

**EPPING FOREST DISTRICT LOCAL PLAN**

**EXAMINATION HEARINGS**

**HOMEWORK NOTE 9**

**MATTER 5            SITE SELECTION METHODOLOGY AND THE VIABILITY OF  
SITE ALLOCATIONS**

**ISSUE:                ISSUE 1: HAVE THE PLAN'S HOUSING ALLOCATIONS  
BEEN CHOSEN ON THE BASIS OF A ROBUST  
ASSESSMENT PROCESS?**

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**HW9 - CONCERNS RAISED ABOUT THE SITE  
SELECTION PROCESS IN RELATION TO CHIG.R11  
AND SR-0158B**

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1. The Council provides this note which relates to Matter 5, Issue 1 and the Inspector's request that the Council provides a response to the following two queries:
  - (a) Concerns raised by Mr Shah relating to the application of the Site Selection Methodology (SSM) (EB805AK) (including QA process) and the associated robustness of this element of the Council's evidence base.
  - (b) The rationale for the site boundary for site SR-0158B.
  
2. This note responds to each query in turn.

### **Concerns Raised by Mr Shah**

3. Site CHIG.R11 was assessed through the site selection process under site reference SR-1010. The Local Plan Submission Version (LPSV) indicates the site has an approximate net capacity of 7 dwellings (taking into account the existing residential dwelling present on-site).
4. At the Matter 5 Hearing Session on 19 March 2019, Mr Shah raised the following concerns regarding the application of the SSM (including QA process) and the associated robustness of this element of the Council's evidence base. Mr Shah raised the following examples to illustrate his concerns:
  - (a) Mr Shah raised concerns about the consistency of assessment of sites. He cited two specific examples:
    - (i) Mr Shah's site (site SR-1010) was assessed alongside five similar sites comprising houses with gardens, within a sustainable location [Chigwell] and in an area where there is flatted development. Four of the similar sites were assessed as 100% urban brownfield sites. Mr Shah contends that the assessment of site SR-1010 as an urban open space is inaccurate as it comprises a residential dwelling.
    - (ii) Some site assessments appear to be internally inconsistent. Mr Shah cited the example of the Stage 2 assessment of site SR-0557 (the Limes Estate) where the site is assessed as 100% urban brownfield against one criterion (4.1), but in another criterion (4.3) the assessment cites loss of amenity greenspace.
  - (b) Mr Shah referred to the QA process for sites and in particular the workshops with Members. One of the purposes of the workshops with Members was to check for factual inaccuracy. Mr Shah stated that there is an asymmetry of site-specific knowledge between site promoters and Members involved in the workshops. In Mr Shah's view it does not, therefore, make sense that the Council did not invite participants to the workshops with stronger site-specific knowledge, in order that any issues with the site assessments can be corrected at an early stage.

- (c) Since the Council has not corrected factual errors in the site assessments, Mr Shah contends that the LPSV cannot be sound, because it needs to be based on an up-to-date evidence base. Mr Shah cited an appeal (ref APP/J1535/W/17/3190595) relating to site SR-1010, where the Inspector dismissed the Council's reasons for refusal.
  - (d) Mr Shah contends that the site selection process has not been collaborative, citing that he was only engaged or made aware of the proposed site allocation on his land following it being proposed for allocation. Mr Shah stated that he was not invited by the Council to be engaged in workshops at any stage.
5. The following sub-sections address each point in turn.

***Concern 1: Consistency of Site Assessments***

- 6. As part of Stages 2 and 6.2 (Quantitative and Qualitative Assessment) of the site selection process, the Council assessed whether sites comprised brownfield or greenfield land. This was assessed according to the scoring matrix for criterion 4.1 (Brownfield and Greenfield Land) as set out on page B207 of Appendix B1.4.1 Detailed Methodology for Stages 2 and 6.2 Assessment (EB805E).
- 7. As set out in this Appendix, the Council assessed whether Tranche 1 sites<sup>1</sup> comprised greenfield or brownfield land utilising the analysis undertaken as part of the Council's Strategic Land Availability Assessment (SLAA) (Nathaniel Lichfield & Partners (NLP), EB800).
- 8. Preparation of the SLAA commenced in 2012 with additional sites subject to assessment in 2013, 2014 and 2016<sup>2</sup>. The formulation of the methodology for the SLAA pre-dated the publication of the National Planning Policy Framework (2012) (NPPF 2012)<sup>3</sup>. Therefore, some of the assessments relating to whether the site was brownfield (previously developed land) or greenfield may not fully align with the definition of previously developed land in Annex 2 of the NPPF

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<sup>1</sup> In summary, Tranche 1 sites were subject to the site selection process in 2016. This included sites from the Strategic Land Availability Assessment (SLAA) (EB800) and the Council's rolling Call for Sites. Section 2.4.1 of the Site Selection Report (EB805, pages 11 and 12) provide further details. Paragraphs 1.1 and 1.2 of the SLAA (EB800, page P1) provide further details.

