



Karen Syrett, Senior Officer for Planning and Place Strategy

Sandra Scott, Planning Policy Officer

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Colchester City Council

21st December 2023

Dear Officers Karen Syrett, Sandra Scott and Simon Cairns,

cc All Colchester City Councillors

We are writing to you on an urgent matter regarding Middlewick Ranges – and its continued inclusion in the Colchester Local Plan and allocation for up to 1000 houses. Please consider this and the attached documents as formal submissions to the current Local Plan Review ending 5th January 2024.

We appreciate this Local Plan Review and consultation period and opportunity to contribute – and aspire to a problem-solving, collaborative approach.

Before we begin, we would like to refer you to the attached ‘MIDDLEWICK OBJECTIONS: 1 and 2’ (MO:1+2) documents. These are **crucial** supporting documents containing:

- i) A summary of the key evidence and representations by organisations and individuals and;
- ii) Transcripts of the key December 11th Local Plan Committee meeting and other Have Your Say speeches.

Between them these outline a body of concerns and objections about Middlewick’s Local Plan inclusion; we hope these help to understand in plain English what can be a complex and technical matter.

The referenced resources (attached and via shared Google Drive folder) are as follows:

1. **MIDDLEWICK OBJECTIONS 1 - Summary of Representations to CCC wrt LP (2019-2023).pdf**
2. **MIDDLEWICK OBJECTIONS 2 - Have Your Say Speeches wrt CCC Local Plan (21-12-23).pdf**

These documents will be periodically updated; find latest versions at the Google Drive link below:

Full Docs: https://drive.google.com/drive/folders/1J5WXI-DeOyRUzHY0BoKbnY2SbeF2R1fx?usp=drive_link

(The best place to start is the summary of wildlife and maps [15 to 17] and [2] EWT; [4 to 7] RSPB, Buglife etc)

Most of you will hopefully now be aware of the latest objections following 11th December – and the rapidly unravelling case for including Middlewick Ranges in the Local Plan. A decision which now looks **decidedly unsustainable** – in both senses of the word. During this meeting a compelling case was presented by a number of speakers – organisations, experts, members of the public and councillors alike – to remove Middlewick Ranges from the Local Plan once and for all, and fully protect this Local Wildlife Site.

This current Local Plan Review and Call for Sites comes during a busy and distracting time of year – however, we hope you can bear with us and read and digest this letter in full – and the attached documents as referenced above (or the ‘headline’ summary pages) before the upcoming festivities.

This could not be more important and we trust you will find this not only of interest but of significant relevance to the future of Colchester – its residents and their wellbeing and its ecological status.

“Cherish the friend who tells you a harsh truth” ... it is with this philosophy in mind that we speak frankly, I hope this letter is taken in the constructive spirit with which it is intended.

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WILDLIFE UPDATE

Before we go on to discuss the threats to Middlewick and what can be done, we would like to take a moment to mention some of the main characters of this piece. **The Wildlife of Middlewick.** There are so many, we shall try our best to keep it 'in a nutshell' (See Middlewick Objection: 1; Section 15 for a full summary).

The astonishingly diverse invertebrate community is what Middlewick Ranges is best known for. There is not time or space to mention each of the 1,480 species recorded; or the over a 150 with conservation status; the 465 moth and butterfly species; the 285 beetles; or the 167 bees and wasps... However, we will mention six of the notable and charismatic species in brief:

- Our very own **Stag Beetle** *Lucanus cervus*, legally protected, Colchester an important national **hotspot**.
- **Four-banded Weevil-wasp** *Cerceris quadricincta*, "A very rare digger wasp, found nationally only in Essex and Kent." (BWARS) Their **entire** Essex population concentrated in a few sites in Colchester.
- **Necklace Ground Beetle** *Carabus monilis*, "The **fastest declining** ground beetle in Britain".
- **Hedychrum rutilans**, a **spectacular** colourful cuckoo wasp, with only three current records in Essex."
- **Tomosvaryella minima**, a Nat.Rare/Nr Threatened fly; David Gibbs, UK organiser of the national recording scheme, stated: "... (Middlewick is) the only confirmed record I have for the last **50 years.**"
- **Phaeocephalus braccatus**, a Vulnerable Nationally Rare spider at its only Essex location in Middlewick!

