

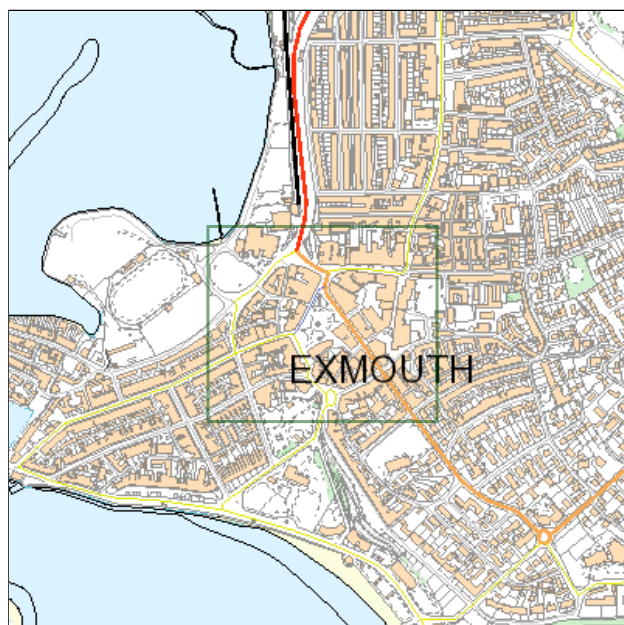
**Ward** Exmouth Town

**Reference** 23/0405/FUL

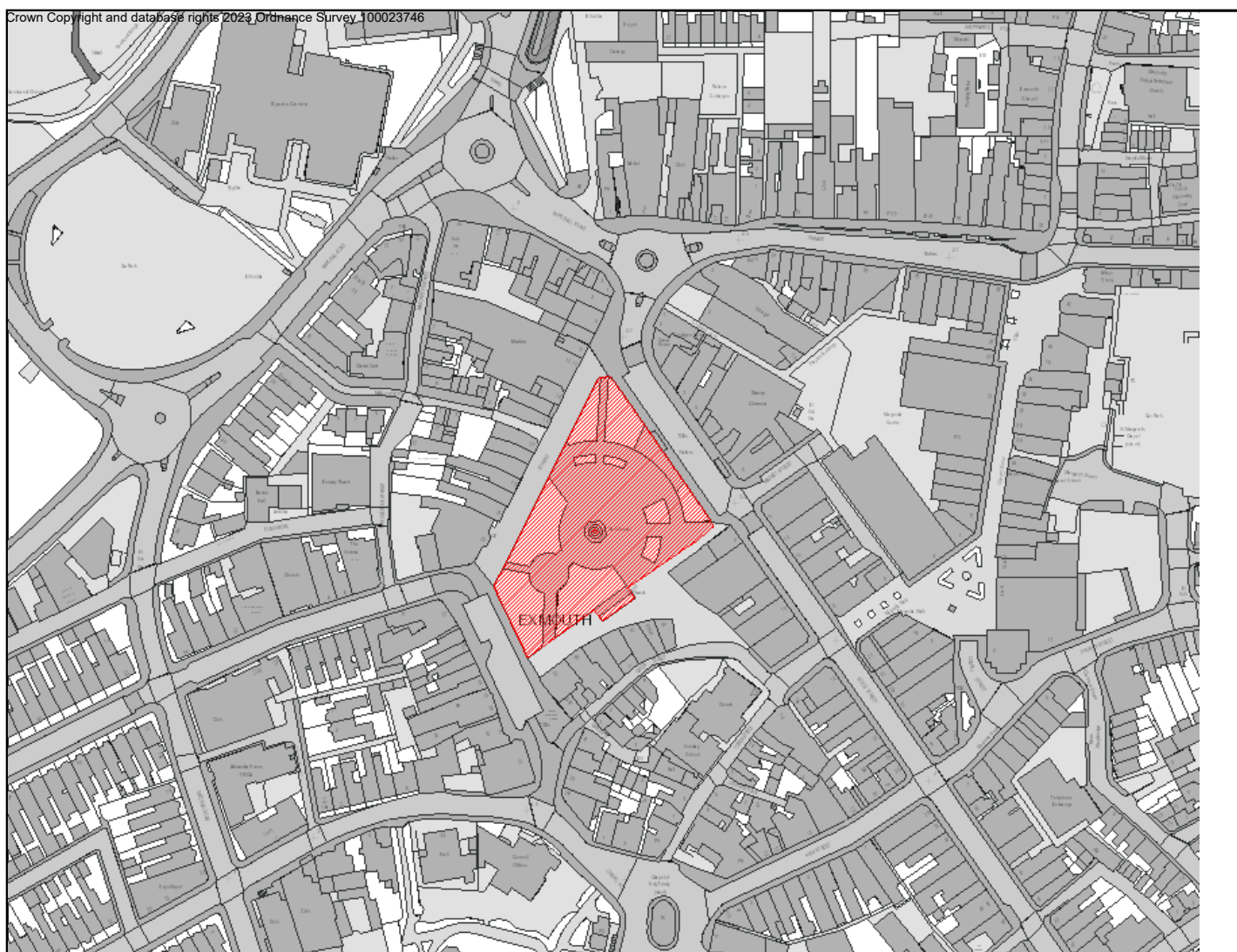
**Applicant** Mr Gerard Mills (EDDC)

