

## LOCAL PLAN COMMITTEE

### 8 FEBRUARY 2021

*Present: -* Councillors, Barlow, Bourne, Coleman, Ellis, Hayter, Moore, G. Oxford and Pearson

*Substitutes: -* Councillor Willetts

*Apologies: -* Councillor Barber

*Also, in attendance: -* Councillors Harris, King and Scordis

#### **209. Have Your Say**

Mr Chilvers addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1):

He expressed concern over employment opportunities and transport links for Middlewick.

As to the evidence base, there was an absence of detail in the economic section about job opportunities for new residents with no work nearby, the Whitehall estate offered little in terms of expansion and Gosbecks was full. There were fewer jobs in retail in the town centre and less retail equals less footfall to support hospitality. The job market was shrinking.

Employment and the infrastructure to support that was a concern, as well as connectivity and transport links. Most households would use a car for work but given the locality there would be no rapid transport system; no easy link to the A12 or main line rail. Roads were congested and Haven Road flooded. Bus services offered no direct routes east to west. There were walking and cycling routes which were good for recreation.

Solutions to traffic problems suggested by the Ministry of Defence (MOD) did not address the long term. Colchester Borough Council (CBC) planning needs to challenge both Essex County Council (ECC) and the MOD's computerised traffic modelling reports.

Any planning application would need scrutiny.

Mr Kilshaw addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1)

The MoD ecological report for Middlewick LoWS became available late 2020 so there was little understanding of the sites' ecological importance or suitability for

development at the time of its inclusion in the Local Plan in 2017.

The proposals would destroy a large area of UK Priority habitat dry acid grassland, and extensive grassland habitat to the north and east of the site; subsequent user pressure will impact remaining habitats and inherent wildlife including rare and protected species.

Despite this, the report claims development will result in biodiversity net gain of 8-16%, largely through compensatory habitat creation in arable land south of the site.

However, the report makes it clear that habitats within the development footprint have not been fully assessed:

Grassland habitats to Areas D, E & F (Figure 07a):

Were not subject to National Vegetation Classification survey.

The initial phase 1 habitat survey (June 2017) was completed after a hay cut.

The phase 1 survey update (2020) was completed on 16 March – outside of the acceptable survey period.

There are no detailed target notes, or species lists with relative abundance data.

Species favouring neutral grassland are described as 'not indicative of acid grassland' (the habitat of principle importance within the LoWS designation).

Despite these constraints, and that 'Lowland grassland' is an Essex priority habitat, the report dismisses these areas as 'poor semi-improved grassland', and of 'Negligible Conservation Value'.

In addition:

The dry acid grassland Area A (Figure 07a) is described as 'parched' at time of survey.

The data search dates from 2017, so does not include many rare and protected species recorded in the intervening 4 years.

The wildlife corridors proposed in mitigation are dissected by a primary road (Figure 23)

The claimed biodiversity gain appears to result from a low evaluation of habitats lost, and high evaluation of compensatory habitat yet to be created which may or may not be successful.

A recent study into Biodiversity net gain\* found “..planning enforcement guidance advises councils not to take enforcement actions unless the violation results in ‘serious harm to a local public amenity’”. It concludes that this will mostly not be the case, and the high quality semi-natural habitats promised to secure planning permission are essentially not enforceable.

Who would pay for compensatory habitats, ensure this was achieved, and evaluate long term success?

Middlewick's inclusion in the Local Plan presumes suitability for development; does CBC have any responsibility to developers that find the costs and time frames necessary to achieve acceptable mitigation make development unviable?

Middlewick should be removed from the Local Plan pending further ecological assessment that avoids the constraints noted in the MoD 'Ecological Evidence Base' report. An Ecological Impact Assessment should be undertaken to determine its suitability for development or otherwise.

\* Will Biodiversity Net Gain improve English biodiversity? Sophus zu Ermgassen and Dr Joseph Bull, (December 2020) Wildlife and Countryside Link (WCL.org.uk)

The following written submission had been received from Dagmar Engelken and was read to the Committee, pursuant to the provisions of Remote Meetings Procedure Rule 5(1):

"I am a local resident of Old Heath and a member of Save the Middlewick Ranges campaign group.

We want Middlewick to be taken off the Local Plan. We are not against the Local Plan. We recognise that Colchester needs a Local Plan to prevent a "free for all" for developers. But Middlewick should never have been included in it.

