



Strategic Planning & Research Unit

For and on behalf of
Peer Group PLC

Epping Forest District Council
Site Selection and Appendices 2018 Representations

Prepared by
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0.0 INTRODUCTION

- 0.1 This representation is submitted by the Strategic Planning and Research Unit (SPRU) of DLP Planning Ltd (DLP) on behalf of Peer Group plc in response to the consultation on the 'Site Selection Report and Appendices, March 2018' of the Epping Forest District Local Plan 2011 to 2033.
- 0.2 The representation objects to the Site Selection Report and Appendices, March 2018, of the Epping Forest Local Plan 2011-2033 on the following grounds:
- a. This is an fundamental piece of evidence that justifies the approach to the overall strategy and site selection and as such under Regulation 19 the document should have been subject to the full 6 week consultation instead this has been:
 - i. only subject to 4 week consultation
 - ii. there has been no general notice making the public aware of this consultation
 - iii. there was no further officer report and no Council decision to undertake this informal consultation.
 - b. The Council's Site Selection Report forms an essential part of the site assessment process in the Sustainability Appraisal. As such it should:
 - i. Have been available to the Council meeting and the public on 14 December 2017 when the Council decided to commence Regulation 19 consultation.
 - ii. Have been available at the same time as the consultation on the Sustainability Appraisal
 - iii. Provide evidential background to the identification and assessment of reasonable alternatives in the Sustainability Appraisal
 - iv. Assess reasonable alternatives in a consistent manner
 - v. Justify the selection of sites on an objective and consistent basis
- 0.3 The original Allies and Morrison Master Plan Exhibition undertaken in 2014 identified the Peer Group site in part as Scenario A option 1 and fully in Scenario A options 2 and

3. In Scenario B, the Peer Group site is excluded without any rational explanation or justification.
- 0.4 The Site Selection Report fails to adhere to the requirements of the Sustainability Appraisal in terms of the consideration of reasonable alternatives as follows;
- i. Its failure to assess our Client's site
 - ii. The 'sieving out' of sites based on members informal views and a small sample of public exhibition responses which are said to have been destroyed
 - iii. It does not comply with the legal requirement for the Sustainability Appraisal to consider all sites on an equally thorough and objective basis.
- 0.5 The failure to comply with the legal requirements of Regulation 19 and the requirements of the Sustainability Appraisal make the submission Plan fundamentally flawed and unlawful and it should not, therefore, proceed to Examination.
- 0.6 The quality and objectivity of the Site Selection Report goes to the heart of the robustness of the Sustainability Appraisal, as an evidence base for the Local Plan. Therefore, as the Site Selection Report can be shown to be unsound, the submission Local Plan also fails the tests of soundness.
- 0.7 The submission Plan is not based upon a credible or rigorous evidence base. The Council's rejection of sites, which are reasonable alternatives, is flawed because the grounds used by the Council to justify the rejection of these sites is not consistent, justified or robust.
- 0.8 It is our submission that the Site Selection Report does not provide the above evidence or justification and as such, this representation contends that the present informal consultation and the approach taken within the Site Selection Report is (i) not compliant with Regulation 19 and (ii) is not sound.

1.0 CONSULTATION STANDING

- 1.1 We do not recognise the present consultation as having any standing due to:
- (i) There has been no decision by the Council to hold the consultation; and
 - (ii) The consultation is not compliant with Regulation 19
 - (iii) The consultation is by invitation only and not open to all stakeholders or the public
- 1.2 The Town and Country Planning (Local Planning) (England) Regulation 19 – Publication of a local plan states that:
- Before submitting a local plan to the Secretary of State under Section 20 of the Act, the local planning authority must –*
- a. *Make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35, and*
 - b. *Ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the general consultation bodies and each of the specific consultation bodies are invited to make representations under regulation 18(1).*
- 1.3 The consultation does not appear on the Council's website and only seems to be open to those chosen by the Council. The undated letter sent by the Council to Peer Group plc states that the reason for this consultation is due to the opportunity arising given the current judicial review made by CK Properties Theydon Bois Ltd on the 20th March 2018.
- 1.4 The Judicial Review does not open an opportunity for the Council to seek to remedy the flaws in its Regulation 19 consultation or in its Sustainability Appraisal by the informal and non-regulatory method adopted. These are legal requirements which cannot be repaired informally.

