The Planning Court: One Year On

Mr Justice Lindblom

Introduction

Six months on from its first birthday,[1] some reflections on the early days of the Planning Court may not be premature. I acknowledge straight away that I am not an entirely impartial observer. I may be prone to exaggerating the undoubted successes of the court and to minimising its failures, if any. As Planning Liaison Judge, I have been in charge of the court since it was set up, responsible for what it does and for leading it in the direction I believe it should take. I cannot, of course, describe at first-hand an advocate's experience of the way it works—others attending this conference will be able to do that—but I can at least offer you a judge's perspective of the operation of the Planning Court in the hope that what I say will help those who practise there regularly to get the best they can from it, and the court to get the best from them.

For the most part, so far, the court has had a good press. An excellent textbook[2] surveying the court's procedures and some of its jurisprudence is soon to be published. It contains some generous comments on the work the court has done so far.

In this short paper I want to do three things. First, I shall recall how the Planning Court came into being, and why. Secondly, I shall say something about the court's jurisdiction and procedure. Thirdly, in the light of that, I shall offer some thoughts of my own about case management, focusing on the roles of judge and advocate in the court and how, in my view, each can assist the other. I am not going to attempt an overview of the many important cases heard and decided by the court in the last 12 or 18 months. Other speakers at this conference will be doing that.

The court

What then is the Planning Court? I have in the past[3] described it as a court within a court or even a court within a court within a court, a part of the Administrative Court, whose nominated judges are themselves drawn largely from the ranks of judges of the Queen's Bench Division. Others have described it as if it were not a court with an identity of its own, let alone autonomous, but merely a list within a list—one component of the daily and weekly workload of Administrative Court.[4] However, I think that description misses something, as I shall go on to explain.

Either way, as is clear from its name, the Planning Court has a specialist function. And the success of that specialist function is the responsibility both of the judges who sit regularly in it and the court users who come to it for the just resolution of claims in a wide range of planning cases.

How did the court come into being? Its precursor was the Planning Fast Track, a procedural regime put into effect in July 2013 as a means of speeding up the hearing of planning cases in the Administrative Court. Its creation was eased by the removal of much of the Administrative Court's traditional and growing burden in the determination of claims for judicial review in immigration and asylum cases, which has largely been transferred to the jurisdiction of the Upper Tribunal.

[1] The first hearing in the Planning Court was of the renewed application for permission to apply for judicial review in *R. (on the application of Jones) v English Heritage* [2014] EWHC 2259 (Admin), which took place on April 7, 2014.

[2] *Cornerstone on the Planning Court* (Bloomsbury Press).

[3] For Example, in my address to the PEBA National Conference on May 15, 2015.

[4] CPR r.54.22(1).

By the end of 2013, the Coalition Government was anxious to promote reform in the procedures for judicial review generally, and especially where it threatened to delay development which could contribute to economic recovery and growth, to deter investment in regeneration, or to impede the progress of projects of major infrastructure.[5] The Government wanted to see prompt adjudication in challenges to schemes of major infrastructure and development.

Little enthusiasm emerged for the concept of conferring jurisdiction in planning judicial review upon a chamber of the Upper Tribunal, originally conceived as an expanded Lands Chamber: the Land and Planning Chamber as it would have become. The concept ultimately favoured was the creation of a new specialist court, drawing upon the existing resources of the Administrative Court and charged with the task of expediting the hearing of planning cases. The Ministry of Justice announced the creation of the Planning Court in a press release in February 2014, and this initiative featured in the Chancellor of the Exchequer's Budget speech the following month.[6]

Amendments to the Civil Procedure Rules for judicial review in planning cases were put in place with effect from April 6, 2014,[7] in the form of the new CPR Pt 54,[8] Pt II and Practice Direction 54E. The new Rules provided that Planning Court claims[9] should form a Specialist List, albeit one administered within the Administrative Court. They create the role of Planning Liaison Judge, who is nominated by the President of the Queen's Bench Division to oversee the work of the Planning Court, and has responsibility for the early triage of cases, in particular, for determining those cases that are to be categorised as "significant".[10]

That history is well known and needs no elaboration here. I mention it only because it provides some insight into the ethos of the Planning Court.

