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# Cranbrook Plan Draft Schedule of Main Modifications Part 1

**Policies CB2 to CB7**

Prepared by LRM Planning Limited  
on behalf of Redrow Homes and the Carden Group



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## Executive Summary

This representation to the Cranbrook Plan Draft Schedule of Main Modifications Part 1 – Policies CB2 to CB7 (July 2021), is submitted on behalf of Redrow Homes and the Carden Group. It should be read along side the two further representations which are appended to this document, which have been prepared by RPS and concern viability.

Since the last Hearing Sessions, where Harrow Estates (who are part of the Redrow Group) represented themselves and Mr and Mrs Pyle, the Treasbeare Farm Expansion Area has been sold to the Carden Group. Whilst the Carden Group are the landowner, Redrow Homes, who are promoting the site on their behalf, will be submitting a planning application for development of the site and will be its lead developer.

Whilst Redrow Homes and the Carden Group are pleased to see the Cranbrook Plan progress to the Main Modifications stage, a number of the concerns that they raised in previous representations, as well as at the Examination Hearing Sessions, have not been addressed. In addition, they are concerned with some of the proposed modifications to the Plan, which in some cases are considered to be unjustified, ineffective and therefore, without change, could render the Plan unsound.

Their principal areas of concern are:

- 1 The engine testing bay has been removed as a Category 3 infrastructure cost. The engine testing bay is required in order to facilitate the siting of other Category 3 elements of infrastructure in the most optimum locations, to the benefit of other Expansion Areas. As such it is necessary infrastructure that should be the subject of equalisation.
- 2 The removal of the engine testing bay assumes that other Category 3 items of infrastructure would be located in areas of the Expansion Area where it would not be of benefit. This assumption is based on the Council's Masterplan, which provides only one possible solution for the distribution of uses across the Expansion Area. Removing the engine testing bay as an equalised cost will prevent a robust masterplanning exercise being undertaken by the developers of the Treasbeare Expansion Area, for in effect, it will fix the location of certain policy requirements.
- 3 Appendix 3 of PSD34 identifies that the school proposed in the Treasbeare Expansion Area will be delivered before the school within the Cobdens Expansion Area. This runs counter to what the Local Planning Authority have previously indicated and it is assumed to be a typographical error.
- 4 The quantum (and the increase) of safeguarded land for the energy centre has not been justified.
- 5 The rationale for the energy centre safeguarded land only being released for employment land has not been justified.
- 6 The use of the safeguarded land for the energy centre to respond to a change in economic circumstance, or an unpredicted opportunity will not be effective, for the safeguarded land may not be released at the point it is required.
- 7 The Modifications still do not provide any detail relating to how long the energy centre land within the Treasbeare Expansion Area will be safeguarded for, or a mechanism for its release.
- 8 There is no justification for the requirement for Gypsy and Traveller provision within the Treasbeare Expansion Area.
- 9 Main Modification 18 will create uncertainty as to whether the Gypsy and Traveller site is located within the Countryside, or not. To remedy this deficiency, the Built-Up Area Boundaries should be removed.
- 10 Contrary to national planning policy, Main Modification 13 requires an impact assessment for all Class E uses above 280sq.m. It is also not clear as to when the policy should be applied.
- 11 Main Modification 13 was based on the definitions provided in the Sunday Trading Act, which are expressed in net terms, not gross as is indicated in the Policy.
- 12 There is no justification for an exclusion zone for hot food takeaways around schools.
- 13 The quantum of residential development at the Treasbeare Expansion Area as outlined in Policy CB3 artificially constrains its true capacity.



- 14 There are no details provided in Policy CB6 as to what some of the specification of Category 4 infrastructure items will be. This could lead to higher Section 106 costs post adoption of the Plan, potentially rendering development in Expansion Areas unviable.
- 15 There is a need for Development Plan Policy to recognise that an alternative to CHP may be required.
- 16 The request for a viability review mechanism is contrary to national planning policy.

Redrow Homes and the Carden Group are also supportive of the inclusion of the land for the energy centre as a Category 3 infrastructure cost. It will have a clear benefit that extends beyond the Treasbeare Expansion Area.



# 1 Background and Introduction

## Background

- 1.1 This response to the Cranbrook Plan Draft Schedule of Main Modifications Part 1 – Policies CB2 to CB7 (July 2021), is submitted on behalf of our Clients Redrow Homes and the Carden Group.
- 1.2 Since the last hearings held in relation to the Cranbrook Plan, where Harrow Estates Plc (part of the Redrow Group) appeared in relation to the Treasbeare Expansion Area, representing themselves and Mr and Mrs Pyle (the then landowner), the Treasbeare Farm Expansion Area has been sold to the Carden Group. The Carden Group is co-owned by three partners including the founder of Redrow Homes and a former senior director of Redrow Homes. Whilst the Carden Group are the landowner, Redrow Homes who are promoting the site on their behalf, will be submitting a planning application for development of the site, as well as being the lead developer of the Treasbeare Farm Expansion Area.

## Introduction

- 1.3 Treasbeare Farm is allocated for development within the emerging Cranbrook Plan at Policy CB3. As is known, the Policy allocates the site for a mix of uses, including residential; employment land; business uses; a local centre; a primary school; a sports hub; open space; and SANGs land.
- 1.4 Initially Harrow Estates, and more recently Redrow Homes and the Carden Group, have participated fully in the preparation of the Cranbrook Plan, with the former having appeared at the Examination's Hearing Sessions. They are pleased to see the Cranbrook Plan progress to the Part 1 Main Modifications stage. On adoption, the Plan will provide much needed surety to the major development envisaged at Cranbrook and will provide a suitable framework to ensure its timely delivery, including any necessary infrastructure.
- 1.5 Whilst our Clients are supportive of some of the modifications proposed in the latest consultation version of the Plan, some of their concerns raised during the Examination have not been addressed. In addition, they are concerned with some of the new changes proposed in the latest consultation document, which **are unjustified, ineffective** and therefore without change, render the Plan **unsound**.
- 1.6 Given the above, this representation, which solely relates to town planning considerations, comprises:
  - Objections to the Main Modifications proposed to Policy CB3;
  - Objections to the Main Modifications proposed to Policy CB6; and
  - Principal areas of support to the Main Modifications.
- 1.7 This response should be read alongside the following work prepared by RPS:
  - A Hearing Statement relating to matters concerning viability, which has been prepared on behalf of Redrow Homes, the Carden Group, Hallam Land Management, Taylor Wimpey and Persimmon Homes South West ("**the developers**"). The Report, which is provided at Appendix 1 of this response, expands on the developers' position as set out in PSD41; and



- A Hearing Statement, which is provided at Appendix 2 of this response, which relates to the costs associated with Gypsy and Traveller provision. It was prepared on behalf of Redrow Homes, the Carden Group and Persimmon South West.

- 1.8 This representation, and the work by RPS, comprises Redrow Homes and the Carden Groups full response to the Part 1 Main Modifications consultation.
- 1.9 In addition, as set out in PSD42, a draft copy of all the proposed Main Modifications was helpfully provided by the Local Planning Authority to Redrow Homes and the Carden Group, before the Main Modifications to Policies CB2 to CB7 were issued to the Inspector. This provided the opportunity for a full appreciation of how the proposed Main Modifications would operate with each other and the adopted Local Plan, so that any inconsistencies which would undermine the effectiveness of the Cranbrook Plan could be identified.
- 1.10 However, with only the Main Modifications proposed to Policies CB2 to CB7 being currently consulted upon, this wider appreciation and the ability to highlight inconsistencies, which could undermine the Plan's effectiveness and therefore its soundness, is absent from the Examination in Public at the present time. Consequently, so as to assist the Examination, where we have identified such inconsistencies previously, they have been included within these representations.



## 2 Objections to the Main Modifications Proposed to Policy CB3

2.1 Our Clients' principal areas of concern with the Main Modifications proposed for Policy CB3 relate to:

- The removal of the engine testing bay as an equalised cost;
- The phasing of the school;
- The expanded safeguarded land for the energy centre and its potential use as employment land;
- The requirement for and the location of the Gypsy and Traveller provision within the Treasbeare Expansion Area;
- The requirement for an impact assessment for all Class E uses at the neighbourhood centre that have a gross floor area exceeding 280sq.m;
- The introduction of an exclusion zone for hot food takeaways from schools; and
- The capacity of development at the Treasbeare Expansion Area.

2.2 Each of these is addressed in turn below.

### Engine Testing Bay

2.3 We note that for the first time during the preparation of the Cranbrook Plan, the Local Planning Authority are proposing to remove the acoustic bay required to mitigate the impact of noise associated with engine testing at Exeter Airport as a Category 3 equalised infrastructure cost. The justification for its removal is set out within PSD34<sup>1</sup>, wherein it is stated that:

***"Headline changes from the previous version relate to the omission from equalisation of costs for the engine testing pen as well as the majority of the s278 (road junction and highway crossing) costs. While these are still fully accounted for within the appraisal they have been omitted from the equalisation process on the basis that they are not necessary to serve all the expansion areas."***

2.4 This implies that the Local Planning Authority considers that the engine testing bay would not have a direct benefit to other Expansion Areas, such that its equalisation would be justified over the four Expansion Areas. As such, it appears that the Local Planning Authority are considering it in the same manner as access roads and crossing points into new developments, as well as other site specific costs, including the need to underground electrical pylons (i.e. an Expansion Area specific cost). Redrow Homes and the Carden Group consider this to be a significant misunderstanding of the importance of the engine testing bay.

2.5 Whilst it is acknowledged that the engine testing bay is clearly required to provide acoustic mitigation for a proportion of the dwellings proposed within the Treasbeare Expansion Area, residential development is not the only land use being proposed. Amended Policy CB3 requires the developers of the Treasbeare Expansion Area to provide a number of elements of community infrastructure that, as set out in the Infrastructure Delivery Plan, are Category 3 costs. These therefore indisputably have a direct benefit to the other Expansion Areas and depending on their location within the Expansion Area, could be reliant on the engine testing bay to be delivered on

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<sup>1</sup> Para. 58.





the site.

- 2.6 One such element of Category 3 infrastructure is the 420-pupil place primary school, with early years provision and a room for a community building on an area of land that is at least 2ha in size. Whilst the wording of Policies CB2 and CB3 provide some flexibility as to whether the school will be delivered in either the Bluehayes or Treasbeare Expansion Areas, the Council's 2019 Masterplan<sup>2</sup> identifies the school as being located within the Treasbeare Expansion Area. The Local Planning Authority and the Local Education Authority have also expressed a strong preference for it being located within the Treasbeare Expansion Area<sup>3</sup>. Redrow Homes and the Carden Group are committed to delivering the school within the Treasbeare Expansion Area at the earliest opportunity.
- 2.7 As set out in Policy CB6, the two-form entry primary school is an element of infrastructure that is an equalised cost, for it has a benefit that extends beyond the Treasbeare Expansion Area. It follows that any infrastructure required to facilitate the school being located within the Treasbeare Expansion Area, should also be a Category 3 item of infrastructure.
- 2.8 Given the wording of both Policies CB2 and CB3, the primary school is clearly intended to serve pupils generated from the Bluehayes and Treasbeare developments, along with existing parts of the town closest to these two Expansion Areas. Further, mindful of Cranbrook's status as a Healthy New Town, CRAN001<sup>4</sup> states that:
- "Additional education provision within the town has been identified as being needed after recognising the number of likely additional pupils that result from the expansion and the lack of existing capacity within the network of schools in surrounding towns and villages. In addition, such provision within walking distance of the houses being provided helps to deliver the aims and objectives of the plan, delivering walkable neighbourhoods and a healthy and self-supporting settlement"*** (our emphasis).
- 2.9 To ensure that the proposed primary school is within a walkable distance of the greatest proportion of the communities that it is intended to serve, Redrow Homes and the Carden Group are proposing to relocate it from its more peripheral location (as shown in CRAN052), to the west of Treasbeare Lane, which is more central to the Expansion Area.
- 2.10 The benefits of the relocation of the school are demonstrated on the plans provided at Appendix 3 of this representation, which were prepared by Calibro Consultants (Redrow Homes and the Carden Group's Transport Planners). These plans demonstrate that the relocation of the primary school would mean that:
- All of the residential development proposed within the Treasbeare Expansion Area would be within a 9-12 minute (or better) walking journey time of the school<sup>5</sup>; and
  - The vast majority of the Bluehayes Expansion Area would be within a 12 to 15 minute (or better) walking journey time of the school.
- 2.11 In comparison, whilst the Treasbeare Expansion Area would remain within an appropriate walking distance of the primary school in its location shown in CRAN052, the vast majority of the Bluehayes site would be in excess of a 15-minute walking journey time. These outcomes provide a

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<sup>2</sup> Para. 2.4 of CRAN052.

<sup>3</sup> Para. 3.14 of CRAN001.

<sup>4</sup> Para. 3.13 of CRAN001.

<sup>5</sup> Please note that the whole of the Treasbeare Expansion Area has been modelled, including a significant quantum of land to the east that is beyond the Built-Up Area Boundary.



closer fit with limb 1(a) of Policy CB13.

- 2.12 The locational advantages of siting the school further to the north west were recently acknowledged by the Creating Excellence Regional Design Review Panel, who fully endorsed it's siting to the west of Treasbeare Lane for the reasons set out above.
- 2.13 However, as demonstrated at Appendix 4 of this representation, there are other consequential effects associated with its relocation.
- 2.14 The school's position, as shown in CRAN052, is in an area that:
- Taking into account all noise sources from the Airport, including aircraft ground running, but without the engine testing bay - Noise Band B (*a need to ensure adequate mitigation in planning, design and implementation*); and
  - Excluding ground running noise (*broadly representative of the current situation with the engine testing bay to mitigate ground running noise*) - Noise Band B.
- 2.15 The preferred location, to the west of Treasbeare Lane, would mean that the school was sited:
- Taking into account all noise sources from the Airport, including aircraft ground running, but without the engine testing bay - Noise Band C and D (*if minded to permit, mitigation is likely to be necessary in the design/normally oppose development of a noise sensitive nature*); and
  - Excluding ground running noise (*broadly representative of the current situation with the engine testing bay to mitigate ground running noise*), would fall within Noise Band B (*a need to ensure adequate mitigation in planning, design and implementation*).
- 2.16 Consequently, the optimal location for the primary school from an accessibility perspective can only be realised with the delivery of the engine testing bay mitigation. Without the engine testing bay mitigation, the primary school could not be relocated in the manner proposed, which would be to the detriment of the catchment area that it is intended to serve. It is therefore **necessary** for the engine testing bay to be constructed to facilitate the relocation of the school to the west of Treasbeare Lane, so that the locational advantages, which strongly align with the Plan's health and wellbeing objectives, can be realised.
- 2.17 The removal of the engine testing bay as a Category 3 infrastructure cost also highlights previous concerns raised by Boyer in respect of the status being afforded to the Council's Masterplan.
- 2.18 By not including the engine testing bay as Category 3 infrastructure, the Local Planning Authority are in effect fixing the position of the primary school to those locations where associated infrastructure that is required to facilitate its delivery, such as the engine testing bay, will not be necessary. This would be in the eastern area of the Expansion Area, which correlates with its position shown on the Council's own Masterplan<sup>6</sup>.
- 2.19 The representatives of the various landowners of the Treasbeare Expansion Area have, during the formation of the Cranbrook Plan, continually raised significant concerns that the Council's Masterplan, which illustrates only one possible way of distributing policy requirements across the Expansion Areas, is disproportionately influencing policy.
- 2.20 The technical work underpinning the Council's Masterplan will not have been of the sufficient level of detail and depth as is necessary to inform a subsequent planning application.

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<sup>6</sup> Figure 8 of CRAN001.



Consequently, there is, as the Local Planning Authority acknowledge, the need for the developers to carry out their own detailed masterplanning work to determine the final layout of each Expansion Area.

- 2.21 For this exercise to be truly design led, it must provide an opportunity to locate uses and elements of infrastructure in the most appropriate location from a design perspective and/or in response to detailed technical analysis. It should not be placed in a sub-optimum and predetermined location illustrated in an evidence base document, which was informed by limited technical work.
- 2.22 As set out above, the optimum location for the school, as advocated by a Regional Design Review Panel, is to the west of Treasbeare Lane and in an area where it will be necessary for the engine testing bay to be constructed.
- 2.23 Therefore, given the important role that the engine testing bay will have in facilitating the delivery of Category 3 infrastructure in the most appropriate locations of the Treasbeare Expansion Area, which in turn will provide significant benefits to other Expansion Areas, Redrow Homes and the Carden Group strongly advocate the reintroduction of the engine testing bay into the Infrastructure Delivery Plan as an equalised, Category 3 cost. This will ensure a consistent approach is applied to all elements of infrastructure that have a benefit beyond the expansion area that they are located within.

## Phasing of the School

- 2.24 Whilst not relevant to the Modifications currently being consulted on, Appendix 3 of PSD34 identifies that the two-form entry primary school is to be delivered before the three-form entry primary school proposed in the Cobdens Expansion Area. This seems to run counter to our understanding of the position. We have previously been informed by the Local Planning Authority that the preference would be to have the first school delivered in Cobdens followed by the second in Treasbeare.
- 2.25 On the basis of the above, we assume that Appendix 3 of PSD34 contains a typographical error that will be corrected in future versions.

## Safeguarded Land for the Energy Centre

- 2.26 Limb 12 of Policy CB3 of the emerging Cranbrook Plan safeguards land for an extension to the District Heating Energy Centre. Main Modification 19 seeks to increase the amount of safeguarded land from the 2ha identified within the Submission Version of the Plan, to 3.5ha. Main Modification 19 confirms that this land is to be safeguarded until such a time when up to 2ha of the site is confirmed as being necessary for use associated with the proposed District Heating Network or other energy uses. At that time, any residual land that is evidenced as not being required for the energy use will be released for other employment generating development.
- 2.27 Redrow Homes and the Carden Group have three main concerns with this alteration, which are:
- The quantum of land proposed to be safeguarded has not been **justified** by the Local Planning Authority;
  - The need for additional employment land at Cranbrook has not been **justified**; and
  - Even if the need for additional employment land is justified, the Council's approach to delivering it would not be **effective**.



2.28 These concerns are set out below in turn.

### **Quantum of Land Being Proposed to be Safeguarded for the Energy Centre**

- 2.29 As set out above, Main Modification 19 seeks to safeguard 3.5ha of land for an expansion to the energy centre, ***“until such time as up to 2 hectares of the site has been identified as necessary for use in connection with District Heating.”***
- 2.30 Consequently, whilst the Modification acknowledges that the requirement is only for 2ha of land, it seeks to safeguard 3.5ha. This significant increase in the size of the safeguarded land (an increase of 75%), has not been justified in any additional evidence provided by the Local Planning Authority.
- 2.31 Indeed, CRAN052, which describes and illustrates the Council’s preferred approach for the distribution of uses within the Expansion Areas and is therefore a key evidence base document, confirms that the requirement for the safeguarded land to facilitate an expansion of the District Heating Energy Centre is 2.06ha<sup>7</sup>, whilst the supporting text to Policy CB14 states that 3ha of land should be safeguarded<sup>8</sup>. Either way, both are a lower quantum than the 3.5ha of land which is now being proposed at this consultation stage.
- 2.32 Therefore, without the necessary evidence, it is considered that Main Modification 19 is not a ***justifiable*** proposition and for the avoidance of doubt, nor is the 3ha indicated within Policy CB14, although we appreciate that this is not the subject of the current consultation.