<sup>2</sup> Paragraph 2 of Appendix 1 to the SLAA (page 64) confirms that the methodology was prepared in accordance with Strategic Housing Land Availability Assessments: Practice Guidance published by the Department for Communities and Local Government (July 2007).

<sup>3</sup> Paragraph 2 of Appendix 1 to the SLAA (page 64) confirms that the methodology was prepared in accordance with Strategic Housing Land Availability Assessments: Practice Guidance published by the Department for Communities and Local Government (July 2007).

2012. For example, some Tranche 1 sites, where they comprise existing residential dwellings and private residential gardens located within a settlement, have been assessed as 100% brownfield (as opposed to the area comprising private residential garden being assessed as greenfield land).

9. Notwithstanding this, the Council considers that the Tranche 1 brownfield assessment to be sound. Had the SLAA assessed private residential gardens as greenfield land it is unlikely that it would have resulted in a material change of score for such sites; the extent of existing dwellings (the previously developed land) would normally comprise the majority of the site, meaning that overall the site would be assessed as being a brownfield site.
10. Where a site had not been assessed through the SLAA, which comprised a limited number of Tranche 1 sites and all Tranche 2 sites<sup>4</sup>, Arup, on behalf of the Council undertook a qualitative, desk-based assessment. In determining whether all or part of the site comprised brownfield land, Arup utilised the definition of previously developed land in Annex 2 of the NPPF 2012.
11. Site SR-1010 was assessed as a Tranche 2 site at Stage 6.2 (Quantitative and Qualitative Assessment) of the site selection process.<sup>5</sup> The site scored (+) for criterion 4.1, which means that the majority of the site is greenfield land within a settlement. The Qualitative Assessment for the site confirms that it comprises 60% greenfield land. Such an assessment is consistent with that undertaken for neighbouring site SR-1009,<sup>6</sup> because for both sites private residential gardens have been excluded from the definition of previously developed land in accordance with the definition in Annex 2 of the NPPF 2012.
12. For both sites, at Stage 6.3 (Identify Candidate Preferred Sites), they were assigned to category 2 in the Land Preference Hierarchy. This is on the basis that both sites were assessed as majority urban greenfield sites at Stage 6.2. Such an approach is consistent with the methodology set out in Appendix B1.5.1 Ranking Sites for Further Assessment (EB805H) (page B714).

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<sup>4</sup> In summary, Tranche 2 sites were subject to the site selection assessment in 2017. They were identified for assessment in accordance with the requirements of paragraph 4.53 of the SSM.

<sup>5</sup> Refer to page B284 of Appendix B1.4.2 (EB805Fi) for the site specific proforma.

<sup>6</sup> Refer to page B283 of Appendix B1.4.2 (EB805Fi) for the site specific proforma.

13. Mr Shah suggested that the greenfield/brownfield assessment for other sites in Chigwell was inconsistent with the approach adopted for his site. Mr Shah specifically drew attention the following sites: SR-0869, SR-0894, SR-0895, SR-0896 and SR-0898.
14. Sites SR-0869, SR-0895 and SR-0898 are Tranche 1 sites which were assessed in the SLAA and therefore subject to the assessment methodology explained at paragraphs 7 to 9 (above). The Council acknowledges that the percentage of previously developed land identified in the Qualitative Assessment for criterion 4.1 of the Stage 2 assessments does not reflect that private residential gardens are excluded from the definition of 'previously developed land' contained in the NPPF 2012. Following the Hearing Session, the Council has reviewed this scoring for this specific criterion for the three sites. It considers that the assessment would remain unchanged on the basis that the existing residential dwelling comprises the majority of the site area and therefore a score of (++) majority of the site is previously developed land within or adjacent to a settlement would still have been assigned.<sup>7</sup>
15. Mr Shah also referred to the brownfield/greenfield assessments of Tranche 1 sites SR-0894 and SR-0896 in his Hearing Statement. It should be noted that these sites were discounted from the site selection process in 2017 because they were granted planning permission.<sup>8</sup>
16. Turning to the Limes Farm Estate, this site is proposed for allocation as CHIG.R6, and was assessed as a Tranche 1 site through the site selection process as site reference SR-0557. In relation to the greenfield/brownfield assessment and consistency with the open space assessment, the Council notes that:
  - (a) The Qualitative Assessment for criterion 4.1 of the Stage 2 assessment for site SR-0557 is 100% brownfield within an existing settlement<sup>9</sup>. As noted in paragraphs 7 to 9 (above), this assessment was drawn from the SLAA and is consistent with the approach adopted in that assessment. The SLAA also notes (in relation to another criterion) that the site

