

Grappling Viability Negotiations

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Viability negotiations

Poll...

- How many of you have seen either a site specific or generic plan type viability appraisal?
- Having seen one you would be comfortable with understanding the inputs and assumptions and what the results mean?
- Have you negotiated on viability matters in respect of a development site?

And keep it up if

- You have done a viability appraisal?

Today's workshop

Areas to discuss



- Guidance to planning viability to inform a negotiation
- Approach to planning viability to inform a negotiation
- Case study exercise
- Good practice from experience and key issues

A bit of context

Stat bomb

£5.1bn

2016/17: estimated
agreed through S106

£4bn

of this was for
affordable housing,
enough for around
50,000 homes

£0.9bn

CIL levied in 2016-17



£6bn

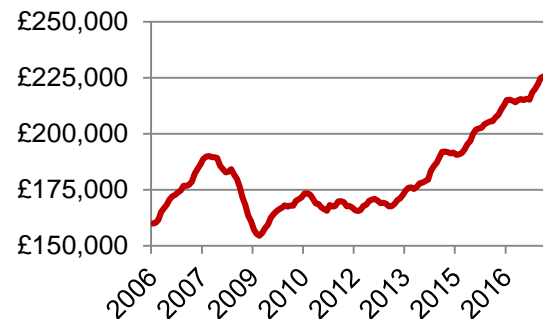
developer contributions agreed
in 2016-17...

...in real terms, **the same** as in 2007-8



£6bn

Average house prices, UK



Ministry of Housing,
Communities &
Local Government

New guidance...again...

First there was nothing, then we had the 2012 NPPF and PPG, then limited change until last year and this:

- 1st NPPF2
- 2nd PPG
- 3rd PPG again....and again...latest two weeks ago
- 4th Not happened yet, but new CIL regs due imminently
- 5th Again not happened yet but new RICS guidance due shortly
- 6th Change in government....

Why do these changes matter?

In terms of viability and negotiation

- NPPF
 - Removal of para 173
 - Focus viability at plan making stage (para 57)
- PPG
 - Education specified consideration (Para 029)
 - Standardise inputs
 - Clear approach to land value
 - Accountability
 - Monitoring
- Future (known)
 - Change to pooling restrictions

Scope of Planning Obligations

- When can planning obligations be sought by the local planning authority?
- How are planning obligations agreed and how should they relate to development?
- Should policy on seeking planning obligations be set out in the development plan?
- Does the local planning authority have to justify its requirements for planning obligations?
- Are planning obligations negotiable?
- What evidence is required to support negotiations on planning obligations?



The viability appraisal

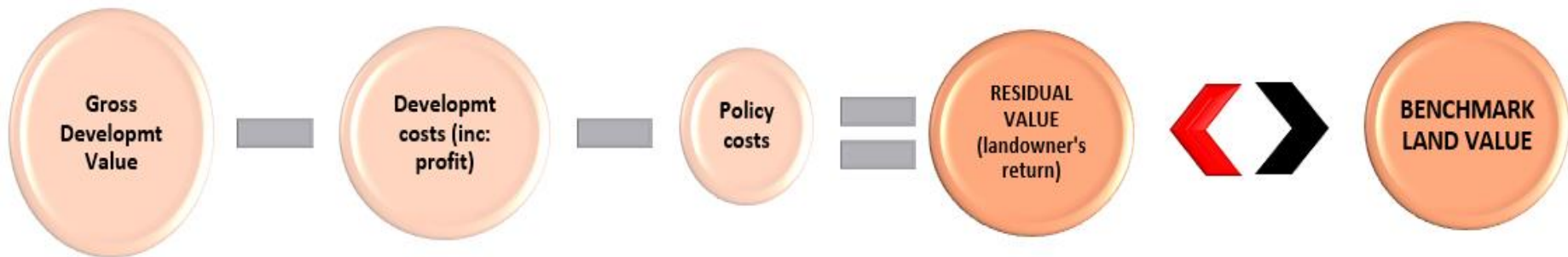
- What is it?
- How is it used by the different stakeholders
- What are the key areas for us to understand to help inform any negotiation?



