

CRANBROOK LOCAL PLAN EXAMINATION

REPRESENTATIONS

MATTER 16

SUBJECT SPECIFIC POLICIES (1)

PREPARED ON BEHALF OF WADDETON PARK LTD

January 2020



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SUBJECT SPECIFIC POLICIES (1)

1. Issue 25: Is the policy for Suitable Alternative Natural Green Space (SANGS) CB15 justified and effective?

1.1 Question 194

Is the SANG funding for maintenance justified and effective, given other green space does not attract funding?

1.1.1 The point about SANGS provision is that it is a critical element of green infrastructure that, if not provided to an appropriate standard, in a timely manner, will fail to effectively mitigate the impacts that will arise from the development proposed in the plan (that the Council's own evidence has identified), thereby leading to harm upon the FCS of the Natura 2000 sites.

1.1.2 Therefore, having regard to the relevant legislation and case law, there must be certainty in relation to the timely delivery, quality and effectiveness of the SANGS proposals embodied in this plan.

1.1.3 In order to ensure the effectiveness of this mitigation in the long term the need for such mitigation to be provided in perpetuity is set out in the EDLP (Strategy 47). That need is repeated in the text of CB15. However, in this plan the importance of it takes on a new dimension. The EDLP was predicated upon CIL contributions (with a first draw on those payment for Natura 2000 habitat mitigation measures) – thus there was certainty that payment would be made if development proceeded. This plan proposes a nil CIL rate so the level of any funding that can be secured for maintenance is uncertain. As a result there is greater uncertainty about the effectiveness of SANG maintenance provision than existed when the EDLP was found sound.

1.2 Question 196

How might the length of SANG walks be addressed given that at 2.3km falls short of the recognised length of 2.5km length walks identified in the HRA?

1.2.1 It's important to acknowledge that unless SANGS achieve a particular quality/usability standard they will not perform the function for which they are intended, and the detrimental impact upon the FCS of the Natura 2000 sites will arise (i.e. drawing

potential visitors away from those sites). Qualitative assessment of SANGS is therefore important.

- 1.2.2 We have expressed concerns that the Council have not, to date, taken the matter of SANGS provision seriously enough (for example by eschewing the monitoring and review provisions of the EDLP).
- 1.2.3 The issue is not so much the discrepancy between 2.3km and 2.5km – it's the introduction of a phased approach to delivery (that is not enshrined in the EDLP), but is found in the text of CB15. More detail is found in paragraphs 2.7-2.10 of the Delivery Strategy document, and that reveals that walk lengths of 1.3Km are considered acceptable by the Council (so long as they can be extended at a later date).
- 1.2.4 As the Council acknowledge (at paragraph 2.9 of that document) there are likely to be (perhaps significant?) times periods between the delivery of phases of development (and therefore phases of SANG delivery).
- 1.2.5 We ask the question – what happens if a later phase of development fails to take place, or if there is an extended effluxion of time between phases?
- 1.2.6 The question that needs to be addressed is what level of confidence can be placed in a 1.3km walk (possibly without a car park, since that may be provided as part of later phase) providing an attractive alternative to recreating at the Natura 2000 sites? The answer must be little, as must therefore the answer be to the level of certainty in relation to a detrimental effect upon the FCS of the Natura 2000 sites not occurring.

1.3 Question 197

To what extent is the SANG policy compliant with the EDLP policies 47 and 10?

- 1.3.1 As set out in our response to Matter 1, Issue 1, Question 4 the SANGS policy in this plan, as set out in CB15, as supported by the SANGS Delivery Strategy document, is a different approach to that enshrined in the EDLP.
- 1.3.2 It is telling that neither Strategy 10 or 47 is referenced, nor considered, in either of these later EDDC documents (although it has been referenced in other documents produced on the Council's behalf – see Land Trust presentation extracts, appendix 1).
- 1.3.3 The approach proposed by CB15:

- is not subject to review
- is not strategic – it's 'developer remnant' led (some of the safeguarded land relates poorly to the strategic approach set out in Strategy 10)
- is not underwritten by the Council/CIL
- is phased/incremental, not comprehensive and effective upon occupation.

1.3.4 In effect the quality and comprehensiveness of the 'mitigation solution' enshrined in the EDLP is being significantly watered down in order to allow development to proceed on significantly easier terms than were relied upon in order to reach a conclusion of lack of detrimental impact upon the Natura 2000 sites when the EDLP was assessed. The cost of providing those easier terms is an increased likelihood of detrimental impacts upon the FCS of the Natura 2000 sites arising.