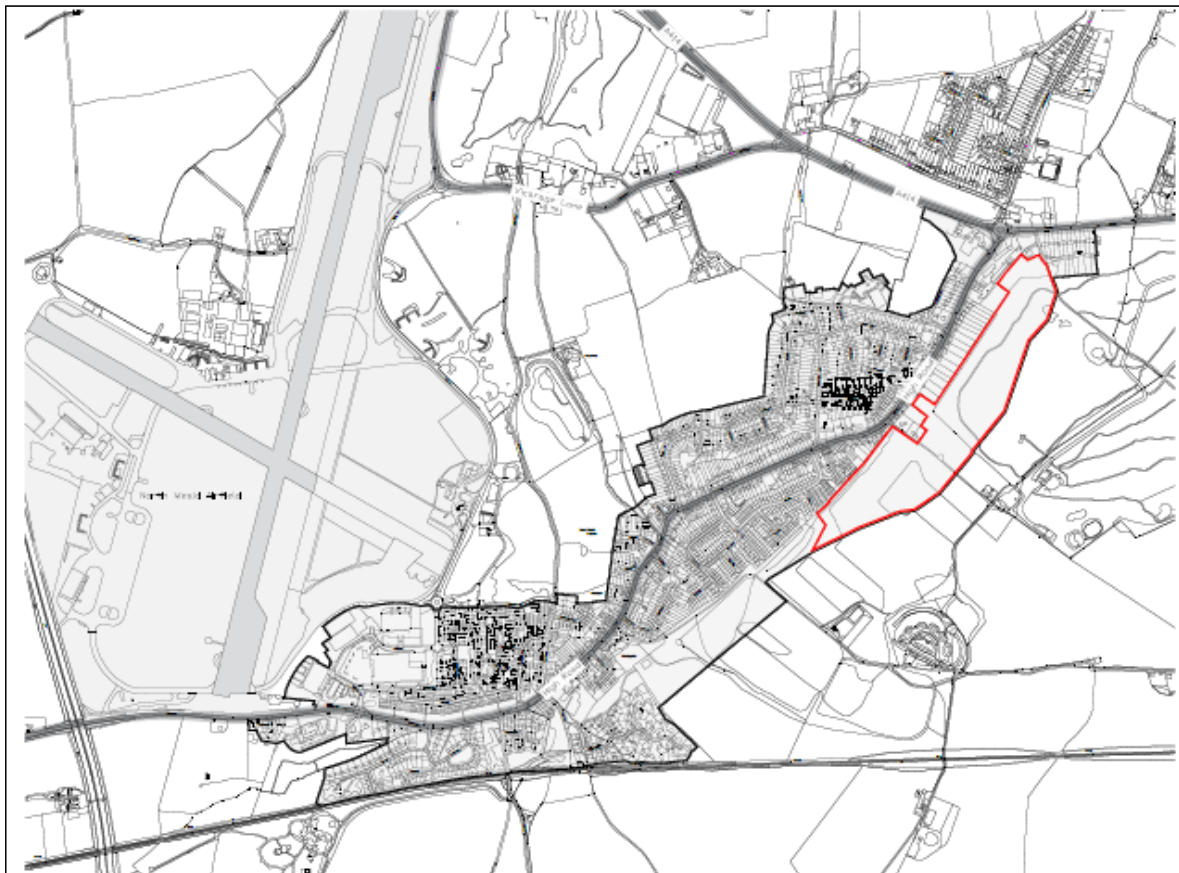
2.0 THE COUNCIL'S ASSESSMENT OF SITES

a) **The Council has failed to assess the correct site and has factually misdirected itself in the assessment of the Peer Group site**

i. Introduction

2.1 The Peer Group site subject to this objection is identified in the figure below

Figure 1: Site Location Plan of Ongar Park Estate, North Weald Basset



2.2 The Council's consideration of individual sites has been informed by the decision regarding 'suitable strategic options'. Paragraph 2.68 of the Site Selection Report 2018 states that:

"In some settlements only a single option for accommodating growth was identified, while in other settlements the location of some sites was not considered to be a reasonable alternative and therefore sites were not identified within a strategic option. Where this is the case, this is justified in the strategic options write-up (refer to Appendix B1.5.2 Results of Identifying Sites for Further Testing)."

- 2.3 Appendices B, C, E and F to the Site Selection Report were not available, at all, during Regulation 19 consultation.
- 2.4 When the missing appendices (Appendices B, C, E and F) to the Site Selection Report were published in the period 14 to 16 March 2018, Appendix B1.3 to the Site Selection Report - Results of Stage 1 and 6.1A/B Assessment for Residential Sites was still not made available by the Council. Appendix B1.3 has subsequently been published and is now on the Council's website.
- 2.5 Appendix B1.3 in relation to North Weald Basset states that the Peer Group site SR-0269-A does not proceed to stage 6.2 due to:
- “Site is located within a less suitable strategic option and will not progress to stage 6.2”.*
- 2.6 Given that our Client's correct site boundary and location has only been correctly identified in March 2018 in Appendix B1.3 of the Site Selection Report, the reason given by the Council for the site's failure to proceed for further testing is incomplete, unjustified and without any evidential grounds for reaching that decision. In fact, the Peer Group land which is excluded from the 'suitable strategic option' is based on an entirely different site area and not the site promoted by Peer Group.
- 2.7 Furthermore as the process of site selection below illustrates, the Council's concept of "less suitable strategic options" for growth results from:
- a. An incorrect representation of the results of the Master Planning exercise in 2014.
 - b. The incorrect site area and boundaries of the Peer Group site in the 2016 Site Selection Report.
 - c. The failure to properly identify or consider the Peer Group site (beyond Stage 6.1B) in the 2018 Site Selection Report.
- 2.8 These issues are explained in more detail below.
- ii. *Allies and Morrison Master Planning Study, Published September 2014***
- 2.9 The Council appointed Allies and Morrison in October 2013 to undertake a North Weald Master Plan study, which was subsequently published in September 2014. This sought to prepare a vision and objectives for North Weald Basset along with potential master

plan options. The master plan study also sought to produce a set of development principles to:

