



# ESSEX FIELD CLUB

[www.essexfieldclub.org.uk](http://www.essexfieldclub.org.uk)

registered charity no 1113963

Peter Harvey, for Essex Field Club

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## 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?**

We wish to add to the Essex Field Club's Representation ID: 6273 made on 03/08/2017 against the inclusion of the Middlewick Ranges in the developing Local Plan as an allocation for housing, which would result in significant loss of biodiversity in the County.

Following information provided by CBC on the evidence base, Essex Field Club strongly opposes the inclusion of Middlewick Ranges Local Wildlife Site (LoWS) in the Local Plan Housing Allocation. As well as a Local Wildlife Site of exceptionally high nature conservation importance, with a number of scarce plants, and most significantly an outstanding range of rare, scarce and characteristic invertebrates, **we have little doubt that it would qualify as a Site of Special Scientific Interest (SSSI)** if subject to specialist surveys to Natural England invertebrate survey and Invertebrate Standard Advice for Essex guidelines. County data for the site gained only by non-targeted recording and very limited specialist recording already confirms that Middlewick Ranges supports **at least four invertebrate species assemblages in favourable SSSI condition** (i.e. of national importance) when analysed with Natural England and the Centre for Ecology & Hydrology's analytical tool Pantheon. A study of the records of invertebrates of nature conservation value already also demonstrates that Middlewick Ranges is **the most important site in the Colchester local authority area** for almost all groups where data are available. In addition, as well as the acid grassland and sand areas, the northern grassland area (described by Stantec as poor semi-improved grassland) has known high value for spiders and almost certainly other taxonomic groups.

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. We do not believe that CBC have demonstrated an objective process to quantify the natural capital value and avoidance of areas of high ecological value in the process that informed their decision to include Middlewick Ranges as one of the Site Allocations for the Local Plan. The Draft stage of the Colchester Borough Local Plan 2017 – 2033 published in June 2017 which contains Policy SC2: Middlewick Ranges states on p126 "Further opportunities to expand the urban area southwards presents itself on land which the Ministry of Defence wish to dispose of around part of Middlewick Ranges as well as a number of smaller sites". This statement shows that CBC agreed the principle of site allocation for housing in the Emerging Local Plan and **strongly suggests that the allocation has simply been made because of the**

**convenience of the land availability resulting from the site's identification for closure by the Ministry of Defence (MoD).** We question what consideration CBC has given to the choice of **alternative sites** that would cause less harm as required by the National Planning Policy Framework.

We challenge the Evidence Base used by CBC to justify the inclusion of Middlewick Ranges LoWS. We do not believe that CBC have demonstrated how their decision making to allow Middlewick Ranges to be allocated in the Local Plan as a suitable site for housing complies with the requirement under National Planning Policy Framework that requires developers to ensure habitats for wildlife are enhanced and left in a measurably better state than they were pre-development. These principles are considered a necessity in demonstrating that development would be sustainable. 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. We do not see that CBC and adjoining authorities have clearly evidenced the housing requirement on this land.

We also do not see any data analysis of how the loss of habitat area and fragmentation is likely to impact on the survival of the existing floral and faunal populations and assemblages of the site, and on the regional metapopulations of the wider area. We also do not see any assessment in the evidence base of the likely impacts of adjacent housing and greatly increased amenity use, especially from dog walking etc, but which would have a very high negative impact on the acid grassland forming a crucial element of the LoWS's value.

We also question whether the related MoD move of the Middlewick firing ranges to Fingringhoe Ranges has been adequately assessed - any development that has the potential to have an impact upon a European protected site may be subject to a Habitats Regulations Assessment (HRA) and Appropriate Assessment (AA) submitted by a competent public body, for example the local planning authority. It is plainly obvious that more bangs will result in more disturbance and so an AA/HRA are needed to enable the authority (and MoD themselves as a public body) to ascertain that it will not have an adverse effect on the Fingringhoe Ranges SSSI's integrity.

We challenge statements in the Stantec Ecological Evidence Base Report 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 and the Stantec report needs to be evaluated against the perspective provided by the Midland Ecology *Middlewick Ranges Ecological Evaluation report February 2021*, whose purpose was to evaluate the ecology report on Middlewick Ranges completed by Stantec Ecology consultancy.

