Exmouth Town Council

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EXMOUTH TOWN COUNCIL

Notes from Tree Forum 24th June 2025

Present

Councillor Olly Davey	OD	Exmouth Town Council (Chair)
Councillor Tim Dumper	TD	Exmouth Town Council
Councillor Mike Rosser	MR	Exmouth Town Council
Councillor Maddy Chapman	MC	Exmouth Town Council and East Devon District Council
Councillor Louise Venables	LV	Exmouth Town Council
Councillor Dan Wilson (guest)	DW	Exmouth Town Council and East Devon District Council
Zoey Cooper	ZC	Exmouth Town Council
Lisa Bowman	LB	Exmouth Town Council
Heath Nickels	HN	Exmouth Wildlife Group
Simon Pardoe	SP	Tree Warden
Paul Fealey	PF	East Devon District Council
Alistair Jeans	AJ	East Devon District Council
Carl Harrison	CH	East Devon District Council
Lucy Buckingham	LB	National Trust

Apologies

Jan Gannaway	JG	Exmouth Wildlife Group
Nathan Dunster	ND	East Devon District Council
Jonathan Fisher	JF	National Trust

1. **Appointment of Chair**: Councillor OD was appointed as Chair.

2. **Welcome and apologies**: Councillor OD welcomed members to the meeting and apologies were noted. Councillor OD outlined the aims of the tree forum:
   - to ensure that all Exmouth tree activity is recognised, understood and shared with the wider Exmouth community to reduce duplication of effort and encourage collaboration and best practice
   - to bring together stakeholders to access free and low-cost trees
   - to maximise our impact on maintaining, protecting and planting trees

3. **THaWS**: AJ provided an update on THaWS (Tree, Hedgerow and Wildlife Strategy). East Devon's tree strategy has been in development for over a year and was formally adopted in April. The strategy is now a working document supported by the council.
   The strategy is divided into three main sections:
   a. **Current Tree Landscape**

   Assesses what tree cover currently exists in East Devon.
   Considers diversity and species suitability.
   b. **Community Involvement**

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Outlines roles of local governments (East Devon, parish, and town councils), NGOs, businesses, and private landowners.
Emphasizes collaboration to achieve shared goals like planting more trees and improving protection.

c. **Tree Management**

Covers individual tree and woodland management. Focuses on protecting trees from development. The strategy includes around **20 actions, targets, and priorities**, with **8 key priority areas** for immediate focus.

- **Risk Management**

Ensure all council-owned trees are assessed and maintained safely.

- **Natural Regeneration**

Promote natural tree regeneration rather than relying solely on planting.
Mapping areas suitable for this process is underway.

- **Internal and Community Engagement**

Improve collaboration within council departments.
Ensure all teams, including development, housing, and street scene, are aligned.

- **Tree Warden Scheme**

Strengthen local tree warden/champion initiatives.
Use wardens to identify suitable land or willing landowners for tree planting.

- **Canopy Assessment and Equity**

Establish baseline data for current tree cover.
Focus planting efforts in areas with low tree canopy (e.g., Littleham in Exmouth).

- **Development and Planning**

Address tree loss through stronger planning policy.
Update the outdated supplementary planning document (currently 20 years old).

- **Protection of Existing Trees**

Active use of Tree Preservation Orders (TPOs), averaging 50 new ones annually.
Aim to strengthen enforcement, though it's a challenge unless offenses are witnessed.

- **Delivery Capacity**

Originally planned to hire a dedicated officer, but recruitment has been paused due to proposed devolution.Current team will manage both strategy implementation and existing duties (development and TPO applications).

Despite staffing challenges and halted recruitment, the team remains committed to implementing the strategy. They aim to enhance tree protection and increase canopy cover across East Devon through coordinated efforts and community involvement.

ZC requested that Exmouth Town Council be kept informed of any THaWS decisions that might affect Exmouth, especially regarding the Tree Warden scheme and working with local communities. ZC mentioned a Nature Towns and Cities Accreditation she has been speaking with Catherine Causley about (Climate Change Officer for EDDC) and will follow up with AJ separately about this.

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TD asked about the opportunity to plant trees or rewild near the sheltered bungalows at the bottom of Halsdon Avenue where there's a patch of grass. AJ advised him to speak to Nathan Dunster as Street Scene is responsible for tree surveys, safety inspections, new planting on housing land.

AJ agreed with TD that educating and engaging the general public about the benefits of planting, protecting and managing trees and wildlife should be a big focus for both District and Town Councils.

Councillor Maddy Chapman (MC) asked AJ about the land north of Goodmores, having received emails from residents concerned about the planning application for more houses and the potential loss of badger sets, foxes, deer, several species of bat and rare orchids.

