

HEARING STATEMENT - VIABILITY AND MAIN MODIFICATIONS

On behalf of Persimmon Homes South West

JBB8781 - C7813
Hearing Statement -
Viability and Main
Modifications
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	20.08.21
2	Final Issue	JB	JB	JB	20.08.21

Approval for issue

Jacob Bonehill



20 August 2021

The report has been prepared for the exclusive use and benefit of our client and solely for the purpose for which it is provided. Unless otherwise agreed in writing by RPS Group Plc, any of its subsidiaries, or a related entity (collectively 'RPS') no part of this report should be reproduced, distributed or communicated to any third party. RPS does not accept any liability if this report is used for an alternative purpose from which it is intended, nor to any third party in respect of this report. The report does not account for any changes relating to the subject matter of the report, or any legislative or regulatory changes that have occurred since the report was produced and that may affect the report.

The report has been prepared using the information provided to RPS by its client, or others on behalf of its client. To the fullest extent permitted by law, RPS shall not be liable for any loss or damage suffered by the client arising from fraud, misrepresentation, withholding of information material relevant to the report or required by RPS, or other default relating to such information, whether on the client's part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to RPS without further enquiry. It is expressly stated that no independent verification of any documents or information supplied by the client or others on behalf of the client has been made. The report shall be used for general information only.

Prepared by:

RPS

Jacob Bonehill MA(Cantab) MSc MRTPI
Associate Director - Planning

321 Bradford Street
Birmingham, West Midlands B5 6ET

T +44 121 622 8520
E jacob.bonehill@rpsgroup.com

Prepared for:

Persimmon Homes South West

EXECUTIVE SUMMARY

This hearing statement has been prepared by RPS Consulting Ltd (RPS) on behalf of Persimmon Homes South West (PHSW) for submission to the ongoing Examination in Public (EiP) of the Cranbrook Plan (the Plan).

provides commentary on matters related to viability and the Draft Schedule of Main Modifications Part 1 Policies CB2 - CB7.

Appended to this hearing statement is a joint statement prepared on behalf of PHSW, Redrow and the Carden Group regarding Gypsy and Traveller Site Costs (Appendix A). A further joint hearing statement is also appended on viability (Appendix B) prepared on behalf of PHSW, Redrow, the Carden Group, Hallam Land Management, and Taylor Wimpey (collectively the developers).

The key issues addressed in this hearing statement are:

- issues with the proposal to require a review of the viability of individual applications following their approval should the affordable housing requirement be reduced to 10%; and
- comments on the proposed main modifications to policies CB4, CB6, CB7 and the Glossary.

Contents

EXECUTIVE SUMMARY	II
1 INTRODUCTION	1
2 AFFORDABLE HOUSING REVIEW MECHANISM	2
3 PROPOSED MAIN MODIFICATIONS	5
Policy CB4 – Cobdens Expansion Area	5
Policy CB6 – Cranbrook Infrastructure Delivery	11
Policy CB7 – Phasing	17
Glossary	22

Appendices

Appendix A Hearing Statement – Gypsy and Traveller Costs
Appendix B Report - Viability

1 INTRODUCTION

- 1.1 This hearing statement has been prepared by RPS Consulting Ltd (RPS) on behalf of Persimmon Homes South West (PHSW) for submission to the ongoing Examination in Public (EiP) of the Cranbrook Plan (the Plan).
- 1.2 PHSW represent the controlling interest in the majority of the Cobdens expansion area consisting of approximately 80% of the land identified for residential development, plus additional land identified for providing the majority of supporting infrastructure.
- 1.3 This hearing statement provides commentary on matters related to viability and the Draft Schedule of Main Modifications Part 1 Policies CB2 - CB7.
- 1.4 Appended to this hearing statement is a joint statement prepared on behalf of PHSW, Redrow and the Carden Group regarding Gypsy and Traveller Site Costs (Appendix A). A further joint hearing statement is also appended on viability (Appendix B) prepared on behalf of PHSW, Redrow, the Carden Group, Hallam Land Management, and Taylor Wimpey (collectively the developers).
- 1.5 The key issues addressed in this hearing statement are:
 - issues with the proposal to require a review of the viability of individual applications following their approval should the affordable housing requirement be reduced to 10%; and
 - comments on the proposed main modifications to policies CB4, CB6, CB7 and the Glossary.

2 AFFORDABLE HOUSING REVIEW MECHANISM

- 2.1 Paragraph 3 of the Council's Letter to the Inspector dated 5 June 2021 (PSD34) sets out that the Council consider that if a 5% reduction was made to the current proposed affordable housing requirement of 15% set out in policy CB11 of the Plan that a main modification should be made that allows for interim viability reviews to take place. It is understood through discussions with the Council that this would be a requirement for the regular review of the viability of individual applications following their approval, although it is noted that this is not expressly stated in PSD34.
- 2.2 Paragraphs 2.45 to 2.51 of **Appendix B** set out why the developers do not consider this approach to be consistent with national planning policy and planning practice guidance. PHSW also have concerns related to how such an approach would remove certainty and impact upon deliverability.
- 2.3 PHSW's interests at Cranbrook consist of both land for which they hold the freehold and land which is subject to option agreements. When triggering their option agreements and agreeing to purchase the land under option the price for acquiring the land is fixed and as such PHSW require certainty of any planning obligation requirements. This is why option agreements are normally triggered upon the grant of planning permission, because it is at this point that the cost of any planning obligations crystallise. In a situation where the planning obligation could change after the grant of planning permission are unable to commit to a price for the land as increased costs arising from the variable planning obligation could render a development undeliverable. Having certainty is central to the business model of PLC housebuilders such as PHSW.
- 2.4 RPS note that so called overage agreements are sometimes included in large scale planning applications. However, such agreements are only suitable in particular circumstances. Firstly, they are in our experience only applied when an application is proposing a less than policy compliant level of planning obligations and so has submitted a viability assessment. As paragraph: 007 Reference ID: 10-007-20190509 of the planning practice guidance states:
- "Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. **It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.**"* (Emphasis added)
- 2.5 Further reinforcing this point strategy 34 of the adopted East Devon Local Plan requires that where a reduced contribution below the adopted policy target for affordable housing is agreed for viability reasons, an overage clause will be sought in all cases.
- 2.6 If policy CB11 is amended to a 10% affordable housing requirement, then a development achieving this level of affordable housing is policy compliant by definition and so should not be accompanied by a viability assessment. Viability assessments should only be submitted when an applicant can demonstrate that particular circumstances have changed, making complying with policy requirements unviable.