Jurisdiction and procedure

The definition of a "Planning Court claim" in CPR r.54.21(2) is deliberately wide.[11]

So too is the inclusive definition of a "significant" claim in Practice Direction 54E para.3.2, which leaves the Planning Liaison Judge with a very broad discretion in the monthly triage.[12] This simple dichotomy is, in my view, sufficient. And the discretion to put a claim in one category or the other has been exercised, and will continue to be exercised, in the benevolent spirit in which it is provided, with the result that a high proportion of incoming claims in the Planning Court are being categorised as "significant". That proportion will obviously vary from month to month. On average it has been about 40 per cent of the total monthly intake. Rarely, if ever, has the categorisation of a claim under this provision been questioned.

In its first year, the Planning Court received more than 550 claims. Whether that number will rise or fall in future years is impossible to say. The strength of the national economy and the level of confidence in the development and property investment industry may influence that. If higher levels of economic activity generate more proposals for development, there may be a reciprocal growth in the number of legal challenges to planning decisions. If changes in national planning policy and guidance continue to stimulate

[5] Command Paper Cm.8703, "Judicial Review Proposals for Further Reform" September 2013, para.6.9.13.
[6] Command Paper Cm.8703, "Judicial Review Proposals for Further Reform" September 2013, para.2.251.
[7] By the Civil Procedure (Amendment No.3) Rules 2014 (SI 2014/610).
[8] CPR r.54.21–54.24.
[9] Defined in CPR r.54.21(2).
[10] Under PD54E para.3.1.
[11] A claim for judicial review or a statutory challenge, issued in or transferred to, the Planning Court, that involves planning permission, other development consents, the enforcement of planning control and the enforcement of other statutory schemes; applications under the Transport and Works Act 1992; wayleaves; highways and other rights of way; compulsory purchase orders; village greens; European Union environmental legislation and domestic transpositions, including assessments for development consents, habitats, waste and pollution control; national, regional or other planning policy documents, statutory or otherwise, and—a residual, discretionary category—"any other matter the judge appointed under rule 54.22(2) considers appropriate".
[12] Claims that relate to commercial, residential, or other developments which have "significant economic impact", either at a local level or beyond their immediate locality; or raise "important points of law"; or generate "significant public interest"; or "by virtue of the volume or nature of technical material, are best dealt with by judges with significant experience of handling such matters".

disputes over the meaning of a particular statement of policy, which the court is called upon to resolve, that too would be a factor increasing the work of the court. On the other hand, an optimist might hope that the maturing jurisprudence of the court will lead to a gradual reduction in the number of claims, though it must be said that experience seems to suggest otherwise. I leave that speculation to someone else.

There are two main consequences of a case being categorised as "significant". The first is that it will certainly be heard by one of the specialist planning judges nominated by the President of the Queen's Bench Division from among those who sit in the Administrative Court,[13] of whom there are at the moment 17. The second is that the target timescales for the hearing of such claims will apply, and the parties are enjoined and expected to co-operate with the court in ensuring that those targets are met.[14]

The target timescales in Practice Direction 54E para.3.4 are substantially the same as those which were brought into effect for the Planning Fast Track.[15] They are not unduly onerous and, if one assumes the co-operation of the parties and their legal representatives, can readily be achieved in every case, though not if counsel's availability is given the priority it may once have had,[16] and I see no reason why the court's success in meeting its targets should not continue after the procedural arrangements[17] for a permission filter in challenges under the Town and Country Planning Act 1990 s.288 and similar statutory provisions[18] are established.[19] I should also add here that the targets are no different, and the imperative of meeting them no less strong, whatever the venue for the hearing of the claim may be. It is not always easy to accommodate "significant" cases in a regional venue[20] within the relevant target timescale, but with the flexibility in the deployment of judges, which is essential if the Planning Court is to continue to meet its targets, it should not be necessary, and will generally not be appropriate, for cases to be heard in London if the appropriate venue is another court centre.[21]

