---------- Forwarded message ---------
From: **Stephanie Murran** [redacted]
Date: Mon, 29 Mar 2021 at 19:54
Subject: RE: Middlewick Ranges
To: Andrea Copsey <copseyandrea@gmail.com>

Dear Ms Copsey, I enclose my Representation for your perusal. I would inform you that due to technical problems I have been unable to include the Appendices relevant to my statement. These have been sent to you under separate emails. I hope that you are able to tie up these documents. **Middlewick Ranges (SC2)**

Section 2 – Publication Draft Borough Local Plan

Representation ID: 6255

Name: Mrs Stephanie Murran

I would like to comment on Main Matter 6 – South Colchester (Policies SC1 to SC3), specifically Policy SC2 Middlewick Ranges. My contribution will comment on the soundness of Policy SC2, i.e. the allocation of 1,000 houses to Middlewick Ranges.

- *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?*

I will address the question with reference to the site's importance for wildlife and biodiversity, one of the many issues I already raised in my original objection in 2017. This statement is the joint work of the Save the Middlewick Ranges campaign group, on whose behalf I am making this submission.

Middlewick Ranges is one of the prime designated Local Wildlife Sites in Colchester (CO122). The site contains various important habitats including lowland dry acid grassland, which enjoys a special protection status, other types of grassland, and some heathland. Natural and semi-natural grassland and heathland have seen a sharp decline in England in the past few decades. Middlewick Ranges is rich in biodiversity, and especially known for insects, with seven nationally threatened (Red Data Book) and eight Nationally Scarce species being recorded. The area is also home to many birds, including protected species such as Skylarks who are known to nest on grassland across the Wick, as well as in the fields south of Birch Brook; and nightingales who nest in the nearby woodland, particularly Birch Brook Local Wildlife Site which is directly adjacent to Middlewick Ranges (the Stantec Ecology Report for Middlewick, which forms part of the evidence base for the Emerging Local Plan, acknowledges 19 nightingale territories alone present in the area surveyed). The Stantec reports remarks that the area is of at least 'county level' of importance for breeding birds. The area is also home to at least five species of bats, including rare species Barbastrelle and Nathusius' (see Stantec Report). The site presents suitable habitats for reptiles. A data search requested by Save the Middlewick Ranges group was compiled by Essex Wildlife Trust Biological Records Centre (EWTBRC) and Essex Recorders Partnership (ERP) in August 2019. This identified common lizard (*Zootoca vivipara*), slow worm (*Anguis fragilis*), and grass snake (*Natrix natrix*) as previously recorded within the Middlewick Ranges site. In addition, adder (*vipera berus*) is recorded within 3km to the south-east of Middlewick, at Fingringhoe Wick nature reserve. Surveys carried out by the Save the

Middlewick Ranges group revealed the presence of 'exceptional' populations of common lizard and 'good' population of slow worm. These species were found in all surveyed areas. Low numbers of grass snakes were also recorded; these were found close to the site margins and to gardens in neighbouring residential areas. Middlewick easily meets the criteria of 'Key Reptile Site' under the Froglife/CIEEM guidance. No surveys have been carried out for species of small mammals but, as noted in the Ecological Evaluation Report by Midland Ecology (commissioned by Save the Middlewick Ranges group), '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 animals such as Barn owl, Kestrel and Fox. The presence of these species is another indicator of biodiversity.

It should be clear from this summary that Middlewick Ranges is a key site for wildlife in the borough. Middlewick Ranges is a designated Local Wildlife Site, which is a 'material consideration' for planning. In the past it was suggested by English Nature that the site could qualify for SSSI status. In 2006 a planning application was submitted to Essex County Council to build a waste plant to process materials from the Garrison development. The application was rejected, one of the grounds being its impact on landscape features and nature conservation.

The National Planning Policy Framework (2012) lists the environmental dimension as one of three dimensions of sustainable development; "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." (Paragraph 7) Paragraph 9 states the aim of "moving from a net loss of bio-diversity to achieving net gains for nature". One of the Core Planning Principles, listed in paragraph 17, is to: "contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework".