- 2.7 Secondly, overage agreements are only likely to secure increased planning obligations where a scheme is able to develop its own market to the point that sales values increase significantly compared with existing sales values within the vicinity of the site and the general development of the market. This is not the case in Cranbrook, because as noted in table 3.13 of PSD21a Cranbrook is an established market. While sales values may mature over time in line with the wider housing market, the growth of the housing market at Cranbrook is not expected to significantly outpace the growth of the wider market. PHSW would be happy for a suitably qualified and experienced practitioner to speak to this point during a further roundtable hearing session.
- 2.8 It should also be noted, that while costs and values do change over the lifetime of a development, that they are inherently interlinked and so any assessment of viability through a post consent review mechanism should not solely consider the residual.
- 2.9 Another related concern is that for viability to be reviewed post determination in the manner understood to be proposed by the Council, it will be necessary to review viability as part of the application process to ensure that a benchmark is set against which future reviews are measured. The fourth bullet point on page 14 of the Government's Response to the draft revised National Planning Policy Framework Consultation July 2018¹, which was a consultation which included the proposals to focus viability at the plan making stage and only allow viability appraisals to be submitted where an applicant could demonstrate changed circumstances justifying a below policy compliant package of planning obligations, states:
- "There was support across all stakeholder groups for the intention to increase transparency and accountability, and **to reduce complexities and delays arising from the use of viability assessments.**"* (Emphasis added)
- 2.10 This clearly indicates that viability assessments undertaken as part of the application process was considered by all stakeholder groups to lead to complexities and delays. Given the aggressive trajectory proposed for delivery of new homes by the Plan, we suggest that introducing a mechanism known to cause delay to the application process could have unintended consequences and slow the delivery of much needed homes.
- 2.11 The requirement for multiple viability assessments to be undertaken post consent would also add costs associated with the relevant professional fees. It is unclear whether the Council propose such assessments to be undertaken annually or per reserved matters approval. It should be noted that annually would be unworkable as certainty is required as to the mix and typology of homes, which would potentially differ if additional affordable housing was required to meet the required mix of affordable housing.

¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728498/180724_NPPF_Gov_response.pdf

- 2.12 It should also be noted that the Council's housing land supply as calculated in April 2020 by the Council assumes that 757 homes would be contributed by the Cranbrook expansion areas. The Council's current five year housing requirement is 5,177 homes. The supply as of April 2020 was 5,930 homes including the assumed 757 homes to be delivered at Cranbrook between April 2020 and March 2025. As such the Council currently has a surplus of just 753 homes, less than the contribution assumed to be made by the Cranbrook expansion areas. As such a delay in the delivery of homes at the Cranbrook expansion areas could lead to the Council being unable to demonstrate a five year housing land supply. PHSW contend an unnecessary process that is known to cause delays should not be introduced in these circumstances.

3 PROPOSED MAIN MODIFICATIONS

Policy CB4 – Cobdens Expansion Area

MM22

140 71 hectares of land at the Cobdens Expansion Area is allocated for a mixed use development on the Cranbrook Policies Map

- 3.1 PHSW provided comments on an amended version of the policies map circulated by the Council earlier this year, as aspects of the it appeared to be incorrect.
- 3.2 Without sight of the revised Cranbrook Policies Map PHSW cannot confirm that this is accurate. However, the principle of this Proposed Main Modification (PMM) which seeks to clarify the quantum of land within the Cobdens Expansion Area allocated for development is acceptable.

MM23

*A Detailed **parameter plans** prepared by the **lead developer** or jointly by **constituent developers** shall address ~~comprehensive development scheme addressing~~ **all parts of the** Cobdens expansion area **within their control and provide for all of the uses, requirements and infrastructure set out within this policy.** ~~in its entirety and recognising and where possible enhancing existing biodiversity assets and green infrastructure, shall set out provision for all of the following uses, requirements and infrastructure.~~*

*The **parameter plans** ~~scheme~~ shall be agreed in writing by the Local Planning Authority **as part of the first planning application for development in the **parameters plan** area** ~~before any planning application for development of all or part of the expansion area is determined.~~ Subsequent applications **within that area** must comply with the approved **parameters plan** ~~comprehensive development scheme.~~*

- 3.3 PHSW welcome the change in terminology to 'parameter plans' as they suggested when commenting on an earlier set of proposed main modifications. It is considered that this provides greater clarity on what is required and is more consistent with established industry terminology. However, PHSW have concerns that the proposed definition set out at MM86 appears to suggest that this should be a single plan, which is not consistent with industry practice (see also comments on MM86). Instead, reference should be made to 'a set of' parameters plans, not least because a single plan is difficult to read when multiple layers of parameters are overlaid reducing clarity.
- 3.4 PHSW also consider the requirement for lead developers to accommodate all of the uses, requirements and infrastructure set out in the policy to be unachievable. Part 8 of Policy CB4 as drafted requires the provision of an extension to the existing sport hub at Ingrams, with direct physical connection to the Ingrams sports hub. PHSW do not control the land identified on the policies map to achieve this, which lies within the part of Cobdens known as Farlands which is being

promoted by Cranbrook LVA. As such PHSW could not comply with the policy as drafted. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to CB4:

A set of **parameter plans** prepared by the **lead developer** or jointly by **constituent developers** shall address ~~comprehensive development scheme addressing all parts of the~~ Cobdens expansion area ~~within their control and provide for all of the uses, requirements and infrastructure set out within this policy, except for any specific allocations on land outside of their control. in its entirety and recognising and where possible enhancing existing biodiversity assets and green infrastructure, shall set out provision for all of the following uses, requirements and infrastructure.~~

The **parameter plans** ~~scheme~~ shall be agreed in writing by the Local Planning Authority as part of the first planning application for development in the **parameters plans**' area before any planning application for development of all or part of the expansion area is determined. Subsequent applications within that area must comply with the approved **parameters plans** ~~comprehensive development scheme.~~

MM24

The Cobdens allocation will include the uses and developments listed as items 1 – 9 and where relevant in locations generally shown on the policies map ~~Where land is allocated for specific uses on the policies map, the uses will fall on and within the designated areas:~~

1. Around 1495 new houses with typologies of property to reflect the location of development ~~in different areas of the site~~
2. A mixed use area to incorporate:
 - a) A neighbourhood centre to provide a mix of compatible uses extending to provide at least 1250 square metres gross ground-floor **business** floor space. ~~This must include a proportion of floor space of A1 use class;~~
 - b) ~~A range of business spaces or premises;~~ Other uses compatible with and to support the mixed use area ~~that may include residential development~~

3.5 PHSW welcome the move to requiring uses to be in locations generally shown on the policies map, particularly given the inherent lack of precise detail that comes from a map at that scale.