- Preserve the discrete ‘village-like’ character of North Weald Bassett
- Preserve and enhance the settlement’s relationship to the Greenbelt/Countryside
- Consolidate the structure of the settlement to make it more ‘walkable’ and accessible
- Increase the range and quantity of local shops, leisure and community facilities, both in an augmented centre, and in other convenient locations elsewhere
- Increase the range of types and quality of employment space within the settlement
- Enhance the context of North Weald Airfield to help stimulate additional uses and activities which benefit residents
- Improve the quality of local public transport links and mitigate present highways issues

2.10 As part of the, A&M study a community workshop was undertaken on Saturday 25th January 2014, with attendance of around 85 people. The workshop invited members of the community to identify priorities and discuss issues relating to a number of themes to help form the spatial framework including: shops and services; employment opportunities; community services and open space; transport and movement; the role of the airfield; possible benefits of new homes; and key issues involved in provision of new homes.

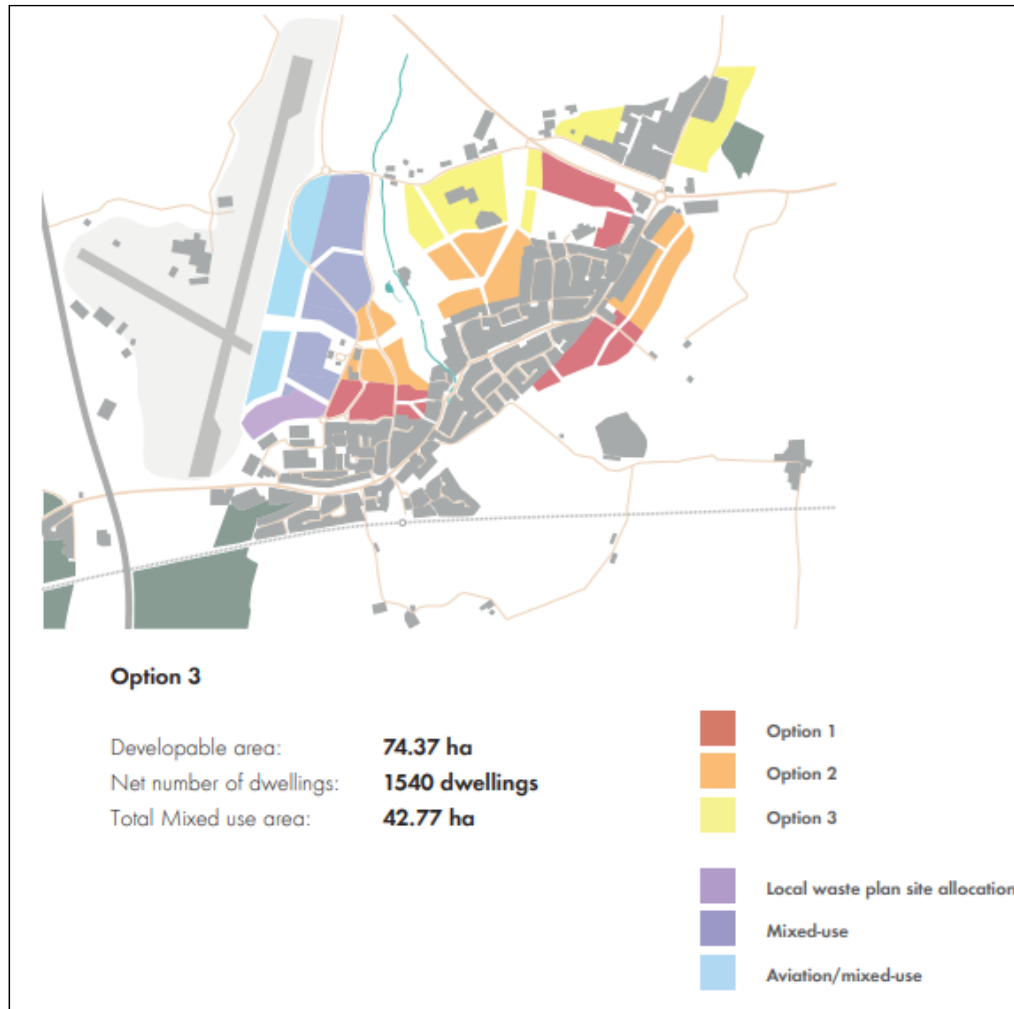
2.11 On 28th June 2014 a Community Exhibition was held to present the preliminary views of Allies and Morrison. 160 members of the public attended, but only 44 of the 160 attendees took part in providing feedback responses.

