Exmouth Town Council
Town Hall, St Andrews Road
Exmouth, Devon, EX8 1AW
tel: 01395 276167
email: reception@exmouth.gov.uk
www.exmouth.gov.uk

This meeting is open to the Public and Press

13 November 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 18 November 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 4 November 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

Planning Application No: 24/2090/TRE

Location: 123 St Johns Road, EX8 4EH
Applicant: Lee Randell
Proposal: A3: Ash (part of G2 of TPO) - fell. O2: Oak (part of G2 TPO) - fell.

Target date: 02.12.24

HALSDON

Planning Application No: 24/2003/TRE

Location: 2 Sylvan Close, EX8 3BQ
Applicant: Mr Robert Sidwick
Proposal: Oak - Re-pollard (18/1955/TRE) leaving a trunk and lower stems of approximately 10m.

Target date: 26.11.24

Planning Application No: 24/2089/TRE

Location: Sandakan, Littlemead Lane, EX8 3BU
Applicant: Jools Lloyd
Proposal: G1, Group of Sycamores: reduce to a height of 4m and remove some weaker stems to re-establish the hedge.

Target date: 02.12.24

LITTLEHAM

Planning Application No: 24/1990/TRE

Location: Brandon House 29 Douglas Avenue Exmouth EX8 2HE

Applicant: Mr Marsh
Proposal: T1 Robinia - remove dead wood and shorten back long branches by 1-2m to leave a natural form. T2 Crab apple - fell. Reason: dead.

Target date: 20.11.24

Tree Officer's report attached for information.

6. Planning applications.

BRIXINGTON

None

HALSDON

Planning Application No: 24/1827/FUL

Location: 88 Hulham Road, EX8 3LB
Applicant: Mr Wayne Singleton
Proposal: Proposed revised house design for permission 18/2086/FUL.

Date limit for comments: 22.11.24

LITTLEHAM

Planning Application No: 24/2057/VAR

Location: Chestnuts 65 Salterton Road, EX8 2EJ
Applicant: Mr David Crocker
Proposal: Variation of condition 2 (approved plans) of planning permission 23/0538FUL (Construction of ground floor and first floor extensions to create an additional 10 additional HMO bedrooms, creation of new vehicular access onto Salterton Road and provision of parking to the front of the site) and condition 10 (parking layout) to allow the removal of east elevation chimney and alteration to approved windows on eastern elevation, the addition of ensuites at 1st floor, change to material finishes, re-positioning of bike and bin store, change to parking layout and retention of disability ramp, retention of front West wing roof and inclusion of 2no roof lights.

Date limit for comments: 02.12.24

Planning Application No: 24/2285/FUL

Location: Maer Craig 16 Foxholes Hill, EX8 2DF
Applicant: Mr John Fowler
Proposal: Demolition of existing dwelling and construction a 1. no replacement dwelling

Date limit for comments: 27.11.24

TOWN

Planning Application No: 24/2098/LBC

Location: 10 Bicton Place, EX8 2SU
Applicant: Ms Jane Urquhart
Proposal: Convert bedroom 5 into a shower room and hall with additional partition wall; rooflight on rear elevation and extraction fan on rear

Date limit for comments: 20.11.24

WITHYCOMBE RALEIGH

Planning Application No: 24/2134/FUL

Location: Land South Of 113 Bradham Lane
Applicant: Mr Ashley Heal
Proposal: Extension to side of existing single garage.

Date limit for comments: 19.11.24

Planning Application No: 24/2228/FUL

Location: Old School House School Lane, EX8 3AP
Applicant: Mr Simon Roach
Proposal: Proposed extension and first floor conversion to garage building

Date limit for comments: 20.11.24

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7. Other items

i. Notification of New Premises Licence Application Received
Ref No. 058855
Premises: Strand (The) EX8 1BR
Ward: Town
Name of Applicants: Mrs Sarah Milner Simonds

TIME LIMITED PREMISES LICENCE APPLICATION – EXMOUTH GATE TO PLATE - SPRING EVENT 27/04/2025 ONLY

Consider the above time limited premises licence, details of the application can be viewed on EDDC's website.

