

# Local Plan Committee

## Tuesday, 21 September 2021

**Attendees:** Councillor Lewis Barber, Councillor Adam Fox, Councillor Jeremy Hagon, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Gerard Oxford, Councillor Julie Young

**Substitutes:** Councillor Nick Cope (for Councillor Phil Coleman), Councillor Chris Hayter (for Councillor Patricia Moore)

**Also Present:** Councillors Cox, Dundas and Ellis

### 225 Have Your Say!

Councillor Cox attended and with the consent of the Chair addressed the Committee in respect of the former ABRO site. It was anticipated that the site would be put on sale by the Ministry of Defence shortly. The site included a significant portion of the buried Roman Circus. The Council should purchase the ABRO site and turn it into a flagship development that would combine heritage and housing. The following questions were raised:-

- How could the discussions on the purchase of the site be progressed?
- How can the current development brief be upgraded to a Supplementary Planning Document (SPD) to ensure that housing was affordable, sustainable and in keeping with the site's heritage?
- Could the section 106 arrangements for the site be clarified and could they include landscaping to reveal the line of the circus track, extended visitor parking and arrangements for an enhanced visitor centre?

Karen Syrett, Lead Officer, Planning, Housing and Economic Growth, was invited to respond. At the last meeting it had been agreed that the development brief be adopted as Supplementary Planning Guidance, with a view it being adopted as an SPD in due course. This was a longer process as it involved public consultation. Section 106 obligations would be determined when an application was made but strategic policies on issues such as affordable housing would apply at that point. It was also likely that any development agreement would include a requirement to lay out the Roman Circus and for it to be interpreted, and for this work to be undertaken by the developer. The Development Brief did provide for the expansion of the Roman Circus visitor centre but was not precise on details.

Councillor Dundas, Leader of the Council and Portfolio Holder for Strategy was invited to

respond on the issue relating to the purchase of the site and explained that officers had been asked to explore the feasibility of the purchase of the site and Cabinet would carefully consider their advice.

Councillor Harris attended remotely and with the consent of the Chair addressed the Committee on issues relating to digital connectivity on older estates. The default method of accessing many services was now online and residents on older estates had often had to wait the necessary infrastructure to be put in place. The Government had announced in 2020, following a consultation, that all new housing should have gigabit broadband as standard. The legislation and guidance that would implement this should be monitored to ensure that developments in Colchester had the best possible high quality communications infrastructure. Clarification was also sought as to whether the MP had been in communication with the Committee about withdrawing Middlewick from sale and whether there was any dialogue ongoing on the issue.

Karen Syrett, Lead Officer, Planning , Housing and Economic Growth, indicated that she supported the comments made in respect of the need to ensure high quality digital infrastructure.

## **226 Colchester Local Plan Section 2 Examination**

The Committee considered a report setting out the main modifications to the section 2 Local Plan recommended by the Planning Inspector following the examination hearings, together with additional modifications prepared by officers as consequential amendments from the main modifications or factual changes.

Statements from the following members of the public were read to the Committee pursuant to the provisions of paragraph 5(1) of the Remote Meeting Procedure Rules:-

Nick Chilvers who raised issues about the provision of employment opportunities in respect of Middlewick and what employment opportunities would be available to residents of the development of Middlewick without creating further pollution and congestion.

In response the Chair explained that whilst the policy did not expressly require the allocation of businesses on Middlewick. It was a mixed use development and it was necessary for the plan to be viewed as a whole. Economic opportunities for the site were covered by a number of policies, Middlewick was situated on the edge of urban Colchester which gave access to a wealth of job opportunities in proposed growth areas. Infrastructure improvements from the Plan as a whole would give access to job

opportunities in the wider region. The modifications to the Plan had raised the bar in terms of transport and sustainable travel. Whilst homeworking was not a solution in itself, it would continue and would impact on employment opportunities and on how and when residents travelled to work.

Richard Martin who expressed concern about how developers might seek to overturn legal obligations recommended by the Inspector. Middlewick was unique and it was unlikely that the acid grassland could be replaced on untested arable land a few hundred metres away. It should be removed from the Local Plan. The increase in traffic would create additional pollution and the existing infrastructure was already struggling to cope.