2.12 The A&M presentation in June 2014 at the village hall looked at two ‘Scenarios’ A and B, which both include providing three options, with mixed-use areas and housing numbers identified. Scenario A (figure 2) proposed development both to the north and south of the settlement, where options 1, 2 and 3 of Scenario A includes part or all of the Peer Group site. Scenario B proposed development to the north of the settlement only and excluded the Peer Group site, without any rationale for doing so.

2.13 The study, when published in September 2014, referred to the June 2014 exhibition and stated on page 142 that of the 44 respondents, only 35 gave an answer to the question

‘Which do you prefer of Scenario A and Scenario B?’ with 20 showing a preference of Scenario B, 8 showing a preference of Scenario A, and 7 having no preference.

Figure 2: North Weald Bassett Masterplanning Study 2014, Map showing Scenario A, Options 1, 2 and 3.



2.14 The Council now states that the feedback forms from the public exhibition have all been lost or destroyed. Nevertheless, the conclusion on the consultation (page 143) states:

“Feedback from the options exhibition suggests that Scenario B (with no growth to the south of the settlement) is the preferred approach for any new development of the area.”

2.15 The Master Plan does not conclude that the Peer Group site, as identified in Scenario A, is a less preferred strategic Option for Growth or unsustainable. In this master plan

assessment the Peer Group site was clearly identified as a reasonable site for allocation.

- 2.16 Feedback from just 35 unidentified members of the public (of which only 20 selected Option B) is not a rational or justified basis for any strategic planning decision.

iii. Site Selection Report and Appendices, September 2016

- 2.17 The Site Selection Report, September 2016, (page 18) states that:

“In terms of distribution of residential development across the District, feedback from the Community Choices consultation and other stakeholders had indicated that:

- growth should be spread across the District rather than focussed in specific settlements;*
- development potential within existing settlements should be maximised, focusing on brownfield land with higher densities where possible, before releasing land in the Green Belt;*
- opportunities for growth of North Weald Bassett should be maximised and;*
- development proposals should support the realisation of the emerging settlement visions.”*

- 2.18 The Site Selection Report 2016 (page 18) goes on to state that in order to support a distributed pattern of growth across the District, more sites (categories 1 to 4) should be taken forward for more detailed testing. This included all sites located in Green Belt adjacent to the settlement (page 19). The report goes on to state that for North Weald Bassett:

“to enable sites identified to the north of the Settlement as the preferred direction of growth in the North Weald Bassett Masterplan to be subject to more detailed testing.”

- 2.19 This statement is factually incorrect the North Weald Bassett Masterplan did not conclude that sites to the north of the settlement was the preferred direction of growth, it simply reported that 20 out of 35 respondents preferred Scenario B, it did not identify or provide any evidence to support that conclusion.

- 2.20 The Council’s statement to justify this preferred strategy for growth was *“informed by the aspirations set out in the North Weald Bassett Masterplan, which identifies the potential for the village to accommodate between 500 and 1,600 homes.”* (page 28).

- 2.21 The Site Selection Report and Appendices, September 2016, provides no further evidence as to the “preferred direction of growth” at North Weald Bassett. Furthermore, that report does not assess the correct size or boundaries of the Peer Group site.
- 2.22 In conclusion, not only does the 2016 Site Selection Report fail to correctly identify or assess the Peer Group site, but it discounts any site on the southern side of the village on the grounds of that just 20 members of the public purportedly expressed a preference not to have development to the south of the village at the 2014 Master Plan Exhibition.

iv. The SHLAA 2016

- 2.23 As well as the Site Selection report 2016 the local plan evidence base also includes the Strategic Housing Land Availability Assessment. The purpose of this document is to consider the availability and deliverability of sites in the context of their potential allocation in a development plan.
- 2.24 The SHLAA 2016 is referenced in paragraph 6.20 of the SA which states that the site selection process took 4 stages and figure 4 (SA page 22) highlights that this was based upon the 2016 SHLAA, not the Site Selection Report 2016.
- 2.25 The SHLAA 2016 refers back to the 2012 assessment for the Ongar Park estate (SR-0296) as a site for 1,200 dwellings. Therefore, the 2016 Site Selection report is based upon the wrong Peer Group site. Nevertheless, the SHLAA conclusion on this much larger site is that it (i) was suitable and (ii) the negative impacts could be mitigated (page 170).
- 2.26 Therefore, regardless of whether the Sustainability Appraisal was based on the SHLAA 2016 or the Site Selection Report 2016 neither of those studies has considered the correct Peer Group site.