The principle

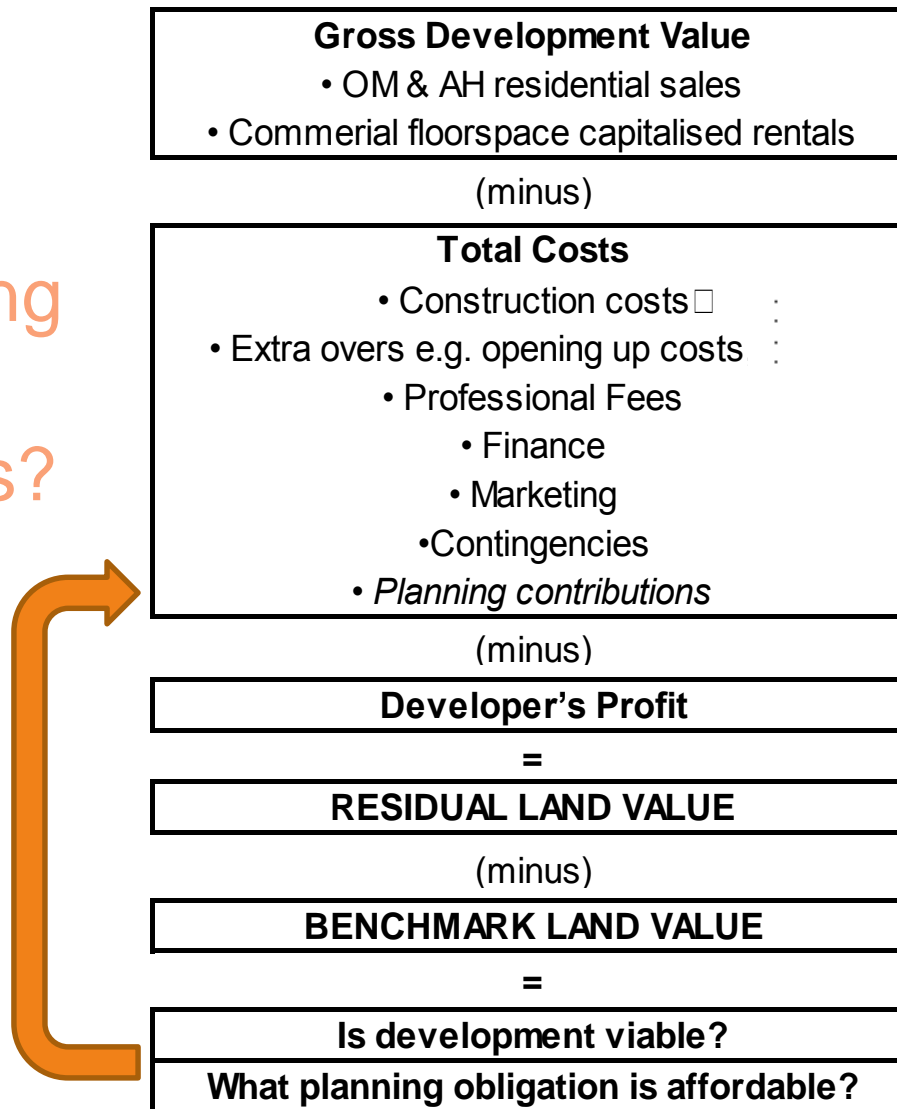
What is the approach to using planning viability assessments?

- Residual land value approach



- There are others which are not relevant: residual profit method, comparative method, contractor's method, investment method, etc

What is the approach to using planning viability assessments?