AJ responded that he's aware of this outline planning permission for 75 properties. Feedback has been given by the Landscape Officers and Ecologists. A 10-meter buffer zone has been requested around three of the boundaries, owing to presence of bats. If a tree is a veteran, it automatically gets a 15-meter buffer. If a tree is not veteran, it is only allowed a 12 times diameter buffer. There is not currently a consensus on which trees are veteran. AJ also explained that sadly, in planning decisions, trees are only one consideration among many.

Councillor Mike Rosser (MR) mentioned he had objected to the planning application the previous night and the District Ecologist had identified at least a 60% reduction in biodiversity.

4. **AJ provided an update regarding tree felling (with/without TPOs) and hedgerow removal**, as part of a full development planning application. AJ explained the process and importance of assessing trees when developments are proposed. Developers are expected to carry out an arboricultural assessment to categorize trees on the site into A, B, C, or U categories.
    - **A and B category trees** are usually large, healthy, and of high quality – often protected by Tree Preservation Orders (TPOs).
    - **C category trees** are typically younger, smaller, or structurally poor and may not be considered a constraint to development.
    - **U category trees** are usually unsuitable for retention due to poor condition or limited lifespan.

    Developers must submit a **tree survey** and a **tree constraints plan**, which helps planners understand which trees are significant. However, categorisation can be subjective, and planning officers may disagree with developers' assessments. Trees can pose constraints due to size, shade and future growth, and these factors should be considered during design. When significant A or B category trees are present, planners often **object to or refuse** the development if the impact is deemed too high. Conversely, where many trees exist, removal of a few may be acceptable, while removing a single tree on a sparse site can have a larger impact. Each case is assessed individually.

    Planning Policy & Decisions
    Trees are only one part of planning considerations. Other factors can override tree concerns. For example, objections to development in Goodmores were overruled due to broader planning priorities. Even with TPOs, development can proceed if the planning authority deems it justified.

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AJ noted that **TPOs don't guarantee long-term protection**. He cited specific examples:

- A refused application in Cliff St. Mary for removing an A category tree, which contradicted local and national standards.
- A development in Lympstone was appealed due to concerns about pressure to fell an oak tree, even though felling wasn't proposed.
- In Exmouth, some large trees were retained during development but later lost due to resident complaints and appeals – despite initial planning protection.

Developer Attitudes
Some developers work cooperatively to retain trees and enhance the environment. Others see trees as constraints and costs, leading to prolonged negotiations or disputes. Officers may compromise by allowing building closer to certain trees in exchange for retaining others.
Community & Council Perspective
AJ expressed a personal and professional preference for retaining as many trees as possible, as trees contribute to a pleasant, biodiverse living environment. He acknowledged that not all developers share this view, and disputes can be escalated to the planning team for a final decision. Finally, AJ highlighted that public misconception exists around TPOs – many believe these protect trees permanently, but developments can override them.

5. **AJ provided an update on tree felling in response to insurance claims**, specifically regarding the current St John's Road case (Alistair Jeans)
Members raised concerns about the increasing frequency of tree felling linked to insurance claims, particularly due to subsidence, which may be exacerbated by drier weather and clay soil conditions. AJ explained that insurance companies only need minimal evidence to claim a tree is contributing to property damage. The legislation allows felling even if a tree is *not* the primary cause — it just needs to be a *contributing factor*.

   If a tree is within its root "influencing distance" (up to 30 metres for an oak tree) of a property, especially one with shallow or no foundations, it can be implicated in causing subsidence. Older buildings or extensions on weaker foundations are especially vulnerable to ground movement, particularly on clay soils. Seasonal cycles — dry summers and wet winters — cause clay to shrink and expand, leading to property movement and cracking. If this pattern appears, insurers often blame vegetation, particularly large trees.

   In the **St. John's Road case**, a large oak tree near a bungalow on clay soil is subject to a felling request. The bungalow lacks substantial foundations and is within the tree's influencing range. The current legal framework doesn't require the applicant to own the tree, and in this instance, the owners were unaware an application had been submitted. Previously, Councils could issue Article 5 Notices to refuse felling and avoid liability. However, that provision was removed, and councils now risk being held financially responsible — often around £100,000 — for remedial works like underpinning if they deny such felling applications. The current system puts councils in a difficult position:
   - The threshold for evidence is low.

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- Anyone can apply for tree felling.
- Councils risk large financial liabilities if they refuse.

Efforts are being made to support the tree owners, but climate change is expected to make these issues more frequent. This is a widespread challenge facing local authorities across the UK. About six months ago, a letter was sent to Angela Rayner to raise concerns about Tree Preservation Orders (TPOs) and subsidence. The letter asked the government to review current legislation and consider changes. However, there has been no response, and the government has refused to engage on the issue. The Council receives a small number of subsidence-related TPO applications each year. While some applications have been refused due to insufficient evidence, insurers have become more adept at providing the necessary documentation to support tree felling requests. This has made it difficult to challenge applications once the required data is submitted.