The mantra that we have heard from councillors in the past couple of years has been that the council had no choice but to include Middlewick, as otherwise "the MoD could complain, and the planning inspector could put 2,000 homes on there".

However, we have yet to be shown any evidence that this would actually be the case.

Is not the purpose of the Local Plan to give local councils the power to decide where to build and where not to build; and hence prevent housing development on sites not included in the Local Plan and not desired by the council – provided they find sufficient sites to meet their assigned housing target? Why is the council abdicating responsibility in this matter?

The site was submitted at such a late stage that we presume the council did not even have a close look at it before including it. If councillors had looked at it, they may have found plenty of reasons of why the planning inspector would not give green light to the MoD.

How many of those who voted to include it in the Local Plan were aware that Middlewick is a prime site for threatened species such as nightingales, skylarks, bats, reptiles, and invertebrates? How many know the number of rare habitats on the area proposed for development?

There are cases where developments were rejected on the grounds of wildlife protection, such as the former MoD site Lodge Hill in Kent, a SSSI and "the most important site in the country for nightingales". Local residents, together with the RSPB, fought to prevent the development and "as a result of this pressure ... the new site owners, Homes England ... no longer plan to build within the SSSI."

I urge all councillors to take a close look at this case.

While Middlewick Ranges is a Local Wildlife Site, not a SSSI, it is on par with many SSSIs. If it were to be developed, the loss to wildlife would be tremendous. There is no way this could be offset to meet "biodiversity net gain" criteria as stipulated in the national Planning Policy Framework. We will continue to fight against this development even if it stays on the Local Plan; but we'd rather have our local council fight with us."

Ms Cross addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1):

Ms Cross explained that she was a resident of Colchester and environmental campaigner. The "Friends of Middlewick" group supported by En-form, Eco Colchester, and various other environmental groups in Colchester. They proposed that Colchester Borough Council remove the proposed development on the Middlewick Ranges from the Local Plan and designate it as a Local Green Space (LGS) under Paragraphs 99-101 of the National Planning Policy Framework (NPPF).

A Local Green Space (LGS) designation would protect green areas of particular importance to local communities. A LGS is designated by the planning authority and once designated would be subject to the same development restrictions as Green Belt, with new development ruled out other than in special circumstances. LGS could be designated when a Local Plan is being reviewed.

The Middlewick Range site met the criteria below for such a designation:

It was reasonably close proximity to the community it serves and demonstrably special to a local community in that it fulfilled all the following:

(a) Beauty

It is a visually attractive site, which contributes to the landscape, character of the area and sense of place.

(d) Recreational value

It has local significance for recreation, through the variety of activities it supports, and be of value to the community.

(e) Tranquillity

It provides areas that provide an oasis of calm and a space for quiet reflection.

(f) Richness of wildlife

It is of high biodiversity value: A large area of the site has been designated as an Essex Local Wildlife Site with particular note to protected Acid Grassland habitat and recorded Essex Red Data invertebrate species.

It is local in character in that it is fairly self-contained with clearly defined edges.

The afore-mentioned groups would fully support the Council in this designation going forward. Funding for Green Spaces was available from many sources: therefore, we feel this should be fully investigated within a review of the Local Plan.

Attention was drawn to some of CBC's own Policies & Strategies:

DP15: Retention of Open Space and Indoor Sports Facilities (Sec 7.1): "In all cases, development will not be permitted that would result in any deficiencies in public open space requirements or increase existing deficiencies in the area either at the time of the proposal or be likely to result in a shortfall within the plan period".

Parks and Green Spaces Strategy (Sec 2): "The Council will seek to acquire strategic areas of land for public open space that are of borough wide significance, contributing to the network of green spaces which are freely accessible to residents and visitors".

Declaration of a Climate Emergency 2019

Mr Wilkinson addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1):

Mr Wilkinson was speaking on behalf of En-form that had been asked by its supporters to scrutinise the Local Plan and in particular the inclusion of Middlewick Ranges for housing.

The reasons and the process followed for including housing on Middlewick Ranges were difficult to find. He requested information regarding allocating housing on Middlewick in the Local Plan:

1. What notification was given to the general public about its inclusion and when were they notified.

2. What consultation with the general public took place both before its inclusion and subsequently?

3. The consultation carried out by the DIO in 2019 was significantly against the

development. How has the result impacted the decision to include it in the Local Plan?