Richard Kilshaw who argued that the Inspectors extensive modifications to policy SC2 Middlewick Ranges demonstrated that the allocation of this site for development was not sound, and reflected the community's objections to the development and the increasing reliance on the questionable reliability of Biodiversity Net Gain (BNG). The modifications would make the site less attractive to developers and possibly economically unviable. Concerns on the lack of a realistic time frame to recreate the acid grassland to be lost, and how the dependant wildlife is expected to survive until this matures needed to be addressed. BNG was designed to support ecological expertise and assessment, not replace it nor viewed in isolation. There were alternative courses of action, including to start again, which would not be as onerous if Middlewick was removed.

Belinda Baker who raised issues about what information would be used for Habitat Regulations Assessments, the impact on Birch Brook, how would the Council ensure engagement with residents and which areas would be covered and where would the Council provide a country park for residents in south east Colchester, should the development go ahead.

Andrew Wilkinson, who sought confirmation as to the meaning of section MM5 in the Inspector's report. Did this mean the Council was proposing to build 1299 homes above what was required by government housing targets, and if so why? The housing allocation in the Local Plan should be reduced to the minimum by reducing the allocation of housing in the Local Plan by 1299. This could be by removing highly contentious developments such as Middlewick Ranges which would leave just 299 homes to be removed from the housing allocation. Could this be done and if not, why not?

Grace Darke, who explained that as a result of Brexit and Covid the population of the UK was falling and there were fundamental changes taking place regarding the need for retail and office space. Therefore were the allocations for both retail and office space detailed in the Local Plan still valid in the light of changing circumstances with increasing amounts of vacant retail and office space in the town. The current Local plan had allocated 1299 more houses than was required by Government housing targets and therefore should the housing allocation under this Local Plan be reduced by at least

1299 houses to make the Plan sound?

Lisa Cross who drew attention to MM37 and that Middlewick was the only significant, large wildlife area in this part of Colchester offering a buffer and green lungs from the heavily congested estates of the Willows, Abbotts Road, Barn Hall, Old Heath, Monkwick and Birch Glen. In addition it acted as a major wildlife corridor. How would the Council ensure that the residents of this area continue to have easy local access to a large wildlife area in common with other areas of Colchester?

Sandra Scott, Place Strategy Manager, responded to the Have Your Say! comments and explained that the evidence that was submitted to the examination was prepared by technical ecological experts on behalf of the Defence Infrastructure Organisation (DIO) and supported by ECOS, who were representing the Council. This included a bespoke metric. A number of mitigating measures based on the metric had been suggested. This was an allocation proposal and therefore was at an early stage and further detail and evidence would be submitted at Masterplan and planning application stages. All reports would be required to comply with Habitats Regulation Assessments and agreed by an independent ecologist. A legal requirement to consider BNG was being introduced through the Environment Bill so the requirement for this could not be negotiated away.

The proposed modifications recognised the importance of open space and green infrastructure. The Masterplan would ensure the site was well planned with improved access and whilst policy supported the delivery of housing this was with the benefit of managed and enhanced space for a range of uses including wildlife and public access. The Masterplan would define more clearly the public accessible space and how it would be used and managed. Issues around flooding at Birch Brook and other environmental impacts would be considered and assessed transparently through the Masterplan and planning application process. In terms of viability the policies contained a strong and detailed framework that developers would need to comply with, but it should not render the site unviable.

Karen Syrett, Lead Officer for Housing, Planning and Economic Growth, responded and stressed that whilst examples could always be found of where developers had not complied with policies, for the most part compliance was good and the most effective way of ensuring compliance was to have an adopted Local Plan. An independent advisor would be used for future ecology work, rather than ECOS. A new bespoke metric would be reconsulted on by Natural England. To restart the Local Plan would be costly. In terms of housing numbers, there was a surplus. However, that would only materialise if every single unit on every single site was fully built by 2033 and experience had shown this was highly unlikely. It was unrealistic to base plans on the minimum number. If sites were deallocated, that would involve a further process and it was unreasonable to single out individual sites at this stage of the process. The Inspector's Modifications could not be cherry picked and had to be accepted as a whole, and the

Middlewick site had been considered sound when it was submitted.