The value of Middlewick Ranges for invertebrates is undoubtedly not only of county value but national. This has been stated by experts and wildlife organisations; and has been confirmed by Buglife – a respected British conservation/campaigning organisation (naturalist, explorer and TV personality Steve Backshall is President).

Middlewick Ranges and Birch Brook Wood LoWS form part of the 'Important Invertebrate Assemblage' national network (IAA: Essex Coast), alongside River Colne and Roman River SSSI and Highwoods CP:

<https://www.buglife.org.uk/our-work/important-invertebrate-areas/>

"Important Invertebrate Areas (IIAs) are places that are home to nationally or internationally significant invertebrate populations and their habitats." ~ Buglife

This gem of a Colchester wildlife site is not only home to 'bugs'... but to a myriad of other wildlife supported by this site and adjoining Birch Brook Local Wildlife Site:

- **Three out of four Essex reptile species:** Common Lizard, Slow-worm and Grass Snake;
- Several bat species including the most eastern record of **Barbastelle** in Essex, a NERC Sect. 41 species;
- Badgers, Foxes, and a multitude of small mammals; and a recent very 'urban' **Brown Hare** sighting!;
- A significant number of **Waxcap fungi** (or 'troops' as they are known) with an impressive six species: Cedarwood, Blackening, Golden, Snowy, Scarlet and Meadow Waxcap;
- There are several **Essex Red Data List** botanical records at the site, including the Nationally Scarce Lesser Calamint and three ERDL ferns within Birch Brook: Lady, Scaly Male and Narrow Buckler-fern.
- A large range of wintering and breeding birds including **11 Red List Birds** of Conservation Concern: such as Skylark, Grasshopper Warbler, Cuckoo and Nightingale. The latter occur in numbers between 19 and 29 singing males within scrubby and woody areas along Birch Brook – making it **one of the most significant populations of breeding Nightingale in Essex outside of Fingringhoe Wick SSSI.**
- Dormice? The scrub/wood habitat mosaic is suitable; **much is yet unknown, surveys are incomplete.**

Birch Brook Woodland Local Wildlife Site has been described by botanists as a 'miniature Roman River SSSI', sharing characteristics and certain flora and fauna. Currently, the majority of this important wildlife corridor which forms a habitat mosaic and 'stepping stone' in combination with Middlewick Ranges, lies over 400 metres from built up areas. This may not be strictly within any 'red line' development boundary, but it would be profoundly impacted by the proposals to put houses within 50 metres of this site: Lighting, trampling, littering, noise, run-off pollution, sulphur, hundreds of additional dogs and cats associated with new homes chasing and preying on wildlife. **It is very difficult to imagine Nightingale persisting under these conditions;** another degraded 'urban stream', one only has to look at other examples such as Salary Brook.

Firstly, and as a starting point, we believe it must be acknowledged: that as councillors and planning officers you were badly misled and misinformed. We think this much is now clear.

- Vital information from Natural England was not made available to the council in a timely manner to allow a more informed decision.
- There appears to have been a very narrow time window before the proposals were submitted without time for prior expert scrutiny and wider consultation.
- The MoD portrayed this as the 'least-worst' option with a misleading narrative that 'houses were inevitable' – with an incorrect presumption **for** development.
- Stantec, MoD's contracted consultant, made mistakes and painted a rosy picture. They appeared to start with a conclusion before all the data was in: that development **could** be mitigated/compensated, not apparently entertaining the thought that it could not. They put forward proposals to facilitate a case for development which were, from the outset, badly flawed. Built on sand, so to speak.

The idea that you can replace irreplaceable acid grassland (a National Priority Habitat) on unsuitable soils – and move **an entire ecosystem**, one of Essex's finest and most diverse invertebrate communities... by simply 'adding sulphur'; concentrated into a smaller area with existing wildlife; **and then** expect a 'gain'. It is absurd, unprecedented in ecology – and dangerously misleading! And also ignores the mitigation hierarchy. It would be hard to find a single qualified scientist/ecologist with an impartial brief who would support this hypothesis.