Date limit for comments: 26.11.24

Representations must relate to one or more of the four licensing objectives:

- the prevention of crime and disorder
- public safety

- the prevention of public nuisance
- the protection of children from harm.

ii. Notification of New Premises Licence Application Received
Ref No. 058856
Premises: Strand (The) EX8 1BR
Ward: Town
Name of Applicants: Mrs Sarah Milner Simonds

TIME LIMITED PREMISES LICENCE APPLICATION – EXMOUTH GATE TO PLATE – AUTUMN EVENT 26/10/25 ONLY

Consider the above time limited premises licence, details of the application can be viewed on EDDC's website.

Date limit for comments: 26.11.24

Representations must relate to one or more of the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

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8. Items for information

i. Notification of Tree Preservation Order
The following TPO has recently been made, copy attached:

24/0050/TPO – Land between 24-26 Dukes Crescent

ii. Tree Preservation Order
The following TPO has not been made, copy attached:

18/0136/TPO – Land at 5 Brookhayes Close & 74 Withycombe Village Road

iii. Appeal Decision
Appeal ref: APP/U1105/W/24/3345960
Appeal by: Mr Steve Richards
Application Ref: 23/1050/FUL
Location: 15 Halsdon Avenue, EX8 3DL
Proposal: 2 storey 2 bed detached dwelling with associated amenity space.

The above appeal was dismissed. The decision notice for the above application is attached for information.

9. East Devon District Council – Planning Decisions

Application	*Exmouth Town Council View*	*EDDC Decision*
24/2027/FUL 28 Maple Drive	No objection	Approval
24/1386/FUL 95A Exeter Road	Objection	Withdrawn
24/1748/FUL Rest Haven Residential Home, 15 Gussiford Lane	No objection	Approval
24/1842/FUL Apartment 13 Elwyn House 2 Elwyn Road	No objection	Conditional Approval
24/1879/FUL 14 Nelson Drive	No objection	Conditional Approval
23/2489/FUL Upper Thurlow 58 Douglas Avenue	Objection	Refusal
24/1204/VAR The Hideout 52A Douglas Avenue	No objection	Conditional Approval
24/1687/FUL & 24/1688/LBC 8 Windsor Square	No objection	Approval
24/2007/FUL 7 Henley Road	No objection	Conditional Approval

DELEGATED REPORT

Application No: **24/1990/TRE**

Location: **Brandon House 29 Douglas Avenue**
Exmouth
EX8 2HE

Proposal: **T1 Robinia - remove dead wood and shorten back long branches by 1-2m to leave a natural form.**
T2 Crab apple - fell. Reason: dead.

Development Type: **TPO**

Date of Site Visit: **29.10.2024**

Consultation Period End Date: 25.10.2024

CONSULTATIONS

None received.

CONTRIBUTORS

None received.

OFFICER REPORT

The trees form part of a larger tree group, growing on the properties south-eastern boundary. The Robinia (T1) is a large tree visible from Douglas Avenue and makes a positive contribution to the amenity and character of the area. The Crab apple (T2) is a small recently planted tree, that has no notable visual amenity.

T1, Robinia. This is a mature tree that has historically been reduced. There is vigorous new extension growth around the old reduction points. The proposed works are a continuation of the previous management and intended to shorten back the most extended crown aspects by up to 2m. The removal of deadwood is exempt from the normal requirements of protected tree legislation.

T2, Crab apple. This is a small young tree that appears to have recently died. The removal of this tree, subject to replacement planting raises no objection.

CONCLUSION

No objection is raised to the proposed works, subject to the listed conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