Judged by its performance against the target timescales for the handling and hearing of cases in Practice Direction para.3.4, the Planning Court has been very successful from the start. The targets set for it are being hit. Average waiting times for a hearing are still falling. Since the creation of the new court, the inflow of the intake of cases within its jurisdiction has remained at much the same level as in previous years, averaging about 40 new cases a month. The number of live planning cases, both "significant" and non-"significant" is now slightly above 200. This is a striking reduction. At the end of 2013 the number of live cases was over 300. The Planning Court has been able to meet the target timescales set out in the Practice Direction for the determination of claims, in terms of consideration of permission and the listing of both renewals and substantive hearings. The average waiting time for a decision on the papers, calculated from the date the claim was lodged, is now about eight weeks; the time from receipt of renewal to renewal decision has dropped from about 15 weeks in mid-2014 to less than eight; and the time from lodging to substantive hearing has come down from about 45 weeks to about 25.

It would be wrong, however, to think that the Planning Court is merely a mechanism for expediting the hearing of claims in planning cases, and accelerating the progress of such claims through the system to their final disposal. Its aim is not simply to drive up the productivity of the court, to intensify the use of

[13] Under CPR r.54.22(3) and PD54E.

[14] See PD54E para.3.4.

[15] The targets are these. Applications for permission to apply for judicial review will 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 judicial review will be heard within one month of receipt of request for renewal; applications for permission under the Town and Country Planning Act 1990 s.289 will be determined within one month of issue; that substantive statutory applications, including applications under 1990 Act s.288 will be heard within 6 months of issue; and claims for judicial review will be heard within 10 weeks of the expiry of the period for the submission of detailed grounds by the defendant or any other party under CPR r.54.14.

[16] As I said in *London & Henley (Middle Brook Street) Ltd. v Secretary of State for Communities and Local Government* [2013] EWHC 4207 (Admin) at [16].

[17] Provided in the Criminal Justice and Courts Act 2015 Sch.16.

[18] Including the Town and Country Planning Act 1990 s.287, the Planning (Listed Buildings and Conservation Area) Act 1990 s.63, the Planning (Hazardous Substances) Act 1990 s.22, and the Planning and Compulsory Purchase Act 2004 s.113.

[19] Under the new PD8C.

[20] Under CPR r.54D.

[21] Under PD54D para.2.1; generally, though not always, one of the District Registries in Birmingham, Cardiff, Leeds and Manchester.

its resources and to enhance its output. Its success is not to be judged by statistics alone. If it were a business, its mission statement would declare that all of this can be achieved without any loss of quality in the decisions made on those claims, whether concerning schemes of national importance or far smaller and less complex projects than that, or any loss of confidence among users of the court in the justice they receive. Indeed, in my view that would be the paramount aim of the Planning Court.

How well has the Planning Court done in meeting that aim? My view—a subjective view—is that it has done very well. No one has said to me that this is not so. An objective answer to the question might be found in the record, if there was one, of the proportion of appeals from orders made by judges sitting in the Planning Court which are allowed by the Court of Appeal or the Supreme Court. It is too early to say what that record would show. I think it will be interesting to look at this question again after the Planning Court has been operating for two or three years, but nobody has yet said to me that the gains in speed of determination at first instance have been at the expense of a higher rate of success in applications for permission to appeal or in substantive appeals. Whether the reverse will turn out to be so I am not going to try to predict. Perhaps it will.

Leaving that thought aside, I am in no doubt that the Planning Court is well able to produce judgments of the highest quality in the cases which fall within its jurisdiction. With the greater concentration of relevant judicial expertise in the new court, the judges deciding those cases should be, and are, more familiar with the subject-matter of planning claims and more confident in dealing with it. This, I think, is of great value, for example, where the interpretation of national planning policy or provisions of the development plan or both[22] is concerned, as it has been in a great many cases since the National Planning Policy Framework was published in March 2012, and in cases where the underlying planning and environmental issues are particularly complex or difficult, as often they are.

I would make a further point here, which is, I hope, not too ambitious. One could say, I think, that the high-quality, specialist jurisdiction of the Planning Court, and the efficiency of its procedures in bringing disputes swiftly to their resolution, have reinforced the compatibility of the decision-making processes in our planning system with European Convention on Human Rights art.6(1).[23] This is a theme to which someone might like to return.

Case management

I turn now to some thoughts on case management in the Planning Court. In doing so, I shall mention a few steps that could be taken to improve the efficiency of the court in conducting its business, with some potential gain both in speed of determination and in the quality of judgments.