1.3.5 The EDLP Inspector, when considering this matter, acknowledged the need to strengthen Strategy 10 (see IR [Appendix 2 to Matter 1], paragraph 25), and the need to monitor and review the plan's strategy if delays to the provisions of SANGS occurred (having regard to the provisions of Strategy 47 to review and prevent development occurring if mitigation had not been provided in a timely manner). Bearing in mind the clear review commitment in Strategy 47 (April 2018) it can hardly have been in the Inspector's mind that the strategy review would entail proceeding with development by eschewing the review provisions and watering down the qualitative and quantitative requirements for SANGS provision (as this plan proposes). There can (on the basis of the Council's evidence) be only one outcome from that approach, and that is increased uncertainty about detrimental impacts upon the Natura 2000 sites occurring.

1.3.6 It is much more likely that the EDLP Inspector envisaged the identification of alternative sites than could assist in the delivery of the (necessary and pre-requisite) delivery of suitable SANGS. CB15 seeks to introduce greater flexibility into SANGS provision (see Delivery Strategy, paragraph 2.10, Cran021). What is required is greater flexibility in development site identification, informed and led by an approach to the implementation of Strategy 10 (and that's not what this plan comprises).

1.3.7 We therefore conclude that it is clear that CB15, and the SANG Delivery Strategy (Cran021), are not compliant with EDLP Strategies 10 and 47.

1.4 Question 198

To what extent is there justification for the SANG to be in place prior to first occupation of the dwellings?

- 1.4.1 The EDLP Inspector was clear on the need for (SANGS) mitigation to be implemented in time to satisfactorily mitigate impacts arising from new development and the need to monitor this – IR [Appendix 2 to Matter 1], paragraph 25 –

*"A lot remains to be done but I am satisfied that the Council and its partners are working together to ensure that SANGs will be provided in time to satisfactorily mitigate any impacts on the SPAs. **MMs 22, 23, 24 and 25** strengthen Strategy 10 and its reasoned justification and are necessary to ensure that this is the case. Related to this and necessary to ensuring a coordinated approach is the Council's commitment to produce a Green Infrastructure Strategy (**MMs 92 and 93**)¹¹. However, the situation will need to be monitored carefully and the Plan's strategy revisited if delays to the provision of SANGs prevents development at the West End delivering the number of new homes required at the time required to meet the identified need."*

- 1.4.2 Strategy 47 is clear that "The mitigation proposals....will need to *be implemented ahead of development being occupied.*" This plan does not seek to amend (in accordance with Part 4, paragraph 8 (5) of the Local Plan Regulations) that element of Strategy 47. Accordingly, there is clear justification for SANGS to be in place prior to the first occupation of dwellings.
- 1.4.3 Failure to achieve the delivery of SANGS, prior to first occupation, can only serve to increase uncertainty about the likelihood of adverse impacts upon the FCS of the Natura 2000 sites occurring.

1.5 Question 199

Should SANGS be within or adjacent to the Clyst Valley Regional Park in order to be compliant with the HRA approach?

- 1.5.1 This is another matter that is, essentially, enshrined in the EDLP and that (i.e. in accordance with the provisions of Part 4, paragraph 8(5) of the Local Plan Regulations) this plan does not seek to vary. The wording is drawn from Main Modification 22 [Appendix 2 to Matter 1] that was considered necessary, by the EDLP Inspector, to ensure satisfactory mitigation would be provided. The only difference is that MM 22 provides an additional test of 'with appropriate accessibility'. Clearly it's preferable for SANGS to be provided within or adjacent to the CVRP, however, subject to appropriate (good) accessibility between the SANG and the CVRP, there's not an (EDLP) policy bar on SANG being provided slightly remote from the CVRP (as defined by Strategy 10).

- 1.5.2 CB15 fails to reference Strategy 10 and this appears to permit a much greater degree of flexibility with regard to the location of SANGS, and a downgrading of the 'with appropriate accessibility' test.
- 1.5.3 Bearing in mind the overall approach that the Council are taking (as evidenced by breaching the Strategy 47 review provisions, and the wording of CB15 and the SANG Delivery Strategy) there can be little confidence that the 'appropriate accessibility test' will be applied with any rigor. The 'flexibility lurch' evident in the 'CB15/Delivery Strategy' approach demonstrates that it is likely that SANGS could be brought forward even though it plainly fails the accessibility test.
- 1.5.4 Therefore, in order to provide sufficient certainty that detrimental impacts upon the FCS of the Natura 2000 sites does not arise there is good reason to insist on SANGS being within or adjacent to the CVRP.

