area. The claim made in the booklet by the then deputy council leader for Southwark stated that the construction of new homes for the Heygate residents were to be the first action taken in the regeneration scheme. However, such promises and confidence in public authority at this stage were wavering from the Heygate residents given their lacking inclusion in the scheme from the outset.

6.4.2 The Beginning of Development

Despite its problematic discourse in getting off the ground the regeneration of the Elephant and Castle and the Heygate continued to progress and in 2007 Lend Lease became the councils' chosen development partner. There was minimal time wasted in bringing the development forward and in September 2007 irrespective that none of the promised early housing replacement sites had commenced, Southwark Council decided to go ahead and decant the

residents from the estate. This marked the beginning of plans for demolition. In accordance with the Heygate Action Plan residents group this decision came as a shock. The residents up until this point were of the understanding that once removed from their homes they would be rehoused in the promised replacement housing.

As the decanting process began the Heygate the residents were told that their displacement into existing council housing in the borough would be temporary and they would be provided with a 'right to return' option. This would allow them to return to the new built homes once they were constructed.

However, there was a significant clause in the contract which would make the 'right to return' commitment valid for a period of only seven years. This meant that the security of residents returning and being housed in the area was now dependant on how quickly the rehousing units could be supplied. In this particular circumstance it could be argued that there is little valuable in regeneration that causes individuals to lose their homes with no plausible guarantee or security of where or when they will be rehoused. Planning for those who occupied the space prior to regeneration is highly important, especially when they are social housing tenants. Councils have a duty and responsibility to the provision of housing welfare to those who need it most however when it comes to regeneration projects such as that of Heygate this would appear an area of confliction. It is difficult to uncover where the production of PV lies in this approach to regeneration, particularly for the Heygate residents. Upon discussion regarding how successful contemporary planning is in facilitating PV in the development arena, **H4** stated:

The public generally don't understand planning obligations, therefore perceptions regarding PV most certainly differ from a professional and public perspective.

However, when discussing the same matter with **H11** perspective was drawn on this matter when the interviewee stated:

Planners and councils don't want to understand public need and values if it doesn't fit their agenda'. If little else these views demonstrate a disconnect between planners and public within contemporary planning and regeneration,

perhaps in part due to the constant pressure of economic attainment.

By October 2008 half of the Heygate estate had been emptied of its occupants with elderly residents remaining the majority of those that were left. However, the difficulties involving the decanting process expanded beyond the displacement of the Heygate residents from their homes. The lacking availability of social housing and council properties for residents to be rehoused into only added to additional pressures of the housing shortage in the Southwark and greater London area. Furthermore, displacement added extensive pressure to the residents as they attempted to find themselves an alternative place to live when availability of suitable property was highly scarce. Decanting of 1,100 households into void council properties is highly difficult and strenuous when there are on average no more than thirty five properties available for residents to bid for every fortnight in the Southwark area. In accordance with **H1** arguably the biggest losers on the Heygate were the 100 or so leaseholders who bought their properties under the government's right to buy scheme but were offered desultory amounts in compulsory purchase. Interviewee **H1** declared the amounts were a fraction of what it would cost to buy an equivalent property in the area. The concept of compulsory purchase is something that will be discussed in further detail in the following section.

Also, at a loss were the Heygate tenants as mentioned previously who were relying on being rehoused in the proposed early housing schemes as had been promised as the first step in the regeneration project. Despite such promises by June 2009 most of the Heygate residents had been decanted to existing council properties throughout the borough. Following this the Southwark council executive confirmed that 6 out of the 15 proposed early housing sites were to now be removed from the regeneration programme as a result of viability issues. At this point in 2009 only one of the proposed early housing sites had been built with only 4 of the scheduled others having received planning consent. Southwark council at this point were failing to fulfil multiple commitments to the residents, demonstrating how vulnerable the public are at the hands of public body discretion. This point is particularly valuable in promoting the concept of PVM and ensuring access to JR justice is as accessible as possible. In accordance with **H12** there were

multiple pitfalls and errors in the council's conduct regarding the Heygate. The interviewee continued:

The Heygate estate was not handled particularly well. Existing communities were moved out and few moved back in. Further to this those who had purchased properties through 'right to buy' were not given fair market value for the council's purchase of their properties. This made it impossible for them to buy flats in other parts of London. The council more or less treated the residents as disposable commodities.

This unfair treatment bestowed upon the former Heygate residents demonstrates unjust and abuse of power by public administration in the name of urban regeneration. It is a case in point that demonstrates the need for ease of access and better public understanding of the JR concept so public vulnerability in such scenarios can be curtailed. The following sections depicts the Heygate proposed new regeneration site plan (figure 6.3) and discusses the trends of displacement and gentrification in association with the case.

6.5 The Heygate Masterplan, Gentrification and Displacement

Figure 6.3: Illustration of the New Site Plan for the Heygate Redevelopment



(www.elephantpark.co.uk, 2014)

As the Heygate redevelopment progressed and the masterplan was released, the nature and pricing of the proposed redevelopment signalled further exclusion for the previous tenants or anyone else on an average working-class income. Further opposition from former Heygate residents mounted in March 2012 following the issuing of the outline planning application, which at that point provided no guarantee of the inclusion of affordable housing. Following campaigning efforts and opposition from the residents the application was then resubmitted with a guaranteed attachment of provision of a minimum of 25% affordable housing. However, within this affordable housing commitment the application proposed a ‘new affordable rent tenure’ which could be equated to up to 80% of market rental rate. This option was proposed instead of social rent however this was an unrealistic and unaffordable option for the former Heygate

residents that would be unachievable on the basis of income. It seemed increasingly more evident that there was a reluctance to return the same volume of social tenants back onto the estate post regeneration.

The release of an outline plan for phase 1 of the Heygate redevelopment indicated a total of around 80 homes would be allocated for social rent out of a total of over 2,500. This enhanced accusation of gentrification and social cleansing and supported a comment made by former Southwark council regeneration employee who stated:

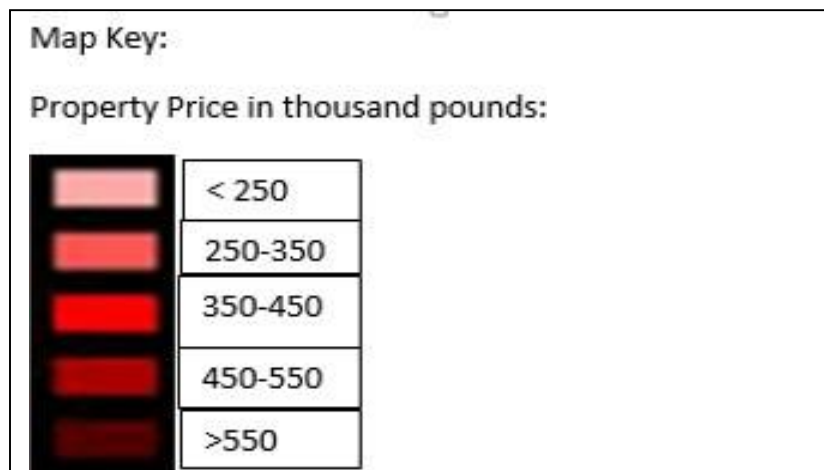
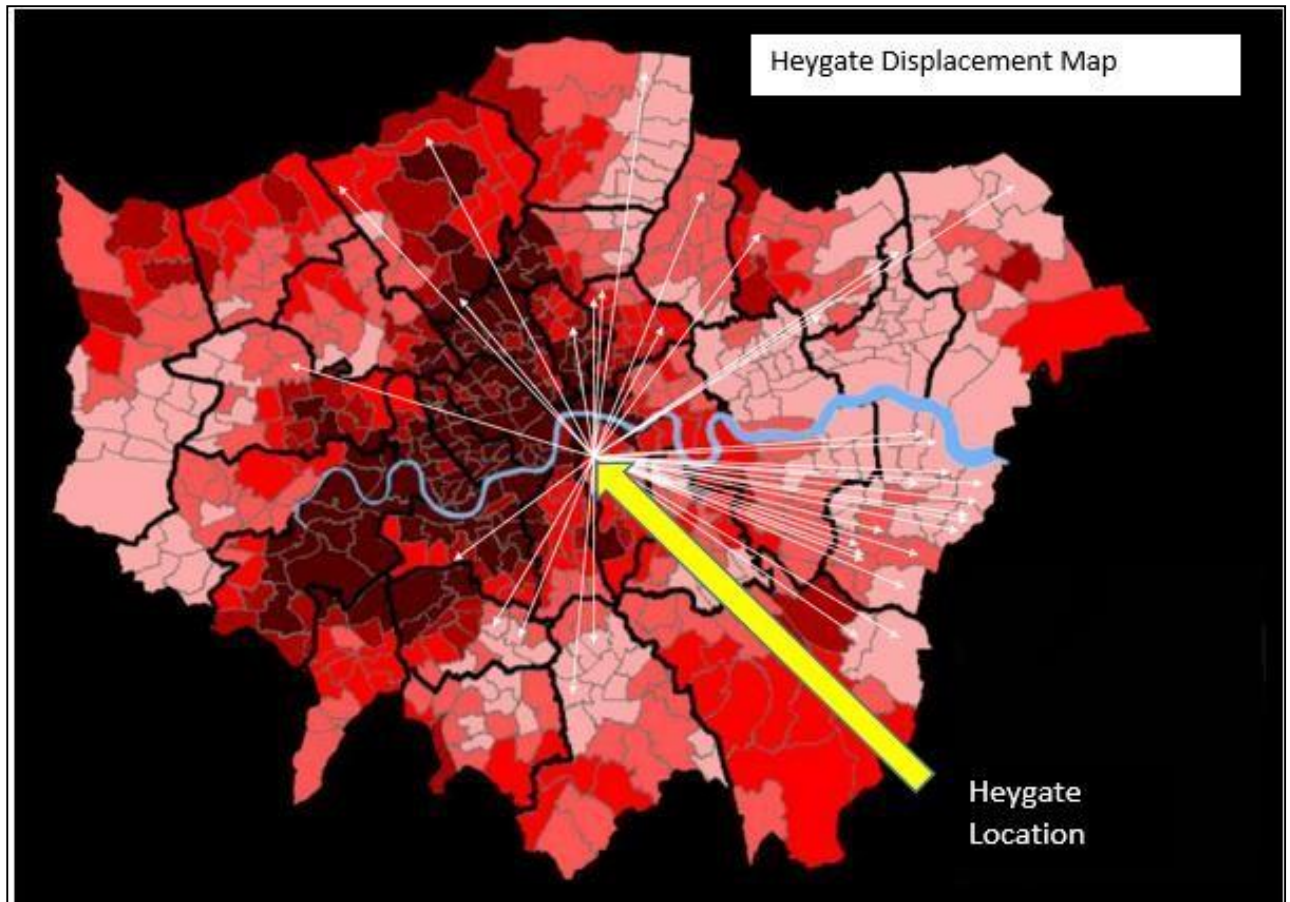
Elephant and Castle need a better class of people (Southwark Council, 2013).

Following dismay at the phase 1 proposals a total of 300 objections were lodged against the application and its proposed new changes. This resulted in a planning committee hearing which took place in January 2013. The hearing received an overwhelming volume of support by a disgruntled community who felt in large part that they were being unfairly treated. Interviewee **H5** stated the committee hearing received such support that some objectors were refused access to the hearing. Some of those who were excluded from the hearing stated they were informed by the then Councillor Bukola that there was significant representation in the room and therefore they could not enter. This refusal of inclusion of some residents is undoubtedly inappropriate action by the council and demonstrates the dominant public body control exerted over the Heygate residents.

Furthermore, and following this the CPO inquiry which took place in February 2013 regarding Heygate revealed some significantly interesting facts. The contemporary approach to regeneration on the Heygate was significantly different to the regeneration that occurred and moved residents onto the Heygate when it was built. The original 1970s slum clearance in the same south London area removed an entire community from a neighbouring clearance area onto the Heygate estate. However, unlike this complete transfer of community the clearance off the Heygate saw vast scatterment and displacement of residents. Only 1 in 5 Heygate tenants would remain living within the SE17 postcode area. The figures below demonstrate the displacement

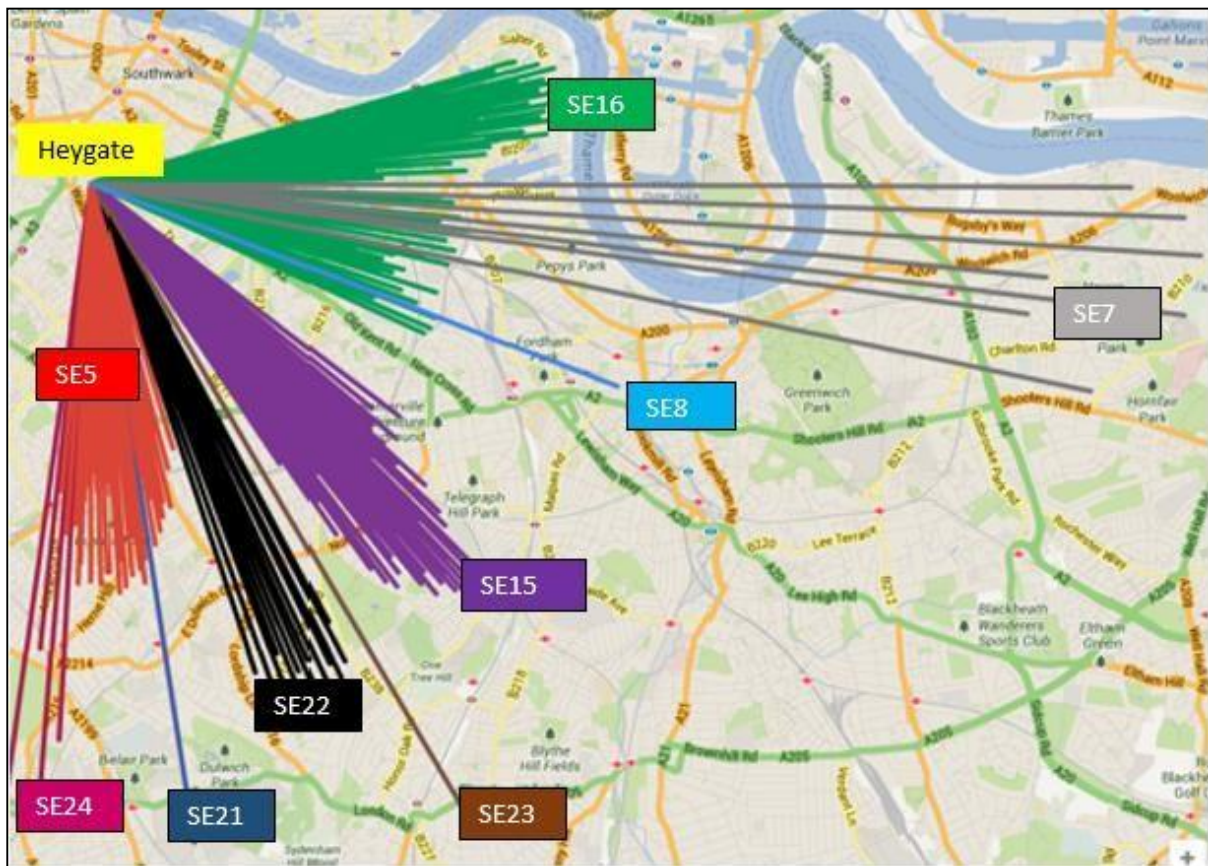
of residents from the Heygate across greater London. This illustrates how destructive estate regeneration can be to community dynamics. The maps show declining PV validation from our planning and regeneration systems when extensive fragmentation of community structures is becoming common practice to aid urban renewal.

Figure 6.4: Heygate Property Value and Displacement Map

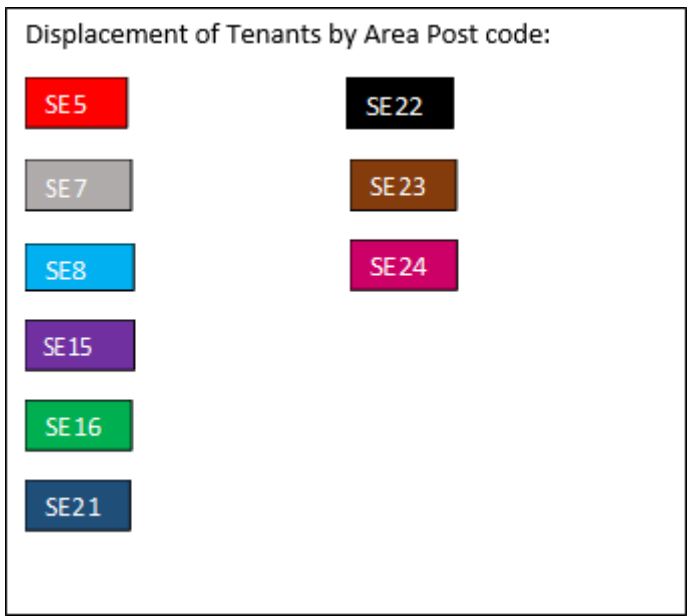


(Adapted from Ward & Avg Property price by Selven Victor of Paris Sorbonne University, Heygateshome.org).

Figure 6.5: Displacement of Heygate residents by Area Postcode across London



Map Key



Adapted from Heygatewashome.org

The following section will explore the role of political influences in shaping the discourse of urban regeneration at Heygate.

6.6 Politics and Urban Regeneration

In relation to Heygate the May 2010 elections saw the New Labour administration at that time move quickly to conclude and finalise negotiations with developer Lend Lease on the Heygate development and that of the wider Elephant and Castle. Global architect Gensler who completed a design and cost appraisal study for redevelopment of the Heygate demonstrated that it would cost just £35m to redesign and refurbish the estate - around half of what the council spent emptying the site and progressing the development during its initial phases. In light of such statistics residents of Heygate found it difficult to understand and accept why the council were adamant to seek complete redevelopment as opposed to refurbishment. However, interviewee **H6** when discussing such matters declared:

It was more beneficial to the developer to completely demolish and redevelop the Heygate as that gave them the ability to maximise their profits. It was never about rehousing the Heygate tenants it was largely about reinventing the area for investment and profit. There was no consideration or desire for the Heygate residents to be part of that plan.

This information proves troublesome as there exists a culture of path dependency within government where it leans on the private sector to fulfil its shortcomings or unmet needs. This transfer of power into the private sector means PVs and concerns are often unheard and less of a pressing priority as can be seen in the Heygate regeneration case. There are increased profits to be made in the private development and rental market for developers which means there is often a reluctance by developers to want to indulge in the provision of affordable or social housing. In relation to these matters Interviewee **H13** stated:

Providing policy compliant affordable housing is definitely not being delivered due to profit concerns, the pressure to meet housing targets and the emphasis placed on regeneration to attract investment.

What this appears to suggest is that social housing contributes little to profit making in the development and regeneration arena, therefore is becoming a lesser priority and sacrificial cost to aid economic welfare.

The Heygate case however did eventually immerse Southwark council into a compromising and troublesome position when the information commissioner requested the council publish their full financial figures for the Heygate redevelopment. There were several reasons comprising the need for the exposure of such information, they included the shortfall of the provision for social housing, matters regarding conflict of interest between the council as planning authority and council as land owner and furthermore due to allegations that the council and their consultation with the community was deficient and inadequate. The Heygate case arguably demonstrates concern regarding the safeguarding and production of PV within public administration. Notable in this case is the vulnerability of the public at the hands of public body discretion in decision making and the lacking transparency and inclusion afforded to residents from the council body. Although JR was not used in this particular case there are undoubtedly occasions where noncompliance with policy and consultation regulations as previously mentioned could have presented residents with such opportunity.

Additional concerns surrounding public body misconduct by Southwark council were further confirmed when the council appealed to the information tribunal against the information commissioner ruling requiring the council to provide information on financial figures surrounding the Heygate redevelopment. This unwillingness by the council to disclose all relevant information suggests inadequacies surrounding fair and lawful decision making regarding Heygate redevelopment. The residents' struggles and council misconduct in the Heygate case show how important public body protection mechanisms like that of JR are. Methods of redress against unfair and unlawful conduct should be as open and easily accessible as possible for the public to make use of when needed. Heygate demonstrates that public body compliance and lawfulness cannot always be guaranteed, meaning more robust methods to ensure collective and transparent decision making should be explored. Heygate regeneration

provides example of public bodies failing to follow set rules and regulations, therefore demonstrating breach in compliance with relevant procedure. The vulnerability and exploitation of the Heygate residents in this case emphasises concern in the approach to contemporary inner-city regeneration and the profound effects it exerts on local communities and the facilitation of a diverse society within the urban fabric.

6.7 Conflicting Ideologies and Inconsistent Public Value Deliverance

In 2014 Southwark Council outlined new promises in a council plan entitled ‘A Fairer Future’. The council stated the plan was aimed at making Southwark a fairer place to live where all residents obtain the opportunity to fulfil their potential and have their needs met. The basic principles of the fairer future plan include:

- Treating residents as if they were a valued member of our own family.
- Being open, honest and accountable.
- Spending money as if it were from our own pocket.
- Working for everyone to realise their own potential.
- Making Southwark a place to be proud of (www.southwark.gov.uk).

Furthermore, one of the key promises to be delivered as part of this plan and significant when reflecting upon Heygate was the delivery of quality affordable homes. Principle three on affordable housing stated:

We'll improve housing standards and build more homes of every kind, including 11,000 new council homes with 1,500 by 2018. We'll make all council homes warm, dry and safe and start the roll out of our quality kitchen and bathroom guarantee (www.southwark.gov.uk).

Although this is a promising strategy that sets out desirable aims and objectives there is further needing to build upon this to ensure that such commitments transpire in practice. Southwark Council's view on gauging the success of a development stated:

Whether a development is a success often depends on how well we understand and provide for the needs and aspirations of the community.

Given that many of the interviewees regarding Heygate were of the opinion that the community was neither included nor had their most basic needs met, suggests in council terms that the Heygate project was far from being a success. Furthermore, during the long discourse of the Heygate planned works Southwark council noted in their 2008 statement of community involvement referring to public consultation that:

National planning laws set out the minimum standards for public consultation. We generally go beyond the minimum. This is important because our communities have extremely diverse needs and aspirations. When we hear and take into account views from Southwark's diverse communities, we can make the process of planning for the future richer and more creative.

However as has been demonstrated the regeneration of Heygate proved little was done to secure and support a diverse community in the Southwark area, despite laying claim to its importance in this statement of community involvement.

Review of the Heygate case demonstrates that despite lip service being paid to PV and community priority within development and regeneration council practices and protocols little of this materialised. For this reason, it is important that the concept of PV is acknowledged on a case by case basis, so it can be understood in its various and relevant contexts. This will allow PVs to be more accurately facilitated and then accounted for upon completion, ensuring values are understood, processed and delivered in a transparent and cooperative manner. Failure to legitimise PV and produce an accountable framework for its deliverance allows public body discretion and control to be at a maximum, meaning public vulnerability is at its highest.

6.8 The Relevance to Judicial Review

Although JR was not used in this case the Heygate highlights the importance of JR in providing redress when public bodies fail to adhere to and deliver set public body regulations and policies. JR is important in supplying communities affected by regeneration like that which occurred at Heygate with a defence mechanism when public bodies deviate from procedure and protocol. The introduction of JR reform as discussed in earlier chapters and introduced in England and Wales in 2014 only adds to the pressures and complexity of vulnerable individuals when seeking redress from unethical public body conduct. Furthermore, numerous interviewees with a legal background expressed concerns surrounding the ability for individuals particularly community groups to get a JR proposal together in six weeks. Interviewee **H8** stated:

The six-week turn around to lodge a JR case is ambitious. Individuals need to source legal experts, compile their evidence, follow pre-action procedure and ensure funds are available to pursue redress. This is particularly difficult for communities or groups who may rely on alternative sources of funding or support which can prove time consuming to secure.

Expressing further concern **H14** added that curtailing the process of JR and making it more expensive through reform is far from a positive progression for human rights law. It is both socially and democratically troubling to continue to approach urban (estate) regeneration in a manner reflective of gentrification trends. It is arguably unlawful that Southwark council did not to follow protocol on consultation, allocation of affordable housing and fair market value return for those who owned their council home on Heygate.

6.9 Heygate Conclusion

The former residents of the Heygate demonstrate the challenges for PV production in contemporary urban regeneration. Further to this Heygate highlights a need for PV to be identified on a case by case basis which can then be included within that given development framework. This will assist in ensuring that PVs formally transpire and can be accounted for beyond the realms of public consultation meetings. Economy driven urban regeneration as adopted at Heygate has done little to support local community, instead exerting additional

pressure to the existing shortage of social housing in the greater London area. Displacement of residents and the breaking up of communities goes against planning concepts of bottom up governance and the need to build sustainable communities and social relations. The path dependent culture of outlaying government duties to the private sector in economic downturn as experienced in the Thatcher era and discussed earlier, does little to promote publicly valuable governance. The Lend Lease approach to redeveloping Heygate demonstrated this in point. Finally, the growing trend of gentrification is proving a pressing issue which appears to coincide with urban renewal and estate regeneration. This is a particularly important issue for regenerative planning to review as the demographics of UK cities continue to expand. In conclusion reformed JR in England and Wales presents a more challenging environment for the public to defend themselves and fairly promote their interests against an increasingly economic urban regeneration agenda.