Sir Bob Russell addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(1). He had attended the hearings and he believed that the arguments put forward by experts in support of the development had been exposed by those representing Essex Wildlife Trust and the Natural History Society. The coalescence of Berechurch and Old Heath should be resisted at all costs. On Middlewick the Council had failed the people of Colchester. Whilst the decision to close the ranges and put forward the land for development had been taken by the DIO, the Council should have refused to include it in the Local Plan. The new administration should see how it could stop the development of Middlewick. The MP should be called in and asked to apply pressure to the Ministry of Defence to stop the sale.

William Joliffe addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(1). He had lived on Mersea Road all his life and believed that the development of Middlewick would be a catastrophe. It had become even more popular through the pandemic. The roads struggled to cope with existing traffic levels. The development was not supported by local residents and Middlewick should be removed from the Local Plan.

Karen Syrett, Lead Officer for Housing, Planning and Economic Growth, responded and explained that there were constraints and opposition to nearly all developments. The Local Plan process did focus on housing numbers. The alternative to an adopted Local Plan would be a free for all which not be in anyone's interest. As the local planning authority, the Council was responsible for the allocation of sites: decisions about the sale and disposal of individual sites were for the landowners.

Bethany Jones, Planning Policy Officer, introduced the report to the Committee. Section 1 of the Local Plan had been adopted in February 2021 and was the overarching strategy for North Essex. Section 2 of the Local Plan contained policies and allocations for Colchester Borough. It had been examined by a government appointed Inspector to determine if it was legally compliant and meets the four soundness criteria in the National Planning Policy Framework. The Inspector had held hearings in April and had now confirmed the modifications he felt were necessary for it to be considered sound. He had not requested any additional sites be included in the Plan or the removal of any sites. However, he had proposed significant changes to the policy and supporting text on Middlewick. The changes would ensure local communities engaged with the Masterplan process and thereby influence the development. Many of the modifications built on changes suggested by officers in response to consultation or reflected changes necessary through the passage of time. The main modifications would be subject to a six week public consultation, and an update to the Sustainability Appraisal and the Habitats Regulations Assessment would be undertaken by consultants to assess the social, environmental and economic impact of Section 2 as modified by the proposed modifications. The additional minor modifications would also be published alongside the

main modifications. All comments received via the consultation would be referred to the Inspector who would then decide whether the final Section 2 with the modifications was sound and could be adopted by the Council.

In discussion, it was suggested by a member of the Committee that the modifications proposed by the Inspector could make the development of Middlewick unviable. The requirement for a Transport Assessment was crucial as the road network in the area struggled to cope with existing traffic levels. It was noted that the Committee was being invited to agree the public consultation on the modifications, and that there would be a further vote on whether to approve Section 2 in due course. A view was expressed that it did not reflect what local residents wanted and if approved it should be reviewed at the earliest possible opportunity. The importance of Neighbourhood Plans in setting out and protecting the views of communities was emphasised.

Clarification was sought as to which organisation the independent ecological assessment came from, whether Middlewick could be removed from the Local Plan and if so, whether the Ministry of Defence made an application and it was refused, could the MOD appeal and what the likely success of that appeal, whether there was £50,000 for a feasibility study for a country parks at Middlewick and other sites in the borough and whether the MP could be invited to attend a future meeting of the Committee, so the Committee could express its views on the sale of the site and the potential development of Middlewick?

The Chair indicated he would be content to invite the MP to attend the next meeting of the Committee.

In response, the Lead Officer for Housing, Planning and Economic Growth, confirmed that ECOS, who were the commercial arm of Essex Wildlife Trust, had acted as independent ecologist for the Council on Middlewick and a number of other schemes. Middlewick could not be removed from the Local Plan in isolation. The likelihood of a successful appeal could not be quantified as it was dependent on many factors, but the fact that an Independent Inspector had agreed to the allocation, with modifications, would weigh in its favour. £50,000 had been allocated to carry out Masterplan work on Middlewick and it was hoped that the development would include a country park or some form of strategic open space.

