

The Cranbrook Plan: Examination

Matter 9: Infrastructure Delivery

Statement on Behalf of East Devon New Community
partners

Matter 9 – Infrastructure Delivery

Issue 12: Is the Infrastructure Delivery envisaged by Policy CB6 justified and realistic?

Q125. What is the Council's rationale for infrastructure delivery in the manner set out in the plan; which elements are negotiable, and which are fixed? What is the cumulative impact of the infrastructure requirements on viability?

1. Matter 9 (Infrastructure delivery); Matter 13 (Infrastructure Phasing); Matter 14 (Infrastructure delivery); and Matter 15 (Viability) are closely related and raise similar issues. EDNCp have set out their detailed concerns relating to the viability of the DPD proposals and related issue of infrastructure delivery in relation to Matter 15 which should be reviewed and considered in the discussion to take place under Matter 9 – and to avoid repetition of the material in the EDNCp Matter 15 Statement.
2. In summary, on the particular matter of infrastructure delivery, EDNCp would make the following points:
 - a) the comparison set out in Appendix A to the EDNCp Matter 15 Statement (in appendix 2) suggests that the anticipated infrastructure and section 106 burden on the expansion areas of Cranbrook now proposed in the DPD and the costs that have been and are being incurred in relation to the existing consented scheme for some 3500 dwellings. The comparison in the former case is £28,300 per dwelling in the DPD; and £10,900 in the existing scheme (excluding in the latter case, CHP costs funded significantly through external financial support);
 - b) the latest viability evidence prepared by EDNCp and attached as Appendix D to the EDNCp Matter 15 Statement mimics the Council's viability model over not just the Bluehayes development (as previously) but across the 4,170 dwellings and allocations proposed in the DPD. It indicates a development that falls a long way short of viability. The latest note sets out the reasons for this and includes, in particular, the scale of the section 106/infrastructure requirement
 - c) The scale of the infrastructure cost and section 106 expectation adds to the risk attached to the development
 - d) There is less prospect of grant or loan funding now than was known about at the time of the commencement of Cranbrook - in particular the up front Kick Start funding that was made available to support the early phases of development. The developer risk grows accordingly. In addition there is little comfort from the District Council that funding support may be replicated.
3. Finally, as important context, the most recent independent consideration given to viability at Cranbrook was in the context of the present adopted CIL Charging Schedule. Mr Thickett's Report of the Examination of the Draft CIL Charging Schedule is attached as Appendix H to the EDNCp Matter 15 Statement for reference. By way of comparison Mr Thickett noted in para 15 that the then assumed section 106/infrastructure costs was £3,879.50 per dwelling, and that the proposed £125 per sq metre CIL rate could not be supported in the expansion areas. Instead, allowing for an appropriate buffer, a rate of £68 per sq metre was proposed and adopted. Assuming an average GIA per dwelling of 95sq metres (as assumed in the latest Three Dragons viability study) then the collective obligation then considered appropriate was £6,460 per dwelling (95sq m x £68

