

## EXAMINATION OF THE COLCHESTER BOROUGH LOCAL PLAN 2017-2033 – SECTION 2 EXAMINATION

Representation Statement: Main Matter 6 – South Colchester  
(Policies SC1 to SC3)



- Are the policies and site allocations for South Colchester justified by appropriate available evidence, having regard to national guidance, and local context, including meeting the requirements of the CLP 1?

*Rob Smith, Butterfly Conservation Cambridgeshire & Essex branch (2017 ref. 6622)*

Having now visited the site since our initial comments, we now believe that the Middlewick Ranges site should be completely removed from the Local Plan.

### Site Allocation - Ecology

The Middlewick Ranges is the most important registered Local Wildlife Site (LoWS) in the Colchester area. It has a very high level of ecological value, particularly its invertebrate interested which is well documented, and should be defended from development.

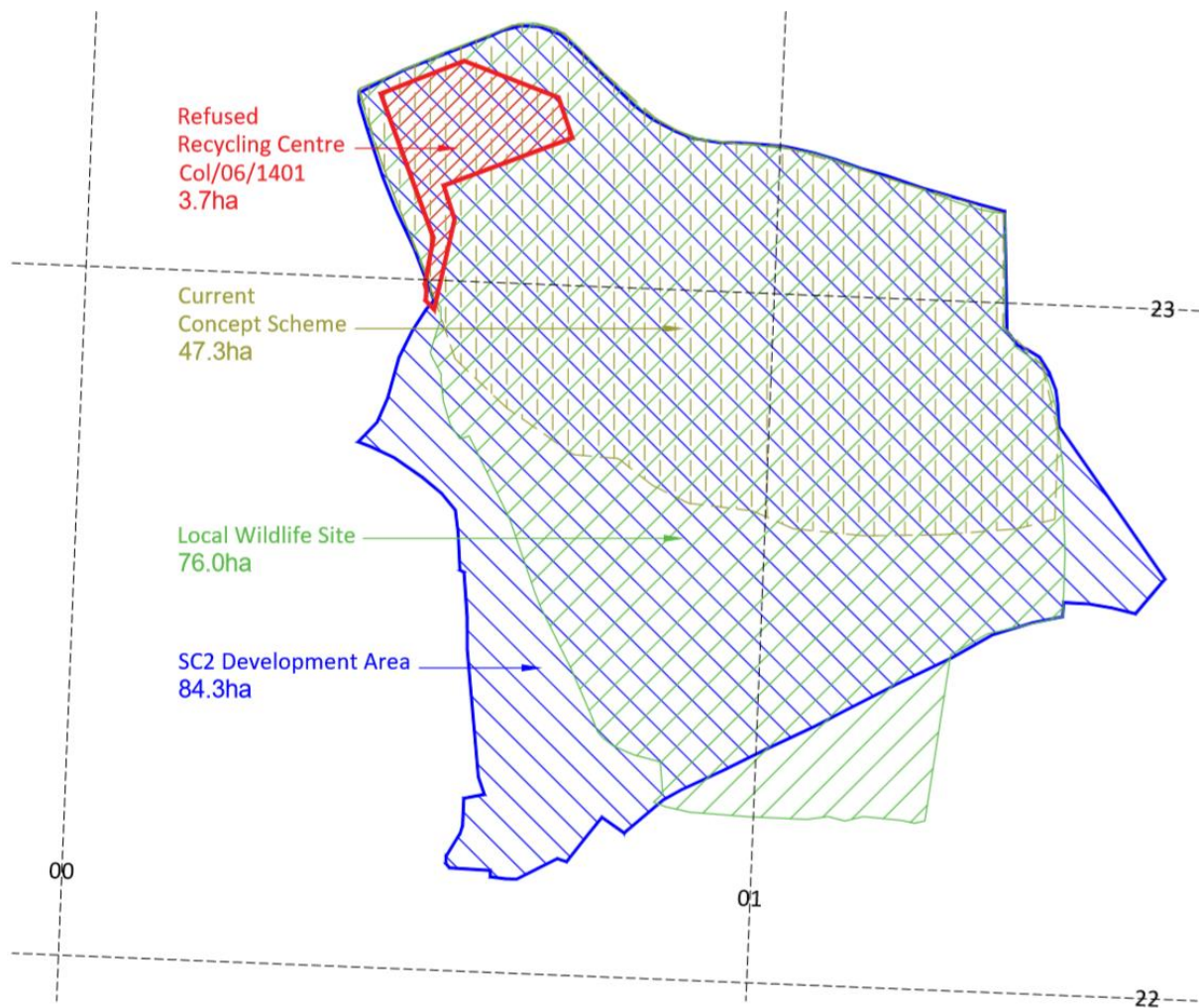
The species present demonstrate that the site is of local and national importance and the presence of lowland acid grassland is such a fast-declining resource that it should be given the same protection as lowland heath. Despite its LoWS designation, we believe that 4 invertebrate groups meet the standard for designation at the higher level of Site of Special Scientific Interest (SSSI), using Natural England's Pantheon software. Accordingly, consideration should be given to alternative sites that would cause less ecological harm.

