

## Application Report

Planning, Housing and Health  
North Devon Council  
Lynton House, Commercial Road,  
Barnstaple, EX31 1DG

**Application No:** 77075  
**Application Type:** Full Application  
**Application Expiry:** 31 July 2023  
**Extension of Time Expiry:**  
**Publicity Expiry:** 5 July 2023  
**Parish/Ward:** FREMINGTON/BICKINGTON  
**Location:** Open Space Meadow Park  
Roundswell  
Devon  
**Proposal:** Change of use of land and erection of 3 dwellings  
**Agent:**  
**Applicant:** Rowan Homes SW  
**Planning Case Officer:** Mrs J. Meakins  
**Departure:** N  
**EIA Development:**  
**EIA Conclusion:** Development is outside the scope of the Regulations.  
**Decision Level/Reason for  
Report to Committee (If  
Applicable):** Committee  
Councillor Walker has called in this planning application:

*'I would like to call in the planning application to committee on the following grounds.*

*Development is outside the development boundary BAR03 and is designated as public open space.'*

### Site Description

The site is located within the settlement boundary for Barnstaple and consists of an existing area of Public Open Space (POS) which was secured as part of the original development proposals for the Roundswell Village housing estate. The area of land is located in the north-west corner of Meadow Park and measures 412m<sup>2</sup>. The area has been open for public use, prior to its private sale, with pedestrians accessing the POS from Meadow Park.

There are existing dwellings in Cedar Grove to the North, dwellings in Meadow Park to the East and South, and a mature hedgerow and watercourse forms the western boundary of the site against Coopers Drive.



### **Recommendation**

**Refused**

Legal Agreement Required: No

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>5311</b>	OUTLINE APPLICATION PROPOSED RESIDENTIAL DEVELOPMENT at ROUNDWELL VILLAGE, BARNSTAPLE, EX31 3SQ	FULL PLANNING APPROVAL	17 May 1989
<b>13265</b>	APPROVAL OF DETAILS PROPOSED ERECTION OF 33 NO. DWELLINGS, GARAGES, SITE LAYOUT, ROADS, PARKING AND LANDSCAPING (AMENDED DESCRIPTION) at (PLOTS 20-51 INC., AREA 3 PHASE 2), ROUNDWELL VILLAGE, BARNSTAPLE, EX31 3QX	FULL PLANNING APPROVAL	8 May 1991
<b>13545</b>	PROPOSED CONSTRUCTION OF CERTAIN PRIMARY AND SECONDARY FOOTPATH/ CYCLEWAY LINKS WITH ASSOCIATED DRAINAGE AND CULVERTS PLUS SOUND	FULL PLANNING APPROVAL	31 May 1991

Reference Number	Proposal	Decision	Decision Date
	ATTENUATION BANKS 68db(A) NOISE CONTOURS AND FOOTPATHS TO ROUNDWELL LINK AND FINISHES TO EXISTING PEDESTRIAN UNDERPASS at LAND AT ROUNDWELL, (AREAS 1, 2, 3 & PART 4), BARNSTAPLE, DEVON,		
15267	PROPOSED VARIATION OF CONDITION 1 (TIME LIMIT) ATTACHED TO PLANNING PERMISSION 5311 TO ALLOW RESERVED MATTERS TO BE SUBMITTED NOT LATER THAN 7 YEARS FROM THE DATE OF THE DECISION OF 5311 AND THAT THE DEVELOPMENT MUST BE BEGUN NOT LATER THAN 12 YEARS FROM THE DATE OF THE DECISION FOR 5311. at ROUNDWELL VILLAGE, BARNSTAPLE, EX31 3SQ	FULL PLANNING APPROVAL	15 May 1992

### Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
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
Critical Drainage Area	Within constraint
Landscape Character is: 7 Main Cities and Towns	Within constraint
Unclassified Road	
Within adopted Development Boundary: Barnstaple South Development Boundary DM04	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Surface Water 1 in 1000	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
DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways	

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM09 - Safeguarding Green Infrastructure DM10 - Green Infrastructure Provision ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST04 - Improving the Quality of Development ST04 - Improving the Quality of Development ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres ST10 - Transport Strategy ST14 - Enhancing Environmental Assets	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Building Control Manager  Reply Received 9 June 2023	9/06/2023 09:29 - No observations.
Councillor H Walker  Reply Received	See call in above
Councillor J Cann  Reply Received	No comments received
Councillor W Topps  Reply Received	No comments received
DCC - Development Management Highways  Reply Received	No reply received
Environmental Health Manager  Reply Received 19 June 2023	1 Land Contamination  I do not expect land contamination issues to arise in relation to the proposals. However, given the sensitivity of residential developments, I recommend the following condition be included on any permission to cover the possibility that unexpected contamination is discovered during development work:  - Contaminated Land (Unexpected Contamination) Condition Should any suspected contamination of ground or groundwater be discovered during development of the site, the Local Planning