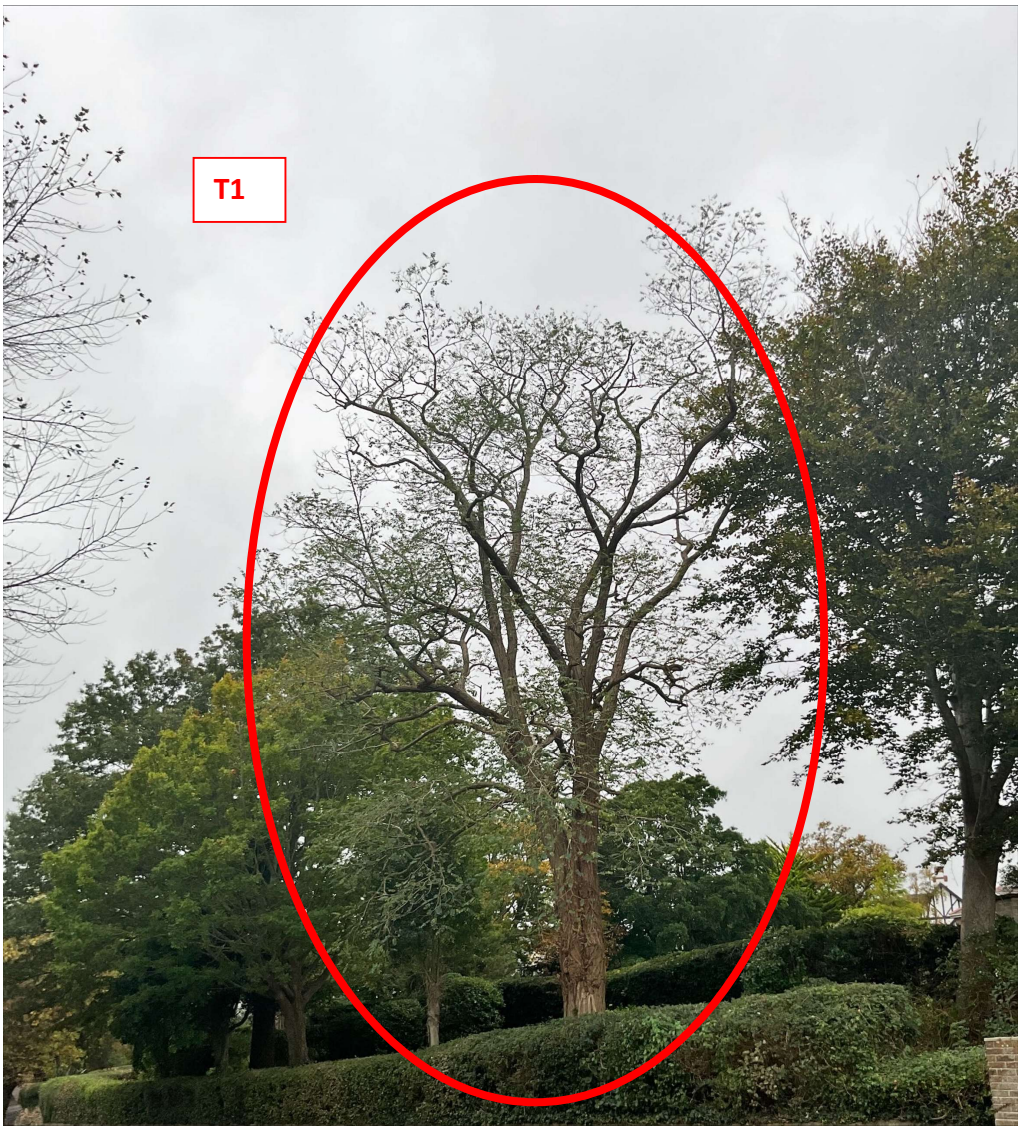
1. The works, hereby consented to, shall be carried out within a period of 2 years from the date of this decision notice.
(Reason - To ensure that the works are carried out within a reasonable period of time.)

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 at the front of the property, as close as practicable to the same location in the first planting season following the felling of the Crab apple (T2) 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 shall 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.

Acer griseum (Paperbark maple)
Amelanchier arborea (Serviceberry)
Cercis canadensis (North American Redbud)
Sorbus aucuparia (Rowan)

(Reason - To maintain continuity of tree cover and compensate for the loss of amenity.)