Colchester Borough Council's own objectives and policies are detailed in the Sustainability Appraisal and the Emerging Local Plan. The Sustainability Appraisal states the Local Plan's role in preserving Local Wildlife Sites, warning that 'there is a risk that local wildlife sites, which do not have statutory protection, would be lost to development without a Local Plan protecting them.' The building of 1,000 homes on Middlewick Ranges appears to be in direct opposition to several policy objectives mentioned in the document:

- 'Protect and enhance landscapes, biodiversity, green spaces, air and water quality …'
- 'Protect and enhance designated sites, geodiversity and soils.'

Policy ENV1 on the environment states that: 'The Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. The Local Planning Authority 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**. (…) For all proposals, development will only be supported where it:

(i)Is supported with appropriate ecological surveys where necessary;

(ii)Where there is reason to suspect the presence of a protected species (and impact to), or Species/Habitats of Principal Importance, applications should be accompanied by an ecological survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for their needs;

(iii) Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats;

(iv) Maximises opportunities for the preservation, restoration, enhancement and connection of natural habitats in accordance with the UK and Essex Biodiversity Action Plans or future replacements; and

(v)Incorporates beneficial biodiversity conservation features and habitat creation where appropriate.'

In order to help us assess the legality and evidence base for the building of 1,000 homes on Middlewick Ranges, the Save the Middlewick Ranges campaign group have commissioned a report by an independent ecologist (Midland Ecology), which evaluates the Stantec report submitted by the DIO. The Midland Ecology report will be included as an Appendix to this statement as the planning inspector is urged to study it in more detail. The purpose of the report has been to address the following question: '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?' Midland Ecology states that:

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.
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.**
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.

Regarding the ecological evidence submitted by the DIO (the Stantec report) that should form the basis for the determination of the suitability of the site for housing, and the allocation of housing to

particular areas of the site (the Masterplan), the Midland Report has found several shortcomings with the surveys carried out (section 4):

- 4.9.1 Habitat Assessment – Phase 1 and botanical survey: Adequate; however, the report notes that 'it is not clear within the report if the condition of each habitat is accurately mapped and detailed on plans', which is relevant for 'biodiversity net gain' calculations.
- 4.9.2 Invertebrates – Inadequate; this is in spite of the fact that the site is 'designated for its invertebrate assemblage considered to be of County and potentially National value'. '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.
- 4.9.4 Riparian Mammals: Search on Birch Brook for field signs of Otter: Adequate. However: '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
- 4.9.6 Bats – range of methods: Inadequate in part
- 4.9.7 Reptiles: Inadequate. 'No reptile surveys have been completed … 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'. As already noted, surveys carried out by the Save the Middlewick Ranges group qualify the site is a key reptile site.
- 4.9.8 Amphibians: Inadequate
- 4.10 Other Mammals. No surveys were carried out for small mammals Moles, Shrews, Woodmice, Field voles and Bank voles which, while not protected, are another good indicator of biodiversity.

Midland Ecology concludes about the quality of the surveys carried out by Stantec:

'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.'**

Section 5 of the Midland Report looks at the issue of Biodiversity Net Gain, a requirement under national planning legislation (NPPF 2019, Para 175): '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.' (Midland Report, 5.1)

Several concerns about biodiversity net gain claims are raised in the report, including the site allocation in the Masterplan: '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.' (5.3) Qualified members of Save the Middlewick Ranges group have assessed the condition of the grassland across the site and have

concluded, in contrast to Stantec surveyors, that the grassland to the south, which is spared from development, is currently of poorer quality than the grassland to the north east and north west (which is allocated for houses).