v. The Site Selection Report, March 2018

- 2.27 For the purposes of a site selection assessment, the Peer Group site was, for the first time, correctly identified by the Council in this latest report, although confusingly under a very similar number to the larger site assessed in 2016. In this 2018 report the Peer Group site reference is “Site AR-0269A-N”.
- 2.28 The Site Selection Methodology sets out the process of assessing sites. At Stage 6.1A, all sites are scored against six ‘Major Policy Constraints’ which are:

- a. Remove sites where no part of the site is located within the settlement buffer zones
 - b. Remove sites entirely within Flood Risk Zone 3b
 - c. Remove sites which are fully within internationally designated sites of importance for biodiversity
 - d. Remove site if fully within a County owned or managed wildlife site or Council owned or managed Local Nature Reserve
 - e. Remove site if fully in City of London Corporation Epping Forest and its Buffer Land
 - f. Remove site if promoted for residential use and the site is fully located within the Health and Safety Executive Consultation Zones Inner Buffer Zone
- 2.29 Site AR-0269A-N passes Stage 6.1A. Appendix B1.3 describes the results of the Stage 6.1A assessment of the Peer Group site, against the six major policy constraints, as: **'site is entirely or partially unconstrained'**.
- 2.30 At Stage 6.1B, the Peer Group site is summarily rejected, based solely on the Council's Strategic Option for Growth. There is no further consideration or assessment of the Peer Group site. As such, there has been no site specific assessment of the Peer Group site.
- 2.31 The Local Plan Strategy at paragraphs 4.60 to 4.62 explains the process of sifting sites. Of particular relevance, paragraph 4.60 states that:
- "The Local Plan strategy is supported by the strategic options identified through Stage 3 of the site selection process, which identified more or less suitable strategic options for each settlement."*
- Paragraph 4.61 states
- "In order to determine whether a site proposed for residential development accords with the Local Plan Strategy and therefore should progress to Stage 6.2, the following decision rules will be followed:*
- *Sites located entirely within a less suitable strategic option will not progress to Stage 6.2..."*

- 2.32 Sites which fail the Council's Strategic Option do not progress to any further site evaluation. As such, our Client's site is not assessed at Stage 6.2 or thereafter.
- 2.33 In Appendix B.1 – Overview of Assessment of Residential Sites, the justification for Site SR-0269A-N states that "*Site is entirely or partially unconstrained by Major Policy constraints. Site is located entirely within a less suitable strategic option and therefore did not progress to Stage 6.2. **See Appendix B.1.5.2 for further details***", however Site SR-0269A-N is **not** identified within Appendix B.1.5.2.
- 2.34 The Council's 'Suitable Strategic Options' have been identified following a four step process summarised in the Site Selection 2018 report (paragraph 2.65 page 23) as:
- Step 1 – Identifying suitable strategic options to accommodate growth
 - Step 2 – Assessing site suitability
 - Step 3 – Assigning sites against the land preference
 - Step 4 – Identifying sites for further testing
- 2.35 However, these steps were not undertaken in the Site Selection Report of March 2018.
- 2.36 The first two steps were undertaken through a meeting of the Local Plan Officer Working Group on the 13th and 14th June 2016 (paragraph 2.67 page 23). This meeting took place before the publication of the Epping Forest District Council Sustainability Appraisal, so as a matter of timing and procedure, the strategic area to the south of the settlement (within which the Peer Group site falls) was excluded prior to its consideration in the Sustainability Appraisal.
- 2.37 The process adopted by the Working Group for the selection of "Suitable Strategic Options" is described in paragraph 2.67 of the Site Selection Report 2018 as follows:
- "This decision was informed by all relevant material considerations, the main source of which was the Council's evidence base. Other factors which informed the planning judgements made included sustainable development principles set out in the NPPF, environmental constraints, local knowledge/initial officer evaluation of the area, feedback from the Community Choices consultation held in 2012 which sought views on the suitability of broad locations for growth in and around settlements and previous feedback from Members."*