1.6 Question 201

To what extent should the reliance on other areas for SANG provision be avoided unless a mechanism of compensation/payment exists?

- 1.6.1 For SANGS to be deemed as being suitable then they must accord with the SANGS criteria and function as effective mitigation.
- 1.6.2 Whilst not all SANG provision need to be within the CVRP, the importance of the CVRP to the attractiveness and effectiveness of SANGS provision should not be underestimated. The more comprehensive the approach, then more likely the approach is to be successful. To fragment SANG provision would undermine the effectiveness of mitigation measures (as well as probably failing the in/adjacent/appropriate access test)

1.7 Question 202

Should the wider green infrastructure strategy to which EDDC is committed be provided prior to the implementation of the expansion areas in the plan?

- 1.7.1 What is unequivocal is that:

"The timely delivery of a suitably sized and appropriately designed Clyst Valley Regional Park needs to be secured within this Plan in order to enable a conclusion that the Plan's housing allocations will not adversely affect the integrity of the Exe Estuary and East Devon Heaths Natura 2000 and Ramsar sites." (EDLP, paragraph 7.12, page 45)

And

"The mitigation proposals, including those of the 'South-east Devon European Site Mitigation Strategy', will need to be implemented ahead of development being occupied.....to ensure that development does not have a net adverse impact upon the integrity of European designated wildlife sites.....This will provide a policy basis and justification for resisting further development or occupation until effective mitigation is delivered in accordance with past development/occupancy" (Strategy 47)

- 1.7.2 The review required by Strategy 47 has not been carried out (hence our FoI request).
- 1.7.3 We do know that circa 2,000 completions have taken place at Cranbrook (see PSD4) with circa another 1,500 with consent (i.e. in the pipeline) and further allocations/applications for a further (circa) 4000 dwellings pending. On this evidence it is plain that the 'strategy review' solution (envisaged by the EDLP Inspector, see IR, paragraph 25 – i.e. the Strategy 47 review) is both overdue and pressing.
- 1.7.4 So, yes, there is plainly a compelling case for the wider Green Infrastructure Strategy and, in particular, the CVRP component of that strategy to be provided – and existing EDLP provisions require that provision.
- 1.7.5 Therefore, whilst not wishing to pre-empt the review it seems perfectly plain that those sites that are able to deliver elements of the CVRP should be prioritised. That appears to be the only way that certainty that impacts upon integrity of the FCS of the Natura 2000 sites will not arise can be achieved.

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Appendix 1 Land Trust Presentation Extracts

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Suitable Alternative Natural Greenspace

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SANG at Cranbrook



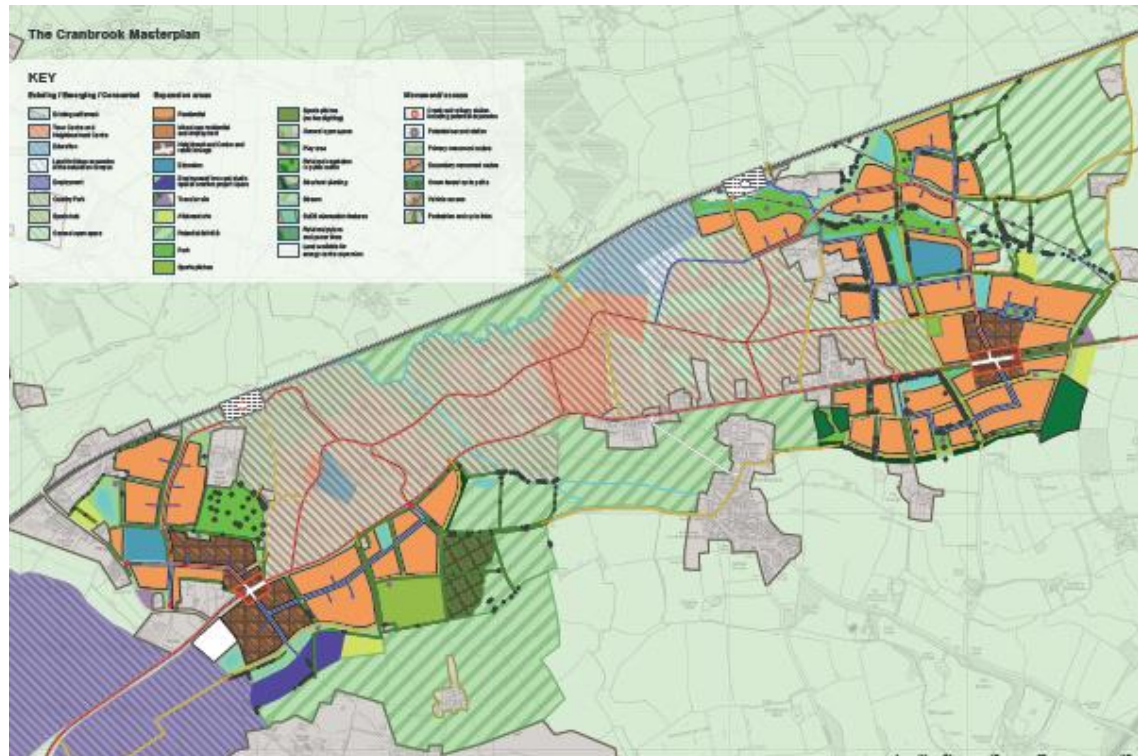
- East Devon District Council as a 'Competent Authority' must ensure residential development does not have an adverse impact upon the 'European Designated Sites' within 10km. Strategy 47 of Local Plan
- Provision of SANG and SAMM contribution will provide EDDC and Natural England the confidence to approve the planning application
- The 4,350 units will all require to be allocated SANG capacity at Cranbrook via the provision of SANG