### **The Need for Additional Employment Land at Cranbrook**

- 2.33 In effect, the operation of Main Modifications 19, 20 and 21 will mean that in addition to the 4.9ha of employment land required by limb 9 of Policy CB3, at least another 1.5ha of employment land will be provided from the Treasbeare Expansion Area, and possibly more.
- 2.34 The justification for the alteration is provided at Main Modification 20, wherein it is set out that in addition to the need to deliver 18.4ha of employment land across the town, the Cranbrook Economic Development Strategy has ***“further identified that a further provision of up to 8.6ha would also be appropriate. The plan recognises that it does not meet the full extent of this additional provision. Further land to help address any shortfall is expected to be provided through the residual energy centre land if/when this is released (in full or in part) during the plan period which will depend on the final energy centre requirements.”***
- 2.35 From the wording of Main Modification 20 it could be inferred that the actual requirement for employment land, as established by the Economic Development Strategy, is up to 27ha (the 18.4ha of employment land provided for in the Cranbrook Plan, plus the additional 8.6ha of employment land referred to above). This is considered to be misleading.
- 2.36 The Cranbrook Economic Development Strategy makes it clear that the ***“total requirement”*** for office/industrial/warehousing and town and neighbourhood centre uses at Cranbrook is 18.4ha<sup>9</sup>. This was certainly how the Local Planning Authority interpreted the conclusions of the Economic Development Strategy during the preparation of the Adopted Local Plan. As an evidence base document used to inform the Plan, its conclusions clearly influenced the economic development

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<sup>7</sup> Figure 5.1 of CRAN052.

<sup>8</sup> Para. 3.95 of CRAN001.

<sup>9</sup> Para. 7.3 of CRAN014.



policy for Cranbrook in the following ways:

- Limb 3 of Strategy 12 identifies that ***“provision of up to 18.4ha of employment land should be made within the town...”***; and
- Para. 7.27 confirms that the Economic Development Strategy for Cranbrook ***“advises that in terms of employment land there is a total requirement”*** of ***“18.4ha in all.”***

- 2.37 In fact, despite the Cranbrook Economic Development Strategy clearly influencing matters relating to employment land provision at the New Community within the adopted Local Plan, it was not considered necessary at that time to include any “buffer” provision, with Strategy 12 expressing the requirement for employment land provision at Cranbrook as an “up to” figure. The employment land requirement within Strategy 12 therefore established a ceiling that should not be exceeded and not, as the Local Planning Authority are advocating now, a floor that should be surpassed.
- 2.38 This interpretation is also reflected in para. 3.8 of the emerging Cranbrook Plan (including the alterations proposed to it at Main Modification 9), wherein it is stated that ***“the Cranbrook Economic Development Strategy looks to deliver 18.4ha of land across the Town and Neighbourhood Centres and the allocated employment land, which this Plan secures”*** (our emphasis).
- 2.39 Consequently, it is clear from the Cranbrook Economic Development Strategy, the adopted Local Plan and even the emerging Cranbrook Plan itself, that the requirement for employment land at the Cranbrook New Community is 18.4ha in total.
- 2.40 The reference to the additional 8.6ha of employment land is, as stated in the Cranbrook Economic Development Strategy<sup>10</sup> to provide a ***“buffer” “to take advantage of changing circumstances or unpredicted opportunities.”***
- 2.41 As indicated above, this was evidence that informed the preparation of the Local Plan. There is no mention of the 8.6ha buffer in the now adopted Local Plan. This confirms that the Local Planning Authority and the Local Plan Inspector were satisfied that, on adoption of the Plan, there was not a need to plan for a changing economic circumstance, or a requirement for the Plan to have the flexibility to be able to respond to an unpredicted opportunity that necessitated the buffer to be included. Indeed, despite this evidence, as indicated above, the employment land requirement at Cranbrook was expressed as a maximum.
- 2.42 It is acknowledged that as a Development Plan Document, the Cranbrook Plan provides an opportunity to revisit whether there is a need to increase the supply of employment land at the New Community. However, in accordance with the test of soundness, this needs to be a justifiable proposition.
- 2.43 Given the position adopted during the formation of the Local Plan, it would be necessary for the Local Planning Authority to demonstrate that, in the intervening period, there is now a need to plan for a changing economic circumstance, or a need to plan for an unpredicted opportunity. We are not aware of any evidence that has been presented to the Examination that would warrant the need for the additional employment land being advocated in Main Modifications 19, 20 and 21. Accordingly, it is not ***justifiable*** and is therefore an ***unsound*** proposition.

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<sup>10</sup> Para. 7.3.



### **The Approach to Delivering Additional Employment Land at Cranbrook**

- 2.44 Even if the need for additional employment land was demonstrated by the Local Planning Authority, the strategy adopted in Main Modifications 20 and 21 for meeting it would be ineffective, for it would rely on land safeguarded for an alternative use being released for employment uses.
- 2.45 If there was a change in economic circumstance or an unpredicted demand for additional employment land, the safeguarded land could only be used to meet this requirement if, as set out in Main Modification 19, it had been demonstrated by that point that the safeguarded land was not required for District Heating or other energy purposes. This is particularly relevant as the Plan does not provide any information regarding the mechanism that will be employed to demonstrate that the land is surplus to requirements, or the length of time that it will be safeguarded for. Consequently, Main Modification 19, 20 and 21 should be substantially revised.
- 2.46 Redrow Homes and the Carden Group would support the following revised strategy:
- Should the safeguarded land not be required for District Heating or other energy uses, it could, subject to the necessary planning permissions, be released for employment provision; and
  - Other land identified for employment use could be released for additional residential development, subject to the overall employment land provision for Treasbeare not being reduced to below the requirements of limb 9 of Policy CB3.
- 2.47 As is set out below, the policy should also set out a mechanism/timeframe for when the land could be released for alternative uses. It should not be safeguarded in perpetuity.
- 2.48 This approach would provide a good fit with para. 122 of the Framework, which confirms that planning policies need to reflect changes in the demand for land.

### **Residual Concerns from Previous Hearings**

- 2.49 In their Participant Statement to Matter 16 of the Examination, Boyer (who represented Harrow Estates Plc and Mr and Mrs Pyle) raised concerns regarding the lack of detail within the Plan relating to: (1) how long the expansion land would be safeguarded for; and (2) the mechanism that would be employed to identify the point when the land could be released for alternative uses.
- 2.50 Whilst it is acknowledged that the alterations to Policy CB14 are not before the Examination at the present time, these concerns remain unresolved.

## **Gypsy and Traveller Provision at the Treasbeare Expansion Area**

- 2.51 In a response submitted to the Inspector's Stage 2 Questions, Harrow Estates Plc, on behalf of themselves and Mr and Mrs Pyle, raised a number of concerns relating to the proposed Gypsy and Traveller provision at the Treasbeare Expansion Area. In summary, these concerns included:
- The production of the addendum to the original site assessment work within the Sustainability Appraisal (SA) was a retrospective task undertaken in July 2020. It demonstrated that the assessment work had not been undertaken during the preparation of the Plan. The locations for the Gypsy and Traveller provision at Cranbrook were selected first, with the justification following.





- The location selected for the Gypsy and Traveller provision within the Treasbeare Expansion Area is not appropriate or suitable. The work identified technical issues relating to topography, access and sustainable transport.
  - Three other sites which were considered in the Local Planning Authority's SA (Sites C, X and V) were identified as being more suitable than the selected site at Treasbeare.
  - Strategy 12 of the adopted Local Plan sets out a requirement to provide up to 30 Gypsy and Traveller pitches at Cranbrook. Consequently, if the Gypsy and Traveller provision at the Treasbeare Expansion area was removed from the Cranbrook Plan as a requirement, the policy would still be met by the provision being made in other Expansion Areas.
  - Limb 6 of Policy H7 of the adopted Local Plan establishes that proposals for Gypsy and Traveller sites outside Built-Up Area Boundaries will only be permitted if the need has been proven and that it cannot be met elsewhere within the District. The proposed provision at Treasbeare Farm would conflict with this policy test, for, as indicated previously, there are three alternative locations that are, as currently drawn, proposed for inclusion within the Built-up Area Boundary (Sites C, X and V).
  - Strategy 12 only sets a maximum quantum of Gypsy and Traveller pitches that should be provided at Cranbrook; it does not establish a minimum. There are other policy vehicles that could be used to meet identified needs.
- 2.52 Whilst this work was prepared by Harrow Estates Plc, its content is agreed and reinforced by Redrow Homes, the Carden Group and their expert consultants. Indeed, since that Hearing Session, Redrow Homes and the Carden Group have undertaken a further assessment of the highways implications of developing the Gypsy and Traveller provision within the Local Planning Authority's preferred location to the west and north of Parsons Lane.
- 2.53 The Local Planning Authority's Supplementary Planning Document (hereafter SPD) entitled 'Gypsy and Traveller Site Design and Layout' sets out that for Gypsy and Traveller provision ***"access roads and the site design itself should be capable of providing sufficient space for the manoeuvring of average size trailers of up to 15 metres in length, with capacity for larger mobile homes on a limited number of pitches on larger sites"*** (our emphasis).
- 2.54 In addition, whilst now withdrawn, the 'Designing Gypsy and Traveller Sites Good Practice' document, which the Council's SPD was significantly based on, also states that:
- "Account needs to be taken of a more recent tendency for members of the Gypsy and Traveller communities to favour the use of a mobile home in place of the traditional caravan, and some mobile homes could be up to around 25 metres in length"*** (our emphasis).
- 2.55 With the additional requirement for Gypsy and Traveller sites to be safely accessed by emergency vehicles, Calibro Consultants have indicated that in order to accommodate the access in the manner shown on the Policies Map, the full length of Parsons Lane between London Road and the proposed Gypsy and Traveller facility would require significant upgrading. The work concludes that Parsons Lane is a well-used route for traffic entering and leaving the nearby village of Rockbeare. However, the road is currently a single lane two-way road of c.3.7m width, with substandard forward visibility in places. This results in conflicts between opposing traffic movements. The addition of further traffic demand, especially by larger vehicles would, in the view of the Transport Consultant, almost certainly result in an unacceptable highway safety impact, contrary to Paragraph 111 of the Framework.
- 2.56 There would be a number of adverse impacts associated with these upgrading works, including:
- The removal of native species rich hedgerows;



- A significant change in the character of Parsons Lane; and
- The road is likely to be more visually dominant from areas to the east, including Rockbeare.

- 2.57 In terms of the alternative access, it is acknowledged that the Treasbeare development benefits from extensive frontage onto London Road and that a direct access may therefore be taken to service the Gypsy and Traveller site, independently from the remainder of the development. This is shown conceptually in Appendix 5 of these representations.
- 2.58 To accommodate a road of the size required, there will, given the gradients within this area of the Expansion Area, be the need to raise land in some locations and cut into land in others, which is an impact that has not been fully considered by the SA. The access road through the residential parcel would also need to be wider than it may well otherwise have been required.
- 2.59 These impacts identified above would appear to be unnecessary, particularly when streets in other parts of the development are likely to be sized to accommodate vehicles of 16.5m in length.
- 2.60 As these concerns have not been addressed by Main Modification 18, it follows that Redrow Homes and the Carden Group consider that for the reasons established above, the proposed provision of Gypsy and Traveller provision at the Treasbeare Expansion Area is **unjustified** and **not consistent with national planning policy**. The technical concerns raised about accommodating Gypsy and Traveller provision on the site may also render it undeliverable and therefore **ineffective**.
- 2.61 To ensure a sound plan, Redrow Homes and the Carden Group advocate the deletion of limb 11 of Policy CB3. The remaining Gypsy and Traveller provision made within the Plan would still accord with Strategy 12 of the Adopted Local Plan. Any shortfall could be met through other emerging Development Plan Documents.

## Gypsy and Traveller Provision – Main Modification 18

- 2.62 As outlined above, Redrow Homes and the Carden Group consider that there is **no justification** for the inclusion of Gypsy and Traveller provision within the Treasbeare Expansion Area. They consider its proposed allocation to be **inconsistent with national planning policy** and, given the constraints in the area that the provision is proposed, potentially **ineffective**. They consider that there are more suitable and alternative locations to accommodate any identifiable need for Gypsy and Traveller provision within the District.
- 2.63 However, should the Inspector disagree with this position, then Redrow Homes and the Carden Group have significant concerns with the proposed wording to Main Modification 18. Given their position regarding the need and justification for the Gypsy and Traveller provision at the Treasbeare Expansion Area, the following comments are made on a without prejudice basis.
- 2.64 Main Modification 18 seeks a minor alteration to the wording of limb 11 of Policy CB3. It requires development proposals at the Treasbeare Expansion Area to provide 5 serviced permanent pitches for gypsies and travellers, on an area of land of at least 0.5 hectares, **“as allocated”**. Our Clients' have two concerns with this amended wording.
- 2.65 Firstly, CRAN002 identifies the Gypsy and Traveller provision as being located within the Treasbeare Expansion Area, but outside the Built-Up Area Boundary. A revised Policies Map, which is not before the Examination at the present time, has been provided by the Local Planning





Authority, which confirms that the Gypsy and Traveller provision is proposed to remain located within the Expansion Area, but beyond the Built-Up Area Boundary.

- 2.66 Consequently, any planning application that included the 5 Gypsy and Traveller pitches in the location shown on the Policies Map, would not engage Policy CB8 of the emerging Plan, for that only concerns development within the Built-Up Area Boundary.
- 2.67 Instead, para. 3.58 of CRAN001 confirms that in areas outside the defined Built-Up Area Boundaries, as shown on the Policies Map, ***“Strategy 7 –Development in the Countryside, of the East Devon Local Plan 2013-2031 will apply.”***
- 2.68 However, Strategy 7 of the adopted Local Plan defines the countryside as being ***“all those parts of the plan area that are outside of the Built-Area Boundaries and outside site specific allocations shown on the Policies Map.”***
- 2.69 Whilst it is clear that the Gypsy and Traveller provision at the Treasbeare Expansion Area is located beyond the Built-Up Area Boundary and therefore could be interpreted as falling within the countryside, its allocated status, which is now specifically referenced in Main Modification 18, would, given the definition provided in Strategy 7, imply that it is not located within the countryside.
- 2.70 Consequently, it is not clear as to whether the Gypsy and Traveller provision at the Treasbeare Expansion Area is located within the countryside and therefore engages Strategy 7, or not.
- 2.71 The emerging Policy therefore does not provide a stakeholder, including developers and decision-makers, with the necessary clarity as to which Development Plan policies are engaged and how to react to a proposal for Gypsy and Traveller provision in the location shown on the Policies Map. As currently drafted and read alongside the adopted Local Plan, limb 11 of Policy CB3 cannot therefore be considered as being clearly written or unambiguous. Consequently, it cannot be considered ***as being consistent with national planning policy, or effective.***
- 2.72 These deficiencies are created as a result of the use of an inconsistent Built-Up Area Boundary that, for the Treasbeare Expansion Area, is tightly drawn around the indicative locations of some of the requirements of Policy CB3 as shown on the Local Planning Authority’s Masterplan<sup>11</sup>. However, the Boundary also excludes other uses proposed by the same Policy and that are shown on the Masterplan, including the Gypsy and Traveller provision, the sports provision and areas of public open space from being within the Built-Up Area Boundary. The rationale lacks the necessary ***justification.***
- 2.73 Various representations have been made during the Examination that advocate the removal of Built-Up Area Boundaries. Their removal from future iterations of the Plan would assist in overcoming the concerns identified above.
- 2.74 Their removal would also overcome other significant concerns. Consistent with previous representations made regarding the Treasbeare Expansion Area<sup>12</sup>, Redrow Homes and the Carden Group consider that there is no justification for the inclusion of a Built-Up Area Boundary within the Cranbrook Plan, particularly one that follows the distribution of land uses proposed in the Local Planning Authority’s Masterplan. The Local Planning Authority acknowledge that their

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<sup>11</sup> Figure 8 of CRAN001.

<sup>12</sup> Matter 10 Hearing Statement, Boyer on behalf of Harrow Estates Plc and Mr and Mrs Pyle.



Masterplan was only ever intended to be used as evidence underpinning the Plan and not part of the Plan itself<sup>13</sup>.

- 2.75 The Built-Up Area Boundary provides an unnecessary policy constraint that could prejudice the ability for a developer to form a technically sound masterplan that delivers all policy requirements, but in a manner that distributes uses differently to the Council's Masterplan. This is particularly important as the technical work underpinning the developer led proposals for each Expansion Area will lead to a deeper and more complete understanding of their constraints and opportunities and their capacity to accommodate development.
- 2.76 The retention of the awkwardly drawn Built-Up Area Boundary that rigidly follows the indicative location of uses illustratively distributed in an evidence base document, also runs counter to the Local Planning Authority's position on the status being afforded to the Masterplan. From the full Proposed Main Modifications that were provided by the Local Planning Authority, it is our understanding that the Local Planning Authority intends to introduce wording within the Cranbrook Plan which provides flexibility as to where the requirements of each of the Expansion Area specific provisions could be geographically distributed across each Expansion Area. There is therefore already an acceptance that the Council's Masterplan, on which the Policies Map is based, provides one way, but not the only way, of achieving a robust layout that embodies the principles and policy requirements of the Plan, including the Gypsy and Traveller provision.
- 2.77 In summary, if it is considered that the Gypsy and Traveller pitches must be identified within the Treasbeare Expansion Area, the flexibility in the distribution of land uses across each Expansion Area that the Local Planning Authority are advocating is welcomed. However, it would be hamstrung by a Built-Up Area Boundary that followed the extent of built development shown on an illustrative plan within an evidence base document. It is nonsensical to retain a Built-Up Area Boundary that has been derived in such a manner that, by the Local Planning Authority's own omission, represents only one way of achieving a robust layout that embodies the principles and policy requirements of the Plan.
- 2.78 Further, it appears from the reasoning for Main Modification 18, that its purpose is to ensure that the Gypsy and Traveller provision at the Treasbeare Expansion Area comes forward in the location shown on the Policies Map. As such the provision would be rigidly fixed.
- 2.79 As set out above, this would run counter to the flexibility that the Local Planning Authority is advocating for other land uses proposed in the Treasbeare Expansion Area. The difference in the approaches being adopted has not been **justified**.
- 2.80 This inconsistency would not provide a decision-maker with the necessary clarity as to how to react to a proposal that made the full provision for the Gypsy and Traveller provision, but in a different location within the Expansion Area to that shown on the Policies Map. Consequently, this contradiction in wording would not deliver a Plan that was clearly written and unambiguous **so that it is evident how a decision maker should react to development proposals**. As currently worded, **it would not be consistent with national planning policy** and would **not be effective**.
- 2.81 Consequently, the alterations proposed at Main Modification 18 should be removed from future versions of the Plan.

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<sup>13</sup> Para. 5.7 of CRAN057.



## The Requirement for an Impact Assessment for all Class E Uses at the Neighbourhood Centre

- 2.82 Main Modification 13 of the emerging Plan requires any proposed business, or other use that has a gross floor area exceeding 280sq.m in the planned neighbourhood centre, to demonstrate, through an impact assessment, that it would not undermine the delivery and future vitality and viability of the town centre, or the delivery of allocated employment land. Business uses are defined in the Main Modifications as being any Class E uses as defined within the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 2.83 Consequently, this requirement would be applicable to a wide range of uses within Class E, including offices; creche/day nurseries; medical or health services; indoor sport, recreation or fitness facilities; financial and professional services; restaurants; as well as retail provision. This requirement is considered to **not be consistent with national planning policy**, is imprecise about how it should be applied and is therefore **ineffective** and has not been **justified** by evidence.
- 2.84 Para. 90 of the Framework confirms that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, Local Planning Authorities should require an impact assessment if the development is over a proportionate, locally set threshold<sup>14</sup>.
- 2.85 National planning policy is therefore clear that the requirement for such an assessment only applies: (1) to retail and leisure uses; and (2) where the proposals are not in accordance with an up-to-date Development Plan.
- 2.86 As the Cranbrook Plan will, on adoption, provide an up-to-date Development Plan for the Cranbrook Plan Area, an impact assessment should not be required to support town centre uses. Even in the circumstance where the Cranbrook Plan was not considered as being up-to-date in the future, the requirement for an impact assessment should be limited to retail and leisure uses only and not all Class E uses.
- 2.87 Given the above, without alteration, Main Modification 13 **cannot be considered as being consistent with national planning policy** and is therefore unsound.
- 2.88 To ensure that future iterations of the Cranbrook Plan are consistent with national planning policy and are therefore sound, Main Modification 13 should be removed. Limiting the policy to circumstances where the Cranbrook Plan was not up-to-date would not be a sufficient alteration, for it would amount to planning for a circumstance where the Local Planning Authority failed to discharge their obligations set out in para. 33 of the Framework.
- 2.89 Without prejudice to the foregoing, the wording of Main Modification 13 is not clear as to whether the threshold would apply for any individual unit within the mixed-use area, or whether it applies to the mixed-use area as a whole (including in circumstances where all units proposed individually had a floor area below 280sq.m). For instance, if an application were to be submitted for 1,500sq.m of gross floorspace as part of a neighbourhood centre as required by Policy CB3, it is not clear as to whether an impact assessment would be required for that total development, or whether an impact assessment would only apply if a single unit or use exceeded the 280sq.m threshold. Noting the commentary provided by the Local Planning Authority in respect of the proposed modification and reference to 'small shops', it appears that the suggestion is based upon

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<sup>14</sup> The default threshold is 2,500sq.m of gross floorspace if there is no locally set threshold.



individual unit/use floorspaces, however this is not what the wording actually states.