- 2.38 The Community Consultation took place in July 2012 to October 2012 and was reported to the council in 2013. This consultation did not include the Peer Group site but instead consulted upon NWB – 4 as a “potential opportunity area”. The plan in the consultation gave no indication of the size of any potential allocation (Community Consultation Document 2012 page 129) and the description of the area (Community Consultation Document 2012 page 131) provided no indication of the potential scale of any “enabling development”.
- 2.39 At that time, the Council’s consideration of individual sites was based upon the Council’s selected Suitable Strategic Options, which had not been subject to any Council decision or formal public scrutiny. Furthermore, from this evidence, the sites which should have been considered as reasonable alternatives in the context of the Sustainability Appraisal had been excluded simply on the basis of a limited and somewhat vague public exhibition and member feedback.
- 2.40 The Council published the Allies and Morrison Master Planning Study in September 2014, which set out a vision and objectives for North Weald Basset along with masterplan options, involving stakeholder and community engagement. The Master Planning Study looked at two ‘scenarios’: Scenario A, which identified the Peer Group site to the southeast of the settlement, and Scenario B with no growth to the south-east of the settlement. Each Scenario had three ‘Options’ which identified different levels of growth. Scenario A includes the Peer Group site.
- 2.41 These two scenarios were shown at the Master Plan Exhibition (in 2014) to which 160 members of the public attended. Only 44 of the 160 took part in providing feedback responses to the Scenarios. The study states that only 35 of these respondents gave an answer to the question ‘Which do you prefer of Scenario A and Scenario B?’ with 20 showing a preference of Scenario B, 8 showing a preference of Scenario A, and 7 having no preference of scenario. The Council has stated that it has no record of these responses as they have been lost or destroyed.
- 2.42 We are unaware of any report to a Council committee which explains the Strategic Options in Scenario A or B, or the outcome from this study. We are also unaware of any formal Council report or decision to adopt the Allies and Morrison Master Plan Study 2014, nor any which adopts a preferred Strategic Option for North Weald Bassett.

2.43 In the North Weald Golf Club appeal decision (ref: APP/J1535/W/15/3134332) dated 13 April 2016 it is reported that on 1 December 2015 “The Council has stated that little if any weight can be given to the Masterplanning Study at this time as it has not been adopted”.

2.44 It appears that the decisions made in the process for selecting suitable strategic options has been made between Officers and Members at an informal level, with no proper examination, explanation or justification for the summary discounting of suitable and sustainable sites, which are clearly reasonable alternatives for the purposes of the Sustainability Appraisal.

b) The Site Selection Report, March 2018, has failed to assess all sites on an equally thorough basis

2.45 The same “test” has been applied to two sites within the same general location but different results are recorded when logically they should be the same. Both the Peer group site and a larger site (SR-0310) have been assessed against the “less favoured strategic option” and although both sites fall within this assessment the larger site passes the test while the smaller site of Peer Group does not.

2.46 The detail of this is the results for the Peer Group site in Appendix B1.3 – Results of Stage 1 and the results for 6.1A/B Assessment for Residential Sites for North Weald Bassett site SR-0310. The larger site SR-0310 is shown as proceeding past Stage 1/6.1A/B while the Peer group site which is smaller is shown as not progressing.

2.47 The justification under is in 6.1B which states the in terms of being within a preferred location for the larger site (SR-0310) this is ‘Not Applicable’. It is clear to see from the map of suitable strategic options in North Weald Bassett located in Appendix B1.5.2 that this larger site (SR-0310) is located within the same “less suitable strategic option” as the Peer Group site SR-0269A-N.

2.48 In contrast the Council’s assessment for the Peer Group Site is that it should be discounted at this stage. This both inconsistent and unjustified.

2.49 It is clear the sites have not been assessed on an equal basis.

c) The Council’s preferred strategic option does not comply with its own sequential approach in the Draft Local Plan

2.50 The Epping Forest Draft Local Plan was published for consultation under Regulation 18 in October 2017. Paragraph 3.54 of the Draft Local Plan sets out the sequential

approach to meeting the housing need, stating that the approach to the allocation of housing sites has been to take the most appropriate sites in accordance with the following order of priority:

1. A sequential flood risk assessment – proposing land in Flood Zone 2 and 3 only where need cannot be met in Flood Zone 1
2. Sites located on previously developed land within settlements
3. Sites located on open space within settlements where such selection would maintain adequate open space provision within the settlement
4. Previously developed land within the Green Belt (in anticipation of the NPPF being updated to take account of the proposed changes published in December 2015)
5. Greenfield/Greenbelt land on the edge of settlements:
 - a. Of least value to the Green Belt if the land meets other suitable criteria for development
 - b. Of greater value to the Green Belt if the land meets other suitable criteria for development
 - c. Of most value to the Green belt if the land meets other suitable criteria for development
6. Agricultural land:
 - a. Of Grade 4-5 if the land meets other suitable criteria for development
 - b. Of Grade 1-3 if the land meets other suitable criteria for development
7. Enable small scale sites in smaller rural communities to come forward where there is a clear local need which supports the social and economic well-being of that community

2.51 The Strategic Option, to which Appendix B1.3 of the Site Selection 2018 refers, is directly contrary to the Council's own site selection methodology. The site selection methodology requires the sites to be assessed in accordance with the above sequential approach, in order of priority, with no mention of any strategic options or 'more/less suitable' sites. If the site selection methodology was followed for the assessment of the

Peer Group site, it would have progressed to come forward for allocation ahead of other less suitable sites which have been allocated.

2.52 Furthermore, the Council's preferred strategic option is inconsistent with and does not comply with its own sequential approach in the Epping Forest District Council Submission Local Plan.