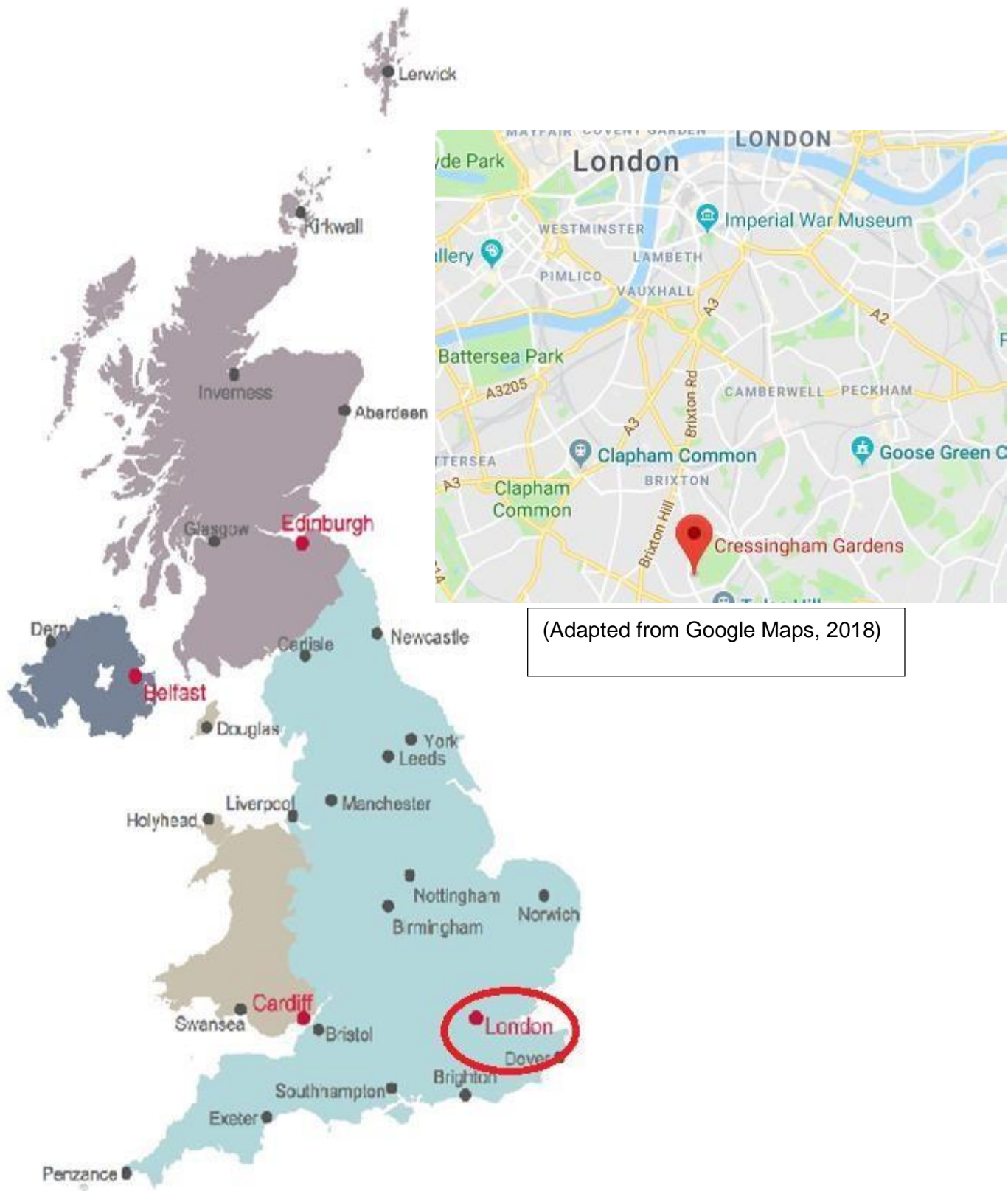
6.10 Cressingham Gardens: Judicial Review and Urban Estate Regeneration

6.11 Synopsis

Cressingham Gardens (CG) estate regeneration case study provides a valuable analysis opportunity to examine the important role of PV and JR within contemporary UK estate regeneration. The discourse of the CG case study will be addressed in the following sub sections of this chapter. These will discuss the background to CG, both JR cases involving CG and analysis of the economic, social and political underpinnings of the CG regeneration project. The following Figure 6.6 illustrates the location of CG within the context of Greater London.

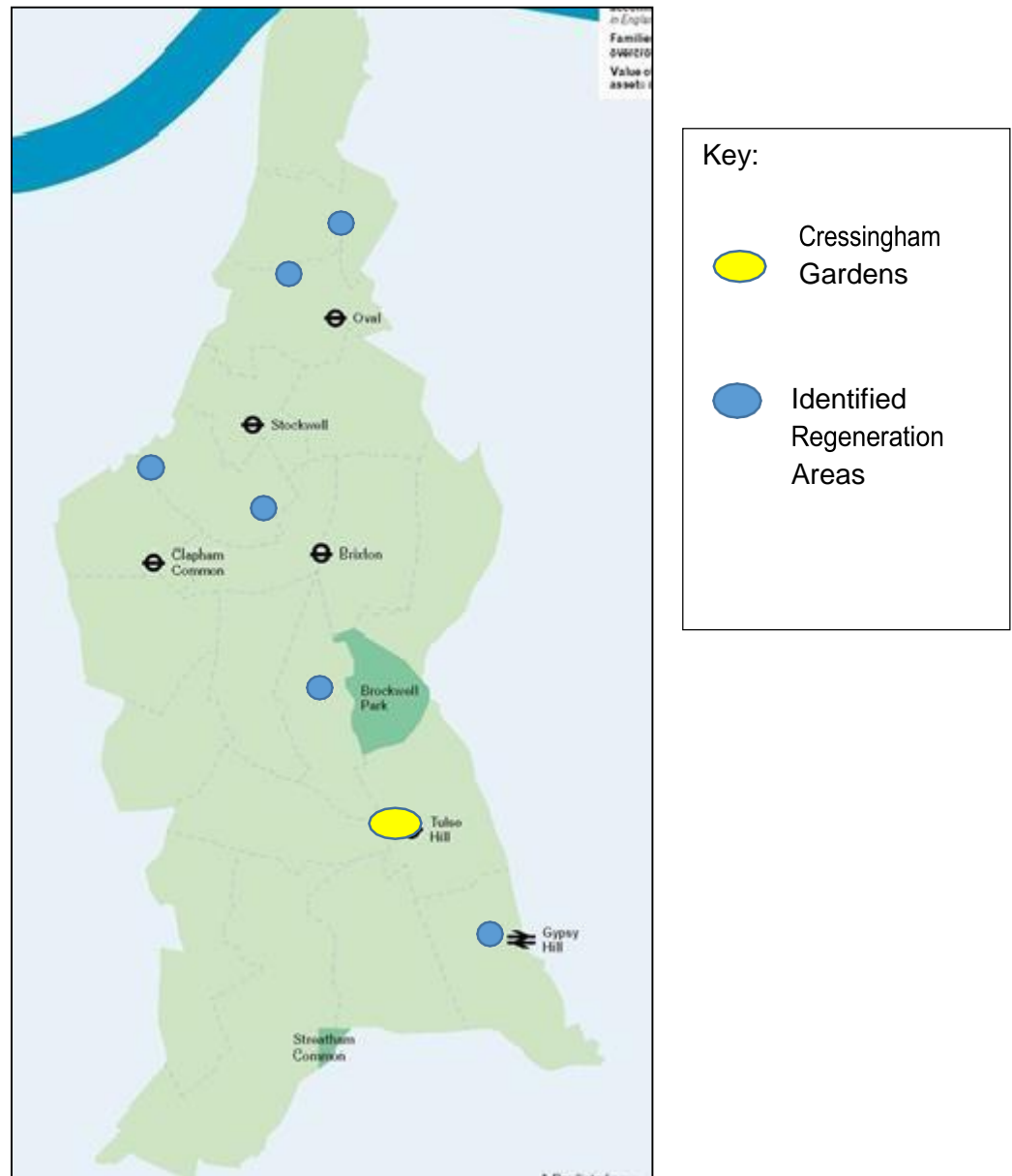
CG is one of many estates targeted for regeneration in the South London area, as demonstrated in figure 6.7. This chapter will examine the contemporary estate regeneration approach in practice in the context of CG to further support the PVM concept.

Figure 6.6 – Location of Cressingham Gardens



(Adapted from Conceptdraw.com, 2018)

Figure 6.7: Map of Lambeth Borough, South London - Illustrating Areas Targeted for Regeneration in Lambeth and the Location of Cressingham Gardens



(Adapted from: www.architectsjournal.co.uk).

6.12 Introduction and Background

CG is a social housing estate located in the south end of Brockwell Park in the Lambeth Borough of South London, as illustrated in Figure 6.7. The estate was designed in the 1960's by the then Lambeth Borough council architect Edward Hollamby with development commencing on the estate in the early 1970's. CG consists of approximately 306 dwellings: a combination of two, three and four-bedroom houses and one-bedroom apartments. Unique to the south end of London CG was developed as a 'garden estate' with the aim of providing outside green space.

The garden space and green areas provided as part of CG were a response to the faltering council multi storey apartment blocks, which were proving a failure at the time. The 'Family and Kinship study' carried out by government in east London in 1957 revealed that apartments were not as satisfactory for families as homes which provided a garden and outdoor space for people and children to enjoy. By 1970's there was a desire to remove council housing from the tower block approach and build more houses. Lambeth council took the lead in the new transitioning trend.

Hollamby's approach to this was to use low rise blocks which would achieve the same residential density as the high-rise blocks whilst then pedestrianising the estate to make use of the space between the dwellings as gardens and open green space. This opposed car parking space and road access provision. Hollamby was aware of the impending social importance the provision of outside space was for the quality of life of the residents and believed that social housing needed to be of the highest standard and quality (Billings, 2015). Despite the relative success of the estate and its innovative approach in providing a social housing garden estate on the outskirts of London, in 2012 Lambeth council proposed the demolition of CG. The site would be redeveloped as apartment blocks following demolition with the majority proposed for sale to the private sector.

6.13 The Residents' Struggle

In 2012 residents were notified that CG was part of Lambeth's regeneration plan and that the estate was set for redevelopment. The redevelopment proposals were met with considerable concern from the residents and fear surrounding the uncertain future of their homes mounted.

In 2014 the council began the consultation process with the Cressingham residents presenting possible options for regenerating the estate. The options were as follows:

- **Option 1** - Refurbishing the estate and bringing all council tenant homes up to decent homes standard, including the six void flats that have stood empty for over 16 years.

- **Options 2 and 3** - Refurbishing as in Option 1, plus infilling to create new homes.
- **Option 4** - Partial demolition of the estate, with the net extra in new build homes sold at top market price.
- **Option 5** - Full demolition and rebuilding of the estate (Leigh Day, 2015).

Following presentation of the options to residents in November 2014, a three-month consultation period was established by the council in line with regulations. During this period the council would seek to obtain the preferred views of the residents on the above redevelopment options.

6.13.1 Consultation Formation

The consultation process began by informing residents via letter distribution of the five redevelopment options for the Cressingham estate. This included the redevelopment options above along with costing and a schedule of workshops that would attempt to provide residents with information regarding redevelopment and gain an understanding of their preferences. However, **CG1** argued that such attempts did not seem to be made in a meaningful manner as one of the workshops was scheduled for following day after residents received their consultation options letter. Agreeing with this **CG2** stated:

It appeared that consultation was completed in the most restrictive manner possible. Organisation was poor, and it didn't appear that residents received the quality input they had expected and hoped for.

Several of the interviewees declared views that Lambeth council inadequately preformed their consultation duties as they had preconceived ideas about what they wanted for the CG site. Despite the council making attempts to facilitate the required consultation for residents it was reported by **CG3** that consultation efforts were hasty and lacked validity as residents who were unfit or unable to attend meetings did not have their views included in the consultation process. Further to this **CG3** stated that the forms given to residents at meetings were too basic to provide

in-depth views and opinions which would have provided more valuable information for decision makers had they wanted it. Despite initial consultation efforts by the council at the beginning it was reported by **CG1** that resident involvement in the decision-making process ended abruptly. The groups that had been established to consider resident management options had not even completed their reports when Lambeth council announced their position on the future of CG in late February 2015.

On the 26th February 2015 the CG residents were informed by the Lambeth Council Housing Councillor that the council had undertaken a financial analysis of proposed refurbishment options 1-3 on the redevelopment consultation list. Further to this the Housing Councillor stated that findings of the analysis would be presented to the council cabinet the following month recommending that options 1-3 did not significantly reduce redevelopment costs and would no longer be consulted upon. In essence this meant the withdrawal of any refurbishment option for CG meaning complete redevelopment of the estate. Interviewee **CG4** supporting the council's decision stated:

The council perceived complete redevelopment to be the best option for the residents that would also increase the provision of housing. Yes, residents were upset at the decision however the council perceived this to be the most viable and beneficial option.

For the Cressingham residents however the emerging consensus was that they felt unfairly treated and side lined from participating in the fate of their homes. Supporting this notion **CG5** stated:

Residents were not kept abreast of decision making, in my opinion what the residents wanted was never an influential factor in the future of Cressingham estate.

Following the issuing of the councils' position on the future of CG one resident sought legal action on the councils' decision to unlawfully remove consultation options 1-3 from the consultation process. The pursuance of a JR case against Lambeth council followed in a bid to rectify what the resident understood to be unfair and unlawful conduct by the council in

removing options 1-3 from consultation process. Seeking JR was widely supported by other Cressingham residents who shared a similar view that what the council had done was unlawful. Some interviewees expressed the admiral leadership and fight displayed by the CG residents in seeking JR and not accepting substandard treatment from the local council. The JR case in question is examined and explored further in the following section.

6.13.2 A Case for Judicial Review

The basis of resident x argument for JR was that the council had acted unlawfully in failing to:

- Adequately take into account the residents' views.
- In removing refurbishment options 1-3 from the consultation.
- Claiming that refurbishment options were unaffordable and not viable despite financial elements of the redevelopment not having been available in any form during the consultation process.

Further to this resident x legal representation included argument that the council had also acted unlawfully in not adhering to their equality duty during the consultation phase. They argued some residents, notably the elderly and those with disabilities, were unable to attend consultation meetings due to the limited notice they received regarding the events occurrence. Despite resident x having brought these arguments to the council's attention in April 2015, the response received by the council at that time in relation to such matters was that they had spent ample time engaging with residents and considering their views (Baili,2015). Upon legal advice that the withdrawal of options 1-3 were an unlawful act by Lambeth Council, resident x sought permission to seek JR to remedy the council's actions. Speaking on the matter of seeking JR resident x explained:

Two and a half years ago, Lambeth Council promised us they wouldn't do anything that didn't command our confidence and support. Instead, following a shotgun consultation at the end of last year, they decided to demolish our homes. This was not only against our wishes but also, we believe, against the evidence. They call themselves a co-operative council but that's only true if you bow to their agenda. We want them to face up to their obligations and carry out a fair consultation that takes account of all the feedback and the facts (leighday.co.uk, 2015).

6.14 The Judicial Review Case

On 18th November 2015 the court accepted resident x application for JR following a successful application seeking leave to pursue the case. This allowed the case to continue to proceed to a court hearing. The court proceedings revealed how Lambeth council had failed to carry out financial analysis of all options for the proposed redevelopment of CG. The court required that Lambeth council demonstrate how the conclusion that refurbishment was unattainable was reached without provision of thorough financial analysis of all consultation options. The claimant's case (resident x) suggested that the council had attempted to impose demolition upon the residents and that inadequate consultation had been carried out by Lambeth council as residents had not been made aware of any financial constraints on any of the consultation options. This is reflective of poor consultation and communication skills between public and public bodies and also notes a lacking transparency of public body behaviour and within decision making.

The claimant proposed that had such consultation been conducted in a proper manner the outcome may have been different to that which the council were attempting to impose. Furthermore, they continued that had adequate consultation requirements been met an alternative solution that included resident's views may have been reached. The PVM framework as discussed in chapter two could be deemed useful in this case as it ensures accountability and transparency of public body decision making. Furthermore, the concept better promotes the public in the role as customer with the onus on public bodies to ensure satisfactory and quality service delivery in line with customer needs.

The claimant's legal representatives explained during the case that residents had not had their views adequately taken into account and that the removal of what had been the residents preferred refurbishment options was irrational and unlawful conduct. The claimant's arguments demonstrated that the council's consultation efforts and willingness to work with the residents on the future of CG were minimal and restrictive at best. Furthermore, it was argued in court

that despite residents' request for the council to produce documentation to prove refurbishment was unaffordable no evidential documents to support this view were ever produced for residents. This supported the view that the council's preference had always been to completely redevelop the estate as no efforts were made to work on a refurbishment option and prove it wasn't viable. In response to the claimant's accusations that consultation was conducted in a poor manner, Lambeth council acknowledged that they had prematurely ended the consultation process regarding the redevelopment of Cressingham. However, they denied any unlawful behaviour and refuted the notion that they had not taken proper consideration of resident's responses that were demonstrated during the brief consultation period held (Bailli, 2015).

During the JR hearing the claimants' defence stated:

The decision-maker tells these consultees how they are going to approach the process and the basis on which they are going to make the decision and then needs to act in accordance with the framework it set out. We say that's informative here because just as the local authority had identified the arrangements set out for the purposes of the section [s105, Housing Act 1985] we say their failure to follow that process was demonstrably unfair.

This explanatory statement illustrates the vulnerability of the public and therefore the power of public bodies as it depicts the council setting out arrangements for progression with the public and then defaulting from those set arrangements. The defence continued on this argument to demonstrate the council's unlawful action and betrayal of public confidence stating:

What I'm going to show you, is the council had set up the process through which residents were to be involved in the evaluation of affordability, and that evaluation of affordability was going to inform residents' expression of preference on the options. By suddenly announcing a decision on affordability, the council was unfairly, we say, not giving effect to the process upon which it had embarked. It simply cut things short (SCG, 2015).

This is reminiscent of Morgan (1988) when discussing issues surrounding discretion and legitimacy within public administration in the US. His theory explored the production of vulnerability where public authorities are free to implement their own discretion in decision making. He suggests in response to this, factors to assist in gauging if such discretion has been

deployed legitimately. In explaining such he indicated that:

The legitimacy of administrative discretion, much like judicial discretion, must ultimately be judged by the extent to which both the form and substance of administrative decisions make distinctive contributions to constitutional processes and values (Morgan, 1988).

Morgan's perspective would suggest a lacking legitimacy in the discretionary approach used by the council in the Cressingham case. The supporting justification being that, neither the formative approach nor substance of detail produced in relation to redevelopment was reflective of standard procedural processes and values of public consultation and inclusion.

In concluding arguments, the claimant's defence declared that Cressingham was a community being disregarded by the council's redevelopment efforts. They continued that the council's actions in removing consultation options were unlawful and that residents had not been given a fair chance to participate in the future of the estate, not to mention the future of their homes and community which they were entitled to. Further to this the council's false portrayal of opinion that many residents on Cressingham wanted complete redevelopment was refuted during the hearing and discredited. This was in light of a study carried out by Social Life in 2013 on behalf of the council to gauge resident's views on redevelopment. Social Life is a social enterprise organisation established in 2012 who specialise in research and innovation for enhancing the social life of communities and putting people at the centre of the built environment. Their work also seeks to understand how change through new developments and regeneration can affect the social fabric of an area. Social Life's findings in the Cressingham study revealed that residents were largely content with their homes with some simply referencing the need for some required maintenance work (Bailii, 2015).

6.15 Lambeth Council Judicial Review Defence

In defence of the JR case brought against them the council agreed that an insignificant level of co-operation had perhaps occurred in falsely portraying the resident's feelings of Cressingham

and their preference regarding redevelopment. The case revealed that the council had balanced residents' opinion using the numbers of residents who had not participated in the consultation process. However, in their defence the council claimed that Cressingham was in fact chosen for redevelopment in attempt to enhance decent home standards in line with a borough wide programme. Further to this the council made reference to the positive benefits that new homes would bring along with the ability to increase the number of housing units in the area. The councils' defence team during the JR case stated that although residents preferred refurbishment of the estate, Cressingham was costly to maintain and that a vast number of properties were in poor condition that simple refurbishment would not address. This was something the claimant's team rejected instead suggesting that the council's failure to maintain the estate was a bid to force its demolition. It was argued by the claimant in this case that demolition and redevelopment was promoting gentrification of the area by removing the Cressingham residents and making it unaffordable for them to return. This notion is supported by some of the previously discussed literature surrounding gentrification and its growing trend within urban estate regeneration.

In the council's defence on issues regarding cost and affordability of refurbishment options the court heard that Lambeth council had made the residents aware in 2012 that a figure of £3.4 million was insufficient to bring all homes on Cressingham up to a satisfactory standard. The council therefore refused to accept the residents' position claiming they were unaware of any matters on affordability regarding the estate's redevelopment (Baili, 2015).

The judge commented in court:

But it could be said that there is a difference between concluding an option was unaffordable without going through the process you have agreed you would go through and concluding that an option is unaffordable after you have gone through the figures (SCG, 2015).

This point is further indicative of the issue of discretion and ensuring such is deployed legitimately. In this sense it also provides additional support to the need to ensure that public

bodies operate fairly, legitimately and transparently within a consistent framework. In response to the judge's comment however Lambeth council in defence explained that it is not unlawful in a consultation to not provide certain documents to residents and that they had made an informed decision presenting the viable options. However, this is a questionable assertion when it comes to the provision of transparency and building cooperative and participatory relationships between the public and public service providers and demonstrates the capacity for public bodies to be inconsistent. Failure by public bodies to adhere to set rules and regulations that support consultation and effect cooperation between the public and public bodies as in this case highlight the important role for JR in contemporary urban development. The important role of JR in ensuring public bodies pertain to the law is echoed by Lord Neuberger when he stated that the fact members of an executive know they can be subject to JR helps ensure they carry out their jobs properly. In this sense it could be argued that the threat of JR in some ways can act as an enforcement mechanism to secure legitimate decision making. This could therefore be argued to suggest that any restriction to the pursuance of JR may produce less coherent or unfair decisions (Rozenburg, 2013).

In a closing argument the council's defence proposed that alternative means of consultation with the public would have been unlikely to have resulted in an alternative outcome (Bailii, 2015). However, this would appear to suggest that public bodies can exercise their judgement and forcefully implement into practice their preferred views without following the correct consultation and inclusive procedures with the relevant public. Leading from this there is demonstrable need for PV measures to be more adequately included in public administration, if even to provide clarity and justification within public body decision making so public opinion and inclusion are not overlooked or disregarded at whim.

6.16 Judicial Review Case 1- Ruling

On the 24th November 2015 a judge quashed the decision for Lambeth council to continue with

the demolition of CG due to its unlawful conduct in the removal of consultation options from the consultation list as previously discussed. The judge declared that the removal of refurbishment options without the adequate and appropriate financial analysis and inclusion of residents to the process made the withdrawal further unjustifiable.

The judge further added that it was not appropriate conduct for the council to leave out resident feedback. In relation to the council's failure to produce financial analysis to discredit refurbishment as an option, the claimant's lawyer questioned the council stating 'Where's the detailed analysis? Neither we, nor the court, have ever seen it.' (Wolfe, 2015). It was concluded that the residents had not been given a fair consultation with the plausibility that had this been done properly the decision to demolish may not have prevailed.

In addition to the court ruling Lambeth council were instructed to commence another consultation period with the Cressingham residents which would include the revision of refurbishment options. Between the 20th January 2016 and 4th March 2016 Lambeth council ran another consultation and sought feedback from the residents on five consultation options. The options were as follows:

Option 1: Refurbishing existing homes to Lambeth Housing Standard.

Option 2: Bringing homes to Lambeth Housing Standard whilst also introducing new homes through infill development.

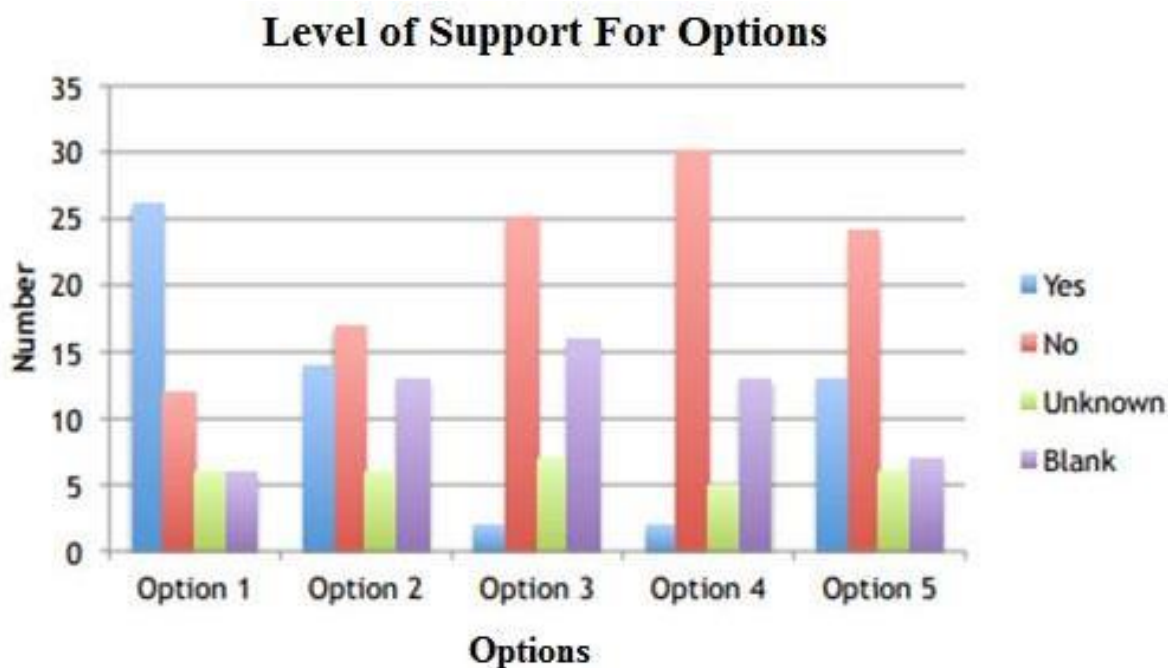
Option 3: Partial redevelopment, meaning the demolition of 31 properties and replaced with 51 new homes (low intervention).