These plans have now been roundly and unanimously denounced by a large representation of county and national nature organisations and experts in their field. They have been exposed as being unsound, unfit and unworkable. And not solvable by even the most 'robust planning conditions'. One can simply not replace the irreplaceable. Or condition the impossible. See Steven Falk's full statement [7].

At Tuesday's Cabinet, Councillor Fay Smalls made this apt and thought provoking analogy:

"It would almost be the ecological equivalent of if we were trying to knock down Colchester Castle and relocate that. In fact, that would probably be easier than trying to move the acid grassland."

I am sure it would be possible to find an archaeological consultant who could devise a 'bespoke' or experimental method to replace Colchester Castle elsewhere and build on its remains. If such an idea was tabled at Colchester City Council we very much doubt this notion would be afforded much time.

We hope we can convince you here, if you are still 'on the fence', that the prompt removal of Middlewick Ranges from the Local Plan – using any mechanism at your disposal – **is imperative as well as being in the interest of everyone concerned.** Not only the people and wildlife who rely on this site.

Regrettably, despite a strong case and evidence **against** the allocation of housing on Middlewick made during the initial Local Plan Review and Examination – this was not taken on board. Flawed and misleading Stantec Evidence Base and ecological advice appear to have provided false reassurance; a tick in the box, so to speak.

HOWEVER, we now have **very significant new information** in addition to the existing evidence provided – as was revealed in statements during the Local Plan Committee meeting last week. 'Bombshells' as it were.

These now change the terrain – and are summarised as follows:

1) Essex Wildlife Trust: Dr Jeremy Dagley, Director of Landscape Conservation and Director of EECOS (Essex Ecology), reiterated the serious concerns raised in 2019 and 2021, in particular the permanent loss of acid grassland [2-3]. He also stated that the invertebrate value was not adequately addressed and that EECOS **no longer approves** of the proposals outlined in the Stantec report. This effectively **removes crucial third-party validation from the peer review process**, essential for legitimising these highly controversial proposals.

"**Middlewick Ranges** is an outstandingly important site for wildlife, not only for Colchester, but for Essex and the wider region. At **76 hectares** it is one of the largest Local Wildlife Sites in the area and, on its own, represents nearly **4% of the District's** complete Local Wildlife Site acreage. With tens of hectares of rare acid grassland habitat, **Middlewick Ranges** encompasses the largest extent in north Essex and is of similar ecological importance to **Epping Forest SSSI's** acid grasslands.

Of real concern to the Trust is that its **insect biodiversity** – was not addressed sufficiently during the Local Plan preparation. In the Trust's opinion, Middlewick Ranges is almost certainly now of **national importance for insect biodiversity...**

I am speaking for **both** the Wildlife Trust **and** Essex Ecology (or EECOS) as your former technical adviser, requesting and advising that your Council, through its green spaces' consultation, now fully protects Middlewick Ranges and **removes** the current site allocation for houses there, providing revised housing allocations at alternative sites."

2) RSPB: Conservation Officer Mark Nowers expressed strong objections to Stantec's misuse of RSPB's Minsmere habitat creation project as a justification for replacing Middlewick's Priority Habitat (acid grassland) with nutrient-rich grassland. He states that this approach overlooks the existing ecosystem's value – both for the proposed footprint of works and the existing grassland within the 'compensation' site – and is based on experimental and controversial methods. He cites breaches in environmental and sustainable planning [5].

"The RSPB wish to advise the Council that the **Minsmere case study presented in the Stantec report is not comparable or analogous to the proposed compensation site for Middlewick Ranges** and we do not consider that **any mitigation/compensation would be suitably bespoke, deliverable or effective.**

We would not wish the work at Minsmere to be used to legitimise or justify the destruction of acid grassland or heathland (priority habitats) at Middlewick. The Minsmere case study was a strict habitat creation project with a conservation objective to create suitable habitat from farmland of low biodiversity value for breeding Stone Curlews (one of the UK's rarest birds).

