

Date: 13 September 2021
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Our ref: JB/Cranbrook Plan DPD



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Dear Mrs Wilson

Cranbrook Plan examination

Council Response to the revised National Planning Policy Framework and the consultation with participants

We refer to your email dated the 26th August 2021 which invited Council comments on both the new National Planning Policy Framework (the Framework) published in July and the latest responses received from participants following the recent round of consultation. We will tackle both of these within this letter.

National Planning Policy Framework

1. It is recognised that the recent publication of a revised Framework introduces a number of changes to that document. Having had a chance to review the new Framework, (together with the National Design Guide and the National Model Design Code), we are pleased to confirm that in our opinion none of these result in any policy within our plan being out of conformity. Fairly simple main modifications to Policy CB16 (Design Codes and Place making) could clarify the relationship that the plan has with the National Design Guide and the need to ensure that for

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instance new streets should be tree lined (paragraph 131 of the Framework).

Overall we believe that the changes set out within the revised Framework largely strengthen the approach that we have already been advocating and in identifying the key relevant changes we will identify how these relate to our plan.

2. Significantly paragraph 11a introduces the importance of aligning growth and infrastructure. While development must continue to be viable, the recognition that the two should be considered together provides further support for the approach that we have been taking in Policies CB6 and CB7 – particularly in relation to education provision and school places for the future residents. To ensure that growth and infrastructure work together is now a specific component of sustainable development.
3. Within the same limb of paragraph 11 is the need for plans to improve the environment and mitigate climate change. As set out in our proposed Policies (including the proposed modifications listed in [PSD 43](#)¹) we already identify a requirement for a Landscape Biodiversity and Drainage Strategy and the need for Biodiversity net gain (calculated using the Defra Metric 3.0 now that this has been published and supercedes the previous 2.0 version). In addition Policy CB13 is deliberately strongly worded capturing a range of issues in respect of delivering zero carbon including
 - a. minimising the need to travel,
 - b. minimising energy demand,
 - c. maximising energy from renewable or low carbon sources (including the requirement to connect to the District Heat network) and
 - d. ensuring in use performance.
4. All of these work together as a composite approach to mitigating climate change and are an important plank within the suite of policies set out.
5. The Green Infrastructure component of the Plan is also picked up within the revised paragraph 161 which encourages GI to help reduce flood risk. Put simply it is about the green and blue infrastructure being considered together and working together. This is something that we support and expect to be captured through the LBDS.
6. Paragraph 73 requires large scale housing development to be supported by a genuine choice of transport modes giving further support to the request from the County Council for contributions to not just walking and cycling enhancements, but bus route enhancements and exploring the feasibility of expanding rail services.

¹ <https://eastdevon.gov.uk/media/3723163/psd-43-draft-main-mods-schedule-part-1.pdf>

7. Chapter 12 (Achieving well-designed places) has a significant change within the Framework when considered against the previous version. Here the changes result in a requirement that development will be brought forward within the framework of a design code or design guide with the expectation that this will result in beautiful development. Helpfully paragraph 129 of the Framework recognises that:

“Design Guides and Codes can be prepared at an area-wide, neighbourhood or site specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.

8. The recognition that Design Codes at appropriate scale can be produced by landowners and developers at application stage accords within the expectation set out in Policy CB16. The most pertinent point that participants will need to be mindful of, is the now stated requirement, that the Code is developed following consultation.
9. Renumbered paragraph 65 sets out that for major schemes, affordable home ownership should be at least 10% of the “total number” of homes (unless, amongst other things, this would significantly prejudice the ability to meet the identified affordable housing needs of specific groups). However, the revised wording does not alter the substance of the previous version of the Framework, which is addressed in paragraph 3.71 of the submission version of the plan².
10. It is noted that para 22 introduces a 30 year planning horizon when planning for larger scale development, but the transitional arrangements in para 221 make it clear that this aspect of the Framework does not apply to plans (such as the Plan) which reached their pre-submission stage before July 2021.

² <https://eastdevon.gov.uk/media/2810797/cranbrook-plan-dpd-submission-draft.pdf>

Responses PSD 44A – 44I

11. Within this section of our letter we welcome the opportunity to respond to the matters raised within the recent consultation exercise that was undertaken and note your request that our response should provide a focussed reply addressing the responses received but not introducing new evidence. To structure this we will present/headline a series of topics that we have identified within the responses where we believe it is helpful to provide greater explanation/clarity as well as signposting, and trust that this approach is acceptable. For each we will reference the source from where it has been raised. However, to avoid undue repetition where parties have made the same (or very similar) points, we have grouped together the issues in topics rather than deal separately with each individual representation.
12. We also note that a number of issues have been raised by participants which have been addressed in detail through previous hearing sessions, e.g. provision and location of built up area boundaries and the relationship to masterplan. We will not be commenting upon these at this stage noting the previous examination time that has already been devoted to them and our confidence that there is a clear understanding of the Council's position already.

Affordable Housing Review mechanism

Reference:

[PSD 44A Bell Cornwell](#) – ii (para 3)³

[PSD 44C David Lock Associates](#) – 3.13 – 3.16; Appendix A (para 2.46 – 2.53)⁴

[PSD 44E LRM](#) – 3.16 – 3.21; Appendix 1 (para 2.46 – 2.53)⁵

[PSD 44F McMurdo Land, Planning and Development](#) – 2.7⁶

[PSD 44I RPS](#) – 2.1 – 2.12⁷; Appendix B (para 2.46 – 2.53)

13. Guidance in the Planning practice guide set out at Paragraph: [009 Reference ID: 10-009-20190509](#)⁸ states:

“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

³ <https://eastdevon.gov.uk/media/3723309/psd-44a-viability-submissions-response-bell-cornwell-for-crabrook-lva-llp.pdf>

⁴ <https://eastdevon.gov.uk/media/3723311/psd-44c-viability-submissions-response-dla-for-taylor-wimpey-hallam-land-management.pdf>

⁵ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

⁶ <https://eastdevon.gov.uk/media/3723305/psd-44f-viability-submissions-response-mcmurdo-land-planning-and-development-for-stuart-partners-ltd.pdf>

⁷ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁸ <https://www.gov.uk/guidance/viability>

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.