- 2.90 As such, the Main Modification is not clearly written and is ambiguous. It does not provide the necessary clarity as to how a decision maker should react to a proposal in the neighbourhood centre of the Treasbeare Expansion Area. Accordingly, ***it cannot be considered as being consistent with national planning policy or effective*** and is therefore ***unsound***.
- 2.91 Finally, there appears to be no justification or evidence supporting the proposed 280sq.m gross threshold. The Planning Practice Guidance<sup>15</sup> (PPG) provides guidance on what should be considered when determining an appropriately set threshold. However, there is no evidence of this exercise having been undertaken. The proposed threshold is therefore ***unjustified***.
- 2.92 The only possible justification for the threshold appears in relation to another Expansion Area and in relation to Main Modification 5. It states that the threshold is necessary ***“based on the need for sustainability and to provide a hierarchy in business provision between the town centre and neighbourhood centres”***, before going on to confirm the use of ***“existing terminology”*** which defines small shops as set out in Sunday trading hours legislation.
- 2.93 There is no evidence presented which assesses the proposed scale and mix of uses proposed within the planned town centre either through the Town Centre Masterplan SPD or emerging/existing reserved matters submissions. Indeed, in this regard it is noted that the recent reserved matters submissions relating to part of the town centre (application refs. 21/2020/MRES and 21/2033/MRES) primarily propose retail/commercial units ranging in size between 48sq.m and 90sq.m, which is well below the threshold of 280sq.m.
- 2.94 In any case, there are significant issues with the reliance upon the small shop definition set out by the Sunday Trading Act. Sunday trading hours solely relates to retail uses and it does not reflect the operation of other main town centre uses (such as leisure uses).
- 2.95 Further, the interpretation of 280sq.m gross being the threshold for the ‘small shop’ definition as defined by Sunday trading hours is incorrect, as it is a net sales area floorspace, not a gross floorspace. Schedule 1 of the Sunday Trading Act confirms that large shops “mean a shop which has a relevant floor area exceeding 280 square metres”, with relevant floor area being defined as:
- “the internal floor area of so much of the shop as consists of or is comprised in a building, but excluding any part of the shop which, throughout the week ending with the Sunday in question, is used neither for the serving of customers in connection with the sale of goods nor for the display of goods.”***
- 2.96 As such, it is clear that back of house areas, including storage areas and staff facilities, which form part of the gross floorspace of most retail/commercial units, are not considered when defining small or large shops for the purposes of Sunday trading restrictions. Back of house operations can amount to 20-30% of a unit’s floorspace.
- 2.97 Consequently, and notwithstanding our significant concerns relating to the proposed unevidenced threshold, should the Local Planning Authority wish to rely on the Sunday Trading definition in future iterations of the Plan, then the threshold should be increased to c.400sq.m, rather than the 280sq.m proposed.
- 2.98 In the absence of any appropriate justification, it is important to highlight the issues that such a

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<sup>15</sup> Paragraph: 015 Reference ID: 2b-015-20190722, Town Centres and Retail, MHCLG, PPG.



restriction could have on the successful delivery of the neighbourhood centres proposed within the Plan. Such centres generally require an anchor unit or use in order to help attract both customers, and other operators, in order to deliver new facilities. Whilst the draft policy wording does not place a complete restriction on units or uses larger than 280sq.m, it will place an onerous restriction and requirement on future applications that seek to deliver the planned neighbourhood centre.

## Hot Food Takeaway Distance from Schools

- 2.99 Main Modification 14 seeks, amongst other things, to prevent hot food takeaways being located within 400 metres of a school. Redrow Homes and the Carden Group have two principal concerns with this Modification as follows:

### Justification

- 2.100 As set out in PSD43, the Local Planning Authority justify the inclusion of the exclusion zone through the application of NICE Guidance and Public Health England research.

- 2.101 However, the PPG states<sup>16</sup> that:

***“Planning policies and supplementary planning documents can, where justified, seek to limit the proliferation of particular uses where evidence demonstrates this is appropriate (and where such uses require planning permission). In doing so, evidence and guidance produced by local public health colleagues and Health and Wellbeing Boards may be relevant”*** (our emphasis).

- 2.102 The PPG indicates that planning policies and proposals may need to have regard to a range of issues, including evidence indicating high levels of obesity, deprivation, health inequalities and general poor health in specific locations.

- 2.103 The justification for the change as set out in the draft Schedule of Main Modifications does not suggest that evidence has been provided by a local public health representative, or a health and wellbeing board. Similarly, reference is not made to local socio-economic data being obtained to suggest that Cranbrook (or indeed East Devon) has poor levels of health or deprivation.

- 2.104 Consequently, absent of the necessary evidence, the Modification cannot be considered as being ***justified*** and is therefore an unsound proposition.

### Masterplanning

- 2.105 As indicated above, for sound masterplanning and place-making purposes, the two-form entry primary school is, in comparison to its previously proposed location on CRAN52, to be relocated to the west of Treasbeare Lane. This position has been endorsed by the Creating Excellence Design Review Panel. It was considered that its optimum location should be adjacent to the neighbourhood centre to assist in creating a community hub and to avoid the need for multiple travel journeys and thereby promoting walking and cycling.

- 2.106 The operation of Main Modification 14, in parallel with the revised siting of the two-form entry primary school adjacent to the local centre, is likely to prejudice the ability for any hot food takeaways to be provided within the Treasbeare neighbourhood centre.

- 2.107 Together with the proposed requirement for an impact assessment to be conducted under Main

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<sup>16</sup> Paragraph: 004 Reference ID:53-004-20190722, Health and Safe Communities, MHCLG, PPG.



Modification 13 for uses with a gross floor area exceeding 280sq.m, this could significantly limit the uses that could be accommodated within the neighbourhood centre, thereby undermining its successful delivery.

2.108 In doing so, the policy requirements could undermine the delivery of the neighbourhood centre and thereby undermine the *effectiveness* of limb 2 of Policy CB3.

2.109 So as to ensure a sound Plan, there is a need for Main Modification 14 to be revised to remove reference to the proposed exclusion zone.

2.110 Moreover, we note that hot food takeaways have been successfully introduced into the retail units adjacent to the Younghayes Centre and opposite the existing primary school in Cranbrook Phase 1. We are not aware of evidence presented to the Examination which indicates that this arrangement has resulted in any public health related concerns from relevant agencies.

### **The Quantum of Residential Development**

2.111 No alterations are proposed to limb 1 of Policy CB3. It states that “*around 915 dwellings*” will be provided at the Treasbeare Expansion Area. Work undertaken over the past few years by the landowners has continually demonstrated that the Expansion Area could accommodate in excess of 1,000 dwellings. It appears that the quantum of development was arrived at from the Local Planning Authority’s own masterplanning work, which as indicated above, lacks the technical depth to arrive at a robust capacity figure.

2.112 The provision has also been constrained by the use of the Built-Up Area Boundary which as indicated above, follows the line of built development shown on an indicative masterplan contained within an evidence base document.

2.113 Given the above, without alteration, limb 1 of Policy CB3 is unjustified. The outcomes of the ongoing masterplanning work by the developers, which the Local Planning Authority are actively participating in, should inform the quantum of development identified for Treasbeare in future versions of the Plan.



### 3 Objections to Policy CB6 of the Main Modifications

- 3.1 The following section of these representation sets out Redrow Homes and the Carden Group's concerns with the wording of Policy CB6 and how it will interact with other policies within the emerging Plan.
- 3.2 Both parties also have significant concerns that the planning obligations and community infrastructure sought within the Cranbrook Plan, will, without alteration, render the development of the Treasbeare Expansion Area unviable. These specific concerns are set out in two documents which have been produced by RPS and are provided at Appendix 1 and 2 of this response.
- 3.3 Redrow Homes and the Carden Group have three primary concerns with the modifications proposed to Policy CB6. These are:
- The exclusion of the noise mitigation measures required as a result of proximity to the Airport as an equalised cost (now Category 3 infrastructure);
  - The inclusion of Category 4 items of infrastructure into CB6 without the necessary detail; and
  - The requirement for an alternative solution if the proposed Combined Heat and Power strategy does not come forward.
- 3.4 In addition, the representations also outline why the review mechanism proposed by the Local Planning Authority is inappropriate.
- 3.5 Each of these concerns are addressed in turn below.

#### Removal of the Engine Testing Bay as a Category 3 Infrastructure Cost

- 3.6 As set out above, Redrow Homes and the Carden Group strongly oppose the removal of the engine testing bay as a Category 3 item of infrastructure.
- 3.7 In summary, and as set out previously, the engine testing bay will help to facilitate the siting of other Category 3 elements of infrastructure in locations which will increase their value and benefit to other Expansion Areas, whilst also helping to achieve other objectives of the Plan.
- 3.8 Without the provision of the engine testing bay, these outcomes would not be achieved and their benefit to other Expansion Areas would lessen. As such, the engine testing bay is therefore **necessary** infrastructure that is required to ensure that the benefits associated with other Category 3 items of infrastructure are maximised for other Expansion Areas.
- 3.9 The representations set out above, also reinforce our general concern about the way that the Council's Masterplan is being reflected in Policy. The removal of the engine testing bay as a Category 3 item of infrastructure assumes that it will only have a direct benefit to the Treasbeare Expansion Area, with the implication being that its construction is not **necessary** to facilitate other Category 3 items of infrastructure required from Treasbeare, such as the primary school. This conclusion must have been arrived at on the assumption that the school would be located in an area of the site that did not have any benefit from the testing bay, which aligns with its location shown on the Council's Masterplan.





- 3.10 The Masterplan is an evidence base document that, as the Local Planning Authority acknowledge, illustrates one possible way that the policy requirements for Treasbeare could be delivered; it is not the only way.
- 3.11 Indeed, the technical work undertaken by Redrow Homes and the Carden Group, which has been ratified by a Regional Design Panel, confirms that the school would be more appropriately located to the west of Treasbeare Lane, where it would be dependent on the testing bay to facilitate its delivery.

## Category 4 Items of Infrastructure

- 3.12 The emerging Plan provides a level of surety regarding the specification (and therefore likely costs) of Category 1 to 3 items of infrastructure. For instance, at Treasbeare, the requirements for public open space, biodiversity net gain, the sports hub; and the primary school are clearly defined in policy.
- 3.13 However, the same is not the case for many of the Category 4 items of infrastructure, which have, under Main Modification 40, been included as requirements of Policy CB6. For instance, no detail is provided as to the size of the proposed Fire Station, the Health and Wellbeing Hub, or the Leisure Centre.
- 3.14 Whilst it is acknowledged that further detail is provided within the Infrastructure Delivery Plan, as stated in PSD35, it is to be *“kept under review”*<sup>17</sup>. It is therefore feasible that this detail could change within the Infrastructure Delivery Plan at any point, which would trigger requests for higher Section 106 contributions than are currently envisaged.
- 3.15 To provide the necessary surety that the Plan delivers necessary infrastructure, whilst ensuring the viable development of all of the Expansion Areas, there is a need for a higher level of detail regarding the Category 4 costs to be clearly articulated in planning policy.

## Review Mechanism

- 3.16 At para. 3 of PSD34, the Local Planning Authority has suggested that a review mechanism should be considered in the event that a lower quantum of affordable housing is agreed. Redrow Homes and the Carden Group strongly oppose the introduction of interim viability reviews. Indeed, such a request does not accord with national planning policy.
- 3.17 Para. 34 of the Framework is clear that Development Plans, such as the Cranbrook Plan, should set out the contributions expected from development. Plans should provide clarity on the levels and the type of affordable housing required, together with other forms of infrastructure, including education, health, transport, flood and water management, and green and digital infrastructure. The Framework is clear that *“such policies should not undermine the deliverability of the plan.”*
- 3.18 Whilst the Council’s position is not clear as to when the review mechanism would be conducted, it would clearly be undertaken as part of the development management process and after the adoption of the Cranbrook Plan. As set out above, this is contrary to national planning policy, which requires the contributions expected from development to be established at the plan-making stage.

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<sup>17</sup> Para. 1.1 of PSD35.





3.19 It is noted that at para. 3 of PSD34, the Local Planning Authority refers to the PPG<sup>18</sup>. The paragraph referred to states that, if applying a review mechanism in a Development Plan, it should set out the circumstances where it may be required and not as the Local Planning Authority have interpreted the paragraph, in all circumstances.

3.20 In addition, the same paragraph in the PPG also states that:

***“Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time. As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities’ ability to seek compliance with relevant policies over the lifetime of the project.”***

3.21 On the basis of the above, it would be inappropriate to insist on the need for a review mechanism to a development that provided all contributions and planning obligations identified within the Development Plan. Should the Local Planning Authority continue to insist on the need for a review mechanism, then in the spirit of paras. 33 and 34 of the Framework, it should be conducted as part of a review of the Cranbrook Plan.

## Alternative Solutions to CHP

3.22 The supporting text contained within CRAN001<sup>19</sup> states that:

***“Should technical/viability evidence arise which, demonstrates that a zero carbon solution cannot be delivered through connection to the network, then an alternative solution which still achieves the same vision to “deliver a truly zero carbon new town” will be considered in line with the Energy Hierarchy.”***

3.23 However, as currently written, the Main Modifications proposed to Policy CB6 would require developments to connect with the District Heat Network in accordance with Policy CB13.

3.24 Therefore, in the event that it was proven that a connection to the district heat network was not feasible for technical or for viability reasons, which is a scenario that the Local Planning Authority acknowledge could occur, there would be a conflict with Policy CB6.

3.25 This issue could be resolved with the introduction of suitable wording into Policy CB13, but at the present time the Modifications to the Policy are not before the Examination.

3.26 This reinforces our point made elsewhere that there is a need to fully understand how amendments to policies will interact with each other and the adopted Local Plan.

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<sup>18</sup> Paragraph: 009 Reference ID: 10-009-20190509.

<sup>19</sup> Para. 3.91 of CRAN 001.



## 4 Areas of Support to the Main Modifications

- 4.1 A comparison between PSD43, PSD35, CRAN30 and PSD24 would indicate that the Local Planning Authority is now supportive of the inclusion of the costs associated with the land purchase for the safeguarded land for the expansion of the energy centre as a Category 3 item of infrastructure. If brought forward, the land would clearly have a benefit that extends beyond the Treasbeare Expansion Area; it would provide a direct benefit to the three other Expansion Areas. As such, the equalisation of this cost is a justifiable proposition.

*LRM Planning  
August 2021*



## **Appendix 1**

# REPORT - VIABILITY

On behalf of Persimmon Homes South West, Redrow, the Carden Group, Hallam Land Management, and Taylor Wimpey

JBB8781 - C7811  
Report - Viability  
3  
20 August 2021

## REPORT

### Document status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
1	Client Review	JB	JB	JB	18.08.21
2	Revised Draft	JB	JB	JB	19/08.21
3	Final Issue	JB	JB	JB	20/08/21

### Approval for issue

Jacob Bonehill



19 August 2021

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#### Prepared for:

**Persimmon Homes South West, Redrow, the  
Carden Group, Hallam Land Management, and  
Taylor Wimpey**

## EXECUTIVE SUMMARY

This report has been prepared by RPS on behalf of Persimmon Homes South West, Redrow, the Carden Group, Hallam Land Management, and Taylor Wimpey (collectively 'the developers') for submission to the ongoing Examination in Public (EiP) of the Cranbrook Plan (the Plan). It draws upon additional advice provided by Whiteleaf Consulting and Bruton Knowles which are included as appendices to this report.

The developers represent the controlling interests in the Bluehayes, Treasbeare and Cobdens expansion areas and approximately three quarters of the land identified for residential development, plus additional land identified for providing the majority of supporting infrastructure. Having previously held different positions on viability matters the developers have successfully worked together to resolve these differences and are now closely aligned on the key remaining issues with regards to viability as demonstrated by the Statement of Common Ground with East Devon District Council (the Council) (PSD41).

Section 3 of the Statement of Common Ground, notes the differences that remain and that need to be resolved, but equally sets out the developers view that the tools exist to enable the further difficult decisions to be taken to enable the viability issue to be addressed through the examination process. In this regard it is essential for the developers to have confidence in the outcome of the examination and the Plan that emerges from this. One of the most effective means to try to generate such confidence would be the holding of a further hearing session of the examination to address the important matters outstanding and addressed in this report and other wider comments of the participants. Moreover, these are complex matters and any potential for misunderstanding should be minimised.

This report expands upon the position set out in PSD41, providing further commentary from the developers on the points raised in PSD41. It also seeks to cross reference as appropriate the additional information published by the Council which the Inspector has invited comments on. This includes commentary on:

- the sensitivity testing;
- the additional in-combination sensitivity test requested by the developers;
- the developers view on the scale of the shortfall;
- potential savings; and
- the revised IDP

The developers consider that the overall shortfall, having already accounted for the £12.9m of savings identified by the Council, remains circa £31m as based on scenario 7 which sets out the assumptions that the developers consider should be being made by the viability appraisal. For the reasons explained in PSD41, this is a moderated position set out by the developers (for instance no longer pursuing other points in relation to viability assumptions). In addition to this the developers consider that in accordance with the planning practice guidance that consideration be given to making an allowance for a contingency to reflect that there are identified unknown costs related to the new primary substation; electricity network reinforcement; the future introduction of a revised Part L; and the FSH. It is suggested that if a contingency is not allowed for, that this

adds even further justification for the assumption of a developers' profit of at least 20% given the level of risk involved. This again is a moderated position.

The developers note that collectively the additional £4m potential savings identified by the Council in PSD42, along with a reduction in the affordable housing contribution of £14.7m, and the Council's assumed saving made by the proposed revolving infrastructure fund of £8.9m would total £27.6m going a substantial way to addressing the evidenced shortfall. The £4m remaining to break even is not however considered to be within the margin of error as asserted by the Council.

A number of other potential sources of savings are suggested (from the cost indications in PSD35 and indeed over and above the cost estimates that would remain were the further £4million savings earmarked in PSD42 Para 2 to be adopted) including:

- funding for Health and Wellbeing Hub (£6.25m)
- blue light facility (£0.85m)
- Extra Care Housing subsidy (£3.5m)
- sports centre and swimming pool (£3.99m)

Other elements which could be reduced include:

- Carbon reduction – over and above CHP (£6.35)
- Sustainable Transport range of measures (£3.998m) - although it is noted that this is critical the Council's suggested reduction notes that 15 minute bus services can be achieved with a residual amount
- Off site walking and cycling (£2.53m)
- Shared cars and ebike (£300k)

NB the costs in brackets above are the residual costs assuming the implementation of the £4million savings suggested in PSD42, and beyond which further potential savings are suggested.

These issues have been explained and discussed – during the examination to date – albeit in the slightly uncertain position regarding the status of the IDP. If, as now proposed by the Council, that specific items from the IDP are to be included in policy then very careful justification will be required for their inclusion. The developers separately and respectively have argued and submitted evidence that a number of these requirements are not consistent with NPPF guidance in relation to the section 106 expectations – as individual items or as a collective burden. Again, if these specific references are to have policy status – no clear articulation of this has been set out as the examination process before now – then it is imperative that these aspects (individually, collectively) are addressed in a further session of the examination, given the changed context regarding their policy status.