3.6 PHSW do not agree with the removal of support for residential development from part 2 b). This specific support for residential development was welcomed as it clarified that such uses can be compatible with the mixed use area. PHSW also note that no justification has been provided for this change. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to CB4:

The Cobdens allocation will include the uses and developments listed as items 1 – 9 and where relevant in locations generally shown on the policies map ~~Where land is allocated for specific uses on the policies map, the uses will fall on and within the designated areas:~~

1. *Around 1495 new houses with typologies of property to reflect the location of development ~~in different areas of the site~~*
2. *A mixed use area to incorporate:*
 - c) *A neighbourhood centre to provide a mix of compatible uses extending to provide at least 1250 square metres gross ground-floor **business** floor space. ~~This must include a proportion of floor space of A1 use class;~~*
 - d) *~~A range of business spaces or premises;~~ Other uses compatible with and to support the mixed use area that may include residential development*

MM25

*Any **proposed** business or other use that **has a gross floor area exceeding 280sqm will need to demonstrate through an impact assessment that it would** ~~is permitted within this area must be of an appropriate scale to the mixed use area, such that it mainly serves the needs of the immediate neighbourhood. Proposals must~~ not undermine the **delivery and future** vitality and viability of the town centre or the successful delivery of allocated **employment** land in East Devon's West End (including within the Cranbrook Plan Area).*

- 3.7 PHSW do not support this PMM. No evidence has been provided to support the requirement for an impact assessment above 280sqm. Instead, the Council rely solely on a Government definition of small shops used in the legislation for Sunday Trading Hours. This legislation is designed to minimise the noise impact of retail on Sundays neighbouring uses, it is not relevant to the purposes of requiring a retail impact assessment as defined by paragraph 90 of the 2021 NPPF² which relate to economic impacts as set out below:

"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 floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

² 2021 NPPF referred to as while the Cranbrook Plan was submitted under the 2019 NPPF, the transitional arrangements for the 2021 NPPF are understood to primarily relate to the new paragraph 22, which is not relevant to the point being made here.

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."

- 3.8 Paragraph 015 Reference ID: 2b-015-20190722 of the planning practice guidance explains what is required to be considered when setting a different locally appropriate threshold:

In setting a locally appropriate threshold it will be important to consider the:

- *scale of proposals relative to town centres*
- *the existing viability and vitality of town centres*
- *cumulative effects of recent developments*
- *whether local town centres are vulnerable*
- *likely effects of development on any town centre strategy*
- *impact on any other planned investment*

- 3.9 The Council have provided no evidence to support the introduction of a locally appropriate threshold. As such PHSW do not support this PMM.

MM26

Where hot food takeaway uses are permitted there shall be no more than 2 hot food takeaways being located adjacent to each other and at least 2 non-hot food takeaway units between groups of hot food takeaways. Measured against units providing a ground floor offer to visiting members of the public, there shall be a maximum of 25% of units within the mixed use area being hot food takeaways. Hot food takeaways will not be permitted within 400 metres of a school. ~~space for A use classes will only be permitted where no more than 1 unit of A5 (Hot food takeaway) use class is proposed for every 3 units of other A use classes within the neighbourhood centre. This will be a cumulative calculation, taking into account any existing premises.~~

*Any proposals for residential development within the mixed use area must demonstrate ~~adaptability of the ground floor~~ **ground floor adaptability** to allow conversion to units that could be used for **business and retail** activities.*

- 3.10 PHSW note that the NICE guidance referred to in the accompanying reason for the modification is for various Government department and associated bodies. It is not for Local Planning Authorities. PHSW also note that the guidance was published in June 2010. PHSW suggest that given that the NPPF was introduced in 2012 and has subsequently been amended on numerous occasions that if MHCLG had considered that the guidance from NICE should be followed, they have had ample opportunity to introduce national planning policy to this effect. Instead, they have not presumably because they are cognisant of the potential negative impacts of doing so.
- 3.11 Assuming that the intent is to ensure that school pupils do not eat food from hot food takeaways during the school day PHSW suggest that this aim could be better achieved through revising the policy to require an appropriate hours condition restricting opening to outside of school opening

hours. Otherwise PHSW note that this PMM could have the presumably unintended negative effect of preventing any hot food takeaways from opening, given that there are good reasons related to encouraging walking and ensuring accessibility to collocate neighbourhood centres and new schools within similar locations. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to CB4:

space for A ~~Hot Food Takeaways (Sui Generis use classe)s~~ will only be permitted where no more than 1 unit of A5 (Hot food takeaway) use class is proposed for every 3 units of other A E use classes within the neighbourhood centre. This will be a cumulative calculation, taking into account any existing premises.

Any proposals for residential development within the mixed use area must demonstrate ~~adaptability of the ground floor~~ **ground floor adaptability** to allow conversion to units that could be used for **business and retail** activities.

A condition will be attached to any approved Hot Food Takeaways restricting opening to after 5pm. Closing hours will be decided based on local circumstances and assessment of potential noise impacts.

MM27

A 630 pupil place primary school, **with** 80 place facility for early years provision and a room for community use of 150 square metres on an area of land comprising at least 2.9 hectares (**or serviced land of an equivalent quantum depending upon the delivery model**);

3.12 PHSW support this PMM.

MM28

Land for a 50 pupil place Special Educational Needs school on an area of land of at least 1.2 hectares

3.13 PHSW support this PMM.

MM29

~~5. Formal open space recreational land covering an area of land of at least 3.4 hectares.~~

~~6. Amenity open space covering an area of land of at least 1.2 hectares~~

~~7. Formal play space with facilities for children and youth across a combined area totalling 3500 square metres~~

8. Open space laid out and landscaped for the following typologies (standards to be in accordance with Policy CB6):

- *Formal open space*
- *Formal play space for children and youth*
- *Allotments*
- *Amenity Open Space*

~~9. Allotments totalling an area of 0.88 hectare of land. (The identified land requirement excludes the associated land take for peripheral paths and areas for parking and drop-off)~~

- 3.14 PHSW support this modification, but note a minor modification is required to amend the number at the start of the new text.

MM30

10 serviced permanent pitches for gypsies and travellers on an area of land of at least 1 hectare as allocated

- 3.15 Subject to an updated Sustainability Appraisal that justifies the allocation of the proposed gypsy and traveller pitches as set out in **Appendix A** PHSW support this PMM.

MM31

Serviced land (of at least 1 hectare in size) for a cemetery, (which subject to groundwater testing, could be provided on land ~~allocated~~ safeguarded on the Cranbrook Policies Map for potential Suitable Alternative Natural Green Space))

- 3.16 PHSW support this PMM.

MM32

~~*Development of the Cobdens expansion area of Cranbrook will require the under grounding of the 132kv high voltage power line that crosses the site as indicated in the Cranbrook Masterplan. Planning permission will not be granted for developments that would prejudice the scope for future undergrounding of the 132kv line or for developments which do not accord with the phasing strategy approved pursuant to policy CB7 of this development plan document.*~~

- 3.17 PHSW support this PMM.