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- per sq. metre) per dwelling of CIL plus £3,879 of section 106 = £10,339 per dwelling – dramatically below that now proposed.
4. In order to assist the Inspector, EDNCp have prepared a further Update Note of the viability issues and assumptions underpinning the Cranbrook DPD. This has been prepared by Whiteleaf Consulting with inputs from Nigel Jones of Chester Commercial. In order to most assist the Inspector, the latest (January 2020) Note updates information where necessary but in particular, mimics the Council's viability model over not just the Bluehayes development (as previously) but across the 4,170 dwellings and allocations proposed in the DPD. Again the headline is that the policies in the DPD and the assumptions made in the Cranbrook DPD result in a development that falls a long way short of viability. The latest January 2020 note sets out the reasons for this. The Note is attached as Appendix D to the EDNCp Matter 15 statement.
 5. In consequence EDNCp considers that the DPD fails to satisfy the advice in Para 29 of the Viability PPG that: "the total cost of all relevant policies should not be of a scale that will make development unviable" and hence is therefore a departure from NPPF guidance.
 6. As a generality both "important" and "critical" requirements in the IDP are treated as a \$106 cost in the Viability Appraisal in support of the Cranbrook DPD. Therefore, the treatment as critical or important is has so far been largely irrelevant to the Councils stance.
 7. It is our view that greater rather than less distinction should be drawn between those infrastructure elements regarded as critical and those that are considered important or indeed desirable and considerably greater scrutiny should be applied to the planning obligation tests. More will have to be negotiable. As it presently stands the expectations are unviable and a balance point needs to be found. In the absence of constructive dialogue – despite EDNCp's best endeavours to undertake dialogue – has clearly not helped and will have to take place.
 8. Again by way of reference, EDNCp note that the previous 2015 East Devon Local Plan IDP ranked infrastructure across the district in the same manner but with just £44.8m critical, £167.4 necessary and £30.9 as desirable (para 6, Appendix G to Matter 15 Statement). The Cranbrook IDP disproportionately determines that virtually all infrastructure is critical with some £60m or over 50% of the section 106 list deemed to be critical.
 9. As is set out in the EDNCp Matter 15 statement, throughout the preparation of the DPD, EDNCp have sought to engage with the Council mindful of the obligation in the PPG for the Council to collaborate with developers (among other stakeholders) with the specific purpose to "*ensure that policies are realistic and that the total cumulative cost of all relevant policies will not undermine deliverability of the Plan*" (Para 002).
 10. Examples of correspondence to the Council in this regard are set out as appendices in the Matter 15 Statement seeking engagement on viability issues prior to the submission of the DPD. In the event the DPD was submitted to the Secretary of State in July 2019. The response received from the Council effectively makes no amendments or further attempt to strike the balance between policy expectations and viability. As EDNCp understand the Council's approach, regrettably (as despite repeated efforts by EDNCp no serious or constructive dialogue has taken place with EDDC), it is that it will be for the Examiner to consider the arguments and evidence put by both sides. No draft of the Viability Study was published, and the final version of the Viability report (dated January 2019 but only published in February 2019) was only made available alongside the Submission version of the DPD which had been finalised and published for approval a few days later by the EDDC Strategic Planning Committee in February 2019.
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11. The DPD has been rushed out on the basis of the Council's viability assessment that was produced at the last minute and with little or no real engagement despite numerous requests for real engagement by EDNCp. Viability is a fundamental issue to be addressed and it is pivotal to the future delivery of Cranbrook that this element of the DPD is fully scrutinised and set at a level that doesn't preclude delivery. If not the DPD will place the rest of the Local Plan and District at risk.
 12. The context here – a Cranbrook DPD - is different to a conventional Local Plan. The DPD is intended to help delivery of Cranbrook. The delivery of Cranbrook is critical here in East Devon as the delivery of Cranbrook to date has successfully enabled East Devon to meet housing requirements in a sustainable manner and to resist unsustainable development elsewhere in the District.
 13. In a normal Local Plan process the early adoption of a Plan may be expected to encourage the delivery of much needed housing. In this instance – for the reasons set out below and in the regulation 19 representations, the early and quick approval of the Cranbrook DPD will have the opposite effect. Once the remaining 1000 plus dwellings are completed within the existing approved consents, the viability issues are such that Cranbrook delivery will slow or halt and pressure will grow for development elsewhere in the District contrary to the East Devon Local Plan.
 14. EDNCp believes that the viability is so far awry that the cost of section 106/infrastructure needs to be reduced by something of the order of £60million plus (for further discussion in the Examination) and consideration given to the affordable housing requirements.
 15. After your careful consideration of the evidence in relation to viability, we would urge you to require EDDC to constructively negotiate with EDNCp and other objectors (as appropriate), to achieve a cost saving from the proposed infrastructure/section 106 costs at a level that will allow the scheme to be delivered in a viable manner, and to amend the Plan/IDP accordingly – rather than rush to the unhelpful adoption of the DPD. If, upon consideration, you consider that the savings required are a different figure then please set out your expectations of necessary cost savings. EDNCp confirm that they are ready and willing to negotiate with the Council and have always wanted to do that (see attached correspondence). It is regrettable that the Council has pressed on regardless and that we have in consequence needed to make such substantive representations in relation to viability and infrastructure delivery”.

Q126. Is the Cranbrook Infrastructure Delivery Plan justified and effective? To what extent are the 'strategic' infrastructure projects identified in the IDP necessary for the delivery of the Plan? Is the infrastructure proposed deliverable?

16. There is a need to reduce the infrastructure/section 106 requirement on the Cranbrook expansion areas substantially below the £113million with 15% affordable housing here proposed.
17. As set out above, EDNCp ask that the Inspector requires the infrastructure package to be reconsidered by EDDC collaboratively with EDNCp and other parties as necessary to identify a realistic package of infrastructure to be set out in the IDP and, where appropriate, the policies of the DPD.