The report goes on to explain a number of issues with the proposed CHP and suggests that rather than connection being required by policy CB13, it should be encouraged to ensure that the most cost effective solution is applied, which would help reduce the risk associated with the uncertainty of the deliverability of the

CHP proposal. In any event it is imperative that the acceptance and sentiment in para 3.91 of the Submission Plan “Should technical/viability evidence arise which, demonstrates that a zero carbon solution cannot be delivered through connection to the network, then an alternative solution which still achieves the same vision to delivery a truly zero carbon new town will be considered in line with the Energy Hierarchy” should, in an appropriate form, should be given formal policy weight in Policy CB13.

It is considered that the proposal to require all approved applications to incorporate a review mechanism in the scenario that a lower affordable housing requirement is included in the Plan is not consistent with national planning policy and guidance. This applies in a particular manner to the Cranbrook context where a reduction of the affordable housing provision is not singly a concession to viability but a planned and beneficial outcome of the Cranbrook Plan process – fostering more balance than present and facilitating community and wider infrastructure provision. Instead, it is suggested that should a review mechanism be required, that this should be through a policy requiring a review of the Plan following an appropriate period of time.

The second section of the report provides commentary on the viability critique prepared by Vickery Holman (PSD37). These comments are subdivided into a section considering the inputs advocated by Vickery Holman and a section that considers the consistency of the report with the current RICS guidance, as well as the Experience and Objectivity of the author of PSD37.



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# 1 INTRODUCTION

- 1.1 This report has been prepared by RPS Consulting Ltd (RPS) on behalf of Persimmon Homes South West, Redrow, the Carden Group, Hallam Land Management, and Taylor Wimpey (collectively ‘the developers’) for submission to the ongoing Examination in Public (EiP) of the Cranbrook Plan (the Plan).
- 1.2 The developers represent the controlling interests in the Bluehayes, Treasbeare and Cobdens expansion areas and approximately three quarters of the land identified for residential development, plus additional land identified for providing the majority of supporting infrastructure. While there were differences in positions taken by the developers during the earlier stages of the Examination in Public (EiP) with regards to viability, they have successfully worked together to resolve these differences and are now closely aligned on the key remaining issues with regards to viability. This is demonstrated by the Statement of Common Ground between East Devon District Council (the Council) and the developers (PSD 41).
- 1.3 This report sets out the joint position of the developers on the key remaining issues related to viability being considered by the EiP. It expands upon the points set out in PSD41. Commentary is also provided on the Viability Critique prepared by Vickery Holman (PSD 37) drawing on commentary prepared by Whiteleaf Consulting Limited (WCL) attached as **Appendix A** and by Bruton Knowles (BK) attached as **Appendix B**.
- 1.4 It is apparent that, despite productive discussions between the developers and the Council, there remains a substantial difference in the respective of the views of the parties to the overall viability of the Plan and therefore the degree to which any further savings are necessary. As a result of this it has not been possible at this time to reach agreement on all outstanding issues in relation to viability between the developers and the Council. The Developers are of the view that a further in person or virtual roundtable hearing session is required so that these outstanding issues can be fully explored for the benefit of the EiP and to seek to increase confidence in the outcome.
- 1.5 While the developers are closely aligned on the key issues related to viability as set out in this hearing statement, they are also submitting separate statements on other issues raised by the documents recently published by the Council as appropriate.

## 2 ADDITIONAL COMMENTS ON THE STATEMENT OF COMMON GROUND (PSD41)

- 2.1 PSD41 was jointly prepared by the developers and the Council and represents significant progress in narrowing down the differences in views between the parties regarding the viability of the Plan following the publication in January of the Inspector's Interim Letter to East Devon District Council (PSD33) and the Inspector's Response to East Devon District Council's Clarification Questions (PSD33B).
- 2.2 At paragraph 2.1 of PSD41 it is indicated that a further separate statement of common ground between the developers (referred to in PSD41 as the participants) was to be submitted to provide additional detail on the background to the points set out in section 2. However, following the submission of PSD41 to the Inspector the developers were advised by the Council that they had received an initial response from the Inspector on their earlier submissions and that they would be replying in a matter of days, following which all of the material was to be published and the Inspector was going to invite interested parties to comment on this material. Given the timescales involved the developers took the view that providing further information outside of this forthcoming formal process was unlikely to be of any benefit. As such the background information to PSD41 is instead set out in this section of this statement and cross referenced to the additional documents submitted by the Council such as PSD34, PSD35, PSD36, and PSD42 where relevant.
- 2.3 This note does not address or respond to PSD33 and PSD33B directly other than to highlight some concerns regarding some of the initial responses. Where concerns are identified it is only to note these points to provide clarity on potential areas of disagreement.

### Commentary on the Council's Sensitivity Testing (PSD38A-G and PSD39A-K)

- 2.4 On 15 February 2021 the Council wrote to participants requesting views on further sensitivity testing to be undertaken as requested by the Inspector in PSD33 (appendix 1 of PSD33). The developers engaged proactively with this request and provided individual responses on the tests that they considered should be undertaken. This was summarised by the Council in appendix 1 of their letter dated 13 April 2021 (appendix 2 of PSD34).
- 2.5 The initial results of this sensitivity testing are also provided as appendices to appendix 2 of PSD34.
- 2.6 In relation to the base cases, on the Council's figures:
- the starting point of the Council's evidence – the July 2020 baseline employed at the Stage 2 sessions of the examination in November – included and accepted a surplus of £26.79 million on a total GDV of £1,154million
  - the surplus increases to £40.3m as a consequence of the reduction of £12.9 million which is the consequence of changes to the IDP mooted by the Council

### 2.7 On the effect of individual sensitivity tests:

- The effect of adopting a developer return of 20% (instead of 17.5%) is a negative impact of £26.2m;
- the effect of adopting a 6% GDV return on affordable housing is a negative impact of £2.1m;
- the viability assessment is extremely sensitive to variations in the build costs assumptions. The difference in overall surplus of deficit between the lowest (LQ – the Council's baseline) and the highest (Upper Quartile) is some £170 million. Even between the two lowest of the five scenarios (LQ as opposed to the average of the LQ and the median) is £35.3million). The volatility of outcomes based on small changes in costs adds considerably to the risk of developers and emphasises the importance of an appropriate and sufficient rate of return for developers;
- the effect of anticipating the majority (75%) of land purchase to have to take place at the outset of development is £7.6m;
- the effect of reducing the anticipated level of affordable housing is also significant on the surplus or deficit generated by the development (£14.8m being the effect of reducing the affordable housing from 15% to 10%).
- The overall sensitivity of the viability of the development is illustrated by Scenarios 5 and 6. These Scenarios make only modest changes in the viability assumptions (an 18.75% RR; 6% GDV on affordable housing; and a move to the second lowest of five steps on the build costs ladder) yet result in a deficit in the viability model (Scenarios 5 and 6), a deficit which would be compounded if a 15% affordable housing rate is retained (Scenario 5).

### 2.8 As set out in Appendix 1 of Appendix 2 of PSD34 a number of additional variables were suggested by the developers which were not tested. They include:

- In respect of a 7% finance rate (notwithstanding the Inspectors agreement that development industry standards should be employed – PSD33 para 37);
- In respect of marketing costs, the baseline of 3% continuing to be adopted, and upon which the Inspector sought clarification as to why this should be adopted as opposed the higher industry standard outlined in the developers' evidence;
- In respect of the higher evidenced costs in relation to any CHP scheme; and
- In respect of any additional build costs relating to the introduction of Future Homes Standard (which is not reflected in BCIS data).

## The Council's Position on Savings

### 2.9 As set out in paragraph 22 of PSD34 the Council initially identified £12.9m of savings in response to the Inspector's request in paragraph 64 of PSD33. These savings are detailed in Appendix 2 of Appendix 2 of PSD34. The identification of these savings by the Council are welcomed by the

developers. In para 23 of PSD34 the Council also refers to a negotiation over a further 5% reduction in affordable housing.

- 2.10 The second paragraph of part 1 of PSD42 states that a total £27m of further savings have been identified if required. This consists of the £4m of further infrastructure savings; £8.9m of savings arising from the revolving infrastructure fund; and £14.7m by reducing the affordable housing requirement as set out below. The developers do not agree with the Council's assertion that the remaining £4m required to break even is an acceptable margin for error. Further savings should be identified to address this.

## **Further Reductions to Infrastructure Costs**

- 2.11 In addition to the £12.9m savings allowed for in the sensitivity tests the Council have identified a further £4m potential savings which are set out in section 2 of the PSD42. As set out at 2.1 IX of PSD41 the developers consider that these reductions are appropriate.

## **Revolving Infrastructure Fund**

- 2.12 As noted at 2.1 X of PSD41 we did not agree at the time of preparing the Statement of Common Ground with the £8.9m of potential savings that the Council had identified could arise from the proposed revolving infrastructure fund. The developers note the explanation that has been provided at paragraph 16 of PSD34. This explains how the savings have been represented in the model as shown in the headline figures for the individual sensitivity test K set out on the first page of Appendix 3 of PSD36.
- 2.13 Table 2.2 of PSD36 and paragraph 6 of Appendix 1 of PSD36 also explains that the assumptions are that the loan is £30m which is assumed to be made available at the same time as the first land costs. It is then repaid with a further 2.25% interest as each dwelling is completed on the basis of a reducing repayment method, presumably in accordance with the trajectory set out in table 3.11 of PSD 21a. It is notable that this trajectory has not been updated in response to the representations made by the developers and other interested parties in response to AQ14 in advance of the November 2020 hearing sessions. Furthermore, the Council did not respond to this question in their written representations.
- 2.14 The developers are concerned that the failure to review or update the trajectory could mean that the savings identified as a result of the proposed revolving infrastructure fund are overstated. The revolving infrastructure fund reduces the overall finance cost assumed for the development. Crucially, as the overall cost of the interest payments are calculated using a reducing repayment method these costs are sensitive to the trajectory of delivery. Should the delivery trajectory be slower than envisaged by the Council this means that the repayments will also be greater as the balance on which the interest is applied will be larger over time, therefore reducing the savings that could be realised.

- 2.15 It should also be noted that it is understood that the Council's cabinet have in principle supported the establishment of the proposed revolving infrastructure fund. However, this is subject to further details of how the fund would operate and terms of reference being agreed. It is clear that therefore that there is a degree of risk that the fund will not be secured.

### Affordable Housing

- 2.16 The provision of 15% affordable housing is one potential area of compromise in the interests of striking a balance. The Council's individual sensitivity test J set out on the first page of Appendix 3 of PSD36 shows that a reduction to 10% would result in a reduction of the deficit of £14.7m. While the developers note that a further reduction in the level of affordable housing is not a decision that would be easily taken, we note that there is strong justification as set out at paragraphs 3.68 to 3.70 of the Plan that applies to any reduction in the proportion of affordable housing. Moreover, the sustainability appraisal highlights the benefits that come in terms of infrastructure and community facilities – positive outcomes – from lower levels of affordable housing. Ultimately to ensure that the Plan is viable the level of infrastructure contributions will need to be reduced; reducing the level of affordable housing contributions would assist when considering which, or how much of the Councils infrastructure contributions could be viably supported.

### Revised Presentation of Items in the IDP (PSD35)

- 2.17 As a result of discussions between the developers and the Council, the Council have restructured the equalisation of infrastructure into 4 categories seeking to clarify those that will be delivered on site by all (Category 1), require proportional cash contributions by all (Category 2), those that must be delivered on site (Category 3), and those which are appropriate for equalisation (Category 4).
- 2.18 While the developers are grateful for the greater clarity that this approach provides, we note the following points:
- It is essential that in seeking to identify the actual S106 'cash contributions' that the category 1 costs removed from the equalisation exercise as shown in Appendix 1 of PSD35 are not 'lost' from the viability assessment of the plan. Specifically, the revised cost per plot of £16,112 cited in para 2 of PSD34 must be understood as **excluding** the category 1 costs (CHP and carbon reduction measures are Category 1 costs). Note that with the exception of upgrades to London Road, which are assumed to have wider public benefits that wider S278 costs for new junctions are not now included in this schedule as a cash contribution. We are generally supportive of this approach, but again these items cannot be lost and the cost of them needs to still be accounted for in the viability assessment as part of the infrastructure schedule, thus a gap in the viability still remains to be addressed.
- 2.19 For clarity we suggest that under Category 3 as set out on the second page of Appendix 1 of PSD37 that the line referring to 'Tennis Courts 4 no. (including lighting @ £80k)' be deleted as no cost is now identified for this within this section, with the cost being identified under Category 4 on the following page. We also note that land area assumed for the parsonage appears to be a decimal

point too small. Advice has previously been given by the Council that the parsonage requires 0.35 ha, not the 0.05 ha stated under land costs in Category 3. Accordingly, the related land value should increase from £15k to £105.

## **Additional Scenario and Scale of Evidenced Shortfall**

- 2.20 The developers are conscious that there is any number of combinations of variables and hence scenarios that may be derived.
- 2.21 The developers are also mindful of the advice in the Planning Practice Guidance of the need for viability evidence to assist in striking a balance between landowners and the planning system/benefits.
- 2.22 Having reviewed the combined sensitivity test scenarios presented by the Council the developers considered that it would be for the benefit of the EiP for a further scenario to be tested that broadly reflects elements of the base cases that were proposed by the participants in feedback to the correspondence from EDDC on the 15th of February (Appendix 1 of PSD34). Appendix 1 of the 13th of April correspondence from EDDC (Appendix 2 of PSD34) summarizes the positions of the parties as shown in figure 2 below. We have indicated in red where the participants who proposed an alternative base case were in agreement with regards to variables that have been subject to individual sensitivity testing:

**Figure 2.1: Annotated Sensitivity Testing Approach - summary of feedback received**

Sensitivity testing (\* denotes base case)

Variable		Council	Cranbrook LVA	Persimmon	Carden/Redrow	Baker Estates	Hallam/TW
Developer return on market housing	17.5%	*					
	18.75%						
	20.0%			*	*	*	*
Return on AH	6% on costs	*					
	6% on Value			*	*	*	*
Base Build Cost	Lower Quartile	*					
	Midpoint between Lower Quartile and Median						
	Median					*	*
	Mean					RICS best practice	
	Midpoint between Median and Upper Quartile						
	Upper Quartile			To address FHS	To address FHS		To address FHS
Finance Costs	50%/50% (land)	*					
	75%/25% (land)			*	*		*
	With clear timeline of infrastructure costs						
	Infrastructure as early as realistic						
Finance Rate	6%			*	*		*
	7%						
Marketing	3%			*	*		*
	3.75%						
	5%						
BLV	£300k per ha for all land			*	*		*
	£222.5K per ha for all land						
FHS	£5400 (2021-24)			*	*		*
	£14750 (2025-31)						
	£1588						
Affordable Housing provision	15%			*	*		*
	12%						
	10%						
S106 costs	Revised base	*					
General Comments			Publish full workings including <u>Excelsheets</u>			Not all are large volume house builder with resultant higher costs	Target £60-80M savings

2.23 On the basis of the above which shows broad agreement among the developers on principal elements of the base case, we requested on 12 May 2021 that the following further in combination scenario be tested as Option 7:

- The adoption of a 20% rate of return;
- The adoption of a 6% return on GDV of affordable housing;
- Average lower quartile and median build costs; and
- Payment for 75% of land up front and remainder half way through development (which is also a reflection of the Inspectors interim response (PSD33)).

2.24 It should be noted that in requesting this scenario be tested, the developers acknowledged that the Council does not consider these assumptions to be their base case. However, we considered that by testing this scenario it would provide clarity to the EiP. Equally it is important to highlight that the assumptions are interconnected. If one were to be varied, then this would have an effect on another.

2.25 The developers had requested that a further in combination scenario be tested. As set out a paragraph 18 of PSD34 this was not prepared due to the complexity of doing so. To progress matters, as noted at paragraph 2.1 VIII of PSD41, the developers are no longer pursuing this point. The developers approach is therefore a moderated position.



- 2.26 This in combination scenario (set out in 2.27 above and shown on the final page of PSD36) was subsequently tested by the Council and provided to the developers on 17th May 2021. It shows a deficit of circa £31m. This includes the £12.9m reduction in the IDP costs schedule summarised in paragraph 24 of PSD34 and set out in more detail in Appendix 2 of Appendix 2 to PSD34.
- 2.27 **As a minimum the developers therefore consider that further savings are required to address this shortfall and that the further £27m of potential savings identified by the Council would go a long way towards addressing this.** The developers do not agree with the Council's assertion that the remaining £4m required to break even is an acceptable margin for error. Further savings should be identified to address this.
- 2.28 The developers also consider that there is a credible case for providing an appropriate contingency given that there are identified unknown costs. For example, the considerable cost of at least £10.2m has recently been identified for a new primary substation / electricity network reinforcement to serve all of the expansion areas, with additional costs for 11Kv connections and the land on which the primary substation will be located (Typically, 0.66ha). This is not currently addressed within the assessment as a particular cost item. The costs associated with this are subject to a formal feasibility study expected to be commissioned in the autumn. As such there remains uncertainty as to the actual costs that will be required.
- 2.29 It is noted that anticipated costs for the previous proposal to underground the overhead lines running through the Cobdens and Grange expansion areas increased significantly as more informed assessments were undertaken, rising from £4.8m to between over £8m and over £10m depending on whether a single scheme or phased approach was assumed (see September 2020 Hearing Statement on AQ16 prepared by RPS on behalf of Persimmon Homes South West). Not only does this demonstrate that anticipated costs can rise, but it should also be noted that the anticipated costs for the new primary substation have been provided by Western Power Distribution who provided the previous anticipated costs for the undergrounding. This suggests that a cautious approach should be taken to initial cost estimates provided by Western Power Distribution.
- 2.30 There is also uncertainty around the costs required to comply with the forthcoming amendments to Part L, currently expected to come into force in June 2022. This is because the precise detail of the amendments has not been confirmed with regards to compliance with SAP10 (the methodology used to show compliance with Part L) as the results of a recent consultation on this issue have yet to be released by the Government. This also applies to the Future Homes Standard (FSH) due to be implemented in 2025.
- 2.31 The developers suggest that should it be decided not to allow for an appropriate level of contingency, then the case for a developers' profit of at least 20% becomes even stronger, as there would clearly be a greater level of risk involved in the development. A 20% developer profit but no contingency again represents a moderated position – yet still generated the shortfall identified above.

## Suggested Additional Savings

- 2.32 If savings are not made in relation to affordable housing, there may need to be further savings taken from the section 106 bill set out in the IDP. Notwithstanding the benefits of such facilities, they are not directly related as mitigation of the development proposed nor affordable in terms of viability.
- 2.33 Specifically, the participants suggest the removal of any expectation to deliver the residual funding for or delivery of the following (not exclusive) elements of the 2021 IDP PSD35 (over and above the provision of land for such facilities). The figures set out below are the residual costs of the infrastructure after the further £4m savings that the Council have suggested in section 2 of the PSD42, as it is assumed that should it be agreed that the savings below are required that the £4m savings will already have been agreed:
- funding for Health and Wellbeing Hub (£6.25m)
  - blue light facility (£0.85m)
  - Extra Care Housing subsidy (£3.5m)
  - sports centre and swimming pool (£3.99m)
- 2.34 Other elements which may need to be reduced include:
- Carbon reduction – over and above CHP (£6.35)
  - Sustainable Transport range of measures (£3.998m) - although it is noted that this is critical the Council's suggested reduction notes that 15 minute bus services can be achieved with a residual amount
  - Off site walking and cycling (£2.53m)
  - Shared cars and ebike (£300k)
- 2.35 These issues have been explained and discussed – during the examination to date – albeit in the slightly uncertain position regarding the status of the IDP. If, as now proposed by the Council, that specific items from the IDP are to be included in policy then very careful justification will be required for their inclusion. The developers separately and respectively have argued and submitted evidence that a number of these requirements are not consistent with NPPF guidance in relation to the section 106 expectations – as individual items or as a collective burden.