The claim of biological net gain as set out in the Masterplan hinges on the recreation of acid grassland in the compensation land to the south of Birch Brook (also owned by the MOD). These are currently arable fields and of much lower ecological value. The way this is to be achieved is detailed in Stantec's Acid Grassland Management Strategy. A supporting letter by Dr Putwain claims that the method has 'a very high probability of success', achieving a result within 10 years or possibly within 5-7 years. (Midland Report, 5.4 and 5.5). However, Stanstec's and Putwain's claim regarding the ease of recreating acid grassland contradicts what Defra/Natural England and other specialists have stated: 'The Biodiversity Metric 2.0 states that acid grassland creation is 'highly' difficult to create, and will take 25-30 years to create a fairly good or good condition respectively'. (5.6)

Midland Ecology raises further concerns with 'biodiversity net gain' (BNG):

- '… 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.' (5.7)
- BNG, if achievable at all, requires long-term management of mitigation and compensation, a minimum of 30 years according to the Environmental Bill: '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.' (5.8)

Another problem with biodiversity net gain is the fact that '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.' (6.1) The focus is on the translocation of habitat, in this case acid grassland, '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 of associated fauna from translocation should be fully considered in any viability study'. (6.3)

One of the questions that should be asked is what happens to the species that relied on the old areas of acid grass that have been destroyed, before the new areas have become established. Once the new area of acid grassland has finally been created (if it succeeds at all), these species may have already disappeared.

A verdict on biodiversity net gain is given in section 6.4 of the Midland Ecology report, in a quote from a Joint Nature Conservancy Council (JNCC) publication:

> experience shows that habitats translocation is, at best, merely a means of achieving partial compensation (in the sense of seeking to make amends of the impact) for development. The available evidence ... 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.

Concluding the report, Midland Ecology raises a number of questions regarding the site allocation process, the evidence base and the evaluation of priorities:

> 7.1 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

Given the serious concerns expressed in this report, we ask Middlewick Ranges to be withdrawn from the Local Plan as a site for housing and designated as a country park or nature reserve instead.

Appendices

Ecological Assessments: Local Wildlife Site Co. 122: Middlewick Ranges, Colchester, Essex. Reptile Surveys: 2019-2020. August 2020. Produced by: Save the Middlewick Ranges Group. Colchester Essex.

Midland Ecology, Middlewick Ranges. Ecological Evaluation Report, February 2021.

Erection of recycling plant, Land at Middlewick Ranges, Essex County Council (August 2006)

Ecological Assessments:

Local Wildlife Site Co.122: Middlewick Ranges, Colchester Essex.

REPTILE SURVEYS: 2019 – 2020.

10 August 2020

Produced for and on behalf of:

Save the Middlewick Ranges Group. Colchester Essex.

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1. INTRODUCTION.

1.1 Surveys to determine presence or likely absence, and distribution of reptile species within the Middlewick Ranges were undertaken in response to the proposed development of this site, as set out in the DIO Middlewick Consultation (2019) draft housing allocation public document.

1.2 Surveys were carried out in accordance with standard methodologies outlined in the Herpetofauna Workers Manual (Gent & Gibson 2003):

- Walk-over surveys recording reptiles observed on existing basking and refuge habitat (for example to fence-posts, debris, tussocks and open vegetation).
- Survey aided by artificial basking and refuge habitats. These included pads of vegetation, logs, litter and debris found within the site.

1.3 Observations were confined to public footpaths and areas with de facto public access. Site visits followed MoD guidelines relating to 'firing days', and access restrictions were strictly observed.

1.4 A minimum of 10 survey visits were completed during autumn – winter 2019, and 6 visits during spring- summer 2020, although it should be noted that surveys are ongoing at date of report and further records may become available.

1.5 This report details findings at time of survey, and outlines potential impacts arising from proposed development; it may be freely used to inform planning applications affecting the site.

2. Data search

2.1 A data search requested by Save the Middlewick Group was compiled by Essex Wildlife Trust Biological Records Centre (EWTBRC) and Essex Recorders Partnership (ERP) in August 2019. This identified common lizard *(Zootoca vivipara*), slow worm (*Anguis fragilis*), and grass snake (*Natrix natrix*) as previously recorded within the Middlewick Ranges site.

2.2 In addition, adder (Vipera berus) is recorded within 3km to the south-east of Middlewick, at Fingringhoe Wick nature reserve.