An example was given involving a tree at 5 Cyprus Road, where alternative solutions such as a root barrier were discussed during a site visit. Despite a seemingly productive meeting, the insurance company rejected the alternative and insisted on felling the tree as the only viable solution to prevent subsidence. The council has tried to resist these pressures but is limited by current legislation. Officers have advised affected homeowners to push back against insurers directly and suggested that public pressure could help, although much of the current campaign is directed at the council, which is unable to withdraw the application without potentially incurring repair costs that would burden taxpayers.

There is frustration among EDDC officers, who find subsidence applications disheartening due to the legal and financial pressures involved. The presence of a tree before or after the house is not considered relevant in liability cases. If a tree causes subsidence, the owner may be held liable, whereas heave (soil expansion) is considered a natural phenomenon and doesn't carry personal liability.

A past case in Honiton was discussed, where a tree owned by East Devon District Council caused minor damage to a garage. Although the damage was mostly cosmetic, the council ultimately had to pay £50,000 after not removing the tree promptly. It’s unclear how many councils have taken such cases to court, though it’s assumed that some have, given the number of similar incidents and financial consequences. The complexity of these cases, combined with legal uncertainties, makes them very challenging for local authorities.

Article 5 and Policy Reform

- Calls for Article 5 Reinstatement: There is industry and council pressure (e.g., letters to Angela Rayner, lobbying from Tree Design Action Group and the Arboricultural Association) to bring back protections like Article 5, which previously helped safeguard trees.
- Lack of Political Will: Despite outreach efforts, MPs have shown little interest in challenging insurance companies.

Case Example – Woodbury Oak Tree

- Success Story: A 400-year-old oak was saved after a local tree warden wrote a compelling letter to

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the insurer, citing contradictions in their environmental policies. The insurer backed down — a rare case.
- Public Opposition: In a more recent case, about 80 public objections were received, but legal obligations tied to insurance evidence still limit what councils can do.

Root Barriers vs. Tree Removal
- Root Barriers: While potentially effective, insurers argue they aren't 100% reliable. Removing the tree is cheaper and more definitive for stopping subsidence.
- Effectiveness Debate: Manufacturers claim root barriers work, but there's a lack of long-term studies. This undermines their use as an alternative in legal or insurance contexts.

Legal and Financial Constraints
- Court Challenge: Questions were raised about whether a root barrier could meet the civil law standard of proof (balance of probabilities), but this hasn't been tested legally.
- Cost vs. Benefit: Taking a case to court or legally defending a single tree could cost tens of thousands. With council budgets tight, the value of protecting one tree is weighed against planting hundreds or thousands of new ones.
- Legal Support: Sarah Dobbs, a specialist in tree law, was recommended to affected homeowners for advice.

Final Thoughts
- Complex Balancing Act: Officers are torn between environmental values and practical realities. Even when a tree has no risk of collapse, removal may still occur due to financial or legal pressures.
- No Easy Answers: The dilemma remains — defend a single mature tree at high cost or reallocate resources to broader tree-planting efforts.

6. Concern regarding the state of the trees near the Exe and the flood defences

TD raised a concern about the current state of the trees near the Exe, asking if there was any update from SP. LB reported that enforcement had previously inspected the trees (earlier this year or late last year) following concerns raised by Exmouth in Bloom. The enforcement officer found only one tree might need replanting, with the others being fine. However, the actual delivered landscaping did not meet the initial artist's impressions, which caused dissatisfaction. It was unclear how much expertise the enforcement officer had regarding trees.

There were concerns about the extension of the tarmac area near the Great Western Railway Club, possibly affecting landscaping and the health of the trees. SP added that a mixture of older and resistant elm trees was planted, but many showed bark damage and might need a professional assessment to determine if they are worth keeping. The previous sycamores had fared better, though not perfectly. The original plan that promised to replace trees "like for like" with mature trees was not followed.

Heath Nickels (HN) mentioned the original plans included cages for the trees, but these were not installed, which could be an issue for large trees in small spaces. OD highlighted that developers

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typically have responsibility for trees for five years after planting and that afterwards, responsibility likely transfers to the local authority (East Devon District Council). There was some uncertainty about when this five-year period starts (from permission date, start of development, or planting date).

AJ stressed the importance of monitoring trees to ensure compliance with specifications and planning conditions, using this as an example of issues officers face. He committed to checking the trees and seeing what could be done.

