

Trace Fance

Statement submitted on behalf of Save the Middlewick Ranges group.

Main Matter 6 – South Colchester (Policies SC1 to SC3), especially Middlewick Ranges (SC2): Are the policies and site allocations for South Colchester justified by appropriate available evidence, having regard to national guidance, and local context, including the meeting the requirements of the CLP 1?

This statement argues the allocation of Middlewick Ranges for housing makes the Local Plan unsound.

The site allocation contradicts national planning legislation as well as various Local Plan policies.

The site allocation process was based on incomplete evidence; the Sustainability Appraisal is not fit for purpose and there has been a failure to explore reasonable alternatives.

The evidence presented recently by the DIO and CBC was not the result of an open-ended process but is a case of backfilling of evidence to justify a scheme that had already been decided.

The site allocation contradicts the principle of Sustainable Development in the National Planning Policy Framework (2012). **Sustainable Development** is defined according to interlinked economic, social and environmental dimensions, the latter being defined as:

contributing to **protecting and enhancing our natural**, built and historic **environment**; and, as part of this, helping to **improve biodiversity**, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. (Para 7)

Colchester Borough Council's claim that Middlewick Ranges represents a sustainable site allocation rests on the fact that the site is located within the boundaries of urban Colchester. According to the Local Plan's Spatial Strategy (Policy SG1), development within urban Colchester should be prioritised because it is the most sustainable option:

Throughout the Borough, growth will be located at **the most accessible and sustainable locations** ... This spatial hierarchy focuses growth on the urban area of Colchester, reflecting its position as the main location for jobs, housing, services, and transport.

Proximity to Colchester town centre is equated with accessibility; **accessibility is equated with sustainability**. This **narrow definition of sustainability** is not in line with NPPF (2012), as it **ignores other dimensions such as biodiversity or air pollution**. Furthermore, **location within the urban boundaries does not equal accessibility**; there are many unresolved transport issues (see below) and it has not been proven that Middlewick, on the outer edges of urban Colchester and not within easy reach of a railway station, is automatically more accessible than, for example, a site outside urban Colchester but within walking distance of a railway station.

The allocation of Middlewick Ranges is in direct contradiction to several policies in the Local Plan:

ENV1 Environment:

The LPA will **conserve and enhance Colchester's natural and historic environment**, countryside and coastline. The LPA will **safeguard** the Borough's **biodiversity**, geology, history and archaeology, which help define the landscape character of the Borough, through the **protection and enhancement of sites of international, national, regional and local importance**.

ENV1 lists certain conditions that should be met before development would be allowed, including appropriate ecological surveys; making allowance for Habitats and Species of Principal Importance; conserving or enhancing biodiversity value of the site and minimising fragmentation of habitat. The plan to build 1,000 houses on Middlewick is in contradiction to these policies; Middlewick Ranges is one of Colchester's prime Local Wildlife Sites, home to protected habitats and species, a site of at least regional importance, and a possible candidate for SSSI, as well as in close proximity to sites of national and international importance which may also be impacted by the development.¹

The site allocation was based on **insufficient evidence**; the Local Wildlife Review that forms part of the evidence base for the Local Plan acknowledges that there was not enough time for a full evaluation and that the timing was not right for recording plant species and vegetation communities.² Also ignored in the site allocation was the fact that already **in 2007, a planning application for the site was rejected on mainly ecological grounds**.³

Policy SC2 on Middlewick Ranges states that the allocation of the number of houses (up to 1,000) is provisional, pending further evidence. However, the **baseline ecology evidence** presented by the council and the MOD (Stantec Ecology Report and Policy Paper 5) is **not fit for purpose**. The surveys in the Stantec ecology report are incomplete and there are concerns about their 'biodiversity net gain' calculations.⁴ Our verdict is that **the evidence presented is not the result of an open-ended process but represents backfilling of evidence to justify a decision that had already been made**.

ENV1 introduces certain qualifications that would allow for building on a site such as Middlewick if certain conditions apply:

Proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas, protected species, Habitats and Species of Principle Importance or result in the loss of irreplaceable habitats ... **will not be permitted unless:**

- (i) **They cannot be located on alternative sites that would cause less harm;**
- (ii) **The benefits of the development clearly outweigh the impacts on the features of the sites and the wider network of natural habitats;**
- (iii) **Satisfactory mitigation and compensation measures are provided.**

The allocation of Middlewick fails to meet the criteria to be exempt because:

- (i) It has not been proven that the houses cannot be built on alternative sites that would cause less harm.

The Sustainability Appraisal Sec 2 Non-Technical Summary (June 2017) states about Alternatives for SC 1 (South Colchester) and SC2 (Middlewick): 'The individual site allocations contained within this

¹ The ecological evidence is laid out in greater detail in the statements submitted by Martin Byrne, Stephanie Murran and Paul Warner. See also Midland Ecology report (Appendix 1)

² Colchester Borough Council Local Wildlife Site Review 2015. Final report (Nov 2017).

³ Waste plan application (Appendix 2).

⁴ See Midland Ecology Report.

Policy have been appraised alongside reasonable alternatives in an Appendix 1 to the full Sustainability Appraisal Report.’⁵

There is no evidence in the record that Middlewick Ranges was evaluated against reasonable alternatives. The alternatives listed in Appendix 1 of the full Sustainable Appraisal Report, against which Middlewick is being compared include only sites in South Colchester rather than sites across the borough of Colchester and neighbouring districts. **The sites mentioned cannot be considered reasonable alternatives as they had not been put forward for development.** There is thus no evidence of no bona fide attempt to find an alternative site ‘that would cause less harm’. Hence ENV1 was not complied with.

Furthermore, the **sustainability appraisal evaluation in Appendix 1**, comparing the Middlewick to alleged alternatives in South Colchester **is not fit for purpose** as most answers are marked as ‘unknown’ (question mark): *Unknown* for PDL/greenfield; for impact on open space; for landscape impact, for visual impact, for impact on SSSIs, for impact on international or national sites, for settlement setting, and for contamination. This cannot be considered a meaningful assessment and comparison.

The **main Sustainability Appraisal evaluation for Middlewick is also not fit for purpose**, failing to account for the site’s designation as greenfield or as a Local Wildlife Site, and ignoring the fact that it is adjacent to a water body. Any comparisons to alternatives that are based on this appraisal are therefore also meaningless.⁶

Furthermore, in order to consider alternatives, **the evidence for site allocations needs to be updated.** This includes the studies on retail and office space that form part of the Evidence Base for the Local Plan.⁷ With less retail and office space required in urban Colchester, more of this space may be allocated for housing, reducing the pressure to build on Middlewick. Another alternative that has recently come forward is the Paxman site off Port Lane, which is brownfield and will be able to accommodate about 200 homes, further reducing the pressure to build on Middlewick. It should also be noted that in recent years CBC has built more homes than required, and that demographic developments and prospects for the university have also changed.

- (ii) It cannot be proven that the benefits of the development clearly outweigh the impacts on the features of the sites and the wider network of natural habitats.

This is because it is largely a **value judgement**: what is more important, building as many houses as possible no matter the cost, or preserving our natural environment for future generations? It is to be hoped that with greater awareness of the threat of loss of wildlife and habitats to the very human

⁵ ‘The Council carefully considered a number of alternative sites, but only selected those sites which firstly, accorded with the overall spatial hierarchy and strategic policies for the Borough and secondly, satisfied the criteria for sustainable and deliverable sites set by the Strategic Land Availability Assessment and the Sustainability Appraisal. The alternative sites considered included both those received through the Call for Sites process as well as a number of other sites it was aware of from earlier assessments; current development allocations which remain undeveloped, and land in broadly sustainable locations which had not been put forward for assessment elsewhere.’

⁶ For a detailed discussion of the Sustainability Appraisal, see the statement submitted by Kelli Francis.

⁷ This point is explored in greater detail in the statement submitted by Rob Bradshaw. See also Draft Schedule of Recommended Modifications to the Publication Draft Local Plan: Section 2 (March 2021), section on Tollgate.

survival, the priorities will be re-evaluated. They should be, if **Colchester Borough Council's climate emergency declaration** is worth more than the paper it is printed on.

- (iii) It has not been proven, and is highly unlikely, that satisfactory mitigation and compensation measures can be achieved.

To be satisfactory, mitigation and compensation measures would have to meet the “biodiversity net gain” criteria. However, as has been evidenced in other statements and the Midland Ecology Report commissioned by the Save the Middlewick Ranges group, **it is highly dubious that ‘biodiversity net gain’ can be achieved.**⁸

Policy Paper 5 claims that the ecological consultancy EECOS employed by the council is satisfied with Stantec's ecological evidence and metrics. However, as EECOS did not issue a report, we have no written evidence of the criteria according to which EECOS evaluated the evidence and metric presented by Stantec. **There is no evidence that EECOS, on behalf of CBC, carried out a thorough evaluation of the Stantec ecology report.**⁹ If Save the Middlewick Ranges group was able to commission an independent ecology report to evaluate the Stantec report, why was CBC not able to do a similarly thorough job?