In discussion, it was noted that the responses to the consultation had led to a tougher policy in respect of Middlewick and in other areas of the borough such as Wivenhoe. It was highlighted that at Wivenhoe there were four independent development sites coming in at the same time, three of which did not comply with the Neighbourhood Plan, or were contrary to the policies suggested by the Inspector. However, officers did not appear to apply sufficient weight to these policies. Given the resources involved in producing a Neighbourhood Plan, why were these policies not given sufficient weight in

the planning system.

The Place Strategy Manager indicated that she would circulate information to Councillors about the status of emerging policies. It was explained that the weight put on emerging policies would depend on the point in the process the modification emerged, and whether it had been through consultation, and whether the policies were entirely new or were modifications to existing policy. Once a modification had been through the public consultation, the weight that could be attached to them may increase if there are no objections. This approach was consistent with the advice given in the National Planning Policy Framework.

In further discussion by the Committee, it was emphasised that the Council had a legal duty to adopt a Local Plan. It was for major landowners to bring forward sites to meet the housing targets within the Plan. Middlewick had been bought forward by the Ministry of Defence, and a number of Ministry of Defence sites had been developed in Colchester over the years. There was considerable support for the Armed Forces in Colchester, as was indicated by the Armed Forces Covenant, but there was a feeling that residents were not being repaid for that support. It was suggested that the Armed Forces Covenant should be assessed to see if there were commitments to the maintenance of open space for use by veterans. Over time the NPPF was being watered down reducing the influence local authorities and communities had over development, and there was increasing power in the hands of landowners and developers. The only solution in respect of Middlewick was to persuade the Ministry of Defence not to sell the site, and it was noted that not every site included in a Local Plan was developed. Strong evidence had been submitted to the hearings about the complexity of the Middlewick site and it had been hoped that the Inspector may have protected the site more strongly, which again was evidence that the system favoured developers.

A contrary view was put that the Committee needed to take responsibility for its decision to include Middlewick within the Local Plan, rather than seeking to put responsibility on the Ministry of Defence for seeking to sell the site. It was noted that the sale of government land for development had occurred under successive governments of all political persuasions.

Clarification was also sought as to the likelihood of sites not included within the Plan being developed. The Lead Officer for Housing, Planning and Economic Growth explained that a Local Plan was kept under review. When the current Plan had been brought forward it had included several undeveloped sites from the previous Plan. The deliverability of undeveloped sites would be assessed and if it was considered they could not be delivered they could be removed from the Plan at that point. When the emerging Plan was reviewed in future, each site would be looked at on its merits. However, the maintenance of a 5 year housing supply was also crucial in protecting unallocated sites and this was best secured through an adopted Local Plan.

*RESOLVED* that

- (a) The Planning Inspector's recommended main modifications for the purposes of soundness (attached as Appendix A to the Assistant Director's report) be noted.
- (b) It be noted that public consultation will be undertaken on all the main modifications recommended by the Planning Inspector to make the Local Plan sound.
- (c) It be noted that an update to the Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) and the Habitats Regulations Assessment (HRA) for the Modified Section 2 Local Plan are required to be produced and published for consultation alongside the Inspector's main modifications and that consultants LUC are already instructed to undertake this work.
- (d) Will Quince MP be invited to attend the next meeting of the Local Plan Committee in order that the Committee could express its views on the sale of the site and the potential development of Middlewick.