Option 4: Partial redevelopment meaning 120 properties demolished and replaced with 193 new homes (higher intervention, higher number of properties demolished).

Option 5: This option proposed all 306 properties to be demolished and replaced with at least 464 new homes. This would mean the estate would gain 158 new homes' (Local Dialogue Ltd, 2016).

The following Figure 6.8 demonstrates the feedback obtained from the residents during the second consultation phase.

Figure 6.8: Overall Support for Options among Residents



(Local Dialogue Ltd, 2016).

Despite residents again expressing their preferred choice of refurbishment, Lambeth council following a lengthy second consultation period declared in March 2016 that they believed redevelopment of the estate was again the best and most affordable option.

Having again declared to have carried out some financial analysis Lambeth claimed that redevelopment was the option which made most sense. This was met with uncertainty again from the Cressingham residents who had then compiled a ‘people’s plan’ proposing how refurbishment of the estate could be feasibly reached (Baili, 2015).

The ‘Peoples Plan’ (cressinghamspeopleplan.org) was compiled by the residents to demonstrate how refurbishment of the estate could be met along with some of the additional housing targets the council wanted. The report looked at both finances and feasibility and was presented to the

council a few days prior to their announcing that demolition of the estate would be the proceeding option. In less than five working days of receiving the 'People's Plan' document, Lambeth returned a verdict on the 'Peoples Plan' deeming it as a non-practical option. This was met with considerable refute from the residents who were once again of the impression that the council had simply dismissed their efforts. The residents in the 'People's Plan' had addressed the barrier concern of Net Value to be derived from the redevelopment, an issue that was deemed be detrimental to refurbishment and the reason it was not viable. The 'Peoples Plan' demonstrated how a positive net value could be reached using a mixed method of refurbishment and development which contrasted the negative net value which would be produced using the council's demolition option. It was noted in the plan by the residents that the council had failed to account for maintenance cost for demolition of properties on Cressingham, compensation costs and further site-specific costs relevant to major water mains under the estate etc. This is significant in illustrating a public body's refusal to work with the residents to achieve compromise and a valuable outcome. Furthermore the 'Peoples Plan' is also indicative of what can be gained if working from the bottom up with local communities and encouraging their participation in redeveloping their local areas (Irvin, 2004).

The key finding of the 'Peoples Plan' demonstrated that demolition and redevelopment would be a loss-making activity and one that would use vast amount of tax payer money returning minimal overall success. Further to this the plan also proposed an increase in the level of affordable housing up to 90% which superseded the 60% target proposed within Lambeth council policy, one which it itself did not propose to meet in the redevelopment of Cressingham. However, despite the plan attempting to compose a balance to both residents and council's desire for the estate, the residents were met with a refusal to consider the 'Peoples Plan' as a viable option. Instead the council expressed that they would be continuing to pursue demolition and redevelopment of the Cressingham estate (Baili, 2015).

6.17 The Second Cressingham Gardens Judicial Review Case

Following the council's decision in March 2016 to continue with proposed demolition and redevelopment of Cressingham estate, a second JR application was lodged and accepted by the court in August 2016. This had been brought by another resident (resident y) of CG. The aggrieved resident received support from other Cressingham residents and members of the 'Save Cressingham Gardens' campaign group in his bid to curb what he perceived to be unfair and unlawful conduct by Lambeth council (Lagan, 2016).

This case was the second JR within 12 months to be brought against Lambeth council. In August of 2016 resident y's proposal for JR was granted following the council's agreement that redevelopment of the estate would go ahead. This would follow completion of the renewed second consultation period that was enforced following the first JR case ruling as previously discussed.

The initiation of the second JR case stemmed from the council's decision in March not to follow the 'peoples plan' and to pursue complete demolition and redevelopment of the estate. In order for the council to pursue complete redevelopment however they would establish a SPV which would act as a private company and would be used to raise the extensive funds required for redevelopment to occur. This meant that land be transferred to the SPV following demolition and private investors would then sign up to finance the redevelopment. From this point of transaction, the estate would then be privately owned, no longer owned by the council and hence homes on CG would be at risk of being sold privately (SCG, 2016).

Further to this, the approach would also alter the rights and security to which council tenants had been accustomed. Those who would remain on the estate would no longer have their secure tenancies whilst the 'right to buy' option would also be dissolved. It would also be likely that living costs on the estate would increase following redevelopment. Resident y therefore sought to challenge the council's intentions and the decision it reached following the second

consultation on the future of the estate. Resident y's case presented four grounds of claim against Lambeth council, suggesting that their decision was both unlawful and unfair in relation to the following grounds:

1. Including a £7.5m loan to the SPV in its calculation of the Net Present Value (NPV), which would have otherwise for each of the options resulted in its own preferred demolition option failing the 'must achieve criteria.
2. Failure to adequately consider key aspects of the consultation response and the Peoples Plan.
3. Failure to provide up to date and adequate finance information regarding redevelopment costs, profits, losses etc.
4. Imposing a breach in resident y's right to property under Article 1, Protocol 1 of the ECHR, combined with his right to respect for a home, by removing his existing 'Right to Buy' contrary to government policy (Urban, 2016).

Despite Lambeth council claims that consultation was conducted adequately and that redevelopment following demolition was the most viable option, the court granted permission for the case to proceed to hearing.

The granting of permission for a JR case on the above grounds demonstrates the need for public bodies and the public to enhance the way in which they work together and develop understanding. Failed transparency from the council and resistance to community participatory planning were both key factors which appeared to be absent from the CG case following review of resident y's grounds for claim against the council. Similar to Heygate there also prevailed a distinct misunderstanding and disconnect between public need and public body want in relation to urban estate regeneration. This reoccurring struggle is something that perhaps PVM could assist in resolving as it presents an alternative way of viewing and counteracting public and public body working relations.

However, on the 26th of September awaiting the second JR, Lambeth council were instructed by

the court to cease any demolition plans or compulsory purchase acts on CG until after the case by resident y was heard.

On the 15th – 17th November 2016 the second JR case regarding CG commenced. The case highlighted accounting and financial errors in opting to demolish as opposed to refurbish the estate. It was expressed by the claimant's defence that the council had inaccurately portrayed the profitability of redevelopment, which when examined by residents in the 'Peoples Plan' did not meet the profitability criteria the council had discussed. The hearing also addressed the lacking credibility the residents were afforded in the presentation of the 'Peoples Plan' to the council. As discussed, the plan attempted to balance both the residents' and council's aspirations for the estate. In response to this however the council's defence explained:

Refurbishment options (1-4) were dependent on funding from the Housing Revenue Account (HRA) (an assertion disputed by the claimant), which could not be afforded (also in dispute), while the demolition option (5), could be privately funded (SCG, 2016).

The claimants defence argued however that Lambeth council were aware of their concealing financial information from the residents and had gone so far as to produce old data to the residents in the second consultation period, giving a false portrayal of 'debt headroom'. The claimant's (resident y) barrister went on to explain that the residents proposed 'People Plan' which would cost £10.9 million was presented as impossible and not financially feasible when in fact there was a budget of £52 million to draw from.

This unlawful conduct by the council in providing inaccurate information to the public and not providing means for fair consultation and inclusion again highlights the importance of JR and the reasons it should be easily accessible for the public, so they are not vulnerable or subject to public body manipulation.

Further to this, the hearing also revealed in accordance with the Department of Local Government and Communities that it is unacceptable for councils to set up housing companies

as a means to avoid limits on indebtedness which exist to address inherited deficit. In essence what this means is that councils cannot simply avoid duties and the regulations bestowed upon them as a public body by outsourcing to private organisations. This point is particularly important in the argument for PVM and in understanding public vulnerability when it comes to PPPs and public bodies adopting private sector trends.

Further difficulty surrounding the use of the council's SPV for development related to its non-compliance with government's Housing Act 1985. The Act states that where a council authority is retaining new social or affordable housing it must be brought forward in accordance with the powers of the Act and accounted for through the housing revenue account. The claimant's defence used this factor as an argument to portray the reasoning for withdrawing refurbishment from the consultation as in doing so the council did not have to adhere to the Housing Act regulations and was therefore free to pursue its own preference. Resident y in relation to such arguments sought a level of transparency between the decision makers (the council) and the relevant public (Cressingham residents). Highlighting this he stated:

What we're entitled to be told is what the issues are, given a choice to address them and have our responses taken into account by the decision-maker.

In essence resident y sought the basic inclusion and lawful treatment that is expected in any case from a given public body. In relation to further grounds brought against the council, the court also heard how resident y would have his human rights breached if the council were to demolish CG as he would lose both his 'right to buy' and his secure tenancy agreement. The council had prior to the case informed secure tenants that if they wanted to remain on the CG site following redevelopment it would not be possible to include their former secure tenancy agreements under the new assured tenancy. At the same time however, the council also misinformed the secure tenants that new agreements would be matched closely to their current contract.

The loss of a human right here was expressed by resident y's defence as the council's removal of the claimant's right to property under Article 1, Protocol 1 of the ECHR, meaning removal of his capacity to buy his council home once redeveloped. In discussing the loss of 'right to buy' the claimant's defence expressed concern that this had not been sufficiently considered within

consultation and decision making as legally required. The claimant's defence explained that documents were legally wrong in claiming that this right could not be kept under assured tenancy as a contractual option and could be made available however was disregarded as an option by the council. Whilst it was correct that the lifetime assured tenancy did not carry with it the right to buy in the proposed new development, it was highlighted that it was up to the council to create an equivalent option. This would mean 'right to buy' could be a transferred right for residents to the new housing association. The Department for Communities and Local Government also support the 'right to buy' in their government policy believing that there should be support provided and aspiration towards home ownership as opposed to restriction upon it. This point highlights how this case draws on more than unlawful conduct, demonstrating destruction of public right in the form of housing provision. The CG case demonstrates an inefficient system of public and public body relations in consistent contention.

The council's responding argument explained that the 'right to buy' was not being withdrawn from residents as they could move to another council home elsewhere in the borough where their secure tenancy would be retained. Lambeth council defence further claimed that there would be no removal of 'right to buy', only an alteration in the way in which it would be obtained. The council concluded in their argument that change in circumstance surrounding the condition of 'right to buy' was in the greater public interest. Further strengthening their defence, the council explained that the redevelopment would see building of an additional 148 flats and that 27 of those units would be let at council rent level. They continued stating that 'the statute perceives demolition as a justification for repossession so therefore in terminating the secure tenancy the council was exercising their right' (Bailii, 2016). Support for the PVM framework can be drawn from the council's lack of understanding here regarding the displacement of residents and assuming that their removal and retained 'right to buy' elsewhere would solve the problem. This demonstrates a lack of understanding and consideration in evaluating what the PV and hope to perceive from urban renewal. Further to this it is important that councils and

developers consider how they are altering the dynamic of urban centres and how they plan on making such areas residentially accessible for all income levels.

In concluding arguments, the judge added that the effects on 'right to buy' were purely a consequence of demolition and that there was no intent to directly apprehend 'right to buy' privilege by the council. He further stated that the use of private funds by the council to aid their redevelopment was in the public interest.

The claimants defence in return remarked on the reliance of the case on the concept of public interest. He declared how the council had highly expressed that the redevelopment of CG was in the 'public interest'. However, he moved on to note that there was little analysis of the counter balancing public interest. He questioned how public interest could be clarified when there wasn't a counter balancing analysis of the public interest in this case, meaning from the perspective of the CG residents (Bailii, 2016). Again, this point makes valid argument for the PVM framework in providing decision makers with a thorough understanding of what the PV is in each relative context and on a case by case basis.

In the finishing arguments of the case Lambeth defence claimed that resident y had demonstrated considerable delay in not bringing the case concerning 'right to buy' sooner, not least when learning of the sites' redevelopment concept. This argument in point demonstrates what JR reform has targeted in ensuring cases are brought within short windows, a move that suits and protects public bodies more than it does the subjected public sphere.

Concluding the hearing Lambeth council denied all accounts of the four grounds brought against them by resident y and the judge reserved judgement for a later date.

6.17.1 Case Ruling

On 21st December 2016 the court ruled that it would not quash the decision of Lambeth council to proceed with the demolition of CG in the JR case brought by Cressingham resident y in November 2016. The judge dismissed the resident's claims on all grounds, ordering the claimant to pay the council's fees. Despite the ruling in the council's favour, resident y, supported by other Cressingham residents, vowed that they would continue to fight on and do what they could in

order to save their homes on CG. The decision issued by the court concluded that the council's redevelopment plans for Cressingham could proceed to the next stage (Bailli, 2016).

In a statement made by a member of Lambeth council following the judge's ruling the council member stated:

Despite a huge shortfall in our budget to improve every council home in Lambeth, we are still committed to providing all our tenants with a high-quality home and rebuilding the estate (Cressingham) is the best way to do this (Slingsby, 2017).

The following sections will evaluate the key economic, political and social elements worth noting from both JR cases in relation to CG.

6.18 Economic Progression

Both Cressingham JR cases as discussed above can be argued to have been underpinned by economic concern. In relation to the first JR case (JR1 and resident x) the removal of consultation options 1-3 could be argued to have been a means to enforce complete redevelopment upon residents by giving them no choice. As stated by **CG3** this option would:

Increase council rent revenue whilst also possibly permitting profitable return from sale of new property to the private market.

As discussed previously the location of CG is on prime real estate in London making the land highly valuable. However little economic prosperity can be gained from its prime location when it is occupied by a social housing development where no profitable return can be derived. There is a growing trend within urban regeneration to redevelop social housing that exists on prime real estate for simplistic reasons that it is highly profitable. In keeping with this **CG6** stated:

The regeneration of social housing is continuously growing, and property prices are growing with it. In neighbouring Brixton property prices are rocketing due to similar regenerative projects on social housing estates, it pushes us further and further out.

This statement demonstrates the effect that economic focus within urban regeneration imposes

upon those in social housing targeted for regeneration/redevelopment. Continuing to expand upon the economic complexities presented by this form of redevelopment **CG6** continued to explain that it is unlikely that many residents are able to stay on proposed new developments once completed as they are simply unaffordable. Making particular reference to Cressingham, he continued:

The councils focus is always upon what is being gained, there is less consideration given towards the unique architecture and supportive community that would be lost forever.

Lambeth council, however, argue that residents will be given the option to remain on the redeveloped site and that there will be an increase in the number of council rented properties. However, the new council rents are most likely to be higher than those prior to redevelopment. This further supports the notion that financial gain is at the epicentre of the redevelopment of CG. This is supported by **CG7** who declared:

I think it is impossible to dismiss the importance of the economics of regeneration in this, and indeed in any, case of regeneration. The SPV the council intends to use will mimic private sector building models that build high value homes to cross subsidize affordable homes. There is a clear viability issue at play, much as we see through private sector developments and the planning gain system. The regeneration team are under pressure to make money, which can be used to build more affordable homes or compensate from a loss of central government funds. The council is trying to play an active role in the housing market, and that is at least in part motivated by a desire to provide more affordable homes.

This is a rather conflicting statement that provides differing views on how Lambeth council's actions could be perceived in the Cressingham case. Whilst it appears that the council are economically driven in their regeneration/redevelopment approach, government cuts and their need to continue to provide affordable housing may be responsible for mimicking a typical private sector approach. However, it does not seem appropriate that public bodies adopt private sector tendencies and become immersed in the housing market. Further to this leveraging social housing to counteract alternative economic deficits will no doubt negatively impact those in social housing and those relying on it i.e. adding additional pressure to UK social housing

shortage.

The 'right to buy' imposition, as previously discussed is another economic concern imposed by the CG redevelopment proposal. As argued in JR case two (JR2), the removal of this right is a considerable loss to the residents and furthermore presents varying ability of those in council housing who can purchase their properties and those who cannot in accordance with location and circumstance. However, in accordance with **CG8** the 'right to buy' ability could be argued to be responsible for the UK social housing shortage that exists today as housing was being purchased at a quicker rate than it was being replaced. This provides a supporting argument for the restriction on 'right to buy' and was further supported by **CG9** who claimed:

The right to buy issue is secondary to what the council are aiming to achieve, the new SPV involvement make it so, more understanding and less scepticism of the situation is what is required, ownership should not be a key argument in this scenario.

The disregard for the 'Peoples Plan' (Cressingham Community, 2016) as discussed earlier along with the inadequate financial analysis provided for residents prior to and following the consultation exercises, demonstrate that financial circumstances were central to the redeveloping of Cressingham. Varying economic concerns were evident within the Cressingham case, from the residents' perspective this regarded the financial capacity to redevelop the estate retaining the current social housing tenants. On the opposite side of this residents' economic concerns regarded their inability to be able to afford to reside on Cressingham after the proposed redevelopment. For the council their economic concerns relate to the ability to withdraw maximum profit from the prime real estate upon which Cressingham estate resides. Further to this however they have portrayed refurbishment of the site to be an unfeasible option, with little mention of how this would impact a settled community.

The Cressingham redevelopment proposal to date has failed to highlight how this extent of economic investment will improve the lives of the current residents and has furthermore not provided any form of cost benefit analysis including the wider impact that may produce. In accordance with **CG1** and supported by **CG3** and **CG5** this kind of economic redevelopment

has a much wider impact that expands beyond Cressingham. Their views similarly expressed how continuation of this trend encourages the growth of property prices in surrounding areas also which increasingly limit the scope for affordable housing in inner urban areas and promote themes for gentrification beyond the redevelopment site. This is also something discussed by Davidson and Lees (2005) in their work regarding gentrification stemming from redeveloping brownfield sites. Gentrification is even more likely in cases involving SPV organisations in the delivery of housing on the council's behalf as provision of affordable housing will not provide them with satisfactory profit margins. It could be argued in this case that the future dynamic of cities and who they are structured to cater for is questionable (CG1).

Expressions from CG4 discussed the nature of redevelopment as being one of positive change that would enhance the area and make it better by increasing housing standards etc. However, the general consensus gathered from multiple other interviewees was that the redevelopment of CG would bring minimal positive impact for the current residents. In an era of budget cuts and increasing economic pressures and policy, PV gain has become subordinate and secondary to public service delivery. In conclusion, and as noted by CG1:

I think Cressingham is a great case study of what can go wrong, of how not to do consultation and of broader trends such as judicialisation (reliance on the courts), financialisation (increased financial institutions influence) and austerity politics (enforced economy).

6.19 Social Regeneration

Both JR1 and JR2 demonstrated the angst of the claimants who were supported by the wider community in their efforts against redevelopment of CG. For the claimants in both cases the level of threatening social impact was a major concern. Review of the case findings as previously discussed illustrate how the threat of losing their home, coupled with inadequate inclusive consultation and lacking transparency from the council discredited councils claims of adequate social consideration towards the residents. From a social viewpoint, residents perceived the redevelopment proposal as a profit-making task and a means to gentrifying the area. This follows trends of urban estate regeneration that are becoming common in the Greater

London Area as the Heygate case study also demonstrates. As supported and evaluated by **CG1** this is not simply a case arguing displacement, although some people are likely to be directly displaced (probably mostly leaseholders, and some tenants who might struggle with higher rents). This case study seeks to highlight the PV to be understood, there is an obvious loss of place and of community, a social impact that expands beyond the physical presence of the buildings. **CG5** further discussed this notion stating:

There is a strong community presence portrayed from CG, the breakdown of a community like that and removal of perhaps some dependent relationships that exist there is a mass disruption to the lives of some residents. The social value that could potentially be lost here has been underrepresented.

However, opposing views as stated by **CG9** expressed that the council will work with the residents, they will not be overlooked or without assistance. **CG9** continued:

Mott Mac Donald are working to put in place processes to ensure resident participation. Both techniques such as the resident engagement panel and housing needs survey to be implemented by Mott Mac Donald present examples of social consideration at play.

Further supporting the council's actions as being socially positive **CG4** declared that the evidence of social consideration and value production is in the building of more homes at council rent levels. **CG1** contests this notion however stating:

This is a sort of utilitarian justification for demolition.

There conclusively appears to be a higher negative impact on social factors induced by this redevelopment than positive attributes. **CG10** stated:

Urban regeneration is what you do to improve the lives of people who are already there, gentrification however is a means of replacement and that is what is occurring at Cressingham.

Continuing she stated:

The council have demonstrated a manipulative approach in dealing with residents, Cressingham is rebuilding not regenerating and the council have

demonstrated lacking credibility as a public body in their approach, even when presented with facts.

Whilst the council and those in support of its actions reiterate that increased provision of higher quality housing is a huge social benefit, the social detriment it may cause fails to balance the argument. In conclusion **CG10** commented:

Both JR cases in relation to Cressingham are undoubtedly justified. The Cressingham residents have been unfairly treated, however they have been brilliant, well organized and very skilled. The leadership they have shown is inspiring in the public context. The Cressingham case demonstrates the struggle to obtain social justice in the midst of a changing contemporary urban environment in the Greater London Area.

6.20 Political Regeneration

The progression of political circumstances over time undoubtedly shape the policies and priorities of public policy. In relation to Cressingham the political influence of budget cuts and growth of economic centred public policy could be argued to be responsible for this kind of urban estate regeneration which does little for current residents. In accordance with Friedmann (1992) ‘development policies guided by mainstream economic doctrine hold small promise of a better life for the excluded majority’. This is something which appears to be happening through use of politically incentivised urban regeneration tactics within redevelopment of CG. As mentioned in earlier chapters increasing political pressures to enhance financial growth and investment has resulted in an imbalance towards social responsibility. Cressingham demonstrates this economic orientated political mind-set that too has filtered into JR reform in England and Wales. Imposed restrictions on JR as discussed in earlier chapters act as incentives to promote investment and reduce any possible obstruction in achieving development targets. Whilst both **CG11 and CG4** claim that economic priority does not override social concerns, the future of the Cressingham residents and the questionable fate of their homes would suggest otherwise. Some interviewees expressed views that regeneration like that occurring at Cressingham is being ‘sold as a way of getting repairs done’ when in fact it is political manipulation of public service to facilitate political need. Further views of discontent

surrounding political regeneration/redevelopment highlighted by **CG1** suggest that political focus on outcome has resulted in unsatisfactory process. Further to this the growing trends of urban estate regeneration and the notion that the process contributes to gentrification is something expressed by **CG3** who was of the opinion that this form of redevelopment is highly influenced by political circumstance. He continued to explain and make reference to **JR2** regarding 'right to buy' stating:

At one time, government wanted to push social housing tenants towards 'right to buy' merely as it suited the capitalist market and conservative government. Now however they want to restrict this right as is the case at Cressingham as they have poorly managed social housing stock and find themselves in a financial deficit.

This raises the question, whether **JR** reform (2014) is another example of political control seeking to deter the public from the use of **JR** and hence lessen the disruptive capacity for possible profitable developments?

In summary the situation at Cressingham is undoubtedly reflective of changing political circumstances over time. Whilst this changing dynamic is understandable the vulnerability it produces for the public is uncapped. It is for this reason that a value management framework that provides the public with some certainty and justification in ever changing circumstances of the political domain would seem favourable for the public sphere.

6.21 The Role of Judicial Review

The role of **JR1** in the Cressingham case was evidentially important as it provided the residents with redress to the unlawful withdrawal of consultation options 1-3 as previously discussed. Further to this and in **JR2** valid points were addressed in the hearing that had not been done so previously. Despite **JR2** not being successful in its verdict there was probable cause for it to be granted leave to proceed to hearing demonstrating uncertainty with regards to some of the grounds for the case. What is important about the Cressingham **JR** cases is that they demonstrate the need for **JR** to be easily accessible, so the public are not unlawfully treated and controlled by

public bodies. Despite the Cressingham residents being successful in bringing forth two JR cases under the reformed system, their level of leadership and exposure was of an extremely high standard. The amendments to JR relating to planning matters as set out in 2014 in England and Wales and include increased fees and time restrictions, suggest it unlikely that many cases like Cressingham will emerge with the same leadership and exposure to warrant success. Cressingham however also highlights the importance of JR within the realms of contemporary redevelopment trends and jests that in the face of pressing economic priorities JR may be increasingly more relied upon by the public and community groups subject to regenerative development.

6.22 Conclusion

In conclusion Cressingham demonstrates an unsatisfactory public and public body relationship dynamic. The 'PV concept' however offers an alternative means to public and public body relations, which enhances clarity and cooperation between the public and the given public body (Benington, 2010). The important public role of JR can also be gathered from the Cressingham case as it further highlights reasoning to support an unrestricted approach in accessing a method of justice that exists to protect public fundamental rights.

In April 2017 Lambeth council awarded the redevelopment contract for CG to consultancy firm Mott MacDonald. The residents of CG still keen to resist the redevelopment started a petition in May 2017 requesting that Mott MacDonald remove themselves from the demolition and redevelopment project on CG. The plans to redevelop CG however continue with contractors Mott Mac Donald planning the stages of redevelopment at present and setting out plans on how to best include residents and try to accommodate their desires for the new development (CGE, 2017). However, the terms and conditions of council rented properties for the new development remain unaltered, how exactly this will be resolved when redevelopment begins remains to be seen. The future tenancies of the residents will become apparent when redevelopment of the site commences, however there remains no defined date as to when such will commence.

The design and management contract for CG was only signed in November 2017 and is only at a preliminary ‘resident engagement’ stage. Design work has not yet commenced with the master planning team Mott MacDonald though discussions with residents regarding redevelopment moving forward are imminent. The most recent revelations on CG have seen residents call for Lambeth council’s regeneration proposals to be paused following the Mayor of London’s U-turn on mandatory ballots. In his Good Practice Guide to Estate Regeneration Sadiq Khan said he was: “requiring resident support through a ballot for new plans involving demolition where City Hall funding is involved”. Cressingham residents are of the belief that the council should halt the scheme while the Mayor’s consultation is ongoing. However, following their announcement in February 2018, Lambeth council leader Lib Peck issued a statement that ruled out a “retrospective ballot” of Cressingham residents. This statement claimed the council has already complied with the principles in the guide, despite a ballot having not been taken and that Cressingham residents continue to be ‘at the heart of decision- making’.