14. While there has been much criticism and apparently some confusion over the proposed review mechanism, we fully appreciate that in order for a review mechanism to be effective, circumstances, and terms of engagement need to be set out within Local Plans. In suggesting that such a review mechanism could be introduced, it is not the case that we were simply suggesting that the requirement for affordable housing set out within Policy CB11 be reduced to 10%. The outlining of this as a potential option, if it is deemed necessary, is borne out of an appreciation of the challenges that the participants present and is an effort to find an agreed way and to having the plan found sound. However, it remains the Council’s primary case that a level of 15% affordable housing would not jeopardise the viability and so the deliverability or soundness of the Plan. A reduction in that percentage was only put forward to cater for a scenario where the Inspector concluded that it was necessary for further costs savings to the Plan in order to find it sound. Given the evidence on the scale of affordable housing need, and the justified viability work that the Council have presented, we do not believe that a level of 10% should be ‘baked in’ to the Plan as a policy-compliant position but should be simply used as a tool to help address deliverability concerns if necessary, with 15% remaining as the policy expectation.
15. If such an approach is used, we would anticipate that Policy CB11 would set an expected rate of 15% affordable housing but allow for developers to engage a lower rate of 10%, provided they committed to future reviews. Such reviews which would need to take place against agreed benchmarks, could be mid-development or at 1/3, 2/3 development stages depending on the scale and number of properties permitted. There has never been any suggestion that these be annual as has been suggested, as we completely agree that such a requirement would be overly onerous (on all parties involved).
16. We note the comment within the submission from McMurdo Land, Planning and Development that a reduction in affordable housing should not just be introduced as a “main modification” but would require “far more detailed consultation” (para 2.7). Based on the amount of evidence and examination time that has been given

to the issue of viability we are confident that if such a reduction was deemed necessary to make the plan sound, this can be undertaken through the main modification stage.

17. The wording of the submission version of Policy CB11 already allowed for overage clauses to be sought in any event. The approach that we have now outlined simply extends that concept, in potentially more precise and defined language.

Gypsy and Traveller Pitch Allocations and SA

Reference:

[PSD 44E LRM](#)⁹ – paras 2.51 – 2.61;

[PSD 44I](#)¹⁰ – paras 3.16, 3.21, 3.26, and 2.7 of the Hearing Statement - Gypsy and Traveller Site Costs

18. We note that of the two allocations and the related proposed main modifications concern has again been raised about:

- the principle of locating such pitch provision in Treasbeare (PSD 44E) and
- a lack of sufficient justification of evidenced pitch location (PSD 44I).

19. Both of these were considered in detail during the previous hearing sessions and while we were seeking to further clarify the relationship between the policy expectation and policy plan with the introduction of the proposed Main Modification MM 18 and MM 30, there was no intention to reopen the debate at this time. We remain confident that the Sustainable Appraisal work that was undertaken during the plan making exercise and then captured within [PSD 27](#)¹¹ robustly looks at alternative sites. It is not a case that such evidence was retro fitted but as previously explained has been drawn out so that it is now explicitly documented rather than being embedded within the overall assessment previously set out. PSD 27 was consulted upon ahead of the previous examination hearing sessions in January 2021 and formed part of the detailed timetable for those sessions.

20. While we note that RPS only seek to raise concerns about site location and justification provided through the SA work, LRM (on behalf of the Carden group) reiterate previous objections set out by Harrow Estates and they suggest the removal of the allocation from the Treasbeare allocation altogether. In doing so they are citing that the delivery of 10 pitches at Cobdens would still fulfil the policy requirement that is derived from the [Local Plan](#)¹² (Strategy 12) which requires that provision be made for up to 30 pitches. The proposed reduction to 15 pitches follows more up-to-date evidence (previously set out within PSD 27) and sits within the envelope that Strategy 12 allowed for. However to reduce this further would

⁹ [psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf](https://eastdevon.gov.uk/media/3723308/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf) (eastdevon.gov.uk)

¹⁰ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

¹¹ <https://eastdevon.gov.uk/media/3720816/psd27-gypsy-and-traveller-cranbrook-paper-inc-sa-july-2020.pdf>

¹² <https://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

omit 2/3rds of the allowance under the Local Plan Policy and more importantly miss the currently evidenced need by a 1/3. Such shortfalls would in our opinion fail to adequately provide for Gypsy and Traveller Need. Para 62 of The Framework requires the need for housing for travellers to be assessed and reflected in planning policies. There is no allowance in either the Framework or [Planning Policy for Traveller Sites](#)¹³ to suggest that there are exceptional circumstances within East Devon, whereby the Gypsy and traveller need should not be met in full.

21. In addition LRM identify issues of cost and deliverability with site access for the Treasbeare allocation. Within the viability work presented in [PSD 36](#)¹⁴, we have been clear on the costs and made a specific additional allowance for the road access which was already accounted for (but not separately detailed) within the comprehensive and robust viability appraisal. While additional concern in respect of the deliverability and impact of the approach road access is also being raised (with the suggestion that Parsons Lane would need significant improvements), other Gypsy and Traveller sites around the District are successfully accessed from longer and narrower approach road networks.
22. In considering the access road to the Gypsy and Traveller pitches, the planned growth for the Treasbeare allocation (irrespective of the location of the gypsy and traveller accommodation) is likely to result in some improvements to Parsons Lane – e.g. the installation of additional passing places. However it already has good visibility between the current passing places and the main roundabout on the London Road and accommodates large agricultural vehicles serving the surrounding fields. Without any current objections by the Local Highway Authority to the proposal, and in considering the current geometry and layout of Parsons Lane, the scale of improvements that are suggested by the Highway consultants acting for Redrow and the Carden Group as being necessary, are not recognised. As such it is considered that the tests set out within the Framework paragraph 111 (published in July 2021) namely that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, are not met.
23. In addition other concerns noted within the LRM submission in respect the loss of hedgerow, change to the character of Parsons Lane and the potential visual intrusion of the access road (as a result of potential cut and fill required) are noted. However these are matters that the Council have considered and remain of the opinion that they can be satisfactorily dealt with through an application process. While some impacts will occur, this will be in the context of an expanded Cranbrook

¹³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf

¹⁴ <https://eastdevon.gov.uk/media/3723166/psd-36-viability-report-addendum-2021.pdf>

which itself will have an urbanising impact on the local landscape. While great care is needed to ensure that impacts within this specific location are acceptable, there is no suggestion that this cannot be achieved.

24. Finally concern has again been raised within the submission by LRM about the status of the proposed gypsy and traveller allocation outside of the built up area boundary within the Cranbrook area. This is again an argument that has been previously rehearsed but for clarity the Council's position on this remains the same. The Built Up Area boundary around Cranbrook has been drawn up using the [criteria](#)¹⁵ that was used as an evidence base for the adopted East Devon Villages Plan. This provides a clear and consistent framework across the District for such Boundaries.
25. The location for the proposed Gypsy and Traveller allocation is not considered suitable for general development but is suitable for low single storey development associated with a gypsy and traveller site which with suitable landscaping can be better assimilated into the land form. Importantly it is also kept off the higher and steeper slopes found locally. Noting the definition of "Countryside" in Strategy 7 of the Local Plan, which is not superseded by the Cranbrook Plan, it recognises such areas "as all those parts of the plan that are outside of the Built up Area Boundaries and outside of site specific allocations shown on the proposals map". Based on the definition it is entirely possible and appropriate to have a specific allocation for a specific use/development which does not fall within the built up area boundary. Such areas are only appropriate for the identified use and not for general development; but equally are not considered to be Countryside for the purposes and application of Strategy 7. An analogy can be drawn (admittedly not in exact terms) with the long-established approach to rural exceptions schemes, maintained in the Framework, where housing to meet particular needs can be provided in locations where general housing would not be acceptable. In addition Strategy 24 of the adopted Local Plan, allocates land for new educational and community uses outside of the built up area boundary for the town of Ottery St Mary recognising that development other than that specifically identified is not suitable.
26. Overall the Council remain confident that the gypsy and traveller sites proposed for allocation are justified and effective.