Paragraph B.2.1 of the Stantec report demonstrates fundamental mistakes and the Terms of Service under which the Essex Recorders partnership (their Essex Field Club) datasearch report was provided have been broken and must be remedied: "the report must also be put into the public domain and provided in full in the searchable pdf format in which it is supplied and not changed or redacted". According to page 13, 3.3.2 *Table 1: Summary of Ecological Survey Types, Aims and Dates: Essex Field Club March 2017* this datasearch is now well over three years old. This old report and an updated one should be put into the public domain and made available to the Inspectorate. CIEEM (Chartered Institute of Ecology and Environmental Management) advice considers desk studies over 18 months old may need to be updated and more than 3 years are unlikely to still be valid. We are also aware that there are a considerable number of records for Middlewick Ranges, including for rare and scarce species of nature conservation concern, which are held by Colchester Natural History Museum and which have not been made available to Stantec or ourselves. This also challenges the idea that CBC has provided an adequate evidence base in its supposed justification to include the LoWS in the Local Plan housing allocation.

Stantec also state (B.2.2) “The data was subsequently used to inform preparation of a scope of works, and interpretation of species specific surveys”. Yet even though the LoWS citation states that the principal value of the site is its invertebrate populations, only an invertebrate habitat 'walk-over' survey was undertaken in inclement weather and no species survey at all (B.10.2). This cannot adequately inform consideration at the Local Plan level for a LoWS with its principal value identified as its invertebrate populations. **As an absolute minimum** Natural England guidelines on invertebrate species survey for a site such as this would mean that there should be at least 5 full days survey across all the main taxonomic groups undertaken by specialists in favourable weather conditions through the main adult season between May and September. This must be done **before** it can be claimed that there is an evidence base that could justify the site inclusion in the Local Plan for any level of housing.

All large development allocations must be accompanied by an Environmental Impact Assessment, which has not been undertaken, and it is **irrational and unsound to rely on the need for these in individual planning applications as argued by Stantec, when an allocation for housing has already been built into the Local Plan.** We do not believe CBC can fulfil their duty under Section 40 of NERC Act (2006) to have full regard to biodiversity in their decision-making when they have not had these specialist invertebrate species surveys to adequately evaluate the existing invertebrate fauna, the potential impacts and whether proposed mitigation and compensation is adequate. We also question the use of a bespoke Biodiversity Metric, rationale and approach (Appendix N of the Evidence Base) and how this is an appropriate tool to be used at this allocation stage, when the future of the integrity of the LoWS is essentially decided at this allocation stage, not by individual planning applications. The use of a bespoke metric appears designed to favour the individual circumstances of the development allocation, and allows a wholly unsatisfactory CBC-led outcome rather than one based on the National Planning Policy Framework and CBC's own commitment to deliver sustainable development and an overall net gain to biodiversity in the implementation of the new Local Plan.

The Stantec Assessment of an Acid Grassland Creation Strategy is also flawed. We dispute the accuracy of their identification of the extent of the acid grassland habitat, which we believe to be significantly larger than as mapped by Stantec, where it is already acknowledged that the LoWS is dominated by acid grassland, but which is primarily designated for its invertebrate populations (e.g. in the December 2020 CBC-Local-Plan-Annexe-8---Middlewick-Ranges-Vision-Document).

Apparently one of the key ecological considerations for the site's allocation was a requirement to create lowland acid grassland habitat to compensate for the loss of this habitat and create new habitat within the designated Mitigation Land. Stantec recognise that the Habitat of Principal Importance and Essex Biodiversity Action Plan habitat *Lowland dry acid grassland* will inevitably be lost from development within the Allocation Boundary, and that acid grassland creation is therefore seen by as a necessary requirement and key component of a High Level Mitigation Strategy for Middlewick Ranges. However **habitat creation cannot replace an irreplaceable never-ploughed nature conservation resource**, and should not be used as a justification for the site's inclusion in the Local Plan Housing Allocation. CBC's Env1 Irreplaceable habitat policy states that proposals that would result in the loss of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy. Where are the wholly exceptional reasons for this site of SSSI quality? For the policy to allow this decision to be made to “the satisfaction of the local planning authority” allows CBC to make wrongful decisions regardless of the true evidence.