## Combined Heat and Power

- 2.36 The developers acknowledge that the Council have made progress in addressing concerns raised regarding the delivery of the proposed expanded Combined Heat and Power (CHP) facility. This includes receiving an offer of £10m from the Heat Network Investment Project towards the overall estimated cost of £21m for connecting to the Hill Barton Energy from Waste (EfW). It is understood that the Council intend to fund the shortfall in the cost of the connection of the EfW to the CHP on the basis that they assume a commercial role buying waste heat from the EfW and selling it to the

CHP operator. However, the details of this are not available to the developers as the formal reports of the Council relating to this have been considered in private on the grounds of commercial sensitivity. The Council have indicated that they have modelled an 8% return on investment.

- 2.37 The developers note that on the 28<sup>th</sup> of July 2021 the Council's Cabinet recommended to the Full Council that Global City Futures be appointed as Financial Advisors to provide EDDC with advice on the business case for the emerging Zero Carbon Development scheme, subject to the Council resolving to accept a grant in relation to the Heat Network Investment programme. It would appear that the grant funding referred to is only for development of the business case, and therefore that the £10m contribution towards the capital costs of the connection between the EfW and CHP has not been secured yet. This indicates that there is still uncertainty as to whether or not the necessary capital funding for the connection will be secured. Accordingly, the developers recommend that part 3 b) of policy CB13 be amended to remove the requirement to ensure connection to the CHP as there is no guarantee that the CHP will be delivered. This is consistent with the position taken by a number of the developers at earlier hearing sessions.
- 2.38 Furthermore, the developers have requested details of the delivery timescales associated with the EfW, the CHP, and the connection between the two. In response the Council have indicated that the EfW is due to start on site this month and is expected to complete in the first quarter of 2024 with a suggestion that there could be up to 3 months slippage. No clear timetable has been given for the CHP or the connection. The Council's most recent trajectory set out in table 3.11 of PSD 21a indicates that before the EfW is operational 382 homes will be built in 2022/23 and 2023/24, 9% of the total planned for. Even if the very generous assumption is made that the CHP and connection, for which there is currently no funding or planning permission, are delivered at the same time this means that it will be impossible for these first two years of homes to comply with CB13 as drafted.
- 2.39 As well as the inability to comply with CB13, which as a policy would require a departure from the adopted plan but could be achieved if acceptable to the decision maker, there is the related issue of compliance with building regulations. As has been discussed at previous hearing sessions Government have indicated that they intend to make amendments to Part L, which will increase the cost of development. The Government have advised that they expect this to come into effect in June 2022, although for larger sites registered before this date there is a one year period during which if homes commence construction the old part L will apply. Building regulations have to be complied with and as such developers will be required to bear these costs, reducing the viability of the Plan.
- 2.40 The FHS is due to be introduced in 2025, clearly there is a risk that the connection and CHP facility will not be delivered by this time. As with the forthcoming changes to Part L, the FSH will have to be complied with meaning that there will be further costs to be borne by the developers if the CHP and connection are not both delivered before then.
- 2.41 At paragraph 36 of PSD34 the Council acknowledge a concern that we have raised that under the current beta versions of SAP10 (the methodology used to show compliance with Part L) compliance with the emerging amended Part L would not be achieved. The developers recognise that a consultation was recently run by the Government on this issue, but do not agree with the Council's

proposal that they should continue their current approach. Instead, we again suggest that connection to the CHP should be encouraged rather than required.

- 2.42 It is understood that the Council expect the proposed approach of waste heat from the EfW being fed into the future CHP will be compliant with both the requirements of the amended Part L and the FSH, but there is clearly a risk that it will not be. Again, this suggests that a strict requirement to connect to the proposed CHP may not achieve the expected outcomes and that connection should only be encouraged.
- 2.43 We also have concerns with the long term security of the supply of waste that will fuel the EfW and provide the waste heat for the CHP. This has been raised with the Council who have suggested that the supply is guaranteed for around 20 years, far shorter than the typical 70 year contract period for operators of CHP facilities such as the existing Cranbrook CHP and the Monkerton/Tithebarn CHP facilities. While it is noted that the supply may evolve as technology changes clearly there is a risk that future fuel supplies cannot be secured, or that further investment will be required in either the EfW or CHP during their operational lifetimes. It is most unlikely that anything less than a 70/80 year contract, as is the case with the present contract for the existing Cranbrook development, would be acceptable from a housing market perspective.
- 2.44 The developers acknowledge that air source heat pumps which are the most promising current alternative to the CHP facility would increase the electrical load of the development and as such there may only be limited cost savings to be made if any if an alternative approach was taken. Notably the Council have not indicated what the overall cost differences would be. However, it is clearly beneficial that the most cost effective solution is followed and flexibility to use the most cost effective solution should be allowed for by the Plan.
- 2.45 The developers suggest that Policy CB13 should be amended as follows to incorporate the final sentence of paragraph 3.91 of the submission version of the Plan with new text in red and removed text struck out:

**3. Maximise the proportion of energy from renewable or low carbon sources** through:

- a) Exploring opportunities for, and implementing private wire arrangements from renewable sources where practical and viable;
- b) ~~Ensuring~~ **Encouraging** connection to the District Heating network ~~to delivers~~ the necessary uplifts over and above the carb on reductions achieved through 3 (a ), to achieve **zero carbon** across the development; ~~and~~
- c) Ensuring that, where not provided as standard, the ability to install future Solar PV or Vehicle to Grid connections is not precluded-; ~~and,~~
- d) **Should technical/viability evidence arise which, demonstrates that a zero carbon solution cannot be delivered through connection to the network, then an alternative solution which still achieves the same vision to “deliver a truly zero carbon new town” will be considered in line with the Energy Hierarchy.**

## Comments on Proposed Review Mechanism

- 2.46 The developers note that the Council have suggested that a review mechanism could be introduced if a lower level of affordable housing was taken forwards as set out at paragraph 3 of PSD34. The developers do not agree with a review mechanism being introduced that requires a review of all applications submitted. Paragraph 34 of the 2019 NPPF states:

*“Plans should set out the contributions expected from development. This should **include setting out the levels and types of affordable housing provision required**, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). **Such policies should not undermine the deliverability of the plan.**”* (Emphasis added)

- 2.47 It follows therefore that the imposition of a policy requirement to review the affordable housing provision of individual applications would not be consistent with the requirement under this paragraph of the NPPF to set out the level of affordable housing provision in the Plan itself. Furthermore, such an approach could be considered to undermine the deliverability of the Plan in so much that the introduction of additional unjustified review clauses could delay delivery of new homes within the plan period.

- 2.48 Furthermore, paragraph 33 of the 2019 NPPF states:

*“Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. **Reviews should be completed no later than five years from the adoption date of a plan**, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and **they are likely to require earlier review if local housing need is expected to change significantly in the near future**”* (Emphasis added)

- 2.49 There is no evidence to suggest that local housing need is expected to change significantly in the near future necessitating an earlier review of the Plan.

- 2.50 Paragraph 009 Reference ID: 10-009-20190509 of the Viability section of the Planning Practice Guidance states:

**“How should viability be reviewed during the lifetime of a project?”**

***Plans should set out circumstances where review mechanisms may be appropriate***, as well as clear process and terms of engagement regarding ***how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy compliant means development which fully complies with up to date plan policies***. A decision maker can give appropriate weight to emerging policies.

***Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy***

***compliance can be achieved over time.*** *As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.*" (Emphasis added)

- 2.51 Crucially, the above requires plans to set out circumstances for where review mechanisms **may** be appropriate, not **must** be applied. Furthermore, the PPG makes clear that review mechanisms are to ensure policy compliance i.e. complying with the up to date plan policies. If the policy requirement is 10% then it does not follow that applications which comply with the policy requirement of 10% should be subject to a review mechanism that requires a betterment above this level to be sought.
- 2.52 It is also relevant that in the Cranbrook context a reduction of the affordable housing provision is not singly a concession to viability but a planned and beneficial outcome of the Cranbrook Plan process – fostering more balance than present and facilitating community and wider infrastructure provision (As is evident in the supporting text to the Plan and in the Sustainability Appraisal).
- 2.53 Accordingly, the developers consider that if a review mechanism is considered necessary, that at most this review mechanism should be by way of a comprehensive review of the Cranbrook Plan commencing no sooner than 3 years from its adoption to allow for completion within five years from the adoption of the plan, meanwhile consents issued prior to the completion of this review should not be the subject of review clauses.



### 3 COMMENTARY ON THE VIABILITY APPRAISAL CRITIQUE (PSD37)

- 3.1 This section of this hearing statement sets out a range of concerns identified by Whiteleaf Consulting Ltd (**Appendix A**) and Bruton Knowles (**Appendix B**) with the Viability Appraisal Critique (PSD37) prepared by Vickery Holman. Whiteleaf Consulting Ltd (WCL) have provided advice with regards to the technical aspects of PSD37 with regards to the comments made by Vickery Holman (VH) on inputs to the viability assessment prepared by Three Dragons (Cran 063, PSD21a and PSD36). Bruton Knowles (BK) have considered whether PSD37 is consistent with RICS Guidance and provided comments on the experience and objectivity of the author of PSD37.
- 3.2 It should be noted that while the developers are supportive of the principle of appointing a chartered surveyor in response to concerns raised by some parties as the November 2020 hearing sessions, that as noted in paragraph 5 of the PSD42 the Council did not engage the developers in this appointment process. This is disappointing as the developers are collectively engage regularly with suitably qualified individuals both practicing on a full time basis and those who were previously involved on a full time basis, but now offer consultancy advice as they are semi-retired. The developers also would have been able to identify potential conflicts allowing the Council to approach only individuals who are not conflicted.

#### Summary of Whiteleaf Consulting Ltd Comments on Inputs

##### Developer's Return

- 3.3 As noted at paragraph 9 of Appendix A, WCL dispute VH's conclusion that the outlook for the housing market was favourable or that the trend was 'up'. Accordingly, they consider that as per previous representations the level of developers return should be 20% should be used for a Local Plan assessment, where it is not possible to assume that detailed consent will be granted on the base assumptions of density, costs or market sales rates as set out at paragraphs 14 to 16 of Appendix A.

##### Affordable Housing

- 3.4 It is noted in paragraph 18 of Appendix A that VH do not agree with the approach taken by Three Dragons of calculating the return on affordable housing on cost rather than Gross Development Value. Furthermore, as noted at paragraph 20. table 3.1 of PSD36 shows that the majority of practitioners use 6% on GDV. The developers position remains that no justification has been provided for using 6% of costs. We also note that individual sensitivity test C set out on the first page of Appendix 3 to PSD36 shows that using 6% of GDV rather than cost results in a reduction of £2.1m.

## **Base Build Costs**

- 3.5 Paragraph 23 of Appendix A sets out that no justification has been provided for using a higher sales value of £3,200 psm. Instead, it is simply asserted that an analysis was undertaken by VH that supports this figure. As noted in paragraph 25 it is only by using this higher value that VH support the lower value adopted by Three Dragons in terms of Gross Development Value. We respectively suggest that VH's view on this point should be ignored as it is unsupported by evidence and contradicts the view of Three Dragons, which has previously been accepted by the developers.
- 3.6 A similar criticism is raised at paragraph 26 of Appendix A. Without any details of the assessment referred to by VH no weight can be attached to it as no evidence has been provided to justify the position taken.
- 3.7 WCL also note at paragraph 28 of Appendix A that no consideration has been given by VH to the increase of costs that will result from the introduction of the revised Part L and FSH. This again will increase costs to the developers and accordingly due to the lack of detail currently known about the level of cost increases means that a greater risk is being taken, supporting a high rate of developer return.

## **Finance Costs**

- 3.8 WCL dispute the view of VH that finance can be accessed by developers at a rate lower than 6% as set out in paragraph 30 of Appendix A. It is noted at paragraph 31 that no compelling evidence has been provided that land purchase would not be upfront. Information relating to a single development is not capable of demonstrating that this the experience of VH is applicable to Cranbrook.
- 3.9 By way of example why a greater proportion of land would be required to be acquired up front in the case of Cranbrook there are significant infrastructure requirements required by the proposed policies of the Plan at early stages of delivery. Examples include the proposed schools and crucially a proportion of the proposed SANGS to ensure compliance with the Habitats Regulations. The land identified for delivery of these requirements is not necessarily within the same ownership as the likely first phases of the expansion areas. Indeed, it is logical that early phases of development will be located adjacent to the existing development, as this allows for reductions in costs to provide servicing by linking into existing connections that run along the existing Main Link Road. Conversely, to ensure the right environment the SANGS provision is identified for land towards the edge of the proposed expansion areas. As such multiple ownerships will need to be acquired at the beginning of delivery to deliver the full range of infrastructure required. It should be noted that smaller scale developments without such significant infrastructure requirements would be less likely to require this and so a more phased process of acquisition would potentially be feasible. However, the expansion areas are not small scale and so this is not feasible.
- 3.10 As noted at paragraph 32 of Appendix A and linked to the above point the developers remain of the opinion that it is precisely this need to acquire SANGS land that means that a flat Benchmark Land



Value should be applied. The SANGS land is required to enable development, without it delivery of the homes cannot take place. As such a landowner will require the same value to release this land.

## **Sales and Marketing**

- 3.11 WCL observe at paragraph 35 of Appendix A that no evidence has been provided to support the statement that marketing costs of £1,000 per market house would be adequate. Again, given the lack of evidence to support this assertion we respectfully suggest that this view should be ignored.
- 3.12 WCL do agree with VH that agents' fees of 1.25% should be applied as set out at paragraph 37 of Appendix A. Marketing campaigns will be required for each sales outlet.
- 3.13 As noted at paragraphs 36 to 39 to achieve the trajectory set out in PSD21a multiple outlets will be required from multiple developers. The market will be crowded and will mean that as well as greater costs associated with the multiple outlets and developers that there will be increased costs in terms of incentives offered due to the increased level of competition. Again, as noted at paragraph 40 of Appendix A, WCL note that no evidence is provided by VH to support their position. Furthermore, the one example cited is not comparable to Cranbrook as it relates to a 300 dwelling scheme.

## **Summary of Bruton Knowles Comments on Consistency with RICS Guidance and the Experience and Objectivity of the Author**

### **RICS Guidance Note – Assessing Viability in Planning**

- 3.14 BK note at paragraph 2.5 of Appendix B that VH have not followed the above guidance note. As the Author of PSD37 is a practising Chartered Surveyor it is a mandatory requirement that they follow this, but they have not done so. Furthermore, as set out at paragraph 2.2 of Appendix B specific references are made to the additional modelling and sensitivity work undertaken by Three Dragons as set out in PSD36. However, as noted at paragraph 2.6 of Appendix B BK note that PSD37 does not refer to this work.

### **Experience and Objectivity**

- 3.15 Paragraph 2.8 of Appendix B notes that PSD37 should only have been undertaken by a suitably qualified practitioner, as per the Council's brief which refers specifically to previous experience of undertaking appraisals for CIL and Local Plan examinations. No experience of this is set out by the Author of PSD37.
- 3.16 At paragraph 2.9 BK notes that VH's website makes clear that they are primarily a commercial property surveying firm with no development properties listed for sale on their website at the time of preparing Appendix B. Nor do they appear to purport to be residential development specialists.
- 3.17 As observed at paragraph 2.11 the development experience referred to by the author of PSD37 is of sites between 8 and 300 units. However as noted by BK at paragraph 2.11 the opinion of the

Author is sought in respect of a major urban expansion of over 4,000 houses with a GDV of over £1 billion, with a land value in excess of £60m and a 13 year development programme timeframe.

- 3.18 BK note at paragraph 2.12 of Appendix B that no evidence is set out derived from projects that the author is involved in, nor is any experience of listed of the scale of development being considered by the EiP. Furthermore, no reference is made to any Local Plan Viability Work undertaken by the Author.
- 3.19 As noted by BK at paragraph 2.14 RPS have requested a copy of the tender submission made by the author as it may contain relevant information not set out in PSD37. Initially this was request was made on the basis that a redacted copy be provided, excluding the proposed fee as it is acknowledged that this is commercially sensitive. This was initially requested via a telephone call to one of the Council's officers made on 05/08/21, as no response was received further calls were made the following week. A response was eventually received to an email sent on 12/08/21 advising that the Council would only consider releasing this information if a request was made under the Freedom of Information Act 2000 (the Act). Accordingly, a request was submitted on 13/08/21 noting that only a redacted copy was requested to ensure that providing the requested information would not be exempted under Section 42(2) of the Act. It was also noted in the request that it is considered that the release of a redacted version of the tender submission would be in the public interest as it would inform the EiP. At the time of writing a response has yet to be received. We note that up to 20 working days is allowed for responding to a request made under the Act, although in certain circumstances this period can be extended if the request is particularly complicated. However, given that the request relates to a single document that can easily be redacted and details were provided in the request of relevant officers at the Council working on the Cranbrook Plan who would be able to provide the necessary information it is the opinion of RPS that the fulfilment of the request could be achieved in advance of the submission of this statement before the deadline of 20/08/21.
- 3.20 BK question at paragraph 2.15 how the author of PSD37 could objectively assess the viability appraisal without the necessary knowledge or experience. It is noted furthermore at paragraphs 2.16 and 2.17 that PSD37 has not been prepared in accordance with the mandatory RICS Guidance Note referred to above. BK also consider PSD37 to have not followed the previous, now superseded, Guidance Note despite it being referred to in PSD37.
- 3.21 As noted by BK at paragraph 2.18 of Appendix B it is necessary to undertake a complete review, rather than the partial exercise that has bene undertaken. PSD37 also does not address all issues identified by the Council (modelling) or the Inspector (sensitivity, Part L & F costs). Paragraph 2.21 goes on to expand on this point. As inputs are interlinked, a failure to address all of the inputs will result in a skewed viability appraisal preventing a wholly impartial and objective assessment, resulting in a flawed review.
- 3.22 Paragraphs 2.19 of Appendix B again notes that no evidence is provided to support the comments made in PSD37. Furthermore, BK observe that had the largest sale referred to by the author of PSD37 been analysed, that is would be necessary to extrapolate that data to a development of the

size proposed by the Plan. This would require setting out how the scale of development impacts on the inputs assessed. This has not been done.

3.23 In section 2.22 BK set out a number of detailed further comments relating to specific statements made in PSD37. For brevity they are not repeated here in detail, but in summary BK question a number of the conclusions made by VH on matters including:

- developer's return;
- contractors profit versus developers profit;
- the view taken with regards to how to calculate return for affordable housing;
- the incorrect suggestion by VH that it is possible to build below certain design standards / building regulations;
- the absence of suitable evidence;
- the credibility of statements made regarding the build costs of volume housebuilders given the lack of any demonstrated experience of having worked for such developers;
- the unevidenced suggestion that the finance rate relates to the purchase price of land;
- the approach to Benchmark Land Value, which if a differentiated approach is taken should set out the sums set aside for each of the various land uses separately before arriving at an overall blended value
- lack of justification for why VH conclude that finance costs should be less than 6%;
- lack of information to justify the conclusions made on marketing costs; and,
- failure to note that despite the suggestion made by Three Dragons that costs can be incurred on land which has not yet been purchased, that as previously raised this is not something that landowners will allow because they potentially become liable for S106 and CIL as the owners of a 'commenced' scheme.

3.24 At paragraph 3.1 of Appendix B BK suggest that the issues raised may be a result of either the instructions given or the interpretation of those instructions. Paragraph 3.2 goes onto note that PSD37 is not an independent viability appraisal, nor a review in accordance with the RICS guidance note. Finally, BK invite the Inspector to consider the weight that should be attached to PSD37 given the concerns raised.

