

East Devon District Council
Planning Policy
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

SENT BY E-MAIL ONLY TO
plancranbrook@eastdevon.gov.uk

24 April 2019

Dear Sir / Madam

CRANBROOK PLAN PRE SUBMISSION CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership which includes multi-national PLC's, regional developers and small local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations to the above mentioned consultation and in due course attend Examination Hearing Sessions to discuss matters in greater detail.

The Cranbrook Plan will guide the future growth of Cranbrook to 2031 by allocating additional land for development. The Plan also aims to assist and speed up the planned and viable delivery of Cranbrook as a town that is an attractive place to live and work.

Housing Land Supply (HLS)

The Plan proposes four Expansion Areas for circa 4,170 dwellings distributed as follows :-

- Blue Hayes Expansion Area (**Policy CB2**) for circa 960 dwellings ;
- Treasbeare Expansion Area (**Policy CB3**) for circa 915 dwellings ;
- Cobdens Expansion Area (**Policy CB4**) for circa 1,495 dwellings ; and
- Grange Expansion Area (**Policy CB5**) for circa 800 dwellings.

The HBF have no specific comments on the merits or otherwise of individual Expansion Areas selected for allocation.



Policy CB11 - Cranbrook Affordable Housing

Policy CB11 sets out a requirement for on-site affordable housing provision of not less than 15% of the total dwellings on residential sites of 10 or more dwellings. An affordable housing tenure of 70% social and affordable rent and 30% intermediate or other is sought. If proposed provision is less than the policy requirement then applicants should submit evidence on viability assessment which should be based on full financial disclosure. Where lower provision is agreed an overage clause will be sought. When justified off-site provision or financial payments in lieu will be permitted.

As set out in the 2019 NPPF the Cranbrook Plan should set out the level and type of affordable housing provision required together with any other needed infrastructure but such policies requirements should not undermine the deliverability of the Plan (para 34). The cumulative burden of policy requirements should be set so that most development is deliverable without further viability assessment negotiations (para 57).

Viability assessment is highly sensitive to changes in its inputs whereby an adjustment or an error in any one assumption can have a significant impact on the viability or otherwise of development. It is important that the Council understands and tests the influence of all inputs on viability as this determines if land is released for development. The Council's viability assessment is set out in CIL Review & Cranbrook Plan Viability Study dated January 2019 by Three Dragons with Ward Williams Associates. This assessment concludes that a lower level of affordable housing provision of 15% (in comparison to Strategy 34 of the adopted East Devon Local Plan) is justified if the delivery of required infrastructure for transport, sports, leisure and health facilities is to be maintained.

However this conclusion supposes that all of the Council's input assumptions are correct. There are several concerns about these assumptions namely :-

- S106 allowance of only £16,828 per plot may under-estimate the actual cost of S106 contributions ;
- mid-range developer profit may under-estimate potential risks associated with large strategic sites ;
- the inclusion of costs associated with higher zero carbon standards in the cost of plot abnormalities ;
- limited typology testing of Nationally Described Space Standards ;
- the lack of transparency in accounting for self / custom build plots.

The 2019 NPPF requires not less than 10% of housing on major developments to be available for affordable home ownership (para 64). Under **Policy CB11** the Council is proposing that 30% of 15% representing only 4.5% of total dwellings are affordable home ownership tenure. The Council should provide further evidence to robustly demonstrate its non-compliance with national policy.

This policy is unsound because it is not justified, effective or consistent with national policy. It should be modified.

Policy CB12 Self and Custom Build Housing

Policy CB12 sets out that not less than 4% of the total number of dwellings proposed in each Expansion Areas must be self / custom build plots including a proportion of plots as affordable housing. If an annual review identifies higher demand then more than 4% of the total unconsented dwellings in Expansion Areas must be met unless demonstrated that to do so is unviable. All self / custom build plots must be actively marketed and reasonably priced to reflect prevailing market conditions. Any plots not sold after 2 years of continuous marketing shall be made available for development on the open market.

The Council is reminder of the East Devon Local Plan Inspector's Final Report dated 15 January 2016 (para 46) which amended Policy H2. As submitted the policy sought on sites of 15 or more dwellings to require developers to make at least 10% of plots available for sale to small builders or for self-build. However the Inspector did not see that the planning system could make developers sell land to potential rivals (and at a reasonable price). The policy was amended to encourage rather than to require.