The allocation of Middlewick Ranges for housing also contradicts other policies in the Local Plan:

ENV3 Green Infrastructure:

The LPA will aim to **protect, enhance and deliver a comprehensive green infrastructure network** comprising strategic links between the rural hinterland, urban Colchester, river corridors and open spaces across the Borough. It will seek to **protect and enhance the existing network of green and blue infrastructure features.**

While mentioning Middlewick Ranges, **CBC's Green Infrastructure report from 2011 does not include an appraisal of the site's significance as part of Colchester's green infrastructure.**¹⁰

CC1 Climate Change:

Green infrastructure should be used to **manage and enhance existing habitats.**
Opportunities should be taken to create new habitats and **assist with species migration.**

Building houses on Middlewick will lead to a **fragmentation of habitat and drive a wedge in the interconnected network of habitats** that stretches for many miles.¹¹ This fragmentation will **hinder species migration**, hence making existing natural spaces less resilient and putting many species at additional risk from the impact of climate change.

It is not clear how allocating Middlewick for housing can be reconciled with Colchester's climate emergency declaration, which is not being mentioned in the updated policy on Middlewick (Policy Paper 5).

⁸ See Midland Ecology Report (Appendix) and report submitted by Martin Byrne.

⁹ Colchester Borough Council to Andrea Copsey: 'Please can you advise the Inspector that there is no “report” from EECOS. There was a dialogue with Stantec in respect of the technical work at various stages of preparation. The review referred to did not result in an output as a “report” but an exercise enabling a view to be confirmed as indicated in the Topic Paper.' Following a request from Rob Smith (Butterfly Conservation), as quoted in an email by Andrea Copsey to Rob Smith.

¹⁰ Colchester Borough Council Green Infrastructure Strategy. Final Report (2011).

¹¹ For details see statement submitted by Paul Warner.

DM17 Retention of Open Space and Recreation Facilities:

The Council will **protect and enhance the existing network of green links and open spaces** and secure additional areas where deficiencies are identified. **Development ... will not be supported unless it can be demonstrated that: ...**

(ii) **The proposal would not result in the loss of an area important for its amenity or contribution to the green infrastructure network or the character of the area in general.**

Middlewick Ranges forms an important part of the character, history and identity of the area.¹² The site is **of great amenity value to the local community as an open natural green space and a space of tranquillity**. Every area of urban Colchester has access to wild areas and this is the only significant wild area accessible to residents of South Colchester including the two Abbot's Road Estates, The Willows, Barn Hall, Old Heath, Monkwick, Blackheath, Birch Glen.

While the development proposes a net increase accessible open space (disputed by us and the development maps), there would still be a **net loss in natural open space** because some of the open space would be sports pitches, playgrounds etc. Access to nature has been recognised as being of great importance to mental health. **The amenity value of the remaining natural open space would be further reduced** due to an increase in dog fouling, littering and fly tipping. The proposed new cut-through road between Mersea Road and Abbot's Road - as far south on Mersea Road and as far east on Abbot's Road as possible - would have a major impact in terms of traffic noise, air pollution as well as fly tipping and thus further reduce the amenity value of the remaining natural green space.¹³

DM1 Health and Wellbeing:

All development should be designed to help promote healthy lifestyles and **avoid causing adverse impacts on public health** through: ...

(iii) Providing appropriate **mitigation to avoid harmful emissions**. ...

ENV5 Pollution and Contaminated Land:

Proposals will be supported that will **not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses** due to the potential for **air pollution, noise nuisance**, surface / ground water sources or land pollution.

Proposals ... where development within a nearby locality may **impact on an AQMA** ... Permission will only be granted where the Council is satisfied that after selection of **appropriate mitigation** the development will not have an unacceptable significant impact on air quality, health and well-being.

Noise nuisance will be a problem for the many years it would take to build the houses. There will be a negative impact on Air Quality Management Areas at the bottom of Mersea Road and in Brook Street which are the main routes from that part of south Colchester into town centre. It is not clear how mitigation in these areas, which already have dangerously high level of air pollution, could be

¹² This is evidenced in the book Old Heath Memories by local historian Patrick Denney.

¹³ Local Plan Evidence Base Middlewick Ranges – Summary Report (Dec 2020).

achieved. There is no space to plant street trees to mitigate air pollution in that area, making the site allocation unviable.¹⁴

Transport

Similarly, the transport policy for Middlewick Ranges is not based on sound evidence and fails to propose solutions to the main transport issues arising from the Middlewick allocation.

Appendix 1 of the full Sustainability Appraisal Report 16.8 South Colchester Allocations (Policy SC1) including Middlewick Ranges (Policy SC2) notes for Middlewick Ranges (COL71):

The site was previously rejected at the Preferred Options Plan stage due to concerns surrounding issues including required highway improvements and health and school capacity deficits. At the Preferred options stage however preapplication discussions were underway. Solutions to the previous concerns have been sought and the site is now allocated. The site is suitable and highly sustainably located within the Colchester urban area and would not impact on settlement form.

Para 14.66 in the Emerging Local Plan notes that ‘Development that will add pressure to the transport network will be required to help mitigate the impact.’

Contrary to what is being claimed, **policy proposals fail to address the main transport issues arising from the housing allocation at Middlewick.** Policy SC3 on Transport in South Colchester proposes improvements that are mostly located in the southwest Colchester (junctions Circular Road South/Berechurch Rd, Shrub End Rd/Maldon Road; Gosbecks Rd); none of the road improvements address the routes that will be most impacted by development at Middlewick Ranges, i.e., Mersea Rd, Old Heath Rd, Wimpole Rd/Brook St. This is because it is impossible to widen these roads; hence whatever will be done the problem of these bottlenecks will remain unsolved.

A transport report was carried out by Stantec on behalf of the DIO and submitted in October 2020, to form part of the evidence base for Policy SC2. Stanstec carried out **traffic surveys** at the end of November and early December 2019 (3.2.). **There is no information about the time of day the data was collected; was it during peak times or outside peak times?** The survey locations shown in Appendix D are all located near the site, but no surveys were carried out at some of the busiest junctions that will be affected by the development, such as Mersea Road/St Botolph’s Roundabout, Old Heath Road/Wimpole Road/Brook Street, which are the main routes into town centre, or other possible routes, such alternative eastern route via Whitehall Road/Haven Road onto Greenstead Roundabout and Cowdray Avenue. The key junctions mentioned are Wimpole Road / Brook St., Mersea Road/Pownall Crescent, Mersea Road/Abbott’s Road (why is Mersea/St Botolph’s not mentioned?) (2.4). The report claims that:

The identified junctions are analysed as being within capacity (using the volume over capacity criteria from the strategic model, rather than from junction capacity assessments) with the 1,000 dwellings, but are above capacity for scenarios with 1,500 and 2,000 dwellings.

If 1,000 additional dwellings constitute the limit for capacity, **what will be the cumulative impact of Middlewick plus additional development**, e.g. on Place Farm (housing and business), Rowhedge

¹⁴ For further detail on air pollution, see the statement submitted by Julie Ennifer.

Business site, or the additional about 200 homes that will probably be built on the Paxman site within the next few years?

According to the recently issued Topic Paper 5 on Middlewick ‘the evidence work concludes that the highway network adjacent to the site is generally able to cope with the flows that use it during most times of the day outside of the traditional **weekday peak periods. At these times the junctions can get busy, and queues and delays can occur.**’ (3.4.5). The remedy proposed is a new road linking Mersea Road and Abbot’s Road: ‘This would provide **an alternative route for some of the existing traffic currently using Abbot’s Road between Mersea Road and Old Heath Road;**’ (3.4.6), the purpose of which would be ‘to draw as much traffic as possible through the site and away from the western end of Abbot’s Road and part of Mersea Road. (3.4.7)¹⁵ As already stated, this proposed road would negatively impact the remaining natural green space; further, it would clash with the purposes of the “green corridors” proposed in the DIO vision document.¹⁶ A new road also **does not solve the problem of congestion nearer town centre**, e.g., the bottom of Mersea Road and around Brook Street. Furthermore, it is well evidenced that **the building of new roads does not solve traffic problems but creates more traffic**, a phenomenon known as ‘induced traffic’.¹⁷ **Building a new road in a highly sensitive nature area contradicts CBC’s commitments to a green transport strategy.**

To conclude, the allocation of Middlewick Ranges for housing has been found to be unsound. Middlewick Ranges LoW, Birch Brook LoW and the fields between Birch Brook and Weir Lane should be preserved for future generations.

Appendices:

- (1) Midland Ecology Report
- (2) Waste Plant Application

¹⁵ Local Plan Evidence Base Middlewick Ranges – Summary Report, para 3.11, 3.12.

¹⁶ A Vision for Development at Middlewick Ranges, p. 88.