¹⁵ <https://eastdevon.gov.uk/media/1792814/revised-buab-methodology-feb-16.pdf>

Gypsy and traveller cost equalisation

Reference

[PSD 44E](#)¹⁶ LRM – paras 2.51 – 2.61;

[PSD 44I](#)¹⁷ RPS – Gypsy and Traveller Site Costs

27. This is an issue that has again been considered during the examination hearing sessions and the Council is mindful of the Interim findings presented by the Inspector in [PSD 33](#)¹⁸ paragraph 40 and 41.

28. The Council has consistently avoided equalising costs associated with the Gypsy and traveller pitch provision noting that like affordable housing there is a receipt received by the developers upon sale of the pitches. Participants now express very clearly that despite this receipt, such provision remains a net cost irrespective of the value of the land. At this stage the Council is not minded to suggest any further changes to Policy CB6 over and above the proposed Main Modifications that it previously set out where those items of infrastructure to be equalised were listed. However in theory it would be possible to equalise the costs of the gypsy and traveller pitch provision noting that the Cranbrook wide provision is being delivered by just two allocations. Were this to be done, it should only be on the basis of the net predicted cost – i.e. the differential between the estimated cost of delivery and receipt of sale value. This approach would help to avoid the potential for profits to be obtained from what would amount to subsidised provision.

Engine testing bay cost equalisation

Reference

[PSD 44E](#)¹⁹ LRM paras 2.3 – 2.23

29. This aspect has been raised specifically by the development team seeking to bring forward the Treasbeare expansion area who consider that the omission of the testing bay from Policy CB6 is an over interpretation by the Council of the Inspectors interim findings set out in [PSD 33](#)²⁰ and in particular paragraph 15 which states:

“It should be clear which costs are associated solely with the expansion area and which are to fund facilities for all and are to be legitimately shared across all expansion areas” (paragraph 15)

¹⁶ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

¹⁷ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

¹⁸ <https://eastdevon.gov.uk/media/3721906/psd-33-inspectors-interim-letter-to-eddc-200121.pdf>

¹⁹ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

²⁰ <https://eastdevon.gov.uk/media/3721906/psd-33-inspectors-interim-letter-to-eddc-200121.pdf>

30. While the Council recognise that changing circumstances can provide challenges for developers who acquire sites part way through a local plan process and where costs subsequently change, the primary aim of the examination process is to ensure that the plan is legally compliant and test whether it is justified effective and consistent with National Policy. Where main modifications are required to ensure that a plan can meet these tests, this can have consequential changes to potential costs.
31. In considering the concerns raised in respect of the changed status of the engine testing pen, it is necessary to look at the wider context for changes to viability and equalisation that have occurred during the examination. As such it is the Council's contention that costs associated with development of the Treasbeare allocation have not gone just one way, i.e. they have not simply gone up. [PSD 24](#)²¹ was the version of the IDP published prior to the acquisition of the Treasbeare site. Compared to this document, costs for the Treasbeare allocation have changed as follows:
1. A saving of £2.83m for the Treasbeare allocation. This is derived from 22% of the £12.9m expansion-wide savings total and proportionate to the allocation of 915 dwellings compared with the total of 4170.
 2. Pavilion and Changing room costs of £675,928 have been removed from Category 3 (formerly Category 2) and are now subsumed as a higher Category 4 cost. Direct provision is now no longer required and only the land is to be secured within the allocation.
 3. Tennis Court costs of £292,754 have been similarly moved to category 4 (with only land being directly secured within the allocation)
 4. Energy centre land has been recognised as an equalised cost on the basis that it's a provision that benefits all expansion areas. This has seen an increase in recognised costs, which are directly attributable to the Treasbeare Allocation and are now proposed to be equalised, of £600,000.
32. Given that the Treasbeare allocation would currently only contribute £715,130 towards all Category 4 items because of its proportionally high Category 3 requirements, (see [PSD 35](#)²²), when this is considered against items 2 and 3 above, the allocation benefits from a net additional saving of £253,552 on these two items. Combined with the recognition and equalisation of Energy Centre land costs, this provides a total saving of £853,552. While this does not negate the cost for the engine testing pen which it is proposed is no longer equalised, it provides a context to that figure, particularly when considered against the headline saving of £2.38m.

²¹ <https://eastdevon.gov.uk/media/3720813/psd24-infrastructure-delivery-plan-july-2020.pdf>

²² <https://eastdevon.gov.uk/media/3723165/psd-35-infrastructure-delivery-plan-june-2021-rev-a.pdf>

33. In addition the argument has also been put forward that the engine testing pen should be equalised because the school land is considered to be more appropriate in a more westerly location than envisaged by the Councils Masterplan. While this movement would bring some benefits to the walkable neighbourhood concept advocated by Policy CB13, it is considered to be a limited benefit and not of a level where it would indicate that the costs should be equalised. Overall and having regard to the lines of argument put forward, the Council are not currently persuaded by the suggestion that the cost of the engine testing pen should be equalised.

Consistency of obligations with the Framework

Reference

[PSD 44I](#)²³ RPS - para 2.35 (Report – Viability) and duplicated in PSD 44C and PSD E

34. At paragraph 2.35 of PSD 44I, it is set out that careful justification is required for inclusion of a number of the proposed infrastructure items that have been requested. It is specifically stated that “the developers separately and respectively have argued and submitted evidence that a number of these requirements are not consistent with the Framework guidance in relation to the section 106 expectations – as individual items or as a collective burden”.

35. The Council is firmly of the view that the items referred to are consistent with the Framework. It has set out on various occasions including within the initial hearing statement to [Matter 9 Issue 12 Infrastructure Delivery](#)²⁴ Q130 that it believes that obligations that would flow from these infrastructure requirements are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

36. As such they meet the tests that are set out in paragraph 57 of the July 2021 Framework. The justification and explanation for each item has been summarised within each of the last three versions of the IDP – most recently in the [June 2021 rev.a](#)²⁵ version which is published under reference PSD 35.

37. The items that have been challenged comprise:

- Health and Wellbeing Hub;
- Blue light facility
- Extra Care Housing subsidy

²³ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

²⁴ <https://eastdevon.gov.uk/media/3693218/matter-9-written-statement-east-devon-district-council.pdf>

²⁵ <https://eastdevon.gov.uk/media/3723165/psd-35-infrastructure-delivery-plan-june-2021-rev-a.pdf>

- Sports centre and swimming pool
- Carbon reduction – over and above CHP
- Sustainable Transport range of measures
- Off site walking and cycling
- Shared cars and e-bike

38. In addition these have previously been the subject of the detailed examination process and at various times have been the subject of specific questions, for example [PSD 28 \(MIQ to stage2\)](#)²⁶ and responses in particular AQ6, AQ11 & AQ13 of the Councils response in its [additional statement 1](#)²⁷ (addressing matters AQ 1 – AQ 12) together with subsequent examination time.