Under the Self Build & Custom Housebuilding Act 2015 the Council has a duty to keep a Register of people seeking to acquire self / custom build plots and to grant enough suitable development permissions to meet identified demand. As set out in 2019 NPPF the housing needs for different groups should be assessed to justify any policies on the size, type and tenure of housing. This includes people wishing to commission or build their own homes (para 61). The NPPG (ID: 57-025-201760728) sets out ways in which the Council should consider supporting self / custom build including :-

- developing policies in the Plan for self / custom build ;
- using Council owned land if available and suitable for self / custom build and marketing such opportunities to entrants on the Register ;
- engaging with landowners who own housing sites and encouraging them to consider self / custom build and where the landowner is interested facilitating access to entrants on the Register ; and
- working with custom build developers to maximise opportunities for self / custom housebuilding.

A policy requirement for not less than 4% self / custom build plots in Expansion Areas should not be sought. This policy requirement seeks to place the burden for delivery of self / custom build plots on developers contrary to national guidance which outlines that the Council should engage with landowners and encourage them to consider self / custom build. Any proposed policy approach should not move beyond encouragement by requiring provision of self / custom build plots on all residential development sites. This policy requirement is not justified. The 2019 NPPF specifies that all policies should be underpinned by

relevant and up to date evidence which should be adequate, proportionate and focussed tightly on supporting and justifying the policies concerned (para 31).

The Council's Self & Custom Build Register alone is not a sound basis for setting a specific policy requirement. As set out in the NPPG the Council should provide a robust assessment of demand including an assessment and review of data held on the Council's Register (ID 2a-017-20192020) which should be supported by additional data from secondary sources to understand and consider future need for this type of housing (ID 57-0011-20160401). The Council should also analyse the preferences of entries as often only individual plots in rural locations are sought as opposed to plots on large housing sites. It is also possible for individuals and organisations to register with more than one Council so there is a possibility of some double counting.

The Council's Register may indicate a level of expression of interest in self / custom build but it cannot be reliably translated into actual demand should such plots be made available. As set out in the Council's Self & Custom Build Demand Report for March 2016 – June 2018 there are 89 entries on the Register of which 3 specified Cranbrook, 13 anywhere in the District and 9 seeking a location in a parish or settlement close to Cranbrook. These entries are typically seeking plots on which to build 3 or 4 bed detached properties. The Council's own estimated demand is 10 self / custom build dwellings per annum in Cranbrook.

The Council's policy approach should be realistic to ensure that where self / custom build plots are provided they are delivered and do not remain unsold. It is unlikely that the requirement for self / custom build plots on large housing sites can be co-ordinated with the development of the wider site. At any one time there are often multiple contractors and large machinery operating on a housing site from both a practical and health & safety perspective it is difficult to envisage the development of single plots by individuals operating alongside this construction activity.

If demand for self / custom build plots is not realised then they would remain permanently vacant effectively removing these undeveloped plots from the Council's housing land supply. Where plots are not sold it is important that the Council's policy is clear as to when these revert to the original developer as opposed to remaining for sale on the open market. It is important that plots should not be left empty to detriment of neighbouring properties or the development as a whole. The timescale for reversion of these plots to the original housebuilder should be as short as possible the 2 year timescale is considered too long. The consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site after the marketing period has finished to build out plots which have not been sold to self / custom builders.

As well as on-site practicalities any adverse impacts on viability should be tested. The Council should provide evidence to indicate any adverse effects on the viability of the Expansion Areas. Under the 2019 NPPF it is the Council's responsibility to robustly viability test the Plan in order that the cumulative burden of policy requirements are set so that most development is deliverable without further viability assessment negotiations (para 57) and the deliverability of the Cranbrook Plan is not undermined (para 34). From the Council's viability evidence the assessment of the impacts of this policy requirement are unclear. The Council should provide an expanded explanation of assumptions (see para 6.3.2 & Footnote 54 of CIL Review & Cranbrook Plan Viability Study dated January 2019 by Three Dragons with Ward Williams Associates).

This policy is unsound because it is not justified, effective or consistent with national policy. It should be deleted. If retained it should be modified to support and encourage self / custom build development.

Policy CB13 – Delivering Zero Carbon

Policy CB13 requires that all development must minimise energy demand and carbon emissions by achieving a minimum 19% carbon reduction improvement over Building Regulations Part L (2013) based on a “fabric first” energy efficiency approach, on-plot renewable energy generation and maximising the proportion of energy from renewable or low carbon sources including connection to the District Heating network. In-use performance of buildings should be as close as possible to designed intent for at least 10% of dwellings in-use energy performance and generation and carbon emissions data should be given to home owners and the Council for a period of 5 years after first occupation clearly identifying regulated and unregulated energy use and any performance gap. Where a performance gap is identified in the regulated use, appropriate remedial action is required.

