

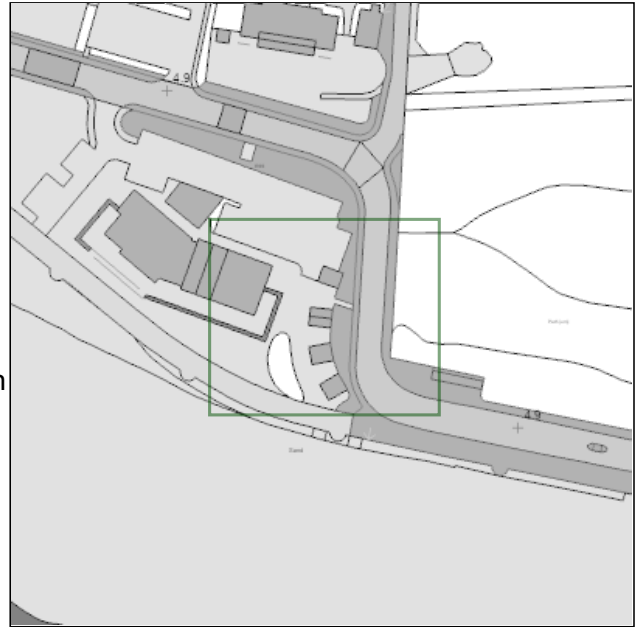
Ward Exmouth Littleham

Reference 23/1752/FUL

Applicant Mr & Miss Oliver & Meg Bridge & Barnett

Location Units 6 And 7 Sideshore Queens Drive Exmouth
Devon EX8 2GD

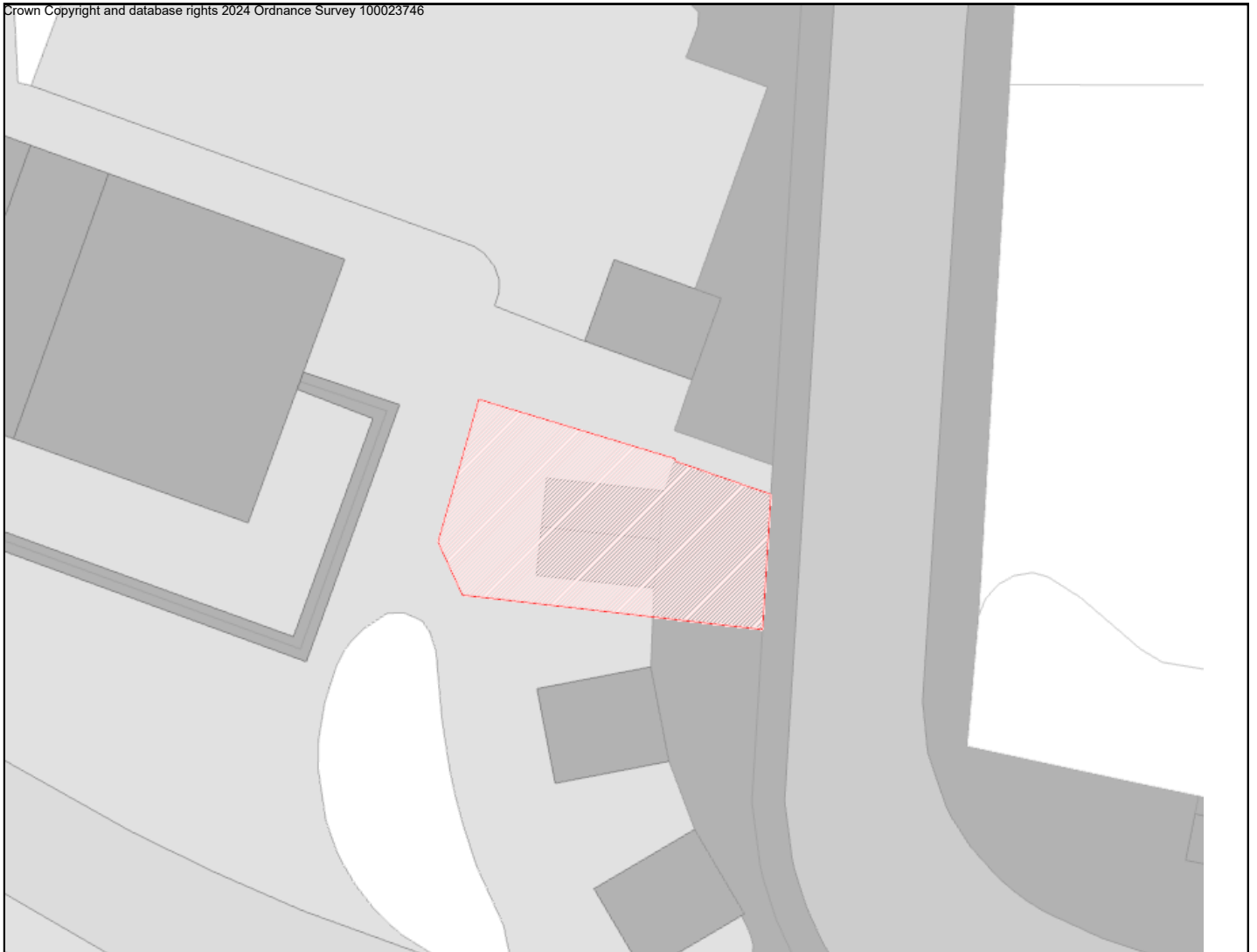
Proposal Retention of external decking area to provide
additional seating