2.53 Policy SP 2 Spatial Development Strategy 2011-2033 is unsound as it states that the Local Plan will provide for a minimum of 11,400 new homes allocated in accordance with the sequential approach, not the site selection methodology.

d. The Council's preferred strategic option derived from the Site Selection Report 2018 does not comply with the National Planning Policy Framework

2.54 Paragraph 165 of the National Planning Policy Framework states that:
"A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors."

"The sustainability appraisal needs to compare all reasonable alternatives including the preferred approach and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Local Plan were not to be adopted.

The sustainability appraisal should predict and evaluate the effects of the preferred approach and reasonable alternatives and should clearly identify the significant positive and negative effects of each alternative.

The sustainability appraisal should identify, describe and evaluate the likely significant effects on environmental, economic and social factors using the evidence base."

2.55 The Council's "preferred strategic option" does not comply with the above National Planning Policy, as the preferred strategic option for North Weald Bassett has been limited at an initial stage by small sample of public opinion as expressed at the Master Plan Exhibition and has therefore failed to adequately assess reasonable alternatives.

2.56 Paragraph 182 of the National Planning Policy Framework defines the four tests of 'soundness' as:

- a. Positively prepared – the plan should be prepared based on strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development; In this case it is considered that the plan does not meet its objectively assessed needs and that the Peer Group site represents a reasonable alternative (or additional) site that could be brought forward to meet those needs
 - b. Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence; in this case the evidence base is flawed not only are decisions clearly based upon an approach that excludes the consideration of the suitable alternatives but the evidence base for the exclusion is missing.
 - c. Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; the shortcomings in the site selection process suggest that the resulting plan will not be effective in delivering sustainable development as suitable and sustainable sites have been incorrectly discounted and
 - d. Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework., clearly the approach taken to the production of this plan both in terms of the inadequacy of the evidence base the exclusion of reasonable alternatives and the inappropriate nature of the consultation (excluding key evidence) render the plan inconsistent with the Framework.
- 2.57 It is evident from the Council's evidence base that reasonable alternatives have not been appropriately considered, therefore the Plan cannot meet the tests of soundness.
- 2.58 The requirement to consider reasonable alternatives is a legal requirement of the SA/SEA (SEA Directive Article 5, Annex 1 and Regulation 12) as well as a test of soundness. As such the plan does not meet the legal requirements.

3.0 THE SUSTAINABILITY APPRAISAL

- 3.1 The Sustainability Appraisal is reliant upon the Site Selection Report but, as is demonstrated in the evidence above, both the 2016 and 2018 Site Selection reports have failed to consider reasonable alternatives in respect of:
- i. The 2016 Report did not assess the correct site;
 - ii. The Site Selection Report 2018 appendix B1.3 has sieved the site at the stage 6.1B based on it being “less suitable strategic option”.
 - iii. The “less suitable strategic option” is based upon the results of the public consultation exercise in 2014 where (i) 20 out of 35 respondents are claimed to prefer development only to the north of the village and (ii) a working party of officers and members, the results of which are not reported. These are not reasons to discount a site as a reasonable alternative within the SA. By taking an approach to site selection which is clearly contrary to the SA Directive and Regulations the SA and the plan are not legally compliant and unsound.
 - iv. The Council’s preferred “Strategic Option” does not comply with the legal requirement for the Sustainability Appraisal to consider all sites on an equally thorough basis it has discounted suitable alternatives on grounds which are contrary to the Regulations and which have no evidential support. This renders the SA and Plan not legally compliant and unsound.
- 3.2 It is clear and evident to see that the Peer Group site has been discounted as a reasonable alternative in the Sustainability Appraisal assessment at Stage 1 due to the Council’s misuse of the North Weald Bassett Master Plan Study 2014, as an evidence base, and flawed and unsubstantiated decisions made informally by planning officers in 2016.
- 3.3 The process, and use of, the definition of sites as “more suitable” and “less suitable” in this case as an input into the Sustainability Appraisal is overtly political in nature, non-compliant with the NPPF and entirely inappropriate. The failure to consider reasonable alternatives, and the use of improper inputs into the Sustainability Appraisal causes the Sustainability Appraisal to be not lawfully compliant or fit for purpose and therefore makes the submission Local Plan unsound. The council present no evidence to demonstrate suitability or lack of suitability.

- 3.4 In conclusion, the Site Selection Report 2018 which forms an integral part of the SA does not meet the requirements of Section 19 of the Planning and Compulsory Purchase Act 2004 which requires a local planning authority to carry out a Sustainability Appraisal of each of the proposals in a Local Plan during its preparation and more generally, section 39 of the Act requires that the authority preparing a Local Plan must do so “with the objective of contributing to the achievement of sustainable development”.
- 3.5 As well as the consequence of assessing sites under the draft policy differently there is the more fundamental issue of whether the application of a policy preference based upon a small and narrow mixture of officer, member and public preferences is a legitimate consideration in terms of excluding reasonable alternatives this early on in the SA process. There has not been any due process, no report to any committee and no decision from the Council to support the “strategic options” which inexplicably exclude the Peer Group site.
- 3.6 The Strategic Environmental Assessment Directive (Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (“The SEA Regulations”)) set out what are considered reasonable alternatives in article 5 requires the assessment of:
- “reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated.”*
- 3.7 Annex i) requires
- (h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.”*
- 3.8 Regulation 12 (2) (b) states:
- (2) The report shall identify, describe and evaluate the likely significant effects on the environment of—*
- (a) implementing the plan or programme; and*
- (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.*