2.3 To fully evaluate this sites biodiversity, all applications associated with development (or other significant land-use change) should contain an up-dated records search, that includes data held by (EWTBRC), (ERP), Essex Amphibian and Reptile Group (EARG), and other local wildlife interest groups relevant to site conditions.

3. Legislation and Policy

3.1 The Wildlife and Countryside Act 1981 (as amended) provides protection against killing, injury and trade for widespread reptile species: common lizard, slow worm, grass snake and adder.

3.2 The Natural Environment and Rural Communities Act 2006 places a duty on public authorities to have due regard for the conservation of biodiversity. Section 41 of this act lists species of principle importance for the purpose of conserving biodiversity ('UK Priority Species', formerly 'UKBAP priority species'). (JNCC 2007). Common lizard, slow worm, grass snake, adder and common toad (also found on site) are UK Priority Species.

3.3 The National Planning Policy Framework sets out the government's policies for the protection and enhancement of biodiversity through the planning system. It encourages the planning system to contribute to and enhance natural and local environments, minimise impacts on biodiversity and provide net gains in biodiversity where possible.

3.4 Local planning authorities are required to follow key principles in their consideration of potential impacts of planning decisions on biodiversity conservation. Circular 06/05: Biodiversity and Geological Conservation provides administrative guidance on the application of the law relating to planning and nature conservation and complements the National Planning Policy Framework.

3.5 The presence of species protected under UK and European legislation are a material consideration when a planning authority is considering a development proposal that, if carried out, is likely to result in harm to the species or its habitat. Ecological assessments are therefore necessary to provide local planning authorities with the information they require in order to fully consider the potential ecological impacts of a planning application.

3.6 Biodiversity 2020: A strategy for England's wildlife and ecosystem services provides national and local biodiversity strategies for England, based on the habitats and species listed under the Natural Environment and Rural Communities Act 2006. Local biodiversity action plans give valuable information on local conservation priorities. The Essex Biodiversity Action Plan is the local biodiversity action plan relevant to this site.

4. Findings and Conclusions

See: Appendix 1: LOCATION MAP - Reptile Survey Middlewick 2019-20
Appendix 2: FINDINGS - Reptile Survey Middlewick 2019-20

4.1. Surveys recorded an 'exceptional' population of common lizard, and 'good' population of slow-worm as defined in Frog*life* Advice Sheet 10 (*see 4.4 below.)*
These species are widely distributed throughout the site and were found in all areas surveyed. It may reasonably be concluded therefore that they will be present in all suitable habitat areas within the site with reasonable connectivity to the survey areas.

4.2. Grass snake were recorded in low numbers, close to the site margins and to gardens of adjoining residential areas to the west (Speedwell Road area), and to the east (Cairns Road area). Grass snake typically live in smaller, more widespread populations than lizard species, and the dry habitat conditions that dominate the central part of the site appear sub-optimal, so less frequent records for this species were to be expected.

4.3. Adder was not found during site survey (to date) and there are no recent records of its presence here. However, a local population is recorded at Fingringhoe Wick, approximately 3km south-east of Middlewick.
Given that habitat conditions over large parts of Middlewick appear optimal for adders, and there does not appear to be any significant barriers to dispersal between these 2 sites, it is highly possible that adder is present within Middlewick.

4.4. Good Practice Guidance
Froglife Advice Sheet 10: Reptile Survey (Froglife 1999) is the basis of the Chartered Institute of Ecology and Environmental Management (CIEEM) document: *Good Practice Guidance for Amphibians and Reptiles* to evaluate reptile presence within a site. It provides an introduction to undertaking and interpreting surveys for snake and lizard conservation, and is used to obtain a basic evaluation of the size and importance of reptile sites.