National planning policy expects these sites to be identified and local policies devised to secure their protection. Colchester Borough Council's (CBC) own policy Env1 in CBC Adopted Local Plan 2001-2021 states that, "The Council will safeguard the Borough's biodiversity... through the protection and enhancement of sites of international, national, regional and local importance."

We find the CBC FINAL (Topic Paper 5), issued on 17/03/2021 during the consultation period, a troubling attempt to water down the NPPF evidence base requirements that were clear at the time the MoD offered the site. Items 3.3.2 and 3.3.3, describing the site's ecological characteristics and designations, strongly prescribe that the site is unsuitable for housing allocation. Item 3.3.6 states that "The Council see the masterplan process as a way to minimise the loss of acid grassland and habitat connectivity....." We strongly object to this statement when the majority of the acid grassland will clearly be lost to development and the remainder will be subject to higher recreational pressure.

It is disappointing to see this site now regarded by CBC in its Policy Documents as an 'opportunity' rather than as an 'Asset'.

Fundamentally, we believe that the ecology reports are of insufficient detail to evaluate the areas under threat of development in the Masterplan (DIO Vision Document, December 2020). More detailed evidence is clearly a problem to CBC, who have deliberately set the bar too low at the last minute. Once allocated, then there is a presumption of development in the Local Plan. We find this completely unacceptable as it poses a great danger to the biodiversity of the site. A threat that was recognised by CBC in 2006, when it rejected a scheme for a temporary Recycling Plant at the northern end of the site.



The 2006 decision was based on greater field evidence gathered by CBC's own ecologist/Curator of Natural History, whereas the much larger strategic decision of the current site allocation is being based on the assumptions of 'bespoke' criteria.

The planning application, *ref. Col/06/1401*, for a Recycling Centre had a total site area of 3.7ha. The application was refused; a key objection was its negative impact on the site's importance for biodiversity, on advice from its own Ecologist/Curator of Natural History (refer Appendix A below).