I should stress at the outset that these ideas are mine, and are not necessarily shared by every other judge who sits regularly in the Planning Court. They do not have, and could not have, the status of a practice direction or a guide as to practice in the Planning Court, even of an informal kind,[24] and they should not be misconstrued or misrepresented as having that status. They represent a personal view, in the light of my own experience over the last five years or so sitting as a judge in planning cases. In putting them forward I take some courage from the maxim, coined, I think, by the third Marquess of Salisbury, that an ounce of experience is worth a ton of theory. As it happens, my own thinking on case management coincides with that of Patterson J and Dove J, two judges with immense practical experience of planning law and practice behind them in their careers at the Bar, who now frequently hear cases in the Planning

[22] In accordance with the principles stated in the Supreme Court's decision in *Tesco Stores Ltd v Dundee CC* [2012] UKSC 13.

[23] See the House of Lords' decision in *R. v Secretary of State for the Environment, Transport and the Regions Ex p. Alconbury Developments Ltd* [2001] UKHL 23; [2003] 2 A.C. 295.

[24] See the Court of Appeal's decision in *Bovale Ltd v Secretary of State for Communities and Local Government* [2009] EWCA Civ 171.

Court and have been responsible for some of its salient case law in the last 12 months. They have recently offered their own thoughts on case management in an excellent article in the Journal of Planning Law.[25]

As those two judges have emphasised,[26] to ensure the most efficient possible conduct of a dispute in the Planning Court it is, I think, essential that the parties and their solicitors and counsel co-operate with each other and with the court fully throughout the period in which the case is moving from the grant of permission towards a hearing. Even in this new era of target timescales and earlier hearing dates, there is ample opportunity for that to be done, and no excuse for failing to do it. Both time and cost can be saved in this way, by the parties and by the court.

When I spoke at PEBA's annual conference in May 2015, I said there was no immediate prospect of a new Practice Direction coming into force to lay down general case management rules for the Planning Court. This remains so. In my view, there is no need for such a Practice Direction for at least two reasons: first, because there is already extensive provision for case management in the Civil Procedure Rules Pt 3, which, like the "overriding objective" in Pt 1, applies equally to cases in the Planning Court as it does to other proceedings in the Queen's Bench Division, including the Administrative Court; secondly, because there is also specific provision enabling bespoke case management directions to be made in Planning Court claims,[27] and judges are already doing this in many of the "significant" cases.[28] There is, I hope, a third reason, more powerful than the other two, which is this. I would expect that practitioners in the Planning Court will want to be known for setting an example of the highest standards of modern case management, without always having to be told what to do in directions made by a judge.

What I am referring to here is an attribute one might describe as litigation nous.[29] A particular kind of intelligence which grasps the need to save the court from toil it can well do without. All the best advocates have it, and so do those who instruct them. One of the things I would like the newly formed Planning Court Users' Group[30] to do is to foster that quality in those who practise in this court. If this can be done, the Planning Court will earn a reputation for efficiency and good practice which might surprise many of the judges who were hearing planning cases in the Administrative Court before the recent reform.

I have no desire to tell those who make a living from professional advocacy and advice in the planning sphere how to do their jobs. Many of you have been working in this field for a very long time. Some of you, I know, have sat in the Planning Court as deputy High Court judges, and so will have gained expertise in court-craft and the writing of judgments. Others here, including some who are not advocates or lawyers themselves, will often have to advise a client on the strength of a potential challenge to a planning decision, or of a challenge already before the court once the defendant's grounds of opposition to it are plain.

The most important thing to say about case management, I think, is also the most obvious: that it is the duty of parties and their legal representatives, however the case is being funded,[31] to make the case itself manageable.

The basic principle here is that, before a Planning Court claim is issued, careful thought must be given to the grounds on which the case is to be put before the court. This means that, in every case, those advising

[25] Ian Dove and Frances Patterson, "The Planning Court: Future Directions" [2015] J.P.L. 1118.

[26] Ian Dove and Frances Patterson, "The Planning Court: Future Directions" [2015] J.P.L. 1118.

[27] In PD54E para.3.5, which states that the Planning Court "may make case management directions, including a direction to any party intending to contest the claim to file and serve a summary of his grounds for doing so".