MM33

- 3.18 ~~*Two high voltage over head powerlines, running in a broadly north west to south east direction, cross the Cobdens expansion area of Cranbrook. The Cranbrook Plan requires the undergrounding of the western of these two lines (the 132kv line) which 'frees-up' additional land for development and use¹⁵. The undergrounding of cables will ensure a better quality overall development, overcoming the fragmented and broken pockets of developable land that would otherwise be*~~

~~available. The fragmentation of this area is already compromised by the flood zone associated with local streams and therefore to further split this area would fail the place making objective of the plan. Development schemes that could prejudice the ability to achieve the under-grounding of the cables will not be permitted.~~

3.19 PHSW support this PMM.

Policy CB6 – Cranbrook Infrastructure Delivery

MM40

~~Residential development~~ **Development** that is proposed within the Cranbrook **Plan Area** ~~Built-up Area Boundary~~ must demonstrate that it will meet the likely demands of future occupiers/**users** of its ~~housing~~ by delivering, either in full or where necessary in part, the identified infrastructure that is necessary to achieve a healthy, active, integrated and friendly self-reliant community.

~~Unless a consortia of developers who are working together can demonstrate both full cooperation and the ability to deliver all infrastructure identified within the plan which has been costed and found to be viable, it is expected that to achieve delivery in a fair and coordinated way, an equalisation of costs (as far as possible) needs to be achieved. To fulfil this objective, required infrastructure will be divided into one of three categories~~

To allow delivery in a fair and coordinated way, it is necessary to equalise the costs associated with infrastructure that is to be delivered on one site but which will serve the wider needs of the expansion areas. To achieve this, items relevant to equalisation have been divided into **four categories, all of which must be provided as appropriate—**

1. Infrastructure to be provided/funded by all development ~~and which is directly relevant to each on-plot dwelling~~

~~To deliver components within this category, proportionate contributions must be provided by all development that is proposed within the Cranbrook Plan Area.~~

This is to be provided by all development in proportion to the number of dwellings proposed and is generally expected to be provided on site.

- Open space comprising the following typologies:**

<u>Typology/ Infrastruc- ture item</u>	<u>Policy Reference</u>	<u>Typical standard unless otherwise prescribed (per 1000 population based on 2.35 people per dwelling)</u>

<u>Formal Open Space</u>	<u>CB2, CB3, CB4, CB5</u>	<u>1ha</u>
<u>Formal Play</u>		<u>0.1ha</u>
<u>Allotments</u> *		<u>0.25ha*</u>
<u>Amenity open space</u>		<u>0.35ha</u>

* The identified land requirement excludes the associated land take for peripheral paths and areas for parking and drop off

And in addition:

- Biodiversity net gain (in accordance with Policy CB27)
- SANGS delivery and enhancement (in accordance with Policy CB15)
- Carbon reduction measures (in accordance with Policy CB13)
- Connection with the District Heat network (in accordance with Policy CB13)
- EV charging (in accordance with Policy CB20)

2. Contributions necessary from all development towards

- SANGS maintenance (in accordance with Policy CB15)
- Off Site Habitat mitigation (in accordance with Policy CB15)
- Travel planning (in accordance with Policy CB19)

3. Infrastructure which is site specific **must be delivered in full by developers of the relevant expansion area to a particular expansion area (under policies CB2 to CB5 inclusive)**

Where the allocation policy identifies specific infrastructure this must be delivered in full by developers of the relevant expansion area and where prescribed, in particular locations. The land necessary for the particular item of infrastructure must be safeguarded from the start of the development of the relevant expansion area in accordance with an agreed **parameters plan**.

Bluehayes (in accordance with Policy CB2)

1. 2 Form Entry Primary school and associated land**
2. London Road Upgrade works (CB25)

Treasbeare (in accordance with Policy CB3)

1. 2 Form Entry Primary school and associated land**
2. Sports pitches and associated land
3. Serviced land for tennis courts with flood lighting, pavilion and changing rooms, and AGP.

4. *Energy Centre land (in accordance with Policy CB14)*

Cobdens *(in accordance with Policy CB4)*

1. *3 Form Entry Primary school and associated land*
2. *Serviced land for an SEND School*
3. *Sports pitch and associated land*
4. *Serviced land for a cemetery*
5. *Serviced land for both a place of worship and parsonage*
6. *London Road Upgrade works (CB25)*

Grange *(in accordance with Policy CB5)*

1. *Community Building*
2. *London Road Upgrade works (CB25)*

*** This facility is only required in one of the expansion areas where it is identified and will factor as a category 2 cost for that area when its final location is established*

~~To deliver within this category, all site specific infrastructure, including the required land for it must be safeguarded for the identified purpose, and be funded and delivered in full by the host developer on whose land the component lies.~~

4. **Infrastructure for which contributions are which forms common infrastructure and is necessary for the proper functioning of the Cranbrook expansion areas ~~town but which is not necessarily attributable to a single expansion area.~~**

To deliver all non-specific (or common infrastructure) within this category, components must be funded by *all* developers across the Cranbrook Plan area, *on a “balancing” basis with the cost of infrastructure and associated land incurred in category 3.*

A. *To help support the delivery of the town centre and meet the health needs of the town (in accordance with Policy CB22) contributions will be made towards:*

1. *Fire station*
2. *Children’s centre and Youth centre fit out*
3. *Extra Care provision contributions*
4. *Health and Wellbeing hub contributions*
5. *Leisure centre contributions*
6. *Library fit out*

B. In addition the following are also recognised as being necessary to make the expansion area development acceptable and form category 4 infrastructure projects.

- 7. Offsite walking and cycling enhancements (CB19)*
- 8. Pavilion and 8 team changing rooms for the Treasbeare Sports hub (of a minimum 490 sqm gross internal floor area) (CB3)*
- 9. 4 no. Tennis Courts with Flood lighting*
- 10. Second school education contributions (Devon County Council)*
- 11. SEND school provision contributions (Devon County Council)*
- 12. Shared cars and e bikes (CB19)*
- 13. Sustainable transport enhancements (CB9)*

~~being calculated so that the resultant total costs associated with the three categories per expansion area are balanced. This may result in this third component being disproportionately costed across each expansion area in order to equalise costs across the four expansion areas together.~~

~~More fully the components that fall within each category and which will be ascribed a priority, will be set out in detail within the Cranbrook specific Infrastructure Delivery Plan. It is expected that the identified infrastructure is delivered in accordance with their identified category, priority and in accordance with or ahead of the phasing agreed through Policy CB7.~~

*Residential development proposals on non- allocated sites within the Cranbrook Plan Area and those on allocated sites but which seek to deliver **excess** housing numbers shall make contributions to on and/or off site infrastructure in the town. Typically contributions shall be derived from the categories identified above and in accordance with the following expectations:*

Category 1 costs – On a per-dwelling equivalent basis (Contributions in lieu of onsite delivery are appropriate if it can be demonstrated that the site is too small to appropriately accommodate the relevant infrastructure).