39. In addition a number of these were subject to interim findings set out in [PSD 33](#)²⁸ in particular the Health and Wellbeing hub and the extra care housing at paragraphs 51 - 54.

40. While participants are concerned at the elevation into policy of these items, this step reflects and addresses concerns that were expressed within their stage 2 hearing statements and the relevant examination sessions. The Council see no benefit in having further hearing sessions on topics that have already been explored nor does it consider that these obligations fail to meet relevant tests in Legislation.

Additional Electrical costs

Reference

[PSD 44](#)²⁹ RPS - para 2.28 – 2.29 in Report – Viability and duplicated in PSD 44C and PSD E

41. Within the responses to the recent consultation exercise the need for electricity enhancement has been raised by developers. We acknowledge that this has come somewhat unexpectedly despite previous and regular consultation with the electricity distributor, and we are currently and urgently seeking clarification over the extent of upgrade works that are required. To that end we have sought to engage with the developers and land promoters to discuss the situation and to understand the electrical demand from future development. To help understand potential future costs, we have submitted a budget estimate request to Western Power Distribution (WPD) who have identified a cost (excluding land) of ca. £10m for a bulk supply point (BSP). We are now in the process of requesting a feasibility study from WPD that will look in more detail at existing network capacity and take into account already contractually secured capacity across the study area. Only

²⁶ <https://eastdevon.gov.uk/media/3720805/psd-28-stage-2-questions.pdf>

²⁷ <https://eastdevon.gov.uk/media/3721338/stage-2-written-statement-viability-east-devon-dc.pdf>

²⁸ <https://eastdevon.gov.uk/media/3721906/psd-33-inspectors-interim-letter-to-eddc-200121.pdf>

²⁹ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

once this next stage of work is complete will we be in a position to better understand what would comprise the most appropriate solution, (e.g. Bulk supply point or cheaper primary substation), suitable locations and land take, and the likely costs.

42. Whether it is a BSP or Primary Substation, the full cost is not just a Cranbrook expansion cost, but will need to be shared amongst Cranbrook and other West End developments, (both residential and commercial) and include the major developments at SkyPark, Science Park, Air Park, Tithebarn and Westclyst; the extent of which can be seen on the [Local Plan West End inset map](#)³⁰ to the adopted Local Plan. In addition and because it is likely that the costs for this would need to be borne early within the Cranbrook build-out we are anticipating the costs to be borne in the first instance by the Revolving Infrastructure Fund (to be discussed next). As will be noted from the relevant meeting minutes set out in paragraph 45 below, the total borrowing that would be made available within the fund was increased from £30m to £40m to accommodate the potential electricity reinforcement that will be needed.

Revolving (Local) Infrastructure Fund

Reference

[PSD 44A](#)³¹ Bell Cornwell (item i)

[PSD 44I](#)³² RPS - para 2.12 – 2.15 in Report – Viability and duplicated in PSD 44C and PSD E

[PSD 44G](#)³³

43. The use of a revolving infrastructure fund is not a new concept. It was used to help Cranbrook Phase 1 become established with the forward funding of key items of infrastructure. The main difference between then and now is the potential funder. Without the level of backing that Central Government previously provided through various Agencies, it is this Council which has now indicated that it is willing to drive this project forward. Contrary to the assertions suggested in the submission by Bell Cornwell who have only reported the Strategic Planning Committee's views, this matter has more recently been considered by the Council's [Cabinet](#)³⁴ on the 28th July 2021. The minutes from the relevant meeting are set out below and reflect that the Principle is agreed by Cabinet and should be taken forward. This level of support should give confidence to the approach that we are advocating.

44. Comments on this issue by Paul Smith and found within PSD 44G are also noted. While considering this topic it is appropriate to reassure that this fund is not trying to lumber future residents with additional costs. Instead the approach would

³⁰ <https://eastdevon.gov.uk/media/1462373/new-local-plan-west-end-jan-2016-final.pdf>

³¹ <https://eastdevon.gov.uk/media/3723309/psd-44a-viability-submissions-response-bell-cornwell-for-cranbrook-lva-llp.pdf>

³² <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

³³ <https://eastdevon.gov.uk/media/3723306/psd-44g-viability-submissions-response-paul-smith.pdf>

³⁴ <https://democracy.eastdevon.gov.uk/documents/g1801/Public%20reports%20pack%2028th-Jul-2021%2018.00%20Cabinet.pdf?T=10>

significantly assist with cashflow for developers allowing important infrastructure to come forward earlier and to help reduce finance costs. While full repayment would still be demanded from the developers, the fund helps to improve viability meaning that a greater range of essential infrastructure can be provided for future residents which may not otherwise be the case.

45. Council Cabinet [Minutes](#)³⁵ (28 July 2021), set out:

“Item 51 Cranbrook Local Infrastructure Fund

The Service Leads Growth, Development & Prosperity and Planning Strategy and Development Management put forward a proposal for the establishment of a revolving infrastructure fund to support the delivery of critical infrastructure in step with new homes as an essential part of the continued expansion of the Cranbrook new community. They highlighted how an equivalent mechanism had been used successfully in the past to enable infrastructure, such as new schools, to be brought forward and delivered at the earliest opportunity. The proposals would both benefit residents and help to address ongoing viability challenges in relation to the expansion areas for Cranbrook.

Discussions included the following:

- Developing infrastructure was very important to get right
- Cranbrook needed this development as well as a viable and reliable electricity supply
- The electricity supply was fundamental and needed to be prioritised to be the first piece of infrastructure to develop
- Cranbrook’s function was to provide new homes in the district
- The successful GP’s surgery was almost at full capacity with plans for an extension in order to accommodate new patients. The Health and Wellbeing centre was crucial to support this
- This was a means to an end to get things underway. There was no central government funding so we had no other options. There was good strong security to back the investment

The Portfolio Holder Finance stated he welcomed this proposal as a way forward and gave reassurance that the loan was well within the borrowing limits of the council and an investment into the future as well as being the only solution available.

³⁵ <https://democracy.eastdevon.gov.uk/documents/g1801/Public%20minutes%2028th-Jul-2021%2018.00%20Cabinet.pdf?T=11>

Having received the report and noted the contents together with the fact a further report would detail the Terms of Reference for the Fund, Cabinet;

RECOMMENDED:

to Council that there is an in principle agreement to borrow up to £40m from the Public Works Loan Board to capitalise the Cranbrook Local Infrastructure Fund.

REASON:

To ensure the cost effective and timely delivery of critical infrastructure to support the continued development of the Cranbrook new community.”