Summary Appraisal for Phase 1

Currency in £

REVENUE	Units	£*	Rate £*	Unit Price	Gross Sales	
Sales Valuation						
2B-1 Private	125	81,380	353.28	230,000	28,750,000	
2B-2 Affordable	30	24,219	180.00	129,168	3,875,040	
2B-2 Private	9	8,331	270.08	250,000	2,250,000	
3B-1 Private	84	83,184	328.19	325,000	27,300,000	
3B-1 Affordable	25	24,757	180.00	158,448	3,961,120	
3B-2 Private	47	47,049	324.66	325,000	15,275,000	
3B-5 Private	44	56,076	274.63	350,000	15,400,000	
4B-2 Private	17	25,435	294.06	425,000	7,225,000	
4B-5 Private	47	78,718	282.71	440,000	20,680,000	
5B-5 Private	4	10,635	216.27	575,000	2,300,000	
Apt-1 Affordable gifted	18	12,522	0.00	0	1	
F4-Type 1 (1 bed)	10	4,844	340.63	185,000	1,850,000	
F4-Type 2 (1 bed)	10	5,382	334.45	180,000	1,800,000	
F4-Type 3 (2 bed)	15	10,172	331.79	225,000	3,325,000	
Totals	485	472,704			133,841,161	
Rental Area Summary				Initial	Net Rent	Initial
Commercial	1	36,550	15.00	548,250	548,250	548,250
Investment Valuation						
Commercial						
Market Rent	548,250	YP @	8.0000%	12.5000		
(1yr 5mths Rent Free)		PV 1yr 5mths @	8.0000%	0.8910	5,105,947	
GROSS DEVELOPMENT VALUE					138,947,108	
Purchaser's Costs		5.80%	(415,204)			(415,204)
NET DEVELOPMENT VALUE						138,531,903
NET REALISATION						138,531,903
OUTLAY						
ACQUISITION COSTS						
Revalued Price (57.26 Acres @1,268.17 p/Acre)			5,288,580			
Stamp Duty		5.00%	264,450			
Agent Fee		1.00%	52,890			
Legal Fee		0.50%	26,445			
						5,632,775
CONSTRUCTION COSTS						
Construction	£*	Rate £*	Cost			
Commercial	43,000	110.00 p£	4,730,000			
2B-1 Private	81,380	150.00 p£	12,206,975			
2B-2 Affordable	24,219	150.00 p£	3,632,850			
2B-2 Private	8,331	150.00 p£	1,249,650			
3B-1 Private	83,184	150.00 p£	12,477,600			
3B-1 Affordable	24,757	150.00 p£	3,713,550			
3B-2 Private	47,049	150.00 p£	7,057,350			
3B-5 Private	56,076	150.00 p£	8,411,400			
4B-2 Private	25,435	150.00 p£	3,815,250			
4B-5 Private	78,718	150.00 p£	11,807,700			
5B-5 Private	10,635	150.00 p£	1,595,250			
Apt-1 Affordable gifted	14,752	158.30 p£	2,332,076			
F4-Type 1 (1 bed)	5,669	158.30 p£	902,152			
F4-Type 2 (1 bed)	5,332	158.30 p£	1,002,356			
F4-Type 3 (2 bed)	11,967	158.30 p£	1,894,376			
Totals	521,514		76,828,535	76,828,535		
Developers Contingency		5.00%	3,841,427			3,841,427
Other Construction						
Site Infrastructure	485 un	17,000.00 /un	8,245,000			8,245,000

What does it look like?

Municipal Costs			
S105 - Education EY&C		633,754	
S105 - Education primary		1,852,797	
S105 - Education secondary		1,875,485	
S105 - Health		173,485	
S105 - A137 Rail Crossing		15,000	
			4,550,501
PROFESSIONAL FEES			
Fees	7.00%	5,955,147	5,955,147
MARKETING & LETTING			
Marketing	2.50%	3,150,125	
Letting Agent Fee	10.00%	54,825	
Letting Legal Fee	5.00%	27,413	
			3,232,363
DISPOSAL FEES			
Sales Agent Fee	1.00%	1,395,319	
Sales Legal Fee	0.38%	530,221	
			1,925,540
MISCELLANEOUS FEES			
Profit on private	20.00%	26,422,189	
Profit on affordable	6.00%	470,170	
			26,892,359
FINANCE			
Debt Rate 5.000% Credit Rate 0.000% (Nominal)			
Land		495,151	
Construction		467,333	
Other		1,463,772	
Total Finance Cost			2,426,256
TOTAL COSTS			138,531,902
PROFIT			1
Performance Measures			
Profit on Cost%		0.00%	
Profit on GDV%		0.00%	
Profit on NDV%		0.00%	
Development Yield% (on Rent)		0.39%	
Equivalent Yield% (Nominal)		8.00%	
Equivalent Yield% (True)		8.42%	
IRR		6.10%	
Rent Cover		0 ym 0 mths	
Profit Erosion (finance rate 5.000%)		0 ym 0 mths	

