Exmouth Town Council
Town Hall, St Andrews Road
Exmouth, Devon, EX8 1AW
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www.exmouth.gov.uk

This meeting is open to the Public and Press

2 October 2024

To: Members of the Exmouth Town Council Planning Committee, other members of Exmouth Town Council for information & The Press

Dear Councillors

A Meeting of the Exmouth Town Council Planning Committee, to which you are summoned, will be held in the Chamber at Exmouth Town Hall, St Andrews Road, EX8 1AW on **Monday 7 October 2024 at 6.15pm** to consider the matters detailed on the agenda below.

Yours faithfully

Lisa Bowman
TOWN CLERK

AGENDA

1. Apologies for absence

PUBLIC SPEAKING

- Representations will be taken ahead of each discussion by Councillors on each application.
- **Members of the public wishing to speak on an application are required to pre-register in advance of the meeting.**
  To register you must email reception@exmouth.gov.uk or telephone 01395 276167 by 12 noon.
  The number of people that can speak on each application is limited to:
  - Major applications – parish/town council representative, 5 supporters, 5 objectors and the applicant or agent
  - Minor/Other applications – parish/town council representative, 2 supporters, 2 objectors and the applicant or agent.
- Representations may be up to 3 minutes.
- Speakers must begin, within their representation, by stating their name and interest in the application, and whether they are supporting or objecting to the application.
- Speakers must endeavour to avoid repeating themselves or earlier comments by others.
- The Chairman, at their absolute discretion, may ask for members of the public wishing to make similar points to choose one speaker to represent them all. This is to enable the

business of the meeting to be carried out in a timely way and allow representations on other applications to be heard.

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2. **Minutes of meeting held on 23 September 2024:**
   To confirm the minutes (copies attached)

3. **To receive any declarations of interest from members:**
   Members to declare any interests they may have on the agenda and agree any dispensations to stay.

4. **Urgent Business:**
   To consider any items which, in the opinion of the Chairman should be dealt with as a matter of urgency.

5. **Tree and advertising consent applications**

BRIXINGTON

Tree Application No: 24/1656/TRE

Location: 39 Ivydale, EX8 4TA
Applicant: Mrs Dickson
Proposal: T1, Oak: remove overhanging branches; reduce the crown spread in a westerly direction by up to 2m to leave a spread of approximately 4m, reduce the height by up to 2m to leave a tree with a finished height of 7m; restricting cuts to a maximum of 65mm - this will leave the tree with a balanced and flowing shape.

Target date: 03.10.24

Tree Officer's report attached for information.

Ratify delegated Chair and Ward decision for a Split Decision in accordance with the Tree Officer's report.

Planning Application No: 24/1734/TRE

Location: 15 Cheriswood Avenue, EX8 4HG
Applicant: Mr Barry Davies
Proposal: T1, Cedar: i) Crown lift, be removing lowest five lateral branches back to the mainstem. Making pruning cuts up to 75mm in diameter. ii) Crown lift / reduce remaining branched over the driveway of No 15 Cheriswood Ave, to provide a clearance of up to 2.5m above ground level. iii) Crown reduce back from adjacent the garage and converted garage, to provide a clearance of up to 1.5m from the fabric of these buildings. iv) Crown reduce western aspect over highway, to provide up to 4.5m of clearance over the highway surface.

Target date: 10.10.24

Tree Officer's report attached for information.

Planning Application No: 24/1834/TRE

Location: 33 Evergreen Close, EX8 4RR
Applicant: Mr Christopher Eglinton
Proposal: Turkey Oaks (7) and (8) - removal of lower (below 7m) epicormic growth with permission to repeat the works on a cyclical basis every three years.

Target date: 29.10.24

Tree Officer's report attached for information.

LITTLEHAM

Planning Application No: 24/1674/TRE

Location: 5 Cyprus Road, EX8 2DZ
Applicant: Mrs Helen Klarner
Proposal: T1, Oak: fell and treat stump with eco-plugs
T3, Strawberry Tree: reduce the total crown spread by an average of 4.0m. Extended limbs should be pruned back to most acceptable reduction points to achieve a 50% reduction.

Target date: 10.10.24

Tree Officer's report attached for information.

6. Planning applications.

BRIXINGTON

Planning Application No: 24/1868/VAR

Location: Knappe Cross Nursing Home, Brixington Lane, EX8 5DL
Applicant: Mr Pradham
Proposal: Variation of condition 2 (approved plans) on planning permission 22/1873/FUL (single storey rear extension for 8 bedrooms) to change roof from sedum to zinc/metal solid pavilion style.

Date limit for comments: 10.10.24

Planning Application No: 24/1862/VAR

Location: Knappe Cross Nursing Home, Brixington Lane, EX8 5DL
Applicant: Mr Pradham
Proposal: Variation of condition 2 (approved plans) on planning permission 22/1874/LBC (single storey rear extension for 8 bedrooms) to change roof from sedum to zinc/metal solid pavilion style.

Date limit for comments: 10.10.24

HALSDON

None

LITTLEHAM

Planning Application No: 24/1842/FUL

Location: Apartment 13 Elwyn House, 2 Elwyn Road, EX8 2EL
Applicant: Mr & Mrs Emberson
Proposal: Proposed new balcony facing north/west

Date limit for comments: 10.10.24

Planning Application No: 24/1879/FUL

Location: 14 Nelson Drive, EX8 2PU
Applicant: Mrs Zoe Smith
Proposal: New rear dormer window; new front rooflights; new raised ridge, eaves and roofline; external alterations.

