

# **Application Report**

**Strategic Development & Planning**  
**Place Services**  
**North Devon Council**  
**Lynton House, Commercial Road,**  
**Barnstaple, EX31 1DG**



**Application No:** 73835  
**Application Type:** NDC Reg 3  
**Parish/Ward:** Barnstaple / Barnstaple with Pilton  
**Location:** Land to the east of Frankmarsh Farm  
Barnstaple  
Devon  
**Proposal:** Creation of Permissive path at proposed new woodland  
**Agent:** Mr Andrew Moulton  
**Applicant:** NDC  
**Planning Case Officer:** Mr M. Brown  
**Application Expiry:** 5 November 2021  
**Ext Of Time Expiry:**  
**Publicity Expiry:** 9 November 2021  
**Departure:** N  
**EIA Development:** N  
**EIA Conclusion:** Development outside the scope of the regulations  
**Decision Level/Reason for Report to Committee:** The application has been submitted by North Devon Council

## **Site Description**

The site is farmland in the north-east edge of Barnstaple. The site rises from an existing woodland towards a ridge axis which runs east west and dipping slightly to the west. The area has been in pasture and arable use but is being developed into a woodland. The sides of the hill are flanked by old but not ancient woodland to the north and by the existing community woodland to the south. The only public views from a distance onto the site are from the estuary and the Western approaches to Barnstaple. Views from within the town are obstructed by buildings. Inter visibility of the site from other high areas is to the south, northern slopes are largely unseen. As the woodland develops views into the site will be further minimised.

## **Recommendation**

**APPROVED**

Legal Agreement Required: No

## **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
57316	Construction of hard surfaced path and viewing platform at Yeo Valley	Full Planning Approval	21 August 2014

Reference Number	Proposal	Decision	Decision Date
	Community Woodland, Derby Road, Barnstaple, Devon		
59991	Replacement of grass path with hard surfaced path at Yeo Valley Community Woodland, Derby Road, Barnstaple, Devon	Full Planning Approval	22 October 2015

### **Constraints/Planning Policy**

Constraint / Local Plan Policy	Distance (Metres)
Adopted County Wild Life Site: Frankmarsh Wood Policy Ref: ST14	Within constraint
Advert Control Area - Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 45.7m	Within constraint
Landscape Character is: 3H Secluded Valleys	Within constraint
Landscape Character is: 5C Downland	Within constraint
Tree Preservation Order: 154 - W1, North Devon District Tree Preservation Order 1982 No.1	Within constraint
Tree Preservation Order: 154 - W2, North Devon District Tree Preservation Order 1982 No.1	Within constraint
Within 100m of Adopted Local Green Space: BAR19(2) Yeo Valley	Within constraint
Within 50m of Adopted Proposed Footpath/Cycle Route:BAR20a Frankmarsh Wood	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within:., SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
BAR - Barnstaple Spatial Vision and Development Strategy	
DM01 - Amenity Considerations	
DM04 - Design Principles	
DM08 - Biodiversity and Geodiversity	
ST04 - Improving the Quality of Development	
ST14 - Enhancing Environmental Assets	
ST22 - Community Services and Facilities	

## **Consultees**

<b>Name</b>	<b>Comment</b>
Arboricultural Officer	No objection received.
Barnstaple Town Council 11/10/2021	Recommend approval.
Councillor I Roome	No objection received.
Councillor J Orange	No objection received.
Councillor M Lovering	No objection received.
Natural England	At the time of writing this report no objection received.
Sustainability Officer	No objection received.

## **Neighbours**

<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
0.00	0.00	0.00	0.00	0.00

No representations received.

## **Considerations**

### **Proposal Description**

This application seeks detailed planning permission for the formation of approximately 1200 m of footpath through a proposed woodland to allow for community access.

It is proposed that the footpath will be constructed of a subbase with road planings or similar on the surface with a cross fall to allow for drainage. Some areas will have a timber step to retain the road planings etc.

A small number of openings in hedgerows will be required to facilitate the path but these are considered to be de-minimis. It is understood that the openings have been kept to a minimum (with tree planting proposed either side to maintain canopy connectivity for arboreal species such as dormice).

## **Planning Considerations Summary**

- Planning Policy
- Design
- Ecology
- Flood Risk
- Highways

## **Planning Considerations**

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

## **Planning Policy**

Policy ST22, Community Services and Facilities, sets out that:-

- 1) Development of new, or extensions or improvements to existing community facilities that meet the needs of local communities will be supported within or adjoining defined settlements and Rural Settlements where:
  - (a) it does not harm the character of the area and the amenities of the surrounding uses;
  - (b) it is well related to public transport infrastructure, where possible, and is accessible by walking or cycling; and
  - (c) it can be accessed without generating unacceptable levels of traffic on the local road network and / or reducing highway safety.

Policy ST07 confirms that in the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is necessarily restricted to a Countryside location.

This proposal is considered to meet the foregoing policy tests given its relationship to Barnstaple, the use it will support and its need for an undeveloped location, coupled with the overall community benefits that will result.

## **Design**

Policy ST04 sets out that good design is essential to produce attractive, high quality, sustainable and inclusive places in which people want to live, work and spend their recreational time. Policy DM04 suggests that design must respect its context promote, or reinforce local distinctiveness and take opportunities to improve the character and quality of an area.

The proposed paths will introduce a man-made intervention into the landscape which will initially seem alien to the area. However this negative impact will be ameliorated

over time through the planting of the site and given the limited extent of the works compared to the overall site area. As such the scheme is considered to accord with the design policies.

### **Amenity**

No unacceptable amenity impacts identified due to the extent and nature of the proposal.