- 3.9 In terms of case law the judgement of Mr Justice Ousey in Heard (Claimant) and Broadland District Council, South Norfolk District Council, Norwich City Council (Neutral Citation Number: [2012] EWHC 344 (Admin)) concludes (paragraph 71) on the matter of reasonable alternatives:

“There is no express requirement in the directive either that alternatives be appraised to the same level as the preferred option. Mr Harwood again relies on the Commission guidance to evidence a legal obligation left unexpressed in the directive. Again, it seems to me that, although there is a case for the examination of a preferred option in greater detail, the aim of the directive, which may affect which alternatives it is reasonable to select, is more obviously met by, and it is best interpreted as requiring, an equal examination of the alternatives which it is reasonable to select for examination along side whatever, even at the outset, may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred after a fair and public analysis of what the authority regards as reasonable alternatives. I do not see that such an equal appraisal has been accorded to the alternatives referred to in the SA of September 2009. If that is because only one option had been selected, it rather highlights the need for and absence here of reasons for the selection of no alternatives as reasonable. Of course, an SA does not have to have a preferred option; it can emerge as the conclusion of the SEA process in which a number of options are considered, with an outline of the reasons for their selection being provided. But that is not the process adopted here.”

- 3.10 The council and the consultants who produced the SA for the Epping Forest local plan have clearly excluded “less preferable strategic options” at the start of the process and as such the process is clearly fatally flawed as it does not test the preferred options equally or objectively against the less preferred options which as the judgement above highlights is part of the SA process.

- 3.11 A further judgement in Chalfont St Peter Parish Council Appellant and Chiltern District Council Respondent and Holy Cross Sisters Trustees Inc (Neutral Citation Number [2014] EWCA Civ 1393) provides further insight into what maybe considered to be a reasonable alternative. This is set out in paragraphs 76 to 86 which summarises in this case whether a “land swap” was a reasonable alternative that required the consideration of the following:

- 3.12 the SEA Directive on what it means by reasonable alternative:

- a. There is an established need for that land use which the development would likely meet

- b. There is a realistic prospect that the development can happen; i.e there are no fundamental show stoppers
 - c. It is in line with wider policy choices being made; i.e. green belt release to meet housing need
- 3.13 In summary, the council and their consultants cannot discount a site as a reasonable alternative if:
- a. It meets an identified need – which the peer Group site does it meets part of the identified housing need
 - b. It is deliverable – this is the conclusion of the Master Plan Exercise and the first part of the SA identifies no fundamental show stoppers
 - c. It is in line with wider policy choices being made; i.e. Green Belt release across the whole district and specifically in this settlement.
- 3.14 Not to include the Peer Group Site as a reasonable alternative; the SA would need to demonstrate there is no need, or there is a fundamental issue on delivery. To exclude the Peer Group site on the grounds of it being a less preferred option is legally incorrect.

4.0 OBJECTION UNDER REGULATION 19 OF THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING) (ENGLAND) REGULATIONS 2012

- 4.1 It is also considered that the Council has failed in terms of Regulation 19 of The Town and Country Planning (Local Planning) (England) Regulations 2012 as the Site Selection Report and Appendices, March 2018, was not made available in an adequate manner nor has it been subject to the correct period of consultation. The Site Selection Report forms part of the site assessment process within the Sustainability Appraisal, and these have not been made available at the same time as the Sustainability Appraisal's public consultation.
- 4.2 The timing of the release of the Site Selection Report 2018 confirms that it was plainly not available for the SA to consider it prior to the publication of the submission Local plan for consultation under Regulation 19 on the 18 December 2017. The timing also means that the Members, when considering the submission Local Plan at the committee meeting on the 14 December 2017 did so without the benefit of the complete Site Selection Report or a complete and up to date Sustainability Appraisal.

- 4.3 The Site Selection Report 2018, and subsequently the Sustainability Appraisal, has failed to assess reasonable alternatives. The report has assessed sites based on non-environmental grounds including members' views and public opinion drawn from a small public exhibition. The inadequacies of the site selection process does not comply with the legal requirement for the Sustainability Appraisal to consider all sites on an equal basis.
- 4.4 Given that the Site Selection Report 2018, and the Sustainability Appraisal, are key evidence bases for the Local Plan, the submission Local Plan is not based upon a credible or robust evidence base. The use of the flawed site selection process and Sustainability Appraisal as an evidence base render the Plan as unsound and not ready for Examination.

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