Date limit for comments: 10.10.24

TOWN

None

WITHYCOMBE RALEIGH

None

7. Other items

None

8. Items for information

None

9. East Devon District Council – Planning Decisions

Application	*Exmouth Town Council View*	*EDDC Decision*
24/0406/FUL 7 Freelands Close	Objection	Withdrawn
24/1459/FUL 38 Foxholes Hill	No objection	Conditional Approval
24/1028/FUL	Objection	Refusal

Warehouse, Danby Lane		
24/1621/FUL 14A Cranford Avenue	No objection	Conditional Approval

DELEGATED REPORT

Application No: **24/1656/TRE**

Location: **39 Ivydale Exmouth**
Devon
EX8 4TA

Proposal: **T1, Oak: remove overhanging branches; reduce the crown spread in a westerly direction by up to 2m to leave a spread of approximately 4m, reduce the height by up to 2m to leave a tree with a finished height of 7m; restricting cuts to a maximum of 65mm - this will leave the tree with a balanced and flowing shape.**

Development Type: **TPO**

Date of Site Visit: **24/09/2024**

Consultation Period End Date: 06.09.2024

CONSULTATIONS

None received.

CONTRIBUTORS

None received.

OFFICER REPORT

The tree is a twin stemmed, maturing oak growing adjacent to Brixington Lane, just to the north of No 39 Ivydale. The tree is largely obscured from public views in the east, by the adjacent dwelling. However, it is clearly visible from the west, on Brixington Lane where the tree contributes to the general verdant character of the area.

This application is in part a repeat of the ongoing management of this tree. However, this application differs from those previously approved, as it includes the height reduction of the tree (Planning approvals 16/1792/TRE, 08/2455/TRE and 13/1453/TRE).

The crown of the tree is significantly asymmetrically formed, following several cycles of pruning works to manage the foliage overhanging the adjacent residential garden and conservatory. The reduction of the trees crown over the adjacent garden and reduction of the unbalanced growth over Brixington Lane can be reasonably justified. However, the reduction of the trees overall height is not necessary at this time and will detract from the overall impact of the tree and the amenity of the local area.

CONCLUSION

A split decision should be issued allowing the lateral reduction of the tree and refusing the reduction in the tree's height.

RECOMMENDATION

THIS IS A SPLIT DECISION (a part of the application has been refused and a part approved).

DELEGATED REPORT

The Council hereby **grants** permission to carry out work described below subject to the following conditions:

T1, Oak:
i) Crown reduction of branches growing to the south (over the garden of No 39 Ivydale) by up to 1m, making target pruning cuts of up to 35mm in diameter.
ii) Crown reduction the trees western aspect by up to 2m, retaining a tree with a crown radius of approx. 4.5m, making target pruning cuts of up to 65mm in diameter.

1. The works, hereby consented to, shall be carried out within a period of 2 years from the date of this decision notice.
   (Reason - To ensure that the works are carried out within a reasonable period of time.)

2. The works hereby consented to shall be carried out in accordance with British Standard 3998: 2010 (Tree Work - Recommendations).
   (Reason - In the interests of amenity and to ensure the works are carried out in a satisfactory manner.)

The Council hereby **refuses** permission to carry out work described below for the following reasons:

T1, Oak: remove overhanging branches; reduce the crown spread in a westerly direction by up to 2m to leave a spread of approximately 4m, reduce the height by up to 2m to leave a tree with a finished height of 7m; restricting cuts to a maximum of 65mm - this will leave the tree with a balanced and flowing shape.

1. The height reduction of the tree cannot be reasonably justified at this time and will encourage dense vigorous regrowth in the upper crown, which will be detrimental to the amenity value of the tree. The height reduction will detract from the overall impact of the tree and the amenity of the local area. Lesser more appropriate works have been allowed to manage the lateral growth of the tree.

NOTE FOR APPLICANT

1. **Wildlife** - Bats and birds are protected under the Wildlife & Countryside Act 1981 and the Countryside and Rights of Way Act 2001, it is an offence to deliberately or recklessly disturb them or damage their roosts or habitat. Therefore, close inspection of the tree(s) should be undertaken prior to the commencement of works to determine if any bats or birds reside in the tree(s). No works should occur while birds are nesting which may be at any time between the month of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England on 0845 601 4523 or email wildlife@naturalengland.org.uk. Further advice on bats is available from The Bat Conservation Trust (0845 1300 228).

2. **Tree Ownership** - Ownership of the trees appears to be uncertain. Permission of the owners of the trees should be obtained before any works are carried out. Any parts of the trees which are removed or fall remain the property of the owner of the tree and should be offered back to them.

DELEGATED REPORT



Statement on Human Rights and Equality Issues

Human Rights Act:
The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:
In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

DELEGATED REPORT

Application No: **24/1734/TRE**

Location: **15 Cheriswood Avenue Exmouth**
EX8 4HG

Proposal: **T1, Cedar:**
i) Crown lift, be removing lowest five lateral branches back to the mainstem. Making pruning cuts up to 75mm in diameter.
ii) Crown lift / reduce remaining branched over the driveway of No 15 Cheriswood Ave, to provide a clearance of up to 2.5m above ground level.
iii) Crown reduce back from adjacent the garage and converted garage, to provide a clearance of up to 1.5m from the fabric of these buildings.
iv) Crown reduce western aspect over highway, to provide up to 4.5m of clearance over the highway surface.

Development Type: **TPO**

Date of Site Visit: **20.09.2024**

Consultation Period End Date: 20.09.2024

CONSULTATIONS

None received.

CONTRIBUTORS

None received.

OFFICER REPORT

The tree is a Deodar cedar growing within a gravel area with timber surround, located near the southwest corner of the property, where it abuts the public highway.

The lower crown of the tree is now starting to encroach onto the highway, grow over the adjacent driveway, its crown is now close proximity to the garage located to the east and converted garage to the south.

The cedar appears to be in good health and condition and shows normal vitality, it is of good form and occupies a prominent location with obvious public views. As such it makes a significant contribution to local public amenity.

While cedars can ultimately become large trees, suitable pruning and management can see them retained in more confined locations. Following discussions with the applicant and the tree owner an amended tree works specification has been agreed, which allows for removal of lower branches, the pruning back of the tree crown from the adjacent structures, the public highway, and owners driveway.

DELEGATED REPORT

CONCLUSION

No objection is raised to the amended tree works specification.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The works hereby consented to shall be carried out in accordance with British Standard 3998: 2010 (Tree Work - Recommendations).
   (Reason - In the interests of amenity and to ensure the works are carried out in a satisfactory manner.)

2. The works, hereby consented to, shall be carried out within a period of 2 years from the date of this decision notice.
   (Reason - To ensure that the works are carried out within a reasonable period of time.)

NOTE FOR APPLICANT

1. **Wildlife** - Bats and birds are protected under the Wildlife & Countryside Act 1981 and the Countryside and Rights of Way Act 2001, it is an offence to deliberately or recklessly disturb them or damage their roosts or habitat. Therefore, close inspection of the tree(s) should be undertaken prior to the commencement of works to determine if any bats or birds reside in the tree(s). No works should occur while birds are nesting which may be at any time between the month of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England on 0845 601 4523 or email wildlife@naturalengland.org.uk. Further advice on bats is available from The Bat Conservation Trust (0845 1300 228).



DELEGATED REPORT

Statement on Human Rights and Equality Issues

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The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:
In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

DELEGATED REPORT

Application No: **24/1834/TRE**

Location: **33 Evergreen Close Exmouth**
EX8 4RR

Proposal: **Turkey Oaks (7) and (8) - removal of lower (below 7m) epicormic growth with permission to repeat the works on a cyclical basis every three years.**

Development Type: **TPO**

Consultation Period End Date: 04.10.2024

CONSULTATIONS

None received.

CONTRIBUTORS

None received.

OFFICER REPORT

The two trees contained within this application are both Turkey oak. They grow within a large wooded area, which separates Evergreen Close in the north from Knappe Cross playing field and Sherwood Drive in the south. The trees are seen growing on slightly elevated ground, above the surrounding properties, when viewed from the north and whilst individually of limited significance, the wooded area collectively makes a significant contribution to the amenity and character of the local area.

The proposed removal of epicormic growth from the mainstem of these two trees is a relatively minor operation, that will not be detrimental to the amenity of the trees individually, or that of the wider tree group.

The application also seeks to repeat these works on a three yearly cyclical basis. This avoids the administrative burden of determining numerous applications for relatively minor tree works.

CONCLUSION

No objection is raised to the cyclical removal of epicormic regrowth, at the stated three yearly interval, subject to a condition limiting the period of consent to 15 years. This will allow opportunity to review the impact of these works on the trees, at a reasonable time interval.

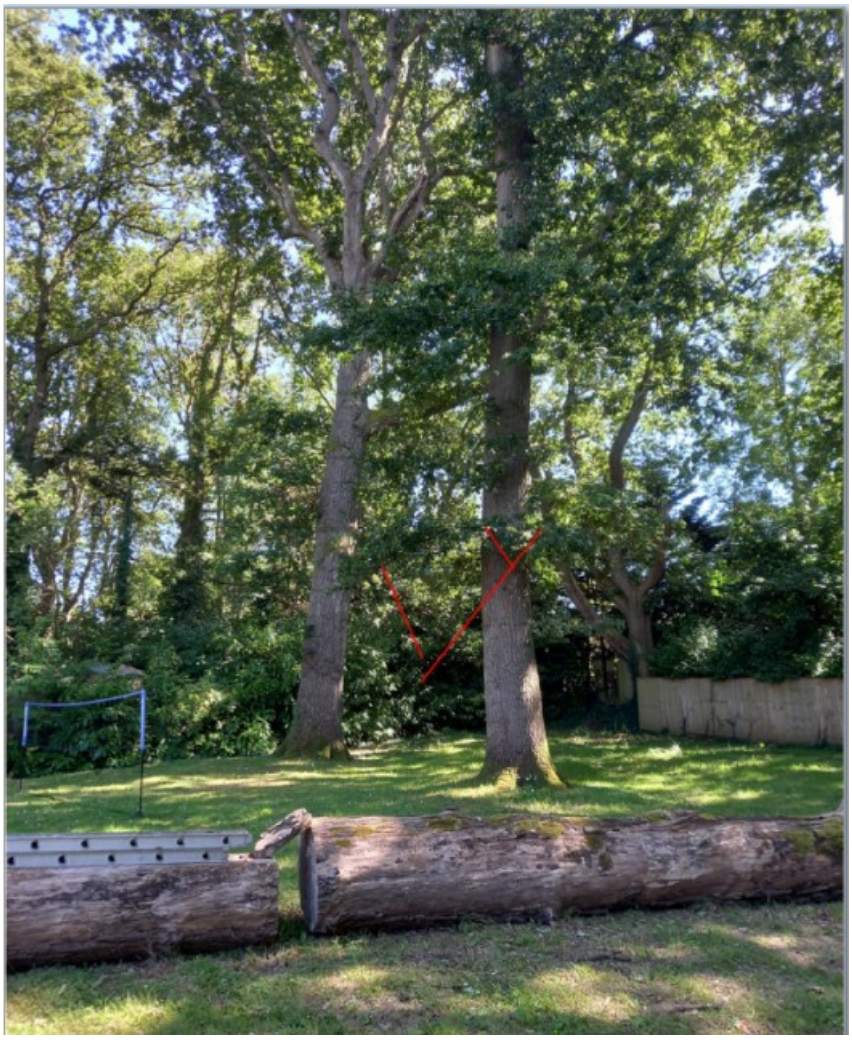
RECOMMENDATION

APPROVE subject to the following conditions:

1. The works hereby consented to shall be carried out in accordance with British Standard 3998: 2010 (Tree Work - Recommendations).

(Reason - In the interests of amenity and to ensure the works are carried out in a satisfactory manner.)

2. The works, hereby consented to, can be undertaken once every three years, for a period of up to 15 years from the date of this decision notice. After this time a new tree works application will be required.
(Reason - To ensure that the works are carried out at a suitable interval and that the impact of the works on the health and amenity of the trees can be reviewed within a reasonable period of time.)



Statement on Human Rights and Equality Issues

Human Rights Act:
The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

DELEGATED REPORT

Equality Act:
In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

DELEGATED REPORT

Application No: **24/1674/TRE**

Location: **5 Cyprus Road Exmouth**
Devon
EX8 2DZ

Proposal: **T1, Oak: fell and treat stump with eco-plugs**
T3, Strawberry Tree: Crown reduce the total crown spread by an average of 4.0m. Extended limbs should be pruned back to most acceptable reduction points to achieve a 50% reduction. Repeat crown reduction works on a bi-annual basis.

Development Type: **TPO**

Consultation Period End Date: 13.09.2024

CONSULTATIONS

Exmouth Littleham - Anne Hall
05/09/24 - Please find below my Objection to the application for removal of a totally healthy Oak tree with a TPO.

The Oak tree that is proposed to be felled is a prominent feature of the street scene as you enter the Conservation area from Salterton Road.
This tree has a significant positive impact on the biodiversity due to its age & size, along with offsetting the carbon process.
The report states that Oak roots were found in the soil samples but doesn't state whether they were of any significant size or number.
I would question whether there was any significance of this due to the tree in question is 15 metres away from the actual property where there is the report of a subsidence issue.

I understand that there were broken drains found due to soil movement but it can't be guaranteed that the oak tree was the main factor as there has been removal of some neighbouring Cyprus trees in 2019 which surely would have had a considerable impact on soil shrinkage over the past 5 years as their roots would have started shrinking over this time.
In my opinion we can't and shouldn't put a price on a tree of this age and I do personally feel that the insurance company should do the necessary works to ensure that this valuable Oak tree is saved for numerous generations.
I have no objection for the Oak tree to have some crown reduction to help maintain its size as they are proposing for the Strawberry tree (Arbutus) which is in closer proximity to the property.

Parish/Town Council
13/09/24 - Sirs,
In the absence of the EDDC Tree Officer's report I wish to register my concerns at the proposal to fell T1 Oak tree at 5 Cyprus Road.
Trees particularly of this magnitude have considerable environmental value and this tree is no exception.
The location of the tree from the building is I understand 15m approx. but actually 21m from the base of the wall below the cracks.
I would respectfully suggest root barriers should be installed as a first step and their effectiveness monitored before such permanent steps as felling are considered.
Alternatively if water consumption by the Oak is considered a contributing factor then I'm advised it may be a better initial course of action is to undertake Crown reduction work.

DELEGATED REPORT

I will be guided by the Council's Tree Officer's recommendation, but I believe it of environmental and indeed aesthetic importance in this area, to see felling of mature trees as an absolute last resort.
If all other alternatives have been undertaken and those outcomes prove to have been ineffective, only then should removal be considered.

Cllr. Graham Deasy
Exmouth Town Council
Littleham Ward

CONTRIBUTORS

Grey
12/09/24 - This is not complicated: the tree must stay, and the insurance company will have to make other arrangements to stabilise the property.

The tree is far older than the building and if we do not fell it for such a trivial reason, will remain long after the building has gone.

Davey
12/09/24 - I object to the proposal to fell this oak tree. Felling should only be a last resort and in my view this has not been proven to be necessary. Other methods such as pollarding, crown raising or reduction should be explored first.

Rosser
13/09/24 - I am a member of the Exmouth Town Council planning committee, which has a responsibility to decide on planning applications concerning trees. However this application (for reasons that I am unaware of) was not considered by the committee.

Had the application been considered, I would have asked for a tree officers assessment concerning the application.

I am aware that regardless of the effect of vegetation, clay shrinks when dry and can become unstable, when saturated (evidenced by landslips after heavy rain). I am therefor not convinced of the view the clay shrinkage around the foundations of this building are simply caused by tree roots.

I understand that the roots of English Oak are usually quite shallow - in the top 30cm of soil. The engineers report states that the foundations of the area of the damaged area of the building are relatively shallow. As there are roots below this, I wonder if the foundations would be adequate regardless of the effects of vegetation.

Root barriers can protect buildings from root damage. I think that use of this technique would be far preferable, to the felling of this tree.

Swift
13/09/24 - I object to the needless destruction of this oak tree. In the first place, it seems highly unlikely and purely speculative that the tree is implicated in any building subsidence, given its distance from the house. The tree's roots will be of minimal diameter at 15 - 17 meters. Secondly, we know that root growth can be restricted effectively through pollarding which, although less aesthetically pleasing than root reduction, is nevertheless the cheaper option. I agree with everything said about the loss to nature, oak trees being of huge importance in the ecology of both urban and country environment.

DELEGATED REPORT

Bacon
21/08/24 - I strongly object to the removal of the Oak tree at no. 5 Cyprus rd without full and valid proof that it is the cause of subsidence at the said building.

Nickels
04/09/24 - I OBJECT to this application

The evidence submitted that the Oak tree (T 1) roots have caused the clay shrinkage/ heave within the soil next to this property is subjective and is not backed up by any scientific evidence.

The tree is between 12 and 15 metres from the foundations and there is NO indication of the Quercus (Oak) root size. They are likely (therefore) to be very small considering their distance from the trunk. Their ALLEDGED moisture uptake would be minimal, if at all, as they may not be the cause.

Clay shrinkage could equally be caused by other factors, most likely climatic variations of dry and wet periods, now increasingly SCIENTIFICALLY proven as climate change develops.

I have written to Property Risk Inspection to ascertain their thoughts on the above.

Doliczny
12/09/24 - This tree is an important part of the biodiversity of this area. I object strongly to its removal.

Pardoe
12/09/24 - OBJECT

According to 7-8 years of scientific research by the Kew Root Survey (undertaken by Cutler & Richardson - and a follow up study, see sources below), the chance of this oak causing the building damage is less than 15%.

The oak is 15 metres from the closest point of the house, 17 metres from the north west corner in question - and 21 metres from the base of the wall below the cracks.

NB. The Proposed Layout on page 7 of the Site Investigation Report document exaggerates the closeness and location of the oak. The oak is not inline with the 'Damage Zone' wall - it is much closer to the centre line of the house - and further away from the house than their not to scale plan suggests.

Look around you, there are cracks in old and new buildings that are nowhere near any trees. Subsidence happens for many other reasons.

The huge ecological and amenity value of this oak goes without saying - planting a few small trees elsewhere is no substitute for this oak. Cutting down mature trees like this will make matters worse: increasing the likelihood of more extreme weather and unpredictable seasons - inevitably leading to more subsidence.

If the insurance company and loss adjusters still insist that the tree is to blame, install a root barrier. That may be costly, but what is the 'CAVAT' value of the tree? The very worst case scenario should surely be a crown reduction to lessen its water demand.

Yours sincerely,

Simon Pardoe

DELEGATED REPORT

Tree Warden, Exmouth
https://linktr.ee/ExmouthTreeProject

*Tree Roots and Buildings by Cutler, D F and Richardson, I B K (Longman Scientific and Technical 1989, ISBN 0582034108): the "Kew Root Survey".
https://download.tree-consult.org/download/B/Cutler%20Richardson-Tree%20Roots%20and%20Buildings.pdf

The follow up study agrees with the research above:
The Relationship between Trees, Distance to Buildings and Subsidence Events on Shrinkable Clay Soil (Giles Mercer, Alan Reeves and Dealga O'Callaghan) Arboricultural Journal 2011, Vol. 33, pp. 229-245, © AB Academic Publishers 2011
http://dealgas-treeconsultancy.co.uk/dealga/files/resources/Subsidence%20Trees%20&%20Distance%20to%20Buildings.pdf

PS. FAO EDDC Planning, the "Reason for comment" only offers Noise, Residential Amenity and Traffic or Highways. My objection is for the residential amenity and its much wider ecological value so I have ticked all three.

Bell
02/09/24 - When this area was designated as a conservation area the trees in Cyprus Road were considered as a significant amenity to the area and are important to the carbon offset process. I can see this tree from my attic windows and its removal will only reduce that aspect. In the 25 years that we have lived here I have noticed that the property has been re-rendered several times as well as being reroofed and in all that work these trees have never been identified as being the cause of any subsidence. Neither has there been any subsidence in the road and footpath. Yet the planning application claims that the removal of trees will mitigate an un quantified future Risk of subsidence. I therefore object to this application. Cracks in walls can also be caused by the use of incompatible materials being used in rework/rerendering.

Jay
13/09/24 - We humans are not the only residents of Exmouth .
There are also thousands of other-than-human residents , and representatives of approximately a thousand of these species will depend on an ancient oak tree like the one affected by this proposal. I strongly agree with all the comments already made , and remind the council of their commitments to protecting and enhancing biodiversity in the town.

Huggons
12/09/24 - I fully agree with all the comments raised so far in objection to the felling of this tree.
I strongly object to any action being taken until full consideration is given to all the points raised by the public. These must be followed up and reviewed in detail. The effectiveness of any and all alternative actions should be properly investigated before any action is taken. It needs to be recognised that there is collective knowledge and expertise that can be drawn from local experts (as evidenced in the comments). The multiple benefits that just one mature tree can play in our long term future must be given due credence.

Davies
12/09/24 - Strongly agree with all comments above. And strongly disagree with the removal of the beautiful tree, which is so important to our ecosystem. Why have other methods of managing not been explored...!?

DELEGATED REPORT

Burhouse
11/09/24 - It is just over a year since the applicant submitted plans (23/1354/TCA | T1) to fell this oak tree, which were rejected. One of the reasons given for refusal was that they had failed to provide 'level monitoring information which demonstrates the magnitude, direction and the seasonal timing of the building movement necessary to link the building damage to the above trees'. A 'Crack and Level Monitoring' report, covering the period March 2023 to June 2024, has now been submitted and would appear to support the application.

However, for this to be a fair and scientific analysis of the building movement, surely the site should be left without any interference that might influence those measurements. Since the previous application, the defects to the drains have been repaired, and vegetation implicated in the 'Site Investigation Report (2023)' has been removed (see Engineering Appraisal Report, page 3). It would be interesting to know the extent of the damage to the drains. Had any of the soil surrounding the broken pipes been washed away leaving a cavity?

It is also worth noting that the Engineering Appraisal Report (page 3) recognises that 'the foundations of the property in the area of damage have been built at a relatively shallow depth,'. Might the issue of subsidence be more to do with the quality of the original construction?

In my letter of objection to the 2023 application I explained that within the last 5 years three Lawson Cypress trees which were growing within a metre or two of the north wall of the building have been removed (see planning application 19/0507/TCA). A photo included in the Delegated Officer Report shows that the trees were of a considerable height and spread. The application indicated that, at that time, there was no sign of damage to the property or signs of subsidence. I imagine that removing trees of that size would have a considerable impact on the structure of the ground, both during the physical removal and in the change to moisture levels in subsequent years.

It is plain to see that the immediate area around the part of the building showing signs of subsidence, has experienced substantial disturbance in the last few years. This is far more likely to have impacted the stability of the building than an oak tree fifteen metres away. We can't keep cutting down mature trees because they 'might' be implicated in damage to a nearby building. There are huge numbers of houses built alongside mature trees that do not have issues with subsidence, so surely it is far more likely that the problem lies with the standard of the building's construction, and insurance companies are seeking to reduce the expense of their commitment by finding scapegoats.

Kearney
02/09/24 - Firstly we would like to highlight that we have not been advised of this new application, just happened to hear of it recently and don't understand how a re-application can be submitted so soon after a relatively recent refusal.
We cannot object strongly enough to the idea that this oak is even being considered for demolition. Once these trees are gone, especially the oak we will lose vegetation that contribute locally to the environment & wildlife habitat that has taken many years to establish. In particular I question that the proximity of these trees (the oak is over 15m from the property) are having any negative impact at all?
It makes sense that the 2019 removal of the Lawson Cypress trees that were adjacent to the property, root shrinkage and subsequent very wet periods followed by unusually hot summers are more likely to be the cause of the subsidence.
I am sure that there is a solution to the problem of subsidence that will have a more certain benefit to the property without taking out these trees. I am pleased to see that the Oak has a TPO on it (23/0033/TPO) and as such expect it to be responsibility protected and managed in the hope that it is around for many years to come.

DELEGATED REPORT

WHY ARE ALTERNATIVE SOLUTIONS NOT BEING PURSUED. SUCH AN EXTREME MEASURE OF TAKING THE TREE DOWN ISN'T CURRENTLY SUPPORTED BY ANY EVIDENCE THAT IT WILL RESOLVE NO 5 SUNSIDENCE.
ROOT BARRIER OR GROUND WORKS SHOULD AT LEAST BE CONSIDERED TO MANAGE THE SITUATION?

Toole
13/09/24 - T1 & T3 subject to TPOs must be retained in order to protect public amenity and the amenity of the insured who does not wish these trees to be felled.
The alternative, for which no actual argument for rejection has been submitted, is to install root barriers around both trees. These trees are far enough away from buildings that there is easy access for installation at an appropriate distance from the trees. This should be acceptable to the insurance company since the cost is likely less than that of felling.
Following is an authoritative discussion:
https://www.trees.org.uk/Trees.org.uk/files/b8/b801dc35-a938-42d0-9a41-44e8828f8a58.pdf

Coley
12/09/24 - I'm unhappy with the possible removal of the oak tree. Why have other methods of managing not been explored: root barriers, crown reduction, pollards growth? Surely felling the tree should be the very last resort.

OFFICER REPORT

The application is for the removal of an oak (T1) and the crown reduction of a strawberry tree (T3). The oak is a significant individual specimen, growing on the property's southern boundary. The oak tree is visible from Cyprus Road and the surrounding properties. The tree makes an important contribution to the amenity and character of the local area. A CAVAT assessment of the oak tree has been undertaken and it has an amenity asset value of £82,000 (A CAVAT value is based on the visual benefits of the tree and its replacement cost as a public asset). The strawberry tree grows approximately 20 metres back from Cyprus Road, on the property's northern boundary. Whilst the strawberry tree is visible from Cyprus Road, it is considerably less significant the Oak. The Strawberry tree has a CAVAT value of £4,000.

This application is for the felling of the oak (T1) and a 4m crown reduction of the strawberry tree (T3), that will be repeated on a bi-annual basis. Both trees have been implicated as a causal factor in damage to No. 5 Cyprus Road, Exmouth. The reasons stated within the application can be summarised as follows:

1) Remedy differential foundation movement and ensure long-term stability.
2) Limit the extent and need for extensive and disruptive repair works and limit the cost of the repairs by approximately £45,000.
3) To reduce the CO2e emission relating to the engineering works to repair the property.
4) Limit the duration of the claim.
5) Alternative pruning measures would not provide a reliable or sustainable remedy. A root barrier would not be effective or appropriate.
6) The oak (T1) and strawberry tree (T3) have been clearly linked as contributory factors to the damage caused to the property.
7) Replanting can be undertaken.

The application is supported by a series of technical reports and their contents can be summarised as follows:

DELEGATED REPORT

The arboricultural report identifies a series of vegetation management recommendations which includes the removal of the oak (T1) and strawberry tree (T3), as part of practical vegetation management necessary to stabilise the foundation of the affected building. This report also identified other vegetation close by, that may have an influencing factor and makes recommendations for the management thereof. These additional features were removed in August 2023.

The submitted geotechnical report details the results of the site investigation and reports on foundation depth and soil conditions at the site, based on the findings of two trial holes TH1 (southwest elevation) and TH2 (northwest elevation). The site investigation was undertaken on 21/02/2023, the ground at this time of year will have been influenced by seasonally wetter weather conditions.

The soil on the site is comprised of a moist stiff brown fine to medium gravelly, silty sandy CLAY. Building foundations were found at a depth of 1.2m (TH1) and at 1.1m (TH2).

Tree roots were found within both trial holes, below the level of the foundations. Within TH1 nine oak root were found at 1.2m below ground level. Other tree roots were found within TH1 and TH2 but the species identification was inconclusive.

Soil analysis shows that all soil samples have a plasticity index of between 25 and 37%, which NHBC consider as a soil with a medium volume change potential. The Shear Vain readings from the soil sample only indicate severe desiccation at 2.5m below ground level within TH1, the remaining readings indicate only slight desiccation (These reading may be influenced by seasonal rehydration). A comparison of the soils Liquid Limit and Moisture content would suggest five of the six soil samples were desiccated. Comparison of Plastic Limit and Moisture Content provides inconclusive results on desiccation. Soil Suction testing would suggest the soil within TH1 and TH2 is severely desiccated from 2.2m and 2.1m below ground level respectively. Desiccation at these depths can only be caused by moisture extraction by tree roots.

The drainage investigation identified three defective routes and made recommendations for their repairs. These repairs have now been completed. The displacements are noted as being caused by ground movement around the drainage system.

The level monitoring report updated on 16/07/2024 shows a seasonal movement in the property adjacent to the implicated oak and strawberry tree, with the greatest level of movement seen at point 7 with a seasonal movement of 10mm (Plate 1). The crack monitoring also shows seasonal movement, with crack opening in the summer of 2023 and closing over the winter 2023/24 and re-opening in the summer of 2024. These seasonal level changes can only be caused by moisture extraction, below foundation depth by tree roots.

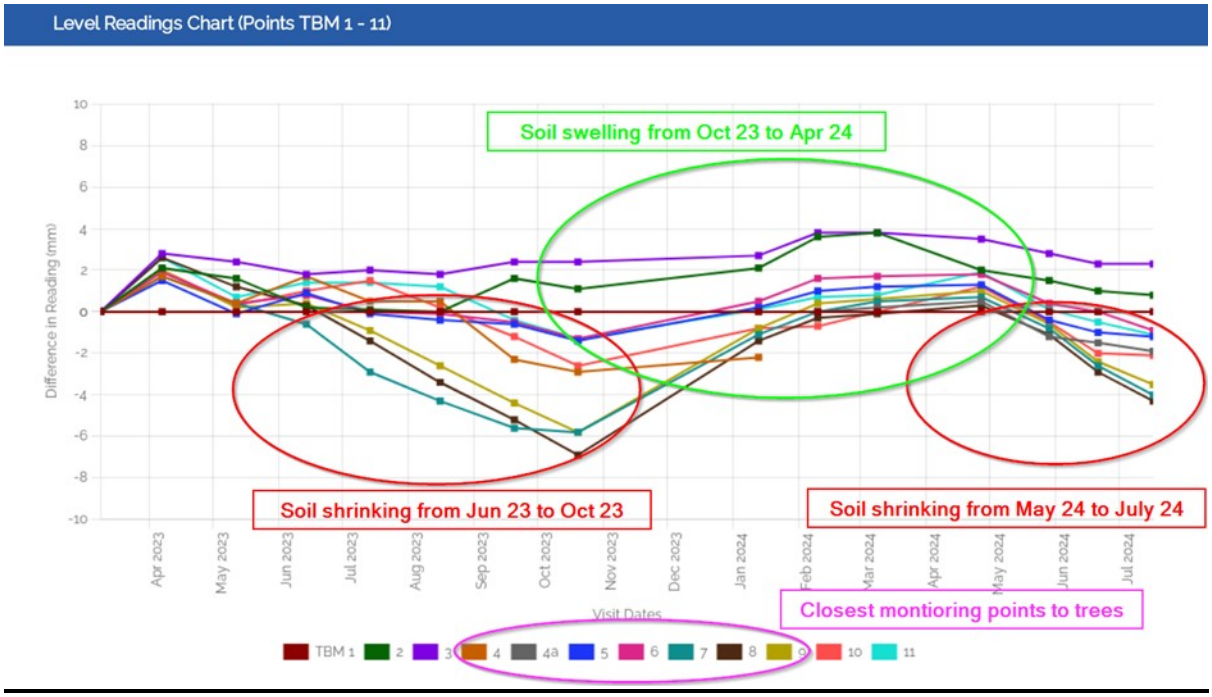


Plate 1. Level monitoring results showing seasonal movement linked to moisture extraction by vegetation.

The engineers report summarises the damage as cracking around doors and windows to the external left flank of the house. The level of damage is classified as BRE Category 3 (5-15mm cracks) moderate. That the building movement is cyclical with cracks opening in summer and closing in winter. Crack monitoring revealed seasonal movement at the front left corner of the building. The damage has occurred as a result of clay shrinkage, caused by moisture extraction by tree roots, leading to foundation movement. If the vegetation is removed, structural crack repair costs are likely to be around £45,000, if the trees are not removed, underpinning of the property foundations and structural crack repairs will be required, with an estimated cost of £90,000.

CONCLUSION

The determination of subsidence related tree works applications, places Local Planning Authorities in a difficult situation. Section 202E of the Town and Country Planning Act 1990, makes provision for the payment of compensation where damage or loss has occurred because of the LPA decision to refuse consent. This is further endorsed within The Town and Country Planning (Tree Preservation) (England) Regulations 2012. If the application can demonstrate that the tree on the balance of probabilities, is likely to be a contributing factor to the reported damage, the LPA can be held liable for any additional repair costs incurred with the tree retained, as a result of its decision to refuse consent.

To ensure the damage does not re-occur and to repair the property to a standard that can be guaranteed, insured, and is mortgageable, the oak tree will have to be removed and the building repaired at a cost of approximately £45,000. If the application to remove the tree is refused, the building would need to be underpinned and then repaired at an estimated cost of £90,000. If the application is refused the applicant will seek the additional repair costs from the council as a result that decision.

The applicant has demonstrated the soil is a shrinkable clay and that the soil is desiccated. Positive tree root identification has been made below foundation level. The level and crack monitoring has demonstrated a seasonal movement of the building, linking the damage to

moisture extraction caused by trees. The arboricultural and engineers reports both implicate the tree as a causal factor on the balance of probability. Given the above information the application for the removal of the tree should be allowed.

Arboricultural Officers from East Devon District Council are meeting with the applicant to discuss alternative options to the removal of the tree and repair of the building. This meeting is taking place on Wednesday 8th October 2024, which is after the meeting of Exmouth Town Council's Development Management Committee. The Town Council are advised to issue a recommendation as normal, based on the contents of this report, with an extraordinary provision to allow final determination of the application to be made by the Arboricultural Officers at East Devon District Council, pending the outcome of the meeting on the 8th October.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The works, hereby consented to, shall be carried out within a period of 2 years from the date of this decision notice.
   (Reason - To ensure that the works are carried out within a reasonable period of time.)

2. The works hereby consented to shall be carried out in accordance with British Standard 3998: 2010 (Tree Work - Recommendations).
   (Reason - In the interests of amenity and to ensure the works are carried out in a satisfactory manner.)

3. A replacement tree shall be planted as close as practicable to the same location in the first planting season following the felling of the tree hereby permitted to be removed. The replacement tree shall be a minimum of 8 -10cm in girth and shall be maintained for a period of five years; such maintenance to include the replacement of the tree should it die. The species of the tree may be selected from the following list or such other species and location, size and timing as may be agreed in writing by the Local Planning Authority.
   Birch
   Robinia
   Hornbeam
   Mulberry
   Tulip tree
   (Reason - To maintain continuity of tree cover and compensate for the loss of amenity.)

NOTE FOR APPLICANT

1. Despite consent for felling being granted for T1, it is considered that there are alternative options to the trees being felled, such as: underpinning of the property; or the use of a root barrier in conjunction with cyclical crown reduction works.

   East Devon District Council has undertaken a CAVAT evaluation T1 and it has an assessed value of £82,066. This shows that the tree has a significant value to society and that the tree should not be viewed on a cost only basis, which can be removed when alternative repair solutions are available.

2. Wildlife - Bats and birds are protected under the Wildlife & Countryside Act 1981 and the Countryside and Rights of Way Act 2001, it is an offence to deliberately or

recklessly disturb them or damage their roosts or habitat. Therefore, close inspection of the tree(s) should be undertaken prior to the commencement of works to determine if any bats or birds reside in the tree(s). No works should occur while birds are nesting which may be at any time between the month of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England on 0845 601 4523 or email wildlife@naturalengland.org.uk. Further advice on bats is available from The Bat Conservation Trust (0845 1300 228).



Statement on Human Rights and Equality Issues

Human Rights Act:
The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:
In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.