## 4 CONCLUSIONS

- 4.1 The developers welcome the positive approach taken by the Council in identifying savings to address concerns with viability. They also welcome the willingness of the Council to identify and consider further opportunities to make savings including the £4m of further infrastructure savings; £8.9m of savings arising from the revolving infrastructure fund; and £14.7m by reducing the affordable housing requirement.
- 4.2 The developers consider that the sensitivity scenario 7, produced at their request, sets out the correct assumptions that should be made by the viability assessment of the plan and represents a moderated and moderate basis for assessment. This shows a £31m deficit which can be mostly resolved through the further opportunities to make circa £27m of savings that have been identified through productive dialogue with the Council.
- 4.3 The developers have identified areas where costs are currently unknown and suggest that a contingency allowance be made to ensure that these issues do not undermine the viability of the plan. Should this not be accepted, the developers consider that the increased risk is further justification for a developers' profit of at least 20%.
- 4.4 The developers have also suggested other potential opportunities to make savings by removing proposed infrastructure requirements that are identified as not being of critical importance.
- 4.5 Concerns remain in relation to the proposed requirement to require connection to the CHP facility. The developers suggest that policy CB13 should be amended to reflect the uncertainty of the deliverability of the proposed CHP facility.
- 4.6 The developers do not agree with the suggestion from the Council that if a reduced affordable housing requirement is incorporated into the Plan that individual planning applications should be required to include a review mechanism. This is not in accordance with national policy and guidance. If it is necessary to include a mechanism that allows for an increase in affordable housing requirements in the future, this should be included by way of a policy to undertake a future review of the Plan itself.
- 4.7 A number of concerns have been identified by the developers with regards to the assumptions set out in the viability appraisal critique (PSD37) as well as the failure of the author to follow the mandatory RICS guidance, their experience and objectivity.
- 4.8 The developers consider that a further roundtable hearing session is required to consider the points raised in detail. These issues are complex and fundamental to the success of the Plan. A further roundtable hearing session will ensure that these points are given the due level of consideration that is required. Furthermore, such a hearing session will ensure that the Inspector is able to seek the views of all interested parties on these points to her satisfaction and seek clarification on any points that are unclear from the hearing statements. The developers view is that the tools exist to enable the further difficult decisions to be taken to enable the viability issue to be addressed through the examination process. In this regard it is essential for the developers to have confidence in the

outcome of the examination and the Plan that emerges from this. One of the most effective means to try to generate such confidence would be the holding of a further hearing session of the examination. Moreover, these are complex matters and any potential for misunderstanding should be minimised and indeed avoided – by holding a further session.

- 4.9 While they are aligned on the points set out in this joint statement it should be noted that the developers will also be submitting their own individual representations on other points.





# APPENDICES

## Appendix A

### Whiteleaf Consulting Comments on Inputs





## **Independent Examination of the Cranbrook Local Plan**

### **Response to the Vickery Holman Independent Expert Witness Report**

#### **On Behalf of East Devon New Communities partners**

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#### **Introduction and Instructions**

1. Whiteleaf Consulting Limited (WCL) continue to provide viability advice to our clients Taylor Wimpey and Hallam Land Management in relation to the Examination in Public for the Cranbrook DPD. This ongoing advice is also provided as a joint response to the Inspector for the EiP including Redrow Homes and the Carden Group, and Persimmon Homes. The developers have taken a joint approach to these representations.
2. This report has been undertaken impartially and without any outside interference as to the resultant conclusions. It is confirmed that there is no conflict of interest. No performance related or contingency fees have been agreed in undertaking this assessment.
3. WCL has considerable past and ongoing experience in carrying out viability assessments, whether for plan-making purposes or site-specific developments in the context of planning applications, appeals and s106 negotiations and renegotiations, acting for the public sector, developers, promoters and landowners (recent assignments are provided in the appendices). The inspector should note many of these are of large, multi phase developments in excess of 3,000 units, where low value housing coupled with high infrastructure costs have significantly influenced the concluding viability. Similar to Cranbrook.
4. As part of the further submissions being made on behalf of our clients, we have been asked to review the Independent Expert Witness Report provided by Graham Oldrieve of Vickery Holman (VH) dated 27<sup>th</sup> May 2021 (ref PSD37). For ease of this Report we will refer to this as the "VH Report" as it is the content we will be addressing rather than the stated expert status of the author.

5. In this response we only address those areas that the VH Report covers. Other viability inputs are not addressed by VH and so our clients position remains as set out in the Statement of Common Ground (SOCG) (Ref PSD41).

#### **Developer's Return**

6. VH refer to their own market report on the housing market and at paragraph 4.12 they refer to the Three Dragons' (TD) risk review assumptions for the Financial Viability Assessment that planning consent exists and consequently the development is oven ready and "de-risked to a degree".
7. If we summarise the points made in paragraphs 4.1 to 4.8 (their market assessment in January 2020), this clearly illustrates that:
  - Brexit was making for market uncertainty as of January 2020, as the UK was just entering trade discussions with the EU
  - The bank of England had kept the interest rate at 0.75%, with no change since August 2018, which at the time was a record low
  - House prices increased by 1% from the previous month and by 2.6% in the previous year across the UK, with East Devon's annual change at 0.7%, compared to the inflation figure stated in this report at 1.3%
  - The RICS Residential Market Survey for November 2019 reported new buyer demand had fallen for the third month in a row with the previous three months showing -27%, -18% and -8%. An improving picture, but still negative.
8. All the above points are from the VH Report.
9. With this market background it is surprising that VH at paragraph 4.9 conclude "...and the outlook for the housing market was favourable". From their own statistics, it was at the very least uncertain and, in reality, a difficult market in which to make significant commercial decisions on developing large housing developments.
10. VH go on to suggest that as the "market trend was up" (para 4.10), this trend would be factored into risk and return considerations.
11. We do not disagree that market trends would be factored into risk and return, albeit with caution as to long term stability of the market. However, we see nothing from the evidence provided that the trend was "up" and that the market at this time was "favourable". Indeed, we would suggest quite the opposite and, as VH state, this needs to be reflected in the risk matrix.

12. No other evidence is provided to support the conclusion that “the appropriate return (profit) on market housing is towards the lower end of the PPG guidance and consequently 17.5% on GDV by TD’s is reasonable”.
13. We would draw the Inspectors attention to previously submitted written statements presented to the EiP setting out why we feel strongly that the developer’s risk should be reflected at 20% and not 17.5%. This identifies a number of factors which VH have simply not addressed.
14. Nothing provided gives any evidence that the 17.5% conclusion is based on anything factual. Our previous submissions and evidence at EiP indicate that 20% is considered prudent for a Local Plan assessment, where you cannot assume detailed consent is granted on the base assumptions of density, costs or market sales rates.
15. It should also be noted by the Inspector that Three Dragons in their work on the East Devon Local Plan assumed 20% and again for the CIL review across the wider district they have adopted 20%.
16. For the reasons previously stated we remain steadfast in our representations that for a development of this size and at the Local Plan stage of assessment that the risk to the developer in investing some £1 billion has to be recognised in the return required.
17. This “oven ready” assumption raised again in paragraph 4.12, ignores the fact that detailed cost assessments and detailed design have yet to be undertaken as would be expected for a detailed planning consent. The high-level assessments relied upon carry significant risk and consequently a higher return must be included to cover changes that increase costs. The caveats identified by WWA in their cost assessments (refer to the viability appendices produced by TD presented to the EiP) illustrate just this.
18. The 2021 RICS guidance advises that future increases in costs should be carried by the developer and not the Plan. The Plan though must start at a position where, such issues on cost increases or unknown costs as yet identified, have room to be incorporated in the financial model rather than start at a minimum value where such financial manoeuvring is unreasonably constrained, and thus risking delivery.
19. Guidance on viability from the RICS and Harman all emphasise that viability at a Local Plan level is a balance between the requirements of policy and the risk appetite of the market expected to deliver the site. The risk is a factor amongst other issues is also influenced by scale and complexity. The greater the scale and complexity of a development, the greater the risk taken by the developer in bringing the site forward. Cranbrook is at a scale that naturally increases risk as it will undoubtedly be developed over a changing housing market (prices and

purchaser expectations) and will be subject to cost inflation (including changes in building regulations through climate change actions). Cranbrook is complex, as can be seen by the infrastructure and s106 cost equalisation and policy expectations in producing a quality development equal to the expectations of the council. Such issues must be reflected in the viability by using an appropriate developer's return.

### **Affordable Housing**

20. Paragraph 4.19 states that VH do not agree with TD's method of calculation, although oddly perhaps does not put forward an alternative.
21. The question here is how to determine the risk associated with building the affordable homes, which all accept is lower than market for the reasons VH set out. The risk is reduced, but not altogether negated.
22. It is common practice to use 6% of GDV. All guidance on viability suggest that precedent and other viability assessments can be used as evidence. Indeed, TD kindly reproduce a table in their June 2021 addendum, at table 3.1, information that was originally submitted to the inspector by Sturt & Co, which clearly shows the majority of practitioners have used (and decisions have been based on) 6% of Gross Development Value rather than 6% of costs (which equates roughly to 4% of GDV).
23. We remain of the opinion that 6% of GDV is an accepted method of assessment and should remain adopted. No evidence to the contrary has been provided.

### **Base Build Costs**

24. At paragraph 5.1, VH suggest that the parties at the hearing were aligned with median and higher quartile costs from BCIS. This is incorrect. All but one party was suggesting median costs, with the other suggesting an average of lower and median costs base. The Scott Schedule previously submitted shows this to be the case.
25. We agree with VH at 5.2 who suggest expected sales revenues are linked to build costs, and this was discussed at the EiP hearing. For sales aspirations to be met, costs have to be aligned with the quality and price expectations of the build. However, VH illustrate this using a value of £3,200 psm for house prices rather than the £3,064 used by TD. No evidence is provided for this higher level (base Jan 2020), but to follow and support their argument, we are seemingly obliged to agree with it.
26. The inspector will be aware the parties accepted the GDV within the TD assessment.

27. It is only by using this higher value that VH supports the judgment that the lower value adopted by TD in their GDV means that a cheaper house needs to be provided. If we ignore the unsupported higher value, this argument falls away. We would respectively ask the Inspector to ignore VH's view on GDV as it is unsupported by evidence and by the councils' own advisers, TD.
28. Further "evidence" is provided that a QS recently assessed build costs in the region of £1,030 psm on a development located on the Devon/Cornwall border. No details are provided of this in relation to what was being costed, or how this site compares with the Cranbrook development, or indeed what the sales prices expected were (a key to the cost assessment as VH have already explained).
29. It is clearly not sufficient to simply state values or costs as facts without supporting evidence or an explanation of how it compares to the Cranbrook expansion area. This is purely hearsay and should not be taken as evidence that supports the view of the author. It is common ground between the parties and in the evidence base for the Cranbrook CIL review that values achieved in Cranbrook are below those achieved in most other parts of the district and in Exeter.
30. In the SoCG (PSD41), a base build cost of the average between Lower Quartile and Median has been promoted by my clients. Such costs also need to cover, as they are not in totality covered by other costs, the increase in house building associated with the review of regulation L of the building regulations and the Future Homes Standards that will impact on the Cranbrook development as it goes forward. This is not referred to by VH and is considered a significant flaw in their commentary. The impact of these, on costs and developer risk, have been referenced in previous submissions to the Inspector.

### **Finance Costs**

31. As identified in the SoCG, the finance rate of 7% is no longer being pursued by my clients. They are also suggesting, to promote agreement and a sound base for the plan, that 75% of land costs should be upfront and 25% halfway through the development. VH we trust would support this approach.
32. It is not agreed, however, with the risks associated with housing development, that an interest rate below 6% (used by TD) would be available to a developer as suggested by VH. If anything, the rate of 6% is lower than could be achieved in the market for development of this type, especially in January 2020, when uncertainty in the housing market existed due to Brexit and

issues on Covid were beginning to become apparent - we noted the market conditions above in discussing the developer's return.

33. We remain of the view that normal practice in both viability assessments and in market transactions is that the land purchase would be required upfront by the landowner. VH have not provided any convincing evidence to persuade otherwise, citing one single development as "evidence".
34. Although not necessarily connected, VH at paragraph 6.4 and 6.5, discuss the Benchmark Land Value (BLV). We disagree that the reduction in value on the SANGS land should be accepted. This is land that enables development, and any landowner will require the same value to release this if it enables value to be derived from adjacent land (which may not be owned by the same landowner). The Inspector will be aware of the discussion on this during the EiP and our submission on this aspect.
35. Nothing provided by VH has persuaded us to change our view. Again, no evidence has been provided to support the opinion.

### **Sales and Marketing**

36. The Inspector will note that my clients in the SoCG have suggested using a rate of 3% on marketing costs. It should also be noted submissions were not presented seeking 5% as stated in the VH report, but 3.75% as set out in the Scott Schedule previously presented to the Inspector.
37. We note the comments made by VH and agree with the points in paragraph 7.8 that marketing costs would not be applied to affordable homes, although legal costs would. VH suggest, again with no evidence to support the statement, that £1,000 per house (market) would be adequate.
38. This represents just over £3.5m. This has to reflect costs associated with multiple sales centres (if the aggressive TD sales trajectory is to be achieved) providing multiple sales centres, literature, web sites, advertising, staffing etc. The £3.5m represents a sales and marketing cost of just 0.3% on the GDV used of £1,047,154,581. This is clearly too low and compares to the 1.5% used by TD.
39. VH also suggest 1.25% for agents' fees (multiple agents would be used across the site), higher than that used by TD and in line with our own thoughts. There will be marketing campaigns required for each sales outlet and each developer and each agent.

40. The main question for us here would be the low value suggested for marketing, indicating that VH is not aware of the marketing costs required for a development of multiple sales centres trying to achieve the aggressive sales trajectory adopted.
41. Cranbrook is not an isolated development where competition is minimal for new build homes. It is a development that will have multiple outlets from multiple developers, each trying to entice a finite number of buyers. This impacts sales and marketing costs as well as the cost of incentives that need to be introduced to have a USP in what could be a crowded (if not saturated) market. This of course is further food for thought when looking at the risk or margin allowed.
42. It should be noted that again no evidence is provided and that the largest site noted in the experience is just a single 300-unit site (which is referenced a few times), this simply does not compare with the market stresses of a multi developer, multi sales centre development such as Cranbrook which has significantly high expected sales trajectory in the model.

### **Summary**

43. All aspects have been previously covered in submission made to the EiP. The lack of evidence, and the continuously reliance on experience of a site of just 300 units does not provide for a suitably robust critique in support of TD's viability. We therefore conclude that this report does not add anything to the council's and, therefore, TD's evidence base in support of their assessments.

Whiteleaf Consulting Limited

**AUGUST 2021**

## Appendix 1

### Recent Projects List

**Bedfordshire:** 4,000 homes – Provision of viability advice on an allocated site, with Green Belt and AONB issues, through the Local Plan review. Providing key input to the client's legal team in order to identify the most effective strategy for the Examination in Public.

**Northamptonshire:** 3,500 homes – Two stage development to the east of Corby. Part of site former iron stone quarry. Reduction of affordable due to infrastructure and s106 costs.

**Northamptonshire:** 2,000 homes – Submission of a Viability Assessment in relation to an application to the west of Corby for one phase of the allocated site in order to illustrate that the equalisation of costs and planning obligations would not prejudice the deliverability of the remaining allocation.

**Cambridgeshire:** Two sites east of Peterborough where viability advice on developments of circa 300 units has been provided. One site has been granted consent with zero affordable housing due to the low value of the housing in the area, the second is currently being determined but again due to low values and high infrastructure is likely not to provide affordable housing.

**Northamptonshire:** commercial - provision of a Viability Assessment to determine impact of BREEAM standards on a business starter workshop and office development required to support a planning application by the local authority.

**Bedfordshire:** Viability advice to development consortium in relation to a 4,000 home development (with commercial) to support Local Plan allocation.

**Bedfordshire:** Viability assessment undertaken which supported a reduction from 25% to 13% affordable homes on a 525 units development to the west of Bedford. The reason for the reduction was the significant upfront costs associated with the access.

**Buckinghamshire:** 525 homes – Submission of Viability Appraisal in respect of a planning application which has resulted in a reduction in affordable home provision from that specified in the Local Plan.

**Oxfordshire:** 200 apartment development – Submission of Viability Appraisal to support an outline application for the redevelopment of an industrial site in a Town Centre location for c200 apartments. This has resulted in the Council accepting the need to reduce the recent policy level of affordable home requirement as well as a reduced S106 obligation.

**Hampshire:** 29 homes – Viability Assessment to accompany planning application for residential development on contaminated site. The Assessment provided the Council with comfort that the site should have a reduction from 40% affordable homes to zero in order that the site can be remediated to the benefit of the community (on safety and amenity grounds) and the landowner, who was left with the contamination through previous tenants.

**General:** Numerous other instructions acting primarily for promoters and developers in respect of sites ranging from a few units to over c4,000 dwellings and involving viability advice/assessments, s106 and affordable content negotiations, option exercise negotiations, overage negotiation, other landowner agreement issues, heads of terms etc.



## Appendix B

### Bruton Knowles Comments on Consistency with RICS Guidance and the Experience and Objectivity of the Author

# **THE CRANBROOK PLAN**

## **Examination**

**Inspectors Letter – 13<sup>th</sup> July 2021**

**Comments on the submission made by Graham  
Oldrieve of Vickery Holman 27<sup>th</sup> May 2021**

**Prepared on behalf of Persimmon Homes South West**

**6<sup>th</sup> August 2021**

## **1. Introduction**

- 1.1 A brief report has been prepared following the invitation to comment on the additional documents available on the examination website. In particular, this report addresses item 4: PSD37 Independent Viability Critique by Vickery Holman. This response should be read in conjunction with other responses made by RPS/Whiteleaf Property in respect of the critique by Vickery Holman and all other documents now listed on the examination website.
- 1.2 For the avoidance of doubt, I confirm that I am instructed by Persimmon Homes South West (PHSW) and that I am a Partner at Bruton Knowles heading up the Planning and Development team. This report only seeks to comment on PSD37 the Independent Viability Critique by Vickery Holman. Previous submissions have been made by RPS and others in respect of matters raised by the Inspector since the adjournment of the examination.
- 1.3 As such the report is not a financial viability appraisal and therefore is not set out in accordance nor covers all of the issues that would be included in a FVA as per the guidance listed below. However, I confirm that I have had regard to the following documents in order to comment on the report by Vickery Holman:
- HBF Local Plan Viability Guide September 2019;
  - RICS Guidance Note: Assessing Viability in Planning under the National Planning Policy Framework 2019 for England 1<sup>st</sup> Edition March 2021 (effective from 1<sup>st</sup> July 2021)
  - Financial Viability in Planning Conduct and Reporting May 2019
  - The NPPF ;and to an extent more generally
  - The RICS Valuation – Global Standards 2017 and RICS Valuation of Development Property 2019 Guidance Note
- 1.4 Additionally, I confirm that I am acting as a suitably qualified Practitioner with no conflict of interests as defined therein. I confirm that I am acting objectively, impartially and without interference; with reference to all appropriate sources of information; and that no contingent or performance related fee has been agreed.

## **2 Graham Oldrieve's Scope of Instruction**

- 2.1 It is clearly stated in Appendix 1 of his report (Terms of Engagement Viability Appraisal Critique brief that EDDC wished to *"appoint an independent Chartered Surveyor"* to review the viability appraisal previously prepared by Three Dragons (whilst having regard to the recent letter from the Inspector) (PSD33 and 33B). It further states that the Chartered Surveyor should have *"a strong understanding of development viability and previous experience of undertaking viability appraisals for CIL and Local Plan examination work"*.
- 2.2 It is stated that *"the aim of the work is to establish the critique of the current viability appraisal potentially allowing collaboration of the approach to key inputs and to identify a proposed justified alternatives where this is considered necessary"*. It is noted that specific references are made to additional modelling / sensitivity work.

*Richard Brogden : General Comment*

- 2.3 As Graham Oldrieve was appointed it is clear that both he and EDDC were satisfied he could fulfil the instruction.
- 2.4 In his report he summarises the main points of difference at paragraph 1.4 and states that he has regard to the NPPF/RICS and LHDG Guidance (paragraph 1.8).
- 2.5 However, I note he does not have regard to the latest RICS Guidance Note – Assessing Viability in Planning under the Planning Policy Framework 2019 for England (First Edition March 2021) which became effective from the 1<sup>st</sup> July 2021. Whilst Three Dragons are not necessarily bound by the Guidance Note Graham Oldrieve as a practising Chartered Surveyor is. He has not made reference to this relevant document nor followed the Guidance Note- see later
- 2.6 His report does not address the additional modelling/sensitivity work referred to by EDDC.