DELEGATED REPORT



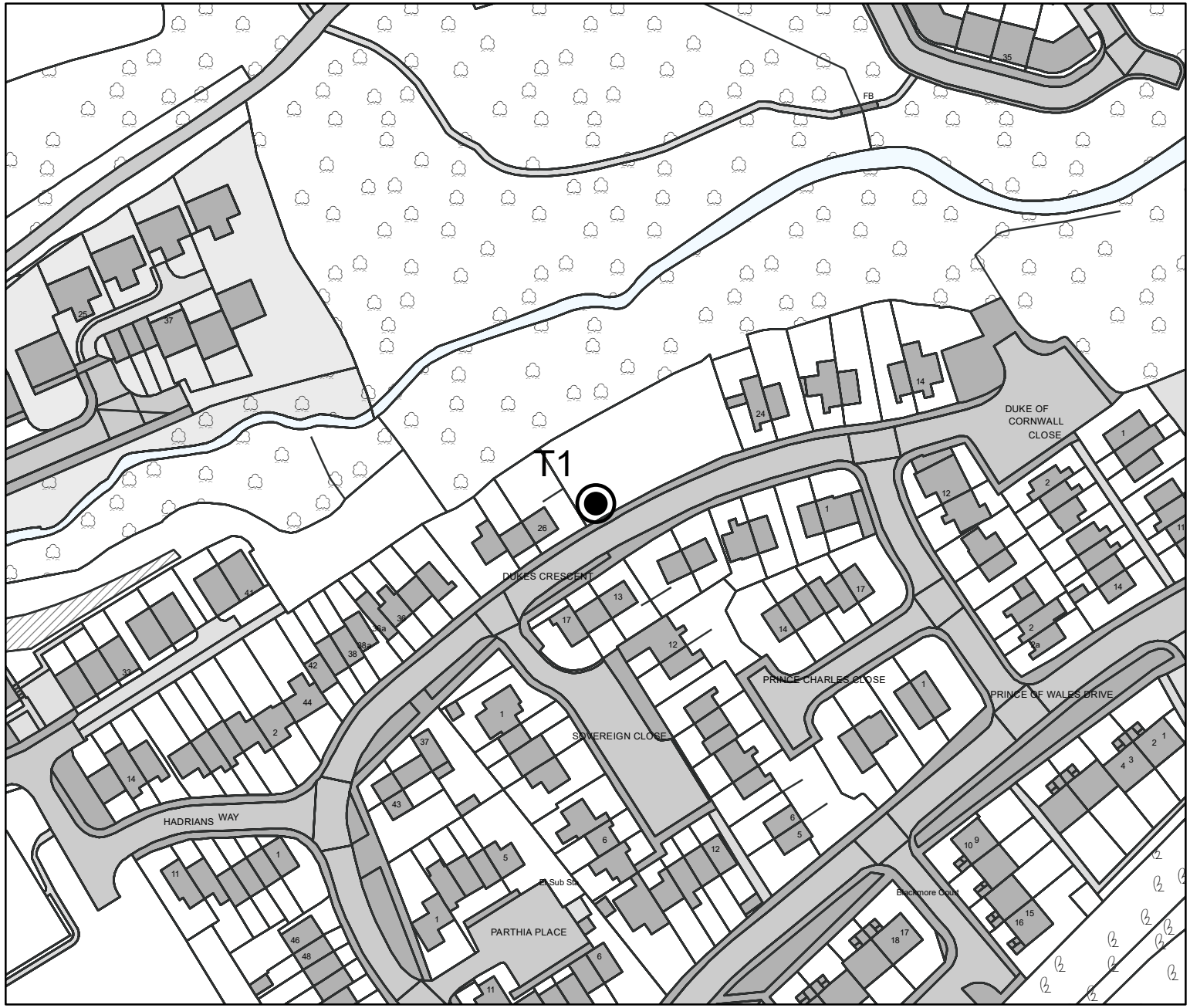
Statement on Human Rights and Equality Issues

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.