RECOMMENDATION: Refusal

FURTHER RECOMMENDATION: To authorise action to remove the decking and all associated works which have been undertaken, and to reinstate the landscaping as previously approved.

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		Committee Date: 27.02.2024
Exmouth Littleham (Exmouth)	23/1752/FUL	Target Date: 09.10.2023
Applicant:	Mr & Miss Oliver & Meg Bridge & Barnett	
Location:	Units 6 And 7 Sideshore, Queens Drive, Exmouth	
Proposal:	Retention of external decking area to provide additional seating	

RECOMMENDATION: Refusal

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EXECUTIVE SUMMARY

This application is before Members because EDDC has a financial interest in the land and a contrary view has been expressed to the Officer recommendation.

The application seeks retrospective planning permission for the retention of an area of raised decking and further works, including the installation of a post and rail handrail with 'sail' material balustrade to create a further seating area for customers of the existing cafe/takeaway.

The site is prominently located adjacent to the rear of the wooden huts installed as part of the Sideshore development. It lies adjacent to the re-aligned Queens Drive and opposite The Maer County Wildlife site. The site was previously landscaped as part of the wider landscaping associated with the eastern boundary of the site.

It is considered that the removal of the landscaping and installation of the decking and associated development to create a new seating area is, and would be, visually intrusive and prominent within the street scene, introducing a discordant feature within what is currently a transition area between the natural and understated development to the east of the site, and the Sideshore development and more intensively built-up seafront area to the west.

The huts were designed to accommodate modest businesses and takeaway facilities that would offer a variety of individual uses, and whilst it is noted that units 6 and 7 are occupied by a single user, any further expansion of this business through the installation and use of the existing/proposed decking would represent

a disproportionate intensification of the use, and the introduction of built form in an otherwise undeveloped area of the seafront.

Given the level of harm incurred by the removal of the landscaping and installation of the decking it is considered that appropriate action be taken to ensure the removal of the decking and associated development that has taken place, and to reinstate the landscaping in accordance with that previously approved.

CONSULTATIONS

Local Consultations

Exmouth Littleham - Cllr Nick Hookway

I am objecting to this application for the following reasons.

The scale of the decking is out of character with the surrounding area. I do not agree with the location of the decking over what was an existing boundary formed by plants suitable for a marine environment.

The location of the decking is out of scale and at odds with the design philosophy of the SideShore development and appears to be incongruous with the other small hut like buildings that form the eastern boundary of this development. In short, the decking is too large for its present location. The loss of the plant boundary is also to be regretted as it did form a visual amenity that was much needed.