TD explained that the flood defence area is covered by a tripartite agreement involving the Environment Agency, Town, and District councils, meaning responsibility and decisions require coordination. OD concluded it would be helpful to clarify who currently owns responsibility to assess the tree condition properly. SP emphasized the importance of clear protocols and communication going forward so everyone understands how tree management works in these cases. OD agreed this should be considered when granting future planning permissions to ensure the five-year maintenance period is clear and enforced.

7. **Update on the Tiny Forests** (OD): There are currently two Tiny Forests, one at Carter Avenue and another at Brixington Park, both doing well. The Brixington site has lost a few hawthorns, likely due to poor-quality whips. Enthusiastic groups of tree keepers maintain the forests by clearing around trees, ensuring they're not overwhelmed by grass, watering when needed, and recording wildlife sightings.The tree keepers have access to large water butts near the Football Club that collected around 3,000 litres of water over the winter, which helps with maintenance. Angie, a committee member, coordinates the tree keepers and wildlife recording. There is a need to install a sign at the Brixington site. Although maintenance staff are currently too busy to do this, PF and OD plan to handle the sign installation themselves after confirming there are no underground services that would be affected. They're also planning to add benches for school visits, using logs sourced from the Forestry Commission and some oak from the Sidmouth depot.
   Community use is growing, with visits from groups like Devon Wildlife Trust and preschool children enjoying the forest and its mini beasts.
   Outside the Carter Avenue tiny forest, additional trees have been planted as a control group, and these are also thriving. Looking ahead, Bapton Park is being considered as a potential new site due to existing community interest and its proximity to Withycombe Primary School, allowing easy access for educational visits.

   Regarding future tree planting, HN has engaged with developers like Bloor Homes about including tiny forests as part of landscaping for upcoming housing developments.

   There was a discussion about Devon County Council's Tree Officer situation: Bob Stevenson has retired, and a new apprentice tree officer has taken over and will be invited to the next Tree Forum.

   There was mention of coordination between Devon County Council and Stagecoach regarding trees that could pose hazards to buses, which has led to bus rerouting in some areas due to low-hanging branches.

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8. An opportunity for members to raise concerns / ask questions / present specific issues or topics

PF began by expressing appreciation for the meeting and shared an update about the trees on Royal Avenue. He had previously investigated them and discussed the matter with SP. The land is now under the maintenance of the StreetScene team, prompting a need to assess the condition and future of the trees. Paul proposed managing the damaged trees by reducing them to half-standards (around the seawall level) to allow new leaders to emerge, making them more resilient over time. He noted that simply planting mature trees in harsh coastal environments isn't always effective.

PF clarified that while he's not a tree specialist (that role belongs to Nathan Dunster), his horticultural work often overlaps with tree management. He mentioned that he could share photos and continue the discussion via the council portal.

He emphasized the ecological importance of not mowing directly under trees, which protects tree health by preventing soil compaction and physical damage. Leaving these areas unmowed promotes biodiversity, retains soil moisture, and creates microhabitats beneficial to wildlife. He highlighted that unmowed areas stay greener in summer compared to frequently mowed patches.

PF elaborated on the positive environmental feedback loops: improved soil moisture aids tree health, supports soil microfauna, and reduces subsidence and heave. Reducing maintenance and allowing natural vegetation under trees can also reduce surface runoff, enhance water retention, and minimize flooding risks. These areas stay cooler and support a healthier ecosystem.

He argued that even in areas where trees can't be planted (due to underground utilities, visibility issues, etc.), “wildlife improvement areas” still offer numerous benefits—ecologically and socially. These spaces support biodiversity, improve mental and physical health, and align with goals like biodiversity net gain and nature recovery. Tiny forests and rewilded patches meet governmental targets and help local authorities benchmark progress.

PF concluded by saying that due to the increasing recognition of these benefits, StreetScene now has an official **wildlife improvement policy**. He expressed enthusiasm for continuing the work, encouraged collective efforts, and celebrated the shared mission to make positive environmental changes.

OD thanked Paul for ending on a positive note, highlighting the value of positive feedback loops and the social importance of trees. He thanked everyone for attending and expressed hope that more people, including those from other organizations, would join next time.

SP mentioned that ZC had set up a SharePoint platform to share ideas between meetings and asked if people would use it. TD and PF responded positively. PF offered to upload relevant documents, including the new Wildlife Improvement Policy, and welcomed feedback to help develop and refine it over time.

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There was some uncertainty among members about how to use SharePoint, but they agreed it would be useful, especially for sharing photos and updates. TD suggested having a tutorial session on using SharePoint, which OD supported. They proposed adding a short session to the agenda of the next forum to help everyone get familiar with posting and accessing content.

OD wrapped up by thanking everyone again, hoping for more good news stories in future meetings, and confirmed that LB, the host, would end the call. LB confirmed and signed off, bringing the meeting to a close.

9. Date of next meeting: October 8th, 10-11.30am on Zoom