Name	Comment
	<p>Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination existing and exposed during the development is assessed and remediated as necessary.</p> <p>2 Construction Phase Impacts  In order to ensure that nearby residents are not unreasonably affected by dust, noise or other impacts while development is underway, I recommend the following conditions be included on any permission:</p> <ul style="list-style-type: none"> <li>- Construction Management Plan Condition</li> </ul> <p>Prior to the commencement of development, including any site clearance, groundworks or construction (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Management Plan (CMP) detailing how development works will be managed during the life of the works shall be submitted in writing for the approval of the Local Planning Authority. For the avoidance of doubt and where relevant, the CMP shall include:-</p> <ul style="list-style-type: none"> <li>a) details of control measures for addressing fugitive dust from earthworks and construction activities;</li> <li>b) a noise control plan which details hours of operation and proposed mitigation measures;</li> <li>c) specified parking for vehicles associated with the development works;</li> <li>d) details of measures to prevent mud contaminating public footpaths and roads;</li> <li>e) arrangements for materials deliveries, storage and waste materials removals;</li> <li>f) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.</li> </ul> <p>The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and be monitored by the applicants to ensure continuing compliance throughout and until completion of the development.</p> <p>Reason: To minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of local residents from potential impacts whilst site clearance, groundworks and construction is underway.</p> <ul style="list-style-type: none"> <li>- Construction Hours Condition</li> </ul>

Name	Comment
	<p>During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times:</p> <p>a) Monday - Friday 08.00 - 18.00,  b) Saturday 08.00 - 13.00  c) nor at any time on Sunday, Bank or Public holidays.</p> <p>Reason: To protect the amenity of local residents</p>
<p>Fremington Parish Council</p> <p>Reply Received 30 June 2023</p>	<p>It was resolved, with no votes to the contrary, to recommend REFUSAL as the application is on public open space, there is not any vehicular access to the site and it was have a negative impact on the biodiversity of the area and amenity of neighbouring properties.</p>
<p>Open Space Officer</p> <p>Reply Received 21 June 2023</p>	<p>Dear Planning,</p> <p>As Consultee for Parks, Leisure and Public Open Space we object to this Planning Application on the basis that the site identified is classified as Communal Public Open Space and was allocated as such by a previous development of Roundswell - Reserved Matters Planning Application 13265. As such the land owner is responsible for maintaining the land for Public Open Space in perpetuity in line with the Section 52 agreement attached to application 13265; and the land owner should immediately re-establish open access by removal of the herras fencing which is currently erected that blocks entry; and maintain the land for public access.</p> <p>If against my recommendation, Planning is approved for this site either at this stage or in the future; we would be seeking a financial mitigation for the loss of the informal POS in addition to the standard S106 contributions that would be sought. See attached calculation. But to re-iterate we do not support this application.</p> <p>Kind Regards</p> <p>Richard Slaney  Parks, Leisure and Public Open Space Manager  Environmental Enhancement (EE)  North Devon Council  T: 01271 318533</p>
<p>Sustainability Officer</p> <p>Reply Received 8 June 2023</p>	<p>8/06/2023 13:28 - The submitted Wildlife Trigger List (WTL) has not identified a requirement for a Wildlife Assessment and it is unlikely that the proposed development would result in any significant impacts on protected species.</p> <p>However, the supporting information does not include any illustration that the layout can accommodate landscaping which would deliver an indicative net gain in biodiversity. A Defra Small Sites Metric is required to determine the current baseline habitat condition and the subsequent requirement for habitat provision to</p>

Name	Comment
	<p>ensure no net loss in biodiversity. Any requirement for offsite habitat provision must be identified and secured through the appropriate legal agreements.</p> <p>In terms of the location of the site, it is within the Zone of Influence (ZOI) identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the ZOI is considered to have recreational impacts on the SAC and is therefore required to pay a contribution of 190 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972.</p> <p>Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of these impacts on the SAC and the scope for mitigation. North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence.</p>

### **Neighbours / Interested Parties**

Comments	No Objection	Object	Petition	No. Signatures
1	1	9	0.00	0.00

Letters of objection have been received raising the following concerns which will be discussed in the main considerations below:

- Loss of public open space
- Loss of amenity (light, privacy, overbearing)
- Insufficient parking
- Impact on trees
- Impact of construction works
- Impact on wildlife
- Overdevelopment of the site
- Drainage concerns
- Established right of way across the land