4. Why was it included in the Local Plan when it is a designated Local Wildlife Site?

5. Could you provide a timeline of all the actions taken to include it in the local plan for housing?

It appeared that the first mention of including it in the Local Plan was on page 18 of the Local Plan Committee Meeting on 7th February 2017.

There was a proposal to use the site as a temporary recycling site in 2006 whilst the Garrison developments were being built. The Planning Committee that considered this proposal had to be heard in the Moot Hall due to the number of objectors that wished to attend with many having to stand. At that time Colchester Borough Council robustly opposed the application in a written response dated 14th August 2006 (Application number M/COL/06/1401) mainly on environmental and ecological grounds.

What has changed at this site since 2006 to make the site now suitable for development. How has the ecology of the site declined since 2006 and can you make available the evidence that confirms this decline?

The site was designated as a Local Wildlife Site in previous local plans. Did developing the site comply with National and Council Wildlife and environmental policies and legislation?

Ms Darke addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1):

Ms Darke spoke on behalf of Eco Colchester focussing on mental health, stressing that mental health problems were one of the main causes of the overall disease burden worldwide.

The UK government's strategy on loneliness, recognised the importance of Greenspaces and links urbanisation with loneliness and decreased well-being. £2.1 billion per year could be saved in health costs if everyone in England had good access to Greenspace, due to increased physical activity in those spaces.

Green environments were associated with reduced levels of depression, anxiety and fatigue and people with better access to Greenspace enjoyed a wide range of health benefits from lower levels of cardiovascular disease through to maintaining a healthier weight.

Greenspace could help to bind communities together, reduce loneliness, and mitigate the negative effects of air pollution, excessive noise, heat, and flooding. Disadvantaged groups appeared to gain a larger health benefit and have reduced socio-economic-related inequalities in health when living in greener communities, so Greenspace and a greener urban environment could also be used as an important tool in the drive to build a fairer society.

Public Health England have published a document called 'Improving access to Greenspace A new review for 2020'

This 'natural capital' would help local authorities address local issues that they face, including improving health and wellbeing, managing health and social care costs, reducing health inequalities, improving social cohesion, and taking positive action to address climate change.

It states "We cannot continue to invest in the same service models of the past. We will not meet our mission with 'business as usual'... Greater focus, and spending, is

needed on prevention, not just cure... This includes recognising... how the wider environment we live in determines our health” – Prevention is better than cure. The Local Plan should be underpinned by relevant health evidence, which Directors of Public Health have a role to play in providing. Future health needs, including access to Greenspace and use of outdoor space for exercise/ health reasons, should be embedded within it. If the community’s’ health priorities were not reflected within the plan, it would be difficult to ensure new development would support wellbeing needs.

How would including the Middlewick ranges into the Local Plan meet these requirements particularly when more Greenspace elsewhere was lost?

Councillor Scordis attended and with the consent of the Chairman addressed the Committee and raised the following questions and comments:

How would biodiversity evidence be collected and were there alternatives to that of the Essex Wildlife Trust?

Would the Council’s declaration of a Climate Emergency change future development on this site?

Highways figures on traffic movements were not accurate as they were taken during the pandemic.

The Community should be involved in any future build.

Councillor Harris attended and with the consent of the Chairman addressed the Committee stating that six councillors in South Colchester had written to the Ministry of Defence (MOD) and the Member of Parliament requesting that the sale of land be taken off the table.

An MOD consultation had started, many new people in the area would want to have their say and mental health, environmental and social issues needed to be considered.

What would happen to the Local Plan if the MOD stopped the sale?

Sandra Scott, Place Strategy Manager, responded to the concerns raised by the speakers explaining that there was no specific economic evidence base that related to individual sites, this was considered borough wide and linked to Housing Growth. It was anticipated that improvements to the local infrastructure, junctions, and local network, as well as enhanced connectivity, would provide a range of opportunities for new residents, also work patterns were changing and not all needed to travel to work.

Transport Assessment work recently submitted by the Defence and Infrastructure Organisation (DIO) had been prepared by Stantec and was being reviewed by Essex County Council as the Highways Authority and was yet to be fed into the Local Plan which will be relevant to the Examination.

A further Strategic Flood Risk Assessment would be required to accompany any future planning application.