We consider the success or otherwise of any acid grassland is far from certain and its impacts on the area's flora and fauna unpredictable and untested. 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) looked at the relative importance of constraints over 9 years on two ex-arable sites with contrasting soil fertility and pH. They note that interventionist approaches have a number of disadvantages and Sulphur addition may not be desirable on or close to sensitive sites because of potentially toxic effects on fauna and flora. One of

the important invertebrate species found at Middlewick is the IUCN Endangered Priority Necklace Ground Beetle *Carabus monilis*, a beetle susceptible to the effects of chemicals. This species has been found in the mitigation area, which is also close to Birch Brook, which flows through the Upper Colne Marshes SSSI about a mile away, where sensitive grazing marsh plants occur. These potentially toxic effects would also seem to challenge the Stantec conclusion in paragraph 4.4.17 *“Note, no consideration has been given to the aquatic invertebrate assemblage within Birch Brook for the purposes of this project stage (allocation). This is on the basis of consideration of habitats likely to be directly affected by development proposals at Middlewick Ranges, and based on the noted criteria within the LWS citation for Birch Brook (which do not include aquatic invertebrates)”*; it should also be borne in mind that citations for SSSIs and LoWSs frequently focus on specific criteria, but this does not mean there are not other criteria of importance at sites.

Any acid grassland creation further south should be created on land of proven low existing nature conservation value and subject to specialist comparative species surveys to evaluate the success or otherwise of the habitat creation and species assemblage quality **before** it can begin to be considered to provide any useful alternative resource. Its success as compensation for losses at Middlewick is far from assured.

The requirements of the National Planning Policy Framework and CBC's own commitment to deliver sustainable development and an overall net gain to biodiversity in the implementation of the new Local Plan mean that the inclusion of the site in the Local Plan Housing Allocation cannot be justified. The ecological value of Middlewick Ranges LoWS and the importance of retaining its integrity must be recognised and protected if Colchester Borough Council's new Local Plan is to deliver an overall biodiversity net gain. We do not see how the proposed allocation of Middlewick Ranges LoWS for housing can allow CBC to 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 under Policy ENV1.

**We have also had to make a second separate additional response to information and documents which have been provided by CBC at the last minute in an extraordinarily unsatisfactory and undemocratic way** which in our opinion should not be any part of the Evidence base - Emerging Local Plan examined by the Planning Inspectorate at the forthcoming hearings, since they have not been subject to any prior public consultation or provided sufficient time to thoroughly evaluate.

Peter Harvey, for Essex Field Club



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

2/. We must add a further response to the documents which have been provided at the last minute by CBC in an extraordinarily unsatisfactory and undemocratic way.

**This is mainly, but not entirely, related to 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?**

The *CBC-Local-Plan-Draft-Recommended-Modifications-to-Section-2-Local-Plan-Draft Schedule of Modification Document.pdf* and the *Final-Topic-Paper-5-Middlewick-Ranges-March-2021-1.pdf* both make proposed changes which in our opinion **should not be any part of the Evidence base-Emerging Local Plan** examined by the Planning Inspectorate at the forthcoming hearings, since they have not been subject to any prior public consultation. However since these proposed changes are clearly intended to be progressed by CBC, we must respond to these here.

In the proposed *Recommended-Modifications-to-Section-2-Local-Plan* the Env1 Irreplaceable habitat text now waters down policy by deleting the text ~~The Local Planning Authority will take a precautionary approach where insufficient information is provided about avoidance, mitigation and compensation measures and secure mitigation and compensation through planning conditions/obligations where necessary~~ to a situation where proposals that would result in the loss of irreplaceable habitats will *not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy, to the satisfaction of the local planning authority, exists*. In our view that is a wholly unsatisfactory situation, which is precisely relevant to the proposed housing allocation of Middlewick Ranges LoWS where an irreplaceable never-ploughed grassland resource would be destroyed and this change appears to have been introduced to help justify that proposed housing allocation.