Category 2 and 3 costs – derived from items identified where these are either not fully funded or will otherwise incur additional pressure as a result of the increased housing.

~~*Built up Area Boundary must make a proportionate financial contribution to outstanding unfunded or not fully funded infrastructure.*~~

3.20 PHSW are supportive of the principle of the clarity that this PMM seeks to make with regards to the equalisation process. However, PHSW cannot comment on the detail of this PMM, or indeed propose alternative wording at this time, as there are a number of points outstanding in relation to viability and infrastructure requirements that have yet to be resolved (see **Appendix B**).

3.21 Notwithstanding the general principle of the point above, PHSW note that should the position set out in **Appendix A** be accepted (subject to an updated Sustainability Appraisal that justifies the

allocation of the proposed gypsy and traveller pitches) that under part 3 of the policy reference should be made to the proposed gypsy and traveller pitches at Cobdens and Treasbeare.

- 3.22 PHSW recommend that consideration is given to referring to categories within each of main parts 1 to 4 for clarity.
- 3.23 PHSW note that the references to numbered categories need reviewing for consistency as in some parts of the policy they appear to refer to earlier versions of this policy.

MM41

Insert additional text after paragraph 3.44

In respect of the two new primary schools and while the expectation is for delivery by the developers, the final model is not fixed. To facilitate delivery the Local Education Authority have indicated that if necessary they are willing to directly deliver or coordinate the delivery of the school provision themselves. However this is only on the basis that costs are recouped in line with the amounts set out in the Cranbrook IDP, so that the expansion area hosting the school ultimately pays for that school. If this approach is used, legal agreements would need to be structured to ensure that the relevant obligations, which would typically comprise 25% of developer liability at 10% of dwelling completions, a further 25% at 25% completions and the final 50% at 50% completions, are captured.

- 3.24 While PHSW welcome the recognition in this PMM of the option of delivery by the Local Education Authority, we note that consideration will need to be given to how the suggested phasing of financial obligations relates to the cashflow assumptions in the viability appraisal. This is important to ensure that the phasing of payments of potentially this and other financial obligations do not create a negative cashflow.
- 3.25 Noting that the PMM refers to obligations typically comprising of the suggested phasing PHSW suggest that the PMM should be revised to recognise that an alternative phasing of obligations may be agreed with the Council and Local Education Authority. This would make it clear that the suggested phasing is a starting point and that alternatives may be acceptable. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to supporting text for CB6:

In respect of the two new primary schools and while the expectation is for delivery by the developers, the final model is not fixed. To facilitate delivery the Local Education Authority have indicated that if necessary they are willing to directly deliver or coordinate the delivery of the school provision themselves. However this is only on the basis that costs are recouped in line with the amounts set out in the Cranbrook IDP, so that the expansion area hosting the school ultimately pays for that school. If this approach is used, legal agreements would need to be structured to ensure that the relevant obligations, which would typically comprise 25% of developer liability at 10% of dwelling completions, a further 25% at 25% completions and the final 50% at 50% completions, are captured.

Alternative phasing of the relevant obligations may be acceptable subject to agreement with the Local Education Authority and East Devon District Council.

MM42

~~3.46 To effect a this proportionate and, as far as possible, equalised approach which is more specifically detailed within the accompanying Infrastructure Delivery Plan for Cranbrook it is important to recognise that costs for onsite infrastructure can be offset against commuted sum costs for offsite provision. Such offsetting as evidenced through the Cranbrook IDP would allow a fairer approach to be adopted whilst still ensuring delivery of infrastructure. The category for each project of infrastructure which will be considered in equalisation is set out within the policy and based on this examples of the mechanics for equalisation are shown within the IDP. Importantly there are a few infrastructure/projects which are not considered appropriate or suitable for equalisation. While set out elsewhere within the Plan they are listed here for clarity:~~

~~Bluehayes~~

~~Road junctions and associated highways works~~

~~Treasbeare~~

~~Road junctions and associated highways works~~

~~Noise mitigation measures required as a result of proximity to the airport~~

~~5 pitch Gypsy and Traveller site~~

~~Cobdens~~

~~Road junctions and associated highways works~~

~~10 pitch Gypsy and Traveller site~~

~~Grange~~

~~Road junctions and associated highways works~~

- 3.26 For the reasons set out in **Appendix A**, PHSW do not agree with the inclusion of the proposed gypsy and traveller sites in this policy.
- 3.27 PHSW also suggest that it would be beneficial in terms of clarity that in the case of Cobdens the requirements are subdivided to recognise that certain accesses are proposed for the land under PHSW's control and certain accesses are proposed for the land under the control of Cranbrook LVA. The same principle should also apply to the Grange which is also within multiple ownerships. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to supporting text for CB6

~~3.46 To effect a this proportionate and, as far as possible, equalised approach which is more specifically detailed within the accompanying Infrastructure Delivery Plan for Cranbrook it is~~

important to recognise that costs for onsite infrastructure can be offset against commuted sum costs for offsite provision. Such offsetting ~~as evidenced through the Cranbrook IDP~~ would allow a fairer approach to be adopted whilst still ensuring delivery of infrastructure. *The category for each project of infrastructure which will be considered in equalisation is set out within the policy and based on this examples of the mechanics for equalisation are shown within the IDP. Importantly there are a few infrastructure/projects which are not considered appropriate or suitable for equalisation. While set out elsewhere within the Plan they are listed here for clarity:*

Bluehayes

Road junctions and associated highways works

Treasbeare

Road junctions and associated highways works

Noise mitigation measures required as a result of proximity to the airport

5 pitch Gypsy and Traveller site

Cobdens

Road junctions and associated highways works to provide access to the land included within the planning application

10 pitch Gypsy and Traveller site

Grange

Road junctions and associated highways works to provide access to the land included within the planning application

Policy CB7 – Phasing

MM43

The development of the individual expansion areas identified in policies CB2 – CB5 inclusive must be carried out in accordance with an approved ~~comprehensive~~ phasing strategy for each expansion area (or area that is identified through a parameters plan) as part of an outline or detailed planning application.