East Devon District Council Tree Preservation Order 24/0050/TPO

Land between 24 and 26 Dukes Crescent, Exmouth



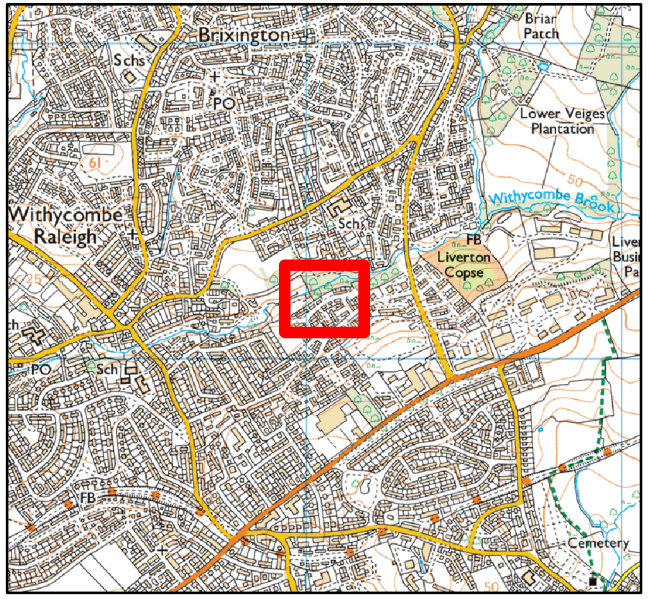
East Devon District Council

Key

- Tree
- Area
- Group
- Wood

Authorised Signature

05 November 2024



1:1,250

0 12.5 25 50 Metres

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TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (England) REGULATIONS 2012

Town and Country Planning Act 1990
TREE PRESERVATION ORDER (NO. 24/0050/TPO)

East Devon District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order—

Citation
1. This Order may be cited as the Tree Preservation Order No. 24/0050/TPO, "Land between 24 and 26 Dukes Crescent, Exmouth", 5th November 2024.

Interpretation
2.— (1) In this Order "the authority" means East Devon District Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect
3.— (1) **Subject to article 4,** this Order shall take effect provisionally on 5th November 2024.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition
4. In relation to any tree identified in the first column of the Schedule by the letter "**C**", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated 5 November 2024

Signed on behalf of East Devon District Council



.....
Authorised by the Council to sign in that behalf

[CONFIRMATION OF ORDER

This Order was confirmed by East Devon District Council without modification on ..... day of

....

OR

This Order was confirmed by East Devon District Council on ..... day of ....
subject to the following modification(s):

.....

Authorised by the Council to sign in that behalf**]**

[DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by East Devon District Council on ..... day of

....

.....

Authorised by the Council to sign in that behalf**]**

[VARIATION OF ORDER

This Order was varied by East Devon District Council on ..... day of ....

under the reference number .....

.....

Authorised by the Council to sign in that behalf**]**

[REVOCATION OF ORDER

This Order was revoked by East Devon District Council on ..... day of ....

.....

Authorised by the Council to sign in that behalf**]**

SCHEDULE

SPECIFICATION OF TREES

TREE PRESERVATION ORDER NO. 24/0050/TPO

LAND BETWEEN 24 AND 26 DUKES CRESCENT, EXMOUTH

REF. ON MAP	DESCRIPTION	SITUATION

TREES SPECIFIED INDIVIDUALLY
(Encircled in a solid black line on map)

T1	Poplar	Centred on grid ref:	(E) 302058	(N) 082191

TREES SPECIFIED BY REFERENCE TO AN AREA
(None)

GROUP OF TREES
(None)

WOODLAND
(None)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, substantially revoke and replace the Town and Country Planning (Trees) Regulations 1999, to the extent to which they apply to England. They also revoke the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No. 2) (England) Regulations 2008.

Part 2 prescribes the form of tree preservation orders and the procedure for their making, provisional effect, confirmation, variation and revocation. The prescribed form is set out in the Schedule to the Regulations.

Part 3 of the Regulations sets out prohibited activities in relation to a tree protected by an order and exceptions. Under regulation 13 a tree protected by a tree preservation order may not be cut down, topped, lopped, uprooted or wilfully damaged or destroyed without the consent of the local planning authority, unless an exception applies. These exceptions are set out in sections 198(7) and 200(1) of the Town and Country Planning Act 1990, and in regulation 14 of the Regulations.

Section 198(7) provides exceptions relevant to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Coal Act 1958 (c. 69) on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

Section 200(1) provides that a tree preservation order does not have effect in respect of anything done by or on behalf of Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision or anything done by or on behalf of any other person under a plan of works approved by the Forestry Commissioners under a forestry dedication covenant (as defined in section 5 of the Forestry Act 1967) or under conditions of a grant or loan made under section 1 of the Forestry Act 1979 (c. 21).

Regulation 14 contains exceptions to the requirement for consent and regulation 15 contains exceptions for trees in conservation areas.

