

ARGUING ABOUT HOUSING LAND SUPPLY
Top 10 arguments

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1. Push the parameters

- Political decision-making usually at the local level, but housing need crosses boundaries
- A grey area can exist between the two – address it whether you are LPA or developer
- NPPF 49; but see eg Alcester DL10/IR 243 – emphasis on LPA area
- Compare NPPG *What areas should be assessed? “in relation to the relevant functional area, ie housing market area”*
- The duty to cooperate is engaged – see eg Selborne DL 13.3.14 (APP/Y9507/A/13/2204544) at [69] to [78]

2. Recognise that economic policy drives housing $\frac{L}{C}$ needs

- NPPF 50 refers to demographic trends; NPPG *How should employment trends be taken into account* is a retrospective assessment
- At plan-making stage, the economic policy choices are intertwined with housing migration figures – reports on both needed at the earliest stage; reps to LP or topic papers need to be written on the basis of both
- LEP or other transboundary economic factors are relevant

3. Don't forget specialist housing

- NPPF [50] but NPPG is the best starting point for this now (*How should the needs for all types of housing be addressed?*).
- Don't be misled by the first sentence – its not 'overall figure first, then needs for specialist types' – the latter is part of the former's justification
- Particular emphasis on (a) elderly population numbers – “critical” need recognised in NPPG, and (b) affordable.

4. Green Belt release is for the politicians

- Nick Boles letter to Sir Michael Pitt re Reigate and Banstead LP – central authority telling unelected to leave to locals
- Policy test is still one of “exceptional circumstances” – NPPF [83], “having regard to their permanence, so that they should be capable of enduring beyond the plan period”
- Local officer/politician dialogue the key here

5. Present LP reps clearly

- The EiP process creaks under the strain of housing numbers debates.
- Learn the lessons of *University of Bristol v SSCLG*
- Soundness skeleton – referring to housing needs reports and supporting documents like SHMA or economic work
- Then selected team with training for EiP

6. How to play *Hunston* and prematurity

- *Hunston* – if the LP not made the key constraints decisions yet, then the new/old NPPG guidance on prematurity may play a role in s.78 or applications
- Needs may get you to paragraph 14, but even outside GB, the larger the site, the greater the risk of a prematurity objection if the LP is beyond submission

7. 5% or 20% - how long is 'persistent' before underdelivery matters?



- Key marker in the Secretary of State's *Whitehouse Farm, Newcastle upon Tyne* decision, APP/W4515/A/12/2175554, at DL15 and IR389
- No set period but need to judge against the operative targets at the time – eg RS targets; 4 years usually too short, 10 more likely to be accepted

8. Challenging deliverability

- Staple of many s.78/applications
- Key is often to challenge timing of delivery of the crucial sites
- See *Barrow on Soar Parish Council* decision[2014] EWHC 274 (Admin) – even where infrastructure impediment, decision maker can find site deliverable if experienced developer plus Grampian condition imposed
- At inquiry – can require market saturation evidence as well as emails from developers

9. Neighbourhoods

- NPPG *How does the five-year housing supply relate to neighbourhood planning?*
- The circle not squared – “where a neighbourhood plan comes forward before an up to date Local Plan is in place, the local planning authority should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress and share evidence used to prepare their plan. Neighbourhood plans should deliver against the objectively assessed evidence of needs” What does this mean??

10. 5 year housing supply, but not at any cost



- Sustainable development, not any development – Thundersley/*Fox Land and Property* challenge
- See eg *Oxford Diocesan Board* decision also (relating to Planning for Growth)
- Other side of coin is general need for more housing, even if there is a 5 year housing land supply.
- Don't let tail wag dog, especially at the strategic planning stage.