*Richard Brogden Comment on Experience and Objectivity of G Oldrieve*

- 2.7 The RICS guidance Note is mandatory and has not been referred to nor does it appear to have been followed.
- 2.8 The Viability Appraisal Critique should only be undertaken by a suitably qualified practitioner as per the Council's brief which specifically refers to previous experience in undertaking appraisals for CIL and Local Plan examination work. Graham Oldrieve does not refer to any experience in this area in his report.
- 2.9 He does refer to his "credentials". A review of Vickery Holman's website makes it clear that they are primarily a commercial property surveying firm which, at the date of this report, does not have any development properties listed for sale on their website nor do they appear to purport to be residential development specialists.
- 2.10 Graham Oldrieve refers to his development experience as sites of between 8 – 300 units and states he has been directly involved in £10 million worth of development land sales over a two year period. This he states provides him with knowledge and experience to provide the opinion sought.
- 2.11 At this point it is relevant to highlight that his opinion is sought in respect of a major urban expansion of over 4000 houses with a GDV of over £1 billion ; a land value exceeding £60 million and 13 of years of development programme timeframe. With all due respect to G Oldrieve I do not believe experience of small schemes can just be applied as a blanket approach to larger schemes. The scale, risk and market is completely different and thus the viability assumptions cannot be applied without factoring in these issues. This basic principal appears to be understood in CIL Local Plan assessments with different typologies adopted and different inputs utilised. The Inspector will need to decide if Graham Oldrieve meets the knowledge and experience criteria despite apparently EDDC and Graham Oldrieve being satisfied.
- 2.12 However, I note that in none of his responses does he seek to set out any evidence derived from his analysis of projects he is involved in nor any sales (ie what inputs were used to provide the sale price of the largest scheme he has undertaken in the last two years); nor has he listed any experience of this scale of development.

- 2.13 Neither does he make any reference to any local Plan Viability Work undertaken by him.
- 2.14 RPS have requested a copy of the tender submission made by Graham Oldrieve which may contain the relevant information which is not within his report.
- 2.15 In order to objectively assess the Financial Viability Appraisal I question how that is done without the necessary knowledge or experience.
- 2.16 Additionally it does not appear that he has followed the mandatory Guidance Note in that he has not reviewed :
1. All the submissions (RICS GN 2.1);
  2. All the inputs (RICS GN 2.6);
  3. The benchmark land value (RICS GN 2.7);
- Nor undertaken a sensitivity analysis (RICS GN 2.6).
- 2.17 This report has clearly not been written having regard to current relevant RICS Guidance Note. The previous superseded GN is referenced but , in my opinion has not been followed either
- 2.18 Without undertaking a complete review rather than focusing only on specific areas as instructed by the Council I do not believe the report can be considered to be objective (nor independent). Furthermore, the report does not even address all issues identified by the the Council (modelling) nor the Inspector (ie sensitivity, part L & F costs).
- 2.19 In his report he does refer to the GDV, Profit Margins, Base Build Cost, Finance, Sales and Marketing Costs. However, he does not produce any evidence from the market to back up his comments (ie whilst he refers to a 300 unit sale he has not sought to analyse that sale to identify the inputs used to deliver the sale price).
- 2.20 Even if he had analysed that (ie the largest sale he has been involved in) he would then need to extrapolate that data into a development of this size. Therefore, without an analysis of market evidence nor an understanding of how the scale of the development impacts on those inputs it is unclear how he has arrived at his conclusions.
- 2.21 Hopefully it is clearly understood by all parties that the inputs used in a Financial Viability Appraisal are interlinked (ie risk is addressed in build rates, contingency, finance rates and profit levels) and therefore the risk of only addressing some of those inputs will result in a skewed financial viability appraisal preventing a wholly impartial and objective assessment hence resulting in a flawed review.

#### *Specific Comments*

- 2.22 In terms of the inputs commented upon I note that some specific comments as follows (Graham Oldrieve's report is referenced as GO and the para number as stated):

GO 4.13 *“provided opportunities for risk management”*

*Comment:* I am not sure what this means as the report does not give any specific allowance for the scale/volume referred to.

GO 4.13 *“Risk management is the responsibility of the developer not the plan”*

*Comment:* I agree it is the responsibility of the developer which surely means that this has to be allowed for in the FVA within the inputs utilised

GO 4.14

*Comment:* the question arises as to what type of scheme would, in his opinion justify a 20% or greater than 20% profit level in the current market if not a scheme of 4000 units and 13 years.

GO 4.17

*Comment:* Contactor's profit and developer profit are not the same issues this appears to show a fundamental misunderstanding of what has been submitted.

GO 4.18

*Comment:* Second sentence I am not sure which costs Graham Oldrieve refers too without expanding it is impossible to comment on this (ie does this comment include infrastructure costs).

GO 4.19

*Comment:* What developer experience is Graham Oldrieve referring too?

GO 5.2

*Comment:* How is base build cost impacted upon by market value? It should be noted that it is not possible to build below certain design standards / building regulations standards which Graham Oldrieve appears to suggest could be the case. Equally it is not a case that purchasers of houses will pay more just because a cost estimate increases

GO 5.6 *Comment:* No evidence submitted therefore I cannot comment.

GO 5.7

*Comment:* As I understand Graham Oldrieve has not acted for any housebuilders nor been employed by them. Therefore, I am not sure how he can qualify his “never seen” statement. This comment also disregards the additional costs raised by the Inspector (Part L&F) and any design brief requirements.

GO 6.3

*Comment:* Graham Oldrieve states that finance cost is integrated to the value /price paid which is a qualitative and quantitative consideration. To be frank I have no idea what this means. But as this section of his report then discusses benchmark land value (BLV) it appears to suggest that the finance rate adopted is dependant upon the benchmark land value but this surely can not be what he is suggesting?

GO 6.5

*Comment:* In this paragraph Graham Oldrieve appears to agree with the Inspector that the BLV of the SANGS should be discounted but then states that he prefers to look at the land in total rather than to differentiate. This appears to be contrary to the Inspectors apparent

approach but I think he is stating the blended BLV should be lower. If he adopts a differentiated approach the sums set aside for the all the various land uses need to be set out to arrive in order to arrive at a blended value. However following his initial comment he passes no further comment regarding in respect of benchmark land value but discusses the concept of phased purchases in 6.6 and 6.7. Then, finally refers in paragraph 6.8 to a phase purchase relating to 300 houses. I do not follow the relevance to these paragraphs to finance costs which in theory he is addressing in section 6 which he then concludes should be less than 6%.

#### GO 7.3

*Comment:* Under the heading of sales and marketing Graham Oldrieve refers to schemes he is directly involved in but does not state what those marketing costs are, the type of scheme nor what is involved. Without that information it is difficult to understand how he justifies his figures.

- 2.23 Finally, under GO 8.3 it is noted that he agrees with Three Dragons approach to phasing of the land. However, he misses the point previously made that Three Dragons are suggesting that the costs can be incurred on land which has not yet been purchased and the principal comment raised earlier is that is not something landowners would allow because they potentially become liable to S.106 and CIL costs as the landowner of a 'commenced' scheme.

### **3 Summary**

- 3.1 I suspect that the comments made above stem primarily from either the instructions given or the interpretation of those instructions.
- 3.2 It is clear has the Critique is not an independent Financial Viability Appraisal nor a review in accordance with the RICS Guidance Note.
- 3.3 The Inspector will need to decide whether Graham Oldrieve is suitably qualified to provide independent impartial advice and the weight to be attached to this report particularly as it does not appear to address the issues raised by the Inspector relating to additional costs, sensitivity testing ; nor does it provide an opinion as to all of the inputs that could also be utilised in a FVA.



## Appendix 2



# HEARING STATEMENT - GYPSY AND TRAVELLER SITE COSTS

On behalf of Persimmon Homes South West, Redrow and the Carden  
Group

JBB8781 - C7812  
Hearing Statement -  
Gypsy and Traveller  
Site Costs  
2  
20 August 2021

## REPORT

### Document status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
1	Client Review	JB	JB	JB	19.08.21
2	Final Issue	JB	JB	JB	20.08.21

### Approval for issue

Jacob Bonehill



20 August 2021

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#### Prepared by:

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#### Prepared for:

**Persimmon Homes South West, Redrow and the  
Carden Group**

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# 1 INTRODUCTION

- 1.1 This hearing statement has been prepared by RPS Consulting Ltd (RPS) on behalf of Persimmon Homes South West, Redrow and the Carden Group (collectively 'the developers') for submission to the ongoing Examination in Public (EiP) of the Cranbrook Plan (the Plan).
- 1.2 The developers represent the controlling interests in the Treasbeare and Cobdens expansion areas and approximately half of the land identified for residential development, plus additional land identified for providing the majority of supporting infrastructure. Of particular relevance to this hearing statement land within the control of the developers has been identified by the Plan for accommodating the two proposed sites for permanent pitches for gypsies and travellers. At Treasbere policy CB3 requires the provision of 5 serviced permanent pitches on an area of at least 0.5 ha, while at Cobdens policy CB4 requires the provision of 10 serviced permanent pitches on an area of land of at least 1 ha.
- 1.3 The developers are particularly concerned by the position taken by the Inspector in her interim letter dated 20/01/21 (PSD33) that as costs will be recovered directly for the permanent pitches that costs for the permanent pitches should not be equalised across all four expansion areas. The developers respectfully request that the Inspector reconsiders her position on this point in light of the information set out in this hearing statement.
- 1.4 It should be noted that none of the written responses to the questions posed by the Inspector prior to the second round of hearing sessions suggested that the costs of the gypsy and traveller sites should not be equalised. The most relevant question was:
- AQ11. If items were to be removed from the equalisation equation what are they and what impact would that have on the viability of different expansion areas?
- 1.5 RPS have also reviewed the responses to questions AQ22-26 which specifically related to gypsy and traveller provision. Again, none of these responses suggested that the cost of providing gypsy and traveller sites should not be equalised. The issue was only raised in verbal submissions to the hearing sessions which meant that the developers were not fully prepared to set out why they consider that these costs should be equalised. Accordingly, the developers request that the Inspector consider the case set out in this hearing statement.
- 1.6 We also note that at paragraph 41 of PSD33 that the Inspector has requested further detail on the costs for the two sites and for clarity on the basis on which the land cost to be used in the appraisal should be justified. This is a matter that affects both of the developers, providing further justification for the submission of a hearing statement on this issue.
- 1.7 Section 3.4 of PSD36 responds to the request raised by the Inspector discussed above by providing the specification of and costs applied to the gypsy and traveller pitches. Given the position of the Inspector that the costs of these sites will be recovered this information is clearly material to that position as it impacts upon the degree to which these costs can be recovered and the level of profit.

Furthermore, the Inspector has invited comments on the new material published on the examination website which includes PSD36.

## 2 THE LOCATION OF THE GYPSY AND TRAVELLER SITES

- 2.1 The responses prepared by RPS on behalf of Persimmon Homes and Harrow Estates PLC, part of the Redrow Group, and the Pyle Family to AQ22 which were submitted in advance of the previous hearing sessions both set out a critique of the approach taken in PSD27 with regards to considering reasonable alternatives. The points made are briefly summarised here to demonstrate that there are alternative locations at Cranbrook that could accommodate the proposed gypsy and traveller sites.
- 2.2 Notably, the developers' respective responses both demonstrated that the identified gypsy and travellers' allocations performed no better and, in some instances, worse as suitable gypsy and traveller sites when considered against the Council's assessment of 17 other sites and locations across the Cranbrook Plan area.
- 2.3 Furthermore, the discounting of a large number of potential sites due to being 'too small' was questioned. Appendix B to the response prepared by RPS to AQ22-26 demonstrates that all of the sites considered too 'small', or where site size was a factor in justifying their exclusion exceed 0.5 ha, in some cases significantly. East Devon District Council's (the Council) own evidence (PSD27 page 35) indicates that 0.5 ha is considered to be 'an appropriate minimum size' for site able to accommodate 10 pitches. It is clear therefore that sites of 0.5 hectares or more should not be considered too small and should therefore not be excluded for that reason.
- 2.4 At paragraph 6.3 of PSD27 the Council cites the lack of willingness of a landowner to bring forward sites for gypsy and traveller development because of their apparent small size as being a reason to justify their exclusion. However, irrespective of site size there is no mention in the updated commentary on suitability regarding the landowner preferences for the preferred sites as is the case for all the other excluded sites. On this basis, there is clear lack of consistency in the Council's approach across the sites in terms of the justification for choosing the proposed allocations ahead of other alternatives.
- 2.5 It should also be noted that the response to AQ22 submitted by Harrow Estates PLC and the Pyle Family highlight specific concerns with regards to the suitability of the proposed allocated site at Treasbeare for gypsy and traveller provision.
- 2.6 RPS note that paragraph 35 of the 2021 National Planning Policy Framework (NPPF) states that:  
*"...Plans are 'sound' if they are:*  
*... b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;"* (Emphasis in original document)
- 2.7 It is acknowledged that the test is for the strategy to be 'an appropriate strategy' not 'the most appropriate strategy'. Notwithstanding the concerns about the suitability of the proposed gypsy and traveller provision at Treasbeare, it is accepted that if these points can be addressed that the proposed allocations for gypsy and traveller provision at Cobdens and Treasbeare could be an

appropriate strategy. However the updated Sustainability Appraisal presented in PSD27 does not currently provide justification for the proposed allocations as it does not clearly explain the reasons for selecting the preferred sites, when considered against reasonable alternatives. It is suggested that a further update to the Sustainability Appraisal is required that addresses the points summarised above and set out in more detail in the earlier representations submitted by RPS on behalf of Persimmon Homes and Harrow Estates PLC, part of the Redrow Group, and the Pyle Family.

### **3 THE REQUIREMENT FOR GYPSY AND TRAVELLER PROVISION AT CRANBROOK**

- 3.1 The requirement for gypsy and traveller provision at Cranbrook was established by Strategy 12 item 2 of the adopted East Devon Local Plan. As set out at paragraph 3.5 of PSD27 sites within either of the existing Local Plan allocations at Cranbrook (Cobdens and Bluehayes), or within the allocations proposed as part of the Cranbrook Plan (all four expansion areas) are considered to not be countryside areas. Due to the proposed allocations the Council also indicate that these sites within these areas would not be considered to be remote from the town as they would form part of the expanded urban area.
- 3.2 Crucially, the East Devon Local Plan requirement is for pitches to be delivered at Cranbrook. As such the requirement is Cranbrook wide, not specifically related to Cobdens and Treasbeare. Given that there are numerous other locations within the Cranbrook Plan area capable of accommodating the required provision of gypsy and traveller sites, as demonstrated in the preceding section, it is not justifiable to state that only Cobdens and Treasbeare could accommodate the provision. Therefore, it follows that the provision is not site specific, the proposed allocations are only located at Cobdens and Treasbeare because the Council have decided that they are the locations that should accommodate the gypsy and traveller provision.



## 4 POTENTIAL FOR RECOVERY OF COSTS

- 4.1 RPS note that the Inspector sought to justify the position set out in PSD33 that as costs will be recovered directly for the permanent pitches that costs for the permanent pitches should not be equalised across all four expansion areas. The developers respectfully disagree with this position.
- 4.2 As set out at paragraph 3.4.9 of PSD36 the total direct cost allowance for the construction of the two sites, the specific road access to the Treasbeare site and the associated professional fees is £1,808,000. However, at paragraph 3.5.12 of PSD21a gypsy and traveller plot values are given as £55k per plot based on sales evidence in 2019 viability report (Cran063) and repeated in Appendix 2 of PSD21. This gives a total sales value of £825,000. This results in a net loss of £983,000 to the developers who have been identified as accommodating the gypsy and traveller sites on their wider allocations
- 4.3 It should be noted that at row 10 of Appendix 2 of the response to AQ1 to AQ12 prepared by RPS on behalf of Persimmon Homes South West the discrepancy between a higher cost and the lower sales value. Furthermore, as noted at row 39 of the same document the market evidence underpinning the assumed sales value was also questioned. To expand on this point, it is noted that the data used to arrive at the assumed sales value is based on the prices that the suggested comparable sites set out in Appendix 2 of PSD21 were being marketed at. The price that a property is being marketed at is no guarantee of the sales value achieved and so there is a risk that the net loss may increase.
- 4.4 It is also important to consider that both of the proposed gypsy and traveller sites have the potential for alternative higher value uses, which could achieve a positive return rather than the loss that will be made if the cost of providing the land and developing the sites as serviced pitches is not equalised. This is an important consideration with regards to responding to the Inspector's query regarding the justification of the land cost to be used for the gypsy and traveller sites and is also relevant to understanding the impact upon the developers of accommodating the gypsy and traveller sites and therefore the justification for equalisation.
- 4.5 It is notable that Three Dragons have not responded to the Inspector's query regarding land value for the two gypsy and traveller sites, merely repeating at 3.4.4 of PSD36 that they consider that the same £300,000/ha benchmark land value should be applied as with the other development land used for housing, community facilities, sports, employment and mixed-use development. The Council have also not responded to this point, despite referring to the specification of gypsy and traveller pitches at both 4.4 and in the title of section 4 of PSD34.
- 4.6 As noted in the Hearing Statement on Viability prepared on behalf of the developers, Hallam Land Management and Taylor Wimpey, the developers do not agree that a differential rate should be applied to land required to enable development in the case of SANGS. This is also the case with regards to the gypsy and traveller sites. The benchmark land value is not simply the value of residential land, it is the value of strategic development land, which factors in the need to provide

for a whole range of supporting facilities and infrastructure such as roads, open space, schools etc. as required by the planning system to ensure the delivery of good placemaking.

