

The Cranbrook Plan: Examination

Comments on Behalf of Taylor Wimpey and Hallam Land
Management

Introduction

- 1.1 Cranbrook DPD was submitted for examination in February 2019. A first set of hearings was held over a two week period in January and February 2020. However, the scheduled session on viability was postponed at the Council's request (to update its evidence base). The postponed sessions on viability took place in November 2020 – virtually – following which the Inspector wrote an "interim" letter to the Council (letter dated 20 January 2021) which:
- noted ongoing fundamental differences between the Council and the promoters of the expansion areas - leaving the Inspector with significant concerns,
 - set out extra technical/sensitivity testing work the Inspector expected the Council to undertake to assist her in forming a conclusion on viability;
 - invited the Council to revisit its priorities "in terms of infrastructure and other requirements such as affordable housing";
 - invited the Council to discuss the outcome of its further work with the promoters of the expansion areas and to seek to prepare a "Statement of Common Ground" between the Council and promoters.
- 1.2 The interim letter also set out some preliminary conclusions in relation to particular aspects of the viability arguments.
- 1.3 The Inspectors subsequent letter of 13 July 2021 highlighted the additional material submitted by EDDC to the Inspector as follows:
- PSD 35 The revised Infrastructure Delivery Plan June 2021 revision A
 - PSD 36 Revised Viability Report Addendum – Three Dragons and Ward Williams Associates
 - PSD 37 independent Viability Appraisal Critique by Vickery Holman
 - PSD 38A to PSD 38G Tests 1 to 7: In combination tests for different cost scenarios.
 - PSD 39A to PSD 39K Tests A to K: Individual testing scenarios.
 - PSD 40 Inspector's letter dated 2 July 2021 to EDDC requesting clarification
 - PSD 41 Statement of Common Ground
 - PSD 42 EDDC letter dated 12 July 2021
 - PSD 43 Draft Text of revised policies CB2 to CB7 suggested by EDDC
- 1.4 This paper sets out the comments of Hallam Land Management and Taylor Wimpey (HLM/TW) on the additional material submitted by EDDC, and is in response to the Inspectors invitation to make comments on that material (by 20th August 2021).
- 1.5 Attached to these comments (and very much part of them) is the statement prepared by RPS on behalf of HLM/TW, and also the promoters of the Cobdens (Persimmon Homes) and Treasbeare (The Carden Group). The RPS statement is therefore appended to this statement and sets out the shared and agreed positions of the promoters of three of the four expansion areas. It has been prepared in consultation with all parties. It includes appendices prepared

by Whiteleaf Consulting who have advised HLM/TW through the DPD process, and by Bruton Knowles.

- 1.6 This statement also sets out the specific comments of Taylor Wimpey and Hallam Land Management. They are set out under a series of headings below. This statement does not seek to repeat the comments set out in the RPS report in Appendix A.

Delivery and Certainty

- 2.1 Specific context that is relevant to these comments is the current position in respect of the progression and implementation of the expansion areas. In the case of Bluehayes, an initial application was submitted in December 2014 for the comprehensive development of the Bluehayes site.
- 2.2 A second application was submitted for the Bluehayes site in March 2019 (19/0620/MOUT) along with an application for adjoining SANGS land (19/0554/MFUL).
- 2.3 The second application included amendments to the proposals to ensure consistency with the emerging Cranbrook Plan which was of course submitted to the SoS, the previous summer.
- 2.4 Consultation has taken place on the applications. It is not understood that there is any significant objection to the proposals, or their layout, or technical aspects.
- 2.5 However, The Cranbrook Plan has impacted upon the Council's timetable for determining the applications.
- 2.6 This brief summary of the present position is relevant context for comments set out below by HLM/TW.
- 2.7 The wider context, highlighted by the Inspector in para 66 of PSD33, is of course, the Council's 5-year housing land supply which relies on the development to provide over 1800 dwellings across all four expansion areas, with delivery starting in 2022/3, and the delivery of the homes in the East Devon Local Plan.
- 2.8 Fundamentally, as we hope we collectively move forward to the final stages of a DPD that was intended to help delivery of an East Devon adopted Local Plan policy, there is a need for certainty which can be enhanced through a sound plan, so long as there is confidence among the developers of the expansion areas that the plan is deliverable and based on a robust viability assessment. Every effort must be extended to avoid further delay.