Under B. Biodiversity and geodiversity, the proposed deletion of: ~~The Local Planning Authority will take a precautionary approach where insufficient information is provided about avoidance, mitigation and compensation measures and secure mitigation and compensation through planning conditions/obligations where necessary~~ also appears to be designed help justify that proposed housing allocation of Middlewick Ranges LoWS, where there is wholly inadequate evidence base to support the proposed housing allocation of Middlewick Ranges LoWS, a site already known from non-targeted recording and very limited specialist recording to support at least four invertebrate species assemblages in favourable SSSI condition and which is almost certain to qualify as a Site of

Special Scientific Interest (SSSI) if subject to specialist surveys undertaken to Natural England invertebrate survey and Invertebrate Standard Advice for Essex guidelines.

Under Policy EC3 there is a proposed text insertion before Local Economic Areas in Policy EC3 For Place Farm: Development of the site will be supported where it provides:

2.7 ha of employment land, as shown in Table SG3. Approximately 30 new dwellings of a mix and type of housing to be compatible with development in the adjacent Old Heath area.

**Place farm is part of another LoWS**, Co137 Hythe Brownfield, not far to the east of Middlewick ranges which has known high significance for invertebrates and supports an acid grassland community. We **object to the inclusion of this land for** development. Any loss of Place Farm and its acid grassland will compound the impacts of fragmentation and connection of natural habitats in accordance with the UK & Essex Biodiversity Action Plans and the losses caused by development at Middlewick Ranges LoWS and the viability of any claims CBC has to sustainable development and an overall net gain to biodiversity in the implementation of the new Local Plan, or to compliance with the National Planning Policy Framework.

We strongly dispute claims in the *Final-Topic-Paper-5-Middlewick-Ranges-March-2021-1.pdf* “Updates relating to the Middlewick Ranges Allocation – Policy SC2, supporting text and other relevant policies in the plan” that (1.1) *The allocation was supported by an evidence base proportionate to that stage of plan-making* and (2.4) *The submission plan confirms the in principle acceptability for the allocation.*

We also strongly dispute that (3.3.6) the masterplan process is an appropriate way *to minimise the loss of acid grassland and habitat connectivity, create appropriate buffers to existing habitat and provision of substantial green corridors and walking routes within the built footprint of the development.*

We cannot agree with (3.3.7) the Council’s client-led Ecologist or EECOS, as the Council’s ecological consultant, that the scope and content of the ecological evidence are satisfactory and we definitely do not agree that the proposed general approach could secure the necessary compensation measures and biodiversity net gain including the use of a bespoke metric. The use of a bespoke metric is in itself apparently designed here to favour the individual circumstances of the development allocation, and is wholly unsatisfactory. “*Amendments to the policy wording reflecting the approach and requirements are set out in the modifications schedule appended to this Topic Paper*” appear to us to have been made simply to provide justification for the proposed housing allocation of the LoWS.

*A schedule of proposed minor modifications to Policy SC2, the supporting text and other relevant policies to reflect the points summarised above are set out in full in Appendix A to this Topic Paper* are as far as we can see far from minor changes, but changes which have very significant and important impacts.

In the same way we cannot agree with CBC’s statement (6.3) *It is not considered that any changes to address these matters have any implications on the principle of the SC2 housing allocation or the soundness of the Plan.*

Under Conclusion (6.1) we cannot agree that a *Considerable additional evidence is now available in relation to Middlewick Ranges*, when the evidence base simply does not begin to address the invertebrate surveys required to properly identify the national importance of the invertebrate fauna of the LoWS, its relationship with the surrounding area and the effects of the proposals on the integrity of the area and metapopulations which would result from the housing allocation, loss of irreplaceable habitat, fragmentation and untested acid grassland habitat creation..

We question the validity of the proposed change to policy SG1 where the reason for the change is stated as “Need to accord with more permissive national view of rural residential development”, in view of changes to housing need which will undoubtedly result from the Covid-19 pandemic.

There are many more far from minor changes proposed to the wording which undermine the supposed commitment by CBC to deliver sustainable development and an overall net gain to biodiversity in the implementation of the new Local Plan, but these must be subject to proper public consultation before they can be subjected to an examination by the Inspectorate and inclusion in the Local Plan.

It appears that there is unlikely to be any Statement of Common Ground which would be possible between us and CBC unless CBC remove Middlewick LoWS from the allocation for housing.

Peter Harvey, for Essex Field Club