What does it look like?

Summary of monthly data for 2019 (Apr to Oct) across various categories. The table is highly detailed and contains many columns of data.

Heading	Category	Total	Apr 19 1	May 19 2	Jun 19 3	Jul 19 4	Aug 19 5	Sep 19 6	Oct 19 7								
Revenue																	
Cap - Commercial	4	6,105,947	0	0	0	0	0	0	0								
Sale - 2B-1 Private	2	28,150,000	0	0	0	0	0	0	0								
Sale - 2B-2 Affordable	2	3,875,040	0	0	0	0	0	80,730	0								
Sale - 2B-2 Private	2	2,250,000	0	0	0	0	0	0	0								
Sale - 3B-1 Private	2	27,300,000	0	0	0	0	0	0	0								
Sale - 3B-1 Affordable	2	3,961,120	0	0	0	0	0	82,523	0								
Sale - 3B-2 Private	2	15,275,000	0	0	0	0	0	0	0								
Sale - 3B-5 Private	2	15,400,000	0	0	0	0	0	0	0								
Sale - 4B-2 Private	2	7,225,000	0	0	0	0	0	0	0								
Sale - 4B-5 Private	2	20,680,000	0	0	0	0	0	0	0								
Sale - 5B-6 Private	2	2,300,000	0	0	0	0	0	0	0								
Sale - Apt-1 Affordable gifted	2	0	0	0	0	0	0	0	0								
Sale - F4-Type 1 (1 bod)	2	1,650,000	0	0	0	0	0	0	0								
Sale - F4-Type 2 (1 bod)	2	1,800,000	0	0	0	0	0	0	0								
Sale - F4-Type 3 (2 bod)	2	3,375,000	0	0	0	0	0	0	0								
Disposal Costs																	
Purchaser's Costs	8	-415,204	0	0	0	0	0	0	0								
Sales Agent Fee	9	-1,395,319	0	0	0	0	0	0	-1,633								
Sales Legal Fee	10	-530,221	0	0	0	0	0	0	-620								
Acquisition Costs																	
Residualized Price	12	-5,288,990	-5,288,990	0	0	0	0	0	0								
Stamp Duty	14	-264,450	-264,450	0	0	0	0	0	0								
Agent Fee	16	-52,890	-52,890	0	0	0	0	0	0								
Legal Fee	17	-26,445	-26,445	0	0	0	0	0	0								
Construction Costs																	
Con. - Commercial	24	-4,730,000	0	0	0	0	0	0	0								
Con. - 2B-1 Private	24	-12,206,976	0	0	0	0	0	0	0								
Con. - 2B-2 Affordable	24	-3,632,850	0	0	0	0	0	0	0								
Con. - 2B-2 Private	24	-1,243,650	0	0	0	0	0	0	0								
Con. - 3B-1 Private	24	-12,477,600	0	0	0	0	0	0	0								
Professional Fees																	
S106 - Health							84	-173,485	0	0	0	0	0	0	0	-173,485	
S106 - A137 Rail Crossing							84	-16,000	0	0	0	0	0	0	0	-16,000	
Miscellaneous Costs																	
Developers Contingency	26	-3,841,427	0	0	0	0	0	0	0	0	0	0	0	0	0	-3,841,427	
Marketing/Letting																	
Marketing	40	-3,150,125	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Letting Agent Fee	41	-54,825	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Letting Legal Fee	42	-27,413	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Other Related Items (+/-)																	
Profit on private	50	-26,422,189	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Profit on affordable	50	-470,170	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Finance Details																	
Total VAT paid		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
VAT recovered on cycle date		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net period total		2,426,257	-5,632,775	0	0	0	0	0	0	0	0	0	0	0	0	-4,613,473	
Period Total for Interest		0	-5,632,775	-5,632,775	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	-5,689,103	
Inflation Set 1. Rate pa = 0.000%		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Interest Set 1. Debit Rate pa = 6.000%		6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	
Interest Set 1. Credit Rate pa = 0.000%		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total for Interest Set 1		-2,426,256	0	-28,164	-28,164	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,056	
Total Interest (All Sets)		-2,426,256	0	-28,164	-28,164	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,446	-28,056	
Period Total For IRR		2,426,257	-5,632,775	0	0	0	0	0	0	0	0	0	0	0	0	-4,613,473	
Cumulative Total C/F		1	-5,632,775	-5,660,939	-5,689,103	-5,717,548	-5,745,994	-5,774,439	-5,802,885	-5,831,331	-5,859,776	-5,888,222	-5,916,667	-5,945,113	-5,973,558	-6,002,004	