- Maintaining existing boundaries

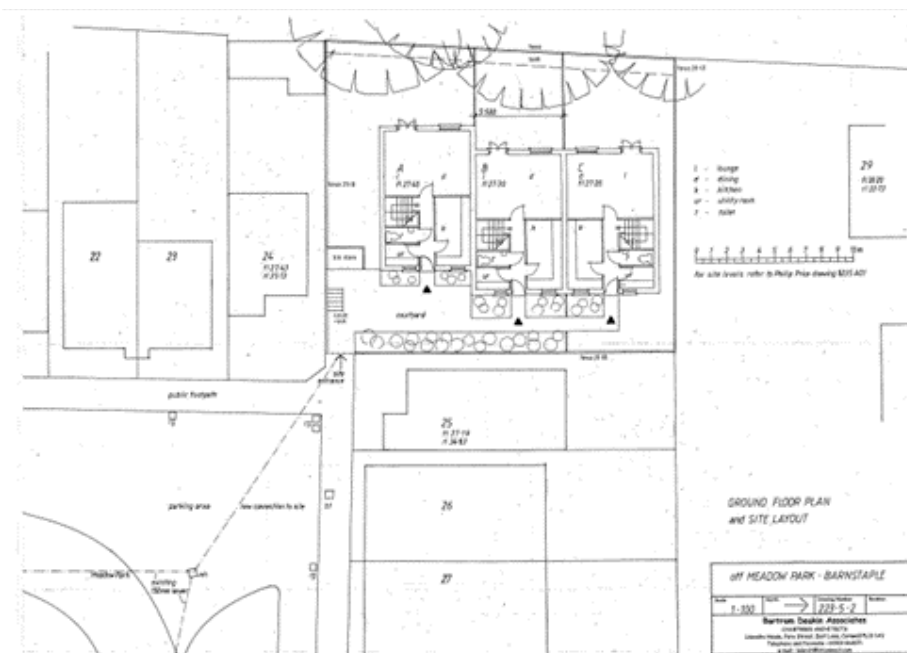
## Considerations

### Proposal Description

This application seeks detailed planning permission for the erection of three dwellings on open space to the north-west of Meadow Park, Roundswell.



Red line outlining application site



Site plan and ground floor layout





Elevations and First Floor Plan

The dwellings are proposed in a short terrace arrangement fronting the side elevation of no. 25 Meadow Park. The row of dwellings extends by 17.6 metres in width and each dwelling is 8.7 metres depth (excluding the first floor projecting bay windows). The maximum ridge height is 8.2 metres and the eaves are 5.1 metres. The development does not include any parking provision. A bin store is provided to the south of the dwellings and each property has private amenity space to the west backing onto gardens of properties in Coopers Drive.

### Planning Considerations Summary

The main considerations in the determination of the application are:

1. Principle of Development
2. Loss of Public Open Space
3. Design
4. Amenity
5. Highways
6. Flood risk and drainage
7. Ecology
8. Other matters
9. Planning Balance

### Planning Considerations

#### 1. Principle of Development

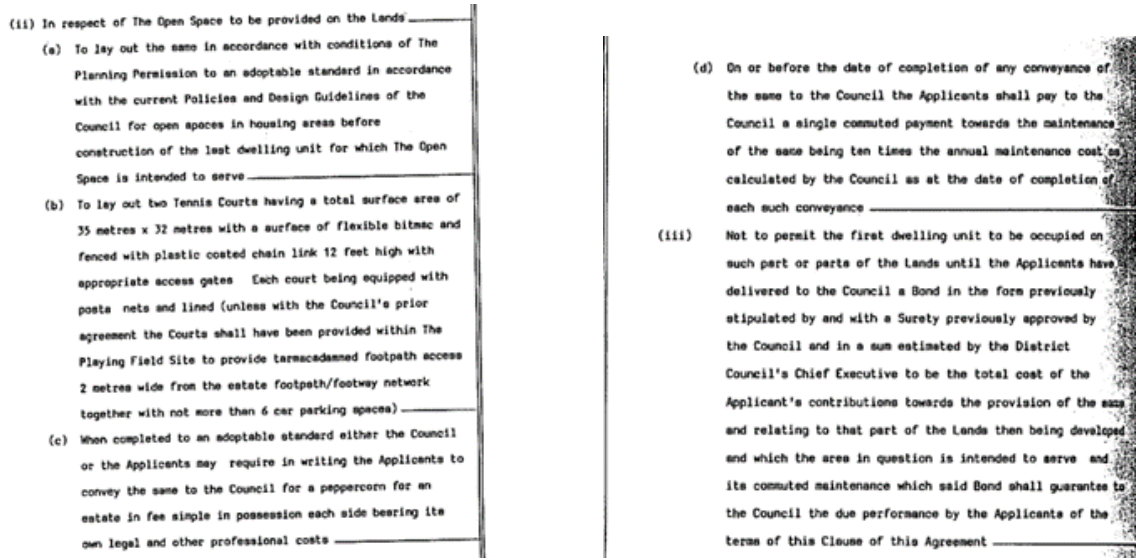
1.1. In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations 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.