### **Ecology**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

A detailed supporting statement in terms of ecology has been provided setting out how the area will be managed in terms of ecology/biodiversity and demonstrating a net gain in terms of biodiversity, given the planting and management that will occur overall. As such, whilst there will be an introduction of man-made structures the overall ecological and recreational benefits of the scheme are favourable in policy terms, with such benefits considered to outweigh concerns.

### **Flood Risk and Drainage**

The scheme addresses flood risk by ensuring that any run-off is directed towards permeable surfaces.

### **Highways**

No unacceptable impact on highway safety is identified given the nature of the proposal and its sustainable location.

### **Conclusion**

The application is considered to accord with the adopted development plan with any disbenefits being outweighed by the wider community benefit. Approval of the application is therefore recommended subject to the imposition of planning conditions.

### **Human Rights Act 1998**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life  
THE FIRST PROTOCOL – Article 1: Protection of Property

## **Recommendation**

### **APPROVED**

Legal Agreement Required: No

## **Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

#### Reason

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

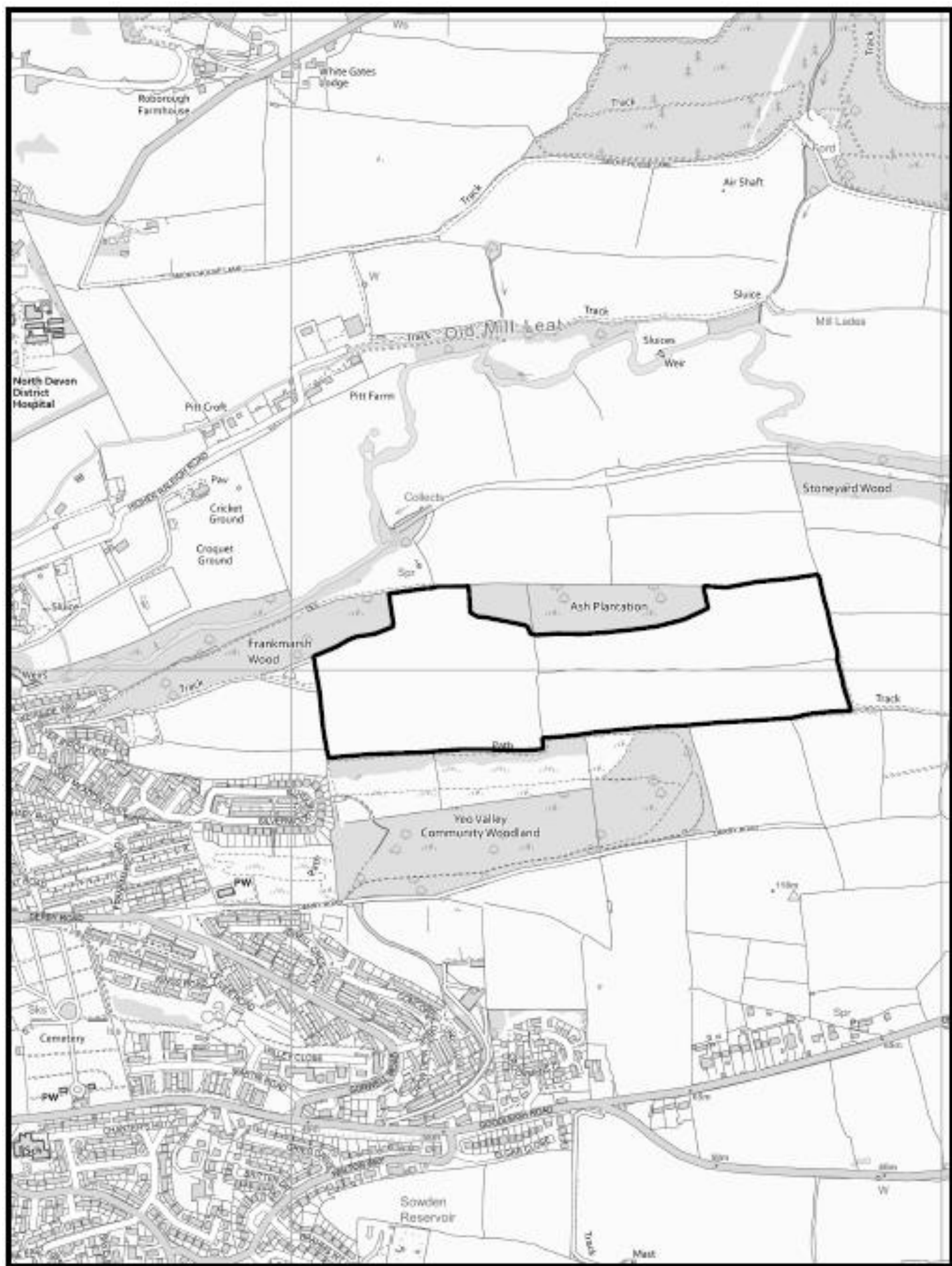
NDC001 Location Plan received on the 30/07/21  
NDC002 Cross Section Proposed received on the 23/07/21  
NDC003 Block Plan West received on the 23/07/21  
NDC004 Block Plan East received on the 23/07/21  
(‘the approved plans’).

#### Reason

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

## **Informatives**

1. The submitted drawings have been numbered as set out in condition 2. Please refer to the planning application tracker on the District Council's website to view the drawings and their allocated numbers, [North Devon Application Tracker: 73835](#)
2. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.
3. Statement of Engagement  
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included consideration of, planning policy, design, ecology, flood risk and highway matters.



Lynton House, Commercial Road,  
Barnstaple, EX31 1EA

## 73835 - Land to east of Frankmarsh Farm

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Committee Report

Scale: 1:7500  
Date: 19th November  
2021