4.5 Key Reptile Site designation
Under the above Froglife and CIEEM guidance, a 'Key Reptile Site' is determined if it meets **one** of a series of criteria based on the abundance and diversity of the reptile species present.
This survey finds Middlewick Ranges meets **three** of the required criteria and achieves 'Key Reptile Site' designation with ease in accordance with the following:

(1) Supports 3 or more reptile species:- *common lizard, slow worm & grass snake.*

(2) Supports an exceptional number of one species i.e. more than 20 adults seen by one person in one day:- *common lizard.*

(3) Supports an assemblage of species scoring 4 points or more on the Froglife evaluation table (reproduced below) as follows:-

- *Presence of low population of grass snake (scores 1 point);*
- *Presence of a good population of slow worm (scores 2 pts);*
- *Presence of an exceptional population of common lizard (scores 3 pts).*

Giving a total of 6 points overall.

Froglife Advice Sheet 10: Key Reptile Sites and survey evaluation table.

Survey assessment: Key Reptile Sites

The Key Reptile Site Register is a mechanism designed to promote the safeguard of important reptile sites. The criteria for site selection are given below, including a table which allows the classification of the relative size of reptile populations on the basis of survey counts. Compare your survey results with the criteria given below to obtain an objective evaluation of the importance of the reptile interest on your site.

To qualify for the Key Reptile Site Register, the site in question must meet at least one of the following criteria:

(1) supports three or more reptile species
(2) supports two snake species
(3) supports an exceptional population of one species (see table)
(4) supports an assemblage of species scoring at least 4 (see table)
(5) does not satisfy 1-5 but which is of particular regional importance due to local rarity (e.g. in the East Midlands of England, adders are very rare so even "low" populations should be designated as Key Sites)

	Low population *Score 1*	Good population *Score 2*	Exceptional population *Score 3*
Adder	<5	5 - 10	>10
Grass snake	<5	5 - 10	>10
Common lizard	<5	5 - 20	>20
Slow-worm	<5	5 - 20	>20

Figures in the table refer to maximum number of adults seen by observation and/or under tins (placed at a density of up to 10 per hectare), by one person in one day.

5. Impacts

5.1 The proposed development to Middlewick ranges will have a series of detrimental impacts to the current reptile interest, as outlined below. It is important to note that this is not an exhaustive list, and further impacts may come to light during additional assessments and other site activities including pre-development preparatory works.

5.1.1 The direct loss, degradation and modification of extensive areas of reptile habitat to development, associated working and storage areas, soft-landscaping and infrastructure.

5.1.2 The permanent loss of habitat connectivity, both within the site and between the site and wider environment, reducing reptile dispersal ability, and increased isolation of populations. This in turn is likely to lead to a decline in sustainability of local populations.

5.1.3 Increased user pressure arising from new development rendering many remaining habitat areas, and associated soft landscaping, unsuitable for reptiles or other wildlife due to increased disturbance and degradation from dog walkers, walking, cycling and other sporting and recreational activities.

5.1.4 Habitat loss, degradation and/or disturbance creating barriers to dispersal between different but equally essential habitats e.g. hibernation sites and foraging areas, particularly for snake species.

5.1.5 Greater risk from fire and environmentally damaging litter due to increased user pressure.

5.1.6 Increased predation by domestic cats as population density increases associated with residential development: at least 26 percent of households in UK have one or more cats (Murray J et al. 2010) therefore a 1000 new houses equates to 260 additional predatory mammals (not dependent on prey for survival) impacting native wildlife (Woods et al. 2003).

5.2 While some impacts could in theory be mitigated against, measures will be required over an extensive area and time frame to comply with current legislation and planning obligations. Others, such as habitat loss, and reduction in size and viability of local reptile populations, cannot be mitigated against effectively.

References

DIO Middlewick Consultation (2019): www,middlewickconsultation.co.uk

Froglife (1999): Froglife Advice Sheet 10: reptile survey. Froglife, London.