Several objectors have raised the issue of its location so close to the pavement, as well as being on a ninety degree bend on the road. I support these objections I think that it is unsafe location for an area that will be serving alcohol, it will be too easy for someone to stagger onto the road. Even if a fence is put there, pedestrians will be at risk of being pushed or forced out into the road.

I should also state that I believe that putting a fence on the current decking would be even more incongruous, in design terms.

There also appears to be a change of use requested by this application from a takeaway cafe to one offering a table service. This seems to be unnecessary as there is plenty of table service available outside Sideshore on the western edge of the site. As far as I am aware Sideshore is primarily a water sports centre as per the planning application and secondly it is an area for food and beverages so the idea of a takeaway cafe expanding into table service appears to be rather illogical in my view.

Parish/Town Council

Meeting 29.08.23

Objection; members were concerned about public safety. The proposed development was close to the highway on a bend and were concerned that this would be a potential distraction to drivers. Members questioned if there was adequate toilet facilities to accommodate an additional seating area and felt Environmental Health should be consulted. Members also questioned if the current use category allowed sit down waiter service.

Technical Consultations

None received

Other Representations

13 representations have been received, 12 raising objections, and 1 in support, summarised below:

Objections:

- Detrimental to highway safety
- Removal of planting and features
- Visually intrusive
- Out of keeping with original design
- Detrimental to streetscene
- Would encourage other similar proposals
- There is an existing external seating area within the main plaza
- No disabled/wheelchair access
- Too close to main seafront road
- No provision for storage of tables and seating
- Contrary to approved development
- Building is a takeaway not café
- Proposed decking out of character and overbearing
- Additional noise and disturbance
- Decking is too large

Support:

- Will support a local business
- Community should be supporting growth
- The site has already been developed
- Onus is on drivers to drive safely

RELEVANT PLANNING HISTORY

Reference	Description	Decision	Date
20/0324/VAR	Variation of condition 2 (approved plans), planning permission 18/0376/MFUL (watersports centre, cafe, restaurant and retail) to allow addition of glass canopy with retractable walls and roof over first floor terrace, fenestration changes, changes to parking arrangements and the addition of 2 no. electric car charging points.	Approved	24.07.2020

19/2136/VAR	Variation of condition 2 (approved plans) of planning permission 18/0376/MFUL (Construction of new water sports centre including various facilities for water sports users, a cafe, restaurant and retail plus car parking and open space together with associated infrastructure including new stepped and ramped access to the beach and landscaping) to allow relocation, reorientation and redesign of plant room (including size increase and addition of pitched roof).	Approved	10.12.2019
18/0376/MFUL	Construction of new water sports centre including various facilities for water sports users, a cafe, restaurant and retail plus car parking and open space together with associated infrastructure including new stepped and ramped access to the beach and landscaping	Approved	07.06.2018

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5 (Environment)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 22 (Development at Exmouth)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 49 (The Historic Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)

EN5 (Wildlife Habitats and Features)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

EN16 (Contaminated Land)
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
EN22 (Surface Run-Off Implications of New Development)

E12 (Neighbourhood Centres and Shops)
E20 (Provision of Visitor Attractions)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)
National Planning Practice Guidance

Exmouth Neighbourhood Plan

EE1 - Tourism

Site Location and Description

The application site is located on Exmouth Sea Front and comprises a piece of land on the eastern of the Sideshore development on Queens Drive. It is located to the rear of the small retail units, designed to have the appearance of independent beach huts, and adjacent to the re-aligned Queens Drive and formed part of the original landscaping on this side of the development.

To the north and west is the Sideshore development, with the promenade and beach to the south and The Maer, which is a County Wildlife Site (CWS) and Local Nature Reserve (LNR). The beach forms part of the Exe Estuary Site of Special Scientific Interest (SSSI). The Exe Estuary is also a Ramsar Site and a Special Protection Area.

The site is within the built-up area of Exmouth but has no residential properties adjoining it.

Proposed Development

Retrospective planning permission is sought for the removal of the landscaping to the rear of Sideshore Units 6 & 7, and its replacement with a raised decking area designed to provide an additional outside seating area for patrons of the takeaway business. The decking extends over the previously planted area and a wide strip of stone chippings, nearly up to the back edge of the boundary of the pavement which is marked by a line of wooden sleepers.