Heat network Investment and Connection to the Network

Reference:

[PSD 44](#)³⁶ RPS - para 2.36 – 2.45 in Report – Viability and duplicated in PSD 44C and PSD E

46. It is recognised that within the responses identified above concern is noted about the certainty of delivery of the network, in particular the connection to the Energy from Waste Plant at Hill Barton, the future length of any supply connection agreements and ultimately cost. As we will explain in the following paragraphs, the suggested modification to the wording of policy and the significant weakening of any requirement to connect to the Heat Network is not necessary for soundness and would not be supported by us. The Policy which is already part of adopted Policy within the Local Plan, is an important part of an entire strategy that the Council is working towards and therefore is a fundamental component of the work that is being undertaken. For the structure of this part of the letter we will address comments on the Heat-network Investment bid first before providing an update on the SAP issue and the wider power supply implications of alternative approaches, recognising that this has evolved further since the last set of hearing sessions – not least as a result of the successful funding bid which we are now able to confirm publically.

Heat Network Investment Project (HNIP) funding

47. As we have previously documented in paragraph 1.7 of our [additional statement 2](#)³⁷ (addressing AQ13), a funding bid was submitted in January 2021 to the Heat Network Investment Project (HNIP) by this Council. The proposal was submitted based on securing a connection from the EfW plant to both the Cranbrook/Skypark and Monkerton networks. This would take the form of a trunk heat main carrying hot water under pressure. It would enable connections to both of the existing

³⁶ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

³⁷ <https://eastdevon.gov.uk/media/3721354/stage-2-written-statement-viability-forward-funding-east-devon-dc.pdf>

concession agreements totalling circa 8,000 homes and 2million sq ft of commercial (and which still have a remaining period of 71 years to run) as well as serve the Cranbrook expansion areas.

48. In March 2021 we received notification that the application had been successful, with the following package of funding awarded:

- Grant for commercialisation £500k
- Grant for construction £3.2m
- Corporate loan for construction £7.076m

49. The funding awarded has been accepted by East Devon District Council with commercialisation work commencing in September 2021. The commercialisation work will enable financial, procurement and legal support to be commissioned to ensure that a suitably constituted Special Purpose Vehicle (SPV) can come forward to facilitate the connection to the EfW plant. This will enable the project to be developed to an investment grade level.

50. At the end of the commercialisation programme of work there will be a review of the scheme with HNIP to ensure that there is a robust business case. The second part of the funding is the grant/loan for construction. These monies which have already been awarded are available provided there is a successful completion of the commercialisation stage. They will be used in conjunction with other funding sources, including further investment from E.ON in lieu of meeting their current biomass cogeneration obligation and further investment from the Enterprise Zone programme, to ensure that the project can be delivered.

SAP and the BEIS Consultation response

51. In spring 2021 BEIS [consulted on proposals to improve the Standard Assessment Procedure \(SAP\)](https://www.gov.uk/government/consultations/standard-assessment-procedure-sap-102-proposals-for-updates-for-heat-networks)³⁸ approach to assessing homes connected to heat networks that use recovered heat or Combined Heat & Power (CHP). This was recognised within [PSD34](https://eastdevon.gov.uk/media/3723164/psd-34-eddc-letter-050621.pdf)³⁹ (paragraph 36) and at that time there was no indication of when a final report would be published although publication of the report is now anticipated in autumn 2021.

52. The Leaders of East Devon, Exeter City and Devon County Council, have written jointly to the lead civil servant to ensure that the Government's response to the consultation responds to our circumstances. This includes seeking a transition period for existing District Heat networks that are currently being built out, where they will be complete after June 2022, and will ultimately achieve Future Homes Standard levels of carbon savings. The danger is that if not framed appropriately, proposals within the consultation document could encourage developers to pursue alternative technologies such as electric heating. This could secure short term Part

³⁸ <https://www.gov.uk/government/consultations/standard-assessment-procedure-sap-102-proposals-for-updates-for-heat-networks>

³⁹ <https://eastdevon.gov.uk/media/3723164/psd-34-eddc-letter-050621.pdf>

L compliance, but would lead to higher carbon emissions being embedded in development, than those generated by the district heating network when it decarbonises in 2023. While the outcome of the BEIS consultation is unknown at the present time, and the Plan can only proceed on the basis of what is currently known, we are confident that BEIS will introduce appropriate transitional arrangements on the basis of our interaction and wider lobbying from the district heating industry.

Other Related Issues

53. The [Green Heat Network Fund Transition Scheme](#)⁴⁰ was launched in summer 2021 by BEIS to support the government's continued backing for heat networks, including decarbonisation. East Devon are anticipating making a submission into Round 2 of the scheme in October 2021. This application will seek funding to support the delivery of a decarbonised network in the expansion areas of Cranbrook.
54. The suggestion made within the participants' submission that air source heat-pumps may provide a cheaper and equally as effective solution has been noted. However from the Councils perspective this must come with a significant caution. As previously explored, the electricity network is already recognised as requiring reinforcement. If additional loading is put onto the system for air source pumps or other electrically based infrastructure (some of the loading figures provided as part of the electricity network reinforcement suggest a more than doubling of demand if ASHP's are employed over a DH connection) then this has the potential to place the cost of such reinforcement at the upper end of the estimate. On this basis air source heat pumps are likely to be just as expensive (if not more so when the all in cost is recognised – this being exacerbated by a recognised relevant skills shortage) than the option that East Devon are advocating.
55. Based on the journey that we have set out both in previous hearing sessions and evidence documents as well as the brief overview and update provided here – not least in respect of the successful award of funding, we hope that we have demonstrated our commitment to making this work. East Devon have a clear and well documented strategy that will deliver the carbon savings which are necessary within a viable and sustainable approach.

Viability Critique

Reference

[PSD 44I](#)⁴¹ RPS - para 3.1 – 3.24, in Report – Viability and Appendices A and B (duplicated in PSD 44C and PSD E)

[PSD 44A](#)⁴² Bell Cornwell - page 3, and appendix 1 by Sturt and Co

56. It has been a long standing criticism of the Council within this examination that our viability consultants are not RICS accredited. Three Dragons have however been extremely thorough in the work that they have presented and have openly provided the HCA models for interrogation by others. This is nationally available, well respected and other than the continued request for them to use a different model – e.g. ARGUS, has not been specifically criticised. The choice of software model used for viability purposes is not a soundness issue.

57. Instead criticism has focussed on the key inputs that are used for the model and what constitutes “market norms” despite a lack of coherent evidence from participants to substantiate such “norms”. To help corroborate or revise the Council’s position we sought an independent critique of key inputs that are relevant and which remained in dispute within this examination from a RICS Chartered Surveyor. As will be noted from our brief which has been published within an appendix to [PSD 37](#)⁴³, there was not a requirement or expectation that the appointed Surveyor should necessarily re-run the entire financial viability appraisal (FVA). However, as the brief made clear, *“The aim of the work is to establish a critique of the current viability appraisal potentially allowing corroboration of the approach to key inputs and to identify and propose justified alternatives where this is considered necessary.”* In providing this framework for the critique it sought to address the focus of the debate, namely the key inputs into the appraisal, but did not preclude the critique from suggesting a wider review if that had been found to be necessary.

58. Other than the suggestion that the entire FVA should have been re-run, and that inputs supported within the Critique were not robustly evidenced, for example in the lack of regard given to changes that will result from part L and future Homes standards (a matter that the Council have addressed previously in [PSD 34](#)⁴⁴ (paragraphs 35 and 44 – 51), key criticisms levelled against the critique have tended to focus on the experience of the surveyor who undertook this work and whether the critique was undertaken in accordance with the Practice Guide to which the Surveyor is beholden.

⁴¹ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁴² <https://eastdevon.gov.uk/media/3723309/psd-44a-viability-submissions-response-bell-cornwell-for-crabrook-lva-llp.pdf>

⁴³ <https://eastdevon.gov.uk/media/3723167/psd-37-viability-critique-vickery-holman.pdf>

⁴⁴ <https://eastdevon.gov.uk/media/3723164/psd-34-eddc-letter-050621.pdf>

59. On this first of these issues, the Council took all care and due diligence in appointing someone with suitable experience noting on the CV that the Surveyor had previously been appointed jointly by Mid Devon DC and a national house builder to determine the appropriate level of affordable housing and community contribution within an urban expansion development. This work included the provision of a financial viability assessment, where the site included over 1,000 dwellings, as well as commercial and community space. In addition the Surveyor has also acted as an independent expert witness in such applications as the urban expansion of South West Exeter where he was appointed jointly by Teignbridge District Council and a volume house builder and prepared a FVA at Langarth, Cornwall. On this basis the Council was satisfied that the surveyor's experience was appropriate for the scale of development that we are considering here and involved residential, mixed use and community development.
60. It is disappointing to note that the earlier criticism of the viability work relied on by the Council had focused on the fact that Three Dragons were not RICS accredited, but now that a Surveyor who is RICS accredited has endorsed their essential findings, the criticism now moves to an attack on the expertise of the Surveyor. The Council does not consider that such criticisms of the professionalism of its advisers are likely to be of much assistance to the Inspector in assessing the underlying issues.
61. On the second issue we note that the Surveyor undertook the critique in May 2021, before the "RICS Guidance Note: Assessing Viability in Planning under the National Planning Policy Framework 2019 for England 1st Edition March 2021" became effective on 1st July 2021. As such we believe that the critique needed to recognise "RICS Guidance Notes – Assessing Viability and Planning under National Planning Policy Framework 2019 for England" which is duly referenced within the section 1.8 of the critique, and the statement "Surveyors Acting as Expert Witnesses, Practice Statement (4th edition)" set out by the Royal Institution of Chartered Surveyors which has similarly been referenced (see paragraph 3.1). The Critique was undertaken in accordance with the RICS guidance that was applicable at the time. It would be wholly disproportionate to expect that work to be undertaken afresh simply because there has subsequently been later RICS guidance, especially when that guidance is directed to the exercise of undertaking a full FVA rather than a review/critique of a pre-existing FVA.
62. While criticism has been levelled at the Critique and that its views are not substantiated by the cited evidence, similar concerns could be voiced about the repeated requests by participants to the examination for the Council to use "industry norms". Particularly in respect of key inputs such as build costs, such claims have been backed up on the basis of experience which similarly applies to the Critique provided by the Council appointed Surveyor. He is RICS accredited, has suitable experience in large scale complex urban extensions and has been a chartered surveyor for over 40 years. It is not uncommon for valuation and financial

viability evidence to be informed by detailed knowledge of transactions which are commercially confidential. It is entirely legitimate for an expert Surveyor to draw on such information in forming their professional opinions. On this basis we invite the Inspector to give this evidence considerable weight.

Draft Main Modifications

63. For this section of the letter we will simply address the comments that have been made by participants where we believe that additional clarification or explanation is required. We will not be addressing every comment as again much of the debate has gone before and does not need repeating here.

MM4 (& MM6) – omission of reference to residential development

Reference:

[PSD 44C](#)⁴⁵ (para 4.13)

64. This proposed modification should contain the same draft changes as seen in MM 12 & 14; MM24 & 26; and MM35 & MM 37. There was no suggestion that this site should be treated differently.

MM13 Definition of small shops

Reference:

[PSD 44E](#)⁴⁶ (paras 2.82 – 2.98)

65. The submission version of the plan recognised that any business or other use that was permitted within the area should be of “an appropriate scale to the mixed use area such that it mainly serves the needs of the immediate neighbourhood” and “must not undermine the vitality and viability of the town centre”. The thrust of this sentiment was not previously challenged other than over the preciseness of the wording and how we would test this/apply this to future applications.

66. The modification proposed was our attempt to address this concern and was intended to apply to individual units only and clearly not the whole mixed use area as a single entity. 280sq m is a well understood and well referenced threshold that it was considered should apply in this instance. It was chosen as a size that would allow a small convenience/corner shop to locate within a neighbourhood centre but would preclude (without testing at least) larger individual shops.

⁴⁵ <https://eastdevon.gov.uk/media/3723311/psd-44c-viability-submissions-response-dla-for-taylor-wimpey-hallam-land-management.pdf>

⁴⁶ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

67. The Council continue to believe that such a restriction is necessary recognising the sensitivity of the new embryonic town centre for which the first planning applications have only recently been submitted. Time is needed to ensure that an appropriate hierarchy of centres develop within the New Town.

68. In addition we note that such a definition has been used elsewhere in the Country in the same manner that we are advocating here. Notably the definition and threshold is used within Policy COM1 of the [East Cambridgeshire Local Plan \(2015\)](#)⁴⁷ and was subsequently further considered by that Authority as they prepared for a plan review 2017. While that review was not taken forward their documented [evidence](#)⁴⁸ PS.EVR 14 tackles this very issue and reaffirms the arguments that we have already put forward in respect of Cranbrook. That such a threshold allows for a small format retail unit but helps to focus larger store formats to the town centre locations while using an existing government definition for small shops.

MM14 Restriction on hot food takeaway units and their proximity to schools

Reference:

[PSD 44E](#)⁴⁹ (paras 2.99 – 2.113)

69. This is a matter that has been discussed previously but noting its importance we wish to draw attention to a number of documents which have previously been presented to the examination:

[Devon County Council pre submission consultation response](#)⁵⁰
[Health Impact Assessment \(Evidence base document CRAN 011\)](#)⁵¹ – see section 2.2.3

[Devon County Council Matter 5 statement \(Q66\)](#)⁵²

70. On this basis the Council remain of the view that the approach set out is justified and effective.

⁴⁷ https://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover_0.pdf

⁴⁸ <https://www.eastcambs.gov.uk/sites/default/files/PS.EVR14%20-%20retail%20etc%20-%20FINAL.pdf>

⁴⁹ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

⁵⁰ <https://eastdevon.gov.uk/planning-libraries/cranbrook-plan-submissiondraft-comments2019/136-devoncountycouncil.pdf>

⁵¹ <https://eastdevon.gov.uk/media/2760791/health-impact-assessment.pdf>

⁵² <https://eastdevon.gov.uk/media/3693089/matter-5-written-statement-devon-county-council.pdf>

MM18 Gypsy and Traveller Allocation

Reference:

[PSD 44E](#) ⁵³ (paras 2.82 – 2.98)

71. This has been addressed earlier within this letter

MM19 - 21 Safeguarding of Energy Centre Land and its future release

Reference:

[PSD 44E](#) ⁵⁴ (paras 2.29 – 2.50)

72. Reference has been made to figure 5.1 of [Cran 052](#)⁵⁵ as supporting the need for only 2.06 ha of land to be safeguarded for energy centre development. However the Inspector will be familiar with [PSD 22](#)⁵⁶ where appendix 1 of that document updates figure 5.1 with corrected area measurement based on both the masterplan that Cran 052 otherwise presents and the submitted Policies Plan.

73. We have also previously acknowledged within hearing sessions that the supporting text to Policy CB14 should state 3.5ha to ensure clarity and consistency between the documents. This has been picked up by us as a proposed modification and can be published when appropriate.

74. We have been clear that excess land is safeguarded to cover off two eventualities. Firstly in the event that any energy centre expansion requires some land immediately adjacent to the existing centre this can be accommodated. This scenario would provide ca 1.1ha immediately adjacent with the balance being provided on a nearby site. Alternatively that a single 2ha site is required but which doesn't require the same degree of co-location with the existing centre. To avoid prejudicing land which could otherwise be brought forward for housing, the Council have safeguarded this larger area of land in one of the parts of the site that is most influenced by airport noise and therefore not suitable for housing.

75. We have been clear during the examination sessions that we would expect the safeguarding period to last for the duration of the plan period or until additional clarity is received on the future land requirements for the energy centre. This remains our position although with the fast paced move to establishing the heat network requirements for the expansion area explored above, clarity should be achieved early within the plan period.

⁵³ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

⁵⁴ <https://eastdevon.gov.uk/media/3723304/psd-44e-viability-submissions-response-lrm-for-redrow-homes-and-carden-group.pdf>

⁵⁵ <https://eastdevon.gov.uk/media/2780127/cranbrook-masterplan-2019.pdf>

⁵⁶ <https://eastdevon.gov.uk/media/3720810/psd22-land-budget-technical-notes.pdf>

76. This then leaves the matter of what happens to the excess land when it is released. The employment land that has been allocated within the Treasbeare Area together with the safeguarded energy centre land are found within the either the noise sensitive locations where residential development would not be appropriate or is flood zones 2 and 3. Such land would not therefore be suitable for additional residential development as advocated within paragraph 2.46 of the LRM submission. In paragraph 5.6 of [Cran 014](#)⁵⁷ a buffer is recognised as being a prudent approach to employment provision as the land take estimates should be considered a “minimum requirement to accommodate the job estimates”. In addition table 5 of Cran 014 sets out the preferred option for land provision and recognises that with the buffer, a total of 27ha would be needed. The Council is not suggesting the full extent of this buffer is appropriate given the need to balance competing land use requirements or that it is necessarily needed early within the plan period, but to deliver part of this buffer on land which is not suitable for housing makes a sensible use of land and demonstrates an effective Policy.

MM23 Parameter plan “s” and sport pitch delivery

Reference:

[PSD 44](#)⁵⁸ (paras 3.3-3.4)

77. The Council is supportive of the clarification that a set of parameter plans is appropriate.

78. In respect of the concern raised by RPS that their client doesn’t want to be liable for allocated development which is “off” site, there is sympathy with the point being made where this affects the junior football pitch which is locationally very specific – to be viable and suitably managed the football pitch must have a direct connection with the existing sports hub. As such the suggested additional wording offered by RPS appears to be a natural extension of the general thrust of the policy approach that precedes it. However the Council would not wish to see this policy approach exploited so that the Gypsy and Traveller Pitch land was not acquired by the Lead Developer which would then absolve any developer from delivering the needed pitches and significantly undermine the Plan’s ability to meet the identified need. Any modification to policy will need to be carefully considered to ensure that there are no unintended consequences.

⁵⁷ <https://eastdevon.gov.uk/media/2260179/cranbrook-economic-development-strategy.pdf>

⁵⁸ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

MM24 Reference to residential development within mixed use areas

Reference

[PSD 44](#)⁵⁹ (paras 3.6)

79. The Council considered this wording superfluous within the context of the restructured Policy, particularly in light of the requirements set out in the subsequent paragraphs and which have been explored within this letter under MM 4 & 6.

MM25 Definition of small shops

Reference

[PSD 44](#)⁶⁰ (paras 3.7 - 3.8)

80. This is addressed in response to comments on MM13.

MM 26 Hot food takeaway restrictions

Reference:

[PSD 44](#)⁶¹ (paras 3.10 – 3.11)

81. This is addressed in response to comments on MM14.

MM 34 and 35 Restrictive phasing

Reference:

[PSD 44 F](#)⁶² (para 2.8)

82. It is noted that within the submission from McMurdo Land Planning and Development objections are again reiterated about the challenges that phasing brings. Phasing has been well rehearsed and the Council's position remains that while we want to bring forwards sites as early as possible, it has to be within a framework of adequate and appropriate infrastructure – the most critical of which is a new Primary School. It is noted that the importance of infrastructure is now recognised within paragraph 11 of the 2021 [Planning Framework](#)⁶³.

⁵⁹ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁶⁰ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁶¹ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁶² <https://eastdevon.gov.uk/media/3723305/psd-44f-viability-submissions-response-mcmurdo-land-planning-and-development-for-stuart-partners-ltd.pdf>

⁶³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

83. We believe that the current modifications set out (more particularly in MM 45 which will be addressed later) demonstrate our commitment to seeking alternative means of delivery but the fundamental of early delivery should remain.

MM 40 Revised CB6 – Cranbrook Infrastructure Delivery

Reference:

[PSD 44 C](#)⁶⁴ (paras 4.2 – 4.6)

[PSD 44 F](#)⁶⁵ (para 2.9)

84. While we note that a number of observations are picked up here by the various participants - noting comments within PSD 44I in respect of gypsy and traveller equalisation and engine testing bay equalisation within PSD 44 E, the two that we wish to address here focus on the lack of specific contributions within Policy, and the lack of evidence as to when monies would be collected and how these would be spent.

85. As acknowledged in paragraph 4.5 of PSD 44F, it is not unusual for Policies to avoid setting out specific amounts for specific infrastructure. To do so would risk the policy being overly prescriptive, failing to adequately address such issues as inflation and the changing circumstances surrounding delivery, prioritisation and ultimately viability. Importantly to be effective, the policy needs to set a clear framework so that all stakeholders have a clear understanding of the infrastructure that is necessary. In this instance the Policy as now presented seeks to provide the comprehensive and robust framework that is required. While we note that duplication has been criticised, we believe as set out within our [letter](#)⁶⁶ of 12 July 2021 (PSD 42 section 7) that in this instance, such duplication serves a very real purpose and is necessary.

86. In addition the reference back to the IDP and the proportionate amounts for particular items of infrastructure that are only partially funded, is correct in identifying that the Council would have an opportunity to increase these amounts. We have been clear that the IDP is a live document. However, if we were to raise such amounts either through an above inflation increase or through increased proportions for a particular item (without offering appropriate reductions elsewhere) developers would have an opportunity to claim viability issues at application stage and at appeal if necessary. While the Framework is clear where up-to-date policies have set out the contributions expected from development and that planning

⁶⁴ <https://eastdevon.gov.uk/media/3723311/psd-44c-viability-submissions-response-dla-for-taylor-wimpey-hallam-land-management.pdf>

⁶⁵ <https://eastdevon.gov.uk/media/3723305/psd-44f-viability-submissions-response-mcmurdo-land-planning-and-development-for-stuart-partners-ltd.pdf>

⁶⁶ <https://eastdevon.gov.uk/media/3723162/psd-42-eddc-letter-to-inspector-060721-final.pdf>

applications that comply with them should be assumed to be viable, this surely cannot hold true if those underlying assumptions on viability are subsequently changed. The developers could reasonably criticise the Council if it took an unreasonable action in this regard. The concerns raised are more applicable to the future implementation of the plan and are not considered to affect soundness.

87. In terms of when contributions would be collected, this is not an appropriate level of detail to be contained within the Plan. It is better sorted out within a detailed section 106 agreement for each specific application as it will depend on the range and nature of the contributions necessary for that particular application - whether there is direct delivery by the developer and which particular items of infrastructure they are liable for. As this will be different for each developer (albeit within the framework of the equalisation approach) it cannot be captured within policy. As to the question concerning how monies would be spent, contributions identified within the Section 106 agreement would have to be identified against specific items and these would have to refer back to Policy and supporting Infrastructure Delivery Plan.

MM41 MM45 & MM 48 – Phasing of school delivery and step in rights

Reference:

[PSD 44A](#)⁶⁷ (page 4)

[PSD 44C](#)⁶⁸ (paras 4.7, 4.9 – 4.12)

[PSD 44F](#)⁶⁹ (para 2.10)

[PSD 44I](#)⁷⁰ (paras 3.24 – 3.25, 3.30)

88. It is noted that school phasing continues to be a particular concern to many of the participants. However the Council and Devon County Council have previously provided evidence on the urgent need for the school and lack of spare capacity. We have explored at great lengths whether alternative options exist, the potential for interim solutions, and location and length of time over which temporary classroom facilities could be provided. None of these are considered to provide a sustainable or particularly cost effective solution which has resulted in the opening up of the delivery mechanism - whereby school(s) could be forward funded by the Local Education Authority or the Revolving Infrastructure Fund provided suitable site access/servicing is made available. Since [PSD 31](#)⁷¹ was submitted and while the justification remains valid, the proposed modification to policy has been updated as set out in [PSD 43](#)⁷². This now clarifies the expectation that the host developer pays for the school either through their own direct delivery or through a

⁶⁷ <https://eastdevon.gov.uk/media/3723309/psd-44a-viability-submissions-response-bell-cornwell-for-crabbrook-lva-llp.pdf>

⁶⁸ <https://eastdevon.gov.uk/media/3723311/psd-44c-viability-submissions-response-dla-for-taylor-wimpey-hallam-land-management.pdf>

⁶⁹ <https://eastdevon.gov.uk/media/3723305/psd-44f-viability-submissions-response-mcmurdo-land-planning-and-development-for-stuart-partners-ltd.pdf>

⁷⁰ <https://eastdevon.gov.uk/media/3723308/psd-44i-viability-submissions-response-rps-for-persimmon-homes-south-west.pdf>

⁷¹ <https://eastdevon.gov.uk/media/3721636/education-provision-mm.pdf>

⁷² <https://eastdevon.gov.uk/media/3723163/psd-43-draft-main-mods-schedule-part-1.pdf>

phased payment back to a Local Authority. While this approach may involve the need for security bonds to be in place, it allows the equalisation approach to remain intact and if desired for the two schools to be delivered by different models. It is noted that the proposed modification has been supported by the County Council within their submission [PSD 44B](#)⁷³.

89. The issue of residual capacity has also been previously explored within the examination – particularly through matter statements that were prepared by both this [Council](#)⁷⁴ and the [County Council](#)⁷⁵ (see Matter statement 13 Q157 – 158) but also through the corresponding oral evidence where these issues were discussed. Put it in crudest form, currently there are two 2-Form-Entry Primary Schools within the town – St Martins Primary and the Education Campus (all through school). With 7 primary years and a total of 4 classes per year across the two schools, this amounts to 840 pupil places. Using the County Councils multiplier of 0.25 children per dwelling, demonstrates that for 3500 dwellings (Cranbrook Phase 1) approximately 875 primary pupil places can be expected. While this doesn't look at actual intake and current capacity levels (and this is not the right submission for such a discussion) it demonstrates through reasonable assumptions, that there would be no spare school capacity after Cranbrook Phase 1 is completed.
90. Concern that one developer could be held up by another is noted and is a risk that the Council are alive to. However as the Policy is currently worded, lead developers on three out of the four expansion areas have the ability to kick start the process and deliver school land and or premises unlocking the expansion development. In addition the supporting text now recognises that step in rights may be appropriate to help safeguard against subsequent delays or failure to deliver. It is recognised that this Policy restricts the timing of delivery for smaller developers/promoters who are beholden on others. However the overwhelming evidence of need for a new school means that this is a consequence that the Council is prepared to accept. Noting the progress that is being made with applications that are already submitted and the pre application enquiries for future applications which are likely to be submitted in due course, there is a clear indication that there is a significant appetite amongst the lead developers to make progress with their respective allocations and therefore the first school site. As such any delays are expected to be limited.

⁷³ <https://eastdevon.gov.uk/media/3723310/psd-44b-viability-submissions-response-devon-cc.pdf>

⁷⁴ <https://eastdevon.gov.uk/media/3693311/matter-13-written-statement-east-devon-district-council.pdf>

⁷⁵ <https://eastdevon.gov.uk/media/3693308/matter-13-written-statement-devon-county-council.pdf>

Conclusion

91. The Council appreciate the opportunity to review the submissions made and to provide comment on them. We trust that the information and thoughts provided are of assistance but if there any specific areas of further clarification that would assist please do not hesitate to contact us. We look forward to hearing from you in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Brown', with a horizontal line underneath the name.

James Brown
Cranbrook New Community Officer