[28] For example, by dispensing with the need for the submission of detailed grounds of defence under CPR r.54.15 if ample detail of the defence has come forward with the acknowledgment of service and is thus before the judge at the permission stage, or by abbreviating the time for service from 35 days to 14 or 21.

[29] I had at first thought that this could be described as "forensic intelligence", but then remembered, or discovered, that criminology had got there first. I might just have said "common sense".

[30] The group, which I chair as Planning Liaison Judge, includes members of the court staff, solicitors specialising in planning work from firms both in London and elsewhere, the Government Legal Department, a barristers' clerk, and the Chairman, Vice-Chairman and Assistant Secretary of PEBA. The object of the group is to promote good practice among users of the Planning Court and to help the court improve its efficiency and the service it provides to its users. It has so far met once, in April 2015.

[31] Whether or not the challenge is an Aarhus Convention claim, under CPR r.45.41–45.44, or otherwise within the scope of the court's powers to make protective costs orders.

claimants must not shirk their duty to avoid burdening the claim with superfluous grounds, or in some cases launching a challenge at all, which cannot be reconciled with the court's jurisdiction in a public law challenge. Would-be claimants are not always familiar with the limits to the court's public law jurisdiction, limits which have not been expanded at all by the creation of the Planning Court. Grounds that cannot properly be argued within the constraints of that jurisdiction should be discarded before the proceedings find their way to the court, not left in the claim in the hope that they will escape the attention of the judge who has to decide whether permission to proceed should be granted. Intricate drafting of a large number of grounds is usually a telltale sign of a claim that should have been simplified to the points, very often only one or two, on which the case is likely to turn, or even that the claim should never have been pursued at all.

What are the essentials of good practice in the Planning Court? Without seeking to be exhaustive here, and again expressing only my personal view, I would mention five: first, as I have already said, rigour and realism in the selection and drafting of the grounds of the claim, and in working out the basis on which it is to be opposed, if it is to be opposed; secondly, economy and candour in the preparation both of the claim form and summary and detailed grounds themselves, and also in the content of the witness statement evidence, which should resist any temptation to re-argue the planning merits[32]; thirdly, early and continuing engagement between the parties with a view to reducing and refining the issues the judge is going to have to decide at the hearing; fourthly, pragmatism and good sense in the preparation and presentation of the materials for the court, with a view to helping the judge focus on the documents central to the parties' dispute, rather than deluging the court with documents it does not need to have, which has for a long time been a conspicuous feature of many planning cases in the Administrative Court; and fifthly, skeleton arguments based on an agreed understanding of what the main controversial issues in the case actually are, the relevant history behind those issues, and the essential jurisprudence germane to them. All of this, as I have said, requires the parties to work together, in spite of the issues that divide them in the proceedings and I do not think that any of it is too much for the court to expect.

Counsel and solicitors can, I think, help the court in several ways. Let me mention a few. This is not to lay down a prescriptive approach to proceedings in the Planning Court. I recognise, of course, that each case is different, and that very often the issues in the claim are straightforward, but certainly in many of the "significant" cases, where the judgment is likely to have to be reserved, the proceedings will run a good deal more smoothly to their conclusion, and the judgment may well be handed down sooner if certain basic things are done by the parties well before the hearing. These include the preparation of an agreed bundle of core documents, which usually need not run to more than 200 or 250 pages; an agreed chronology, preferably expanded into a coherent and neutral narrative, and cross-referenced to the corresponding material in the hearing bundle, to relieve the advocates of the need to paint the background in detail in their skeleton arguments, and to ease the judge's burden in writing the factual part of the judgment, which usually takes more time than it should; an agreed list of issues; an agreed list of propositions of law and relevant authority, issue by issue; and an agreed bundle of authorities, reduced to the necessary minimum, and true to the principle that if it is not necessary to cite a case, it is necessary not to do so.

I have used the word "agreed" no fewer than five times in that last sentence. I could have said "voluntarily agreed". If the advantages of such co-operation become widely accepted in the planning community, as they should, it will not generally have to be imposed on parties in case management directions, but parties and their lawyers should not be surprised to see judges of the Planning Court taking the initiative when they have to.