The Council is reminded that all recently built new homes are far more energy efficient than the rest of the existing housing stock. The HBF is not supportive of the Council's proposed policy approach because it deviates from the decision by Government to set standards for energy efficiency through the national Building Regulations and to maintain this for the time being at the level of Part L 2013 (as set out in *Fixing the Foundations*, HM Treasury, July 2015). The HBF acknowledges that the Government has not enacted its proposed amendments to the Planning & Energy Act 2008 to prevent the Council from stipulating energy performance standards that exceed the Building Regulations but consider that the Council should comply with the spirit of the Government's intentions. Under the 2019 NPPF new development should be planned to help reduce greenhouse gas emissions by its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards (para 150b) which the Government has sought to set out in Building Regulations. The starting point for the reduction of energy consumption should be an energy hierarchy of energy reduction, energy efficiency, renewable energy and then finally low carbon energy. From the start emphasis should be on a ‘fabric first’ approach

which by improving fabric specification increases thermal efficiency and so reduces heating and electricity usage. Plans should identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers to help increase the use and supply of renewable and low carbon energy and heat (para 151c). The 2019 NPPF does not stipulate that the Council should be seeking connection to such energy supply systems indeed such a requirement is unfair to future consumers by restricting their ability to change energy supplier.

The HBF support the movement towards greater energy efficiency via a nationally consistent set of standards and a timetable for achieving any enhancements which is understood by everyone and is technically implementable. Standardisation is the key to success avoiding every Council in the country specifying its own approach to energy efficiency which would mitigate against economies of scale for both product manufacturers, suppliers and developers. It is the HBF's opinion that the Council should not be interfering in the Building Regulations by setting different targets or policies outside of a national framework. There should be a single standard for the whole country to which the Council should adhere.

The approach to delivering zero carbon set out in **Policy CB13** may have a negative impact on the ability for new development to contribute to other policy requirements such as affordable housing provision and other infrastructure. The Council's viability assessment set out in CIL Review & Cranbrook Plan Viability Study dated January 2019 by Three Dragons with Ward Williams Associates incorporates the cost of delivering zero carbon policy compliance under plot abnormalities (see Tables 6.3 & 6.4). The Council should provide a disaggregated breakdown of assumed abnormal costs which clearly identifies financial amounts attributed to foundations, delivering zero carbon policy compliance and any other items categorised as abnormal.

This policy is unsound because it is not justified, effective or consistent with national policy. It should be deleted.

Policy CB17 – Amenity for future occupiers

Policy CB17 requires that all residential development meets the minimum Nationally Described Space Standards (NDSS).

If the Council wishes to adopt the optional NDSS then this should only be done in accordance with the 2019 National Planning Policy Framework (NPPF) (para 127f & Footnote 46). The Written Ministerial Statement (WMS) dated 25th March 2015 stated that *"the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the National Planning Practice Guidance (NPPG)"*. Footnote 46 of the 2019 NPPF states that *"policies may also make use of the NDSS where the need for an internal space standard can be justified"*. The Council

should gather evidence to determine whether there is a need for additional standards in their area and justify setting appropriate policies in the Cranbrook Plan. The National Planning Practice Guidance (NPPG) sets out that *“Where a need for internal space standards is identified, Local Planning Authorities (LPA) should provide justification for requiring internal space policies. LPA should take account of the following areas need, viability and timing”* (ID: 56-020). Therefore the Council should consider the impacts on need, viability and timing before introducing the NDSS.

It is incumbent on the Council to provide a local assessment evidencing the specific case for adoption of the NDSS in Cranbrook. If it had been the Government’s intention that generic statements justified adoption of the NDSS then the standard would have been incorporated as mandatory in the Building Regulations which is not the case.

Need is generally defined as *“requiring something because it is essential or very important rather than just desirable”*. The NDSS should only be introduced on a “need to have” rather than a “nice to have” basis. The identification of the need for the NDSS must be more than simply stating that in the past some dwellings have not met the standard as set out in the Council’s NDSS Evidence Report. The Council should identify the harm caused or may be caused in the future and identify if there is a systemic problem to resolve. The HBF is not aware of any evidence that market dwellings not meeting the NDSS have not sold or that those living in these dwellings consider that their housing needs are not met. There is no evidence that the size of houses built are considered inappropriate by purchasers or dwellings that do not meet the NDSS are selling less well in comparison with other dwellings. The HBF in partnership with National House Building Council (NHBC) undertake an annual independently verified National New Homes Customer Satisfaction Survey. The 2018 Survey demonstrates that 90% of new home buyers would purchase a new build home again and 87% would recommend their housebuilder to a friend. The results also conclude that 93% of respondents were happy with the internal design of their new home which does not suggest that significant numbers of new home buyers are looking for different layouts or house sizes to that currently built.