¹⁷ ‘When a new road is built, new traffic will divert onto it. Many people may make new trips they would otherwise not make, and will travel longer distances just because of the presence of the new road. This well-known and long-established effect is known as ‘induced traffic’. Induced traffic means that the predicted congestion benefits of a new road are often quickly eroded. Traffic levels on bypassed roads can also rise faster than expected due to induced traffic, all of which means the hoped-for benefits of a new road can evaporate very quickly.’ ‘New Roads Create New Traffic’, <https://bettertransport.org.uk/roads-nowhere/induced-traffic>

MIDLAND ECOLOGY

MIDDLEWICK RANGES

Ecological Evaluation Report

February 2021

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1 Purpose of Report

- 1.1 The purpose of this report is to evaluate the ecology report on Middlewick Ranges completed by Stantec Ecology consultancy and which forms part of the evidence base of information submitted to support the Emerging Colchester Borough Council (CBC) Local Plan and development at Middlewick Ranges;
- 1.2 An evaluation of other Local Plan requirements and particularly those of statutory authorities in their regard to biodiversity duty is considered;
- 1.3 The report concludes by setting out a number of options to safeguard all or part of the site at Middlewick Ranges and secure it for long-term nature conservation.
- 1.4 Two main considerations are recommended to determine the viability of the site
 - i) Although beyond the remit of this piece of work consideration should be given to whether CBC and adjoining authorities have clearly evidenced the housing requirement on this land given that the authorities have jointly agreed to work together to achieve the targets set and so release other sites of lesser environmental value;
 - ii) Have CBC demonstrated the process that informed on the decision to include Middlewick Ranges as one of the Site Allocations for the Local Plan by demonstrating an objective process to quantify the natural capital value and avoidance of areas of high ecological value?

2 Statutory Duty and Mitigation Hierarchy

- 2.1 Middlewick Ranges is currently a live military firing range and training area owned by the Ministry of Defence (MoD) located to the south of Colchester. The site has been identified for closure as part of the Defence Estate Optimisation (DEO) Portfolio and the MoD wish to have the site included within Colchester Borough Council's (CBC) Emerging Local Plan 2017-2033 to support the delivery of housing and associated infrastructure.
- 2.2 CBC appears to have agreed the principle of site allocation for housing in the Emerging Local Plan (publication draft, June 2017) which contains Policy SC2: Middlewick Ranges. This policy states:

The allocation shown on the Policies Map is expected to deliver approximately 1000 new dwellings. The final number of dwellings will only be confirmed when full details of constraints are known... development will be supported on land within the area identified on the policies map which provides:

- i. *Up to 1000 new houses of a mix and type of housing to be compatible with surrounding development;*
- ii. *Access and highway works on the local road network, including new junctions, to be agreed with The Highway Authority and delivered at the appropriate time commensurate with the development;*

- iii. ***Detailed ecological surveys and appropriate mitigation to enhance the ecology of the remaining areas of the Local Site including the provision of compensatory habitat to replace habitat lost to development;***
- iv. *Strategic areas of public open space;*
- v. *Delivery of enhancements to sustainable travel connectivity including public transport, cycling and walking infrastructure;*
- vi. *Mitigation measures to address site contamination; and*
- vii. *Provision for retention or diversion of any existing public rights of way within the site.*

A masterplan will be required to inform the detailed definition and mix of uses within the site.

- 2.3 It is not clear what process CBC have conducted to determine the appropriateness of Middlewick Ranges as a site suitable for delivery of 1000+ houses. Having made the decision to include the site in the Emerging Local Plan with an associated Policy SC2 pre 2017, this policy also identifies a requirement to carry out detailed ecology surveys to fully inform on what level of mitigation and/or compensation is necessary;
- 2.4 **CBC should therefore fully demonstrate what measures have been taken to comply with their statutory duty to have full regard to biodiversity in their decision making under Sec 40 of Natural Environment & Rural Communities Act (2006). By doing so, they should clearly show what evidence was available for them to fully consider the (actual or potential) impacts on biodiversity and other ecosystem services for the full or partial loss of Middlewick Ranges to enable them to include the site in the Emerging Local Plan and when that decision was made.**
- 2.5 Evidence should show how the Mitigation hierarchy has been considered and implemented to avoid areas of high ecological value in their selection of the site in the emerging Local Plan and why it considered that avoidance of such loss was not possible.

In particular, CBC should demonstrate how the principle of development on this site meets National Framework guidance with regard to biodiversity net gain and the mitigation hierarchy.

Paragraph: 024 Reference ID: 8-024-20190721 of government guidance on the Natural Environment to support NPPF (2019) issued on 21 07 2019 states :

Biodiversity net gain (BNG) complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy.<https://www.gov.uk/guidance/natural-environment>

2.6 National Planning Policy Framework Para 175a states:

175. When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

2.7 Further to this National Planning Policy Framework Para 170 states:

*170. Planning **policies and decisions should contribute to and enhance the natural and local environment by:** a) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils** (in a manner commensurate with their **statutory status** or identified quality in the development plan); b) **recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services** – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate; d) **minimising impacts on and providing net gains for biodiversity**, including by establishing coherent ecological networks that are more resilient to current and future pressures; e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, **unacceptable levels of soil, air, water or noise pollution or land instability**. Development should, wherever possible, **help to improve local environmental conditions** such as air and water quality, taking into account relevant information such as river basin management plans; and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

2.8 Given that the Emerging Local Plan may be adopted fully and that recently (1/2/2021) the council has adopted Part 1 of the new Local Plan, the council should also fully demonstrate the following to assure compliance with the revised Env1 Policy

- i) what consideration has been given to the choice of **alternative sites** that would cause less harm?
- ii) that the benefits of the proposed development clearly outweigh the impacts on the features of the sites and the wider network of natural habitats (in terms of natural capital value); and
- iii) sufficient baseline evidence has been collated in the form of surveys and historical data to ensure that recommended mitigation and compensation measures will fully mitigate and/or compensate for losses to justify that selection.

3 Site Designation and Ecological Value

- 3.1 The ecological value of the land at Middlewick Ranges is well-documented. It is a non-statutory designated Local Wildlife Site (LWS) reference CO122 Middlewick Ranges, Colchester. The site was designated in 1991 and has retained its wildlife value as overall favourable status for the last 30 years (Wildlife Trust monitoring reports). It was designated and is monitored by Essex Wildlife Trust and is in the ownership of the Ministry of Defence (MoD).
- 3.2 Despite its local designation, many Local Wildlife Sites across the UK meet the standards for designation at a higher level such as a Site of Special Scientific Interest (SSSI), but only a handful of sites may be designated to this higher level as Natural England only designate a limited number to act as a representative sample that meet the national criteria. **Any survey work should clearly demonstrate if the site does meet the criteria for designation as a SSSI or higher designation than that of LWS.**
- 3.3 Unlike SSSIs, **all** sites that meet the LWS criteria can be designated in full or as candidate LWSs. A LWS can act as a reservoir for vulnerable species which can re-colonise areas from which they have disappeared. LWS can also complement or buffer statutory nature conservation sites (SSSIs) and help to identify and protect stepping stone habitats along strategic wildlife corridors, such as rivers. This may be especially important in the context of climate change, where wildlife corridors may provide a means of dispersal for species at a time of environmental change.
- 3.4 The selection criteria for designation of Middlewick Ranges are based on habitat quality and quantity of HC11 – Other Neutral Grasslands and HC13 Heathland and Acid Grassland with sections of good quality Lowland Dry Acid Grassland present and the **nationally scarce** Lesser Calamint (*Clinopodium calaminta*) found in the western edge of the site.

The principal value of this site however is its invertebrate populations (SC18 Species of Principle Importance and SC19 – Important Invertebrate Assemblages). The main rifle butts at the south end of the site, along with smaller sandy banks to the north, provide significant nesting habitat for a range of insects, whilst the extensive grasslands surrounding them, including those areas kept closely mown over the active parts of the rifle range, provide the necessary additional foraging grounds.

The best-studied group of insects is the hymenoptera (bees, wasps and ants), within which **seven nationally threatened** (Red Data Book) and **eight Nationally Scarce** species recorded. The most significant species are the SPIE digger wasps *Cerceris quadricincta* (RDB1) and *Cerceris quinquefasciata* (RDB3), the latter's brood-parasite cuckoo-wasp *Hedychrum niemelai* (RDB3) and the Small Blue Carpenter-bee *Ceratina cyanea* (RDB3). Some of the short-mown sandy banks bordering the range roads support a large population of the RDB2 Bee-wolf (*Philanthus triangulum*).

- 3.5 The evidence provided is in the public domain and clearly demonstrates that the site is of local and national importance due to the presence of lowland acid grassland which has undergone a substantial decline and loss in the 20th century due to agricultural intensification, afforestation and development.

- 3.6 Many of the invertebrates that occur in acid grassland are specialist species which do not occur on other types of grassland. Middlewick Ranges supports open parched acid grassland on sandy soils which are the favoured habitat for a considerable number of ground-dwelling and burrowing invertebrates such as solitary bees and wasps

- 3.7 In terms of NPPF(2019) government guidance Paragraph: 012 Reference ID: 8-012-20190721 Revision date: 21 07 2019 states:

Locally designated 'Local Wildlife Sites' and 'Local Geological Sites' are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed), climate mitigation and helping to tackle air pollution. They can be in rural, urban or coastal locations, can vary considerably in size, and may comprise a number of separate sites.