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<sup>7</sup> Refer to pages B273, B274 and B276 of Appendix B1.4.2 (EB805Fi) for site specific proforma for SR-0869, SR-0895 and SR-0898.

<sup>8</sup> Refer to page B73 of Appendix B1.2.1 Residential and Employment Sites Discounted from the Assessment (EB805B)

<sup>9</sup> Refer to page B263 of Appendix B1.4.2 EB805Fi for the site specific proforma.

comprises 30-40% Urban Open Space (refer to page P256). On this basis, the Council considers that the majority of the site area (i.e. 60-70%) comprises previously developed land within a settlement and therefore, the Stage 2 assessment remains correct.

- (b) Since the majority of the site comprises previously developed land, this would not have altered the categorisation of the site through the Land Preference Hierarchy, which assigned the site to category 1 (sites judged to be suitable, are located within Flood Zone 1 and are previously developed land within settlements).
- (c) As the Council explains at paragraphs 259-261 of its Hearing Statement for Matter 15, Issue 2, Question 3, for Policy P 7 Chigwell, the Council has considered the impact of the redevelopment of the site on open space provision in the locality. It has weighed up the benefit arising from the redevelopment of Limes Farm in terms of the short-term impact of the loss of Amenity Greenspace and has identified a range of measures to address the impact on open space provision. It considers, that on that basis, the proposed allocation of Lime Farms Estate in the LPSV is sound and consistent with the SSM.

### ***Concern 2: QA process for the Site Selection Process***

- 17. As the Council explained at paragraphs 18-20 of its Hearing Statement for Matter 5, Issue 1, Question 2 (pages 8 to 9), the SSM makes explicit provision for quality assurance processes (see paragraphs 4.17, 4.21, 4.66 and 4.85) to ensure accuracy and consistency of assessments.
- 18. In addition, as identified by Mr Shah, workshops were undertaken with Mr Shah. At the Hearing Session for Matter 5, the Council confirmed that work sought to appropriately engage with Members of the Council at key stages in the site selection process, to ensure the process took into account the available evidence. In the Council's view, this is a proper approach and ensures that the local plan responds to local circumstances to achieve sustainable development. This is a central tenant of the NPPF, as articulated at paragraph 10. It also reflects leading practice in preparation of local plans.

19. In particular, the Council confirmed at the Hearing Session that the purpose of the Member workshops was to engage with Members. This included briefing Members on the emerging evidence based work and to check for factual inaccuracies in the technical assessment. It also provided an opportunity for Members to 'check and challenge' the initial conclusions reached by officers.
20. Whilst site promoters were not invited to the workshops, they were given opportunities to inform the site selection assessment. the Council considers it has adopted a proportionate approach in terms of having regard to site promoter information.
  - (a) In terms of suitability assessment (Stages 2 and 3 or 6.2 and 6.3):
    - (i) Where available, the site-specific suitability assessments had regard to any additional information held by the Council on individual sites, submitted through the Call for Sites process or through representations to the Draft Local Plan. This is confirmed on page B191 of Appendix B1.4.1 Detailed Methodology for Stages 2 and 6.2 (EB805E).
    - (ii) Paragraph 2.60 of the Site Selection Report (EB805, pages 21 to 22) confirms that the Council undertook a review of representations, a summary of which is produced at Appendix B1.2.3. As part of this review, consideration was given to the degree to which comments would affect the Council's assessment of the suitability of the site. Therefore, comments made through representations were only addressed where the outcome would affect the Stage 3 assessment. The Council considers this approach to be proportionate. Where appropriate, updates or amendments were made to the Stage 2 assessments. If these changes affected the overall suitability of the site at Stage 3, the assessment was updated accordingly.
  - (b) In terms of deliverability assessment (Stages 4 and 6.4):
    - (i) Paragraphs 4.39 and 4.81 of the SSM (EB805AK, pages A17 and A26) explain that further deliverability information provided by site promoters (through a survey) was taken into account. This

information is beyond that provided through the Strategic Land Availability Assessment/Call for Sites process.