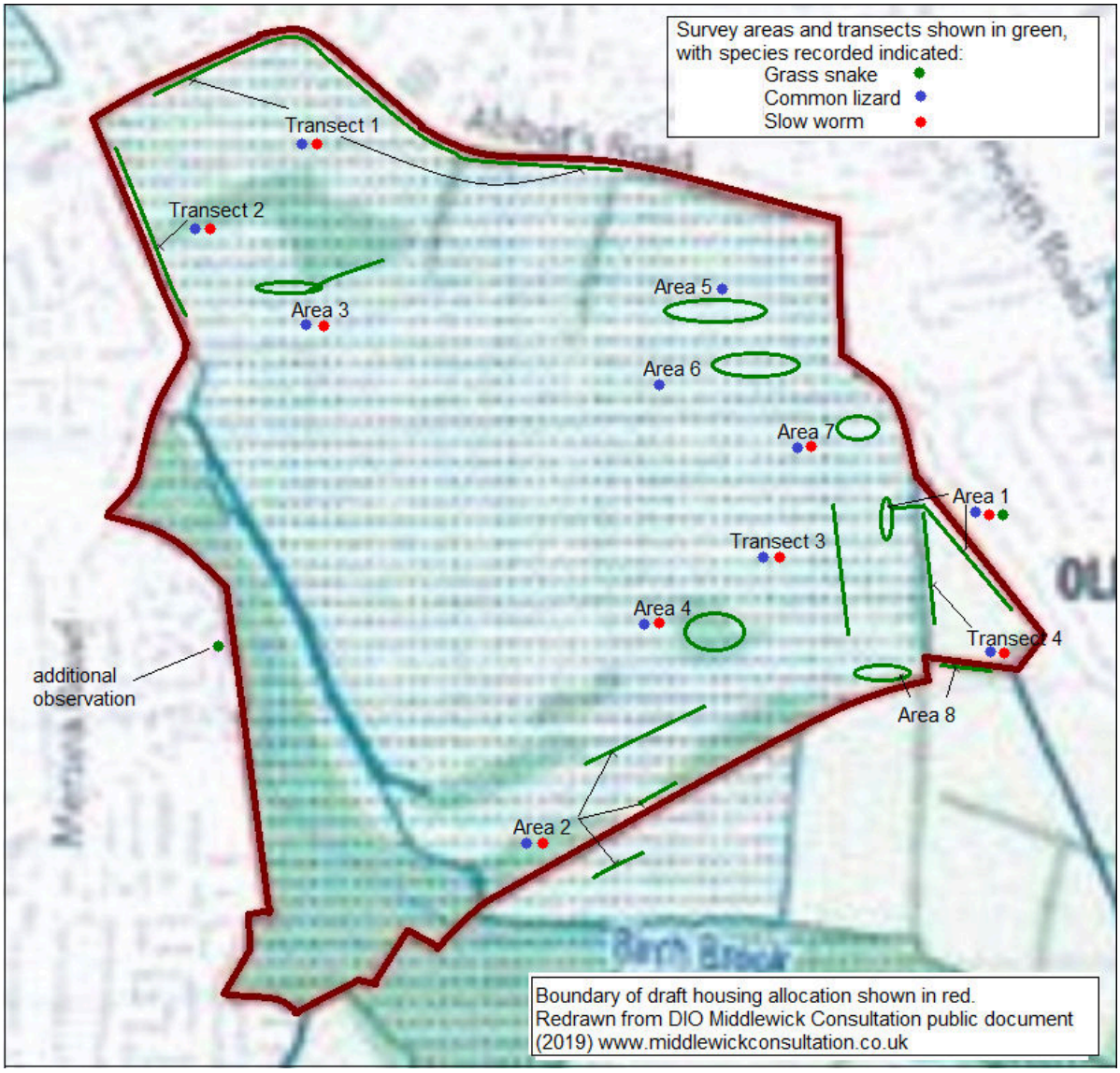
Gent & Gibson (2003) The Herpetofauna Workers'. Manual. JNCC, Peterborough.

JNCC (2007): List of UKBAP priority herpetile species - JNCC Open Data

Murray J. et al. (2010) Number and ownership profiles of cats and dogs in the UK. Veterinary Record, Bristol University.

Woods M. et al. (2003) Predation of wildlife by domestic cats (Felis catus) in Great Britain. Mammal Society, London

Appendix 1: LOCATION MAP - Reptile Survey Middlewick 2019-20



Appendix 2: FINDINGS - Reptile Survey Middlewick 2019-20

Survey data 2019

For survey areas see: Appendix 1: Reptile Survey Middlewick 2019-20 – LOCATION MAP

Description of survey Areas: September – October 2019

Area 1 – transect along fence-line to Speedwell Road gardens, adjoining hedge-line and adjoining grass / scrub area. Common lizard, slow worm and common toad known to be present; anecdotal record for adder from this area. Some disturbance from walkers & dog walkers; high cat presence / potential impact. OS grid ref: TM01552266 to TM01382283

Area 2 – two transects behind the butts: scrub and sparse grassland along the fence-line, and rough grassland with scattered trees and scrub to the south. Good reptile habitats and appears best area for adder presence although high levels of disturbance (walkers & dog walkers).
OS grid ref: TM01242258 to TM01032246; and TM01122239 to TM01032229 respectively.

Area 3 – Area of scrub and grassland with transect east along scrub margin / track from pillbox. Good habitat to margins of mature scrub and grassland but relatively high levels disturbance (walkers & dog walkers). OS grid ref: TM00542303 to TM00652306

Table 1: 2019 Survey Findings

Key: CL = common lizard; SW = Slow worm; GS = grass snake. (Data includes adults and sub-adults)

Visit no. / Date	Conditions /notes	Findings
Survey set up & Visit 1. 08/09/19	Warm and dry with cool light wind.	
Area 1		CL x 1
Area 2		0
Area 3		CL x 1
Visit 2. 10/09/19	Warm, hazy sunshine	
Area 1		GS x1; CL x2; SW x2
Area 2		
Area 3		CL x 2; Sw x1
Visit 3. 11/09/19	Warm and sunny, dry	

Area 1		CL x 9; SW x 14
Area 2		not checked
Area 3		Sw x2; CL x 4
Visit 4. 13/09/19	Warm and sunny, dry.	
Area 1		CL x1; SW x 1
Area 2		not checked
Area 3		CL x 4
Visit 5. Sat 14/09/19	Warm and dry; hot later.	
Area 1		CLx7; SW x 1
Area 2		CLx1
Area 3		CLx2
Visit 6. 17/09/19	Cool and sunny	
Area 1		CL x 1
Area 2		Not checked
Area 3		CL x4, SW x2
Visit 7. 18/09/19	Warm and sunny	
Area 1		CL x 5 Common toad x 1
Area 2		Not checked
Area 3		CL x3, SW x1
Visit 8. 19/09/19	Cool and sunny	
Area 1		CL x 1
Area 2		Not checked
Area 3		Not checked
Visit 9. 20/09/19		
Area 1		CL x 2
Area 2		Not checked
Area 3		CL x 2
Visit 10. 28/9/19	Overcast with warm sunny spells after rain overnight; strong breeze.	
Area 1		CL x14; SW x 4

	6 x CL juvs basking on one site	
Area 2	Only found 7 out of 10 mats.	CL x 10; SW x 1
Area 3	All 8 mats.	Cl x 11
October, November and December 2019	Further sighting during winter months within Area 1 & Area 2.	CL x 8 SW x 4

Survey data: 2020

For survey areas see: Appendix 1: Reptile Survey Middlewick 2019-20 – LOCATION MAP

Description of survey areas 2020

Areas 1, 2 & 3 as detailed in 2019 survey.

Area 4. Mozaic of mixed scrub and grassland in front of disused butt. TM0125 2265

Area 5. Raised grass bund (north) within wider grassland habitat. TM 0122 2307.

Area 6. Raised grass bund (centre) within wider grassland area. TM 0124 2298.

Area 7. Raised grass bund (south) within wider grassland area. TM 0134 2291.

Area 8 Area of open scrub and grassland from dead tree to fp, and tree line / field margin further east; centred: TM 0133 2282 & TM 0135 2266 respectively.

Transect 1. Abbotts Road boundary, rough grassland margin plus existing wooden fence posts, grass tussocks, bare ground and debris.
OS grid ref: TM 00442329 to 01252315 following road /site boundary.