The raised wooden decking extends to an area of around 40 square and is proposed to be enclosed by post and rail fencing with a 'sail' material below, with several new planters proposed and additional planting to the northern and southern boundaries.

ANALYSIS

The main issues to be considered in the determination of this application relate to the principle of the development, visual impact on the character and appearance of the area, flooding and drainage, economic impact, and highway safety.

Principle of Development

Unit 6 & 7 form part of the wider Sideshore development, planned as part of the Exmouth Seafront Masterplan, which includes a range of leisure uses, with the takeaway and other retail uses operating from the huts. There is open communal/amenity area located between the huts and the main water sports building which houses a number of tables and chairs and a grassed crescent area, used for the laydown of water sports equipment.

Exmouth Seafront is recognised as a key asset for the town, serving as a regional centre for water sports and recreational activity. The Sideshore development is fundamental to the success of this area, being developed as part of the comprehensive Exmouth Seafront Masterplan. The landscape setting of the proposal is an essential part of the scheme and makes a positive and valuable contribution to this part of the seafront. It is a sensitive site that was developed after considerable deliberation, and as a comprehensive proposal, with the boundary landscaping and the development of the huts providing a transition between the new water sports and café buildings and the local nature reserve of the Maer.

The removal of part of the established landscaping is considered to be in conflict with the provisions of the Masterplan, and contrary with local and neighbourhood policies seeking to protect this area, in particular D2 (Landscape Requirements) and EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites) of the Local Plan and EE6 - Queens Drive Development of the Exmouth Neighbourhood Plan.

Policy E2 (Employment Generating Development in Built-up Areas) supports employment generating development in built-up areas, subject to a number of criteria, are met in full. Included within these is that new development would not harm any site of nature conservation value or blend into the landscape and/or townscape in terms of design, siting and materials. Whilst it is recognised that additional seating has the potential to foster some additional employment, the location of the site and the proposed design, siting and materials would be discordant and fail to blend into the landscape/townscape.

Visual Amenity and Impact on the Character and Appearance of the Area

The original detailed landscaping of the development, particularly to the boundaries of the parking and re-aligned road, wrapping around the development, was designed specifically to reflect the coastal location and to provide a visual and species link with The Maer to the east. It is prominent in the approach to the town from the east and makes a significant contribution to the character and setting of the water sports development.

The siting, design and position of the huts on the re-aligned Queens Drive are intended to be of modest scale, set back from the road and staggered to facilitate views through the development and to allow the provision of appropriate levels of planting and hard landscaping to soften their appearance. The landscaping of this area is fundamental to the success of this part of the development.

The removal of a significant area of established landscaping, and replacement with a raised deck, seating and enclosure is entirely at odds with that approved. It introduces an inappropriate urbanising element to this part of the seafront, considered to be visually intrusive and out of character with the transition between the understated promenade and nature reserve to the east of the site and the more developed area to the west approaching the town centre.

It is considered that the prominence of the decking structure and enclosure, extending virtually to the rear of the pavement will be visually intrusive within the streetscene, worsened by the associated tables, seating, garden umbrellas and other paraphernalia associated with outdoor seating areas. It is not considered that the introduction of planters would mitigate the harm which the removal of the landscaping and introduction of built form has incurred.

The development fails to respect the key characteristics and special qualities of the area as required by Policy D1 (Design and Local Distinctiveness) and fails to make a positive contribution to the street scene and integration of the development with its surroundings and settings as required by Policy D2 (Landscape Requirements) of the Local Plan.

Flooding and Drainage

The application site lies within flood zones 2 and 3 as defined by the Environment Agency's mapping system and is therefore at high risk of flooding from the sea, and some risk of fluvial flooding. A flood risk assessment has been submitted which states that the nature of the development as being at low risk and given the nature of the construction of the decking which would allow surface water to drain onto the ground below, it is not considered that any increased risk of flooding would occur as a result of the development.

No alterations are sought to the existing drainage on the site.