Part 4 of the Regulations prescribes the procedure for applications for consent under tree preservation orders.

Part 5 prescribes the procedure for appeals and for their determination. Regulation 19 grants a right of appeal in respect of a refusal to grant consent, a grant of consent subject to conditions or a failure to determine an application for consent within the prescribed time period.

In Part 6, regulation 24 provides for compensation claims, subject to exceptions, to be made where loss or damage has been incurred as a consequence of a refusal to grant consent, a grant of consent subject to conditions or a refusal of approval required under a condition.

Part 7 contains miscellaneous provisions. Regulation 25 provides that the prescribed time for the purposes of sections 206(1)(b) (replacement trees) and 213(1)(b) (enforcement of controls as respects trees in conservation areas) is whenever the cutting down or uprooting of a tree is authorised only by virtue of regulations 14(1)(a)(i) or 14(1)(c) (dead or dangerous trees).

Regulation 26 revokes the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No.2) (England) Regulations 2008, subject to transitional, transitory and saving provisions in respect of certain classes of order. This regulation also saves regulation 17 of the Town and Country Planning (Trees) Regulations 1999 (amendment to the Town and Country Planning General Regulations 1992).

Under section 193 of the Planning Act 2008 (c. 29), all tree preservation orders made prior to the date on which these Regulations come into force take effect with the omission of all of their provisions other than any that identify the order or identify the trees, groups of trees or woodlands to which the order applies.

A full impact assessment of the effect that this instrument will have on the costs of business, charities and the voluntary sector has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk). The assessment may also be accessed at www.communities.gsi.gov.uk.

Memo

To: Clerk To Exmouth Town Council

From: Arboricultural Team

Your Ref:

Our Ref: 18/0136/TPO Date: 11 November 2024

SUBJECT:

TREE PRESERVATION ORDER
PROPOSAL: Land at 5 Brookhayes Close and 74 Withycombe Village Road, Exmouth, Devon
TPO NO: 18/0136/TPO

With reference to the above Tree Preservation Order made in respect of land in your area, a decision has been taken not to confirm the Order.

Arboricultural Team
Countryside Services

The Planning Inspectorate

Appeal Decision

Site visit made on 28 October 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal Ref: APP/U1105/W/24/3345960
15 Halsdon Avenue, Exmouth, Devon EX8 3DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Steve Richards against the decision of East Devon District Council.
- The application Ref is 23/1050/FUL.
- The development proposed is to erect a 2-storey 2-bed detached dwelling with associated amenity space.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - The effect of the proposal on the character and appearance of the area; and
   - Whether the proposed dwelling would provide satisfactory living conditions for future occupants having regard to light and outside space.

Reasons

Character and Appearance

3. The appeal site is a narrow strip of land, set behind two garages and between two existing dwellings. Dwellings in this immediate vicinity are sizeable detached and semi-detached properties in generous plots with significant street frontage. The pattern of development in this area is generally linear. However, this pattern is somewhat irregular near the appeal site, given the corner location and the curve of the road.

4. The site is also close to crossroads which has an elevated position and is edged by large residential plots, and in this regard has a relatively prominent location. Many of the properties in this area have mature vegetation at their front boundaries, and this combined with spacious rear gardens, gives the area a verdant quality.

5. Some of these gardens, including the appeal site, host mature trees, that can be seen above roof tops from the public realm. The appellant's evidence describes the trees at the appeal site as having a suboptimal form. However, I saw that even with the poorly maintained garages in the foreground, the tree canopies at the appeal site can be clearly seen over the flat roof of those existing structures and appear a positive feature in this part of Halsdon Avenue.

6. Built forms in this area have a mixed appearance. However, they are unified by a traditional mid-20th Century architectural style, comprising render clad dwellings, hipped roof shapes, bay windows and protruding, timber detailed gables. This design coherency in the built form, generally spacious gardens and development pattern contribute positively to the pleasant suburban character of this part of the residential estate.

7. The proposed dwelling would be constructed behind the existing garages. As such, the resultant built form would have limited primary frontage at the street level, and this would be out of keeping with the surrounding pattern of development. The dwelling would fill much of the width of this plot, with limited space retained at the shared side boundaries, and this would appear cramped in an area of comparatively spacious residential plots.