One advantage of the approach I have suggested, in my view, is that, both in claims for judicial review and also in statutory challenges when the arrangements for permission in those cases are in place, it may allow more scope for the use of "rolled-up" hearings. I think that such hearings are often suitable in the

[32] As I had to say in *Horsham DC v Secretary of State for Communities and Local Government* [2015] EWHC 109 (Admin) at [62].

more substantial and complex claims, and that we might make more use of them than we do at the moment. In many cases they can save time and cost. Lengthy permission hearings, if permission is granted, can generate unnecessary duplication of work, as well as being an inefficient use of court time. I acknowledge that it may be undesirable to convert a permission hearing into a "rolled-up" hearing when the parties are unprepared for that, or impossible to do so if one of them is likely be left at a real disadvantage, but undoubtedly, in my view, there are cases in which such difficulties could be avoided through the kind of proactive case management to which I have referred.

When the things I have mentioned are done, a case will be in the shape it ought to be in when the hearing begins. Advocates' submissions, both those on paper in the skeleton arguments and those made orally at the hearing, will be framed with more confidence, arranged in a more logical and digestible sequence, and delivered more crisply, without repetition or omission, and without sacrificing anything of substance in the argument. Advocates will perform better. Judges, almost all of whom were once advocates themselves, will know they are getting the help they should have. The parties, both those who win and those who do not, will see best practice in action. They will be more likely to feel that justice is being done in their case. If they do they will be right, even though the losing party will usually be disappointed by the result and when a first instance decision comes before the Court of Appeal that court too will appreciate the benefits of a well prepared and well argued case in the court below.

Conclusion

I have not shared with you anything new or exciting here, I know, but as I said when invited to speak at this conference, if I managed at this stage to say anything about the Planning Court that came as a shock, even as a surprise, to any of you as its users, something would have gone wrong. I hope it has not been tedious to be reminded of some of the principles which have informed the work of the court so far, all of which have been put into practice with your active support. For that support I am very grateful, and my fellow judges are grateful as well. The continued success of the Planning Court is going to depend upon it.

How Many Houses Should We Plan For?

Dame Kate Barker DBE

Synopsis

The National Planning Policy Framework ("NPPF") and associated planning guidance places a great deal of weight on household projections as the starting point for establishing housing targets in local plans, but we know from the past record of these projections versus outturns that there is much scope for error. Despite this, lengthy justifications for particular numbers are produced for local authorities. This paper takes an overview of the present state of local plans in Hertfordshire to illustrate how the projections have been taken into account, and importantly, suggests that nevertheless the total of the present plans at the moment is rather below the household projections for the county.

To make matters worse, econometric modelling at the national level tends to suggest that new supply would need to be at a higher rate than household projections to improve affordability. Some suggestions are made for how planning could be made more flexible. The NPPF is a good step forward in many ways, but by focussing too much on localism, the reference to "need" rather than "demand" and placing too much weight on household numbers, it risks perpetuating planning's tendency to become self-referential.

Introduction

The NPPF states:

> "… local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework …"[1]

This statement begs a number of questions. For example, just how wide is the housing market area? It also provides an opportunity for local authorities to argue (appropriately in some cases) that they are too sensitive in environmental or landscape terms to meet "needs" in full. These are important issues. However, in this paper I am going to focus on the phrases "evidence base" and "full, objectively assessed needs for market and affordable housing". In that sense this is a narrow paper, which does not attempt any commentary about how to select particular sites.

Further detail on how local authorities should go about assessing need appears in the Planning Practice Guidance.[2] Perhaps the most helpful sentence of this is the first; "Establishing future need for housing is not an exact science". Marrying up the question of an inexact science with an "objectively assessed" need sounds pretty tricky. The first clue as to how this inexact science should be tackled is: "Household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need." A literature has of course already developed on this, in particular the Technical Advice Note from the Planning Advisory Service.[3] This has an excellent description of the way in which "need" and "demand" (which were previously distinguished in Planning Policy Statement 3) have become conflated into a rather ill-defined term "need" in the NPPF and accompanying guidance.