Economic Impact

The design and layout of the huts is such that they are intended to be modest units, which would attract small local businesses. One of the reasons which they were originally considered to be acceptable was that they would not compete or present any substantive threat to the viability of town centre operators, and it is considered that the further expansion of the commercial area by the introduction of external seating within the landscaped area would be contrary to the principle of the original permission.

Sideshore is a successful working water sports centre with the ancillary huts approved to provide support to this business. The huts were approved as small retail units and modest takeaway, with the main café facility being provided within the permanent building. The introduction of a further seating area to the rear of the unit and removed from the shared space to the front of the huts would extend the commercial activity associated with the Sideshore development into the landscaped transition area between Maer Nature reserve and the watersports complex.

Whilst the desire to expand a successful business is appreciated, it is considered that this needs to be balanced against any visual or other physical impact on the surrounding area and should not be to the detriment of the wider public benefit. There would be no benefit to the wider public arising from the development of the decking area, with any perceived benefits only for the patrons of the café.

The harm to the streetscene and visual impact arising from the removal of landscaping and installation of decking enclosure and associated paraphernalia is considered to outweigh any economic benefits such that the proposal is unacceptable.

Highway Safety

The alterations and re-alignment of Queens Drive was undertaken to reduce speed and improve highway safety along the seafront. Whilst the proposed development is not considered to be likely to give rise to any tangible highway safety fears, and will not result in any additional traffic, the physical presence of the structures and movements associated with the use of the proposed seating area will represent a distraction from the calm approach to the approved development.

CONCLUSION

The desire to expand a successful local business is fully appreciated, however this should not be at the expense of the wider public benefit or detriment to the character and appearance of the area.

The removal of the landscaping and installation and use of the proposed decking area introduces a discordant and visually intrusive feature in this location which is harmful to the character and appearance the area, and unsupported by any policy in the Local or Exmouth Neighbourhood Plan.

The huts were designed to accommodate modest businesses and takeaway facilities that would offer a variety of individual uses, and whilst it is noted that units 6 and 7 are occupied by a single user, any further expansion of this business through the installation and use of the existing/proposed decking would represent a disproportionate intensification of the use, detracting from the occupation of the units as modest ancillary uses, and the introduction of built form in an otherwise undeveloped area of the seafront.

Part of the proposed development has been undertaken, and the landscaping removed, and therefore, given the level of harm which has arisen from this, it is appropriate to seek to redress this harm by the removal of all unauthorised structures and reinstatement of the planting and landscaping which has been removed.

RECOMMENDATIONS

REFUSE for the following reason:

The proposed development, by virtue of its prominent siting, inappropriate design and incongruous materials would be visually intrusive and detract from the character and appearance of the area. It would introduce built development within an area of

landscaping and would be detrimental to the openness and landscape qualities of this part of Exmouth seafront. As such it would be contrary to Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements) and E2 (Employment Generating Development in Built-up Areas) of the East Devon Local Plan 2013-2031; Policy EE6 - Queens Drive Development of the Exmouth Neighbourhood Plan, and the guidance contained within the National Planning Policy Framework.

FURTHER RECOMMENDATION

Authorisation is sought to take action to secure the removal of the decking and all associated development on the site, the removal of all materials arising from this, and reinstatement of the landscaping as previously implemented in accordance with the Landscape and Ecological Management Plan, prepared by EAD Ecology, dated 9 November 2020, and discharged by Discharge of Conditions Notice dated 26 January 2021 (Application Reference: 18/0376/MFUL).

It is necessary to take further action and it is expedient to do so because there has been a serious breach of planning policy, those policies being D1 (Design and Local Distinctiveness), D2 (Landscape Requirements), and E2 (Employment Generating Development in Built-up Areas) of the East Devon Local Plan 2013-2031, EE6 - Queens Drive Development of the Exmouth Neighbourhood Plan and the guidance contained within the National Planning Policy Framework

It is recommended that a compliance period of three months from the effective date of the notice is given. This period of time should be sufficient for the applicant to comply with the requirements.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

	Location Plan		10.08.23
D070-23-102	Proposed Plans	Combined	10.08.23

List of Background Papers

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