## **227 Tendring Colchester Borders Garden Community Development Plan Document Update**

The Committee considered a report providing an update on the Tendring Colchester Borders Garden Community Development Plan Document (DPD). Shelley Blackaby, Garden Community Planner, introduced the report and assisted the Committee in its deliberations. The report provided an update of work since the last report to the Committee. A series of engagement workshops were planned, which included a workshop for Local Plan Committee members in conjunction with Tendring Local Plan Committee. These would be run by the Masterplanners and engagement specialists. They had been widely publicised and seldom heard groups had been approached. Statutory consultees would also be involved. There were a number of engagement tools on the website, and these would close on 8 October to allow the submissions to be assessed and taken into consideration for the draft Masterplan. Officers had also met with the Community Liaison Group and undertaken a site walk with them. The Garden Community was a National Model Design Code pilot and officers were preparing to bid that it also be included in the stage 2 pilot which would lead to longer term support from the Office of Place. The Evidence Base for the DPD continued to be developed.

Members of the Committee suggested that it was important that the Committee was kept up to date with developments in respect of the Garden Community and requested that



representatives of Essex County Council and from the Steering Group be invited to a future separate public meeting of the Committee to answer questions about the Link Road and the Rapid Transit System, which were key to the future of the Garden Community.

Members stressed the need for the pace of the project to pick up and sought clarification on the governance arrangements for the Garden Committee and whether a Joint Committee would be established. The Planning Policy Officer confirmed that discussions on governance were ongoing but that no final decision had yet been taken.

A number of detailed questions and points were raised by Councillor Luxford Vaughan as follows:-

- The creative ways to engage with residents were appreciated.
- Insufficient places were being made available for Wivenhoe Parish Council at the Masterplan workshop and could the programme be extended to facilitate greater participation?
- Why had an engagement meeting with the parish been cancelled at short notice?
- Many residents questioned the value of the survey on Facebook.
- Would Colchester Borough Council make representations on the planning application for the Link Road that it did not comply with the Climate Emergency declared by the Council and Tendring District Council?
- The Garden Community did not have a name nor had the buffer zones been confirmed. These issues were a barrier to effective engagement. When would the buffer zones be confirmed?
- A Joint Planning Committee was unlikely to work, particularly if Essex County Council were involved.
- A plan for a green cordon as an alternative for the Link Road that encouraged use of the Rapid Transit System had been sent to the Leader of the Council and representatives of Essex County Council. Could the Leader justify ECC's decision not to model the plan?
- A further series of questions had been sent to Essex County Council on the Link Road. There was no explanation as to why the planning application for the Link Road had been delayed and there no information available about the Rapid Transit System. There were concerns about the adequacy of the budget and the appointment of the contract without a tender process. If there was a problem with the Link Road or the Rapid Transit System this would jeopardise the policy of infrastructure first and it would also have an impact on the housing numbers.

Councillor Dundas, Leader of the Council and Portfolio Holder for Strategy, was invited to respond to the points made. Steering Group meetings had been increased to one a month. The Engagement Meeting had been cancelled due to officer availability. At its last meeting the Steering Group had been through the Masterplanning engagement exercise that would be undertaken by other groups and stakeholders such as Parish

Councils. He shared concern about the number of places allocated to Parish Councils and would look into that further.

A Group Leaders meeting would be set up to discuss issues relating to governance and the possibility of a Joint Planning Committee. If ECC were involved, Colchester and Tendring would still have a majority. ECC did have planning powers and Tendring and Colchester could have more input and control if these were delegated to the Joint Committee. He had asked that a detailed response would be sent to letter raising issues on the Link Road.

The Garden Community Planner indicated she would look into the issues around the representation at the workshops. There was a balance to be struck between ensuring representation of all interested groups whilst ensuring the sessions were manageable and productive. The Council had submitted a representation to the planning application on the Link Road earlier in the year. Discussions on how the name would be generated were underway. In respect of the buffer zones, the Section 1 Adopted Local Plan referred to landscape buffers, although there was no map defining them. Details of the RTS may be included when the draft DPD and Masterplan were published for consultation.

The Chair requested that further questions from Councillor Luxford Vaughan would be sent into officers to reply to and a copy of the response would be forwarded to the Panel and appended to the minutes of the meetings.

*RESOLVED* that:-

- (a) The contents of the report be noted.
- (b) Representatives of Essex County Council and from the Steering Group be invited to a future separate public meeting of the Committee to answer questions about the Link Road and the Rapid Transit System.