1.2. The proposal site sits within the strategic development boundary for Barnstaple and as such, the principle of new residential development is supported in accordance with Policy ST06 of the NDTLP, subject to compliance with the development plan when read as a whole and other material considerations.

## 2. Loss of Public Open Space

2.1. The area of land on which the proposals have been submitted is designated public open space which was secured by historic planning permissions.

2.2. The Roundswell Village estate was approved as a strategic development as part of outline application 5311 which secured area of Public Open Space via a Section 52 Agreement. The relevant extracts are shown below:

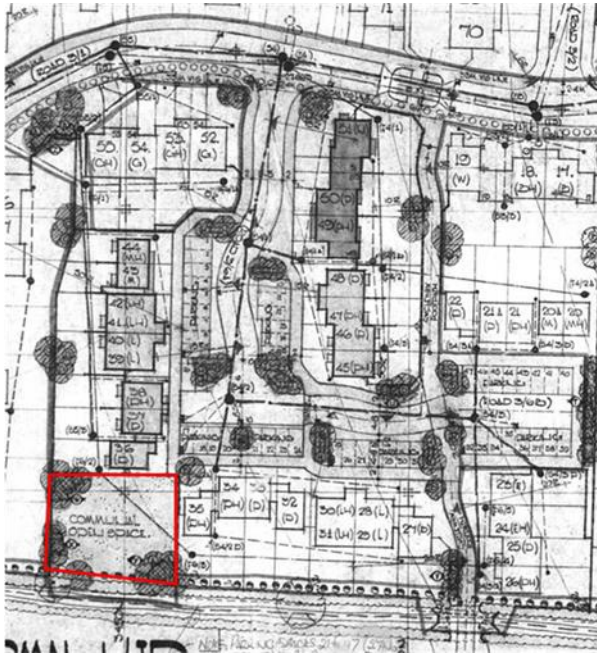


Extract from Section 52 agreement for application 5311

2.3. The application has arisen due to the circumstances where the Public Open Space was never transferred to the Council, or adopted for their maintenance, however they have maintained the area since the dwellings were constructed and until its private sale at auction in July 2022, the space had remained open for public use. On sale the new owners erected herras fencing to prevent public access.

2.4. Subsequent to that, the reserved matters approval for Meadow Park included the area of land subject of the application as 'Communal Open Space' and is appropriately detailed as such on the approved plan below:

2.5. In light of the above, the ownership of the site does not define its use and despite the new landowner preventing public access, the approved land use of this area of land is that of Public Open Space, and a period of time has not elapsed (10 years) where any alternative use could be established.



Reserved matters approval 13265

2.6. As such in considering the impacts of loss of this space to the community it serves, the relevant policy is DM09 of the NDTLP.

**Policy DM09: Safeguarding Green Infrastructure**

Development involving the loss of green infrastructure including public open space will only be supported where:

- (a) alternative green infrastructure is provided of at least equivalent size, quality and accessibility to that being lost; or
- (b) the green infrastructure network in the locality can be retained or enhanced through redevelopment of a small part of the site; and in either case
- (c) there is no net loss in sustainable travel options.

2.7. The proposal has not sought to demonstrate compliance with the above as part of its submission. In terms of the area of POS which is to be lost, this seeks to serve the community living within the direct locality, in the main those is Meadow Park.

2.8. The Council's Parks Officer has commented on the proposal stating:

'As Consultee for Parks, Leisure and Public Open Space we object to this Planning Application on the basis that the site identified is classified as Communal Public Open Space and was allocated as such by a previous development of Roundswell - Reserved Matters Planning Application 13265. As such the land owner is responsible for maintaining the land for Public Open Space in perpetuity in line with the Section 52 agreement attached to application 13265; and the land owner should immediately re-establish open access by removal of the herras fencing which is currently erected that blocks entry; and maintain the land for public access. If against my recommendation, Planning is approved for this site either at this stage or in the future; we would be seeking a financial mitigation for the loss of the informal POS in addition to the standard S106 contributions that would be sought. See attached calculation. But to re-iterate we do not support this application.'

2.9. Whilst no attempt has been made as part of the submission or seeking pre-application advice to identify and alternative to accord with (a) or (b) of DM09 above, in the interests of good place-making and inclusive design as pertained in Policies DM04 and ST04 of the NDTLP and design objectives a paragraph 130 of the NPPF, it is not considered that any area of alternative provision, or use of part of the site, would adequately mitigate against the loss of this planned are of POS.