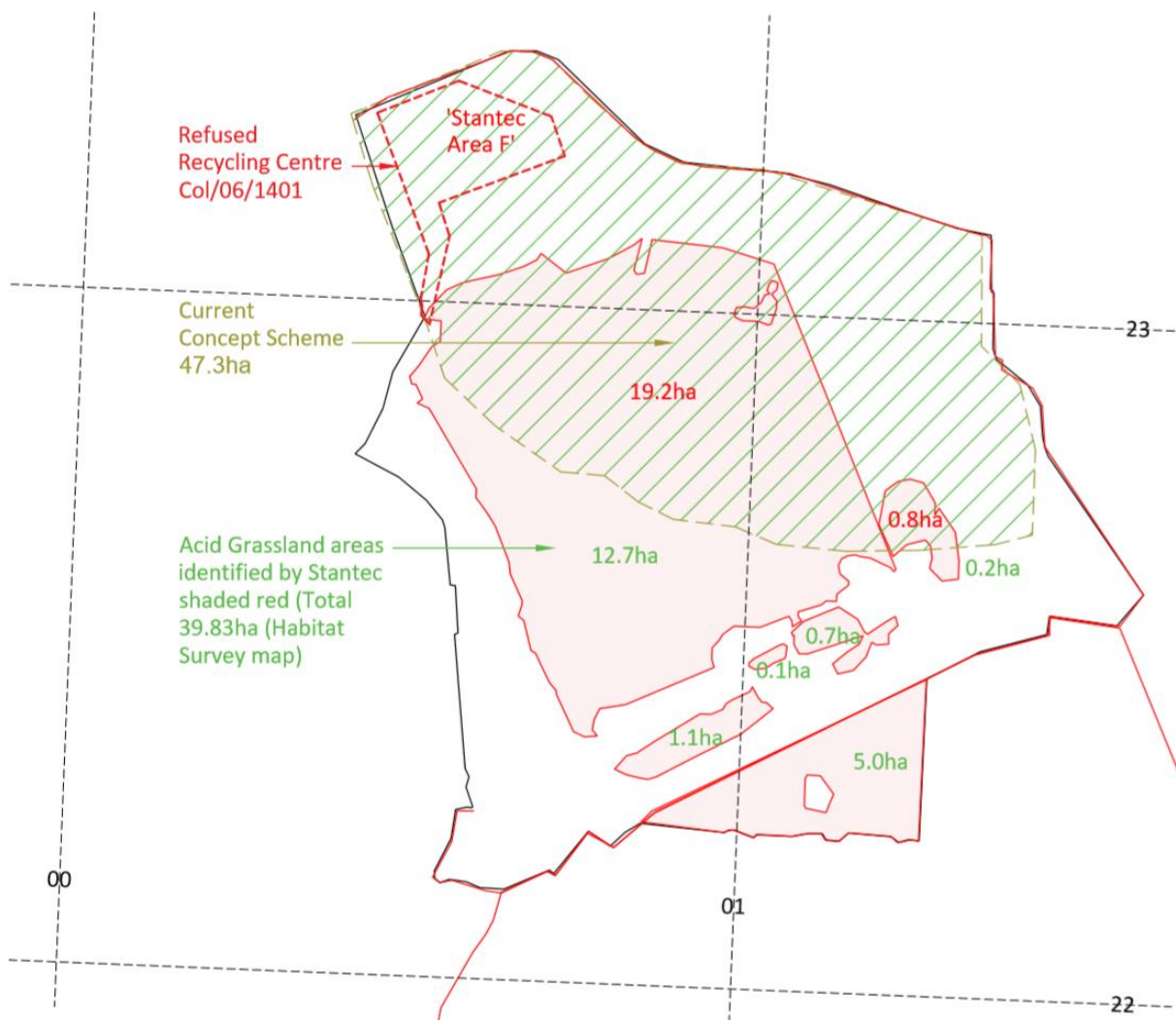
The Local Plan Policy SC2 appears to abandon this stance on wildlife. The allocated Development Area is 84.3ha, of which 71.2ha is part of the LoWS, an area 19 times larger than the refused Recycling Centre site area. Furthermore, 94% of the LoWS falls within the Development Area. We believe that this policy will be catastrophic to the wildlife on the site. We understand that the CBC ecologist agreed a set of bespoke guidelines to inform to draft policy, but this does not appear to have included CBC's own species data that informed the 2006 decision. Despite the limited number of records referenced in the Stantec Report (318 species), section G.5.1 concludes "This dataset (.....) 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."

## Habitat Assessment – Acid Grassland

Although there are many habitats present, the primary concern is the issue of acid grassland and its invertebrate assemblages. Topic Paper 5 (item 3.3.2) acknowledges that there is 53ha of acid grassland, which we assume comes from the EECOS LoWS Review of 2015. However, the Stantec Ecology Report (2020) only identifies 39.83ha of acid grassland in the walk-over Habitat Survey. The 2015 LoWS Review (Co122) states, “The northern-most field is hay-cut and species poor, but retains an acidic character with.....Sheep’s Sorrel (*Rumex acetosella*).....” This plant is an indicator species of acid grassland which we know to be abundant in the northern area, but it isn’t acknowledged as being present in ‘Area F’ identified in the Stantec report (Table 10, Appendix D), “no longer any acid species present”.

We believe this is an oversight from a ‘walkover’ study that needs to be addressed with a full survey.

Furthermore, as stated above, the northern-most field (Area F) was identified as being ecologically important by CBC’s own ecologist/Curator of Natural History and planning department when the proposed Recycling Centre was refused permission in 2006. (Appendix A).



We do not believe that the site or its management and the species present has changed significantly from the 2006 application or the 2015 LoWS Review until the present and that this area remains of high ecological importance.

## Invertebrate Study

Policy 14.56, relating to Middlewick Ranges Policy SC2, requires that full ecological assessments needed to be undertaken for ALL Protected Species and Species of Principal Importance during the survey season. A walk-over study was attempted by Stantec in June 2019 during inclement weather and so the requirement has not been fulfilled. We understand that this requirement has recently been withdrawn (Topic Paper 5), which we find a concerning late development, as mentioned above. Much effort has been put into soil investigation and concept studies, but there is a real danger that the lack of accurate invertebrate data coupled with disputed habitat classification (above) poorly informs the allocation of the site, particularly the grassland to the north.