The Cressingham residents however oppose the claims arguing details of the policy and which estates qualify for a ballot – will not be decided until late April 2018 at the close of the consultation period. The Cressingham residents have long been arguing for an independent ballot from demolition of the estate was first instigated five years ago. The Cressingham case is presently ongoing despite plans to consult with residents regarding redevelopment looming. However, the residents are persistently fighting the loss and demolition of their homes and may have found further grounds for delay or council misconduct pending the conclusive results of the ballot consultation.

Chapter 7: Scotland
Clyde Gateway and the Glasgow Commonwealth Games 2014

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7.0 Synopsis

Following on from chapter six the CGW case study will further explore the effects and consequences of urban regeneration beyond the realms of targeted estate regeneration. This case study is useful in demonstrating the problematic state of public and public body partnerships when it comes to collectively working together and fostering publicly valuable outcomes where development is concerned. CGW and the CWG case study will explore the impacts of regeneration in relation to a mega event, examining the associated social, economic and political issues around event-led regeneration. Research objectives two and three will be further addressed through use of this case study. This chapter will begin by identifying the location and background for the case study before analysing emerging trends of regeneration and PV, displacement and legacy, and gentrification. It should be noted that whilst this case study does not involve a JR case, it is significant in that it adds value to the progressive need for a PV framework.

7.1 Introduction

The CGW scheme was established in 2007 to undertake the regeneration of 840 hectares across the east end of Glasgow and South Lanarkshire. The CGW area includes Bridgeton, Dalmarnock and Parkhead located within the east end of Glasgow as well as Rutherglen and Shawfield in South Lanarkshire. The CGW regeneration project is a partnership consisting of Glasgow City Council, South Lanarkshire Council, Scottish Enterprise and is funded by the Scottish Government. The collective aim of the CGW project is to drive forward £1.5 billion of private sector investment in a bid to establish the areas above as newly revitalised business hubs that will attract investment and new development (Clyde Gateway, 2014). The CGW partnership was launched six weeks after Glasgow were awarded host of the 2014 CWG and they became

responsible for the construction of some of the most prevalent developments associated with the CWG. These included the construction of the Athletes village, the Emirates arena and the Sir Chris Hoy Velodrome. In its regeneration efforts the CGW partnership placed significant emphasis on legacy building around associated development that would occur in correspondence with the games. The idea of building legacy and enhancing development that promised employment and social gains in the most deprived communities in Scotland were a welcomed prospect of change. The map overleaf indicates the location of Glasgow in the UK context.

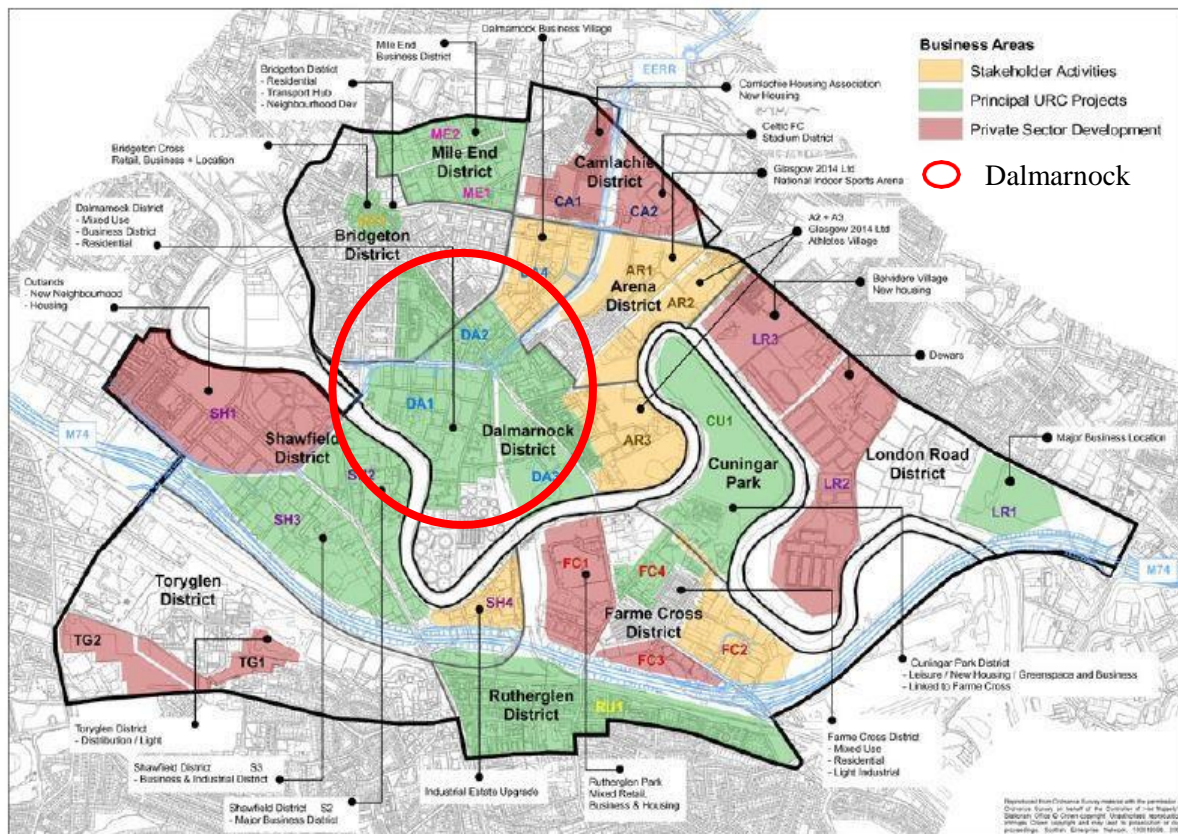
Figure 7.1: Map Illustrating Location of Glasgow in the UK Context



(Adapted from Conceptdraw.com, 2018)

Within Glasgow, the area of Dalmarnock was then acquired as one of the main development sites to provide some of the key facilities to host the games. The development delivered in Dalmarnock by CGW to aid the 2014 CWG will be the focus area for this chapter. The following figure illustrates the location of Dalmarnock in the context of the CGW regeneration parameters.

Figure 7.2: Location of Dalmarnock within the Context of the Clyde Gateway Regeneration Project



(Adapted from gamesmonitor2014.org/clyde-gateway-ur)

7.2 Clyde Gateway, the Commonwealth Games and Dalmarnock

The Urban Regeneration Company (URC) for CGW was established in 2007 in an attempt to fuel social, economic and physical change across the communities which formed the chosen regenerative area. In late 2007 Glasgow was awarded host of the Commonwealth Games 2014 following which development and regeneration plans were scheduled for multiple areas within Glasgow. The selected areas would undergo development and transformation to aid the hosting of the Games. Dalmarnock was one of the selected areas designated as the location for the development of a velodrome, train station and Athletes Village for the games (Matheson, 2010).

Until this point there existed a general consensus among locals that the east end of Glasgow had been relatively neglected and was notably one of the most deprived areas within Scotland.

Supporting this view interviewee **CGW 1** declared:

The east end of Glasgow, most notably the area of Dalmarnock was in need of renewal and undoubtedly had fallen into deep deprivation. Regeneration of the area was needed for a long time in order to revive it and make it somewhere people would want to live again.

The area of Dalmarnock was particularly deprived having suffered consequences from deindustrialisation in the 1960's and 1970's. The industrialisation period had provided Dalmarnock with much of its income and employment during this period as it had been the centre of Glasgow's industrial power during Britain's industrial years (MacInnes, 1995). As the centre of industry in Glasgow during this period Dalmarnock was highly populated and was an established hub within Glasgow's east end. Interviewee **CGW 2** declared that Dalmarnock was once a vibrant community and centre of industry stating:

The loss of industry to this area has had a huge impact and steadily forced its decline over the years, however there is still a sense of community here.

As a result of the area's dominant industrialised past the population of the area was dominated by working class individuals meaning the loss of industry spurred knock on effects such as mass unemployment and therefore loss of income. In accordance with interviewee **CGW 3** this forced the area into both social and economic decline. The population of the area decreased from 50,000 in the 1950's to roughly 2,000 by 2007 and there had been minimal attempt at intervention during this period in Dalmarnock in order to assist its rehabilitation and regrowth (Gray, 2014). However, following the success of Glasgow in 2007 to be host of the CWG in 2014, it became apparent that Dalmarnock was to be largely included in the event and would be part of the CWG game regeneration plans to aid hosting the games. This would mean investment and development in the area with the proposed creation of new job opportunities and increased vitality within a relatively deprived and neglected area of Scotland. It appeared that there was much to be gained from the regeneration of Dalmarnock however many residents were

apprehensive about what event led regeneration would mean for the locals.

7.3 Understanding Legacy and Value in Regeneration

The prospect of event led regeneration within Dalmarnock was met with mixed feeling from those living in the area. As explained by interviewee **CGW2**:

There was scepticism when regeneration was mentioned for Dalmarnock, the area had been run down for a long time, and it was hard to believe that it would ever be any different.

Further to some feelings of disbelief some residents in the area were also anxious about what and who new development would bring to the area. Interviewee **CGW4** explained:

Although there was excitement about bettering the area some people were apprehensive about what change would mean for them and the wider community.

The community dynamic in Dalmarnock represented a relatively small close knit and supportive community. The low population and declining nature of the Dalmarnock area suggested those who remained in the area were mostly brought up there having a strong sense of place attachment.

Several interviewees however highlighted that young people living in Dalmarnock were particularly excited about the prospect of what new generation would mean for them. Upon confirmation of Dalmarnock as one of the locations in Glasgow for regeneration to assist the games there were promises of jobs, apprenticeships and major change moving forward for Dalmarnock. Local Councillor at the time George Redmond stated in the Guardian newspaper on 22nd April 2015 that 'It was clear that Dalmarnock was ripe for regeneration, and that few people would stand in its way or argue against it' (Leslie, 2014). In support of this view interviewee **CGW5** commented:

The promises of jobs and investment in Dalmarnock were largely supported, people were encouraged to believe that the investment would revitalise the area and breathe life into it again, it was understood the games would bring advantages that would benefit the local people beyond the games themselves.

Contrary to some reports that the community in Dalmarnock were apprehensive about regeneration around the games, there were elderly members of the community who embraced the prospect and claimed it was finally time to see some positive change and attention being given to Dalmarnock. Reports in the Guardian newspaper on the 3rd of March 2014 stated: ‘the elderly of Dalmarnock had gathered in the community centre to celebrate the news that their city had beaten off its rivals for the right to host the games’ (Wainright, 2014). In accordance with interviewee **CGW 6**:

What was apparent to the people of Dalmarnock was that regeneration for the CWG would mean change and investment in the area, something they had not seen for a long time. People wanted change that would impact the area and bring about positive improvements to Dalmarnock and their lives. However, I don’t think it transpired the way they had hoped.

Supporting this notion interviewee **CGW 7** added:

I don’t think it was ever the case that the people in Dalmarnock didn’t support the investing and the games. As we now know it transpired that the people were sold a false notion that they themselves would gain from it, which did not happen, not to any significant scale. Locally people were disappointed and yes many felt insignificant in the way they were treated in its midst.

The case study analysis revealed a number of shortcomings and misconceptions surrounding the delivery of development in Dalmarnock. For the residents of Dalmarnock the associated development for the games was not about what Dalmarnock could do for the games but what the games could do for the people of Dalmarnock going forward and beyond the games. What was important for the residents of Dalmarnock was that redevelopment would produce a legacy that would provide long-term benefit for the locality and sustainable benefits that would be felt within the community for a long time to come. However as discussed previously in chapters two and three defining legacy and securing PV from collaborative regeneration partnerships can be a challenge. As noted in chapter three this challenge intensifies when regeneration projects are event-led and specifically focused on meeting the impending needs of a mega event (Graton, 2005). The ambiguity surrounding the nature of the legacy of the games in Glasgow and more

specifically Dalmarnock has left many residents feeling that promises were unfulfilled. The concept of legacy is much like the concept of ‘public interest’ although it sounds promising there is little clarification and multiple variations of what qualify for such criteria. However, both concepts assume that social or public benefit is to be derived even if in the vaguest of terms (Porter, 2009). The idea of legacy building via hosting a mega event is considered a positive attribute to countries on the global stage aiding to market them in a competitive manner as discussed previously in chapter three. The concept of event led regeneration in this sense is particularly desirable for cities trying to reinvent themselves and attract new found investment. However, ‘legacy’ regeneration can produce negative outcomes if not monitored closely and if completely focused on producing legacy solely around the hosting of a mega event, as would appear to be the case in Dalmarnock. Upon discussing the consequences and form of legacy

CGW 8 stated:

There are multiple variations of what can be deemed legacy, the most obvious are the built structures such as the stadiums and athletes’ village etc. However, what remains to be seen within Dalmarnock following the games is where the social legacy lies and where investment and redevelopment has encouraged a legacy that would be felt locally.

This supports the concept of PVM in needing to identify and define exactly what social value is to be produced on a case by case basis where changes occur. This would arguably reduce any preconceived ideas surrounding what is to be produced by regeneration projects that then fail to transpire in practice. Furthermore, in enhancing levels of transparency this may also be able to reduce some JR cases from occurring as the public will be more thoroughly informed of the levels of value production whilst public bodies will be enforced to demonstrate how these have been accounted for.

Returning to the legacy debate there are those of the opinion that legacy was delivered within Dalmarnock as a result of investment from the games. Interviewee **CGW 3** commented:

The legacy of the Glasgow games is very apparent in my view. There was the construction of the stadium, velodrome and athletes’ village. Jobs were also

created, and newly built accommodation provided affordable housing that hadn't been there before. It is a starting point for more to come.

Whilst both this interviewee and the Scottish Governments report issued in 2015 entitled 'An Evaluation of Legacy from the Glasgow 2014 Commonwealth Games' lay claim to the legacy success of the games infrastructure, there is minimal existing evidence of a wealth of social benefits that were brought to the Dalmarnock community. The Scottish Government report itself even states the evidence is clear that major sporting events are not a panacea for long running social and economic challenges (Scottish Government, 2015).

Whilst legacy undoubtedly can be measured in the built form it is also imperative that its perceived concept is transparent and non-detrimental to the existing communities where it lays claim. The concept of legacy like the promises of public interest discussed earlier, need to be better explained and understood. Further to this emphasis needs to be put upon not only what value, and in this particular case social value both add in multiple contexts, but also what social value may be lost through their implementation (Thomson,2013). Volrath (cited in Raj, pg.91, 2009) argues that legacy relates to 'the aims motives, meanings, and impacts of an event yet more specifically the results, effects, and long-term implications'. Providing clarity surrounding legacy is important within event led regeneration as it can enforce major change to an area and those living in it. A closer look at how Dalmarnock has been shaped by legacy redevelopment will be discussed in the following section.

7.4 The Development and Displacement Legacy

Dalmarnock is a product of the heritage that depicts Glasgow and was described by Booth (1993) as an industrial city of world renown ravaged by economic restructuring, deindustrialisation and population change. Reinvention (rebranding) through regeneration is understood to help cities to revitalise and sustain themselves as prosperous and desirable locations for people to live and work, in keeping with the idea of place promotion as discussed in the literature review. Dalmarnock however had seemingly accomplished little in the way of

reinventing itself following its industrial days and instead fell into decline. In 1999 there were over 1500 socially rented homes in the area which had been demolished, the promise of the athletes' village bringing 1500 new homes to the area was promising. Revision of these statistics show that from 1999 to the construction of the athletes' village 1100 social rented homes were lost within a community predominantly reliant on social housing (Gray & Porter, 2014).

The games in this sense presented an opportunity for Dalmarnock to rebuild itself after decades of disinvestment, social housing depletion and decline.

Construction began on the athlete's village in August 2009, which would be a new residential development providing accommodation for the athletes during the CWG. However, acquiring the land for development also meant the clearance of already existing housing and the displacement of a number of social housing tenants some of whom were reluctant to leave their homes and the communities they were part of (Gray, 2010). Interviewees shared stories of residents being offered minimal compensation for the CPO of their homes in order to make way for redevelopment for the games and in some cases, residents refused to be moved from their homes. One interviewee **CGW2** described how residents were offered unfair values for their properties, not sufficient to allow them to purchase in the new developments in the area. Furthermore, some interviewees claimed residents were forced reluctantly to leave their homes and community that formed a huge basis of their life. Interviewee **CGW2** also told the story of one resident traumatised by the event and unwilling to leave her home eventually had to be forcefully removed by over 100 police so demolition of her residential building could begin for the games. Interviewee **CGW9** stated:

What kind of legacy is this building? Forcefully removing people from their home and communities for an event that last two weeks seems highly unfair. How can it be said that this approach is helping lives, the event itself seems more important than the livelihood of the people it disrupts, where is the commitment to the local people?

This vulnerability and nature of displacement is one that shares similarities with both the Cressingham and Heygate case studies. This emerging and problematic trend that appears to be

occurring within contemporary UK urban regeneration is exposing public vulnerability in the regeneration arena particularly for those within the social housing sector.

In support of the athlete's village however **CGW 10** declared:

The village has brought the development of new homes to the area and a legacy from the games. Many people are delighted at the building of new homes, it's the first step to making people want to live here again by renewing space and housing that were undesirable.

However, despite demonstrating support for the village as attracting new people to want to live in the area there was little mention of how it had enforced the clearance of those who had lived there previously. Further to this **CGW 10** stated:

The village created over 1,500 jobs from skilled tradesmen to architects and designers etc. the development in my opinion has been a positive for the area.

Whilst interviewee **CGW 10** discussed the positives of the athlete's village it is apparent that the noted job creations were temporary lasting only during the development period. As argued by both interviewees **CGW5 and CGW8** the level of job creation to come from the games were predominantly the trade workers for the building of the facilities which would host the games. Further jobs created after such were to assist the running of the actual games themselves which lasted around 2 weeks. Both expressed the view that outside of this however the games and their associated investment have done little to create long term sustainable employment for the local people in Dalmarnock. This questions where the sustainable and publicly valuable benefits to be derived from the Commonwealth Games affecting Dalmarnock lie and furthermore what social legacy have the games brought for the locality of the regenerated Dalmarnock.

It is argued, as mentioned previously, that the prospect of renewal for the area was desirable as many residents hoped it would be a start to much improvement and rebuilding in the area. Furthermore, it was hoped this would stimulate the locality and the quality of life Dalmarnock had to offer however that remains to be seen. Many interviewees expressed the view that their aspirations for regeneration in Dalmarnock were far from delivered, interviewee **CGW9** stated:

There is little doubt residents viewed the regeneration in Dalmarnock as the start of things to come, however it did transpire that the regeneration was purely for the benefit of the games. Little has been done to improve the quality of life for those living here, positive direct impact for residents simply did not happen.

In accordance with Dempsey (2009) often it is not what regeneration adds to an area that is the problem but more likely what it takes away, particularly from those who live in the area and are directly impacted. As stated previously this can often include a loss of housing or facilities that are of particular PV, in this sense the public can therefore be disadvantaged through the regeneration process.

The targeting of social housing for redevelopment and renewal within the urban environment is something that has been discussed in the previous chapter relating to both Heygate and CG. The use of the same tactic in this case involving a mega event appears to suggest that there is a pattern within contemporary regeneration of promoting gentrification, declining PV and even the loss of social housing. For example, although 400 out of the 700 properties in the athletes' village will be for social rent the rents will be much higher than the rents of the displaced tenants prior to regeneration. Furthermore, the sale of the private properties range from £75,000-£200,000, largely unaffordable for those who owned their social housing units in the area previously. This arguably reflects gentrification trends in making a working-class area largely unaffordable for working class people to live there (Porter, 2009).

Troublesome in this scenario is that the working class and those who are dependent on social housing appear particularly vulnerable in the contemporary UK approach towards urban regeneration. Perhaps the most prevalent information to arise from fieldwork material to date is that the public most affected by urban regeneration projects in Cressingham, Heygate and Dalmarnock appear to not be included as beneficiaries in the regeneration process. Interviewee **CGW 11** stated:

I am of the opinion that urban regeneration today does not place enough emphasis upon promoting social value for the public most affected by disruption. Event lead regeneration encourages vast investment in facilities that are not particularly of long term value to local people. Vast amounts of money are poured into stadiums, car parks and attracting business, none of which are negative however when people are losing their homes and being forced to move miles away from their families, friends and communities, I don't think it can be claimed that such regeneration tactics as discussed are truly for the benefit of the locals.

Similarly, interviewee **CGW2** stated:

Urban regeneration to me has become more about 'out with the old and in with the new', no doubt places are being transformed but this also includes removing the people who live there. It is undoubtedly social housing tenants who are the most vulnerable as they are at the council and governments disposal. I would fear that this approach if continued would promote segregation in our inner-city environments.

I consider this to be a valid point worthy of consideration as depleting the volume of social housing stock in urban areas along with increasing private property costs will eliminate working class and low-income individuals from urban residential occupancy. Furthermore, the commitment to the development of affordable housing is at a set 80% of the market value leaving it still unaffordable for many working-class individuals. Despite the athletes' village commitment to supply 400 socially rented properties out of 700 properties as discussed earlier this is not without its limitations. The social rented property stock in question will not only increase in price as mentioned earlier but will be in control of various housing associations and subject to cost based on type, size and location of the property (Matheson, 2010). The regeneration of an area that no longer permits it to accommodate those who lived there prior to change seems highly unfair. Displacement has come to be 'considered either as unimportant, or the unfortunate but necessary by-product of urban redevelopment' (Porter, 2009). The concept of displacement via regeneration whether unintentionally or not promotes gentrification therefore requiring that regeneration processes and approaches are more carefully reviewed.

7.5 Regeneration and Gentrification

In discussing regeneration and mega events Watt (2009) considers both to be examples of state-

led gentrification whereby reinforced policy exerts control and has the ability to reshape an area in line with government objectives. Furthermore, Watt explains how they can enforce change that may not reflect PV and desire, such as the unfulfilled desire of displaced residents in Dalmarnock to remain housed in the same area. Renewal involved in both regeneration and mega events has the capacity to increase local property prices, force clearance of social housing and promote gentrification (Watt, 2013).

The presence of gentrification is evident within the Dalmarnock case study and is also arguably present in both the CG and Heygate case studies. Interviewee **CGW9** also expressed concerns that gentrification was at play in the regeneration surrounding the 2014 Glasgow CWG. In a further supporting view interviewee **CGW 12** stated:

Clearance of social housing tenants and the building of predominantly private housing in a highly deprived area with high levels of unemployment, it could not be more obvious that gentrification is at play.

Explained by **CGW2** displacement and gentrification are both connected in that the removal of tenants from one area to another can be seen as 'social cleansing'. The nature and ramifications of displacement in this context highlight concern for PV within contemporary urban regeneration tactics.

Furthermore, its use highlights an increasing role for JR in relation to planning and development matters.

Regeneration of this kind presents a recipe for contention between public and public bodies, unfair monetary values for CPO properties and non-compliance with social and affordable housing targets are all worthy matters to contest. This view was reflected by **CGW1** who commented:

Regeneration of this kind creates vulnerability, there is a sense of ownership exerted over social housing tenants in these situations. In some cases, some residents being displaced were offered unfair sums for the purchase of their properties, how is that fair? To take someone's home and leave them with not nearly enough to afford to buy a new one, it is shameful to say the least.

This highly emotive statement illustrates the sensitivities involved when dealing with such issues and the existing tensions surrounding contemporary approaches to urban regeneration. This suggests that more needs to be done to improve the working relations between the public and public bodies, so regeneration does not generate negative outcomes or public cause for concern.

However contrary to this view regeneration expert **CGW10** claimed:

The games were a great success, the development of the athlete's village and railway station have provided new homes and enhanced facilities within Dalmarnock. CG are building upon regenerating Dalmarnock further through encouraging investment and building new office space and homes.

What can be gathered from the opposing views however is that they relate to the regeneration of Dalmarnock in different contexts. It is understandable and justified that countries competing in the global markets need to regenerate and renew themselves to attract new investment and business opportunities, so they can become vibrant centres of social, cultural and economic activity (Roberts, 2016). It is also the case that Dalmarnock is an area in need of investment, renewal and revitalising. Event led regeneration alone however is not perhaps the best formation to renew a deprived area in line with local expectation. The reason for this being that, often, vast amounts of investment go towards supplying the facilities required for event hosting as opposed to tackling some of the most prevalent underlying problems and 'wicked issues'.

Hiller (2000) discusses the need for host cities and nations of such events to take consideration of two important factors:

- A) The urban impact of mega-events and in what way do they contribute to urban transformation?
- B) How are mega-events legitimated in order to justify public support?

The latter of such considerations lends itself to this case, the PV debate and the need for legitimate consideration and justification of the impacted public. As the contemporary dynamic of cities change to become CBDs for professionals and assets for place promotion, the working-

class public have become vulnerable to displacement in order to aid this. This depicts the ongoing political and social struggles over space in modern cities presented in the form of urban regeneration (Watt, 2013).

7.6 Understanding Legitimacy in Event Regeneration

As discussed by Hillier (2000) it is difficult to determine the legitimate intentions of regeneration in association with mega events such as that of the CWG in Glasgow (2014). The reasoning for such being that often cities can lack resources in compiling their bid proposals. This can often mean the emergence of PPPs as discussed in chapter three. Paying attention to the involvement of key players in the compiling of bids and partnership development proposals thereafter can be indicative of redevelopment motives and who may be most likely to benefit from such (Boyle, 2008). It could be argued that in such regeneration cases involving a mega event production of local PV is secondary to providing an image legacy. The reasoning as it is most beneficial to the private developers who can make increased financial gain through event led development. This notion is something supported by **CGW 4** who commented:

Most people have no connection to the facilities built for these mega events and it is the development of such mass structures that are seen as the legacy. The only people who truly benefit from that approach are the developers.

The non-refined concept of legacy however means it has various and multiple meanings. For example, in the Scottish Government report entitled 'An Evaluation of Legacy from the Glasgow 2014 Commonwealth Games: Post Games Report (2015) legacy is discussed in the following contexts: Economic Legacy, Active Legacy, Civic Pride and International Reputation Legacy, Cultural Legacy, Regeneration Legacy and Organisational Legacy. It could be argued that where private developers or PPPs are involved there is often reduced commitment to PV production as profit concerns or economic legacy gain a heightened significance. Arguably regeneration via PPPs appear to have minimal commitment and understanding of encouraging sustainable growth in its entirety, meaning fostering benefits that matter and are of value to local people and their everyday lives with no ulterior motive (Dempsey, 2009). This provides further

reasoning as to why PVM is of great importance within contemporary regeneration. Private partner influence through PPPs can leave the public vulnerable where matters of public and private interests and accountability differ. There is arguably always a ‘loss of transparency with PPPs because private companies can and do withhold much information on the grounds of commercial confidentiality’ (Hall, 2015). Discussing the complexities surrounding PPPs, Hall (2015) further argues:

PPP's have to be commercially viable or private companies will not sign them. This distorts the policy decisions made – some projects get selected which might otherwise not be, others do not get financed because they do not seem commercially attractive. This extends to the detail of projects. The private companies strip out any elements of a service/project which might reduce their potential profits.

This argument may provide reasoning as to why there is declining commitment and non-compliance with affordable housing targets within contemporary regeneration projects. The impact of declining affordable housing stock results in the then displacement and disregard of social housing tenants which is experienced in the Heygate, CG and Dalmarnock case studies. The following section will further examine event led regeneration regarding Dalmarnock from an economic perspective.

7.7 Event Led Regeneration and Economic Impacts

A combination of declining industrial production and a general shift towards leisure and consumption-based development plan has meant that mega and major sporting events have become increasingly attractive development investments. Events due to their scarcity and potential to create an economic resource in their own right are highly coveted despite their potential to incur substantial losses. In many cases cities are prepared to risk the various costs in an attempt to gain the possible benefits (Black, 2008).

The impacts of globalisation and economic restructuring has opened up event bidding making it increasingly more attractive to cities across the world. Within the UK context event regeneration presents the opportunity to redevelop and rebrand areas in the hope of making them

economically active. Often promises of jobs, enhanced economy and facilities increase the potential to attract business and investment and are therefore at the forefront of event regeneration marketing (Mills *et al*, 2013). However as mentioned earlier often such promises are delivered only on a short-term basis and cannot be sustained in the long term. A post games report issued in 2015 evaluating the contributions made by the 2014 CWG in Glasgow stated that the games contributed more than £740 million to the country's economy of which £390 million was delivered to Glasgow's economy alone. The report also suggested that an average of 2,100 jobs were created each year from 2007-2014 including 1,200 on average within Glasgow (Scottish Government, 2014). What's most important to point out in this report is that the high volume of employment created only lasted during the development phase prior to the games and up until the games ended in 2014. Such statistics are not encouraging as they fail to support long term sustainable change in employment to the area. Although the event itself did attract around 690,000 visitors whose spending contributed around £73 million to the economy in 2014 in accordance with the report, it again is a short-term gain that fails to include long term benefit for the locals. Whilst the visitor economy has received a boost as a result of the Glasgow games some interviewees refuted the positivity of the report expressing that they did not feel the games made the positive impact that the report suggests. Interviewee **CGW11** in point claimed:

Yes, there were some short-term gains, a boost for the economy and the construction of some world class facilities but that has not greatly changed the lives of those in Dalmarnock. Attracting high skilled business into a low skilled area is not beneficial in supplying the level of employment that is needed. Building a community centre and legacy hub will not sustain a community and help it thrive. The people need to shape the environment not the other way around.

This point is particularly valuable in understanding the importance of public participation and input for sustainable regeneration and growth within communities. Herbert Gans (1968) advocated for a fuller understanding of community social dynamics as a way to enrich planning practice. However, in subsequent years as argued by Manzo and Perkins (pg.336, 2006) planning literature has largely neglected these critical connections 'particularly how place

meaning and attachment can play a pivotal role in planning processes'. It would appear that this understanding is also something that is missing from contemporary regeneration approaches as demonstrated within discussion of the three case studies thus far.

Furthermore, it was also declared by interviewee **CGW 4** that some of the indoor sports facilities constructed for the games cannot be used by local community juvenile sports teams as they are simply too expensive to hire. In the case of the CWG in Glasgow whilst vast investment was made, and mega structures, facilities and housing were developed it does not appear to have successfully fed down to the local working-class communities who were most reliant on change.

The following section will explore the incentives and consequences of event regeneration from a political standpoint.

7.8 Politics and Mega Events

From a political viewpoint hosting a mega event is seen as a way of achieving a higher position in the global hierarchy of nations (Nauright, 2004). This highlights one of the many perspectives on legacy production and therefore one of the perceived positives of event regeneration. However, the extent of benefits such delivers to those directly affected or living in the host region remains questionable as has been noted. Not only has the information discussed this far demonstrated the lacking direct PV delivered to those in Dalmarnock, it depicts the long-term knock on effects and life altering disruption that this type of investment in a mega event can cause for those living in the redevelopment area.

From a political stance (Scottish Government), sport played a significant role in promoting a sense of Scottish identity post devolution. The generation of Glasgow's bid for the 2014 CWG was therefore fitting with the Scottish Government and Glasgow City Council's move towards the use of events to renew and alter the dynamic of some of the cities deprived areas (Orr, 2008). The issue however with this approach is not in redeveloping dilapidated areas to attract investment, rather however how in doing so there are failings to reflect the PV and needs of those in the area inclusively. Perhaps one of the issues with politically enforced regeneration

and development is that it focuses highly on international significance and investment need. This often neglects the need to adequately identify and incorporate long term sustainable benefit for the public most directly affected and in need of change. There appears to be a disconnect between contemporary regeneration and the delivery of sustainable local and long term PV for those living in the areas pin pointed for renewal. This meaning that the communities that are disrupted via regeneration efforts do not appear to reap the benefits of the change that has been sown.

Similar to the cases at Cressingham and Heygate, the regeneration within Dalmarnock to assist the CWG demonstrated multiple similarities in the non-inclusive and dictating manner within which local residents were subject. Interviewee **CGW 9** stated:

Regeneration where mega events are concerned are never really about providing local value for local people. It is my view that there is often lip service paid to delivery of benefits for the local people, but it never really transpires. I would agree that such regeneration should be more justified and bound to delivering long term sustainable benefit for those in the areas regeneration effects.

This demonstrates support for a framework that values public views more thoroughly within the realms of event led or alternative regeneration change.

7.9 Conclusion

Although the regeneration which occurred within Dalmarnock was event led, similarities with both the CG and Heygate case studies can be drawn from such. What can be gathered upon review of the case studies collectively is that they highlight consistent and emerging concerns in the UK contemporary approach to urban regeneration. All case studies shed light on the growth of displacement, gentrification and a growing negligence towards some of the most vulnerable members of society. Furthermore, the case studies have highlighted the vagueness surrounding commitment to public /social value production with there being no outstanding commitment to PV production and furthermore no means of measuring its success or failure in implementation. More interviewees expressed views of exclusion and minimal derived benefits for residents from regeneration in Dalmarnock for the purpose of the CWG. Furthermore, the

lacking appreciation for community and attachment of place from the regeneration within Dalmarnock signalled a backward step for community and participatory planning. Reviewing the political economic and social underpinnings of event led regeneration demonstrated the complex relationships and conflicting ideologies that present itself within the realms of event led regeneration. What is evident in this case study is that Dalmarnock was in need of investment and regeneration however regeneration that would help to rebuild and stabilise the community long term. It is apparent that event led regeneration attracts attention and short-term benefits as discussed throughout this chapter however they fail to reach those most reliant on change. It is not to say that event led regeneration is bound to delivering a certain level of local benefit however at the very least it should not cause the level of disruption and displacement that it does for short term revenue. Most prevalent is the non-inclusive nature of those most affected and the disregard for social housing and long-established community structures. The regeneration which occurred at Dalmarnock seemed highly immoral and unfair on the tenants who lost their homes, secure tenancies and unfair market values for the purchase of their properties. Concluding from earlier chapters and discussion surrounding the beginnings of social housing and the right to buy would appear all but insignificant in today's contemporary approach to urban regeneration.

The concept of PVM as discussed in chapter two however lends itself to this dilemma as it places community expectations and aspiration at the heart of place-based regeneration. The PVM framework (once adopted) has the capacity to promote transparency and commitment to PV/social value production on a case by case basis approach. This enhances accountability of social value production and allows thorough assessment of what social value will be lost and gained prior to implementation. Dedicated commitment and revision of PV within the development and consultation process is important in encouraging community engagement and participation (Stoker, 2006). It is vital that the public are engaged in influencing and shaping the environments in which they live particularly where regeneration is concerned as it has the capacity to alter existing economic, physical and social characteristics of established

communities.

Without enforcing a framework that is committed to securing and evaluating public/social value contemporary urban/event led regeneration will continue to become less about people and more concerned with profit (Paddison, 1993). It should not solely be for the government and their collaborating stakeholders to define what regeneration should mean. Local people should be free to express their aspirations, defining what they value whilst working with the relevant bodies and stakeholders to ensure maximum value production is safeguarded and reached. The conformed views by interviewees **CGW 2,4,11,12,9** and **8** declare that an increased role for the public in regeneration is needed and furthermore that regeneration when enforcing renewal and redevelopment of an area should retain a place for those that call it home. Whether motivated by a desire to 'place market', provide urban boosterism or act as showcase opportunities removed from urban challenges as the Dalmarnock case demonstrates, urban regeneration approaches require a degree of publicly valuable improvement. The demands of the regeneration projects discussed so far in this thesis have resulted in the permanent alteration of various urban environments and most importantly the communities who have long inhabited them (Ley et al, 1988).

The following chapter will examine another form of sectoral regeneration exploring regeneration from an alternative commercial and governmental viewpoint.

Chapter 8:
Northern Ireland
John Lewis: Locating the Ideal Premises

Chapter 8: Northern Ireland: John Lewis and Locating the Ideal Premises

I accept there is a potential conflict within Planning and Development policy between the need to regenerate town and city centres and at the same time permitting investment in out of town shopping centres (Interviewee).

8.0 Synopsis

The following chapter will explore retail regeneration efforts by John Lewis in Northern Ireland. This case involved opposition from both Belfast and Lisburn City Council to the development of a John Lewis store at Sprucefield Retail Park, located close to both Belfast and Lisburn. Aside from opposition from local traders and both Belfast and Lisburn City Council, John Lewis also faced opposition from local government in Northern Ireland via amendments made to the BMAP. The amendments to BMAP which would prevent John Lewis developing at Sprucefield caused judicial intervention within local government and a long-lasting debate surrounding John Lewis development in Northern Ireland. This case offers an alternative perspective in the local versus global regeneration debate and in contrast to the other case studies depicts local City Councils aiming to protect local town centres and local trade. Further to this the case study offers opportunity to explore the use of JR within government contrasting the previous case studies which demonstrate public use of JR.

8.1 Introduction

The proposed development of a John Lewis store at Sprucefield located outside Lisburn in Northern Ireland has been a long and drawn out process involving the use of court appeals and JR. The initiation of John Lewis developing in Northern Ireland dates back to 2004 when the chain store first made its proposals to develop a store at the Sprucefield out-of-town Retail Park. John Lewis stores are a high-end department and chain store operating throughout various locations in the UK. The proposed development was met with mixed feelings by local traders and the neighbouring city councils of Lisburn and Belfast regarding the potential effects of John

Lewis on local town centre trade. A combination of these opposing views including opposition from government officials resulted in a long and complex legal saga regarding the development of the superstore in Northern Ireland. This chapter will explore an overview of the case including conflicting views and arguments regarding John Lewis development at the Sprucefield site. Further to this, the chapter will also review the potential PV argument to be drawn from the case, along with what can be learnt from the John Lewis case study and the state of JR in Northern Ireland. This case study is useful to the research in highlighting the conflicts between local and regional values which as previously discussed rest on the contentious public/social v profit/economic debate. Research objectives 2 and 3 will be addressed in this chapter by investigating the John Lewis case and the supporting retail planning policy in relation to PV.

8.2 Case Context

In 2004 John Lewis commenced planning proceedings to develop a store on the urban fringe of Belfast at Sprucefield Retail Park in Northern Ireland. The following figure 8.1 illustrates the location of Belfast in the context of Northern Ireland and the location of Sprucefield where the store would be developed in relation to both Belfast and Lisburn city centres.

Figure 8.1: Location of Sprucefield



(Adapted from Google Maps, 2018)

(Adapted from Conceptdraw.com, 2018)

Location is a key concept in the John Lewis case in two respects. The first being that John Lewis were selective in only wanting to develop at the Sprucefield site due to the centre's consummate location to Lisburn, Belfast and the key transit corridors between both the North

and South of Ireland. Contrary to this however both Belfast and Lisburn city council along with supporting opposing traders understood John Lewis development at the Sprucefield site to be detrimental to the town centres and their prospective trade. Almost imminently after John Lewis lodged a planning application for the Sprucefield development they were met with rigorous and persistent objection. The following section will provide a chronological overview on the John Lewis development case.

8.3 Case Overview

Following a lodged planning application by John Lewis store in June 2004, Belfast Chamber of Trade and Commerce lodged a formal objection to the planning application in November 2004. This was supported by Lisburn Chamber of Commerce and the city's Bow Street Mall. Further challengers included department store Central Craigavon Ltd., and AMDevelopments Ltd., the Dutch company behind the £300m Victoria Square project in Belfast (McKay et al, 2017). As previously stated the expressed concern behind this action was the negative impact the out of town development would impose on local town centres. It could be argued that such opposition was generated from the need to protect individual commercial interests from competition as per the Tesco v Asda case discussed earlier. However, in relation to the opposing actions of the Chamber of Trade and Commerce interviewee **JL5** commented:

This was a highly positive action to take as the development of John Lewis would be detrimental and would not support the wider business economy. Furthermore, it would also undermine any local small or family run business and sever the connection between retail and local community. Sustaining local interests and business need to be placed as priority in development cases of this kind.

Despite contention, in June 2005, the then Environment Minister Lord Rooker proceeded to give instruction and approval for the John Lewis proposed development to proceed. However, the approval of planning permission did not last long as in May 2006 the High Court in Belfast upheld a JR challenge brought by local commercial traders from both Belfast and Lisburn. The JR challenge resulted in the quashing of the John Lewis planning permission. Following this in 2007 John Lewis withdrew its planning application to revise their development plans. The John Lewis development team then produced new plans in 2008 reducing the number of proposed retail outlets to be placed at their Sprucefield store from 29 to 19. Further to this, the store reiterated their claim that Sprucefield was the only desirable development location for them in Northern Ireland and that the superstore would set its sights south of the border if the plans to develop at Sprucefield were to be refused (**JL3**).

By February 2009 the then Environment Minister Sammy Wilson (DUP) declared there would be an inquiry into the John Lewis application. In November of the same year Sprucefield Centre Limited then applied to the then Department of Environment (DoE) seeking planning permission for restaurant, retail and infrastructural development. The DoE declared this as a major planning application under Article 31 and therefore requested that the commission hold a public inquiry on it. An application under Article 31 enables the ‘department to deal with major planning applications under special procedures’. In this case it is considered if the development for which the permission or approval is sought would, if permitted:

- Involve a substantial departure from the development plan for the area to which it relates.
- Be of significance to the whole or a substantial part of Northern Ireland.
- Affect the whole of a neighbourhood (planningni, 2018).

It wasn't until June 2010 when the public inquiry on the subject matter of the major proposed planning application by Sprucefield Centre Limited occurred. On the first day of the public inquiry it was adjourned as a result of a new legal challenge that was brought by rival traders. This saw House of Fraser bring an application for JR against the DoE for failure to request more

information and carry out an Environmental Impact Assessment on the impact the development would have on newts, bats and badgers at the site. The then Environment Minister Edwin Poots stated, ‘people should stop using a sudden interest in newts and badgers to snarl up the planning system’ (BBC, 2010). Further to this Poots warned ‘if business people kept going to the courts over planning decisions it would stifle opportunities for young people and put off international investors’. The request however was unsuccessful. The latter comment made by Poots is significant in that it demonstrates the same pessimistic attitude to judicial intervention as seen in England and Wales via reform. Poots comment regarding impact on investors due to the use of JR echoes those made by Cameron and Grayling in previous chapters and suggests judicial intervention as negative and stifling to economic opportunity. The use of JR by businesses to deter competitors has been expressed as an issue as discussed early in the thesis in relation to the Tesco v Asda case. However, the issue is something the reformed system in England and Wales has done little to tackle. Whilst preserving town centre vitality is at the centre of the John Lewis case it could be argued that personal vested business interests and the need to protect such may have had a significant role to play. The participation of House of Fraser and Bow Street Mall etc. in legal challenges against the John Lewis development would suggest this may be the case.

Following on from the public inquiry setback, a mid-inquiry meeting was scheduled by the Planning Appeals Commission to ensure that there would be no further delays in reaching a decision on the Sprucefield Centre application. Further complications however arose in January 2013 with the introduction of a new area plan for the greater Belfast region including that of Sprucefield. The BMAP was adopted and approved in 2014 by then Environment Minister Mark H Durkan (SDLP) and limited development at Sprucefield to that of ‘bulky goods’. The policy condition regarding ‘bulky goods’ referred to development which distributed items such as large furniture, electrical goods etc. This effectively put an end to the John Lewis development attempt as it did not conform to the ‘bulky goods’ requirement. John Lewis subsequently then withdrew from the relevant planning application. The store at this point stated that it would

await the NI Executives review and decision into the proposed policy change that occurred to BMAP and forced the ‘bulky goods’ restriction on Sprucefield. Interviewee **JL 2** was of the opinion that the ‘bulky goods’ restriction was a justifiable action, he stated:

There is a place for out of town retail in the supply of bulky goods. The City Council supports out of town retail at Boucher Road and also supports the thrust of BMAP and planning policy which recognises the City Centre as the primary shopping centre for the Region. The ‘bulky goods’ proposal strikes a safe balance in the provision of out of town retail that does not heavily compromise the prosperity of city centres and local business.

Following the approval of the changes to BMAP regarding ‘bulky goods’ in 2015 it became apparent soon thereafter that enforcing changes to BMAP without consulting the Executive and other Ministers (with whom such decisions are to be jointly made) was unlawful. This therefore meant that the changes to BMAP could not be upheld. It was former Enterprise Minister Arlene Foster (DUP) who brought about the legal challenge of JR regarding Minister Durkan’s decision to adopt changes to BMAP. The reasoning for this was that the changes were in violation of ministerial code and the obligation to bring to the executive committee any matters that require its joint consideration, discussion and agreement by reason of it being cross-cutting, significant or controversial. The application to seek JR on this matter by the then Enterprise Minister Arlene Foster was granted and set for hearing in March 2016. This point is significant in highlighting the importance of JR in ensuring that proper procedure is adhered to and that decisions are reached in a fair and collective manner. The JR process retains the ability to ensure that governing and public bodies do not abuse their powers and can be held to account if such incidents occur. There is a significant element of PV to be drawn from this particular JR regarding BMAP as the process ensured that redress could be sought for policy and procedural non-compliance. However, in the previous cases regarding estate and event regeneration issues of non-compliance are increasingly more difficult to attain as some regeneration terms and conditions are in conflict with planning policy aims/objectives. Referring back to the previous case study chapters, the allocation and compliance with affordable housing targets were often not complied with and circumstantial as a result of other influencing factors. Despite the John Lewis

case enacting redress on the issue of BMAP the case also presents similar traits of confliction within development policy which highlights the tensions between policy and practice. These contentions often favour the economy leaving an unjust imbalance in derived social outcomes which arguably is reflected in the JR cases within the research.

Returning to the legal challenge regarding BMAP the JR hearing concluded on March 2016 that Minister Durkan had acted unlawfully in authorising BMAP without the consent of his Executive colleagues. The ruling stated that a remedy to the BMAP issue would be set for a later date. The 18th of November 2016 saw the then Infrastructure Minister Chris Hazzard (Sinn Fein) and Economy Minister Simon Hamilton (DUP) put forward a remedy to the BMAP clause that was preventing John Lewis from developing at Sprucefield. The proposal addressed the problematic ‘bulky goods’ restriction within BMAP and suggested that only the ‘contested element of the Plan which related to the bulky goods restriction at Sprucefield regional shopping centre should be removed’ (planningni, 2016). The ruling confirmed and settled that the remaining policies within BMAP still applied and that only that relating to ‘bulky goods’ at Sprucefield were no longer viable. Following the success of the hearing Minister Hazzard commented:

Today, the Judge has accepted the joint remedy and confirmed the statutory planning framework for the region which will guide development for the future. This will give certainty to local communities and to those who wish to invest in the north, reinforcing that we are a region open to and ready to do businesses (PlanningPortal, 2016).

This however was not the end of the litigations involving John Lewis and BMAP. Upon the issuing of the court’s remedy, which was also confirmed by both Minister Hazzard and Minister Hamilton, Belfast City Council sought appeal of the court’s decision. The reasoning behind Belfast City Council’s appeal was that two Stormont Departments had taken an impermissible step in securing a court order that would favour the development of the John Lewis store. Further reasoning for the appeal rested upon matters regarding the use of the judge’s discretion in the case. Belfast City Council argued that the resolution reached went beyond the realms of

establishing the validity of Minister Durkan's actions regarding BMAP. The Court of Appeal heard that it had been wrong for a judge to make an order amending BMAP and that only the Stormont administration should retain the power to deal with changes relating to planning policy. The court agreed with Belfast City Councils argument and stated that the case should have been limited to the declaration that BMAP's adoption by Minister Durkan was unlawful. Concluding in the case the presiding judge Lord Justice Weir added: "It would be for government to decide how to proceed, should it wish to revisit the adoption of BMAP, with or without amendment." However, following the collapse of the Stormont Executive in January 2017 due to political dispute, the context of BMAP has yet to be decided as it requires a collaborative Executive review. The future conditions of BMAP remain unresolved until such a time that the Stormont Assembly re-establish themselves. This also means that the future of John Lewis in Northern Ireland remains unclear at present. What can be gathered from the John Lewis case is the influence that political institutions have in shaping society as per previous discussion in chapter two regarding new institutionalism. Empowering political influence can arguably render the public as vulnerable as they are subject to political circumstantial influence. Consolidating a PVM framework however offers the opportunity to draw some socially sustainable consistency in the midst of political and economic turbulence.

Furthermore, the ability to properly account for social outcomes adds further strength to debates regarding effects. Weighing up the positives and negatives in a regionally significant case such as John Lewis requires that all social, economic, and environmental factors are extensively reviewed so informed decisions can be made. What can be gathered from the John Lewis case and the previously discussed case studies is that there also exists an element of conflict between regional development and local social sustainability, this contention gap is something the PVM framework aims to address. The following section will examine the conflicting views and arguments in relation to the John Lewis case.

8.4 Conflicting Views and Locational Arguments

Belfast Chamber of Trade and Commerce President Gordon McElroy stated in 2016 that the development of John Lewis at Sprucefield would be ‘bad for Northern Ireland’ and that ‘Belfast should be at the heart of all policies’ (Newsletter, 2016). Opposition to the John Lewis development as discussed centred on the argument that town centre trade and revitalisation of town centres should come first. Further to this was that out of town shopping centres such as that at Sprucefield would be detrimental to the city centres of both Lisburn and Belfast. The confliction in the John Lewis case reflects the difficulties expressed by Davey (2016) which ponder how town centre growth can be supported whilst also seizing all investment opportunities to an area (local v global).

In one respect the development represented welcomed investment and the prospective creation of employment in the region. As Interviewee **JL1** stated:

A John Lewis store would attract thousands of shoppers from across the border to spend their money in our local economy. It is my view that many of these shoppers would also travel on to Lisburn and Belfast and there could be significant benefits for the retail sector in the Greater Belfast area.

Supporting this view, interviewee **JL9** commented:

In helping to create additional employment, I believe that this would benefit the local economy and help to create employment opportunities for people from socially deprived areas within the Greater Belfast Area.

The creation of jobs is important in developing and progressing economies and whilst it can be argued that out of town shopping developments undoubtedly bring wealth and employment to an area, they also take that from other surrounding areas (Blakely, 2010). This idea was supported by Belfast and Lisburn City Council when they expressed the view that developments like that of John Lewis can be counterproductive in their aims. Interviewee **JL2** expressed concern that John Lewis developing at Sprucefield would reduce footfall and spend in Belfast and Lisburn City Centre and would furthermore be very damaging for traders, in local business owners / family businesses.

John Lewis in return argued that the strategic location of Sprucefield on the main transport

corridor between Belfast and Dublin, as illustrated in figure 8.1 was the only suitable location for them to develop the store. This argument was echoed by some of the interviewees, including **JL 3** who stated the strategic location of the site to the south of Belfast with easy accessibility to the motorway makes it an ideal premises for a major regional retail destination. Accessibility ensures the widest possible catchment area for customers, not only from across the province, but also from Ireland including the Dublin conurbation. Furthermore, **JL3** outlined that:

The assessment of sales potential was substantially greater at Sprucefield than any location in Belfast City Centre, research findings for this are supported by the trade differential which Marks & Spencer experiences between its Sprucefield store and its Belfast City Centre store.

This comment endorses the reasoning and need to support town centre first policy. It could be further argued in light of this view that further deviation from town centre first policy to accommodate John Lewis developing at Sprucefield would have been significantly detrimental. Contesting the view of **JL3** interviewee **JL4** argued that benefits would be maximised if John Lewis was not located out of town. They further argued that a better approach would be to integrate John Lewis into Belfast City Centre. This argument correlates with findings from retail strategy consultants, Javelin Group (2015) who identified that placing John Lewis in the town centre would integrate trade with existing businesses and support new brands coming into the market which would not be possible at Sprucefield. The supporting logic to this approach was that this would encourage greater overall regional spend by attracting more shoppers from outside the region and encouraging a substantial group of affluent Northern Ireland shoppers to spend in the regions cities. However, reflecting contested views on integration, **Interviewee JL3** stated:

Belfast City Centre was discounted as a viable location due to the existing provision of Debenhams and House of Fraser, which is sufficient to meet the sales capacity of the city centre.

8.5 Examining the Potential Public Value in the John Lewis Case

The John Lewis case offers a different perspective on regeneration in comparison to the previous case studies in England and Scotland. The case presents a retail-led approach to regeneration

differing from the estate regeneration and event led regeneration approach in chapters six and seven. This case study (John Lewis) presents the opportunity to consider the conflictions between policy and practice need and unlike chapter six and seven cases studies depicts city councils that are not in favour of the proposed development. The opposing local traders and both Belfast and Lisburn City Council in this case have demonstrated extensive commitment to minimising the impact of out of town shopping on local city centres. This was in attempt to prevent any further possible decline to the vitality of both Lisburn and Belfast City Centre. Retaining vibrant and sustainable town centres is socially important as they play a vital role in the social life of communities. Town centres have the capacity to 'act as a 'self- organising public service', a shared resource in which experiences and value are created' (Mean et al, 2005). As argued by Worpole et al (2007), town centre spaces help to create local attachments, which are at the heart of a sense of community. Ensuring local value in the form of local city centres are not overcome by out of town mass regeneration structures is vital to support and sustain local cultures and business that exist in urban centres. Failure to promote town centres could see them fall into further decline (Portas, 2011) inadvertently affecting community structures and key urban sites of public connection.

In contrast to the case studies in chapter six and seven the John Lewis case could be argued to demonstrate an increased localised value approach by the city councils. The supporting reasoning is that they put emphasis upon securing sustainable local value in preventing the redirecting of trade away from town centres and local business owners in both Belfast and Lisburn. This approach by the City Councils differs from the council bodies involved at Heygate, Cressingham and Clyde Gateway (Dalmarnock). Perhaps however this may be as the councils in Northern Ireland did not have planning responsibilities transferred to them until 2015 and therefore were more able to pursue PV measures without discerning about other conflicting factors.

However, the Northern Ireland SPPS, section 6.267 on Town Centres and Retailing states:

Town centres are important hubs for a range of land uses and activities and can

have a positive impact on those who live, work and visit them. They provide a wide variety of retailing and related facilities, including employment, leisure and cultural uses. Our town's high streets also play an important role in bringing people together and can foster a sense of community and place (DoE, 2015).

This is highly important and valuable to consider when reviewing the John Lewis case as development of the superstore would be contrary to town centre revitalisation, sustainability and in accordance with SPSS community dynamics. Further to this the Regional Development Strategy 2035 (RDS) (Department for Regional Development, 2012 pg38):

Recognises the importance of accessible, vibrant city and town centres which offer people more local choice for shopping, social activity and recreation. In particular spatial framework guidance (SPG 3) identifies the need to enhance the distinctive role of Belfast City Centre as the primary retail location in Northern Ireland, and in relation to future major retail development proposals it promotes a precautionary approach based on the likely risk of out of centre shopping development having an adverse impact on the city centre area.

It could be argued that the development of John Lewis at Sprucefield is contrary to the policy objectives and guidance as noted above regarding promoting town centres and the safeguarding of localised social value production and sustainability. As noted earlier there is a clear confliction in the John Lewis case between supporting local sustainability and value production (in accordance with policy) whilst promoting economic and investment opportunity.

Interviewee **JL6** supported this view stating:

There is a potential conflict within planning and development policy between the need to regenerate town and city centres and at the same time permitting large investment in out of town shopping centres.

However, **JL6** continued to comment:

I believe that Sprucefield is a special case as it has been designated as a regional shopping centre. Given its strategic location on the main Belfast-Dublin corridor, it is likely to attract the type of high quality retailer that would not normally come to the small cities that we have in Northern Ireland.

Interviewee **JL3** further supported this by stating:

Misplaced defensiveness towards Belfast City Centre will neither succeed in strengthening the City nor the Province.

These arguments demonstrate the challenges within contemporary development in accommodating conflicting factors. Despite interviewee **JL6** describing the John Lewis case as ‘misplaced defensiveness’ the multiple objections, inquiry, JRs and appeals involved in this case represent opposition in the interest of public body accountability and the desire to promote town centre vitality, both of which comply with existing JR and planning policy. Misplaced defensiveness is perhaps an inaccurate term in this case as the objections against the John Lewis development showed clear elements of non-compliance with regards to BMAP and town centre first policy. Furthermore, the Mary Portas Review (2011) revealed that the development of out of town shopping complexes are doing increasing damage to town/city centre trade. This further supports the opposition faced by the proposed John Lewis Sprucefield development.

Despite both local traders and councils stalling the John Lewis case there is perhaps need to further explore why the planning system in this case saw it appropriate to pass the John Lewis planning application for approval in the beginning when it opposed the above policies and was contrary to the credible Portas Review. Unique in this case in comparison with those in chapter six and seven is the opposition from the local city councils and chamber of trade and commerce in opposing a development with the capacity to bring both investment and incur a degree of economic revenue in Northern Ireland. Investment of this scale is most often heavily embraced within contemporary urban environments making the John Lewis regeneration case distinctive. The case drew considerable media attention and resulted in significant criticism of both the planning and JR system in Northern Ireland. Interviewee **JL1** expressed:

‘The process of JR in Northern Ireland can be an impediment to attracting investment and promoting appropriate development. I have spoken with a number of large investors who have expressed concern about the potential to frustrate the planning process through the use of JR and how this has been a deterrent to them expanding their investment or indeed making an initial investment in Northern Ireland. I believe a balance needs to be struck between the right of citizens and interested parties to seek JR and the need to ensure that development occurs within a reasonable timescale’.

Concluding their thoughts, interviewee **JL1** further commented that if Northern Ireland is to become competitive in attracting investment, then there may be need to review the extent to which the JR process can be used to frustrate development. He stated this was particularly important where JR aims to prevent investment where it is deemed to be in competition with existing retail or commercial interests in Northern Ireland. This view is controversial in that it only recognises the need to support investment with no reference to the other influential factors in the case. Further to this how the views expressed by **JL1** reflect similar frustrations that imposed reform of JR in England and Wales in 2014. There does however need to be an understanding that whilst JR may be frustrating and stall development progression it cannot be denied where it has rightful pursuance and legal standing. The following section will review some collective findings from the discourse of the John Lewis case.

8.6 Learning from the John Lewis Case

This case has demonstrated the use of JR from an alternative perspective than that of the public explored in the previous chapters. The JR case between both then Minister Foster and Minister Durkan demonstrates the capacity for public bodies or individuals within such to act impermissibly requiring corrective action to reinstate legal and fair public policy decision making. This is important as public body decision making retains the power to shape and impact communities and the places in which we live. Most important in this context was that JR curtailed the issuing and implementation of policy that had not been democratically agreed by the Northern Ireland Executive.

Further to this the exposure of concern surrounding the power of judge discretion in implementing a progressive solution to BMAP is a matter worthy of further consideration. As highlighted by Belfast City Council it is not appropriate that a judge in this case should decide on a solution to policy matters when it remains outside their remit and area of expertise. However, an element of the reformed JR system in England and Wales may pose a plausible and valuable solution to addressing matters regarding limitations on judge rulings and proposals

where planning matters are concerned. The Planning Court proposes an expert alternative capable of addressing this issue in deploying the use of specialist planning judges to deal with planning court claims. These claims are to be significant and within the remit of practice direction 54E which in part refers to:

Significant Planning Court claims including claims which:

Relate to commercial, residential, or other developments which have significant economic impact either at a local level or beyond their immediate locality (Ministry of Justice, 2014).

Specific consideration of economic significant cases is a matter that is not significantly addressed within the Northern Ireland JR system, perhaps shedding reasoning upon the significantly prolonged and unsuccessful attempts by John Lewis to develop at the Sprucefield site. However, the research has found minimal evidence that planning JR cases in Northern Ireland are in excess as so few of them were to be found. This may perhaps reason why there has been little view to change the Northern Ireland planning JR approach as the system it is not as burdensome as depicted in England and Wales. The following section will discuss contemporary issues for planning JR within the Northern Ireland context.

8.7 The Future of Planning Judicial Review Growth in Northern Ireland

Despite the number of planning JR cases in Northern Ireland remaining small in comparison to the number of overall planning applications, the Northern Ireland system is increasingly litigious (Mallon, 2018). The introduction of the new planning system in Northern Ireland which involved the shifting of planning powers to the 11 local councils in April 2015 could arguably add to future litigation. Furthermore, the condensing of Northern Ireland's PPS's into the one SPPS document in the same year could also see the rise of litigious discrepancies. The complexity facing new councils in adjusting and getting used to the legislation and relevant EU directives on planning matters may leave them open to error in the settling in period due to inexperience. The extensive and in some cases conflicting policy and legislative requirements in the planning system make it ripe for challenge and it will be detrimental and economically

draining for the public purse if councils become subject to JR in the transitioning years. Furthermore, as Northern Ireland remains in the early period of transition following planning reform the consequences or prospective growth of JR will not yet be soundly evident. Only as time passes will it become apparent if the changes within the planning system in Northern Ireland have enhanced the use of JR. Comparing planning JR in Northern Ireland to other areas of the UK is useful as it provides a holistic view of the varying levels of issues faced by the system in the devolved jurisdictions. Commentators have noted the low bar set by the Court in the Northern Ireland jurisdiction for the granting of leave for JR, which is argued could further increase its attraction and rise (NILGA, 2017).

Supporting this view interviewee **JL3** added:

‘The JR process and John Lewis case in Northern Ireland was either catastrophic or a godsend. The JR process was used by the objectors to totally frustrate the project through interminable delays and ultimately has rendered the planning process in NI to be inoperable to a reasonable degree’.

Continuing to expand on this view **JL3** concluded:

‘Two planning applications were approved by the Secretary of State in Westminster, and twice overturned on spurious technicalities. A public inquiry into a third planning application only opened for one day before a further JR was allowed to close the inquiry. The intervention of the then Assembly Minister for the Environment rendered the inquiry and appeal process inoperable, and the planning application was withdrawn. The subsequent JR then raised by the Deputy First Minister found the Environment Minister had acted wrongly. The proposal was burdened with litigation and intervention’.

These comments would appear to suggest that access to JR challenge in Northern Ireland is far too easy and is consequently used mercilessly by those seeking to protect their vested interests, be those interests commercial or political. Some interviews expressed concern on the basis of John Lewis that if Northern Ireland genuinely wants to attract inward investment going forward, then the Assembly needs to address legislative failings robustly that hinder investment progression.

Procedural changes to the JR system regarding ‘promptness’ were introduced in Northern

Ireland in 2018. This change is significant in supporting the JR process and increasing accessibility. Previously, application for leave to apply for JR in Northern Ireland stated under practice note 1/2008 that applications should ‘be made promptly and in any event within three months from the date when grounds for the application first arose, unless the Court considers that there is good reason for extending the period within which the application shall be made’ (Department of Justice, 2008).

However, following the Uniplex case (see Appendix G), the European Court decided that dismissing a case brought within three months on the basis that it was not brought ‘promptly’ was contrary to the EU principle of certainty. It was therefore decided that the ‘promptness’ requirement made the exercising of EU law rights difficult and less effective. As a result, Courts across the UK accepted the disregarded requirement for promptness on JR challenges brought on EU grounds. However as of 2017 there was amendment to the Rules to remove the disparity between EU and non-EU based applications. The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017 removed the reference to promptness and took effect from 8th January 2018. Although this may appear a minor change it is increasingly important when applicants are deciding whether or not to pursue a case. Until this change bringing a JR promptly was highly important as applicants have a short window (shorter in England and Wales as previously discussed) in which to take the following procedural steps for JR in Northern Ireland. These include:

- 1) Deciding whether or not to pursue a challenge.
- 2) Fulfil the pre-action protocol requirement.
- 3) Consider alternative resolutions with the proposed respondent.
- 4) Draft JR application and submit on time (Mallon, 2018)

The proposed logic in disposing of the ‘promptness’ requirement is in the hope that alternative means of resolution will be reached and therefore expense of JR proceedings will be avoided.

However contrary to this it opens the window for more cases that may not have proceeded to hearing open to possibility. Narrowing the capacity to refuse leave on JR applications could see a growth in the number of applications. Furthermore, this may be particularly frustrating for the planning and procurement challenges where third parties will have increased waits before a challenge may be brought (Mallon, 2018). This may further impede the progress of developments and could be costly to the prospective respondent to the challenge being brought. In this sense the changes have shifted the interests of JR to favour the prospective applicant within Northern Ireland. It is currently too early to tell what the effects of this change will be however at present the approach to JR in Northern Ireland is relatively optimistic and open for business. For investors like that of John Lewis however the removal of ‘promptness’ is concerning as it provides more time and security for applicants pursuing challenge. The next section will draw together concluding thoughts from the John Lewis case.

8.8 Conclusion

Perhaps the main contrast to be gathered from the John Lewis case in Northern Ireland and the regeneration cases in chapter six and seven is the different priority perspectives from local councils when it comes to matters of investment. Although the previously discussed cases in England and Scotland regard urban estate and event led regeneration, they are consistent in that they threaten to alter the dynamic of local communities and PV in a bid to secure investment.

Furthermore, whilst the John Lewis case is not development that has been instigated by the local City Councils, the City Councils in question are cautious about the impacts of regenerative development on local sustainability and sources of trade. Further to this the abolishment of the condition of ‘promptness’ in 2018 as mentioned may perhaps see more conflicting cases like John Lewis as a possibility in the future.

In relation to this case and the judicial system in Northern Ireland interviewee **JL1** added:

‘The judicial process in Northern Ireland was undoubtedly influential in relation to the decision-making process about planning permission for the proposed John Lewis development at Sprucefield. Some of the objectors to the John Lewis store at Sprucefield successfully used the JR process to frustrate

the planning system and to delay the prospect of planning approval being granted’.

The John Lewis case demonstrates opposition in the face of investment which posed threat to local trade and inarguably was in conflict with local planning policy regarding promoting town centres. Irrespective of how such investment and development proposals were instigated the connecting theme between all case studies is that valuable social interests do not form a significant part of the framework when it comes to making development decisions. There is a much wider spectrum of value to be considered that should be conformed from the bottom up and established on a case by case basis as no two developments can be deemed the same. The John Lewis case in Northern Ireland demonstrates the complexity and varying competing interests within the development arena, all of which rest upon public v profit interest or in the case of regeneration local v global value. Safeguarding PV from such competing interests or unlawful/ non-compliant decision making that arises in regeneration cases (as has been depicted through the chosen case studies), supports the need to introduce a PVM framework into the public body decision making process. This will more thoroughly review PV inclusion in decision making and revise projected outcomes, so the public are more informed of effects prior to development proceeding, this may also possibly help reduce the need to pursue litigation thereafter. The following conclusion chapter nine will further address the PVM concept in practice and present an adapted version in line with social value production. Chapter nine will also draw together the concluding views surrounding contemporary urban regeneration and the role of JR whilst offering some summative thoughts on the research findings.

Chapter 9: Conclusion

Chapter 9: Conclusion

There is need to empower public managers to greater engagement with, and focus on, citizens and consumers in an ongoing deliberative process to negotiate and shape public preferences for what is valuable and what they should produce (Sanderson,2011, pg.1).

9.0 Synopsis

This chapter will draw together and discuss the concluding findings from the research. It will include a summary of the thesis and individual chapters before addressing how the research aim and objectives have been met. The chapter will conclude with some critical reflections on key findings and discussion of the key contributions made by the research to knowledge.

9.1 Introduction

Urban regeneration is hugely important to the growth and development of our urban centres. However, this research has found that regeneration processes and governance structures need to be more inclusive and sensitive of local community and individual needs. The case studies demonstrate that by placing too much emphasis upon economic significance, public and social values may lose their sense of importance in the regeneration process. This final chapter brings together the principal findings from across the four case studies explored in the preceding chapters (chapters 6-8). First, the economic role of urban regeneration is discussed in order to highlight the extensive focus placed on economic concerns within contemporary urban regeneration. This leads to the second principal finding which is the need to promote and support social sustainability. This is supported by the evidential imbalance displayed in the case study findings in the delivery and consideration of social outcomes within contemporary urban regeneration development. Final findings will be discussed under the fragmented role of

JR. This presents the opportunity to review research findings in relation to JR in theory and practice. The contribution of the research to the development of theoretical knowledge and conceptual understandings of public value will then be outlined before the final concluding remarks.

9.2 Summary of Thesis

The initiation of the research stemmed from the procedural changes that occurred to the system of JR regarding planning matters in England and Wales in 2014. As discussed through the duration of the thesis the reforms brought a degree of limitation and complication to the accessing of JR in relation to planning matters. The imposed reforms portrayed the use of planning JR in England and Wales as a problematic area of growth that was stalling progression of the UK economy and prospective international investors. Part of this research analyses the contemporary reform of JR in relation to planning matters so the impacts of change and how they have affected PV in the realms of planning and public law can be understood. Increased insight for the purpose of the research could be drawn from extending analyses of contemporary JR to the devolved UK regions in order to better assess and provide insight into contemporary JR trends, growth or lack thereof. Progression of research identified a link between the use of JR and urban regeneration cases which transpired to further findings depicting a deficit in the support and deliverance of social outcomes within the realms of contemporary regeneration. This presented a knowledge gap in research beyond that of JR reform which expanded research and the case study criteria to encompass planning, JR, PV and urban regeneration. The case studies chosen for research were selected to reflect the key subject areas of planning JR and urban regeneration whilst allowing for investigation of PV in the relevant contexts. The public value concept was identified as particularly useful to the research in addressing the need to better promote and support social outcomes within the realms of policy and development decision making as per research findings regarding contemporary urban regeneration and JR reform. The use of Moore's PVM framework proposed a basis for addressing social outcomes within contemporary regeneration which research adapted to address the issues of social outcomes

within the realms of contemporary regeneration proposals. This however will be addressed at the end of this chapter following discussion of the key critical research findings. What can further be gathered from the research is that the chosen case studies of Heygate, Cressingham, Dalmarnock (Clyde Gateway) and John Lewis collectively demonstrate conflicts between global economic progression and local social sustainability where contemporary urban regeneration is concerned. Further to this research identified the importance of ease of access to JR in the midst of contemporary urban regeneration which displays trends of public vulnerability in the form of displacement, gentrification and community disintegration. The adapted PV framework as will be discussed later in this chapter aims to mitigate the negative social outcomes that contemporary urban regeneration is producing in the UK. This will assist in providing contribution to knowledge in relation to the overall research aim. The following section will explore the research aim and objectives and discuss how they have been addressed by the research.

9.3 Research Aim and Objectives Addressed

The research Aim as stated in chapter one is as follows:

To investigate public value delivery within the context of urban regeneration in the UK with reference to the process of Judicial Review.

The research aim was collectively addressed through the use of the chosen case study chapters. The case study chapters collectively allowed PV to be examined within various types of urban regeneration projects. While both Heygate and Dalmarnock (Clyde Gateway) case studies did not involve the use of JR, they both still demonstrate issues regarding PV production and non-compliance with policy in the realms of urban regeneration. Although all the research case studies do not involve JR this may be viewed as a research finding in itself as it contrasts the proposed overwhelming growth in planning JR cases supporting JR reform (2014). Furthermore, the research aims as stated above has also been addressed in the critical analysis of the reformed system of JR and how it has impacted on the PV to be gained from the use of JR.

All chapters collectively assisted in the compilation of data that explores PV within the realms of contemporary urban regeneration and in connection with JR. The research objectives as listed below will be further examined individually explaining how they have been addressed within the relevant thesis chapters.

Objective 1: To examine and conceptualise Judicial Review in the UK in relation to planning matters:

Objective one was addressed through chapters one, five and three. Chapter one provided the basis and background to examining and conceptualising planning JR in the UK. This chapter introduced the key themes and underpinning background and basis of the core subject areas of planning and JR. This provided the basis to examine and conceptualise JR in relation to planning. Chapter three also addressed research objective one as it permitted review of the relevant and supporting literature of planning and JR for the research. The literature assisted in conceptualising JR in the UK context so existing knowledge could be understood and then further built upon in line with the research aim. Further to this chapter five provided the contextual analysis of planning and JR in the UK. This allowed for the background of both planning and JR to be explored over time and for interrelating linkages between both systems to be established. This assisted in examining which JR in relation to planning matters in the UK context.

Objective 2: To investigate the underlying connection and issues between contemporary urban regeneration and the concept of public value:

Objective two was addressed through chapters three, six, seven and eight. Chapter three provided the supporting literary background to issues regarding contemporary urban regeneration and the PV concept. This included analysis of PV and its erosion within public administration in accordance with Moore. Chapter three also considered the role of PV and how the concept could be better facilitated within contemporary public administration. Further investigation of the concept of urban economics was conducted in this chapter which uncovered

economic tensions within contemporary urban regeneration in producing PV outcomes. Chapters six, seven and eight were highly important in addressing the underlying connection and issues between contemporary urban regeneration and the concept of public value as per this objective. The case studies collectively demonstrated the tensions in delivering PV in practice within urban regeneration projects. A correlation between contemporary urban regeneration, social housing displacement and growth of gentrification trends were identified in line with this objective. Chapter eight in contrast to chapter six and seven in relation to this objective identified local city councils in Belfast and Lisburn as more cautious in regard to regeneration, valuing local town centre preservation over retail led regeneration at Sprucefield. The case studies variably displayed issues regarding contemporary urban regeneration and PV delivery.

Objective 3: To critically analyse the extent to which planning and regeneration policy and practice support public value delivery in the UK:

Chapter five was significant in addressing research objective three as it provided analysis of land use planning and policy over time. This also included investigation of the changing planning paradigms and institutional leadership which helped shape planning policy over time and hence the consideration afforded to PV inclusion. This chapter also examined the contemporary role of reformed JR and how it has also altered support for PV delivery in favour of alternative aims such as investment and economic progression. Case study chapters six, seven and eight demonstrated the lacking support of PV within planning and regeneration in practice. As explored in the thesis the case studies illustrated PV decline in the form of gentrification, social housing displacement and occasions of non-compliance with policy in lieu of economic objectives.

Objective 4: To promote a new framework to support the delivery of social outcomes in urban regeneration projects:

Chapter two addressed research objective four in providing critical analysis of the PV concept in both theory and practice. Reflection of Moore's proposed measurement and management

framework of JR in this chapter provided the basis upon which adaptations could be made with a view to addressing the delivery of social outcomes within urban regeneration projects or policy amendments. This chapter (chapter nine) will also support objective four in proposing an amended version of Moore's PVM framework to better assist the delivery of social outcomes within regeneration projects which were significantly absent and disregarded within the investigated case studies.

9.4 Chapter Summaries

Chapter one discussed the concept of JR and its contemporary reforms within England and Wales. Further to this chapter one discussed the relevance of PV in relation to JR reform. This included noting the specific aspects of JR targeted for reform and highlighting the differing approaches in accessing JR within the devolved UK as a result of reform actions. This chapter also provided a summary of the chosen case studies for research including justification on case study selection and how the cases would address the research aim. The proposed contribution to knowledge from the research was also included in this chapter. Chapter two built upon chapter one by examining the PV concept and its management formation along with new institutional theory. This chapter analysed the importance of PV in promoting and safeguarding social outcomes within the realms of public body decision making. The PV concept was referenced in its management formation (PVM) with particular discussion on the importance of the concept in relation to Moore. Chapter two also examined the new institutionalism theory which highlighted the impact institutions have in shaping society and therefore the production of PV. Historical institutionalism was then selected as the theoretical method underpinning the research as it allowed for the issues of PV, planning, JR and urban regeneration to be examined over time. An in-depth analysis of all the relevant literature is conducted in chapter three. This discusses the more specific planning JR reforms and establishes the linkages between planning JR and the absence of PV due to changing political paradigms and economic discourses. This builds upon the concepts of planning JR, PV and regeneration introduced in the previous chapters. This chapter furthermore draws particular attention to the role of institutions in shaping society and

the value to be derived from public services and public body decision making. Chapter three encourages thought on social accountability and the role and purpose of contemporary regeneration. The concepts of estate, event and retail regeneration are then introduced for the research fieldwork phase to further explore.

Chapter four, the methodology chapter explores the importance of the case study method for the collection of qualitative data for the research. Justification behind the selected research location and case studies is also included in the methodology, providing understanding of how and why the chosen case studies were selected for the research. As discussed in chapter four the chosen case studies were selected due to their geographical location and links to the research issues concerning planning, PV JR and urban regeneration in similar yet differing contexts. The methods used to address, gather, analyse, collect and disseminate the data are also included in this chapter.

The contextual analysis provided in chapter five investigates the emergence of land use planning and its progressive change over the years in relation to institutional influence. The connection between land use planning and JR is also explored depicting the reliance of planning on JR as a means of valuable redress to unlawful determinations within the realms of decision making. The JR procedure and contemporary JR Reform in relation to planning are also discussed in this chapter with further investigation on JR reforms in relation to PV. This chapter helps to better understand the role of JR and its connection with PV in the realms of public administration, this chapter is then followed by the three regional case study chapters.

Case study chapter 6 makes use of two English based case studies to investigate the contemporary relationship between urban regeneration, PV and JR. Both case studies, Heygate and CG, demonstrate the use of estate regeneration within South London. Whilst displacement and gentrification are present in both case studies, JR is only present in the CG regeneration case. The use of JR in the context of CG highlights public body misconduct and issues of non-compliance by the local city council with policy and procedure when instigating regeneration proposals for CG. This results in legal challenge by the residents in the form of JR. What can

be learned from the CG case study is the important role JR has in holding public bodies to account and ensuring they do not abuse their powers. Furthermore, this case study demonstrates the value in securing transparency and accountability within public administration, something the PVM framework advocates. In essence CG demonstrates what can be achieved and what can possibly be lost if the public are vulnerable to public body misconduct. The fear is that reformed JR may see more cases like that of CG go unaddressed as the process has become both more expensive and complex to attain. The CG case illustrates why PV needs to be better recognised and enforced within public body decision making. Although JR is not used in the Heygate case it similarly displays trends of public body non-compliance in relation to urban regeneration and like the CG case supports the need for PVM within contemporary urban development. Similarly, the Heygate case study depicts trends of displacement and lacking transparency surrounding public body decision making and contemporary urban regeneration. The Heygate case also suggests that planners need to think more strategically about how future urban development can still be diverse and inclusive of all classes and incomes when minimal production of both affordable and social housing is promoting trends of inner city gentrification.

In chapter seven a critical investigation is conducted of the impacts of urban regeneration in the context of the CWG in Dalmarnock in Glasgow in 2014. This case study concerns the regeneration of Dalmarnock as part of the Clyde Gateway regeneration scheme which would also aid the hosting of the CWG. The chapter explores the social, economic and political issues in relation to event led regeneration. Issues regarding displacement, gentrification and an absence of PV become apparent as a result of local resident exclusion from the development process which occurred both prior to and following the regeneration of Dalmarnock for the purpose of the games. The case study calls for more inclusive PV within urban regeneration that allows the public most affected to be central and inclusive of the decision-making process. Furthermore, the Dalmarnock case study demonstrates regeneration that brings little long-term sustainable benefit to those in the area, something which is counterproductive to successful regeneration efforts. Similar to Heygate, CG and CGW, the Dalmarnock case study highlights lacking

transparency from public bodies within the realms of decision making and an increasing absence of PV expressions being included throughout the regeneration process. The consistent emergence of these trends across all case studies demonstrate the need for a PV framework that will enhance accountability and public inclusion in development decision making processes.

Case study chapter eight examines the conflicting complexities between local and global retail led regeneration efforts. This chapter reviews the opposition expressed by both Belfast and Lisburn City Council to the proposed development of a John Lewis store at Sprucefield. The case analyses the confliction between preserving town centres as key trading hubs whilst also attracting large scale international investment at possible out of town shopping centres. Legal challenges and JR are deployed in this case as a means to stop the John Lewis development whilst JR is used to address unlawful imposed conditions on BMAP which in effect would prevent John Lewis from developing at Sprucefield. This case study adds particular value to the thesis as it examines the local v global tensions surrounding development. The threat of out of town shopping centres to the local high street adds further substance to the public value theory and why local values need to be at the core of development strategies to ensure sustainable and vibrant town centres and communities. Furthermore, this case study highlights conflict between contemporary development policy and practice yet demonstrates a more relaxed approach to the use of JR in Northern Ireland. Unlike the other case studies, the John Lewis case was successful in holding off development that was contrary to Northern Ireland town centre planning policy. Furthermore, some local councils and politicians alike did not support the major investment and development proposed by John Lewis for Sprucefield, this was unique in contrast to all the other case studies where the local councils were pro regeneration at all cost. Finally, the John Lewis case also allows for the significance and importance of JR to be explored within a government context, highlighting the need for the process to be as accessible as possible. The use of JR in this case highlights the need for accountability to be easily accessible when government have acted unlawfully and to furthermore ensure there is consistency in adhering to the rules and regulations of government both internally and within the public sphere.

The final Chapter nine of the thesis provides a concluding analysis of the key findings from research. This includes addressing how the aim and objectives of research have been met, discussion of the critical reflections to be gathered from research and the specific contributions to knowledge made by the research which will be discussed in the following subsections. This chapter concludes by proposing an adapted framework to PVM which aims to promote social outcomes within the realms of public body decision making and contemporary development. The proposed framework also aims to mitigate the extent of political and economic influences that hinder social outcomes within contemporary urban regeneration. The proposed framework in question will be addressed in detail in section 9.6.

9.5 Critical Reflections

9.5.1 The Economic Role of Urban Regeneration

Urban regeneration in its multiple contexts undoubtedly aims to promote economic growth in some form as the case studies demonstrate. It is vital for growth and prosperity in the built environment that places continue to develop and renew themselves so as not to fall into disrepair and become void. Urban renewal and redevelopment is an attractive prospect to invite investment and as the Dalmarnock (Clyde Gateway) case study suggested is a means of place promotion. However, like all conflicting factors there is a balance to be reached in carrying out urban regeneration projects to ensure that they are sustainable long term and that they are inclusive of the communities in the areas targeted for change. Although largely depicted as being a positive activity there are major threats that come with regeneration and they have the immense capacity to alter the fabric of an area and change settled dynamics almost completely. Beginning with CG and Heygate both case studies illustrate urban regeneration in a bid to reap financial gain from profitable inner-city land. Both case studies highlight a financially focused form of urban regeneration that is dismissive of social housing tenants, social housing shortage and affordable housing targets. The trends of displacement presented in both case studies support the claims of community destruction and gentrification that ensues contemporary regeneration projects. The

UK planning system with the rise of globalisation and competition in the global market has influenced the way in which we plan our urban spaces. The inner city is fertile land ripe for economic prosperity and investment when developed and marketed as thriving centres of business and economic growth. The issue however with this approach as has been demonstrated through the use of case studies CG, Heygate and Dalmarnock (Clyde Gateway) is that in the attempt to grow and promote urban environments economically, the lower income and working class living in our urban centres are being erased. The selected case studies mentioned above show how economic planning and contemporary urban regeneration trends are overriding the social values to be derived from the built environment. This is supported in the literature by both Lees (2007) and Smith (2008) who argue that contemporary urban estate regeneration is promoting trends of gentrification and displacement. This approach hinders the connection between people and place and further fragments community structures within the built environment. McCann (2011), also argues that economic significance in the urban environment can be detrimental to other equally important social factors in shaping cities. The growth of PPP's within urban regeneration projects as displayed in some of the selected case studies arguably presents a barrier to the delivery of social outcomes. Thornhill (2009) states in relation to PPP's that the private sector has profit driven motives that conflict with expected public sector social outcomes. The extent of contemporary institutional influences as demonstrated in progressive planning policy changes over time, approaches to urban regeneration and JR reform demonstrate the significant economic focus adopted within the contemporary public sector. What is arguably missing is a framework to reinforce the inclusion of public value within contemporary development decision making to ensure social outcomes are given equal consideration as their economic and political counterparts.

Although planning policy over the last 20 years has attempted to encourage public engagement through promoting community planning, an enhanced and more accountable bottom up approach could further foster successful and sustainable communities, towns and cities. The concept of community is what is arguably being removed from urban centres and replaced with

luxury apartments that are unaffordable for those who lived there prior to regeneration to inhabit. The pressing question is if our urban environments in adopting this approach to urban regeneration are being developed to suit only the middle and upper classes and working professionals. Critical analysis of the case studies of Heygate, Cressingham and Dalmarnock (Clyde Gateway) would appear to suggest that this is fast becoming the case. Profit is assuming priority over public and it is many of the more vulnerable individuals reliant on social housing that are largely affected. In the age of democracy where cultural and ethnical demographics aim to grow and integrate society, approaches to contemporary urban regeneration in the form of estate, retail and event regeneration appear to be failing to assist a naturally balanced development progression. Urban regeneration, as the research case studies demonstrate, adopts a largely socially exclusive as opposed to inclusive approach when it comes to contemporary regeneration efforts, meaning segregation and division of wealth will become more highly transparent in the urban fabric if such trends continue. The growth of the 'poor door' in affordable housing blocks in London depicts the class division that contemporary urban regeneration promotes. These doors provide a separate entrance to residential buildings for social housing tenants, separating them from the market value renters who have an alternative entrance to the same building (Pasha-Robinson, 2017). This does not promote a plausible way forward for the acceptance and integration of a diverse society. This concept alone suggests that social values are a topical area of concern within urban regeneration and are in need of revision to ensure fairness and equality prevail in the development decision making process.

Furthermore, the role of public-private partnerships in urban regeneration projects present challenging conditions in which to overcome some of the issues within contemporary regeneration. As noted in case study chapters six and seven, the priorities of private partners tend to be in securing financial gain through regeneration and development with minimal obligation to PV deliverance. Whilst arguments may be made surrounding required developer contributions, the case studies have shown that in certain cases where possible developers will attempt to avoid this if it is not profitable. Developer non-compliance with affordable housing

targets is an example of this demonstrated in the case studies. Developers in these cases may attempt to avoid such obligations through ‘figure fiddling’ which presents required contributions as being unaffordable for the developer to supply. These requirements therefore are perceived to be unattainable and hence disregarded. Differing goals in this complex PPP dynamic make it difficult to put the public at the forefront of what are split interest goals. The pressure on public bodies/city councils to enhance revenue, regenerate urban environments and attract investment whilst supplying adequate and affordable housing is a conflicting and difficult task. As the case studies demonstrate this has resulted in non-compliance with affordable housing targets, distribution of unfair market value to tenants, increased levels of displacement and threat of gentrification, not to mention additional pressure to an overwhelming UK social housing shortage. All of these points have presented themselves as reoccurring issues and key findings across the case study chapters. The generation of economic gain to be made from regeneration projects is also highly visible across the case studies and evidentially takes priority at the expense of PV production. Whilst urban regeneration may be renewing the built environment to attract new investment (Heygate/Cressingham), or in attempts to establish legacy and market place (Dalmarnock) these economic gestures are destructive and non-inclusive to the public most directly affected by their action, as the case study chapters would support. A new means to promote and secure social value in tandem with its economic counterpart is what is needed in contemporary development so as to bring balance to the scales of social justice within contemporary urban regeneration.

9.5.2 Promoting and Safeguarding Social Sustainability: A Role for Judicial Review?

Both the literature review and case study chapters have demonstrated the sustainability of socially valuable outcomes from contemporary urban regeneration projects for local communities is questionable. Discussed above policy and priority within urban development has been largely focused upon the need to generate investment and establish globally competitive economic centres of business. Chapters six and seven demonstrate how this is often

at the expense of the local communities and in many cases depicts trends of non-compliance and unfair decision making by the relevant public bodies involved. Whilst some of the case studies involve a JR case, those that do not still arguably demonstrate a degree of irrational and unfair decision making by public bodies. This is present in such cases of both Heygate and Dalmarnock (Clyde Gateway) through evidence of non-compliance with policy, unmet affordable housing allocation, insignificant monetary value for compulsory purchased properties and false promises to displaced tenants as discussed in the relevant chapters 6 and 7.

As established in the earlier chapters, the role of JR is to hold public bodies to account for unlawful decision making and non-compliance with public body and government rules and regulations. The problematic approach of contemporary urban regeneration makes JR increasingly more important within the development arena to protect the public from some of the unfair and unlawful public body behaviour in the name of urban regeneration as noted above. JR as discussed in earlier chapters is the essence of public protection in the face of public body misuse of power. It ensures that public bodies can be held to account which in a sense secures their legitimacy in the eyes of the public. Research findings would suggest there is an increasing social value element to JR in the midst of contemporary urban regeneration tactics as the CG case demonstrates. However, JR alone cannot be relied upon to promote social wellbeing and value within policy and decision making. Whilst it is a method to correct injustice and wrong doing it is not without its complexities, expense and risk which increased following the JR reforms in England and Wales as discussed previously. Research findings further indicate that reformed JR has rendered the public more vulnerable in seeking redress to unlawful development decisions by both way of increased fees and shorter time scale to make a JR application. However, the changes to the process arguably support the need for a PV framework that can measure and ensure consistent revision of social outcomes, helping avoid unlawful determinations as illustrated in the case studies. A PV framework that could increase transparency and fairness in public body decision making surrounding regeneration would address what research has uncovered as short comings and in some cases the cause for JR

applications as the case study chapters have indicated.

Further research findings indicate a connection and importance to establish between planning, JR and urban regeneration. As presented in the case of JR reform the process of JR was deemed to be the problem in need of correcting however such cases and questionable decisions stemmed from decisions made within the realms of planning and urban regeneration. To begin resolving this issue is to begin at the source of the problem, which in any development case is to begin with the relevant planning and regeneration authorities. Perhaps the relaxed attitudes to PV inclusion in policies and development projects have permitted and encouraged the contemporary approaches to urban regeneration which are proving socially problematic.

Whilst the number of planning JR cases appeared to be minimal in Northern Ireland and Scotland from the research findings, it could be argued that it is the larger capital urban cities that are most often entangled in development JR's and regeneration associated with vast displacement and gentrification. This may simply be due to their global stature for investment and their geographical size enforcing them to be competitive at all costs. Going forward, how socially sustainable city environments will be if the discussed urban regeneration approaches continue remains to be seen. Research findings indicate that many of the luxury apartments built on social housing regenerated land in London are bought as second homes by wealthy international business individuals. This means they are vacant most of the year and therefore bring no attributes to the local economy. This concept has become known as the 'buy to leave' with these vacant buildings being referred to as the 'posh ghost towers' (Norwood, 2016). In the midst of housing shortages in the UK and rising levels of homelessness this dynamic appears to add to a crisis as opposed to mitigate it. Further to this it means communities fail to re-establish in these areas and vitality and sustainability in these areas is again questionable. The nature of community is something which is difficult to build yet very easy to destruct and is becoming an undervalued concept in urban regeneration as chapters six and seven shows. To continue to regenerate urban environments in the same manner conducted at Heygate, CG and Dalmarnock is not socially sustainable and dismisses the relationship and value between people and place.

Looking at the wider picture planning and development has to assume responsibility for alternative factors such as health related to the built environment. For example, a sense of belonging and support of a community structure is a vital network for people and prevents isolation of the elderly and increases in depression, both concerns raised by the residents of Cressingham and Heygate. Urban environments need to be as socially successful as they are economically, however if this is to happen there needs to be a greater awareness and inclusion in how we appreciate and measure PV within urban regeneration.

The John Lewis case study by comparison is contrary to the rest of the case studies as it demonstrates attempts by local councils to secure value at the micro level as opposed to the macro level. This opposes the approaches taken by the relevant City Councils in chapter six and seven. To value 'locality' in the global market is equally as important as attracting external investment (Pratt, 2015). Perhaps the most important findings to be derived from the John Lewis case is that working to achieve a balance within all regeneration is what is needed and perhaps all investment is not necessarily good investment. To achieve this though both social and economic counterparts in the regeneration process need to be presented and considered equally, something case study findings in chapters six and seven demonstrate as not occurring. Promoting a better understanding of public values in relation to social matters will only encourage socially sustainable outcomes and encourage fair and transparent public and public body working relations. Problematic working relations between the public and relevant public bodies was something uncovered by research findings as an area in need of improvement. The tensions between the public and local councils in the Cressingham, Heygate and Dalmarnock case studies over the terms and conditions of development demonstrate that more transparency and co-operation in development decision making is needed to foster satisfactory outcomes for both the public and public bodies alike. A newly revised PV framework could resolve these issues by reinforcing accounts of value promises and outcomes to be monitored hence improving working relations and accountability, this however will be further explored in section 9.6.

9.5.3 The Fragmented Role of JR

As discussed previously JR has a significant purpose in safeguarding the public from public body abuse of power. The reforms introduced to planning JR in England and Wales which instigated this research have undoubtedly altered the dynamic of the role of JR in both jurisdictions. Revision of the reforms demonstrate that government will decide when and to what extent they will be held to account. Furthermore, research could find little overwhelming evidence that planning JR cases were unmanageable, and it proved difficult to find any relevant planning JR cases within Wales. The main implications emerging from research surrounding JR reform is the fragmentation in access to justice reformed JR has imposed across the devolved UK. Furthermore, the changes have made a complex and risky procedure increasingly more difficult and risky to attain. The shortened time-frame and increased costs and liabilities that come with reformed JR mean there will undoubtedly be increased hesitation by those considering its use. Furthermore, the reforms as discussed in the earlier chapters act in the interest of multinational corporations and companies assisting them in deterring market-based opposition and giving them priority in fast tracking through the system efficiently should they be subject to review. As the purpose of the system of JR is to be there to support the public, the reforms appear to take away from this vital purpose. Third parties within the planning system as discussed early in the thesis have also been heavily disadvantaged through JR reform as their only means of redress has heightened in cost and complexity. As JR is the only means for third parties to seek redress to unfair decision making within the UK planning system, the nature of reforms have imposed a widespread effect to anyone seeking justice as a result of unfair or unlawful planning decisions affecting them. It can be argued in this sense that the value delivered by JR has been altered and lessened through reform as the system pressurises the public into having to hastily seek justice or redress before they lose the opportunity. As discussed in the thesis, this time frame is very restrictive to ensure all pre-action procedures and protocols have been followed prior to filing a claim. The ability to seek justice should be as unrestricted as possible and hence the reforms do not reside in support of PV.

Further to this, JR reform has meant that depending upon where you reside in the UK will pertain to the structure and ease of access to JR justice you can ensue. This essentially means both Northern Ireland and Scotland have less restrictive approaches to JR retaining the three-month application period. Planning JR in England and Wales however exists in a less favourable claimant form than it did prior to restructuring. Research has found however that there does appear to be one positive attribute to JR reform that may have been a sufficient method of transformation on its own. The method in reference is that of the Planning Court which provides both an efficient and competent means of processing and delivering planning JR claims. It is arguable that the planning court singularly may have provided a solution to proposed JR increase. The reason for this as discussed earlier is that it removed cases from being clogged up in the administrative court to a separate wing of the High Court. This arguably could have prevented the need for the 6-week time reduction on applications whilst ensuring that cases were overseen by experienced planning judges, meaning more accurate decisions of redress would prevail.

In conclusion the reforms to JR have made JR access more challenging than ever before and such changes undoubtedly play to the strengths of investors and developers as previously discussed. The reforms in question could even be argued to present a deterring buffer to public challenges in development cases. JR reform in England and Wales is a backward step for social justice meaning an alternative method to support PV outcomes particularly where development is concerned would be favourable for the public sphere. Altering the process has fractured the principle of the JR system to provide unrestricted access to justice independent of government and public body interference. Given its reformed state in England and Wales and the looming threat of Brexit, the future format of JR in the UK going forward is arguably uncertain. It is therefore important to secure alternate means of reviewing public decision making in the public interest so social values and outcomes in development decision making can be better understood and secured prior to implementation. This could reduce the deficit between economic and social outputs and produce more effective and transparent public and public body working relations

resulting in less judicial litigation in development projects. This could assist in resolving such issues as mentioned, which research has identified as problematic across all the research case studies. The next section will discuss the proposed solution to the key issues identified within research as have been discussed throughout this chapter thus far. Supporting reasoning for the framework will be addressed first followed by a breakdown of the role and purpose of each part of the framework and what it brings to contemporary PVM in relation to planning and development cases.

9.6 Public Value Management: Towards a New Framework

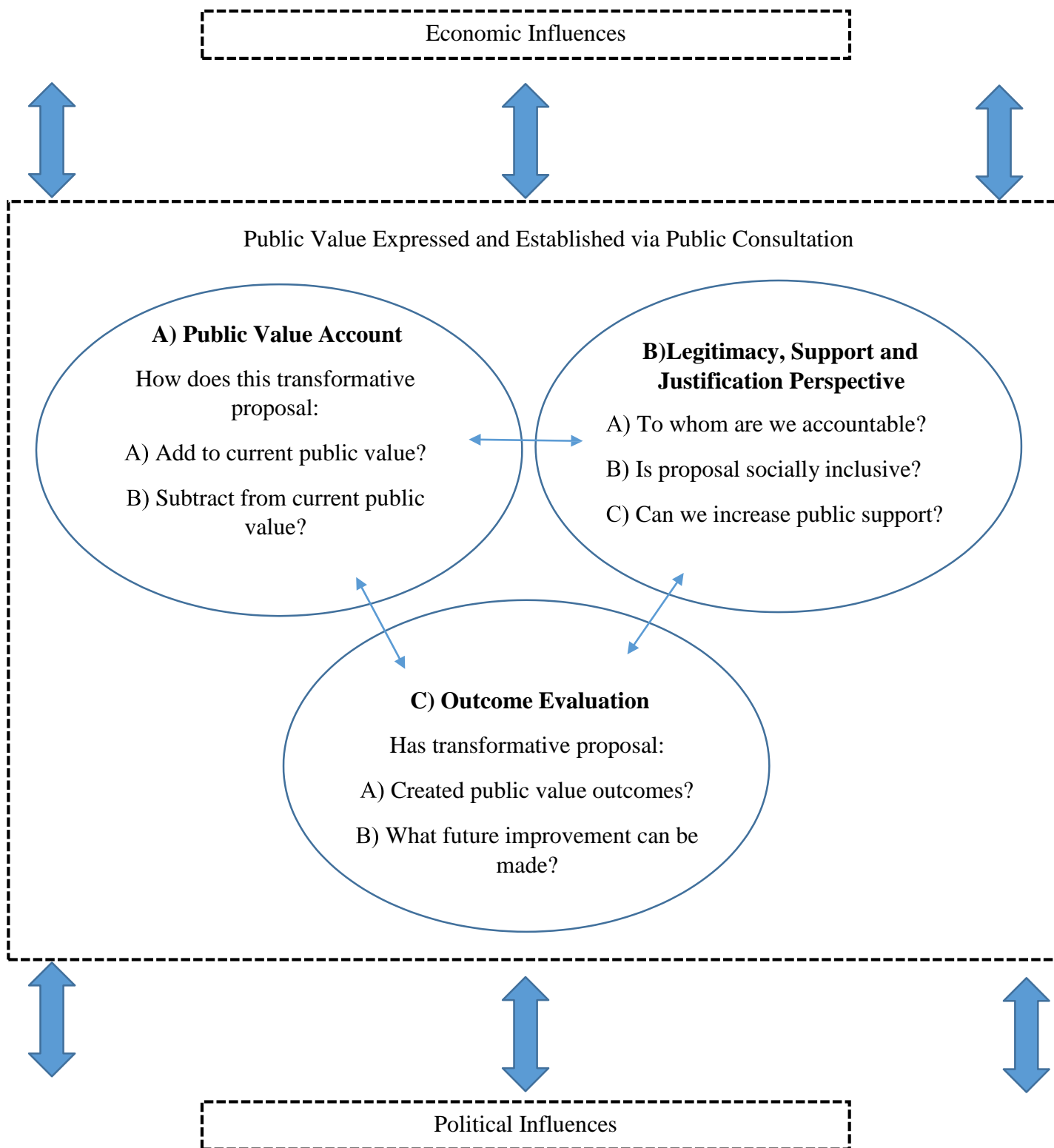
As the case studies have demonstrated, contemporary urban regeneration approaches appear vague in attempts to promote PV outcomes. There is no existing framework to support and evaluate how social outcomes are fulfilled within contemporary development and regeneration. As the case study research findings have indicated, economic gain is largely what drives urban regeneration, allowing PV concerns to be significantly eroded as profit concerns override social concerns and wellbeing. The lacking transparency and abuse of power by public bodies in favour of economic gain, as shown in the case studies, only adds to the argument that PV concerns are secondary to their economic counterpart within contemporary urban regeneration. Despite acknowledgment within policy and regeneration strategy to promote social outcome it is often obscure in meaning and therefore difficult to secure in practice. Both contemporary systems of planning JR and urban regeneration place vast importance on economic outcomes failing to equally balance the social counterpart. For this reason, the public at Heygate, CG and Dalmarnock have been virtually excluded from urban regeneration efforts with minimal attempts to make them inclusive in the urban renewal process. Although the councils in these cases talk much about community consultation and inclusion they are never formally obligated to show how social outcomes have been accounted for and then delivered as there is no existing regulatory framework for measuring such. The level of disregard for public wellbeing and their connection to community and place seems far removed from the origins of planning that sought to provide vulnerable people with housing and community. This idea is supported in the

literature by the early role of planning as depicted in the 1919 Housing Act. This Act sought to provide people with a quality standard home to live in whilst fostering community and social wellbeing in the built environment. Greed (2014) as mentioned earlier also notes the role of early planning as being the need to promote public betterment and wellbeing which to a degree have been compromised by political and economic contemporary pressures. There is nothing that implies that social factors should not be equally as important within planning, development and decision making. What makes this task more difficult however is the fact that PV is often deemed hard to establish and measure. As suggested by Moore (2005), and addressed in the thesis, the concept of PV cannot be defined as it is not a stagnant concept and therefore must be understood on a case by case basis. This means investigating what the public perceive to be the value in a given context and then make transparent efforts to deliver it in practice, providing evaluation of such thereafter. This attempts to address the negligence in the deliverance of social outcomes and assists in making social concerns central to the decision-making process.

The PV framework is particularly important within urban regeneration where there is a vast reliance on PPPs which present conflicting challenges as discussed earlier. The public sector has become heavily reliant on private partnerships to assist in delivering regeneration projects. This in part can be argued to cause the lack of PV representation within contemporary planning and development practice as the private sector do not have the same regard and responsibility to the public as the public sector.

The concept of PVM provides a method of security and justification surrounding public body decision making where notions regarding PV, justification, legitimacy, support and operational transparency can be better accounted for. Consider the following adapted version of Moore's strategic triangle for how the PVM concept can be used as a transparent and just means for promoting social outcomes to be derived from regeneration and policy reforms.