An ecological assessment had been submitted by DIO in December. Officers have engaged a specialist ecological consultant in preparation for the Examination in Public (EiP) which will include confirming advice in respect of the report and proposed mitigation and net gain. The issues were being considered in detail and advice provided by our consultant would be responded to. The mitigation required and habitat creation and management in the longer term would need to be funded by the development. Further assessments and details with respect to mitigation, net gain and management arrangements will be required at the planning application stage. The EiP needs to ensure the allocation and supporting policy adequately covers this issue and ensures proper consideration and requirements when a planning application is submitted.

Regarding the intentions of the MOD, even if the site was not included in the Local Plan, the Place Strategy Manager explained that the original submission from the MOD was for 2000 units on the site, this was on record in the form of a representation submission. The MOD have their own targets to deliver housing on their estate. They had publicly announced the site surplus to MOD needs and the intention to build houses, this announcement was independent of the Local Plan. The DIO made this announcement between formal stages of the Plan preparation so it was included it at publication stage in June 2017 which allowed for consultation before the Plan was submitted. Allocating the site allows for better control and influence, engagement, and proper planning. The Local Plan process allows for engagement and participation, culminating in an EiP which is yet to take place. The DIO consultation was to help inform the detailed thinking and understand the issues more fully rather than the principle of including the site or not. That is for the EiP this April. The final position will be determined at the EiP by an Independent Inspector.

In respect of Greenspace and the National Planning Policy Framework it was explained that the Landowner would need to be willing to safeguard the site for this use or agree to disposal for this purpose, and funding would need to be sought in order to deliver. Development would present opportunities for significant parts of the area to be enhanced and used as open space, and improved connectivity and green infrastructure compared to currently. The site would not be fully developed, it would be likely that at least 60% of the whole site would be open space to reflect all the relevant considerations which apply. This would provide more open space than is available to the public now and provide benefits to health.

Regarding the question of what had changed since 2006, it was explained that the Council has had the responsibility to deliver housing and prepare a Local Plan. The Local Plan is constantly reviewed. The DIO submitted the site in an urban edge location as being available for disposal for development. Development on this site would be better dealt with through the Local Plan process rather than a speculative planning application as it would allow for better testing of evidence and issues as part of the Local Plan examination. Policy and evidence would need to be robust, and modifications made if needed.

The Place Strategy Manager also stated that there was not a need to plan amendments to take account of the Declaration of Climate Emergency.

Work was on going on the masterplan and there would be community involvement to help shape and influence.

Karen Syrett, Lead Officer for Planning, Housing and Economic Growth further clarified that should the MOD withdraw the site from the Plan then the Council may need to consult on new additional sites, and this would delay the plan making process. The Housing target in Section 1 of the Local Plan had been established at 920 and section 2 of the Local Plan had been based on this.

The Lead Officer for Planning, Housing and Economic Growth also responded to the question of why the area proposed for development was not located on land at Middlewick where there was a lower biodiversity quality; the site proposed had been the only area put forward for disposal by the MOD's Estates Team.

Mr. Chilvers stated that people in the area had been left behind, there was greenspace across the borough in other communities, but the proposal would take greenspace away at Middlewick.

Mr. Kilshaw suggested that members read the article on biodiversity net gain and note that it was not enforceable.

Members requested a report on net gain be submitted to a future Committee meeting.

## **210. Minutes of the Previous Meeting**

*RESOLVED* that the minutes of the meeting held on 14 December 2020 be confirmed as a correct record.

## **211. Local Plan Update**

Karen Syrett, Lead Officer: Planning, Housing and Economic Growth introduced the item and spoke to Appendices 1-3, Councillor King, Portfolio Holder for Business and Resources, and Sharon Carter, Communications Manager, updated on engagement outlined in Appendix 4.

Section 1 of the Local Plan had been adopted by Council on 1 February and hearing sessions for Section 2 were provisionally scheduled for up to 2 weeks from mid-April. Because of the uncertainty around coronavirus restrictions these would be conducted virtually. Tending sessions were starting on 23 February and would be available to watch on YouTube. Documentation from the Examiner that would be used for the Tending sessions had been added to the report as Appendices as the issues in their examination were likely to be similar to the ones that would be raised for Colchester. The list of Matters had not yet been received but once they were then there would be a requirement for Colchester Borough Council to produce statements. New web pages were being established to ensure everyone will be able



to find information and when the sessions are underway there will be a link on the home page.