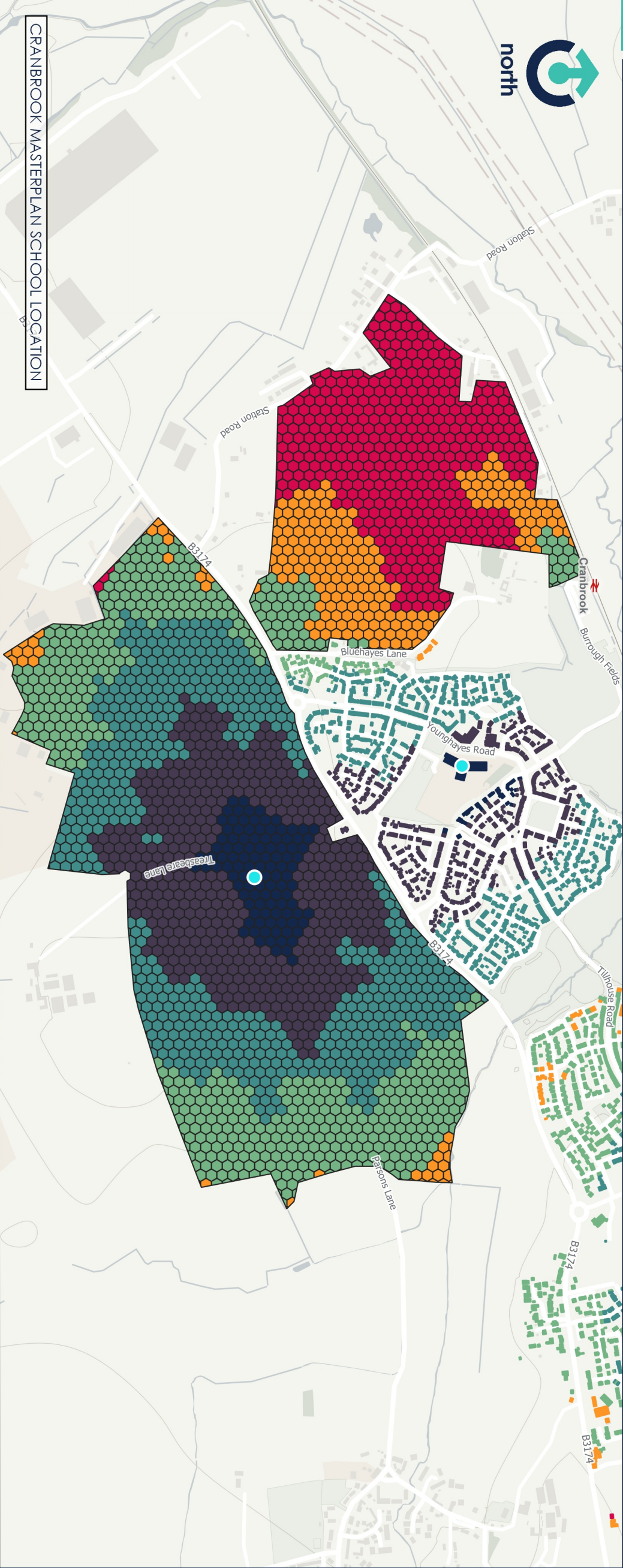
## 5 CONCLUSION

- 5.1 The difference between the costs and sales value of the proposed gypsy and traveller pitches means that accommodating the pitches on the developers site will result in a net loss to the developers of £983,000.
- 5.2 It has been demonstrated that there are various other reasonable alternative locations within Cranbrook that the gypsy and traveller pitches could be located that are not controlled by the developers.
- 5.3 The need for the gypsy and traveller pitches is Cranbrook wide as required by the East Devon Local Plan. As such the inclusion of the pitches should be seen as part of the wider placemaking of the site.
- 5.4 The benchmark land value for Cranbrook accounts for the provision of the wider infrastructure required when developing at a large scale.
- 5.5 The proposed gypsy and traveller sites are therefore a use that is required to support the delivery of Cranbrook being accommodated on land within the developers' control, but which could be located elsewhere. This is the same as other category 3 infrastructure such as the proposed schools for which the cost of delivering them on a specific site is proposed to be equalised.
- 5.6 If these sites were not allocated for gypsy and travellers they could instead be used for other uses, either directly as more profitable uses such as market housing, or accommodating other required lower value uses such as open space, freeing up land elsewhere in the relevant expansion area for market housing. It follows therefore that the cost of accommodating the gypsy and traveller sites on land within the developers' control should be equalised.

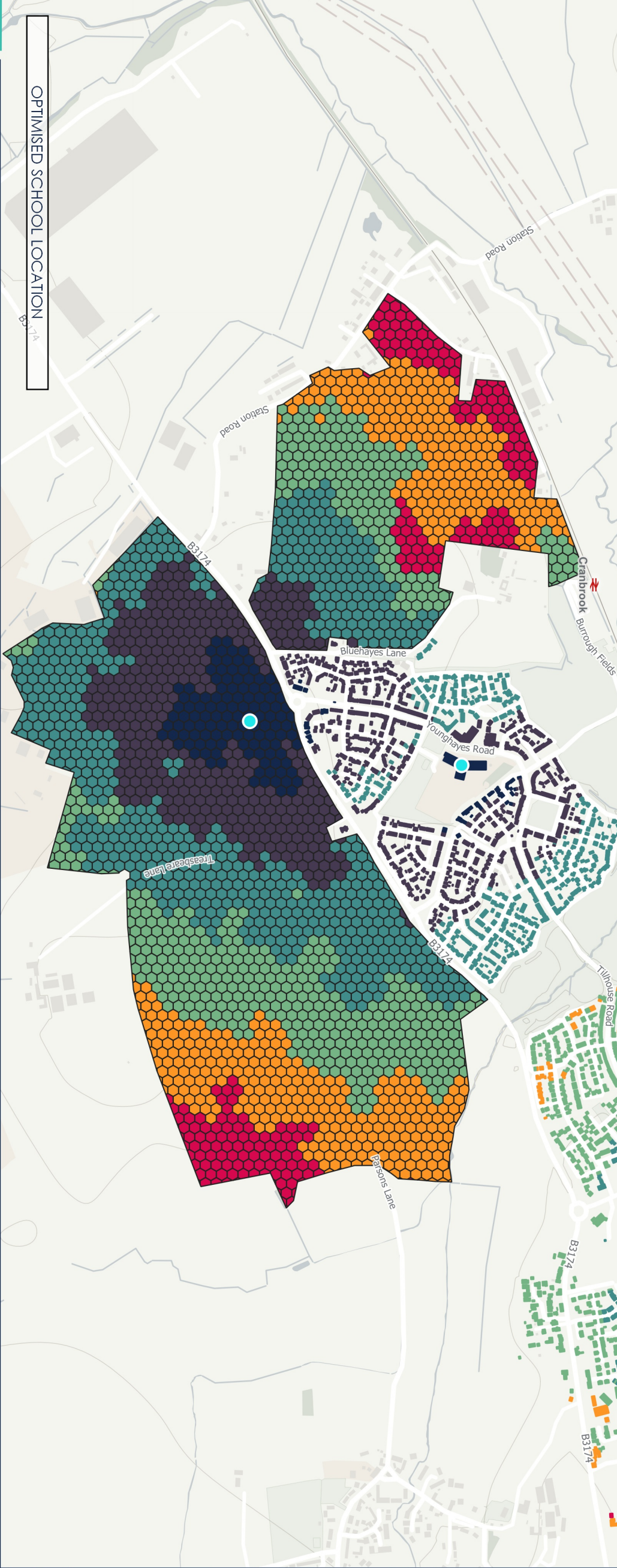


## **Appendix 3**





CRANBROOK MASTERPLAN SCHOOL LOCATION



OPTIMISED SCHOOL LOCATION

Legend

Walking (minutes)

- 0 - 3
- 3 - 6
- 6 - 9
- 9 - 12
- 12 - 15
- >15
- Primary Schools

-

FIRST ISSUE

MM

17.08.2021

REV A

DESCRIPTION:

BY:

DATE:

STATUS

FOR INFORMATION

CLIENT

REDROW HOMES  
SOUTH WEST

SITE

LAND AT TREASBEARE FARM,  
CRANBROOK

TITLE

SCHOOL LOCATION  
ACCESSIBILITY



transforming food, fuel & lifestyle | infrastructure & design  
144 Bedford Row London WC1R 4EJ  
t: +44 (0)20 7460 1000 | www.calibroconsultants.com

SCALE AT A3:

DATE:

DRAWN:

CHECKED:

PROJECT NO:

20-429

DRAWING NO/REVISION:

20-104





## Appendix 4



Document Reference **20-0040-M1**

Project Name **Treasbeare Garden Village**

Subject **Noise and the School**

Date:  
18 August 2021

Prepared by:  
Ian Yates

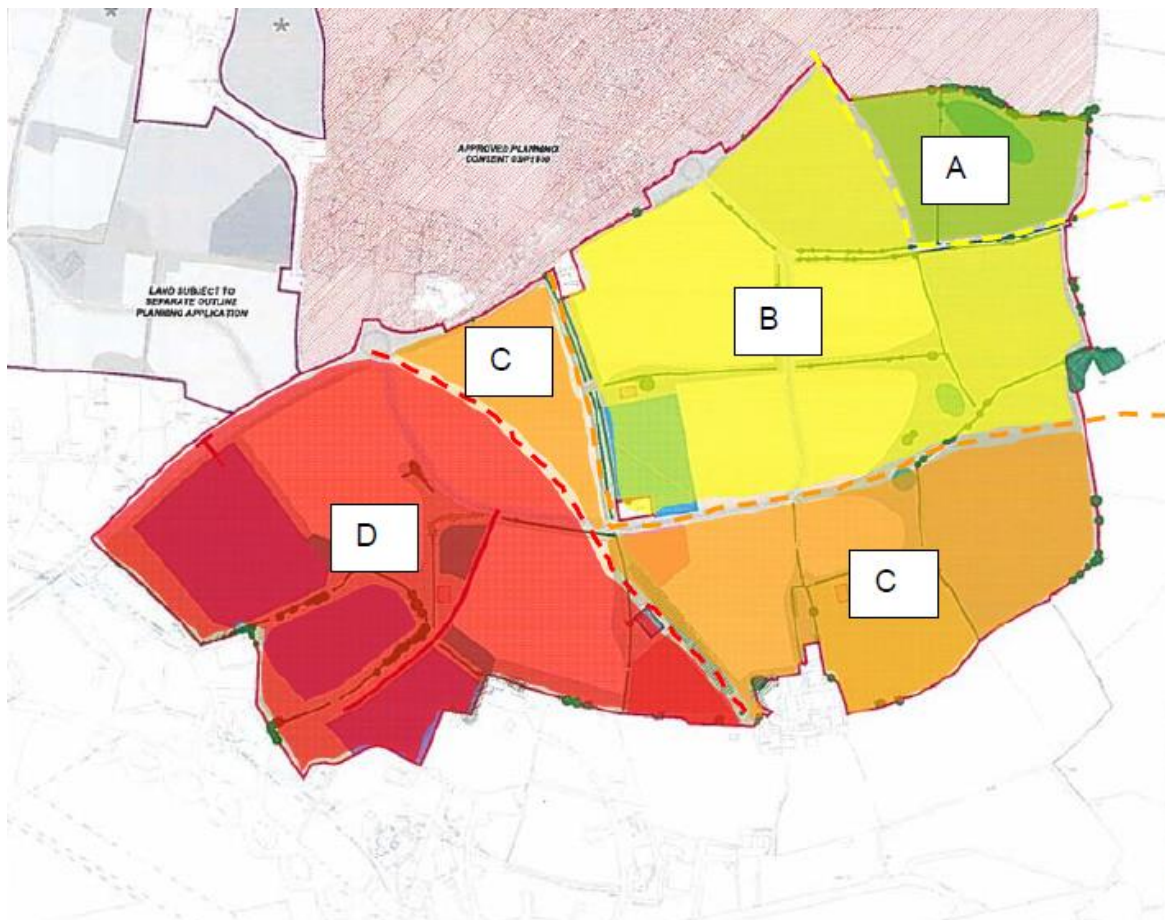
Reviewed by:  
Johnny Berrill

## 1 Introduction

- 1.1 This memorandum sets out a high-level discussion of potential school locations within the Treasbeare site in the context of noise, with reference to the BAP report<sup>i</sup> which informs the Local Plan.

## 2 BAP Development Appraisal Map

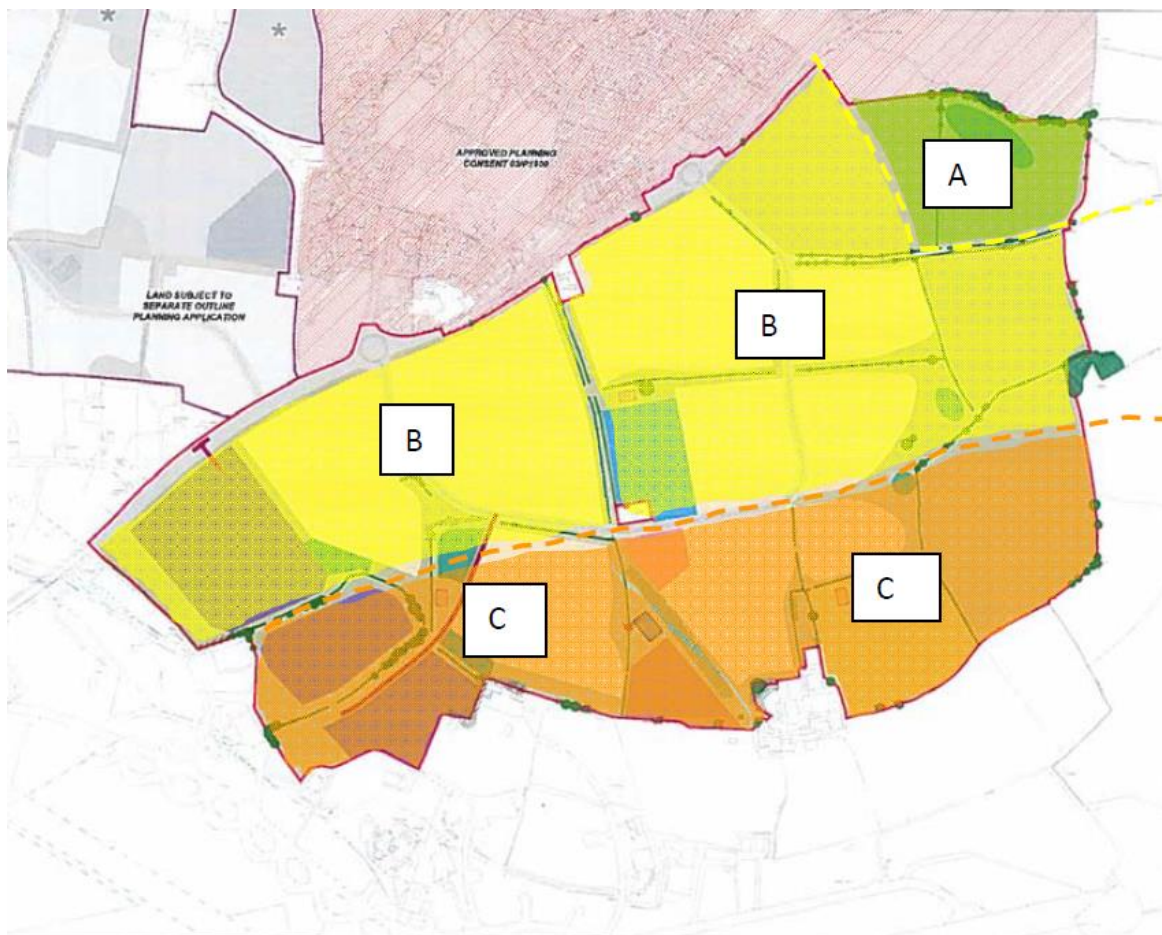
- 2.1 The BAP report includes an appraisal map which takes account of all noise sources including aircraft ground running (in the absence of a ground run enclosure).



F2.1 BAP Figure 10 – Noise Band Map for Residential, Educational & Medical (Daytime)



- 2.2 Although it is reasonable for the map to be subject to significant refinement with more detailed assessment and review, it is useful as an outline reference when considering high-level options for potential school locations.
- 2.3 A summary of BAP's assessed noise bands (based on descriptions in section 6.1 of Part 2 of their report) is as follows:
- A) Green Noise unlikely to be a consideration
  - B) Yellow Ensure adequate mitigation in planning, design and implementation
  - C) Orange If minded to permit, mitigation is likely to be necessary in the design
  - D) Red Normally oppose development of a noise sensitive nature.
- 2.4 The BAP report also includes a noise band map that excludes ground running noise (which can be taken to be broadly representative of the situation with a Ground Run Enclosure at the airport to mitigate ground running noise).



F2.2 BAP Figure 11 – Noise Band Map, excluding ground running noise





### 3 Potential School Locations

#### 3.1 Local Plan

3.1.1 The Cranbrook Expansion Masterplan dated February 2019 includes Figure 4.4: Treasbeare:



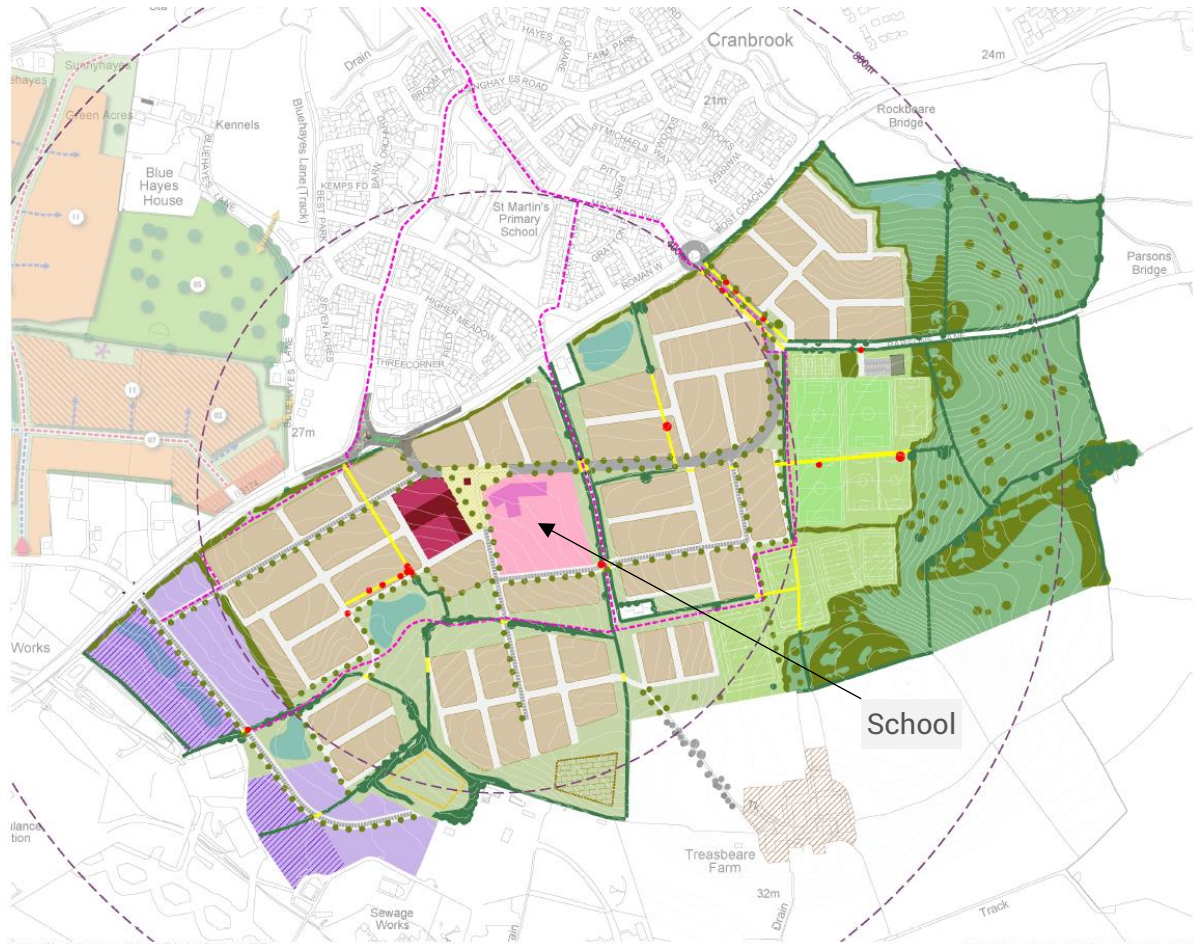
F3.1 Cranbrook Plan Figure 4.4: Treasbeare

3.1.2 It shows the school located immediately east of Treasbeare Lane and north/east of Treasbeare Cottages. The location corresponds to yellow band B on both BAP Figure 10 (F2.1 above) and BAP Figure 11 (F2.2 above).



## 3.2 Proposed Option

3.2.1 An option for the school location intended to help maximise sustainable modes of travel from Blue Hayes and Treasbeare is indicated on the following draft concept plan prepared by Barton Willmore.



F3.2 Draft concept plan showing potential location of school

3.2.2 The school location is west of Treasbeare Lane and northwest of Treasbeare Cottages. It corresponds to the Orange/Red band C/D on BAP Figure 10 (F2.1 above) and to yellow band B on BAP Figure 11 (F2.2 above). This indicates that the school at this location will benefit from the reduced noise levels afforded by the introduction of a proposed Ground Run Enclosure at the airport.



## 4 Summary

- 4.1 On the basis of the foregoing, it follows that the Proposed Option for the school location will benefit from the proposed Ground Run Enclosure (to provide acoustic screening of aircraft undergoing engine testing).
- 4.2 More detailed assessment will also be undertaken to determine the noise levels and benefits at the school, as well as to determine any likely mitigation to be incorporated in the school design.

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<sup>i</sup> EDDC Development Management and Environmental Health Joint Airport Noise Study - Updated Noise Impact Assessment, Exeter International Airport - Parts 1 & 2 - FINAL, Bickerdike Allen Partners, 03/05/2016



## Appendix 5