EDDC Update of Viability Information

- 3.1 Many of HLM/TW's comments on the updated information are set out in the RPS report attached at Appendix A and are not repeated here.
- 3.2 In PSD33, the Inspector summarises the Council's position – as set out in the original IDP – as being that an infrastructure budget of some £118m, including section 106 obligations, was required (broadly equivalent to some £29,000 per plot).
- 3.3 The Council has now re-presented its IDP (PSD35) and has re categorised required infrastructure and section 106. On the basis of this re-presentation, the Council indicates that it is seeking cash or cash equivalent contributions of some £16,112 per plot (Para 2, PSD34).
- 3.4 In seeking to move forward on viability issues it is important that there are no misunderstandings. It is essential that in seeking to identify the actual S106 'cash contributions' required of developers, 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 (for instance CHP and carbon reduction measures are Category 1 costs). These are still real costs for the developers (if not part of the equalisation).
- 3.5 The steps that the Council has made since the November 2020 sessions comprise the £12.9m of savings against specific infrastructure elements. Again it is important to understand that the majority of those savings are less to do with the Council making decisions regarding changed infrastructure priorities than reflecting the Inspectors initial conclusions on the undergrounding of pylons and the absence of a need for a bridge crossing between Treasbeare and Bluehayes.
- 3.6 Partly with the backing of its report from Vickery Holman (PSD37), the Council/ Three Dragons has not adopted any change in the assumptions it has adopted in its viability assessment, since November 2020.
- 3.7 The Council's position does not appear therefore to reflect those of the Inspectors interim conclusions which were sceptical of the Councils approach e.g.:
- developer return on affordable housing (para 34, PSD33)
 - base build costs (para 35 PSD33); and
 - phasing of the purchase of the sites and consequential finance costs (para 36 and 37, PSD33))

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- 3.8 Nor does the Council's continued reliance on a rate of return of 17.5% reflect the recognition granted by the Council that developers are right to be nervous about matters of uncertainty – not least future homes costs (para 34, PSD34).
- 3.9 In para 64 of PSD33 the Inspector invited the Council to make important choices regarding its infrastructure list and to reappraise "big ticket" items. In reality, other than the savings of £12.9m presaged in significant part by the pylons and pedestrian bridge, the Council has made very few substantial choices.
- 3.10 In fairness what the Council does do, is identify how those choices could be made (set out under point 1 of PSD42) – without detriment to its position that they need not be made. As is evident from the RPS report appended to this – HLM and TW, along with others, agree that were the affordable housing proportion to be reduced to 10%, the suggested £4m savings to be adopted, and/or additional cash savings made, then this would make a substantial contribution to addressing the viability gap. It could be seen as the compromise mooted by the Inspector in para 21 of PSD33.
- 3.11 One issue that needs to be addressed, is the suggestion by EDDC that were the affordable housing requirement to be reduced from 15 to 10% (saving £14.7m) then EDDC would wish to see a review mechanism introduced.
- 3.12 In para 3 of PSD34 the Council accurately sets out the developers' position that they cannot agree to such a review mechanism. The reason for having to adopt that position is in part set out in the attached appendix A.
- 3.13 Additionally, there are important other considerations of particular relevance to Cranbrook:
- As the Inspector makes clear in para 1 of PSD40 – "I am also mindful that the Planning Practice Guidance (PPG) makes clear that viability assessments should be primarily at the plan making stage with these matters taken fully into account and avoiding the need for further viability assessment at the decision-making stage".
 - This has particular resonance at Cranbrook where development is complex and will be brought forward as discrete expansion areas with no sequential phasing proposition;
 - As such each expansion area forms a phase in its own right with no phasing opportunities to review affordable housing provision. Even if there were, it would be a virtually impossible task to apportion infrastructure etc within an expansion area to part of that "phase";
 - The accepted need to front load purchase of the expansion areas (PSD33) further militates against any opportunity to revisit viability.
- 3.14 Even if, contrary to all of the above and attached, a review was attempted there would be substantial negative impacts for the delivery of new homes and infrastructure triggered by
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- such new homes. Trying to resolve the viability issues around the Cranbrook Plan has to date taken some 3 years. Any new or reviewed viability exercise would be unlikely to be no less complex or controversial and would lead to a major hiatus in the delivery of the Cranbrook expansion areas.
- 3.15 It is also relevant that, in the Cranbrook context, a reduction of the affordable housing provision is not a concession to viability but a planned and beneficial outcome of the Cranbrook Plan process – fostering more balance than present within the community, and facilitating community and wider infrastructure provision (as is evident in the supporting text to the Plan and in the Sustainability Appraisal).
- 3.16 Accordingly, the developers consider that if any 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.
- 3.17 On other additional matters relating to the Councils additional information, HLM/TW:
- welcome the clarification of matters not to be included in the equalisation of costs and infrastructure – in a manner which appears consistent with the Inspectors plea for clarification in para 15 of PSD33.
 - remain concerned regarding the approach to the valuation of SANGS land which is not agreed;
 - find very misleading the suggestion of savings of some £25m of costs from the equalisation (para 64 PSD34). We do not recognise the figure and believe that it can only refer to costs that will still be borne by the developers even if not through equalisation.