Figure 9.1: Adapted Version of Moore’s Public Value Framework



The figure demonstrates the quest to secure and promote social outcomes within contemporary regeneration, development and decision making something which the research case studies indicated as missing from the contemporary regeneration process. The following steps address how the adapted framework may be used and explain each section's purposeful role in addressing what research has identified as PV deficit within public body decision making.

1) First, notions and ideas about desired social outcomes are expressed and gathered via public consultation.

2) Once options have been conformed and one has been decided by the relevant public and public body in question, the public body is then required to 'test' the proposal within sections A and B of the framework. Section A requires the public body to provide an account on how the proposed development will add to PV and also consider and provide an account of any PV the proposal may subtract if it were to occur. This aims to systematically encourage public bodies to consider social value outcomes and promotes a public value perspective within the realms of decision-making. Furthermore, the accounts provide transparency to the public who are informed prior to implementation of what change/ development will mean in practice. This also gives the public a chance to address any issues in advance.

3) Section B then requires the public body to think about their accountability to the public enforcing them to ensure that they are following all policy and regulations in line with the development at hand. This would include ensuring adequate time and notice is given for consultation and community meetings, that policy is followed in relation to allocation of affordable housing etc should there be any involved. In essence this stage of the framework requires the proposal to be tested for accountability and that an adequate account be provided on how any matters of accountability, regulations etc have been addressed. Section B also requires an account to be provided on how the proposal is socially inclusive. This means considering what social outcomes

the proposal expects to deliver and addressing how social concerns which may have been expressed during the consultation phases have been addressed. The final question of section B asks the public body to consider the level of public support it has for the proposed development. This could be conducted through ballot box voting at consultation or community meeting. This will help to provide indication of the level of support the relevant public have for the proposal. Furthermore, it also helps working relations between the public and the public body which was largely missing in the CG, Heygate and Dalmarnock case studies where expressions of exclusion in the decision-making process were voiced. The public body in providing a responsive account to each of the questions in section B ensures that development outcomes are legitimate, socially inclusive and have public support.

4) The final section of the framework section C occurs following implementation of the decision taken and aims to increase public body accountability in the delivery of PV outcomes not only in the decision at hand but requires analysis on how the process could be improved in the future. This section requires the public body to provide two reflective accounts firstly of what PV has been created and second what improvements could be made to better facilitate PV outcomes from future projects. Section C ensures PV is being delivered as it enforces the public body to be transparent and state what PV has been delivered upon completion of the project. This also allows both the public and the relevant public body to gauge how successful they have been in delivering PV by comparing what value they hoped would be delivered in section A and that which actually transpired in section C. The futuristic element of section C of the framework permits public bodies to progressively build upon the PV concepts inclusion in practice and enforces public bodies to embed PV within all stages of the decision-making process. The framework in its entirety works to support social outcomes within the development arena, providing a compulsory set of check measures for public bodies to ensure social outcomes are considered at the conception stages of development and are adequately delivered upon completion. Unlike the unfulfilled promises and unlawful non-compliance of social outcomes

in the research case studies this framework ensures a thorough account and justification of public body decisions surrounding social outcomes. This will help to balance the economic dominance that has been demonstrated in the urban regeneration case studies and help communities and public bodies to work more productively together to achieve socially sustainable urban environments.

The adapted framework illustrates the interrelation between the multiple sections in delivering PV outcomes, which demonstrates that all sections collectively are needed to successfully analyse and deliver the valued outcome. Furthermore, the framework also depicts the external economic and political influences as discussed in research that also have effect in shaping PV outcomes. The framework acknowledges the influence that economic and political factors play in public body decision making however the aim of the framework is to mitigate such influences from becoming overwhelming by giving PV a voice in public body decision making.

The summative purpose of the framework is to open a formal means of ensuring that public bodies are active in pursuing and properly considering PV in their decision making. Furthermore, the framework enforces public bodies to be more transparent about PV delivery and tasks public bodies with making social factors more influential in the decision-making process. This helps address some of the shortcomings that research has identified in the case studies where social considerations have been significantly undermined and the public have become secondary to the development process. Heygate, CG and Dalmarnock case studies all expressed similar issues where the relevant public felt excluded from the regeneration process and that the system and process failed to reflect their needs. There is a requirement based on the case study findings to go beyond the realms of consultation and find a formative means of enforcing social responsibility within the regeneration and development arena. The adapted PV framework assists in changing cultural attitudes within public administration about how we view and deliver social outcomes. Despite economic concerns retaining the upper hand in development decision making there is a need to alter public authority mind-sets to balance perceived notions of importance when it comes to economic and social outcomes. The city

councils in the Heygate, CG and CGW case studies all demonstrate that more attention and consideration needs to be afforded to the deliverance of social capital within contemporary development.

9.7 Conclusion

The PV framework as discussed above offers the opportunity to enhance public body accountability and responsibility when it comes to adhering and facilitating PV outcomes in the realms of development change. The framework promotes public engagement on a new level putting the onus on public bodies to deliver the socially satisfying outcomes. It also establishes a better working partnership between the public and public bodies, increasing legitimacy and putting local values back at the centre of decision making.

There may be a slight over reliance on JR to tackle social injustice which the current system of urban regeneration promotes. The PV framework however aims to tackle and mitigate social injustice within urban regeneration before it reaches the latter stages which may require JR pursuance as the only means to seek redress to an unlawful yet possibly avoidable social concern. The adapted framework above provides a basis for a forward-thinking form of public management that aims to put the public at the forefront of public service delivery. This helps to address some of the transpiring inconsistencies that the contemporary urban regeneration cases in the thesis have displayed. These include public consultation outcomes that are non-reflective of the gathered public opinion, public reports of social outcome non-compliance by public bodies within regeneration and a desire for increased transparency surrounding PV delivery. The adapted framework also addresses a gap in aiming to mitigate the dominance of economic and political influences from overpowering social outcomes. Providing a formal obligatory framework to support PV outcomes aims to address the emerging social vulnerabilities that can be seen developing within contemporary urban regeneration approaches and as have been shown in the selected case studies.

Furthermore, the thesis makes a number of important contributions to knowledge. The first

contribution to knowledge is that research addresses newly emerging problems regarding PV and JR reform in the UK that have yet to be examined from a non-theoretical perspective. Although there is existing literature on the concept and role of PV and PVM, notably by Moore (1997), Stoker (2006) and O’Flynn (2007) there is no collective literature on the subject of PV in relation to planning, urban regeneration and JR (including reformed JR) within the UK context. This means the social outcomes to be derived from these interrelating processes have not been thoroughly examined and understood. Research has addressed this knowledge gap throughout the thesis drawing together and discussing the contemporary and interrelating issues of planning JR reform, PV and urban regeneration.

Following from this the second contribution to knowledge made by research addresses a literature gap on the subject matter of JR reform. Reformed JR and the Planning Court were only established in the UK in 2014 and there exists minimal research that investigates what the changes mean in practice and what impacts they have incurred to date. This is a significant contribution to knowledge in exploring and analysing new judicial and legal changes whilst dually assessing their impact in relation to the PV concept. Research has explored the new role of reformed JR and provided analysis on what the reformed system may have lost and gained through transition with specific reference to urban regeneration cases.

A further contribution to knowledge to be obtained from research is in highlighting the existing confliction between contemporary planning policy and urban regeneration in practice. The growing trends of displacement, gentrification and social value decline highlighted in research findings within the urban development arena is a red flag that requires addressing. There is also notable non-compliance with policy where urban regeneration projects are concerned which has identified growing public vulnerability. Drawing attention to the existence of such issues within contemporary regeneration practice is a key contribution to knowledge which also promotes the need for highly accessible JR or a PV framework to mitigate some of the imposing effects.

The final contribution to knowledge and perhaps the greatest contribution to be derived from

the research is in proposing an adapted PV framework. As discussed in detail above the framework aims to address the PV deficit within contemporary urban regeneration and public body decision making. The framework proposes a means to address PV in a formal and transparent manner that aims to ensure consistent PV inclusion and growth of social capital within public administration.

This research has demonstrated that the way in which contemporary urban regeneration is approached in the UK leaves much to be desired from a social perspective. Revision of the JR reforms demonstrated that many contemporary JR cases represented social injustice relating to social housing clearance via urban regeneration initiatives. Regeneration surrounding mega events adopted the same social housing clearance tactics demonstrating a level of disregard for community dynamics and the relationship between person and place. Delving deeper into this issue the challenge for public bodies demonstrated increased reliance on PPPs to deliver regeneration projects. This could be found to negatively impact public obligations to PV and produce instances of policy non-compliance due to public private conflicting development interests. Generating revenue and investment appeared key to all urban regeneration and development however the equal social counterpart failed to be balanced in this equation. The PVM concept offers the opportunity to balance the scales and promote PV within the decision-making process, something as demonstrated in the case studies is largely absent from contemporary public administration. The PV framework puts a greater responsibility and onus on public bodies to show how they are accounting, justifying and delivering PV for the public sphere.

Whilst there did not appear to be an overwhelming growth of planning JR within the UK even in the reformed areas of England and Wales there is a notable occurrence of its use where urban regeneration projects are concerned.

Following critical analysis of the challenges surrounding urban regeneration throughout both this chapter and the case study chapters, there is need to address how the concept is fulfilled going forward. It is arguable that a continuation of the current approach will promote

segregation of our urban centres tailoring them as only largely accessible to the middle-class professional. Furthermore, there is much work to be done regarding how affordable housing and social housing are integrated into urban regeneration projects. Furthermore, gentrification and displacement are unacceptable methods to deploy in an advanced democratic society to aid urban regeneration and economic progression. PV is perceived to be declining as this research would suggest whilst policy and legislation become increasingly economically focused. Reformed JR in England and Wales is arguably also extensively economically focused as securing investor confidence in development appears more important to the contemporary system than the provision of justice. Although both Scotland and Northern Ireland retain a three-month time limit to seek planning JR they still face the same PV delivery challenge.

Research has demonstrated shortcomings in how contemporary urban regeneration is translated in practice and that the public are vulnerable to PPPs abuse of power. Furthermore, there appears no formal supporting mechanism to help address and mitigate the effects of such. While JR offers redress to unlawful decision making the reforms in England and Wales have presented judicial restructuring in support of the economy. The case studies demonstrate that whilst urban regeneration may seek to improve the economy of the UK, it may, perhaps inadvertently at times, erode and over shadow the importance of social outcomes and building social capital. There is undoubtedly a need to address the apparent imbalance in the way PV in the UK is delivered and accounted for within contemporary planning and urban regeneration. To this end, the new Public Value Framework offers a heuristic device with which to advance a more holistic approach to securing social outcomes and putting the public back at the heart of public body decision making.

Appendices

Appendix A

Testimonials from Residents as cited in Heygate was Home

(Heygateshome.org 2012)

Angela Ampomah

"We have been here for so long, we have had our children here and now you want to just throw us out like an empty bag of crisps? This regeneration has been a crime against the people who lived here: it has killed their livelihoods, their moral and their spirit."

Greg Sanziri

"They said 'either you accept what we are offering or we will take you to court.' It was all about profit and economy - not people."

Orho Okorodudu

"I don't think the council understands what a community is. They look at things from a purely financial perspective, but the social and cultural consequences of dispersing a community are beyond measure."

Mojisola Ojeikere

"We have been harassed and intimidated out of our homes in a scheme that was supposed to make our lives better."

Barry

"I don't know why we couldn't all move to the same place, this is what they said at the beginning – they were going to build new blocks just for Heygate residents, but this never happened."

Council leader Peter John

"The Heygate & Aylesbury estates reinforced poverty, crime and inequality. Crime, anti-social behaviour and unemployment were the only things that flourished there."

Liz Grace

"We lived here for 35 years; that's a lifespan to a lot of people and then to be forcibly moved out of it - Why? because this land is worth millions. They want to get rid of the social housing and build properties for the rich, like the famous Strata Tower across the way."

Helen O'Brien

"What was once a thriving community has now been scattered all over Southwark. Southwark's regeneration plans are a miserable failure, everyone who has worked on the regeneration at the Elephant should be thoroughly ashamed of themselves."

Terry Redpath

"We have been forced to give up our central London homes, in order to enable a private developer to build luxury private properties that none of us will ever be able to afford."

(Heygate was Home, 2015)

Appendix B

Timeline of development

February 2004 — the masterplan for regenerating the Elephant and Castle, including the demolition of the Heygate Estate, was adopted by Southwark Council.

July 2007 — a consortium of Lend Lease Group, First Base and Oakmayne were chosen as developers for the Elephant and Castle regeneration scheme.

July 2010 — Southwark Council signed a development agreement with global property giant Lend Lease Group for the regeneration of Elephant and Castle.

April 2011 — demolition of the Heygate Estate began.

August 2012 — the remaining leaseholders on the estate were served with a CPO by Southwark Council. The group of leaseholders said they intended to object to the Order on the grounds that the redevelopment plan proposes no affordable housing and does not have a provision for renewable energy.

October 2012 — local MP Simon Hughes called for the first detailed Heygate planning application to be withdrawn because it proposed just eight social rented homes. Outline planning permission for the Heygate site proposes 2,535 new homes in total of which just 79 will be social rented.

November 2013 — the last remaining residents were evicted from the estate by bailiffs.

July 2014 — the Council leader was criticised for having accepted gifts from developer Lend Lease; these included a trip to MIPIM, a real estate jamboree in Cannes, and two £1,600 tickets to the Olympics.

July 2014 — demolition of the Heygate Estate was completed earlier than expected. The land is presently being redeveloped as housing and retail space, and the area is being marketed as 'Elephant Park'.

Nov 2016- First phase of new development released 'South Gardens' apartments starting at £380,000 (Southwark Council, 2016).

Appendix C



Dear Sir/Madam,

I am a PhD student at Ulster University and am emailing to invite you to take part in my research fieldwork to inform my thesis. My research concerns the subject areas of Planning, Judicial Review, Urban Regeneration and Public Value. I would like to invite you to participate via scheduled interview to draw upon your knowledge basis in your relevant area of expertise in relation to this research.

It should be noted that all information is for the sole purpose of my thesis and anonymity will be secured and guaranteed. If you are interested and prepared to participate I would appreciate if you could email me to arrange further correspondence and set up an interview. Questions can be forwarded prior to the interview taking place if required.

I hope to hear from you soon

Kind Regards

Laura Rice

PhD Researcher

Ulster University

E: Rice-L11@ulster.ac.uk

Appendix D

Normative Institutionalism

Normative Institutionalism which is referred to as the 'original' new institutionalism centres its theory on the existence of 'a logic of appropriateness'. The normative approach believes that it is a logic of appropriateness which influences the behaviour of actors within a given institution. Normative institutionalism believes that it is both the rules and norms of an institution that will shape how those in an institution will act, essentially guiding their behaviour in a given situation (Faralli, 1993). The normative institutional approach as endorsed by March and Olsen (1989) highlights the important role of norms and values in examining and defining an institution. In this sense they argue that the norms and values/rules as formulated by a given institution will ultimately influence and shape the actions of those within the institution.

The normative approach therefore believes that institutions as separate entities maintain the ability to shape a polity over time by influencing those within the institution i.e. actor's perceptions and preferences. The normative theory views the norms and values of an institution as a means of explaining the behaviour and actions that transpire from that given institution (March, 1989). Further to this the normative approach views individuals as not being singular within the institutional environment, instead however it perceives individuals to be embedded in a complex relationship structure with both collectives and other individuals. What this means is that there are high levels of existing institutional influence due to actors institutional and organisational attachments, which see them adhere to the construed norms and values of the institution in which they dwell or are a part of (Lecours, 2005)

Both March and Olsen believe that institutions should not necessarily be viewed as a formal structure, instead believing that they are better understood as a collection of norms, rules and routine.

Political institutions can be understood in the same context, as a collection of rules and routines which depict and guide appropriate courses of action between roles and situations. Due to its influential link with norms and values in influencing the behaviour of its actors, the normative approach is also considered to possess an 'inherent legitimacy'. What this means is that actors actions and behaviour may even be in conflict with their own self-interest (Greenwood, 1996). Returning to the concept of logic appropriateness, both March and Olsen perceive that it is the element of appropriateness in relation to the above that therefore shapes individual action, as opposed to any consequential circumstance. This means that although individuals within institutions will make conscious decisions, such choices will remain within the parameters of the set institutional values.

Sociologist Philip Selznick also shares a similar view of the normative approach and its emphasis on the role of norms and values. Selznick emphasises the importance of value in institutions as indication of behavioural guidance. This follows similar views of Herbert Simon and his theory of 'bounded rationality'. Simon argues that individuals are not comprehensively rational, instead they operate within set boundaries on rationality, which is often imposed by organisational memberships. In summary the normative approach lays heavy focus upon the influential dimension that applied norms and values of an institution have in shaping the behaviour and actions of individual actors within those institutional environments (Selznick, 1996). In essence normative theory suggests that the rationale for norms and values derive from those produced by institutions which suggests a considerable level of institutional influence when it comes to rational decision making within the public domain. In relation to this research

the normative theory provides a solid basis in understanding the constraints of decision making within public administration and policy making.

There are however criticisms of the normative approach the first of which addresses the issue of preferences. Normative institutionalism is concerned with the defining of expressed and real preferences by actors within the institutional environment, however instead of assuming that individuals are compelled to act in reflection of the norms and values of the institution under which they are influenced as the normative approach would suggest Immergut (1998) shares an alternative view to this notion. She suggests that there may be 'numerous reasons why under a particular set of circumstances, someone may make a political choice that deviates from the choice, the same individual, with the same preferences, would make under other circumstances. For example they may believe that the outcome they hope for is not feasible and that they should therefore vote for an alternative that is not their first choice but one that has the advantage of being realisable' (Immergut, 1998). Further to this it is argued that the normative approach in its summation of individual behaviours into a collective phenomenon is relatively problematic. Dahl in relation to this issue states 'analysis of individual preferences cannot fully explain collective decisions, in addition there is need to understand the mechanisms through which individual decisions are aggregated and combined into collective decisions' (Farr, 1993). However the normative recognition of bias within institutions highlights the need for institutions to take note of the direction and implication of bias whilst improving the justness of institutional outcomes. Due to its individualistic approach to the analysis of norms and values however the normative approach is not appropriate for this research as it seeks to examine collective institutional progression over time.

Rational Choice Institutionalism

Rational choice theory presents an alternative view on institutions, viewing them as a means for individuals to serve their own interests. Rational choice institutionalism (RCI) assumes that 'institutions are a product of purposive agents coping with existential problems, forming alliances and pursuing their interests in a rational way (understanding society, 2016). RCI implies that actors use institutions to maximise their utility. However in the same instance such actors are also faced with constraints and restrictions which are provided by the institutional environment which in turn influence their behaviour. The RCI approach attempts to examine the behaviour of political actors within institutions, provide explanation as to how institutions are formed and to explain the outcome of interaction amongst such. The creation of institutions in accordance with the RCI approach is viewed as an attempt to reduce transaction costs of collective activity which would ultimately be increased without institutions (Rhodes, 2006). The rational choice method believes that institutions retain their existence and form long after their conception as they reduce uncertainty and facilitate gains from exchange. This meaning that there are individual benefits to be sought from the institutional structure.

In relation to the political context RCI assumes that political actors within the institutional environment have preconceived/ fixed preferences. In this sense such actors behave instrumental using both cost- benefit calculation and foresight in order to maximise gain on their pre- determined preferences. The RCI approach is concerned with highlighting the utility-maximising decisions of individuals within the institutional arena. However the rational approach is one that goes against the normative theory that there are constraints within institutions as its maximising benefit element would appear to contradict such (Rhodes, 2006).

Both Keman and Fritz Scharpf argue in support of the utility of institutional rational choice and discuss it as an increased actor-centred form of institutionalism. The rational choice argument

can be concisely described as utility maximisation remaining the 'primary motivation of individuals but those individuals may realise that their goals can be achieved most effectively through institutional action and find that their behaviour is shaped by the institutions' (Peters, 2011). In this sense therefore, individuals rationally choose to be constrained to some extent by/through their membership in a given institution. The rational choice concept however unlike the other institutional theories discussed is not concerned with the creation of preferences, rather however it is principally concerned with the manipulation and design of institutions (Keman, 2002).

Unlike other institutional approaches rational choice as discussed is highly concerned with examining individual maximisation and behaviour, suggesting that this kind of individual action produces dysfunctional yet compliant behaviour in the institutional structure.

In summary the rational choice concept perceives individuals as the central actors, who act rationally and comply with institutional rules and regulations in order to maximise personal utility. This means that institutions themselves are ultimately a body of rules that influence individual behaviour where individuals respond rationally to both the incentives and constraints offered by the institution, whilst assuming most individuals respond and act accordingly (Shepsle, 1989).

The key difference between the normative and rational approach can be explained through suggested forms of compliance. The normative approach suggests a moral obligation to the norms and values of an institution where the rational approach is a more calculative and preconceived determination of compliance. The rational choice approach also contradicts that of historical institutionalism believing that past history of an institution or organisation is of little concern as new incentives can produce changed behaviour easily. However compliance with such in accordance to the rational choice concept would ultimately depend on the level of

maximised benefit production in order to complement the development of such change (Schmidt, 2008).

The rational choice ideology however is not a suitable one to deploy for this research as it fails to allow causal relationships and influences upon institutions to be examined over time. Further to this and like the normative theory it focuses upon the concept of individual compliance due to notions of maximised benefits and proves too restrictive for this research.

Appendix E

Uniplex (UK) Ltd v. NHS BSA- Time Limits for Court Challenges

European Union, United Kingdom, May 19 2010

Available at: <https://www.lexology.com/library/detail.aspx?g=b7bfe1d4-efc7-4861-bd95-2b5aad1853e0>

The Case Reads:

The CJEU handed down its judgment in *Uniplex (UK) Ltd v. NHS Business Services Authority* (Case C-406/08). The case concerned a preliminary reference from the High Court of England and Wales in relation to questions on when the date from which the period for bringing a procurement challenge should run.

Under UK law, proceedings must be "brought promptly and in any event within three months from the date when grounds for the bringing of the proceedings first arose unless the Court considers that there is good reason for extending the period within which proceedings may be brought."

The CJEU held that the period for bringing proceedings should start to run from the date on which the claimant knew, or ought to have known, of that infringement. It also held that EU law precluded a national provision which allows a national court to strike out proceedings for delay on the basis that those proceedings must be brought "promptly". In exercising discretion to extend time, the CJEU held that a Court must extend the limitation period in such a manner as to ensure that a claimant has a period equivalent to that which it would have had if the period provided for by national legislation had run from the date on which the claimant knew, or ought to have known, of the infringement of the procurement rules.

Appendix F

Questions for Interviewees

Interview Questions for Urban Regeneration Consultants

- Q1)** How important is judicial review within the context of urban regeneration?
- Q2)** Has urban regeneration policy changed in the last five years?
- Q3)** What do you understand the public value of urban regeneration to be?
- Q3)** In what ways have judicial review reform affected public value production within urban regeneration projects?
- Q4)** Could public value be better supported within urban regeneration?
- Q5)** Are there any growing issues/concerns within contemporary urban regeneration projects in the UK?
- Q6)** How do you account for value production within urban regeneration projects?
- Q7)** Would you agree that regeneration is solely concerned with profit making above all else?

Interview Questions for Planners

- Q1)** How important do you feel judicial review is to the planning system?
- Q2)** How has planning policy changed in the last 5 years?
- Q3)** What do you understand the public value of planning to be?
- Q4)** What do you perceive the public value of urban regeneration to be?
- Q5)** To what extent do you feel planning policy promotes public value?
- Q6)** Would you agree that planning policy has become significantly economically focused at the expense of publically social concerns?
- Q7)** Do you feel the relationship between planning and judicial review is publically understood?
- Q8)** Do you feel public value could be better supported within planning?
- Q9)** Do you feel contemporary planning policy adequately supports public value production within contemporary regeneration?

Interview Questions for Lawyers/JR Consultants

- Q1)** What is the importance of the system of judicial review to planning?
- Q2)** How does judicial review legislation promote public value in your opinion?
- Q3)** Do you feel the relationship between planning and judicial review is publically understood?

Q4) How important is judicial review within the context of urban regeneration?

Q5) Is there an increasing correlation between JR and urban regeneration?

Q6) What do you understand the public value of JR to be?

Interview Questions for developers

Q1) What do you feel is the importance of Judicial Review to the system of planning and development?

Q2) What do you understand the public value to be derived from urban regeneration/development to be?

Q3) Do you feel judicial review hinders the process of development?

Q4) Do you feel judicial review adequately supports public value?

Q5) Do you feel planning adequately supports public value?

Q6) How do you measure public value production within development?

Q6) Do you feel a public value management framework would be a positive contribution to public administration?

Interview Questions for public

Q1) What do you understand about the role of judicial review in relation to planning?

Q2) What do you understand public value to be?

Q3) How would you define public value in (insert relevant context)?

Q4) Do you feel contemporary urban regeneration generates sufficient public value/social outcome?

Q5) Would you agree that contemporary planning and regeneration policy is economically focused?

Q6) How do you feel/ do you feel public value could be better managed within public administration?

Q7) Can you give an account/example of your experience of JR/Urban regeneration?

Interview Questions for Public Value Theorists/Consultants

Q1) How would you describe public value at its best?

Q2) What do you feel public value management brings to public administration?

Q3) What public value do you feel is produced by the system of planning?

Q4) What public value do you feel is produced by the system of judicial (in relation to planning)?

Q5) Within the context of urban regeneration what do you perceive public value to be?

Q6) Do you feel public value is adequately supported in contemporary public administration? Why?

Q7) In your view what does PVM have to offer to contemporary public management and development?

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