Transect 2. Mersea Road boundary, rough grassland with scattered scrub and debris. OS grid ref: TM00422324 to 00462311

Transect 3. Scrub and grassland mozaic TM 013226 to TM013228.

Transect 4. Bracken-grassland margin to hedge-line behind Speedwell Rd.
TM014 228 to TM014 226.

Table 2: 2020 Survey Findings.

Key: CL = common lizard; SW = Slow worm; GS = grass snake. (Data includes adults and sub-adults)

Date: survey visits.	**Conditions, notes & surveyors**	**Findings**
Jan 2020.	Dry, overcast with light breeze.	
Transect 2		-
Transect 3.	Scrub / grass mozaic.	-
Area 4.	Scrub and grass mozaic	-
26 Feb 20	Dry, overcast with cold strong breeze. Restricted access as red flag flying.	
Area 3	Pill box-scrub/grass margin	-
Transect 1	Abbotts Rd. boundary.	-
Area 5	Raised grass bund (north) x 2 mats	-
Area 6	Raised grass bund (centre) x 2 mats	-
Area	Raised grass bund (south) x 1 mat	-
Transect 4.	Bracken / grass margin.	-

15 March 20	Overcast, dry, sunny spells, cold wind; 9C	
Transect 2	Mersea Road boundary	CL x2
Transect 1	Abbots road margin. Works starting.	0
Transect 3	Scrub/grass mozaic	SW x1 large female
Area 2	Behind butts and to short grass margin.	Cl x 2
	Rough grassland (nr birch)	SW x1
Areas 5, 6 & 7	Grass mounds	0, 0, CL x1
Transect 4	Bracken areas	Common toad x 1
3 May 20	Overcast, sunny spells dry, cool breeze temp 10C +/-	
Transect 1	Abbots road margin to tussocks, posts. Ground works: trashed nesting and rept habitats	CLx12 SWx3
Area 4	Scrub in front of Butts	Sw x1; CL x9
Transect 3	Grass/scrub margin (sapling - brown plastic nr. tree at other side to Area 1	SWx2; Clx4
Area 2 (2019)	Behind butts and to short grass margin	Not surveyed
	Nr birch to rough grassland	Not surveyed
Areas 5, 6 & 7	Grass mounds North Centre South-east	CL x 5 CL x 4 Swx1; CL x8
Transect 4	Bracken areas checked	CLx5
Transect 2	Mersea Rd. Ground works: trashed nesting habitats but boundary survey area intact.	Cl x 5 Sw x2
14 May 20	Overcast, sunny spells, cool strong breeze. O=7, b=3, t=12- 22C (becoming too hot)	
Transect 1	Mats cleared. Abbots road margin.	CL x16 Sw x2
Transect 2	Mats cleared. Mersea Road margin.	CL x 2 SW x 3
Transect 3	Added (= 16)	0 (too hot)
Area 4	Scrub grass mozaic.	CL x 2
Area 2	Behind butts and to short grass margin	CLx2
	Nr birch to rough grassland	0 (too hot)
Areas 5, 6 & 7	Grass mounds: north centre south-east	CL x2 CL x3 CLx 6
Transect 4	Bracken areas 4 mats	CL x 7
Area 8	Open scrub from dead tree to fp And field margin east	
19 July 2020	Overcast, light drizzle, cool breeze. Access restricted due to red flag / firing.	
Transect 4	bracken.	CL x 3 gravid females

		SW x 2
Transect 3	First mat (brown plastic)	SW x 1

Additional observations 2020:

February 2020

Grass snake to garden backing onto Middlewick (TM0058 2257)
Slow worm to grass stem at grass mound. (TM 01412278)
Common lizard (tail-less) (TM0144227)

May 2020

Slow worm to Weir Lane (TM 00761 21467).

August 2020

Grass snake (adult) to Area 1

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 that 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 niemela*i (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 asset**s; 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 is 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 not withstanding 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 and 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

	Positive	Negative	Nil Effect
Help to reduce the fear of crime		3	
Help to reduce the occurrence of crime		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*, a*s 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 SINC 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.