- (ii) Paragraph 2.123 of the Site Selection Report (EB805, page 41) confirms that information received through representations to the Draft Local Plan and updated information received through the Developer Forum and other mechanisms was taken into account. This paragraph also confirms that where this updated information changed the deliverability assessment for a Tranche 1 site, the site was re-considered for allocation.

### ***Concern 3: Soundness of LPSV requirements***

- 21. Mr Shah raised specific concerns regarding the site requirements for his site (CHIG.R11) and consistency with recent appeal decisions. Since the publication of the LPSV in December 2017, there has been an appeal decision in relation to Mr Shah's site. The appeal decision (dated 27 July 2018) overturned the Council's refusal of planning permission (ref: EPF/0479/17). The appeal decision concluded that the demolition of the existing dwelling and development of 11 residential units would be acceptable subject to conditions. As the Council explained at paragraphs 271 of its Hearing Statement for Matter 15, Issue 2, Question 5, the Council proposes to make an amendment to Appendix 6 in relation to CHIG.R11 to delete the development guidance relating to access.

### ***Concern 4: Site Promoter Engagement***

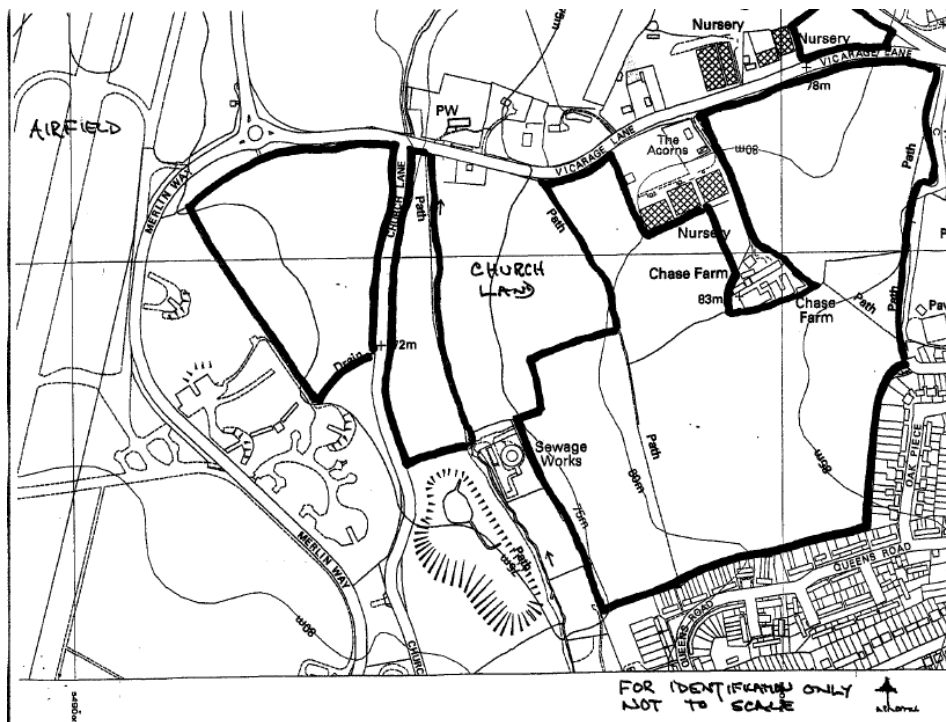
- 22. Following the Matter 5 Hearing Session, the Council has checked its records with regards to engagement with Mr Shah. Unfortunately, it would appear there was an error in the Developer Forum database and Mr Shah's details were omitted. Given that this is now a firm commitment Mr Shah will be added to the database and invited to future Developer Forum meetings.