Under the 2019 NPPF it is the Council’s responsibility to robustly viability test the development in Cranbrook in order that the cumulative burden of policy requirements are set so that most development is deliverable without further viability assessment negotiations (para 57) and the deliverability of the Plan is not undermined (para 34). There is a direct relationship between unit size, cost per square metre, selling price per metre and affordability.

It is agreed that the Council cannot viability test every dwelling typology but only 2 bed / 3 persons flat of 61 square metres and 2 bed / 3 persons house of 70 square metres have been tested (see paras 4.1.2 & 6.2.4 and Table 4.4 of CIL Review & Cranbrook Plan Viability Study dated January 2019 by Three Dragons with Ward Williams Associates). It is more probable that such dwellings would be 2 bed / 4 persons flat of 70 square metres and 2 bed / 4 persons house of 79 square metres. Therefore based on these assumptions

the full impacts on build costs, selling prices, relevant price points and affordability have not been assessed. It is most likely that the impact has been under-estimated.

Where NDSS is to be adopted the impact on affordability should be assessed. The Council should assess the potential impact on meeting demand for starter homes and first-time buyers usually the impact of the NDSS is greatest on smaller 1, 2 and 3 bed dwellings.

The Council cannot simply expect home buyers to absorb extra costs where affordability pressures already exist. In 2017 the median affordability ratio for East Devon was 9.84. The ratio is higher than that of England (7.91), the South West region (8.81) and the County of Devon (9.67). It should be recognised that customers have different budgets and aspirations. Cranbrook population is younger than East Devon with a significant representation of families. 87% of the population is aged under 44 years compared to 43% in East Devon. The Council's own survey of existing residents in Cranbrook confirmed *"it was an opportunity to have a brand new home, they could afford to buy for the first time"*.

An inflexible policy requirement for adoption of the NDSS may reduce choice and effect affordability. Non NDSS compliant dwellings are required to ensure that those on lower incomes can afford a property which has their required number of bedrooms. The introduction of the NDSS could lead to people purchasing larger homes in floorspace but with fewer bedrooms potentially increasing overcrowding and reducing the quality of their living environment.

The requirement for NDSS reduces the number of dwellings per site therefore the amount of land needed to achieve the same number of dwellings must be increased. The efficient use of land is less because development densities have been decreased. At the same time infrastructure and other regulatory burdens fall on fewer dwellings per site which may challenge viability, the delivery of affordable housing and the release of land for development by a willing landowner. It is possible that additional families who can no longer afford to buy a NDSS compliant home are pushed into affordable housing need at the same time as the Council undermines delivery of affordable housing.

The Council should take into consideration any adverse effects on delivery rates of sites included in the housing trajectory. The delivery rates on many sites will be predicated on market affordability at relevant price points of units and maximising absorption rates. An adverse impact on the affordability of starter home / first time buyer products may translate into reduced or slower delivery rates.

The Council should not require NDSS for all residential development. This policy is unsound because it is not justified, effective or consistent with national policy. It should be deleted. If a requirement is retained for a proportion of residential developments to meet the NDSS then the Council should put forward proposals for transitional arrangements. The land deals underpinning

identified Expansion Areas may have been secured prior to any proposed introduction of the NDSS which should be allowed to move through the planning system before any proposed policy requirements are enforced. The NDSS should not be applied to any outline or detailed approval prior to the specified date and any reserved matters applications should not be subject to NDSS.

Conclusion

For the Cranbrook Plan to be found sound under the four tests of soundness as defined by the 2019 NPPF (para 35) the Plan should be positively prepared, justified, effective and consistent with national policy. In summary the Plan is unsound (not positively prepared, unjustified, ineffective and inconsistent with national policy) because of **Policies CB11, CB12, CB13 and CB17**. It is hoped that the Council will consider these representations and undertake modifications to the Cranbrook Plan before submission for examination. If any further assistance or information is required please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**

A handwritten signature in blue ink, appearing to read 'Susan E Green', is positioned above the printed name.

Susan E Green MRTPI
Planning Manager – Local Plans