The Committee felt it would be useful to provide a financial appraisal and spending profile detailing expenditure envisaged and costings for services bought in, showing what proportion Colchester Borough Council would have to pay and how much would be spent on the examination. A cost benefit analysis of having a Local Plan juxtaposed to the cost of fighting speculative developments through costly appeals was requested.

The Lead Officer for Planning, Housing and Economic Growth informed members that the bulk of the work on Section 2 would be undertaken by officers in the Planning Policy Team but that there would be some areas where there would be a need to engage consultants such as ecology and retail. All costs for Section 2 would be met by the Council including payment to the Planning Inspectorate for their services. A sum of £250k had been forecast for this.

It was noted that Councillors could represent Parish Councils at the examination if they had indicated they wanted to take part; the decision on who represents the Parish Council sat with them. Decisions on how many representatives can speak for parishes sat with individual Inspectors, some permitting a rotating Chair for example.

A suggestion was put forward to include an information page within the Local Plan Agenda explaining why every Local Authority needs a Local Plan. This would be a useful reference point to assist Members of the Public and Have Your Say speakers. It would provide facts on the Local Plan and provide a framework on how the Council delivers growth, housing and employment seeking to ensure this was supported by appropriate infrastructure and protecting areas. It would include an explanation of housing targets and neighbourhood plans.

Councillor King and Sharon Carter Communications Manager shared a presentation with members on the Communications and Engagement Strategy for Tendring Colchester Borders Garden Community (TCBGC).

The slides covered Political Leadership, Officer involvement and Communications. Work had commenced in the Autumn and the representation was cross party and collegiate. Work was at an early stage, but indicative timelines and milestones had been provided.

It was the intention that engagement be owned by the communities affected and a start to this end had been made. Communication channels included digital and non-digital newsletters, a blog in the Gazette, social media, and the Council's website. Launch of a website for Tendring Colchester Borders Garden Community was planned as well as work with young people as it would be important to include young persons' voices, webinars for Community groups, and visits to Town and Parish Councils.

The Council would work together with partners on the Development Plan Document with a refreshed open approach to consultation and engagement.

The Committee welcomed the commitment to transparency and dialogue, asked that plain English be used in communications, and stressed that the views of the public needed to be heard. It was acknowledged that residents can have competing priorities and opposing views about what should happen in their neighbourhoods, the Local Authority had to consider the Local Plan as whole. It needed to be made clear what a Local Authority can do under the National Planning Policy Framework and what might be overturned on Appeal.

Reference was made to the previous experiences with the North Essex Garden Communities work and that going forward TCBGC would be able to use positives from that and deliver improved engagement.

Councillor King assured members of the commitment to openness and invited contributions to Frequently Asked Questions (FAQs). He also advised that the Committee would be regularly updated, and data provided including financial/budget information. Formalisation of governance matters for TCBGC was to be agreed. On the question of redrawing authority boundaries as the community would be situated largely in Tendring with Colchester providing services and facilities, Cllr King clarified that no change was being considered but work was ongoing to make a success of Tendring Colchester Borders Garden Community.

**RESOLVED (UNANIMOUSLY)**

- a) That the report be noted.
- b) An information page on the Local Plan be added to Local Plan Committee Agendas.
- c) Reports on costs breakdown, a cost benefits analysis of having a Local Plan, and Net Gain be programmed for future meetings.
- d) Tendring Colchester Borders Garden Community to be a Standing Item on future Local Plan agendas.

**212. Confirmation of Mill Field Estate Conservation Area Article 4 Direction**

Eirini Dimerouki, Historic Buildings and Areas Officer presented the report stating that the Article 4 Direction came into effect in September 2020 but needed to be confirmed by the Council within six (6) months or it would lapse. A consultation process had been carried out, no representations had been received nor any major objections or concerns. It had been well received.

The Committee agreed that residents were proud of where they lived and happy to keep the area as it is. The consultation had been excellent and the area had a unique character which would be retained. The Committee passed on their thanks to Eirini for all her work .

*RESOLVED (UNANIMOUSLY)* to confirm the Article 4 Direction that was made for the Conservation Area known as Colchester Conservation Area 5: Mill Field Estate Conservation Area.