[1] NPPF, DCLG, March 2012.
[2] Planning Practice Guidance at *http://planningguidance.planningportal.gov.uk* [Accessed October 7, 2015].
[3] Peter Brett Associates, "Objectively Assessed Need and Housing Targets: Technical Advice Note" Planning Advisory Service, June 2014.

Below I discuss:

- The history of population, and then household, projections for England and their use in planning policy.
- Whether household projections could be expected to be a good guide to the numbers of dwellings that should be supplied at regional or local level.
- Trends in household size.
- An analysis of the present approach to planning for housing across Hertfordshire and a crude assessment of its adequacy.
- The implications of econometric modelling of the housing market for the role of household formation in housing demand.
- Summary and a possible way forward which focuses on demand and social outcomes rather than need and housing numbers.

Many of the arguments in this paper are not new, but rather a continuation of points made in the 2004 Barker Review of Housing Supply ("the Review") and the follow-up work.[4]

Population and household projections

In 2007, the Office for National Statistics ("ONS") published an article looking back at population projections for the UK in the post-war period, which concluded that there were some very large errors in the projections..[5] For example, in 1965 the population of the UK was projected to be 75 million by 2000. The actual outturn was 59 million, much of the error being due to an overestimate of the birth rate. Migration projections, as might be expected, have also been a major source of error. During the last 50 years of the 20th century, the mean absolute error for the UK population was 0.5 million after eight years, although this includes the very large error mentioned above. There is some evidence that more recent projections have shown smaller errors, but even if we assume the average error may be smaller in future (say 0.25 million), do a back-of-the-envelope calculation to adjust this to England rather than the UK, then divide by 2.25 to give a household estimate, this suggests that household projections would be expected to be wrong by 84,000 after 8 years, with uncertainty about whether the outturn would be larger or smaller.

Uncertainty about population is exacerbated by uncertainty about what will happen to household size. The Town and Country Planning Association has helpfully published a number of articles, often co-authored by the late Alan Holmans whose grasp of these issues remains unsurpassed, on the questions of household projections for England. One of these looked back at the trends between the 2001 and 2011 Censuses, and forward to 2031.[6] The 2011 Census revealed that, compared with the 2008-based projection (which had as its underlying starting point the 2001 Census), there were 287,000 (around 1.3 per cent) fewer households in England than had been projected. Household types also showed large errors, for example, there were nearly 1 million fewer one-person households. These errors were entirely due to problems with projections for the numbers of *households*; the *population* projections used in 2008 were an under-estimate compared with the 2011 Census total.

Looking at the reasons for the household errors, Holmans attributes this in part to the larger proportion of migrants in the population, who tend to have a larger average household size than the domestic population. This could be expressed as lower *household demand* than expected.

However, other reasons for the error could be described as suggesting *suppressed* demand. The ONS has recently suggested about 90,000 more young people annually are living with their parents. Assuming

[4] K. Barker, *Delivering stability: securing our future housing needs*, HM Treasury, (2004).
[5] C. Shaw, "Fifty years of UK national population projections: How accurate have they been?" Population Trends 128, Office of National Statistics, 2007.
[6] A. Holmans, "New estimates of housing demand and need in England 2011–2031 [2013] *Town and Country Planning* Vol.82 No.9.

that these young people might otherwise have lived in shared households with an average size of three, this would readily account for 30,000 fewer households forming each year, or 300,000 over a decade, about the same as the 2008-based error. This is probably coincidence; it is likely that the error reflects a number of partly offsetting factors.

ONS household projections are not forecasts, as their statistical release makes clear:

> "The assumptions underlying national and population projections are based on demographic trends. They are not forecasts as, for example, they do not attempt to predict the impact of future Government policies, changing economic circumstances or other factors that might have influence (on) household growth."[7]

It is not surprising, therefore, that the projections are subject to considerable variability, reflecting changing economic and other factors. The table below shows how the projections have developed over time, in the light of Census data, economic developments and, crucially, the rate of new housebuilding.

Table One: Household Projections for England[8]

Projection date	Period Annual household	projection
1999	to 2014	150,000
2004	to 2021	189,000
2006	to 2026	209,000
2007	to 2026	223,000
2009	to 2031	252,000
2010	to 2033	232,000
2013 (interim)	to 2021	221,000
2015	to 2037	210,000

The statistical release describing the most recent projections includes the comment that the average conceals expectations that household growth will be faster in the early years (218,000 to 2017) but have slowed to 189,000 by 2032. It also mentions a key sensitivity which is what happens to household size. If the same household size model had been used in the 2015 version as in the interim 2013 version, then the household projections would have been reduced by 20,000 in the early years.