**Location** Strand Gardens The Strand Exmouth

**Proposal** Change of use of land for the siting of tables and chairs in association with adjoining businesses between Easter and the end of September until 2025



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 13.06.2023</b>
<b>Exmouth Town (Exmouth)</b>	<b>23/0405/FUL</b>	<b>Target Date: 20.04.2023</b>
<b>Applicant:</b>	<b>Mr Gerard Mills (EDDC)</b>	
<b>Location:</b>	<b>Strand Gardens, The Strand, Exmouth</b>	
<b>Proposal:</b>	<b>Change of use of land for the siting of tables and chairs in association with adjoining businesses between Easter and the end of September until 2025</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members because it relates to EDDC land and there have noise and nuisance concerns raised.**

**This application seeks to extend the time proposed for the use of the 14 grassed areas within the Strand for the siting of tables and chairs to be used to provide businesses the opportunity to extend their business operation following the pandemic. This application seeks to extend the permission to allow the siting of tables and chairs on a seasonal basis for a further 2 years, between Easter until the end of September 2025.**

**The principle of temporarily changing the use of the land within the Strand is accepted through policy E9 (Town Centre Vitality and Shopping Areas) of the Local Plan which seeks to encourage uses which contribute to the diversity and vitality of town centres.**

**The Strand is already a commercial area where a number of restaurants, cafes and bars have outside seating areas. It has a daytime and night time use and whilst additional seating for existing businesses would intensify the use of the outside space, given the town centre environment and mixture of commercial uses in the area, it isn't considered that the proposed use would give rise to any significant amenity concerns in terms of noise and pollution.**

**On the basis that the Council would control operating hours through licencing and through the sitting out consent, it is considered that this would be sufficient to ensure that businesses do not operate outside at unsociable times which could give rise to amenity impact to residents occupying properties in the vicinity**

## **CONSULTATIONS**

### **Local Consultations**

#### **Ward Member**

26/5/2023 – Cllr Davey

I have no issue with the use of this area. It has contributed to a lively buzz in the Strand, and I recently heard one of the publicans claim, with some justification, that it has led to a reduction in anti-social behaviour since there are more responsible people in the area, and less space for anti-social drinking, etc.

Given the likely conditions, and the Council's ability to control times, etc, I do not foresee the kind of problems raised by the objectors.

#### **Parish/Town Council**

Meeting 13.03.23

No objection

#### **Other Representations**

Two representations have been received raising objections on the following basis

- Noise from amplified music
- Increased anti-social behaviour
- Additional litter
- Noise from construction work

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
22/0658/FUL	Placement of tables and chairs on The Strand, Exmouth until 30 September 2023	Approve	24.05.202
20/2383/FUL	Change of use of areas of land in Strand Gardens for the siting of tables and chairs until 30 September 2021	Approve	06.01.2021

## **POLICIES**

### **Adopted East Devon Local Plan 2013-2031 Policies**

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

E9 (Town Centre Vitality and Shopping Areas)

EN10 (Conservation Areas)  
EN14 (Control of Pollution)  
EN21 (River and Coastal Flooding)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2021)  
National Planning Practice Guidance

#### Exmouth Neighbourhood Plan

EB1: Conserve Heritage Assets  
EB2: Design  
EE1: Tourism

#### Site Location and Description

The site refers to a number of areas of grassed land at The Strand in Exmouth in an area of pedestrianised public space within the town of Exmouth under the ownership of East Devon District Council. The area is characterised by a mixture of commercial and business premises with residential above. It has a thriving cafe and bar culture where some of the premises have outdoor seating areas. The site is located within the built-up area boundary of Exmouth in a designated Town Centre Shopping Area. It also falls within an area which is designated as a Conservation Area. The site is also designated as flood zones 2 and 3.