*National planning policy expects plans to identify and map these sites, **and to include policies that not only secure their protection from harm or loss but also help to enhance them and their connection to wider ecological networks.***

- 3.8 CBC should demonstrate how their decision making to include Middlewick Ranges as a suitable site for housing complies with this government guidance as well as their own policy Env1 in CBC Adopted Local Plan 2001-2021 which remained the current point of reference. This states that, "The Council will safeguard the Borough's biodiversity... through the protection and enhancement of sites of international, national, regional and **local importance.**" It also states that where new development within a 'rural location' is proposed, it should demonstrably "be in accord with national, regional and local policies for development within rural areas, including those for European and nationally designated areas; be appropriate in terms of its scale, siting, and design; **protect, conserve or enhance landscape** and townscape character, including maintaining settlement separation; **protect, conserve or enhance the interests of natural and historic assets**; apply a sequential approach to land at risk of fluvial or coastal flooding in line with the guidance of PPS25; **protect habitats and species and conserve and enhance the biodiversity of the Borough**; and provide for any necessary mitigating or compensatory measures."

- 3.9 Similarly, the MoD, as a statutory authority should also demonstrate what measures have been taken to have full regard to biodiversity under Sec 40 of Natural Environment & Rural Communities Act (2006) to dispose of the site when found to be surplus to requirements in favour of development (as opposed to management as a National Nature Reserve for example) knowing that the land has been designated as a Local Wildlife Site (LWS) and supports nationally rare species;

4 Ecology Evidence-base for Middlewick Ranges

- 4.1 The MoD have provided CBC with a suite of documents to inform on the rationale to secure the site to deliver 1000+ homes and associated infrastructure. This section concentrates on the evaluation of the ecology report produced by Stantec;
- 4.2 The Stantec report is a detailed report which provides information on the site, the habitats present, types of species **likely** to be associated with those habitats. Details of the surveys undertaken to inform on the masterplan, the likely losses incurred and proposed mitigation and/or compensation on site. These are detailed in a series of Appendices. A bespoke metric to quantify how Biodiversity Net Gain (BNG) can be achieved is also contained in the appendices and is discussed separately in Section 5;
- 4.3 The report details the personnel who have carried out the surveys and assessments. It is accepted that the ecologists are suitably qualified and have the relevant licences where required. Additional specialist advice has been sought and provided by Dr Putwain on habitat creation and enhancement of acid grassland and heathland creation (Appendix M) and importance of invertebrate assemblages by a specialist entomologist;
- 4.4 One of the main purposes of undertaking the surveys and assessment of the site was to fully inform on the viability and suitability for its development, where to avoid areas of highest ecological value and whether it is possible to mitigate and/or compensate for the losses incurred to achieve an overall net gain in biodiversity;
- 4.5 A number of desk-top and field surveys have been undertaken over a period of time from 2017 – 2020 to inform on the ecological value of Middlewick Ranges which provide an extended period on which to assess the site. However, the methodologies differ in the depth of survey undertaken which range from desk-top or walk-over surveys to detailed studies (mainly of bats);
- 4.6 The report provides a level of detail on some aspects, there are other areas which need more detail to fully inform on whether the scheme is truly viable. CBC Local Plan policy Env1 states *“The Local Planning Authority will take a precautionary approach where **insufficient information** is provided about avoidance, mitigation and compensation measures and secure mitigation a and compensation through planning conditions/obligations where necessary”*.

Whilst it is accepted that this is an open-ended statement to capture most eventualities, it remains unclear how CBC will fulfil their duty under Sec 40 of NERC Act (2006) to have full regard to biodiversity in their decision-making if they do not have a suite of surveys to fully inform on potential impacts and whether proposed mitigation and compensation is adequate to aid with their decision-making.

- 4.7 Home Office Circular 06/2005 Paragraph 99 has been retained for use to aid decisions and states that

*99. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, **is established before the planning***

*permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. **The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.** However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence.*

4.8 The British Standards Biodiversity & Development BS 42020 Para 8.1 also states that decisions must be based on adequate information to assess impacts on biodiversity

4.9 The following section evaluates the surveys undertaken and considers whether they are of sufficient detail to inform on the viability of the site for development and therefore inclusion in the Local Plan

4.9.1 **Habitat Assessment – Phase 1 and botanical survey: Adequate**

Surveys were undertaken in May 2017, June 2018 and March 2019. The May and June periods are during optimum survey seasons and the March survey was carried out to confirm the mapped status of habitats completed previously. The report details that the LWS status and Acid grassland are generally in good condition and are valuable at **County level**.

A desk-study evaluation of the methodology used, results and mapped areas is accepted, although it is not clear within the report if the **condition of each habitat** is accurately mapped and detailed on plans. This may have more relevance to achievement of biodiversity net gain discussed in Section 5.

4.9.2 **Invertebrates – Inadequate**

The site is designated for its invertebrate assemblage considered to be of **County and potentially National value**. A walk-over survey was undertaken in June 2019 and was restricted to certain dates when the firing range was not in use. The dates coincided with poor weather (drizzle and cool conditions) which did not enable samples to be collected for later analysis or field observation (as most invertebrates would be in burrows, longer grass thatch etc for protection from rain and wind). The sites to the south of Birch Brook had also been cut and caused further difficulties in assessment of habitat value for invertebrates.

The report has had to rely mostly on a habitat based assessment, but concludes that the terrestrial invertebrate assemblage is of at least County level. The report concludes that the survey effort and findings may not reflect true population status and states: *Whilst such an invertebrate assemblage is suggestive of potentially **national level importance for terrestrial invertebrates**, it is unknown how representative the survey work has been in terms of*

taxonomic coverage, temporal spread (i.e. across all seasons, or focussed on specific periods) and geospatial coverage. This dataset (when considered in the absence of a habitat appraisal considering current habitat conditions) is indicative that the Invertebrate Survey Area could have a terrestrial invertebrate assemblage of elevated nature conservation interest, beyond the County Level for which Middlewick Ranges LWS is already designated.

It should be noted that at a National level this may be a key consideration in determining whether the loss of the site should be avoided and/or whether any mitigation and/or compensation measures proposed are adequate.

4.9.3 ***Dormice – Nut search: Inadequate***

A search of the woodlands for field signs for hazelnuts nibbled by dormouse is inadequate for purposes of identifying if this species is present/absent or to inform on appropriate mitigation;

4.9.4 ***Riparian Mammals – Search on Birch Brook for field signs of Otter: Adequate***

The survey was undertaken in September 2019 and found no evidence of Otter. Whilst these findings are accepted, evidence of presence of other riparian mammals is not adequately detailed. The watercourse was not considered suitable for Water voles (a UK and EU Protected Species), but photographs of the brook contained in the report seem to show that this may not be the case as the brook appears fairly narrow with grassed, earth banks in places. Water voles do use sub-optimal habitats and further survey work would be required to adequately confirm presence/absence of this species and mitigation required;

4.9.5 ***Breeding Birds – Habitat Assessment: Inadequate in part***

Section 4.4.18 – 4.4.23 and Appendix I provides details of the walk-over survey and habitat assessment carried out in January 2019. This is outside of the optimum time of year to undertake assessments and support any casual observations of likely usage, but the report acknowledges the presence of Nightingale with 19 territories alone present in the Allocation Boundary and breeding bird survey appraisal area. The site is also considered suitable for other ground nesting birds such as Skylark and generally for foraging and nesting. Presence of notably rare birds on the Red list of Birds of Conservation Concern includes Song thrush, Fieldfare, Barn owl and Grasshopper warbler.

The report states that the site is of at least **County level importance** for the breeding bird assemblage, including Nightingale, but that this is based on an assessment of habitat quality only and not based on a full breeding bird survey.

4.9.6 ***Bats – range of methods: Inadequate in part***

A range of methods and at various levels have been undertaken over a period of time to establish presence of Bats and types of species/population size, location and the types of Bat roost present. The methodology is more in depth for this species due to the likelihood of a licence from Natural England being required for disturbance and destruction of some roosts and to accompany a full planning application.

There is concern that the initial Bat activity survey was carried out in September to October 2018, a period outside of which Bats are more active (generally late April to end of August) and only two transect surveys were completed on two routes across the whole site which is unlikely to inform on bat usage due to limitations on timing and spatial studies. Towards the autumn, Bats will start to hibernate depending on weather conditions and food availability. In addition the report accepts that current best practice guidance of two survey visits per month (April to October) in appropriate weather conditions for bats in moderate/high habitat, but this survey effort was not followed and only one survey per month was required/carried out (and only during September and October).

These initial findings may therefore not be representative of the sites status for foraging and commuting;

A Bat Hibernation Survey was carried out in December 2018 –February 2019 and a further general Habitat Appraisal for Bat foraging and roosting was undertaken in January 2019 of the whole site.

A more detailed Bat Trapping and Tracking survey was completed in June, August and September 2019 and confirmed the presence of the rare Barbastrelle bat (and other Bat species) within the Birch Brook woodland.

Overall relatively rare species of bats (Barbastrelle and Nathusius') were recorded along with Brown long-eared, Natterer's and Daubenton. The woodland complex is considered of Regional importance to Barbastrelle bats and other sites of County value.