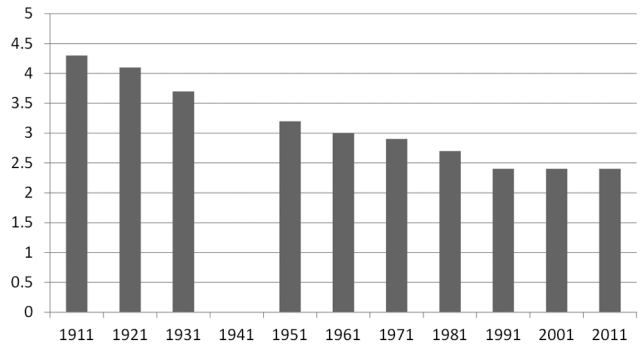
Variation in household projections has tended to be more extreme at regional level. For example, in 2006 the household projections for the North West were 28,300 annually, but just two years later this had fallen to 21,700, a reduction of almost a quarter. This means that household projections for a region or a local authority are subject to at least three kinds of uncertainty: uncertainty about population growth; uncertainty about household size; and uncertainty about inward/outward migration from/to other areas of England.

Household size

Figure One[9] shows what has happened to average household size in England and Wales according to successive Censuses—a close approximation for what has happened in England alone.

[7] Department for Communities and Local Government, "2012-based Household Projections: England 2012–2037" (2015).
[8] Source: ODPM/DCLG household projections, successive editions.
[9] Source: ONS, Census data for England and Wales.

Figure one
Average household size



The big picture is obviously that household size fell pretty steadily from 1951 to 1991, but has since been fairly flat. In the light of this, it is mildly surprising that the 2015 household projections release includes the comment: "As expected, household numbers grow faster than population reflecting the continuing trend of smaller average household size."

The question of household size is sometimes raised by those who consider the chatter about needing to build more is mistaken. For example, Andrew Lilico dismisses the whole idea that we have not been building enough houses by comparing the surplus of dwellings over households in successive Censuses. [10] In fact, I would agree with his view that we do not, as yet, have a "housing crisis", a term which seems to be overused. But while I have sympathy with many of his comments, they don't take account of the idea that a fall in household size might be what people would prefer, and that by failing to build more, this preference is being denied. Sound reasons are needed to deny these preferences, and in addition there are important distributional questions. Of the 1.1 million households who are overcrowded, most are in the rented sector and are less well-off.

Another way to look at this question might be to compare changes in household size in the United Kingdom with those in other major European countries. According to Eurostat, over the past 10 years or so household size has fallen from 2.3 to 2.2 in France, and from 2.1 to 2.0 in Germany. The United Kingdom is unusual, though not unique, among EU countries in having a static household size.

Bramley has criticised the use of household projections for potential circularity at least since 1995.[11] This certainly applies to comments on the past. It's clearly circular to argue that we must have built enough new dwellings because there hasn't been a faster growth in households than dwellings; although it is good that any under-building has not resulted in a large growth of homelessness.

Use of household projections in plans

While the latest planning guidance lays stress on household projections, it also discusses a range of adjustments that should be made in arriving at "objectively assessed need". The rationale for adjustments could relate to migration flows, a large employer arriving or leaving, a significant recent change in the housing stock or demographic changes. In addition, employment trends and market signals could be

[10] A. Lilico, "There is no UK 'housing crisis' and there never was one" (2015) CapX. While the title of his article refers to the UK, the substance mainly refers to England—but everyone who talks about housing slides between these two, including me. This paper also dismisses the crisis on the grounds that the data private rents have been falling in real terms since the financial crisis, and were flat in real terms for several years ahead of it. However, there have been a number of queries raised about the ONS rental series; it has been revised up once and uncertainty remains.

[11] e.g. G. Bramley, "Are Household Projections Self-Fulfilling?" Memorandum to House of Commons Environment, Transport and Regional Affairs Committee, 1998.