It was not a replacement for sensitive ecosystems such as acid grassland supporting an outstanding invertebrate assemblage of over 1,400+ species known to exist at Middlewick. Fundamentally, the soil conditions at Minsmere are light, whilst those at the Middlewick compensation site are a heavy loamy clay, which are nutrient-rich and currently provide important habitats in their own right."

3) Steven Falk FRES: Renowned UK invertebrate and acid grassland expert with over 40 years of experience, Steven Falk criticises Stantec's proposals as unscientific and lacking credible ecological backing. His statement [7] highlights a fundamental misunderstanding of acid grassland ecology in Stantec's approach. Falk's expertise and reputation in this field, including authoring the 1991 Red Data Book of British Insects and the Field Guide to Bees of Britain and Ireland, the seminal book on British bees, adds significant weight to his critique.

"There can be no doubting the **high value of Middlewick Ranges for biodiversity**, especially scarcer insects.

I am astonished and disturbed by the claims that high quality acid grassland can be recreated on unsuitable soils elsewhere simply by adding Sulphur. I would suggest there is a basic misunderstanding of what acid grassland actually is! It is not 'acidic' grassland, or 'acidified' grassland (i.e. any grassland treated with acid to produce a lower pH).

To suggest that simply adding Sulphur can recreate an ancient soil profile, an ancient seed bank, or ancient (and isolated) plant, invertebrate and fungal communities, **is one of the most controversial claims I've encountered during my many years working in nature conservation.** It should be treated with the **utmost suspicion**, and **expert opinion sought** from bona fide grassland, plants and insect experts at Natural England and the wildlife trusts."

4) Colchester Natural History Society: Chair, Dougal Urquhart, presented a summary of latest records of the staggering diversity of invertebrate life which Middlewick Ranges has been found to support [4], mostly the result of few field meetings by the Essex Field Club – effectively **doubling** the known invertebrate list in the 2-3 years since Stantec's report:

"We've been amazed that the Ranges have been found to support 1480 species of invertebrate including 167 species with a conservation status proving the site is far richer than Stantec stated.

As well as finding nationally rare species and red data book species, there are 15 section 41 priority species of principal importance – doubling the number from two years ago. Nationally rare species include an amazing variety including spiders, wasps, bees, beetles, bugs, moths, butterflies and many others.

Assessing the quality of habitat for invertebrates, there are eight invertebrate micro-habitat assemblages in favourable condition. **This makes Middlewick Ranges one of the most important acid grassland sites in the whole of Essex, especially for invertebrates – and richer than many current SSSI's in the county."**

5) Buglife: Jamie Robins, Programmes Manager, has presented vehement objections on behalf of Buglife to the proposals for Middlewick Ranges to Colchester Council [6]. The site has been classified and mapped as an 'Important Invertebrate Assemblage', and forms part of the Essex Coast IIA as outlined on Page 2 and below.

"The entire Middlewick Ranges site is part of the revised **Essex Coast Important Invertebrate Area (IIA)1**. IIAs are nationally or internationally significant places for the conservation of invertebrates and the habitats upon which they rely.

The Local Plan Review presents a clear opportunity to include Middlewick Ranges within the Green Infrastructure Plan of the Borough and secure the future of this site. Buglife argues that to meet the Government targets for **30% of land to be protected by 2030**, LoWS should be protected from inappropriate development. In the context of a biodiversity crisis, this site is a **biodiversity hotspot** and development needs must be met on sites of less value. This is not only to fulfil the requirements for developments to avoid significant harm to biodiversity, but also to ensure meaningful uplift can be achieved through enhancements and Biodiversity Net Gain.

Buglife urges Colchester City Council to include Middlewick Ranges as an important green space within the Local Plan Review and protect it from development."

[See Google Drive link above for the full statements; also reproduced in 'Middlewick Objections 2' attached.]

In light of this crucial new evidence – and considering the comprehensive evidence which already existed – **we propose that there is now an overwhelming case to remove Middlewick Ranges immediately from the Local Plan using whatever legal framework and procedural mechanism available.**

We propose that no further evidence or surveys are required, no further time or taxpayers' money needs to be consumed. It is now clear that: i) without third party approval; ii) without a legitimate case study or ecological precedent; iii) without expert backing... and iv) with new records and expert testimony confirming national level significance – the fundamental grounds for including Middlewick in the Local Plan in the first place have now been found to be fatally flawed.