4.9.7 ***Reptiles: Inadequate***

No reptile surveys have been completed, but historical data and Habitat assessment confirm the likely use of the site by Adder, Grass Snake, Common lizard and Slow worm. Appendix J considers that the habitat is of high suitability within the site and Allocation boundary. The presence/absence of these species and to what level of population significance is required to fully establish their value at a local, country or regional level;

4.9.8 ***Amphibians: Inadequate***

No amphibian surveys have been carried out and the Phase 1 survey identified only one pond that held water within the Birch Brook woodland corridor and supported marginal vegetation considered suitable for Great Crested Newts (GCNs) as a breeding pond whilst two other ponds provided sub-optimal habitat due to them drying out. Terrestrial habitat both within the Allocation Boundary and Mitigation land was identified as suitable.

A Habitat Suitability Score (HSI) is normally undertaken on each pond to quantify the value to support GCNs. This does not appear to have been carried out. A further five ponds have been noted on the Phase 1 Habitat map on the Mitigation land but these do not appear to be described or assessed within the report. An assessment of the ponds is required and evaluation of their connectivity (there do not appear to be any major obstructions such as roads, fast-flowing rivers etc);

Although the presence of GCNs on site would be unlikely to stop any development per se, it would be necessary to agree a licensing approach and suitable mitigation prior to any planning approval;

No reference has been made to the presence of Common toad which is a Priority Species on Sec 41 of NERC Act (2006) due to its vulnerable status, and is likely to be present on the site;

Confirmation of the presence/absence of the Palmate newt should be provided as it is normally associated with slightly acidic ponds and terrestrial habitat that occur in this area and has previously been recorded in Colchester. This is a nationally rare species and may require separate mitigation measures.

4.10 ***Other Mammals***

No specific surveys have been carried out for mammal species, but undoubtedly the habitat described will be suitable for small mammals such as Moles, Shrews, Woodmice, Field voles and Bank voles which provide food source to larger prey already recorded such as Barn owl, Kestrel and Fox. Although not protected their presence is another indicator of the diversity of species present;

Badgers and their setts are protected and several outlier setts have been noted during the surveys as incidental records. The woodland, hedgerows and scrub areas within the site provide opportunities for Badger setts and adjacent habitats provide suitable foraging and commuting habitat.

Whilst the presence of Badgers and small setts would be unlikely to be considered as a key constraint, the locations of setts, their status and population size are required to determine the full constraints. Badgers are particularly highly mobile and adaptable species that can create setts with multiple holes and chambers to support large, well-established clans. These details would need to be established and a clear Badger strategy developed to ensure their setts and foraging/commuting routes would not be compromised should the decision to proceed with Site allocation be accepted. See Section 6 on Mitigation and Compensation.

4.11 ***Summary***

A suite of habitat/botanical and species surveys have been carried out over a 3 year period by suitably qualified ecologists and specialists to more fully inform on the actual and/or potential constraints to development and areas suitable for development and retention of natural green space;

There is some concern at the general level of survey effort and the timing of surveys outside of optimal season. Whilst it is unlikely that this level of evidence would be accepted for a full planning application (as is pointed out repeatedly within the Stantec report), there is concern that a major decision on whether to allocate this land at all for development based on this evidence is acceptable.

5 Biodiversity Net Gain

- 5.1 Biodiversity Net Gain (BNG) is a requirement under National Planning Policy Framework Para 175 which requires developers to ensure habitats for wildlife are enhanced and left in a measurably better state than they were pre-development. Following the Mitigation hierarchy (as detailed in Section 2) clear evidence must be shown of how the applicant has avoided those areas of highest ecology value, mitigated on site and only as a last resort compensated off-site to achieve an overall net gain in biodiversity. These principles are considered a necessity in demonstrating that this development would be sustainable by achieving an overall BNG to allow the site to be allocated in the Local Plan.

An assessment must be undertaken to fully quantify and transparently show how a net gain can be achieved. This is done using a biodiversity metric, to show the type of habitat and habitat condition within the site before any development; and then demonstrate how the development is improving biodiversity, such as through the creation of new habitats, or the enhancement of existing habitats.

Biodiversity improvements on-site are preferable, but where this is not possible, habitat creation or enhancements can be provided off-site if agreed by the Local Planning Authority. The metric in this situation (i.e. for Middlewick Ranges allocation) seeks to provide an indication that a net gain for biodiversity is achievable using the Mitigation Land, and with the defined developable footprint.

- 5.2 The Environment Bill (likely to become statute in 2021) states a 10% net gain in biodiversity will be mandatory. Until then, most Local authorities can decide what level of gain is acceptable.
- 5.3 Stantec have tried to demonstrate within their report the processes they have taken to comply with the Mitigation hierarchy to Avoid, Mitigate and Compensate – and by doing so, achieve the overall BNG. Appendix N provides a detailed analysis of the calculation and assessment which are summarised and evaluated below:

Avoidance – the survey work carried out has been used to determine the layout of development on the site. The ecology report details ecological assessment of the Allocation site and Mitigation Site and no other assessment is included at a wider level (it is not clear if this has been done at a Strategic level across the local authority areas as part of the Local Plan evidence base – see Section 1)

The Masterplan show development is concentrated in the northern part of the Allocation Site where the ecological value is considered of lower value and that the areas of higher ecological value have been avoided. For this premise to be accepted the level of detail available in the ecology reports should be fully considered in terms of survey effort and timings to ensure best practice and guidance was complied with to fully inform (see Section 4);

Mitigation – some mitigation for loss of habitat has been included in the developable area with the principle of green routes, buffers to existing development and connectivity to the Mitigation land identified. Those landscaped areas within the development area will provide

some biodiversity value within any new development but will be calculated against the natural habitats lost and would therefore result in a loss of biodiversity if no other mitigation or compensation were put in place.

Further mitigation has been identified on land within Middlewick Ranges which is shown as retained. This is an area of mainly acid grassland and other scrub/woodland habitat. Measures to enhance the ecological value have been recommended to increase its biodiversity value and add to the metric. Note that the percentage gain in biodiversity value of this area is relatively low due to the site and habitats already being of high conservation value and largely favourable status informed by the ecology surveys;

Compensation/Mitigation – Due to the comparatively high value of land to be lost to development and the high value of land to be retained, Stantec identified a further need to create more habitats off-site and in comparatively low ecological areas in order to maximise the percentage increase. The Mitigation land is comprised largely of intensive agricultural (arable) fields which have been improved through nitrification and which are of comparatively low ecological value (and from an ecological point of view more suitable for development notwithstanding other constraints);

- 5.4 The main habitat-type to be lost from the proposals is acid grassland and Appendix M details the proposed methodology to allow new areas of acid grassland to be created on the agricultural fields. This methodology includes the application of sulphur to increase acidity levels, careful translocation of turf from the northern section of Middlewick Ranges and spreading of green hay from the retained acid grassland onto the new site (see Section 6).
- 5.5 These complex processes are contained in the Acid Grassland Management Strategy produced by Stantec and supported by Dr Putwain in a letter dated 29th September 2020 documented in Appendix M which considers the creation of acid grassland in the Mitigation Land at Middlewick. Dr Putwain provides details of his experience as an academic, researcher and practitioner in applying his evaluation of whether the proposed methodology will succeed and concludes the letter by stating, *“the acid grassland restoration strategy proposed by Stantec has a very high probability of successfully creating a functioning acid grassland ecosystem that will have very close similarity with the existing reference acid grassland occurring within the Allocation Boundary. This can be achieved within 10 years and possibly within 5-7 years”*.
- 5.6 The issue of ease/difficulty in creating a priority habitat such as acid grassland is also of concern. Dr Putwain has confidence in this being achievable in a comparatively short period of time compared to Defra, Natural England and a host of other specialists who devised the Defra metric. The Biodiversity Metric 2.0 states that acid grassland creation is ‘highly’ difficult to create, and will take 25 – 30 years to create either a fairly good or good condition respectively (with moderate condition grassland taking 20 years and fairly poor condition grassland taking 15 years). Due to this incompatibility with their assessment in 5.5, Stantec devised a bespoke metric to place lesser weighting on the type of habitat to be lost. Put simply, the harder the habitat is to recreate, the higher the score and therefore more compensation/mitigation required.

- 5.7 The addition of a large area of acid grassland on a land that is of low ecological value will support a higher percentage of biodiversity gain and with the three elements of avoidance, mitigation and compensation in place, Stantec have calculated that 9-16% BNG could be achieved based on the proposed layouts, habitats to be created or enhanced and length of time to achieve optimum ecological value.
- 5.7 To calculate the BNG Stantec have used four options for layouts and habitat creation and a bespoke metric based on the Defra metric to calculate the net gain. The calculation is contained in a series of tables within the report. The Defra metric uses Excel software which can be interrogated to determine changes in size, types, condition and connectivity of habitats to calculate biodiversity values pre and post development. The metric used by Stantec is complex and such interrogation is not possible in the report format and lies beyond the remit of this report. However, Stantec do acknowledge that there may be a series of measures required and the exact requirements will be dependent on further surveys to inform on future planning applications. There is concern that proposed compensation areas may have influenced the size and scale of the developable area, but due to the lack of evidence still outstanding, there could be an issue in whether the Masterplan is actually a true reflection of how much land could be developed at all and therefore whether this site is a viable option given the costs of mitigation and compensation alone to achieve BNG.
- 5.8 Long-term management of mitigation and compensation areas is also a requirement of any overall scheme to achieve BNG. The Defra metric gives higher scores and longer periods for habitats that are difficult to establish or for those such as woodland that will take time to mature and achieve optimum biodiversity value. The Environment Bill stipulates a minimum period of 30 years to allow for maximum biodiversity value to be achieved and that the person(s) responsible for undertaking that management will be identified and a management plan agreed as part of any planning approval. This aspect of the after-care and long-term management is briefly referred to in the report and there is concern that full consideration of the long-term care and management of these new areas and associated costs of establishment have not been fully recognised. Although the MoD have confirmed in writing (letter dated 14th October 2020 Appendix O) that they are content the proposed “post development habitats” align with anticipated training needs, this does not confirm who will be responsible for creation, management and maintenance of this and areas within the Mitigation land.