Proposed Modifications

- 4.1 HLM/TW understand that no proposed modifications have been published as part of a formal consultation process. Rather PSD43 is understood to be a draft document relating to Policies CB2-7 only and comments offered are therefore informal in nature. TW/HLM reserve the right to make formal representations on a comprehensive set of main modifications in due course.

CB6 Infrastructure Delivery

- 4.2 The inspectors fundamental concern regarding CB6 was in relation to the IDP and the need for certainty. In para 5, of PSD33 the Inspector expressed concern that CB2-6 “lack provision and are ambiguous and it is not clear how the decision maker should react to development proposals”.

- 4.3 At the heart of the draft **MM40** is the removal of reference to the IDP in the policy and instead to insert elements of the IDP into CB6. Administratively that inevitably leads to duplication and HLM/TW see no value in repeating policies relating to net biodiversity gain, carbon reduction etc in CB6, when covered by other specific policies (the wording of which are likely to require modifications in their own right following the examination process and objections to some of those policies).
- 4.4 On a similar theme the detail of what is included in the Councils insertions to CB6 in MM40 may in any event need to be updated in the light of objections being considered at the examination - for instance contributions to extra care, or leisure centre etc. TW/HLM have argued, both on an individual basis, and on the basis of a cumulative infrastructure obligation, that not all can be justified.
- 4.5 Perhaps the most significant issue arising from the main modification and revised approach to CB6 is certainty. Certainty is necessary for all of the reasons set out above and in Appendix A. The inclusion of specific items in MM40 may in some respects add certainty. However significant uncertainty is generated in the sense that MM40 (and hence CB6) does not indicate the level of contribution towards each item of infrastructure. Nor is it usual for such policies to do so. The IDP makes it clear that only proportionate contributions are sought to the health and well being hub and leisure centre for example. The proportion is, however, only set out in the IDP which is a living document and no longer referred to in policy. What cannot be the case is that at the time and energy that has been expended in seeking to resolve a viability position can be subsequently undermined by any additional contributions, or a significant increase in the cost or proportions of infrastructure elements, that has been established through the IDP and examination. This must be the matter for further discussion and resolution through the examination process. Certainty and the avoidance of any escalation of expectations must be established through the Plan.
- 4.6 At the opposite end of the scale, MM40 should not exclude ancillary parking and paths from the definition of open space land.
- 4.7 Regarding **MM41**, the proposed phasing of payments to facilitate LEA delivery of education facilities is not evidenced and must allow for agreement of alternative phasing provisions.
- 4.8 TW/HLM firmly support **MM42** and the clarification of those matters not to be included as part of the equalisation process.