What does it look like?

Summary Results														
Site Details	Planning		Site Address	Location: 2442 Woodley Avenue, Auburn, LA 70511 par-000-000-000		Site Reference	Location: 0000							
Scheme Description			Notes			Application No.	res-000-000-000							
						Case Number	000-000-000							
Site Details			Overalls		Site Area									
Overall Area	132.76	ha	Total	2,000.00		246,240.0								
Use Area	87.38	ha	Useful Housing	1,420.00		146,146.0								
Open Space Ratio	65.9%		Off-site Housing	580.00		87,094.0								
Density	65.9%	dwg/ha (net use)	% Off-site Housing	29.00%										
Balance & Revenue														
	Total	Market	Booked/Part	Alternative Housing		Market Comments								
				Alternative Part	Equity Share									
Useful Area of Overalls	1,420.00	1,420.00	--	980.00	--	246.00								
Useful Area (net use)	246,240.0	980,000.0	--	40,000.0	--	47,000.0								
Market Split by % Overalls		70.0%	0.0%	21.0%	0.0%	0.0%								
Useful Revenue	1,424,624.00	980,000.00	--	814,000.00	--	11,000.00								
Average Revenue per unit	441.317	691.760	--	140.371	--	240.144								
Average Revenue per sqm GSI	4.376	4.269	--	2.029	--	3.128								
Useful Capital Contributions	--													
Useful Commercial Elements	--													
Useful Net Income Revenue	1,424,624.00													
Balance & Development Costs														
	Total	Market	Booked/Part	Alternative Housing		Market Comments								
				Alternative Part	Equity Share									
Build Cost	362,074,240	295,240,000	--	87,540,000	--	24,876,000								
Additional Building Materials	600,000	600,000	--	170,000	--	70,000								
Professional Fees	30,070,000	31,070,000	--	4,000,000	--	1,000,000								
Marketing (Commercial Housing)	30,000,000	30,000,000	--	--	--	--								
Marketing (Residential Housing)	--	--	--	--	--	--								
Financial Development Costs	34,000,000	33,000,000	--	7,000,000	--	3,000,000								
Planning Obligations Costs	60,000,000													
Commercial Elements Costs	--													
Community Infrastructure Levy	--													
Developer's Return for Risk and Profit														
Developer's Return (Market Housing)	60,711,000													
Developer's Return (Alt Housing)	8,000,000			3,700,000		1,000,000								
Useful Development Costs	502,845,240													
Total Operating Profit	418,079,142													
Finance Costs and Residual Value														
<table border="1"> <tr> <td>ICF Period</td> <td>10 years</td> </tr> <tr> <td>Bank Interest Rate</td> <td>6.2%</td> </tr> <tr> <td>Credit Interest Rate</td> <td>5.2%</td> </tr> <tr> <td>Annual Discount Rate</td> <td>5.8%</td> </tr> </table>							ICF Period	10 years	Bank Interest Rate	6.2%	Credit Interest Rate	5.2%	Annual Discount Rate	5.8%
ICF Period	10 years													
Bank Interest Rate	6.2%													
Credit Interest Rate	5.2%													
Annual Discount Rate	5.8%													
Revenue and Capital Contributions	1,424,624.00													
Total Development Cost	502,845,240													
Finance Cost	3,000,000													
Annual Discount Rate Cost	60,000,000													
Total Dev Cost (Finance Cost & ICF Cost)	66,000,000													
Useful Residual Value	246,240,000													
Agency Fees	4,246,000	1.78% residual value (net GDC)												
Legal Fees	--	0.00% residual value (net GDC)												
Stamp Duty	11,628,275	Based on 100% GDC value												
Net Residual Value	246,240,000													
	per gross use	1,767,100												
	per net use	2,088,000												
	per housing	81,700												
	per market housing	171,900												