6 Species and Habitat Mitigation

- 6.1 Whilst the Stantec report has used a bespoke metric to quantify if gains or losses are possible from the proposed development of Middlewick Ranges, neither the metric used or the Defra metric take the presence of protected/priority species or more common species of animals into account when calculating its biodiversity value.
- 6.2 The presence of species at a National, Regional, County and Local level have been recorded at this site and acknowledged as part of a desk-top study or by surveys already completed. Stantec readily identify that more surveys are necessary to fully inform. However, the surveys and desk-top studies already undertaken confirm the presence of important invertebrate assemblages, reptiles and amphibians, small and large mammals, birds and bats. All species are reliant on the terrestrial habitats which support the range of plants on soil substrate;
- 6.3 One of the main factors in delivering biodiversity gain at this site is the translocation of the acid grassland. Much emphasis has been placed on the methodology to do so and the support of plants from various sources to help this succeed. Little/no consideration has been given to the displacement of associated species groups which readily rely on these habitats – particularly the associated soils biota, invertebrates, reptiles and mammals along with the impacts and loss of foraging and commuting areas as one habitat is displaced to create another. The impacts on associated fauna from translocation should be fully considered in any viability study to determine the use of this site for development along with the need to mitigate, monitor and manage sites in the long-term;
- 6.4 The Joint Nature Conservancy Council (JNCC) publication A Habitats Translocation Policy (2003) should be read fully in this context <https://sblpublicinquiry.files.wordpress.com/2014/01/5-21-a-habitats-translocation-policy-for-britain-2003.pdf>

Section 5 of this is particular relevant and is inserted below:

5. Key conservation issues in relation to habitats translocations

5.1 Habitats translocations have been proposed as offering a solution when an area recognised as of importance for wildlife is threatened by development. *From the point of view of a developer, habitats translocation is an attractive solution because it can be cheaper and more convenient to move the habitat than to proceed with the development elsewhere. Thus transport, housing and industrial development interests are greatly affected by policies and practices concerning habitats translocation. The response by conservationists to habitats translocation is most strongly negative for those sites which are of high conservation interest (internationally important or of SSSI quality) for their habitats and species. Even for sites of more local interest, opposition to habitats translocation is strong from conservationists because of the poor track record of sustaining the original quality of translocated habitats, coupled with their dislocation from their ecological and historical context. This has resulted in strongly opposing views on the merits and role of habitats translocation, between conservationists on one side and developers on the other.*

5.2 Proposals for translocating habitats have increased recently in Britain, typically as part of development proposals affecting sites of known or potential importance for wildlife. In these circumstances, habitats translocation has been portrayed as a means of mitigating (in the sense of seeking to reduce the impact) damaging developments, by moving the conservation interest affected to a new “safe” location. However, experience shows that habitats translocation is, at best, merely a means of achieving partial compensation (in the sense of seeking to make amends for the impact) for development. The available evidence (as reviewed by Bullock et al. (1997)) indicates that habitats translocations have not been successful in maintaining the characteristic biodiversity of the assemblage that is moved, and so the practice is regarded as damaging by statutory and voluntary conservation organisations and many academic researchers. This was the clear view that emerged from discussions at the June 1997 Joint Committee meeting and from subsequent meetings of the Inter-agency Translocations Working Group. Bullock et al. (1997) summarise much of the factual background to habitats translocations in Britain, while Jefferson et al. (1999) review in detail the experience relating to translocation within a grassland site in Devon (Brocks Farm). There are circumstances where translocations of individual species may require the associated movement of other species and associated substrate material, but the scale of habitats translocation will typically be much larger in terms of the range of species and amount of substrate to be moved.

5.3 Habitats translocation has also been suggested as a tool to assist the restoration of degraded habitats. The rationale here is that moving samples of habitats from areas rich in biodiversity to places where biodiversity has been lost through development, intensive land management or pollution, will help to accelerate re-colonisation by assemblages of typical species. The problems with this approach are twofold: first, there will be damage to the donor site, and second, the process of translocation will result in changes to the assemblage of species moved, so that the original interest will not persist unchanged in its new location. Therefore, habitats translocation for restoration projects should only be carried out after a thorough prior assessment of the likely losses and gains involved. Nevertheless, there are situations where the restrained and selective use of habitats translocation may help to restore degraded habitats, at least partly by resulting in the establishment of additional species characteristic of the habitat concerned. This is particularly the case for early successional stage habitats, which depend upon intensive management or disturbance to retain their biological interest. Heathland restoration has been investigated widely, including the use of experimental trials of alternative techniques (for an earlier review of this topic see the handbook by the Environmental Advisory Unit, 1988). In most situations, however, relying on a combination of natural colonisation, initiation of appropriate management regimes and judicious species translocation (as a tool for the re-establishment of characteristic species where there is evidence that they will not return soon), will be the best restoration strategy. Where species translocation is employed it should comply with the guidance given by JNCC (2003).

7 Conclusion and Recommendations

7.1 The key concerns are

- i) Have CBC demonstrated a sequential process and evidenced use of the Mitigation hierarchy in their decision to select Middlewick Ranges as a suitable site for development and in doing so, can demonstrate that land of less ecological value has been rejected as not suitable and supported by an objective rationale;
- ii) Has CBC demonstrated the necessity to achieve their housing allocation target is dependent on the land at Middlewick Ranges being developed to enable 1000+ houses to be constructed and that no other suitable sites of lesser ecological value are available in the surrounding districts of Colchester, Braintree and Tendring;

7.2 i) Has CBC demonstrated that they have sufficient information from ecology surveys completed to inform on the proposed masterplan and delivery of sustainable development that is fully viable without later compromising on the ability to achieve BNG

- ii) Has CBC demonstrated that the necessity of such development to deliver the housing targets outweighs the ecological and natural capital assets associated with this site;

7.3 Not with-standing that CBC and other local authorities are under intense pressure to deliver these targets and are required to assess ecological importance against many other constraints to reach their decision and achieve a planning balance, it should be noted that there are a number of concerns that have been identified within the ecology report and evidence base of CBC that require clarification to determine if this site is suitable for allocation.

7.4 If the site is of great value to local communities and naturalists there may be options to either save the site completely from development or to greatly reduce the footprint of development if that is an approach that is wished to be taken. The below are put forward as possible options and examples based on successes on other sites across the UK

- i) Use social media and other mechanisms as part of a “Save Middlewick Ranges” type campaign backed by the Wildlife Trust, Campaign for Rural England, Friends of the Earth, Buglife, Plant Life etc and if possible, associated local conservation celebrities to get public support to save the site from development;
- ii) Localised recording groups could record species on iRecord or similar recording systems available in the public domain to openly show and publicise the importance of this local area of wildlife and people;
- iii) Work with the MoD, Natural England and other statutory authorities partnered by organisations and led by the Wildlife Trust or similar independent organisation to have the site designated as, for example a National Nature Reserve and managed by Natural England;

- iv) A Crowd-funding programme and/or local benefactors and sponsorship may assist in funds to support the above and secure future management of the site on its release by the MoD

6.7 Case Officer: Mr S McAdam

EXPIRY DATE: 26.09.06

Site: Land at Middlewick Ranges, Mersea Road, Colchester, Essex

Application No: M/COL/06/1401

Date Received: 14th August 2006

Agent: Essex County Council

Applicant: Eco Aggregates Ltd

Development: Erection of recycling plant for inert materials and ancillary development.
(ESS/41/06/COL).

Ward: Harbour

Introduction

This application has been submitted to Essex County Council as the Local Planning Authority, with observations from Colchester Borough Council having been requested.

The application seeks to relocate an existing recycling plant and ancillary operations (that are currently part of the Garrison development) to this site at Middlewick ranges. The purpose of the plant is to ensure that the maximum of 'waste' materials from the Garrison development can be recycled. The imported material will be sized and washed at the plant to produce an aggregate product. The existing operations at Circular Road South comprises mainly excavated materials from the foundations of buildings, through to sands and gravels as a result of the excavation, footings and trenches. All materials will be inert, with the only waste product being the silt/clays that are produced as a result of the filter press. Currently this 'waste' is reused within the Garrison development but there may be a need for disposal to an appropriate landfill site or top a reclamation scheme. The current application is for a period of 10 years after which the area will be reinstated to existing levels and returned to grassland. Thereafter, it will be subject of a 5-year aftercare scheme.