Cranbrook SANG Requirements



- Semi-natural
- Attractive
- Perceived as safe and easily accessible
- Allows dogs to be let off of their leads with confidence
- Free from unpleasant intrusions
- Minimum 2.3-2.5 km circular route
- 77 hectares
- In perpetuity management and funding



East Devon, Cranbrook Plan Preferred Approach 2017

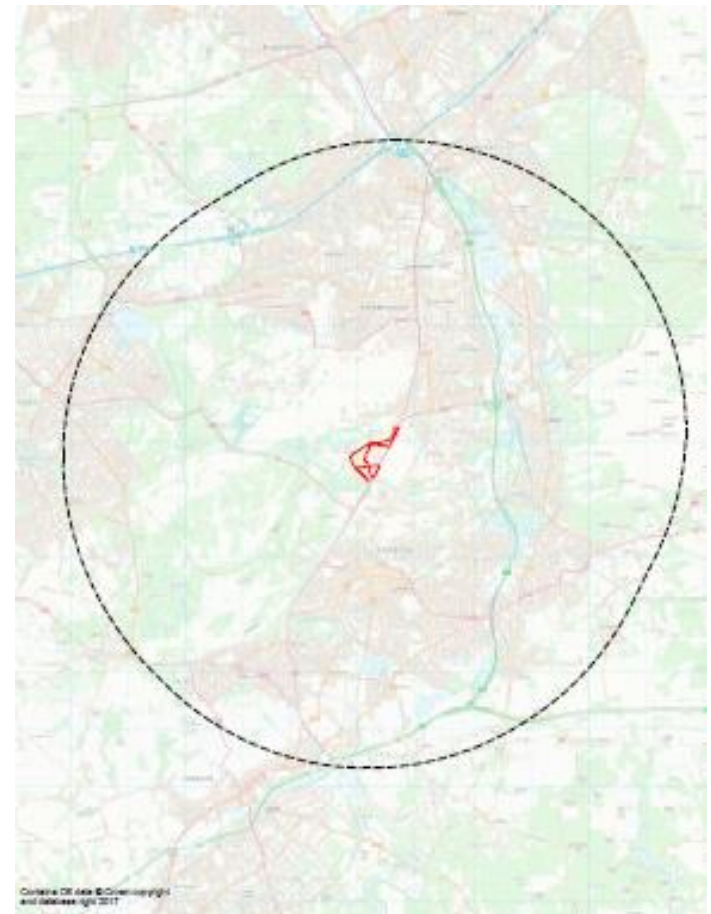
Private and Strategic SANG

- Private SANG has capacity to mitigate only against the one development it was created for.
- Strategic SANG has capacity to allocate mitigation to more than one development.

Strategic SANG Catchment

- 2-12ha SANG has a catchment of 2km
- 12-20ha has a catchment of 4km
- 20+ha SANG has a catchment of 5km.

Blandford House SANG Strategic Catchment Area



Holbury Consultancy Services, 2017