Such is our concern that the Local Plan process is being poorly informed, we believe it necessary to present a broad summary of records for the Inspectorate. These are from records to date that we (Butterfly Conservation) and the Colchester Natural History Society (botany) have gathered since 2019, combined with older records from Colchester Museum and the Essex Field Club.

INVERTEBRATES Order	Total	Protected Species	EBAP	GB Red Data List	Status	Nationally Scarce	UKBAP*	Essex Red Data*
Hymenoptera (bees, wasps, ants)	88			7		10	2	19
Coleoptera (beetles)	79	1	1		1 Endangered	10	2	13
Lepidoptera (micro moths)	68			1		3		4
Lepidoptera (macro moths)	116			1		2	14	3
Lepidoptera (butterflies)	28				1 Endangered 1 Vulnerable† 2 Nr Threat'd†	2	4†	6†
Araneae (spiders)	97					8		6
Orthoptera (grasshoppers, etc)	10							1
Diptera (flies)	20			1		2		5
Diptera (hoverflies)	9							
Odonata (dragonflies)	12				1 Nr Threat'd			
Hemiptera (bugs)	30			1		2		1
Isopoda (Woodlouse)	3							
Myriapoda (millipedes, etc)	3							1
Opiliones (harvestmen)	6							
<b>TOTAL</b>	<b>568</b>	<b>1</b>	<b>1</b>	<b>11</b>		<b>29</b>	<b>20</b>	<b>46</b>

\*Some UKBAP and Essex Red Data status duplicate higher conservation status species

†2 butterfly species now extinct at site

**Reptile and amphibian** records show 5 Protected Species.

**Bat** surveys show 5 Protected Species, including the rare Barbastelle Bat (*as found by Stantec*). Of the other 18 **mammal** species recorded, it is known that there are Badger setts across the site, a recent Brown Hare (UKBAP) record and older records of Harvest Mouse and Hedgehogs (both Protected & UKBAP Species).

87 species of **bird** have been recorded at the site, some dating back a long way. These are summarised in the following table:

BIRD SPECIES	Red Listed	Amber Listed	Green Listed	UKBAP*	Introduced
Recent species records	17	6	28	10	3
Old records but species likely to be present†	1	9	9	3	3
Old records and species unlikely to be present†	4	2	2	6	
<b>TOTAL</b>	<b>22</b>	<b>17</b>	<b>39</b>	<b>19</b>	<b>6</b>

\*UKBAP species duplicate other designation species

† as advised by the Essex Birdwatching Society, 2020

Key **bird** species are:

Skylarks (red-listed), which are a ground-nesting species. Some nesting sites are within the concept model area.

Nightingales (red-listed), 29 recorded on one day in 2019, and up to 4 singing males have been recorded in the Abbots Road copse that is within the concept model area.

Hen Harrier (red-listed) seen hunting in 2019.

305 species of **vascular plants** have been recorded at the site, of which 2 species are Nationally Scarce and 12 are on the Essex Red Data List.

13 species of ground **moss** and 2 species of **liverwort** have been recorded.

10 species of **lichen** have been recorded, one of which is listed in the EU Habitats Directive Annex 5 and is one of 3 species found at Middlewick that are only found at one or two other sites in Essex, such as Epping Forest.

This takes the **total number of species** over the **1,000** mark for the site and some species groups have not been surveyed in part or in full.

As the management and character of this site has changed little in the past 20 years, since the bees and spiders were surveyed thoroughly, it seems clear to us that the Middlewick Ranges site is of SSSI quality and should not be included within the Local Plan.

Although the sandy areas around the Butts are believed to be of the highest quality habitat and responsible for the majority of mining bee species, there is considerable interest in the copse and grasslands to the north with Nationally Scarce species from most groups being present, including spiders, flies, moths, bugs and beetles.

### **Mitigation Proposals**

Fundamentally, we believe that you cannot mitigate and compensate for rare undisturbed grassland. The existing acid grassland has evolved over centuries since before the Crimean War when it was acquired for the Army.

A key aspect of the mitigation proposals involves the deposition of element sulphur into the soil in an attempt to replicate the lost acid grassland. Aside from its success or otherwise, the lay of the mitigation land runs towards Birch Brook. We therefore query the effects on the aquatic life within the brook that hasn't been surveyed, together with the botany within the registered Local Wildlife Site of Birch Brook woodland.