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18. This will need to take account the feasibility of delivery, the necessity and proportionality of the contributions sought from Cranbrook in the IDP. Without wishing to prejudge that process, and the consultation that EDDC may wish to undertake with members EDNCp would offer some observations (for the purposes of discussion) as follows.
 19. We have set out a number of observations where we do not feel that the policy aspirations of the Plan are sound (see EDNCp representations on a number of DPD policies – often the result of a failure to be consistent with national policy).
 20. The necessity and the cost effectiveness of infrastructure expectations is also a matter of general and specific concern - for instance – a cost of £8.9million to help deliver public transport – the benefits of which are not demonstrated and which in any event are claimed only in relation to the very final phases of development. In this regard Highways England have made representations on the three applications for Treasbeare, the Cobdens and Bluehayes. In its response to the latest Bluehayes application the response refers back to the 2015 applications as follows: *“In our consideration of the cumulative impact of the three 2015 applications the Moor Lane Roundabout was identified as a constraint on the network, and the provision of the Phase 3 works (Tithebarn Link Road) was proposed to address this limitation. A scheme of enhancement was also proposed for the Moor Lane Roundabout junction to provide a further capacity enhancement. In our formal responses to the 2015 applications we concluded that the improvement to the Moor Lane junction was “necessary before Cranbrook can exceed 6,500 occupations unless alternative forms of mitigation in relation to trip rates were agreed”.*
 21. The key here is that in addition to the 3500 dwellings already permitted (and now well advanced), a further 3,000 homes in the expansion areas could be completed with no further infrastructure other than the provision of the Tithe barn link road. The Tithebarn link road is now complete. Only in the event of the Tithe Barn link not being complete was there a requirement for alternative forms of mitigation – such as public transport enhancements to mitigate a total of 6,500 dwellings.
 22. The Councils IDP proposes some £8.9million of public transport improvements which in effect is required only for those dwellings between no 6500 and 7670 (with the 4170 in the expansion areas). Per dwelling this comprises some £7,600 per additional dwelling above 6,500 dwellings. Mitigation on this scale is therefore neither proportionate or necessary. Nor the footbridge between Bluehayes and Treasbeare.
 23. There is a collective and overlapping cost of (£27million) of Combined Heat and Power PLUS carbon reduction measures to accelerate construction standards over and above that set out in the Building regulations with their ever-enhanced standards. EDNCp has set out its concerns regarding the soundness of such policies. Moreover:
 - a) IDP and DPD makes it clear that to continue with CHP across the expansion areas as has been the case to date, an additional plant will have to be constructed
 - b) In any event, the present system was heavily subsidised by grants and financial assistance – which will not be available in relation to any new system
 - c) the existing system continues to run off gas and is not – as was intended - run by the more sustainable pyrolysis process (using wood chip). The operator continues to assert that the system will continue to have to run off gas and is not therefore delivering the
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outputs that EDDC hoped to achieve. Nor will a future system given costs and technical issues.

24. The provision for CHP in the IDP and in the DPD should therefore be revisited to reflect the absence of an acceptable alternative and the present NPPF policy position namely that the units will need to be built in line with the Building Regs at the time of consent and that no additional policy expectation should be considered acceptable.
25. There are other elements of the Infrastructure package which may also prove unnecessary as they are presented – although it is difficult to understand in the absence of more detailed cost breakdowns. For instance, the Health and Well Being centre is said to cost £16.3 million of which the Cranbrook expansion areas are expected to contribute £8.75 million (as well as the land which is already provided for in the existing section 106 agreements). EDNCp are not aware of a specification for the health and well being centre and have no evidence base to judge if what is being proposed is justified in terms of the facilities that are being costed. Equally there is no evidence to support why the Cranbrook expansion areas – with all of their other funding requirements should provide 53.8% of the costs of whatever is proposed, in addition to the land that Cranbrook has already provided. The same applies to the leisure centre costs and proportion. The evidence base does not justify the provision made.
26. Indeed there are numerous items in the section 106/infrastructure list where the expansion areas should be providing a proportion of what is being sought or less of a proportion than that that is being sought.
27. On the matter of deliverability the feasibility and practicality of delivering the Health and Wellbeing Centre as costed is a matter of significant doubt as the practicalities are such that the constituent parts are increasingly looking to employ different delivery models.
28. EDNCp are also concerned that the IDP and DPD policy anticipates as a development cost items that can and should be delivered by the private sector on a commercial basis. By way of example this applies to extra care housing (£3.5m), and the retail asset endowment.
29. In terms of Transport, Appendix 2 of the IDP confirms that bus service improvements including delivery of a second phase new bus service (Item 16) has been categorised as a 1-C critical infrastructure measure. The provision of an additional passing loop on the Waterloo – Exeter train line (Item 17) to increase rail service frequencies has been categorised as 3-D; therefore only a desirable measure. However further clarity is required, as Item 18 suggests that other public transport measures “including bus services, enhanced rail frequency and 2nd train station” have been categorised as a 1-C critical infrastructure measure which seemingly contradicts the priority ratings of Items 16 and 17. The 1-C priority rating provided for Item 18 of Appendix 2 also contradicts statements provided at paragraph 2.18 of the CIDP, which states that: “either a second rail station, or improvements to the existing station are important (priority two) requirements” (i.e. 2-I). It is also noted that provision of a second station and increased rail frequency will only be achievable through implementation of a passing loop adjacent to the mainline railway line (a measure currently categorised at 3-D). A 3km passing loop would be required to significantly increase capacity and frequency of rail services with an estimated cost of £50m (Item 16). However, no funding streams have been identified to deliver this and this figure is far in excess of what the scheme could provide for in this regard. Further work undertaken by the Railway Consultancy affirms the lack of realistic prospect, and indeed benefit, of securing a second station (Appendix A)