#### Proposed Development:

This application seeks to extend the time proposed for the use of the 14 grassed areas within the Strand for the siting of tables and chairs to be used to provide businesses the opportunity to extend their business operation following the pandemic. Planning permission was granted in January 2021 for the use of the siting out area until September 2021, renewed until September 2023. This application seeks to extend the permission to allow the siting of tables and chairs on a seasonal basis for a further 2 years, between Easter until the end of September 2025.

#### Issues and Assessment

The main issues to consider in determining this application are in terms of the principle of development, the impact on the character and appearance of the area and the wider Conservation Area, residential amenity and flood risk.

#### Principle

The principle of temporarily changing the use of the land within the Strand is accepted through policy E9 (Town Centre Vitality and Shopping Areas) of the Local Plan which seeks to encourage uses which contribute to the diversity and vitality of town centres. Under the current economic situation, initially brought on by COVID-19, the provision of external seating areas are considered to make an important contribution to the local economy and businesses. Whilst social distancing measures have been removed,

outdoor seating remains very popular and allows customers the opportunity to maintain their personal distancing whilst still supporting local businesses.

This is part of an EDDC strategy that has been set up to provide businesses with land owner permission to use specified East Devon District Council land on the Strand for the siting of table and chairs in order to extend their business operations and is therefore supported in principle.

The Exmouth Neighbourhood Plan has been 'made' and whilst there are no policies within it which relate specifically to this proposal, there is a clear emphasis within the plan on supporting the economy, existing businesses and the vitality of the town centre which this proposal would contribute towards.

### Character and Appearance

Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan requires proposals to

1. Respect the key characteristics and special qualities of the area in which the development is proposed.
2. Ensure that the scale, massing, density, height, fenestration and materials of buildings relate well to their context

Policy EN10 (Conservation Areas) of the Local Plan states that Proposals for development, including alterations, extensions and changes of use, or the display of advertisements within a Conservation Area, or outside the area, but which would affect its setting or views in or out of the area, will only be permitted where it would preserve or enhance the appearance and character of the area.

Given the commercial context of the areas on which the change of use is being applied for and the fact that a number of businesses within the strand already have outside seating areas, it isn't considered that the change of use would result in any harm to the character and appearance of the area or the wider Conservation Area. No comments have been received from the Council's Conservation Officer, although no objections were raised to previous applications.

The use of this area has proven to be very popular throughout the summer. Any limited harm to the character and appearance of the area and the Conservation Area are considered to be outweighed by the economic benefits that would be derived from supporting local businesses.

### Residential Amenity

Policy D1 of the East Devon Local Plan requires that proposals do not adversely affect the amenities of existing occupiers. Policy EN14 (Control of Pollution) states that planning permission will not be granted for development that would result in unacceptable levels to residents or the wider environment of noise, air pollution or light pollution.

As already stated, the Strand is already a commercial area where a number of restaurants, cafes and bars have outside seating areas. It has a daytime and night

time use and whilst additional seating for existing businesses would intensify the use of the outside space, given the town centre environment and mixture of commercial uses in the area, it isn't considered that the proposed use would give rise to any significant amenity concerns in terms of noise and pollution. The Council's Environmental Health Officer has not commented on this application but raised no objections to previous applications and it is further understood that there have been no complaints made to the department in this respect.

On the basis that the Council would control operating hours through licencing and through the sitting out consent, it is considered that this would be sufficient to ensure that businesses do not operate outside at unsociable times which could give rise to amenity impact to residents who occupy units above the ground floor commercial units.

### Flood Risk

Whilst the site lies within areas designated as flood zone 2 and 3, the temporary and minor nature of the use is such that it isn't considered that there would be any increase in vulnerability to flood risk and that use of the land for the siting of tables and chairs would not increase flood risk elsewhere. The proposal is considered to be acceptable use for the flood zone areas.

### **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The use of the land for the siting of tables and chairs is permitted annually from Easter 2024 until 30 September 2024 and then from Easter 2025 until September 2025, and the use shall cease, furniture removed and the land restored to its former condition on or before 30th September in any year.  
(Reason - The permission is only justified for a limited period due to the temporary nature and appearance of the proposal, the permanent retention of which could adversely impact on the character and appearance of the area and the wider Conservation Area contrary to Policies D1 (Design and Local Distinctiveness) and EN10 (Conservation Areas) of the adopted East Devon Local Plan 2013 - 2031.)
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)

### **Statement on Human Rights and Equalities Issues**

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, 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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities 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.

## **NOTE FOR APPLICANT**

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email [cil@eastdevon.gov.uk](mailto:cil@eastdevon.gov.uk).

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

### Plans relating to this application:

Block Plan	23.02.23
Location Plan	23.02.23

### List of Background Papers

Application file, consultations and policy documents referred to in the report.