In addition, the Birch Brook watercourse flows through a saltmarsh SSSI a mile away that is noted for its botanical interest. In Stantec's Ecological Survey, Table 3. *Evaluation and Rationale for Key Ecological Features pertinent to the Allocation* – we disagree with the statement that Colne Marshes SSSI is not considered to be a key consideration..." Natural England need to be consulted on the effects of the sulphur on the watercourse and notified botany.

We are concerned about the toxic effects of sulphur deposition on other wildlife in and around the mitigation areas. A view expressed by Walker *et al.* (Recreation of lowland heathland on ex-arable land: assessing the limiting processes on two sites with contrasting soil fertility and pH. *Journal of Applied Ecology* (2007) **44**: 573–582).

The edge of the mitigation area is known to support the Necklace Ground Beetle *Carabus monilis* (Nationally Endangered) the most rapidly-declining beetle species in the UK. A species that is believed to be particularly susceptible to the introduction of chemicals due to its longevity and diet of molluscs. We have not found this species elsewhere on the site, although locations of older sightings by Colchester B.C. ecologists are not precisely known.



## BIODIVERSITY METRICS

We believe that the crux of habitat assessment principally lays with the grassland due to its known importance for invertebrates and its area of coverage. However, we believe that the Biodiversity Metric calculations are unrealistic in this respect.

Although we dispute the classifications of the existing grassland by Stantec, if these are accepted, then they should be taken as what happens to acid grassland over many decades of use and typical management for this site. Using Stantec's figures for the existing grassland we get:

EXISTING LOCAL WILDLIFE SITE – MAIN GRASSLAND AREAS				
Habitat code	Type	Area (ha)	BioD. Units	Metric
B1.2 (HPI)	Acid S.I.	32.72	475.69	14.54
B1.2 (not HPI)	Acid S.I.	7.11	51.63	7.26
B6	Poor S.I.	32.8	130.56	3.98
	<b>TOTAL</b>	72.63	657.88	
		Average (657.88/72.63)		<b>9.06</b>

However, looking at Stantec's figures for the main grassland areas in the Mitigation Area, we get:

MITIGATION AREAS – MAIN GRASSLAND AREAS				
Habitat code	Type	Area (ha)	BioD. Units	Metric
B1.2 (HPI)	Acid S.I.	55.02*	627.16	11.4
B1.2 (HPI)	Acid S.I. (new)	42.62	485.81†	11.4
B2.2	Neutral (new)	39.95	327.06	8.2
	<b>TOTAL</b>	82.57	812.87	
		Average (812.87/82.57)		<b>9.84</b>

\*approx. 12.4ha of this area is part of the existing LoWS, downgraded due to recreational pressure.

† adjusted to omit existing downgraded grassland.

What is claimed by the Biodiversity Metric presentations, is that the existing LoWS grassland areas that have never been ploughed, and have a nationally-important invertebrate assemblage will be out-performed by the 'chemically-treated' ex-arable Mitigation Land. The assumed achievement of Habitats of Principle Important (HPI) standard over all of the acid areas of the Mitigation Land is unrealistic.

Defra's Biodiversity Metric 2.0 states that acid grassland creation is 'highly' difficult, taking 25 – 30 years to create either a fairly good or good condition, respectively. Moderate condition grassland taking 20 years and fairly poor condition grassland taking 15 years. Despite there being no Biodiversity Metric for Arable Reversion, Stantec have effectively devised an index that is higher than their own surveys indicate for the LoWS grassland of proven quality. Accordingly, the loss of existing grassland to development is too great and the proposals by Stantec, as apparently accepted by EECOS, should be dismissed as implausible.

In addition, when the MoD eventually leave the site, it is proposed that developers will be left to maintain the mitigation areas. It is our firm belief that this will be a relatively short term fix, with the site being comparatively out of sight and left to scrub over.

### Concept Study – D.I.O. Vision Document

The D.I.O.'s claim that "less than 40 per cent of the site will be built on, with 63 per cent of the area remaining open to the public" is meaningless in terms of the loss of wildlife. The concept study shows 47.3ha (or 56%) of the 84.3ha Development Area affected by the development. The wildlife that was on any of that 47.3ha will have been lost.





## Appendix A – Consultation and Report excerpts for temporary Recycling Plant (2006, Refused)

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

Application No: M/COL/06/1401

Date Received: 14th August 2006

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 specialised 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"

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).

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.

## **Report**

### 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.

#### 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

#### **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.

Colchester Borough Council strongly 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. Concern is also expressed regarding the traffic impact of the proposal and the need for the Highway Authority to reconsider their recommendation.

22<sup>nd</sup> September 2006