30. This is not a comprehensive list of the issues with the infrastructure list.

Q127. The IDP recognises that Treasbeare and Cobden's have higher burdens re infrastructure delivery. How will this policy ensure that these costs are balanced to equate the burden between the remaining expansion areas?

31. EDNCp note the provision in the IDP and the DPD for a form of equalisation between the expansion areas. In principle EDNCp support this as a means of ensuring the effective delivery of the expansion areas – albeit that the costs of this infrastructure is not agreed and will require further discussion and agreement with EDDC.

Q128. How might infrastructure provision/requirements be better balanced between Cobden's and the Grange?

32. No further comment.

Q129. How will a fair allocation of costs/responsibilities be achieved?

33. EDNCp note the provision in the IDP and the DPD for a form of equalisation between the expansion areas. In principle EDNCp support this as a means of ensuring the effective delivery of the expansion areas - albeit that the costs of this infrastructure is not agreed and will require further discussion and agreement with EDDC

Q130. Is Policy CB6 justified and effective? Are the infrastructure requirements consistent with national policy?

34. No. See answer to question 126.

Q131. What is the purpose of the Built-Up Area Boundaries (BUAB) reference in Policy CB6? Why would the allocation boundaries in CB2 to CB5 and the stand-alone policy CB8 be insufficient?

35. EDNCp have made representations objecting fundamentally to the employment of built up area boundaries. These are further articulated in relation to Matter 10 Issue 13.

36. Fundamentally there is no evidence base that justifies the specific location of the Built up Boundaries imposed in the DPD. They are taken from the Cranbrook Masterplan documents although all of the documentation relating to the DPD is clear that the Cranbrook Masterplan document is not part of the DPD and is for illustrative purposes only. It cannot be a detailed master plan as it fails to reflect site specific information and technical studies (unlike for instance the submitted planning application).

37. One consequence of the Built up Area boundaries within the Bluehayes area is the potential constraint placed on some 3 hectares or so of potential residential development – for no sound reason (the drainage basin being proposed in its place being inconsistent with sustainability principles and the technical study of drainage options that accompanies the Bluehayes planning application). The Built up boundaries as proposed may preclude the delivery of the capacity required in policies CB2-5 of the DPD and will undermine the viability assumptions – for no evidenced reason.

38. To answer the particular question regarding CB6, as drafted the policy – wholly inappropriately – might preclude the provision of infrastructure associated with development that is considered appropriate through the detailed master planning and planning application process. The reference “within the Cranbrook Built-Up Area” should be deleted from the first line of Policy CB6. So should the last sentence.
39. There is no reason not to rely simply on the allocation boundaries in a manner consistent with the East Devon Local Plan.

Q132. How will the Council ensure that the town centre uses are delivered in a manner which would be able to sustain additional homes. What would be the implications of additional phases progressing in the absence of the town centre facilities?

40. EDNCp have set out a number of detailed representations in relation to Policy CB22 and the Town Centre. Matter 18 addresses the town centre also in detail and Question 221 the delivery of the town centre. EDNCp set out its further thoughts in its statement in relation to Matter 18 which should be read and considered in conjunction with Q132. Suffice to say that robust progress is being made with the Council in the progression of the town centre with the expansion areas critical in the underpinning of the town centre proposals.

Q133. How will the increased demand for school places arising from the development be accommodated prior to the completion of the new school? How will this impact on surrounding schools (particularly Whimble Primary School)?

41. No further comment

AQ12. Are any Main Modifications proposed in relation to Issue 12?

a) Reference to the Cranbrook Built-up Area

42. For all the reasons set out above the following modifications are proposed:
- any reference to Built-up areas be deleted from the wording of CB6;
 - the designation of Built-up areas be deleted from the Policies Map with reliance placed instead on allocation boundaries insofar as any boundaries are necessary (as mooted in the Sustainability Appraisal);
 - the inclusion in the plan - for absolute clarity the reference from the SA - “It is reiterated that the Masterplan is not part of the DPD, it is evidence that has informed the DPD...”

b) Delivery of Infrastructure

43. For the reasons set out above a number of modifications and actions appear to be necessary.
44. Individual infrastructure items will need to be scrutinized in terms of satisfying regulation 123 requirements and in terms of costs and other potential funding - at the DPD examination. The IDP would beneficially be updated with additional prioritisation to enhance its flexibility and to demonstrate deliverability.
45. The following policy amendments would assist in helping Policy CB6 to become sound:
- amend Para 2 as follows: Unless a consortia of developers who are working together can demonstrate both full co-operation and ability to deliver all necessary infrastructure

- identified within the plan which has been costed and found to be viable, it is expected that to achieve delivery in a fair and co-ordinated way, an equalisation of costs...”
- amend penultimate paragraph by deleting last sentence : “it is expected...”
 - replace deleted sentence with first line of para 3.47: “Infrastructure and financial infrastructure contributions will be secured through the use of s 106 legal agreements”
 - add to the end of new sentence: “insofar as they are necessarily directly related and proportionate to the expansion areas and do not undermine the delivery of the 4170 new homes to be provided”.
46. With regard to the overall scale of likely section 106 obligation anticipated, they are extremely large section 106 contributions that are unaffordable and render the scheme unviable.
47. For the DPD to be viable it continues to be necessary to:
- reduce the expectations placed on the development in respect of affordable housing and other costs; and/or
 - reduce the expectations placed on the development in terms of infrastructure delivery and section 106 obligations.
48. To assist the Inspector the work completed by Whiteleaf and Partners suggests that on the basis of their evidenced assumptions in Appendix E then to ensure a viable development then the affordable housing contribution would need to be reduced to 10% AND a substantial proportion of the development costs/section 106 expectations would be unaffordable (potentially some £60m of the £113m spelt out in the Cranbrook IDP). This would need to be coupled with other more realistic assumptions relating to other inputs into the development model.
49. As set out above after your careful consideration of the evidence in relation to viability, we would urge you to require EDDC to constructively negotiate with EDNCp and other objectors (as appropriate), to achieve a cost saving of some £60m from the proposed infrastructure/section 106 costs and to amend the Plan/IDP accordingly – rather than rush to the unhelpful adoption of the DPD. If, upon consideration, you consider that the savings required are a different figure – then please set out your expectations of necessary cost savings. This is critical if delivery of Cranbrook and housing in East Devon is not to be undermined.
50. As indicated in the PPG a balance needs to be struck. The DPD seeks to achieve all possible outcomes in terms of Healthy new towns, Zero carbon, GI, custom built housing; Design Codes; digital connectivity; new railway infrastructure; ultra low emission charging and so on and so on.
51. With regard to potential savings in the infrastructure/section 106 obligation expectation, a number of factors should be considered including:
- a. The lack of soundness evident in a number of the policy aspirations of the Plan (see EDNCp representations on a number of DPD policies – often the result of a failure to be consistent with national policy);
 - b. The cost effectiveness of infrastructure expectations - for instance but not in any way exclusively:
 - a cost of £8million to help deliver public transport – the benefits of which are not demonstrated and which in any event are claimed only in relation to the very final phases of development;
 - a collective and overlapping cost (£27million) of Combined Heat and Power PLUS carbon reduction measures;

- c. the ability to deliver elements sought – e.g. the feasibility and practicality of delivering the Health and Wellbeing Centre when the constituent parts are increasingly looking to different delivery models;
 - d. those elements of the package that need not be funded by the development but that are more effectively and more likely delivered by the private sector – for instance extra care housing (£3.5m), the retail asset endowment.
52. Equally it is apparent that there is no detailed costing for a number of elements of the IDP or that this is an exhaustive list. It remains high level and detailed viability testing is likely to be necessary at the application stage to reflect – revised costs, detailed masterplanning, the availability of their party funding etc.
53. That further viability assessment is likely to be necessary given the uncertainty and inaccuracy presently attached to the evidence base should be made explicit in the Inspectors report.

APPENDIX A: CRANBROOK DEVELOPMENT RAIL NOTE