8. As a two bedroom home, its scale would be somewhat smaller than most surrounding homes. Its design, described as chalet style, would be similar to dwellings in the wider area. However, those existing dwellings are 1970's additions located much further along Halsdon Avenue. As such those more contemporary forms are not reflective of the style of existing dwellings which characterise the area immediate to the appeal site.

9. Not only would the proposed plot layout be incongruous in this setting, but even with a subservient height and with materials matching neighbouring properties, the proposed pitched form would be out of keeping with existing built form in this area. The discordant form, while set back from the road, would be visible above the low profile garages. With these unsympathetic design features, the dwelling would visually jar with existing development surrounding it and this would harmfully disrupt the prevailing cohesive character of the area.

10. With an incongruent design and layout, the proposal would not be sensitive to either the pattern or style of existing development in this area. As such the addition would appear a distinct oddity in this prominent location. Although the ground floor would be largely screened by the garages, the upper floor of the dwelling would be clearly apparent above those existing structures and in the public realm. Consequently, this poorly designed development would harmfully disrupt the positive character in this residential area. A landscaping scheme could not adequately address the adverse visual impact that the upper floor and roof form of this addition would have in this part of the street scene.

11. It is stated that there are infill developments similar to the proposal in this area. Attention is drawn to Red Rocks, but this is on a neighbouring road such that it has limited influence on the character which provides the setting for this particular development. Moreover, unlike the proposal before me, I saw little evidence that infill development has resulted in significant visual harm in the vicinity of the appeal site. My findings are not altered on this issue accordingly.

12. Therefore, I conclude on this matter, that the proposal would have a significant harmful effect on the character and appearance of the area. In this respect, the proposal would be contrary to Strategy 6 and Policies D1 of the East Devon Local Plan 2013 – 2031 (Local Plan). These Policies collectively, amongst other matters, seek high quality design and development compatible with the character of the site and its surroundings.

13. The proposal would not accord with Policies EN1 and EB2 of the Exmouth Neighbourhood Plan which, amongst other matters, state that new development

should be mindful of surrounding building styles and ensure a high level of design. The proposal would also be inconsistent with provisions of the National Planning Policy Framework (the Framework) which state development that is not well designed should be refused.

Living Conditions

14. The Arboricultural Report submitted in support of this appeal identifies three notable trees in the vicinity of the appeal site: two Lime trees at the western boundary of the site and a Norway Maple at No 15. As already outlined, the canopy of these trees contribute to the verdant character of the area. The Framework highlights that trees make an important contribution to the character and quality of urban environments and requires existing trees should be retained wherever possible.

15. The appellant's Report concludes that the Maple shows evidence of disease, and this is likely to reduce its lifespan. While this may be so, the evidence indicates a lifespan of around 10 years, which is a significant period of time that the area would benefit from the positive visual and environmental attributes of this natural feature.

16. The new dwelling would fill much of the plot with only a small space retained at the rear as a garden. The submitted plans show that the canopies of the Lime trees would cover at least three quarters of this small outside space. Shaded by trees for a good portion of the year, this garden would be a gloomy place to sit or play. Moreover, bounded by high fences and dominated by mature trees, this garden would be a hemmed in, shady place and in this regard would not provide a pleasant space for future occupants to use.

17. Measures to manage leaf litter could be incorporated into the roof design and the outside space and the crown of the Lime trees could be lifted to reduce shading. The Arboricultural Report also indicates that the Lime trees require pruning. However, these works are described as high pollarding. Moreover, the evidence indicates even after the works, the Lime trees would likely remain sizeable. The mitigation advanced in this case could be secured by condition, but these measures would not fully address the risk of branches falling from these sizeable trees into the proposed outdoor space over the life of the development.

18. The proposed dwelling would have two bedrooms, and therefore could accommodate a family with small children. Covering a considerable part of the only significant, useable garden, the Lime trees would pose a hazard with regard debris and falling branches.

19. I note that some existing gardens in the area are modest and also contain trees. However, the outdoor space proposed in this case would be significantly smaller than gardens in this immediate vicinity, and most of the proposed space would be dominated by trees. Even with the crowns lifted, branches of the Lime trees would still span a considerable part of this garden. As such, future occupants would likely not consider this a safe place to sit or for children to play in. In turn, the garden would not be suitable for future occupants to carry out activities that they should reasonably expect to be able to do in their private outdoor space. The new dwelling would not offer satisfactory living conditions for occupants over the lifetime of the development in this regard.