3.28 PHSW support this PMM.

MM44

~~The phasing strategies for the Cobdens and Grange Expansion Areas must demonstrate how the 132kv high voltage power line across the sites will be undergrounded and identify a single continuous route for this.~~

3.29 PHSW support this PMM.

MM45

School land as required by Policies CB2 – CB4 (for Bluehayes, Treasbeare and Cobdens) shall be identified before planning permission is first granted for development in each of the three expansion areas. The land must be secured through appropriate legal agreements with access and step in rights included. Delivery can be made either through direct delivery by developers or by the Local Education Authority (LEA) / school provider (SP) where there is secured developer funding for that school.

Delivery by Local Education Authority or School Provider

If by the LEA/SP, the first site must be transferred with construction access available before construction by a developer commences on any dwelling in any of the four expansion areas. The second school site must be transferred with the same construction access arrangements before development commences on either

- 750th dwelling, assessed across the **four** expansion areas if land for the 420 place primary school is transferred first or*
- 1500th dwelling assessed across the **four** expansion areas if land for the 630 place primary school is transferred first*

Direct Delivery by Developer

*If direct delivery is proposed for the first school this must be completed in accordance with an agreed school phasing programme which ensures that at least the first full phase is completed and handed over to the LEA/SP before the first occupation of the 30th dwelling when assessed across the **four** expansion areas.*

If direct delivery is proposed for the second school this must be completed and handed over to the LEA/SP before:

- The first occupation of the 1650th dwelling assessed across the **four** expansion areas if the 420 place primary school is delivered first; or*
- The first occupation of the 2500th dwelling assessed across the **four** expansion areas if the 630 place primary school is delivered first.*

Once school land has been transferred or School delivery (if by direct delivery) has occurred in either the Bluehayes or Treasbeare expansion area the residual site within the other of these two areas

can be released for alternative uses

~~One of the two primary schools allocated for delivery in this Cranbrook Plan Development Plan Document must be completed and handed over to the education provider before the first occupation of the 30th dwelling across the four expansion areas set out in policies CB2 – CB5 inclusive. The second primary school must be completed and handed over to the education provider no later than:~~

~~• The first occupation of the 1650th dwelling across the four expansion areas set out in policies CB2 – CB5 inclusive if the 420 place primary school is delivered first; or~~

~~• The first occupation of the 2500th dwelling across the four expansion areas set out in policies CB2 – CB5 inclusive if the 630 place primary school is delivered first.~~

- 3.30 With regards to direct delivery PHSW maintain their objection to this point, noting that there may be capacity available in the existing schools meaning that the first school may not be required at 30 dwellings. PHSW suggest that that the PMM is revised to allow for agreement of different phasing between the relevant developer, the Council and the Local Education Authority. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to Policy CB7

School land as required by Policies CB2 – CB4 (for Bluehayes, Treasbeare and Cobdens) shall be identified before planning permission is first granted for development in each of the three expansion areas. The land must be secured through appropriate legal agreements with access and step in rights included. Delivery can be made either through direct delivery by developers or by the Local Education Authority (LEA) / school provider (SP) where there is secured developer funding for that school.

Delivery by Local Education Authority or School Provider

If by the LEA/SP, the first site must be transferred with construction access available before construction by a developer commences on any dwelling in any of the four expansion areas. The second school site must be transferred with the same construction access arrangements before development commences on either

- 750th dwelling, assessed across the **four** expansion areas if land for the 420 place primary school is transferred first or*
- 1500th dwelling assessed across the **four** expansion areas if land for the 630 place primary school is transferred first*

Direct Delivery by Developer

If direct delivery is proposed for the first school this must be completed in accordance with an agreed

*school phasing programme which ensures that at least the first full phase is completed and handed over to the LEA/SP before the first occupation of the 30th dwelling when assessed across the **four** expansion areas, unless an alternative school phasing programme is agreed between the relevant developer, the Council and the Local Education Authority.*

If direct delivery is proposed for the second school this must be completed and handed over to the LEA/SP before:

- The first occupation of the 1650th dwelling assessed across the **four** expansion areas if the 420 place primary school is delivered first; or*
- The first occupation of the 2500th dwelling assessed across the **four** expansion areas if the 630 place primary school is delivered first.*

Once school land has been transferred or School delivery (if by direct delivery) has occurred in either the Bluehayes or Treasbeare expansion area the residual site within the other of these two areas can be released for alternative uses

~~*One of the two primary schools allocated for delivery in this Cranbrook Plan Development Plan Document must be completed and handed over to the education provider before the first occupation of the 30th dwelling across the four expansion areas set out in policies CB2—CB5 inclusive. The second primary school must be completed and handed over to the education provider no later than:*~~

- ~~*• The first occupation of the 1650th dwelling across the four expansion areas set out in policies CB2—CB5 inclusive if the 420 place primary school is delivered first; or*~~
- ~~*• The first occupation of the 2500th dwelling across the four expansion areas set out in policies CB2—CB5 inclusive if the 630 place primary school is delivered first.*~~

MM46

~~*Each phasing strategy must ensure that an overall co-ordinated approach to delivery is achieved across the Cranbrook Plan Area as a whole.*~~

~~*Each phasing strategy must be approved in writing by the Local Planning Authority before planning permission is approved for the development of the relevant expansion area or part thereof and will be subject of legal agreements to ensure compliance*~~

3.31 PHSW support this PMM.

MM47

The phasing strategies required by this policy shall cover the appropriate infrastructure within each of the three categories identified in policy CB6. Subject to the appropriate and specific phasing of

school development, this method of funding and infrastructure development, would allow individual housing parcels to come forwards in the most efficient manner.

- 3.32 PHSW support this PMM, subject to a minor modification to refer to the four categories identified in policy CB6 to reflect the updated IDP (PSD35)

MM48

Insert after paragraph 3.51

3.52 Whilst alternative delivery models are recognised within both the Infrastructure Policy and expansion area policies, the key requirement remains that the host developer is responsible for the full funding of its identified school. However in the event that the Local Education Authority delivers the school and to reduce its exposure to receiving funds from just one developer, a bond or equivalent safeguarding mechanism may be required of that developer. This arrangement would allow the LEA to still access funds if there is a default by a developer on its obligation and helpfully allows different delivery models to be employed if necessary in each of the two expansion areas that will host a school. It also maintains the ability to equalise costs as set out within this policy.

3.53 In terms of the “who goes first”, the Local Authority considers that unless there is a start on site by one of three expansion areas or lead developers then its preference would be to have the first school delivered in Cobdens followed by the second in Treasbeare. This comes from a recognition of the size and accessibility of the existing and emerging catchments despite the delivery timescales for the Grange area which is anticipated to have a later start on site than either Treasbeare or Bluehayes. However it would support delivery from either Treasbeare or Bluehayes first if one of these sites is ready to deliver ahead of Cobdens as currently anticipated within the housing trajectory. Where all three host areas have permission in place and in the event of developers “waiting” for each other, the Local Authority would consider using its step in rights to seek delivery of the schools, most likely, in this order. If both Treasbeare and Bluehayes are at a similar point ahead of reaching the relevant trigger for school/land delivery, then the expectation remains that the Treasbeare allocation should be the host for the 2FE school development.

- 3.33 PHSW expect it be unlikely that the use of step in rights would be required. However, we note that if it was necessary to do so that **it would be the Local Education Authority who would do so**. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to supporting text for Policy CB7

Insert after paragraph 3.51

3.52 Whilst alternative delivery models are recognised within both the Infrastructure Policy and expansion area policies, the key requirement remains that the host developer is responsible for the full funding of its identified school. However in the event that the Local Education Authority delivers the school and to reduce its exposure to receiving funds from just one developer, a bond or

equivalent safeguarding mechanism may be required of that developer. This arrangement would allow the LEA to still access funds if there is a default by a developer on its obligation and helpfully allows different delivery models to be employed if necessary in each of the two expansion areas that will host a school. It also maintains the ability to equalise costs as set out within this policy.

3.53 In terms of the “who goes first”, the Local Authority considers that unless there is a start on site by one of three expansion areas or lead developers then its preference would be to have the first school delivered in Cobdens followed by the second in Treasbeare. This comes from a recognition of the size and accessibility of the existing and emerging catchments despite the delivery timescales for the Grange area which is anticipated to have a later start on site than either Treasbeare or Bluehayes. However it would support delivery from either Treasbeare or Bluehayes first if one of these sites is ready to deliver ahead of Cobdens as currently anticipated within the housing trajectory. Where all three host areas have permission in place and in the event of developers “waiting” for each other, the Local Education Authority would consider using its step in rights to seek delivery of the schools, most likely, in this order. If both Treasbeare and Bluehayes are at a similar point ahead of reaching the relevant trigger for school/land delivery, then the expectation remains that the Treasbeare allocation should be the host for the 2FE school development.

MM49

Set out in more detail in Policy CB15 and the associated supporting text, it is critical to the phasing of development that SANGS must be delivered in a manner that ensures that developments meet the legal duty imposed by The Conservation of Habitats and Species Regulations 2017. ~~is delivered in a timely fashion.~~ The SANGS delivery strategy recognises that a failure to deliver SANGS appropriately would result in adverse effect on protected environment and in so doing breach the legal duty imposed by The Conservation of Habitats and Species Regulations 2017. Proper consideration must be given to this requirement in bringing forward housing development.

- 3.34 PHSW are supportive of the principle of this PMM, but cannot confirm that they support it without sight of any proposed modifications to Policy CB15.

Glossary

MM86

Glossary

Within the policies set out within the Plan there are a number of key words used. These have specific meaning/interpretation and for clarity and to avoid repetition within the document, the meanings are set out below:

Biodiversity net gain – A 10% increase in biodiversity between pre and post construction stages of a development, when measured using the DEFRA 2.0 matrix (or other matrix that supercedes this matrix either in part or in full).

Business – any “Class E” use as defined within the Town and Country Planning (Use Classes) Order 1987 (as amended). For clarity this encompasses any business, commercial or service related use which is appropriate within a residential environment excluding restaurants and hot food takeaway which are considered sui generis.

Constituent Developers – All developers and land owners who control land in the relevant expansion area but where none individually control enough of the allocation to take on the role of the Lead Developer.

Employment – any use or development which facilitates the undertaking of trade, service or related commercial activity.

Excess housing numbers – are those in addition to the housing numbers expected to be delivered in a particular sub parcel.

Four expansion areas – references the expansion areas set out within this policy document and identified through Policies CB2 – CB5 (inclusive) – namely Bluehayes, Treasbeare Cobdens and Grange.

Ground floor adaptability – Ground floor units exhibiting features such as a higher floor to ceiling height, the capability of separate ground and first floor accesses, fire and sound proofing between floors and the construction of ground floor frontages with the structural integrity to allow for the insertion of a retail or commercial frontage/inclusion of a ground floor road fronting window. The inclusion of these features allows for maximum flexibility with respect to future use. Detailed applications should evidence how these features will be incorporated into any residential development within the area assigned for mixed use

Lead Developer – A developer who controls at least 80% of a particular expansion area. Where such a developer exists, requirements in relation to parameter plans only relate to that developer’s area of control. However as a consequence of the relaxation for this scenario, that developer is expected to accommodate all the prescribed uses and requirements for the relevant expansion. Resulting infrastructure cost/ burden to then be equalised through Policy CB6.

Meanwhile uses – A meanwhile use refers to the short-term use of land awaiting longer-term development. It allows for the future needs of the community to be accommodated as they emerge and can assist in planning for permanent facilities by testing needs and demands. Such temporary uses could include ‘pop-up’ businesses, spaces for community use or as has been seen in Cranbrook phase 1, use as a community garden. The meanwhile use of a site must not result in an unacceptable impact on residential amenity or prevent development sites from being brought forward for development in a timely fashion

Parameters Plan – A comprehensive plan either prepared jointly by all constituent developers or lead developer that sets a framework for development within the expansion area and includes key routes that are necessary for connectivity and legibility; areas for blue and green infrastructure and where these are capable of enhancement (this should also be reflected through the LBDS required

under Policy CB27) and locations for all of the uses, requirements and infrastructure set out within the relevant allocation policy.

- 3.35 PHSW welcome the proposed addition of a glossary, however the current definition of the parameters plan implies a single plan and is more consistent with the definition of a masterplan. PHSW suggest that the definition of parameters plan should be revised to reflect that standard practice is for a set of parameters plans to be prepared.
- 3.36 PHSW note that DEFRA have now released a 3.0 Matrix and this should be referred to in the policy.
- 3.37 As set out in response to MM23, PHSW also consider the requirement for lead developers to accommodate all of the uses, requirements and infrastructure set out in the policy to be unachievable. Part 8 of Policy CB4 as drafted requires the provision of an extension to the existing sport hub at Ingrams, with direct physical connection to the Ingrams sports hub. PHSW do not control the land identified on the policies map to achieve this, which lies within the part of Cobdens known as Farlands which is being promoted by Cranbrook LVA. As such PHSW could not comply with the policy as drafted. PHSW recommend amending the policy as below. Amendments to the Council's PMM are underlined:

Proposed Main Modification to the Glossary

Glossary

Within the policies set out within the Plan there are a number of key words used. These have specific meaning/interpretation and for clarity and to avoid repetition within the document, the meanings are set out below:

Biodiversity net gain – *A 10% increase in biodiversity between pre and post construction stages of a development, when measured using the DEFRA 3.0 matrix (or other matrix that supercedes this matrix either in part or in full).*

Business – *any “Class E” use as defined within the Town and Country Planning (Use Classes) Order 1987 (as amended). For clarity this encompasses any business, commercial or service related use which is appropriate within a residential environment excluding restaurants and hot food takeaway which are considered sui generis.*

Constituent Developers – *All developers and land owners who control land in the relevant expansion area but where none individually control enough of the allocation to take on the role of the Lead Developer.*

Employment – *any use or development which facilitates the undertaking of trade, service or related commercial activity.*

Excess housing numbers – *are those in addition to the housing numbers expected to be delivered in a particular sub parcel.*

Four expansion areas – references the expansion areas set out within this policy document and identified through Policies CB2 – CB5 (inclusive) – namely Bluehayes, Treasbeare Cobdens and Grange.

Ground floor adaptability – Ground floor units exhibiting features such as a higher floor to ceiling height, the capability of separate ground and first floor accesses, fire and sound proofing between floors and the construction of ground floor frontages with the structural integrity to allow for the insertion of a retail or commercial frontage/inclusion of a ground floor road fronting window. The inclusion of these features allows for maximum flexibility with respect to future use. Detailed applications should evidence how these features will be incorporated into any residential development within the area assigned for mixed use

Lead Developer – A developer who controls at least 80% of a particular expansion area. Where such a developer exists, requirements in relation to parameter plans only relate to that developer's area of control. However as a consequence of the relaxation for this scenario, that developer is expected to accommodate all the prescribed uses and requirements for the relevant expansion except for any specific allocations on land outside of their control. Resulting infrastructure cost/burden to then be equalised through Policy CB6.

Meanwhile uses – A meanwhile use refers to the short-term use of land awaiting longer-term development. It allows for the future needs of the community to be accommodated as they emerge and can assist in planning for permanent facilities by testing needs and demands. Such temporary uses could include 'pop-up' businesses, spaces for community use or as has been seen in Cranbrook phase 1, use as a community garden. The meanwhile use of a site must not result in an unacceptable impact on residential amenity or prevent development sites from being brought forward for development in a timely fashion

Parameters Plan – A comprehensive set of plans either prepared jointly by all constituent developers or lead developer that sets a framework for development within the expansion area and includes key routes that are necessary for connectivity and legibility; areas for blue and green infrastructure and where these are capable of enhancement (this should also be reflected through the LBDS required under Policy CB27) and locations for all of the uses, requirements and infrastructure set out within the relevant allocation policy.



APPENDICES

Appendix A

Hearing Statement – Gypsy and Traveller Costs

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

The report has been prepared for the exclusive use and benefit of our client and solely for the purpose for which it is provided. Unless otherwise agreed in writing by RPS Group Plc, any of its subsidiaries, or a related entity (collectively 'RPS') no part of this report should be reproduced, distributed or communicated to any third party. RPS does not accept any liability if this report is used for an alternative purpose from which it is intended, nor to any third party in respect of this report. The report does not account for any changes relating to the subject matter of the report, or any legislative or regulatory changes that have occurred since the report was produced and that may affect the report.

The report has been prepared using the information provided to RPS by its client, or others on behalf of its client. To the fullest extent permitted by law, RPS shall not be liable for any loss or damage suffered by the client arising from fraud, misrepresentation, withholding of information material relevant to the report or required by RPS, or other default relating to such information, whether on the client's part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to RPS without further enquiry. It is expressly stated that no independent verification of any documents or information supplied by the client or others on behalf of the client has been made. The report shall be used for general information only.

Prepared by:

RPS

Jacob Bonehill MA(Cantab) MSc MRTPI
Associate Director - Planning

321 Bradford Street
Birmingham, West Midlands B5 6ET

T +44 121 622 8520
E jacob.bonehill@rpsgroup.com

Prepared for:

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

Contents

1 INTRODUCTION1

2 THE LOCATION OF THE GYPSY AND TRAVELLER SITES.....3

3 THE REQUIREMENT FOR GYPSY AND TRAVELLER PROVISION AT CRANBROOK.....5

4 POTENTIAL FOR RECOVERY OF COSTS.....6

5 CONCLUSION8

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 B

Report - Viability

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

The report has been prepared for the exclusive use and benefit of our client and solely for the purpose for which it is provided. Unless otherwise agreed in writing by RPS Group Plc, any of its subsidiaries, or a related entity (collectively 'RPS') no part of this report should be reproduced, distributed or communicated to any third party. RPS does not accept any liability if this report is used for an alternative purpose from which it is intended, nor to any third party in respect of this report. The report does not account for any changes relating to the subject matter of the report, or any legislative or regulatory changes that have occurred since the report was produced and that may affect the report.

The report has been prepared using the information provided to RPS by its client, or others on behalf of its client. To the fullest extent permitted by law, RPS shall not be liable for any loss or damage suffered by the client arising from fraud, misrepresentation, withholding of information material relevant to the report or required by RPS, or other default relating to such information, whether on the client's part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to RPS without further enquiry. It is expressly stated that no independent verification of any documents or information supplied by the client or others on behalf of the client has been made. The report shall be used for general information only.

Prepared by:

RPS

Jacob Bonehill MA(Cantab) MSc MRTPI
Associate Director - Planning

321 Bradford Street
Birmingham, West Midlands B5 6ET

T +44 121 622 8520
E jacob.bonehill@rpsgroup.com

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.

Contents

EXECUTIVE SUMMARY	I
1 INTRODUCTION	1
2 ADDITIONAL COMMENTS ON THE STATEMENT OF COMMON GROUND (PSD41)	2
Commentary on the Council's Sensitivity Testing (PSD38A-G and PSD39A-K)	2
The Council's Position on Savings	3
Revised Presentation of Items in the IDP (PSD35).....	5
Additional Scenario and Scale of Evidenced Shortfall	6
Suggested Additional Savings.....	9
Combined Heat and Power	9
Comments on Proposed Review Mechanism	12
3 COMMENTARY ON THE VIABILITY APPRAISAL CRITIQUE (PSD37).....	14
Summary of Whiteleaf Consulting Ltd Comments on Inputs	14
Summary of Bruton Knowles Comments on Consistency with RICS Guidance and the Experience and Objectivity of the Author	16
4 CONCLUSIONS.....	19

Figures

Figure 2.1: Annotated Sensitivity Testing Approach - summary of feedback received.....	7
--	---

Appendices

Appendix A Whiteleaf Consulting Comments on Inputs

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

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 28th 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

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 27th 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 – 13th July 2021

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

Prepared on behalf of Persimmon Homes South West

6th 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 1st Edition March 2021 (effective from 1st 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 1st 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.