It is now apparent that the site was included under deficient evidence and misleading pretences – with fresh evidence providing a compelling reason to go back to the beginning. This latest review until 5th January 2024 is an opportunity to correct this historic mistake (or one which could be if we continue along this current path).

Regrettably, we were not reassured by the response to the urgent and compelling questions and objections raised on 11th December. We appreciate there was a lot of new information to take on board; however, **none** of the grave concerns or new objections were addressed – neither was the valid question for a mechanism to remove Middlewick as soon as conceivably possible.

'Don't panic' and 'Trust the process' did not provide much reassurance we are afraid to say – given that it is the same processes which have threatened – and continue to threaten – the survival of this precious Local Wildlife Site, against this overwhelming body of evidence. It would appear that, either there is a significant problem with the process and procedures, or the problem lies with the application of the procedures, and that due process has not been followed at all times.

To be able to execute the process, a degree of knowledge and understanding is required in this field. Without such rigour, public bodies can be seriously embarrassed – or more gravely, unwittingly open the door to dangerous precedents. Either way, we believe an urgent intervention is now necessary.

Also, hearing of a reliance on ‘robust and stringent planning conditions’ appears to suggest a fundamental misunderstanding of the core objections. As expressed best by Steven Falk above, there are simply no planning conditions or mitigation available or conceivable which can resolve or compensate for the destruction of irreplaceable habitats and the unique ecosystem has established around them.

FINALLY, and importantly, the world is very different even since these decisions were originally made. There is increasing awareness of the Biodiversity and Climate Crisis and Nature Emergency which threatens all of us. And remembering UK is already one of the most nature-depleted countries on Earth (State of Nature 2023).

As a result, the environmental legislation is catching up with reality: the Environment Act which obliges local authorities to achieve Biodiversity Net Gain (without using an illegitimate ‘bespoke’ metric!) will be written into law in early 2024 and the Local Nature Recovery Strategy will become a statutory legal obligation in 2025.

Alongside other commitments to the environment such as the Green and Blue Infrastructure Strategy and Green Essex Strategy, Colchester City Council has an obligation to fulfil these commitments and abide by environmental legislation; which are crucial not only to retain what little wildlife and habitats we have left but also preserve these wild and green spaces which people rely on to unwind and for their mental health. The negative impact of losing such public amenity is incalculable. A **vital** piece in Colchester’s ‘green jigsaw puzzle’.

“An outstanding residential development opportunity in the heart of Colchester.” ~ JLL glossy brochure [18]

Middlewick Ranges is up for sale. Without intervention, and at the current trajectory, this invaluable site will be lost. The destruction of Middlewick Ranges – as one of the most important acid grasslands and sites for invertebrates in Essex – would drive a coach and horses (or bulldozer!) through the Colchester City Council’s aforementioned environmental commitments, goals and legislation/legal responsibilities.

We welcome a dialogue and invite you to work with us to help protect and retain Middlewick Ranges before any sale of the site proceeds, at which point the stakes and the implications would inevitably escalate – and the offer of a curated nature walk around Middlewick Ranges to all councillors and officers is still open.

Looking out over Colchester atop the sandy mound – It is a site that must be seen and experienced!

A number of urgent questions therefore arise from all of the above:

1. Immediate Actions and Legal Frameworks

- a) In the context of the new evidence, what is preventing CCC as the responsible authority from taking immediate action to remove Middlewick Ranges from the Local Plan?
- b) Are there specific legal frameworks or procedural mechanisms available to expedite this process, especially considering potential resistance from certain parties?
- c) Can you clarify who exactly holds the authority to remove Middlewick from the Local Plan? Is it within the Cabinet's power, or does it require a decision from the Full Council?
- d) What **other dates/deadlines/type of submissions** except Jan 5th do we need to be aware of?