20. Also, given these factors, there would be pressure from future occupants to substantially prune or even remove the trees. This action would be difficult to resist even with an Order in place to protect the trees if the safety of occupants of the

dwelling was at issue. Substantial works to the trees would harmfully erode the existing verdant character of this part of the street. It is highlighted that the Council has pruned trees in public areas elsewhere which the appellant feels is more harmful than what is proposed at the appeal site. This may be so but work elsewhere should not justify harmful development at this location.

21. The canopy of the Maple tree would overhang a significant section of the proposed dwelling. Indeed, the crown of this tree would need to be lifted to accommodate the new dwelling. However, the built form would have large windows on the rear elevation and even with the extensive canopy coverage over the garden and part of the dwelling, those large openings would ensure that adequate natural light would reach the habitable rooms of this dwelling.

22. Mitigation measures are advanced to ensure that the trees would not be harmed during the construction phase, and again this is a matter which could be secured by condition. I have also found that the proposal would be acceptable with regards light. However, even if I accept these matters, the proposal fails to provide a suitable garden for future occupants.

23. Therefore, while I find no significant issue with regards light, the proposed dwelling would not provide satisfactory living conditions for future occupants having regard to outside space. In this respect, the proposal would conflict with Policies D1, D2 and D3 of the Local Plan. These Policies, amongst other matters, permit proposals that do not adversely affect the amenity of occupants of proposed future residential properties, with respect to access to open space.

24. The proposal would also be inconsistent with provisions of the Framework which require a high standard of amenity for existing and future users.

Other Matters

25. The Council has not raised concerns about the impact on neighbours living conditions, drainage or parking. However, even if I accept this, development should be acceptable in these respects such that this matter does not weigh in favour of the proposal. Disturbance during the construction phase could be controlled by condition. However, this would not address the harms in respect of future occupants living conditions or to the character of the area.

26. It is asserted that the site is brownfield. However, while there may now be a separate title, the evidence indicates that the appeal site was previously part of the garden at No 15. The Glossary of the Framework excludes land in built-up areas, such as residential gardens, from the definition of previously developed land.

27. It is stated that the development would be a self-build plot. However, I find no mechanism giving certainty of this outcome. This is also the case in respect of the affordability of the dwelling.

28. These matters aside, the principle of residential development is accepted in this area, and future occupants would have reasonable access to services, including public transport options. This is a small windfall site, and the development could be built out quickly. The dwelling could be adapted for those who are less able bodied. This proposal would make a small contribution to the Government's objective to significantly boost the supply of homes and would add to the mix of much needed housing in the area. Also, some local support has been expressed for this development.

29. The evidence suggest that all three trees in question require some work. I understand that the Council has refused permission to carry out those works and that that decision is subject of a separate appeal. However, limited information has been provided on this and it appears that the separate appeal is yet to be validated. Moreover, no compelling evidence has been advanced in this appeal that this harmful development would be the only means of securing necessary works to the trees. This matter attracts limited weight for this reason.

30. Habitat mitigation is also proposed, and this could be secured by condition. However, any benefits in respect of this matter would be considerably countered by the harm to the character of the area and the unsatisfactory living conditions that would result from this development.

31. The adverse impacts in respect of character and living conditions, would significantly and demonstrably outweigh the small benefits identified in this case when assessed against the policies in this Framework taken as a whole.

32. Attention has been drawn to officer's advice at the pre-application stage. However, the Council is not bounded by comments made at that stage. Concerns have also been raised about the Council's approach to the subsequent application process and a trespass issue. However, these are matters outside the scope of this appeal. My findings are not altered accordingly.

33. Attention has also been drawn to policies not in dispute. However, I find harm in respect of character and living conditions, and conflict with the development plan when read as a whole.

34. The appeal site is in the zone of influence of the Exe Estuary and East Devon Pebble Bed Heaths Special Protection Area. However, as this appeal is being dismissed on other grounds there is no need to address this matter.

Conclusion

35. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR