

# **SUBMISSIONS TO THE PLANNING INSPECTORATE**

**In connection with Inspector's Draft Matters,  
Issues and Questions for Examination of the**

## **CRANBROOK LOCAL PLAN**

**Prepared by**

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and  
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**On Behalf Of**

**Cranbrook LVA LLP (Respondent Number 145)**

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UNLOCKING VALUE FROM LAND

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## **1.0 INTRODUCTION**

1.1 Sturt & Company has been requested to provide formal representations on the Independent Examination and specifically the Inspector's Draft Matters, Issues and Questions for Examination of the Cranbrook Local Plan on behalf of Cranbrook LVA LLP.

### **Qualifications**

1.2 This report has been prepared by Richard Sturt MRICS, FRGS, MSc, BSc (Hons) and Malcolm Barber DipArb MRICS MCI Arb who are both Chartered Surveyors and Registered Valuers under the RICS.

## **2.0 METHODOLOGY**

2.1 Sturt & Company attended the Working Group in July 2017 and made written submissions concerning viability at the time.

2.2 Further submissions were made in the spring of 2019 regarding both the CIL Review and Cranbrook Plan DPD submissions. Many of the issues raised in these earlier submissions are directly relevant to the East Devon Affordable Housing SPD as it relies on the appraisals and methodology contained in the CIL review.

2.3 All these submissions include commentary on a number of areas which have a direct impact on the viability and workings of the residential development in East Devon.

2.4 Our major concerns include the following:

- Refusal of East Devon or Three Dragons to release their Excel Toolkit
- The Three Dragons Viability Appraisal does not reflect the proposals made in the Draft Affordable Housing SPD
- Outdated BCIS Costs that are now 16 months out of date
- GDVs that do not reflect current market sales and size of units
- Inappropriate BCIS Index used. Lower quartile figures rather than the more commonly used mean or median
- Ambitious housing trajectory figures and implications for cash flow
- Insufficient profit margins to take into account the high infrastructure and utilities costs and risk of major schemes such as Cranbrook
- Insufficient Benchmark Land Value to provide a landowner's and promoter's proper return

2.5 Due to the continued refusal to co-operate by not providing a copy of the electronic Excel Three Dragons Toolkit, we reserve our position on making further representations on all the key residual inputs, calculations and their impact on the viability of development and affordable housing in East Devon.

### **3.0 QUESTIONS**

3.1 Set out below are our responses to the questions posed by the Inspector. For ease of reference, we have answered each question in turn.

**MATTER 1: LEGAL COMPLIANCE, INCLUDING THE DUTY TO COOPERATE**

**Issue 2:**  
**Is the Plan's preparation compliant with the Duty to Co-operate [DTC] imposed by Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) [PCPA]?**

**Q16**

**Question**

Have the viability toolkit questions been disclosed, if not has this compromised the Duty to Co-operate?

**Response**

There has been a fundamental breach of the duty to cooperate by both East Devon and Three Dragons by refusing to provide stakeholders, including us, copies of the electronic Excel Toolkit.

As outlined in the NPPF which was updated in 2019, there is an obligation on both Local Authorities and Independent Experts to provide access to their appraisals so they can be examined by stakeholders in any viability exercise.

East Devon and their consultants have refused to provide the Excel version of their residual appraisal despite numerous written requests which have all been turned down. This includes a failure to respond appropriately to a Freedom of Information Request. See **Appendix 2**.

This failure has meant that none of the viability evidence presented to you can be properly reviewed or even measured for accuracy, especially as it was prepared using a bespoke piece of software that has not been provided to any of the key stakeholders.

Our earlier submissions have identified a number of mathematical errors in their modelling which do not seem to have been reflected in the figures. Disclosure of the excel modelling would easily allow other consultants to assess whether or not this is an error in the equations used in the mathematical modelling or fundamental misunderstanding of the appraisal by Three Dragons.

The new NPPF and associated guidance clearly requires any professionals providing viability evidence and preparing the report to Local Authorities or the Inspectorate to be qualified. They should, at the very least, be a member of the RICS Valuation Surveyors and preferably also a Registered Valuer. We note that the authors of the appraisal are not members of the RICS and it is unclear what their professional qualifications are in relation to valuing residential and commercial property and whether or not they can adhere to the guidelines set out in the new RICS Financial Viability in Planning: Conduct and Reporting May 2019.

The RICS Financial Viability In Planning (1st edition) 2012 Guidance Note encouraged practitioners to seek to resolve these differences of

	<p>opinion, where possible, in the context of viability being a matter of evidence, valuation and exercising judgement.</p> <p>The PPG 2019 also emphasises the need for:</p> <ul style="list-style-type: none"> <li>• evidence-based judgement</li> <li>• collaboration</li> <li>• transparency and</li> <li>• a consistent, standardised approach.</li> </ul> <p>All these themes were central to preparing RICS Financial Viability In Planning: Conduct and Reporting 2019 <sup>1</sup> which sets out mandatory requirements that inform RICS practitioners on what must be included within reports and how the process must be conducted. This is to demonstrate how a reasonable, objective and impartial outcome without interference should be arrived at to support the statutory planning decision process.</p> <p>We do not consider the Three Dragons Report procedure accords with these requirements.</p>
<p><b>Q17</b></p>	<p><b>Question</b> Are there any failures in the DTC?</p> <hr/> <p><b>Response</b> There is clear evidence of East Devon refusing to co-operate. Most pertinently, not providing the Excel workbook they used when preparing their residual valuation.</p> <p>Residual appraisals are very sensitive to minor variations of inputs and timing. Although a summary has been published, this does not provide sufficient detail to be able to analyse whether the inputs accord with those stated in their report or if the cash flow profile is correct.</p> <p>They have withheld information which would enable proper review of their viability appraisals.</p> <p>Despite repeated requests including a Freedom of Information Request, a working model of the residual appraisal has not been provided. Without this, proper review of the appraisal and mathematical calculations behind it cannot be undertaken.</p> <p>This calls into question the validity of the residual output, level of S106, infrastructure cost and affordable contribution.</p>

<sup>1</sup> RICS Financial Viability in Planning: Conduct and Reporting became mandatory for RICS members in September 2019, after the Three Dragons report was published. However, similar requirement was imposed by more general documents RICS: Surveyors acting as Expert Witnesses and the NPPF that requires viability assessment to be made public.