### **Site SR-0158B**

23. In their Hearing Statement Representor 19LAD0122 raised the following concerns regarding the rationale for the assessment of site SR-0158B through the site selection process:
- (a) The site areas used in the site selection do not reflect the land promoted for development, as evidenced by the assessment of the representor's site as part of SR-0158B.
  - (b) The Council did not assess the representor's site area as a Tranche 2 site, despite the representor providing information highlighting the site area as being different from that assessed under Tranche 1 site reference SR-0158B.
  - (c) Sites were discounted in the early stages of the site selection process for reasons that are no longer material or relevant, such as sites being poorly scored because they were (at that time) distant parcels from built-up areas, services or other infrastructure. These reasons are no longer material or relevant, as sites adjacent to the representor's site have been proposed for allocation in the LPSV.
  - (d) The representor's site assessment was not updated using evidence provided by the representor in response to the Regulation 18 Draft Local Plan consultation, which pertained to a larger land parcel not promoted by the representor which was subject to a higher flood risk than the representor's (which has a low risk of flooding).
24. Following the Matter 5 Hearing Session the Council has reviewed its records with regards to site SR-0158B and the land holdings that were promoted to it.
25. In 2008 a Call for Sites form was received for three parcels of land — please see Figure 1 (below).

Figure 1: Land promoted to the Council through 2008 Call for Sites Form



26. The large parcel furthest east of Church Lane was assigned site reference SR-0158A. It was assessed through the SLAA (EB800) and the site selection process under this site reference (as a Tranche 1 site).
27. The Council assigned a single site reference (SR-0158B) to the two western parcels of land (which straddle Church Lane). The two parcels of land were therefore assessed through the SLAA (EB800) as one site (refer to Drawing No. GIS\12991\01-28 in SLAA Appendix 6 and 7 Maps (EB800A)).
28. In 2009, a smaller site area only pertaining to land west of Church Lane was submitted to the Council for consideration, which reflects the extent of land identified in the Hearing Statement for representor 19LAD0122 — please refer to Figure 2 (below). The Council’s records indicate that this site area was not included in the initial pool of Tranche 1 sites and was not assessed independently of site SR-0158B.

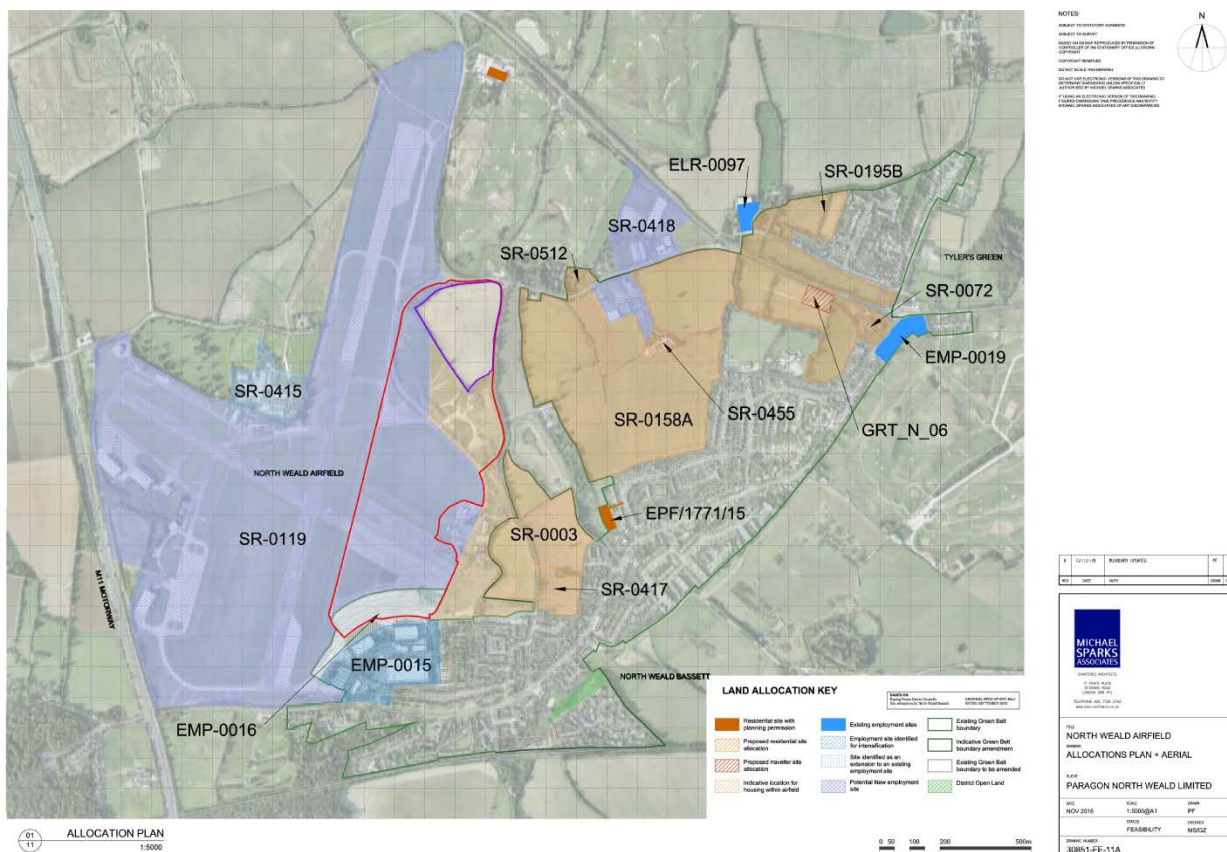
Figure 2: Land promoted to the Council through 2009 Call for Sites Form