Site Description

The application site is part of an open grass field which lies to the south and west of Abbot's Road and to the east of Mersea Road. The areas bounded by these roads are residential in character. There is an extensive tree belt which runs along a significant part the southern boundary, which separates the site from the Middlewick Ranges. An electricity line with two pylons, traverses the site. The area is currently used for informal recreation, walking, jogging etc.

The applicant has submitted a detailed Supporting Statement, a Traffic Assessment Report (by Richard Jackson Plc) and a Noise Monitoring Survey (by Springfield Technical Services). which are to be made available in the Members Room. Appendix 6 of the supporting statement includes an ecology study, carried out by RPS to assess any protected species or habitats of interest within the site. A brief synopsis of the supporting statement is provided in the following paragraphs.

Access to the site will be shared with the existing access to the Middlewick Ranges which is located on a bend on Mersea Road, to the south of the site. An internal road will be constructed leading north to the recycling area. The road will be hard surfaced for its entire length (approximately 200 metres) to ensure that no mud will be carried onto the highway.

The anticipated throughput of the plant is 100,000 tonnes per annum which is based on expected maximum output from the Garrison project. This is based on the expected maximum output from the Garrison project which generates 40 vehicle movements (20 in, 20 out) and relates to the delivery for material for recycling. Further movements of the recycled material for re-use is anticipated to be 60 (30 in, 30 out). It is noted that the facility may attract other 'waste' for recycling that arises in the locality. The maximum capacity of the plant is 150,000 tonnes annually which would result in the average number of vehicle movements of 100 (50 in and 50 out).

In order to mitigate the impact of the proposal, the plant is located in the centre of the site (although it is noted that the plan in the noise assessment report differs from that in the supporting statement). The plant is surrounded by a grassed bund (3.5 metres in height along the north, east and west sides and 2 metre high to the south). An area will be retained around the perimeter of the site for informal access and the existing footpaths that cross the site will remain open until a temporary diversion has been agreed. Once the development commences, two alternative routes will be available to the west and north, to link with the rights of way network.

Although the majority of the operational plant is approximately 6 - 7 metres in height, the water storage tanks and filter press will be 12 metres high. The surface of the operations area will be lowered by 2-3 metres to reduce direct views of the activities although the upper part of the plant which includes the water storage tanks and silt press will be visible above the bunds.

The proposed hours of operation are 07.00 - 18.00 hours, Monday - Friday; and 07.00 - 13.00 hours on Saturday. No operations will take place on Sunday.

Land Use Allocation

Country Wildlife Site (SINC G31).

Relevant Planning History

There is not relevant planning history related to the site.

Principal Policies

Adopted Review Local Plan - March 2004

Development Control Considerations - DC1

Pollution (General) - P1

Rural Resources - CO1

Landscape Features - CO4

Habitats - CO5

Informal Recreation - L13

Public Rights of Way - L14

Human Rights Implications

In the consideration of this developments impact on Human Rights particularly, but not exclusively, to:

Article 8 - The right to respect for private and family life,

Article 1 of The First Protocol (Protection of Property) - The right to peaceful enjoyment of possessions,

it is considered that:

The proposal will have such an impact on an individual's human rights, such as not to be balanced by any advantage to the general interest of the public or a requirement of planning, and is therefore considered unreasonable.

Community Safety Implications

Help to reduce the fear of crime
Help to reduce the occurrence of crime

Positive	Negative	Nil Effect
	3	
	3	

The development would be expected to achieve 'secured by design' in terms of its layout

Yes	No	Not Applicable
		3

Consultations

Environmental Policy has not responded at the time of writing the report. Any response received will be reported to the planning committee.

The Council's Curator of Natural History has responded as follows:-

"The area under consideration forms part of the County Wildlife Site (SINC G31) as identified in the Borough Plan. Middlewick Ranges is one of the premier wildlife sites in the Borough of Colchester, particularly important for its invertebrate populations. In the past English Nature has suggested that the site could qualify for SSSI status. The use by MOD as a firing range has doubtless protected this area of semi-natural acid grassland from development in the past. The importance of the site is shown by the wealth of species data held in the Museum site file going back over several decades,

Historically, most of the recording of flora and fauna has been carried out in the area to the south – east occupied by the butts, because the specialised sandy conditions attract a wide range of fossorial (ground nesting) species of insect and the short sward attracts other specialized invertebrates. However, recent studies have indicated that the area of the ranges under consideration in the north-western part of the site is also of value for nature conservation. It is also likely that invertebrates from the butts area use this area for foraging. The RPS ecological survey, carried out under unspecified weather conditions on a single day, completely ignores the County conservation designation and merely hints at the possibility of the wealth of biodiversity present on the site.

Protected Species - Common lizards (*Lacerta vivipara*) definitely occur (last sighting August 2005), Badgers are known to have a sett in the vicinity and nesting birds (including skylark) are certainly present in season. Bats use the area for foraging, although no roosts are currently known. As pointed out in the survey, the flora is also of interest and in addition several local species of insect were recorded on a brief survey in August 2005.

In summary, as a point of principle the siting of such a facility on a County Wildlife Site, even on a temporary basis, surely goes entirely against planning guidance. On biodiversity grounds it is unsustainable for such a facility to be located on one of the Borough's premier wildlife sites.

In addition, acid grassland accounts for less than 1% of the Borough land area, protected reptile and mammal species as well as several bird species"

The Council's Landscape Officer has highlighted that the Councils 'Landscape Capacity of Settlement Fringes in Colchester Borough' (LDF technical document) identifies the landscapes capacity for change as 'limited' with a 'moderate' degree of sensitivity, i.e. the area may be able to accommodate the particular type of change with some degradation of character and value, but mitigation measures would be required to address potential landscape/environmental issues'. Details of these mitigation measures should accompany the application for agreement, to ensure that development retains the distinctive nature of the landscape when experienced from both the settlement edge and firing range (particularly the network of footpaths criss-crossing it). The development and any associated mitigation proposals should also clearly demonstrate that they have fully address the sensitivities and requirements of sites SINCE status. In conclusion, a full assessment of the proposals and the effect on the local landscape must be submitted. Refusal of the application is recommended as currently proposed, subject to revision/additional information.

The Highway Authority has no objection subject to suitable conditions to achieve the following:-

- A vehicle access point to be installed to current County Council Policy standards and constructed in a permanent stable and free draining material for at least the first 10 metres from the highway boundary (in addition to the wheel wash facility detailed in the submission). The access to remain as the access to the firing range following termination of the recycling facility
- No commencement of development until such time as an order has been made to temporarily divert the public footpaths numbered 159, 160, 161 and 162 which currently cross the proposal site. Following termination of the development the footpaths to revert to their original position

The Council's Archaeological Officer has no objection to the proposal.

The Council's Environmental Control Team has objected to the proposal for the following reasons:-

- The area is residential with no other industry; this proposal would introduce a new noise of different characteristics in a generally peaceful part of town.
- The vehicle movements, 50 per day rising to 100 per day would have a significant impact on the soundscape and traffic conditions, average 1 lorry every 5 minutes in an 8 hour working day on an already busy road. We would not be able to control this once it is in place.
- Site noise, machinery, reversing horns from the dumpers, scraping and tipping from diggers and earth moving equipment, work force shouting etc, we do not consider a 3^m bund would be sufficient to reduce the impact to an acceptable level, noise or visual.
- The existing plant at Abbey Field is audible up to half a mile away.

- Dust would also be a consideration, the assumption that the earth would be fresh dug and therefore damp would not be realistic, the earth is going to be stockpiled before and after sorting, in sustained hot dry weather this would lead to airborne dust. Dust is produced at the present site.
- There is also the potential for pollution from earth brought in from sites that have not been fully inspected.
- This area is one of the few remaining open spaces in Colchester and is well used and well loved by local residents and others who travel to it. If this development were to take place complaints, both immediate and sustained would be anticipated. Such an installation would likely have BPM defence and would therefore be difficult to control.

The Environment Agency has not responded at the time of writing the report. Any response received will be reported to the planning committee.

Essex Wildlife Trust has responded as follows:-

“Essex Wildlife Trust raises an **objection** to this proposal as there are potential adverse impacts on nature conservation interests. This area of MOD land is recognised as a Local Wildlife Site (formerly known as SINC or County Wildlife Site) due to the presence of unimproved acidic grassland and a good assemblage of invertebrates. These significant factors are not reported or considered in the planning application.”

The response acknowledges the one day walkover assessment which was carried out by RPS on 24th May 2006. It is acknowledged that no baseline desk study was undertaken, although no reason is given for the omission. As a result the report fails to identify that the site is designated in the Local Plan as a Local Wildlife Site. EWT considers the ecological assessment to be incomplete and further ecological surveys should be undertaken at the appropriate time of year before the application is determined. A deferral of determination is requested pending the findings of these ecological surveys.

A copy of the consultation response is appended to this report (Appendix 1).

Street and Leisure Services has no objection to the proposal subject to appropriate conditions relating to security and to further surveys to establish information on protected species and habitats.