2. Review Process and Potential for Change

- a) If the council had been aware of the current evidence at the time of Middlewick’s initial inclusion, would it have still been included in the Local Plan?
- b) If not, what does this imply about the flexibility and purpose of the Local Plan Review process?
- c) If the inclusion of Middlewick Ranges in the Local Plan is considered irrevocable and ‘set in stone’ – what is the point or purpose of a Local Plan Review if sites cannot be removed once new evidence is presented (or if the initial basis for inclusion is shown to be unsound)?
- d) IF the process is irrevocable, could this give a scenario where a development is proven to be unviable on every score but stays in the Local Plan in perpetuity? **Despite** being a ‘dead duck’?

3. Disclosure to MoD/DIO, JLL and Potential Buyers

- a) Can the Officers confirm whether JLL as property consultancy and agent, the MoD/DIO, and potential buyers have been fully informed, or are legally required to be informed, about the

significant objections and new evidence challenging the inclusion of Middlewick Ranges in the Local Plan and undermining the Stantec Evidence Base?

- b) Will the council ensure that the MoD and JLL receive the new evidence and objections outlined in 'MIDDLEWICK OBJECTIONS: 1', 'MIDDLEWICK OBJECTIONS: 2', and this letter, especially considering the potential legal and financial consequences?
- c) Are there any legal consequences for failing to disclose information that could lead to financial loss, particularly in relation to the sale of Middlewick Ranges by JLL on behalf of the MoD?

4. Ensuring Compliance with Environmental Legislation

- a) Given the critical importance of adhering to environmental legislation, such as the upcoming Environment Act and the Local Nature Recovery Strategy, how will the council ensure that its decisions regarding Middlewick Ranges fully comply with these legal requirements?
- b) CCC declared a Climate Emergency in 2019 and recognises the Biodiversity Crisis/Nature Emergency. Given Middlewick's significant biodiversity and role as natural 'carbon sink'; and given that Government guidelines state that 30% of land should be protected by 2030: What steps are being taken to align council actions with these environmental obligations?
- c) National Planning Policy Framework (NPPF) is clear that Local Wildlife Sites should **not** be built on (except in 'exceptional' circumstances/national infrastructure projects, **not for housing**) – as consistently stated by conservation groups like EWT, EFC, CNHS and Buglife. How does CCC justify allocation/development of Middlewick when this appears to be in **direct** contradiction with their obligations under the NPPF for biodiversity and environmental protection?
- d) In the event that the council's actions regarding Middlewick Ranges are found to contravene environmental legislation and obligations, what accountability measures will be in place?
- e) What are the potential legal and reputational implications for the council if it fails to adhere to the stipulations of the NPPF, Policy ENV1 and upcoming environmental laws like LNRS?

We appreciate and acknowledge amongst both Officers and Councillors a willingness and desire to understand the issues at hand and find a positive way forward; we would welcome a continued dialogue and working together with you alongside key environmental/natural history organisations. We look forward to a response to these questions... after Christmas! – yet preferably with sufficient time before January 5th. We would welcome a chance to meet in person before this time, on Middlewick Ranges and/or around a table.

We would like to leave you with a quote from Sir Bob Russell. It is difficult now to imagine Highwoods Country Park as a housing estate. Middlewick Ranges and Birch Brook Wood LoWS and southern grassland are of similar size and even greater biodiversity in many respects.

This is an important moment for Colchester – and has national implications given the precedent it would set. Now is the opportunity to make sure that Middlewick is remembered for the right reasons – as opposed to the wrong ones.

"My message is for the elected members. Because, surely, we live in more enlightened times than half a Century ago when Highwoods was saved from an awful development? The southern slopes were going to be a sprawling development from Turner Road all the way to Ipswich Road. And elected members took the decision they didn't want that.

Middlewick is the wrong place for 1000 houses. It should be kept and used as a public open space as it has been for many generations. It would be a planning and environmental nightmare. It is up to elected members to take the lead – as elected members did half a Century ago, which gave us Highwoods Country Park. ~ Sir Bob Russell

Best Wishes,

Friends of Middlewick

Courtesy of Andrew Wilkinson, en-form Projects Manager