29. As the Council explained in its Hearing Statement for Matter 5, Issue 1 (at page 2, paragraph 4), the starting point for identifying Tranche 1 sites was the Council's SLAA (EB800). In the case of SR-0158B, the Council assessed land to the west and east of Church Lane as one site in the SLAA (please refer to Drawing No. EFDC-S1-0013-Rev1 in Appendix B1.3 Results of Stage 1 Assessment (EB801E)).
30. In response to the Regulation 18 Draft Local Plan consultation, representation reference 2136/3417 identified a new, larger site area that included the land west of Church Lane at Appendix 2 of the representor's consultation response to the Regulation 18 consultation on the Draft Local Plan — please refer to purple boundary within redline boundary in Figure 3 (below).
31. As set out in Appendix B1.2.3 Representations received to Draft Local Plan consultation (EB805D), the Council decided that the promoted redline boundary site, which included Council-owned land, should not be assessed because there was no option agreement in place for development on land that included part of North Weald Airfield (please refer to page B97). Since the land to the west of

Church Lane had already been assessed through the site selection process as part of site SR-0158B, the Council did not consider a new site needed to be assessed, as a Tranche 2 site, in 2017.

Figure 3: Site area extent submitted in Appendix 2 of Regulation 18 Draft Local Plan representation reference 2136/3417



32. The Council acknowledges that based on the submission from the site promoter in 2009, it should have considered land to the east and west of Church Lane as separate sites. However, the Council does not consider that assessing the two parcels of land together as part of SR-0158B has adversely affected the Council's consideration of the land to the west of Church Lane. Had the land parcel to the west of Church Lane been assessed separately, the justification for the site SR-0158B would still have applied.

33. Site SR-0158B was filtered out of the site selection process at Stage 3 (Identify Candidate Preferred Sites). As set out in Appendix B1.5.2 Results of Identifying Sites for Further Testing (EB805I), SR-0158B was considered to be potentially suitable for development but did not proceed for further testing on the basis of its ranking in the land preference hierarchy. It was assigned to category 7 owing to it being in both an area of higher flood risk and a Green Belt site not adjacent to a settlement.
34. The representation submitted by 19LAD0122 suggests that if the land parcel to the west of Church Lane had been assessed independently then the site would have scored more positively in terms of vulnerability to flood risk. The Council has assessed the smaller land parcel against the Environment Agency's flood risk mapping. It recognises that the smaller land parcel would fall largely within Flood Zone 1, which comprises a lower level of flood risk in comparison to the larger site.<sup>10</sup>
35. However, notwithstanding the flood risk assessment the Council considers that its assessment of the location of the site continues to apply and was the determinant factor in deciding not to propose the site for allocation. The western parcel of land is on the same vertical alignment as sites SR-1033 and SR-0003, both of which proceeded for further testing at Stage 3, but which are not proposed for allocation in the LPSV. As Appendix B1.6.6 Results of Identifying Sites for Allocations (EB805P) explains in relation to site SR-0003,<sup>11</sup> responses received through the Regulation 18 Draft Local Plan consultation raised concerns about the overall level of growth proposed for North Weald Bassett. Given the sites' more outlying location adjacent to the west of the village, and the Council's Local Plan Strategy aim to focus development to the north of the existing settlement, enabling a buffer to be retained between the village and North Weald Airfield, it was less suitable than other sites identified in North Weald Bassett.

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<sup>10</sup> Refer to page B478 of Appendix B1.4.2 (EB805Fiii) for the site specific proforma.

<sup>11</sup> It should be noted that for site SR-1033 that during Stage 6.4, the site promoter confirmed the site was no longer available for development.