Representations

54 Letters of objection have been received in respect of the application, including responses from Colchester Natural History Society and North East Essex Badger Group. Colchester Natural History Society has commented thus:-

- Middlewick Ranges is a designated County Wildlife Site (SINC) and as such should under no circumstances be subject to any development.
- Middlewick Ranges is an unusual habitat and one of the top Colchester Borough sites for wildlife and is of enormous importance locally and regionally.
- A number of nationally protected species occur on the proposed development area and the site as a whole has large numbers of Red Data Book, national and local notable species.

To permit such a development would make a nonsense of Wildlife legislation, National, County and Local Biodiversity Action Plans and Local Planning Guidance and create a precedent that would place every other County Wildlife Site at risk from development.

North East Essex Badger Group has commented that there is considerable badger activity in the area and that there is a badger sett located to the rear of the butts on MOD land which the MOD is aware of. While not directly affected, the badgers and their sett may need to be taken into consideration under PPS9.

Other objections received are summarised thus:-

- Increased traffic and associated noise and dust; highway safety (access); operating times will add to traffic problems especially with commuter traffic and to the school
- D K Symes Associates report states that no traffic counts have been made on Mersea Road and that it is not considered to be heavily used. This is contradicted by the report by Springfield Technical Services
- Detrimental impact on visual amenity (bund and plant)
- Loss of habitats and impact on wildlife including badgers, birds, nesting barn owls, fox's, bats and deer. There is also a recorded presence of a scarce stag beetle *Spathocera dahlmanni*, recorded at Middlewick Ranges.
- Loss of an area of open space used for recreational use such as walking, jogging, flying kites etc. The proposal is in contradiction to Para. 10.50 of the Adopted Local Plan which states that the Council will seek the co-operation of the Ministry of Defence to ensure the continuance of arrangements for the public to use the Middlewick Ranges
- Noise and dust from the plant
- The hours of operation are unsuitable for an established residential area
- Loss of green belt
- Inappropriate development in residential area
- The plant will be dealing with waste from the Hythe and Cuckoo Farm as well as the Garrison
- 10 years is more than temporary
- Site selection - this is the wrong site for the plant; the location of the plant should have been included in the overall plan for the Garrison or at another more appropriate site. The supporting statement states that the alternative site 'may be required' for future military use. This is a weak point
- Negative impact on property values
- There is a discrepancy in the summary of the proposals which states that the expected throughput of the plant. The lorry movements vary from 40 per day (Para. 3.2.3) to 100 per day (Para. 3.2.5).
- The location of the proposed plant within the application site in the Springfield Technical Services document is different to that in D K Symes Associates document
- Health and safety issues such a storage of fuel and potential fire hazards
- Why is the proposed use acceptable when public access is restricted during the flying of red flags
- This area is popular with children, What assessments have been carried out to ensure their safety outside operating hours
- Light pollution during winter months
- Will the WW2 Pillbox at the entrance to the site be protected
- The development will affect a right of way
- Health issues

Report

It falls to Essex County Council as the appropriate Waste Management Authority to determine this application.

There is clear support from a sustainability point of view for this type of scheme. Indeed, Structure Plan Policy MIN8 encourages the use of recycled and waste materials as substitutes for primary aggregates provided that there would not be a material adverse impact on local communities or the environment. There are no policies within the Adopted Local Plan which relate directly to recycling.

The MoD is committed to providing an alternative site that can serve the Garrison development. However, there has been a difficulty in finding an alternative site within the Garrison due to the phased release of plots which is critical to meet the housing market demand. Whilst there are areas of land within the Garrison that could be temporarily used for short periods, they are of insufficient size and are not available for a reasonable period of time. Another major consideration is the time and cost implications associated with relocating the plant and associated modular units, connections to services, weighbridge, wheel washing etc.

An alternative site location was identified adjacent to Berechurch Hall Road but was discounted because:-

- the land may be required for future military use;
- access links between the development and the site are poor;
- the area is subject to an agricultural tenancy;
- the area is restricted by overhead lines; and
- the impact on an ecologically sensitive area.

The main issues to be considered in the determination of this application are:

- Impacts on residential amenity (noise, dust etc.)
- Highway issues
- Landscape features, visual amenity and nature conservation
- Loss of informal recreational area and public access

Members are respectively reminded that issues such as health and safety and property values are not material planning considerations.

Local Plan Policy DC1 is relevant and states that such development will only be permitted where:

- (a) It will not cause unacceptable harm through pollution to land, air and water or to people or natural resources;
- (b) The highway network, either as existing or to be developed within the county roads hierarchy, will be able to accommodate safely the extra traffic the proposal will generate;
- (c) It will not lead to the loss or degradation of important cultural, historic, ecological or rural resources, unless alternative compensatory provision acceptable to the Council will be provided.

Impacts on residential amenity

With regard to the amenity/noise pollution and dust issue, members will note from the consultation section above, that Environmental Control has raised concerns with: the introduction of an industrial use into a residential area; vehicle movements (which could not be controlled once in place); and site noise. Furthermore it is highlighted that the existing plant at Abbeyfield can be heard up to half a mile away; that dust would be a consideration as the earth would be stockpiled which would lead to airborne dust in sustained hot dry weather; that there is potential for pollution from earth brought in; and that this is one of the few remaining open spaces in Colchester which, it is anticipated, would be the subject of complaints which would be difficult to control if approved. It is therefore considered that the development will have a significant impact upon the amenity of the nearby residents and would be contrary to Policies DC1(a) and P1 of the Adopted Local Plan which seek to prevent development that will cause unacceptable harm to the amenities of nearby residents.

Highway issues

Concerns relating to the movement and control of heavy goods vehicles have been received and are acknowledged. A Traffic Assessment has been submitted with the application and has been duly considered by the Highway Authority. The Highway Authority has no objection to the proposal, subject to conditions to ensure a satisfactory access, wheelwash and right of way diversion prior to commencement of development. This would appear to be at odds with the views expressed by the Council's Environmental Control Team which has raised issues about the number of vehicle movements and the potential for noise and disturbance.

Landscape features, Visual Amenity and Nature Conservation

Para. 5.6 of the Adopted Local Plan recognizes landscape as an important and highly valued characteristic and the importance of its contribution in terms of its diversity. Landscape character can range from the distinctive landscapes found around the Borough and sensitive wildlife and ecological habitats to the landscape in terms of the natural features and their relationship with historic settlements and the built environment, including archaeological remains. Policy CO1 seeks to protect the open countryside in the Borough for its own sake and to resist development that may have an adverse impact upon existing landscape character and rural qualities, such as nature conservation and attractive landscapes.

Policy CO4 deals with landscape features seeking that any allowed development should protect such features as trees, hedges, ponds and asking for additional planting to enhance these features. Policy CO5 deals with Nature Conservation which seeks to protect wildlife habitats including important hedgerows. Any proposal would have to be judged against these policies, together with the other environmental criteria and the overall development control policy DC1.

One of the key objections relates to the designation of the area as a county wildlife site. A full and detailed response from the Curator of Natural History which suggests that the siting of such a facility on a County Wildlife Site, even on a temporary basis, is in contradiction of planning guidance and that *"on biodiversity grounds it is unsustainable for such a facility to be located on one of the Borough's premier wildlife sites."*

Further details have been requested by Essex Wildlife Trust and the Council's Landscape officer in order to fully assess the implications on habitats and the landscape and appropriate mitigation measures. Notwithstanding the above, it is your officers opinion that the principle of the development on this Greenfield site is considered to be detrimental to visual amenity and out of character with the area.

Loss of informal area

Considerable use is made of the Middlewick Ranges area for walking, jogging etc. which is due to the generosity of the Ministry of Defence in allowing public access when the areas are not in use for military purposes. Members will be aware that public access to the area will be maintained outside the area of the plant itself, while footpaths will be diverted to ensure continued access. The supporting statement highlights the opportunity to create a viewing platform on top of the bund in the north-west with an appropriate path to it, should this be considered of interest.

Summary and conclusions

Your officers, whilst supportive of the principle of the recycling, considers that the development will have an adverse impact upon residential amenity, particularly from vehicular activity and environmental pollution (noise, odours and dust). Consequently, the proposal raises serious issues over the acceptability of the site, in principle, for the development. It has not been demonstrated to the satisfaction of the Council, that the need for the development outweighs the need to safeguard the substantive nature conservation interests on the site. It is therefore considered that this development on a main thoroughfare into the town on a greenfield site, would be alien to the character of the area and an inappropriate location for such a use.

In light of the above points it is therefore recommended that the response to the County Planning Officer states that whilst this authority is committed to the principle of recycling and in particular to the extraction and re-use of materials from the Garrison, this is an inappropriate site for such a development and would object to the application on the grounds of:-

- Impacts on residential amenity (noise, dust etc.) from both the plant and associated vehicle movements
- Impact on Landscape features and nature conservation
- Impact on visual amenity

Background Papers

ADRBLP; NLR; HH; TL; PP; CU; HA; NR; EN

Recommendations

The Development Control Manager, Essex County Council, be advised that Colchester Borough Council objects to the provision of this recycling plant. Such a proposal would be contrary to Policy MIN8 of the Structure Plan and Policies DC1(a), (c), P1, CO4 and CO5 of the Adopted Local Plan.