CB7 Phasing

- 4.9 **MM45** is unclear in relation to the process of identifying education sites prior to consent. Equally the provisions for the transfer of the first site appear to create the potential for lack of progress on one site to constrain another. MM45 should be revisited as it is not beneficial for any party if one expansion area cannot proceed because of delivery or lack of in another. In

this regard the triggers across the expansion areas are unhelpful – in particular the prescriptive setting out of such triggers (at 1650 and 2500 dwellings). This modification will need to be reconsidered to allow more flexibility and avoid constraining the delivery of the expansion areas.

- 4.10 The 30 dwelling trigger within the expansion areas has been objected to by all parties and debated at the examination. It remains unchanged and therefore is a matter before the Inspector.
- 4.11 It is unnecessary to express a preference in MM48 for Treasbeare given that both Bluehayes and Treasbeare are agreed to be acceptable locations for the primary school site.
- 4.12 Step in rights (**MM45 and MM48**) should be discussed at the examination and may not be appropriate, if undermining planned provision of education within the expansion areas.

CB2: Bluehayes Expansion Area

- 4.13 In relation to policy CB2. TW/HLM would make the following informal comments on specific draft MMs:
- MM3** TW/HLM have not and do not see the need for a comprehensive development scheme or indeed a parameters plan (especially a detailed one) for any of the expansion areas – with the possible exception of the Grange. MM3 does try and address the concern but TW/HLM continue to struggle with the idea and wording especially where the principal landowner had control of 80% of the land. Although the parameters plan rightly does not precede a consent, it is unclear if it is to be embedded in the consent.
- MM4** Difficult to comment as an updated policies map isn't published with the latest update. The deletion of "that may include residential development" from 2c should not be supported – residential use within a mixed use area helping to achieve the mixed use aspiration. It is inconsistent for instance with Policy CB4 which allows for residential development in the mixed use area – subject to adaptability of ground floors.

CB13 Zero Carbon

- 4.14 For completeness, since it relates closely to viability, Appendix A includes modifications to CB13 and in particular the inclusion within the policy of reference to alternative options.

Further Examination Sessions

- 5.1 As noted above the Council has not made the important choices it was invited to make by the Inspector, albeit that options have been presented by EDDC which if they were adopted would make substantial progress towards addressing the viability issues, narrowing the gap considerably.

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- 5.2 The Councils position on the viability assessment assumptions continues to rely on assumptions that the developers do not have confidence in.
- 5.3 In this regard it is essential for the developers to have confidence in the outcome of the examination and the Plan that emerges from it. One of the most effective means to try to generate such confidence would be the holding of a further hearing session(s) of the examination to address the important outstanding matters set out in these comments (and Appendix) and the comments of other participants.
- 5.4 Moreover these are complex matters and any potential for misunderstanding should be minimised. This includes considerations around and the consequences of any review mechanism.
- 5.5 Also of importance if, as now proposed by the Council, 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 – and 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.
- 5.6 For these and other reasons, and to test the evidence in relation of complex matters, HLM/TW consider that it is very important indeed for a further examination session or session be arranged.

APPENDIX A

Cranbrook DPD: Report on Viability

Prepared by RPS, Whiteleaf Consulting and Bruton Knowles

REPORT - VIABILITY

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

JBB8781 - C7811
Report - Viability
3
20 August 2021

REPORT

Document status

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

Approval for issue

Jacob Bonehill



19 August 2021

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Prepared for:

**Persimmon Homes South West, Redrow, the
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EXECUTIVE SUMMARY

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

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

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

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

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

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

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

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

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

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

Other elements which could be reduced include:

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

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

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

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

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

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

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

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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.