Negotiation exercise – putting the theory into practice?

Planning obligation negotiation exercise

Notional site in Maytown

- 2 ha Brownfield site
- 100 units – mix of houses and flats
- Policy is 20% Affordable housing, split tenure of:
 - 50% affordable rent
 - 50% intermediate (shared ownership)
- Other section 106 costs = £2,500 per unit



Planning Obligation Negotiation Exercise

Exercise 1 - On your tables you are either the developer or the LPA

- Review and discuss the developer's and the LPA's appraisals – you have both
 - What are the key differences?
 - Which areas can be negotiated?
 - Putting yourself in the position of either party where are your 'redlines'?
 - How far would you be prepared to move?

Exercise 2 – Developers move to another table

- Try to negotiate your positions – the developers can start this off
 - Note down what areas you can agree on and what areas you cannot
 - On the areas where you can't agree, is there room to compromise?
 - Identify ways to finding a resolution

Top tips

Good practice and key issues

- Like any planning process, engage with site promoters from the outset
 - The earlier the better
 - But remember, the planning permission runs with the land not the developer!
- If not policy compliant, LPA commission an independent viability expert
 - If necessary, also use an independent cost consultant/QS
 - Use service level agreements
 - Developer pays
- Viability discussions to be led by the experts (in-house or external)
 - LPAs/Developers involvement at negotiation stage
- Consider comparable evidence based on per sqm values
 - Use the same metrics and be aware of conversion rates, e.g. sgft to sqm

Good practice and key issues

- Apply some flexibility when following PPG approach:
 - Build costs: *'build costs based on appropriate data, for example that of the Building Cost Information Service'* – Can over generalise. Should be challenged.
 - Land values: *'Existing use value is not the price paid and should disregard hope value.'* Sensible in London but not always elsewhere.
 - Profit: *'...an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers'*. Needs to reflect a blend of open market and affordable units, and each has different profit assumptions.
- Consider the impact of phasing/cashflow on development – borrowing costs add c.3-7% in costs per annum
- Consider using a Review Mechanism
 - Since difficult to proof that costs being put forward are correct

Thank you.

Any questions?

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Key Questions

- ?

The Use of Viability in Planning

Development Planning

- To shape plan policies e.g. affordable housing, Access Standards
- To inform Masterplanning



Development Management

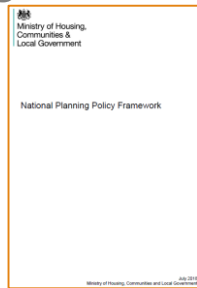
- To inform development options – planning applications, regeneration and scheme feasibility
- Section 106 negotiations



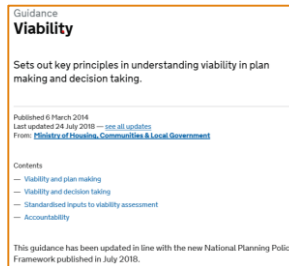
Good practice and key issues

What guidance is there for planning viability assessments?

- Pre 2012 – no guidance, and then...



- The NPPF



- Planning Policy Guidance

- Other useful and recommended guides