2.10. As such, the proposal would run contrary to Policy DM09 of the NDTLP and loss of the public open space would not represent good place-making or provide for healthy and inclusive communities contrary to Policies DM04 and ST04 of the NDTLP and objectives at paragraph 92 and 130 of the NPPF.

### **3. Design**

3.1. Policies ST04 and DM04 of the NDTLP contained entailed design objectives for new development in North Devon. These criteria in DM04 (copied below) are also echoed in Paragraph 130 of the NPPF.

*'1) Good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new development. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change. Development proposals need to have regard to the following design principles:*

*(a) are appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood;*

*(b) reinforce the key characteristics and special qualities of the area in which the development is proposed;*

- (c) are accessible to all, flexible to adaptation and innovative;*
- (d) contribute positively to local distinctiveness, historic environment and sense of place;*
- (e) create inclusive environments that are legible, connected and facilitate the ease of movement and permeability through the site, allowing everyone to easily understand and find their way around;*
- (f) retain and integrate existing landscape features and biodiversity to enhance networks and promote diversity and distinctiveness of the surrounding area;*
- (g) provide public and private spaces that are well designed, safe, attractive and complement the built form, designed to minimise anti-social and criminal behaviour;*
- (h) provide safe and appropriate highway access and incorporate adequate well-integrated car parking, pedestrian and cycle routes and facilities;*
- (i) ensure the amenities of existing and future neighbouring occupiers are safeguarded;*
- (j) incorporate appropriate infrastructure to enable connection to fast ICT networks;*
- (k) optimise the efficient use of land, and provide well-designed adaptable street patterns and minimise functionless open spaces;*
- (l) create and sustain an appropriate mix of uses and support local facilities and transport networks;*
- (m) consider opportunities for public art; and*
- (n) provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.'*

3.2. As part of the plan-led system the above criteria contained within the development plan should be the starting point for the design of development of any scale within the district.

3.3. Aside from the design issues already covered above relating to loss of POS, the design of the proposed dwellings and their layout arrangement would appear at odds with the current development from in Meadow Park. Dwellings, whilst arranged in staggered terraces, all front the communal parking areas and footways which make up the site.

3.4. The impact of placing a development of three dwellings in a corner of the overall street, creates a sense of overdevelopment of the site and jars with the current arrangement which provides natural surveillance of the parking and landscaped areas within Meadow Park. This is again at odds with the existing context of the site.

3.5. Furthermore, the arrangement where the properties face towards the gable end of an existing dwelling at a proximity of 4.6 metres would create an oppressive form of development, whilst this will have amenity impacts covered below, it would also represent poor design. The NPPF refers decision takers to the Nation Design Guide which at section 69 states:

*'Built form defines a pattern of streets and development blocks. Streets are places for people as well as for movement. Street types will depend on:...*

*...the relationship between building fronts and backs, with successful streets characterised by buildings facing the street to provide interest, overlooking and active frontages at ground level...'*

3.6. The development form proposed would not represent the above and would not meet criteria (a), (b), (d), (e), (g), and (h) of Policy DM04 of the NDTLP or the criteria of paragraph 130 of the NPPF.

#### 4. Amenity

4.1. NDTLP Policy DM01 requires that development should secure or maintain amenity appropriate to the locality with special regard to the likely impact on neighbours, the operation of neighbouring uses, future occupiers, visitors on the site and any local services. Furthermore Policy DM02 requires development to safeguard against hazards, and pollution.

4.2. In terms of the occupants of existing dwelling adjoining the site, these are No. 24 and 25 Meadow Park flanking the site to the east and south, 42, 44 and 46 Coopers Drive to the west and No. 27 and 29 Cedar Grove to the North. The summary table below covered the impacts on each property:

Property	Impacts
24 Meadow Park	The property has a blank gable end facing north, where proposed development will present a blank gable facing towards the site, albeit stepped further west at a proximity of 4.6 metres. Given site is north of this and there would be no direct overlooking amenity impacts are considered to be acceptable.
25 Meadow Park	This property is 4.6 metres from the frontage of the proposed dwellings with a blank gable end facing towards to site. The close proximity of this dwelling to the proposed would result in a feeling of overbearing and absence of light to the proposed dwellings. The location of the first floor windows, albeit design to facing indirectly over the amenity area belonging to No.25, would still enable direct overlooking of the private rear amenity space to the significant detriment of the occupiers amenity.
42, 44, 46 Cooper Drive	These dwellings site approximately 20 metres west of the site, which is bordered by an established hedgeline and water course, outside of control of the applicant and providing significant screening of the development. The separation distance is such that even in the absence of



Property	Impacts
	the hedgeline, would be acceptable in amenity terms, with distances as little as 19 metres accepted at appeal.
27 and 29 Cedar Grove	The gable end of the closest dwelling would be 12 metres from No. 29, and no windows are proposed in this gable therefore not presenting any overlooking from this elevation. However the first floor bedroom window is designed to facing north and south to present overlooking of properties in Meadow Park, but this creates direct overlooking at a proximity of approx. 12 metres to the whole rear garden and rear windows in both of these properties, to the significant detriment of its occupants.

4.3. In light of the above the proposed layout and design of the dwellings would result in significant impacts to the amenity of occupiers of No. 25 Meadow Park and No 27 and 29 Cedar Grove contrary to Policies DM01 and DM04 (i) of the NDTLP.

4.4. Furthermore in terms of the occupants of the proposed properties, the layout in relation to the close proximity to the boundary fence and gable end of No.25 Meadow Park is such that living condition would not provide acceptable levels of light and would result in an overbearing impact.

4.5. Additionally, the proposed dwellings are presented as 3 bed properties, albeit no indication of bed spaces is provided. Taking reference to the Nationally Described Space Standards these contained the minimum requirements:

‘10. The standard requires that:

the dwelling provides at least the gross internal floor area and built-in storage area set out in Table 1 below:

**Table 1. Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms (b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
1b	2p	50	58		1.5
2b	3p	61	70		2.0
2b	4p	70	79		2.0
3b	4p	74	84	90	2.5
3b	5p	86	93	99	2.5
3b	6p	95	102	108	2.5
4b	5p	90	97	103	3.0
4b	6p	99	106	112	3.0
4b	7p	108	115	121	3.0
4b	8p	117	124	130	3.0
5b	6p	103	110	116	3.5
5b	7p	112	119	125	3.5
5b	8p	121	128	134	3.5
6b	7p	116	123	129	4.0
6b	8p	125	132	138	4.0

*b. a dwelling with 2 or more bedspaces has at least 1 double (or twin) bedroom*

*c. in order to provide 1 bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide*

*d. in order to provide 2 bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m<sup>2</sup>*

*e. 1 double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide'*

4.6. Whilst the minimum overall floor areas in table 1 above would be met, none of the bedrooms above measure the minimum of 11.5m<sup>2</sup> in (d) of the above.

4.7. The Council have succeeded at appeal is defending these minimum standard as a 'good yardstick', for determining resulting amenity standards and on the basis that these should be absolute minimums, the resulting development is not considered to result in appropriate amenity to its intended occupants contrary to Policies contrary to Policies DM01 and DM04 (i) of the NDTLP and paragraph 130 (f) of the NPPF.

4.8. In terms of concerns raised by residents in respect of the construction impacts of the proposed development, in the event of an approval, conditions on working hours and a construction management plan could be imposed to safeguard amenity in the construction stage.

## **5. Highways**

5.1. Policies ST10, DM05 and DM06 of the NDTLP require development to provide safe and suitable access for all road users, providing sufficient access to alternative modes of travel to reduce the use of the private car, to safeguard strategic routes and provide appropriate transport infrastructure across the area to ensure the above is achieved. This is further enshrined in chapter 9 of the NPPF.

5.2. The proposed development is presented as a car-free development depending on the communal parking area already present in Meadow Park to provide parking for occupiers or visitors to the site.

5.3. It is acknowledged that the site is on a regular bus route and access can be gained to local facilities via a dedicated and segregated footway and cycleway which runs from Cedar Grove all the way to Tews Lane. As such it is accepted that the site is in a sustainable location with good access to alternative modes therefore compliant with DM05 in this respect.

5.4. The dwellings however are proposed as 3 bedroom family homes where there is a reasonable likelihood that occupiers would have at least one car, if not two.

5.5. Meadow Park currently provides communal parking for the dwellings in Meadow Park without drives and garages which is 47 spaces between 30 dwellings equating to 1.5 spaces per dwelling, which must cater for occupants of the dwellings, visitors, deliveries and essential services such as carers.

5.6. Whilst NDC has no adopted parking standards, given the extent to which the current parking provision is utilised at busy times in the evenings and at weekends, the further reduction in spaces as a result of a further 3 dwellings, would result in unsafe parking arrangements, potential conflicts between occupiers and pedestrians, and parking on footways therefore creating an unsafe vehicle and pedestrian environment which would run contrary to Policy DM05 and ST10 of the NDTLP and design objectives in Policy DM04 (h) of the NDTLP and paragraph 110 (b) of the NPPF.

## **6. Flood risk and drainage**

- 6.1. Development is required to ensure that it is safe from flood risk and does not provide flood risk elsewhere as required by Policy ST03 NDTLP. The site is located in flood zone 1 therefore is not at risk of tidal or fluvial flooding.
- 6.2. The site is also located in a critical drainage area whereby development must seek to utilise sustainable drainage systems which better the green field run-off rates of the site in order to prevent flood risk elsewhere in the CDA. This is explicitly required by Policy ST03 (b) stating:

*'Development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by:...*

*...(b) reducing existing rates of surface water runoff within Critical Drainage Areas;'*

- 6.3. Other than an arrow indicating a connecting to the mains sewer, no surface water drainage detail have been supplied with the application. In terms of the guidance on CDA's and SUD published by Devon County Council as the Lead Local Flood Authority, a mains connection is low on the drainage hierarchy and other drainage options should have been considered and appropriately disregarded through evidence in the form of drainage assessments including percolation test.
- 6.4. In the absence of a drainage assessment, percolation test and any detailed design strategy, it is not possible to conclude that the development complies with Policy ST03 (b) in reducing the existing run- off rates.

## **7. Ecology**

- 7.1. 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).
- 7.2. In terms of the location of the site, it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972. No payment under Section 111 has been provided with the

application or any indication that a Section 106 would be used to secure this requirement.

7.3. As such, in the absence of a mitigation contribution the development would be contrary to the above legislative provisions as well as Policies ST14 and DM08 of the NDTLP.

7.4. In respect of on site ecology, Policy ST14 (Enhancing Environmental Assets) of the NDTLP, requires quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to:

'(a) providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;

(b) protecting the hierarchy of designated sites in accordance with their status;

(c) conserving European protected species and the habitats on which they depend;

(d) conserving northern Devon's geodiversity and its best and most versatile agricultural land;...

(i) conserving and enhancing the robustness of northern Devon's ecosystems and the range of ecosystem services they provide;'

7.5. This is further enshrined in development management Policy DM08 (biodiversity and geodiversity) whereby this policy provides detailed criteria on the above consideration in relation to the assessment of planning applications. Paragraph 179 and 180 of the NPPF also seek the same set of objectives in respect of the above and reiterates the statutory duties.

7.6. The Council's Sustainability Officer has commented the following on the proposals:

*'The submitted Wildlife Trigger List (WTL) has not identified a requirement for a Wildlife Assessment and it is unlikely that the proposed development would result in any significant impacts on protected species.*

*However, the supporting information does not include any illustration that the layout can accommodate landscaping which would deliver an indicative net gain in biodiversity. A Defra Small Sites Metric is required to determine the current baseline habitat condition and the subsequent requirement for habitat provision to ensure no net loss in biodiversity. Any requirement for offsite habitat provision must be identified and secured through the appropriate legal agreements.'*

7.7. Whilst there not considered to be any direct impacts on protected species as a result of the development, all development at present must achieve a biodiversity net gain in accordance with Policies ST14 and DM08 of the NDTLP and paragraph 180 of the NPPF.

7.8. The submission does not seek to detail any landscaping or indications of a biodiversity net gain, with the Sustainability Officer advising that this should be based upon a DEFRA small sites metric.

7.9. In the absence of a baseline calculation of current habitat condition of the site, and an appropriate scheme for biodiversity net gain the proposals fail to comply with Policies ST14 and DM08 of the NDTLP and paragraph 180 of the NPPF.

## **8. Other matters**

8.1. In terms of the representations received a number of the concerns raised are dealt with by way of the consideration above. Matters in relation to right of access across the land to other properties and maintenance of the boundary however are not matters within the control of the planning system and carry no material weight in the decision making process.

## **9. Planning Balance**

9.1. Turning to matters of planning balance, the proposed development would carry social and economic benefits in the supply of housing and associated construction benefits. These should be afforded moderate weight.

9.2. The proposal design is at odds with the character of the street scene and would result in detriment to the local built environment, this again is afforded moderate weight.

9.3. The proposal would result in the permanent loss of public open space, with no nearby alternative available which would adequately compensate and provide effectively in creating a healthy place. This represents both poor design and place-making as is afforded significant weight.

9.4. The dwelling design and layout results in poor living conditions for the end users of the site as well as a number of neighbouring dwellings who will suffer significant detriment to the existing amenity levels enjoyed. This is also afforded significant weight.

9.5. The development reduces overall parking within the shared parking environment of Meadow Park and the vehicles likely to be attracted to the site would be likely to create a poor vehicle and pedestrian environment. This is afforded moderate weight.

9.6. Limited or no evidence is presented as part of the application to demonstrate how surface water will be dealt with on the site, how biodiversity net gain will be achieved, and no SAC mitigation contribution is presented. These conflicts again attract moderate weight each.



9.7. The above is evidence that there are multiple conflicts with identified policies within the NDTLP and objectives of the NPPF. As such, the provisions of Section 38 (6) are such that the proposal should therefore be refused on the basis of the level of conflict with the adopted development plan.

## **10. Conclusion**

10.1. On the basis of the above discussion, the application is recommended for refusal for the reasons detailed below.

### **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

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

### **Recommendation**

#### **Refusal**

Legal Agreement Required: No

#### **Reason(s) For Refusal**

1. The application results in the loss of Public Open Space which cannot be adequately compensated for in the locality and as such the proposal would run contrary to Policy DM09 of the North Devon and Torridge Local Plan and loss of the public open space would not represent good place-making or provide for healthy and inclusive communities contrary to Policies DM04 and ST04 of the North Devon and Torridge Local Plan and objectives at paragraph 92 and 130 of the National Planning Policy Framework.
2. The proposed development would result in an obscured frontage, facing onto a blank gable end of No. 25 Meadow Park at close proximity and would appear at odds with the designed layout of the development with dwellings facing the public realm and as such detracts from the locally distinctive character of the area contrary to Policies ST04 and criteria (a), (b), (d), (e), (g), and (h) of Policy DM04 North Devon and Torridge Local Plan and paragraph 130 of the National Planning Policy Framework and design advice contained at paragraph 69 of the National Design Guide.

3. The development, by reason of its layout, separation distances and window design would result in a undue levels of overlooking and overbearing of No. 25 Meadow Park, overlooking of No. 27 and 29 Cedar Grove, and unacceptable levels of light to the proposed dwellings, where they are directly adjacent to No.25 Meadow Park, contrary to Policies DM01 and DM04 (i) of the North Devon and Torridge Local Plan.
4. The development provides an internal layout to the dwellings which would not meet the Nationally Described Space Standard, referred to in footnote 49 of the paragraph 130 of the National Planning Policy Framework. Whilst the North Devon and Torridge Local Plan does not adopt a prescribed space standard, the application of the NDSS as a good practise measure for space standards has been supported at appeal, and therefore in the absence of the layout meeting this minimum standard the development is considered to provide substandard living conditions and is overdevelopment of the site contrary to Policies DM01 (b), DM04 (1) (i) of the North Devon and Torridge Local Plan and would not meet good design objectives of paragraph 130 of the National Planning Policy Framework.
5. The development, by reason of its absence of parking provision would result in a further reduction in the shared spaces in Meadow Park and create unsafe parking arrangements, potential conflicts between occupiers and pedestrians, and parking on footways therefore creating an unsafe vehicle and pedestrian environment which would run contrary to Policy DM05 and ST10 of the NDTLP and design objectives in Policy DM04 (h) of the North Devon and Torridge Local Plan and paragraph 110 (b) of the National Planning Policy Framework.
6. In the absence of a Section 106 or Section 111 agreement securing a contribution towards the mitigation of recreational impacts on the Braunton Burrows Special Area of Conservation the development would not comply with The Conservation of Habitats and Species Regulations 2017 and as such the impacts of the development cannot be demonstrated to comply with the biodiversity objectives of the National Planning Policy Framework at paragraphs 175-177, and Policies ST14 and DM08 of the North Devon and Torridge Local Plan.
7. In the absence of an appropriate calculation of biodiversity metric, the development is not considered to demonstrate quantifiable or appropriate biodiversity net gain or sufficient information to ensure that habitat features would be adequately safeguarded or enhanced by the development. In light of this the development is considered to be contrary to Policies ST14 and DM08 of the North Devon and Torridge Local Plan and biodiversity objectives of the National Planning Policy Framework at paragraph 180.

### **Informatives**

1. INFORMATIVE NOTE: -  
POLICIES AND PROPOSALS RELEVANT TO THE DECISION

Development Plan  
North Devon and Torridge Local Plan 2018: -  
DM01 - Amenity Considerations  
DM02 - Environmental Protection  
DM04 - Design Principles  
DM05 - Highways  
DM06 - Parking Provision

DM08 - Biodiversity and Geodiversity  
DM09 - Safeguarding Green Infrastructure  
DM10 - Green Infrastructure Provision  
ST01 - Principles of Sustainable Development  
ST02 - Mitigating Climate Change  
ST04 - Improving the Quality of Development  
ST04 - Improving the Quality of Development  
ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres  
ST10 - Transport Strategy  
ST14 - Enhancing Environmental Assets

2. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal does not accord with Policy for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area. The applicant did not enter into pre-application discussions and as such, given the above the Local Planning Authority has proceeded to determine the application.

**END OF REPORT**