

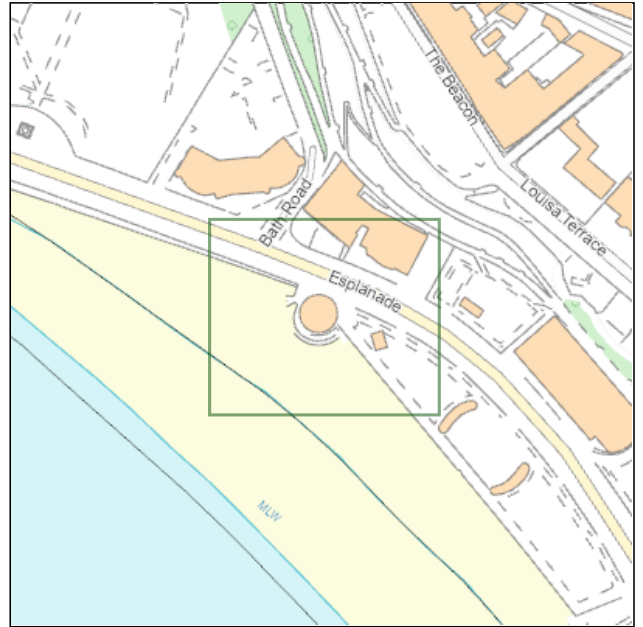
Ward Exmouth Town

Reference 24/0313/FUL

Applicant Mr David Freer

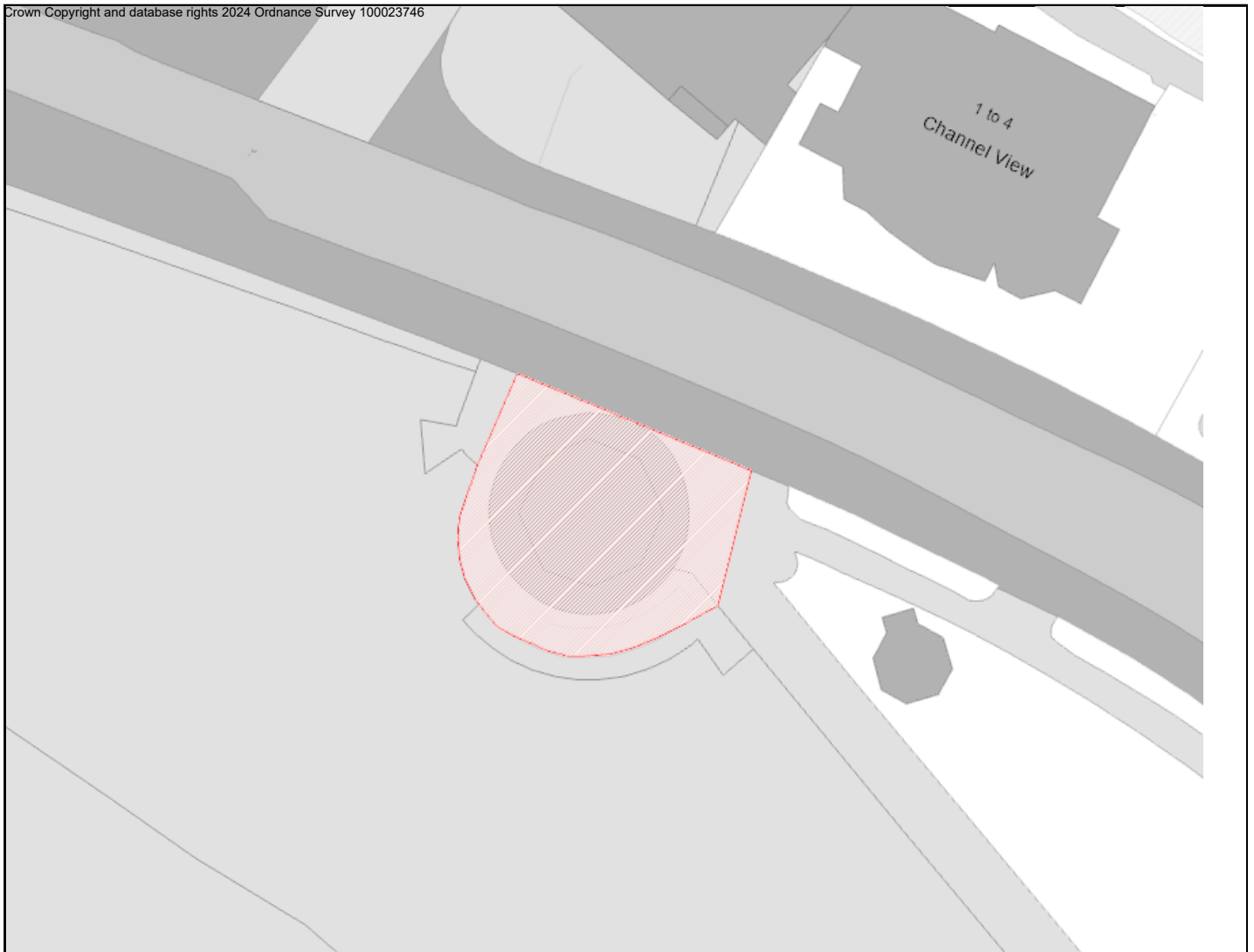
Location The Octagon Esplanade Exmouth Devon EX8 2AZ

Proposal Proposed change of use from shop (Class E, a) to Cafe (Class E, b), two side extensions and internal alterations.



RECOMMENDATION: Approval with conditions

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		Committee Date: 21.05.2024
Exmouth Town	24/0313/FUL	Target Date: 09.04.2024
Applicant:	Mr David Freer	
Location:	The Octagon, Esplanade, Exmouth	
Proposal:	Proposed change of use from shop (Class E, a) to Cafe (Class E, b), two side extensions and internal alterations.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members as the proposal relates to a property that is owned by East Devon District Council and objections have been received.

The site is located on the seafront, off the Esplanade in Exmouth. The existing building is an ice cream shop with a covered terrace around the full outside area. The surrounding land is largely flat, and Exmouth beach is on the outside of the built surrounds of the building. 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 of this development lies just outside the designations.

The site is located within a flood zones 2 and 3, as designated by the Environment Agency.

The site is within the built-up area of Exmouth, but has no residential properties adjoining it. There are, however, other beach/tourism related buildings located reasonably close to the site, on the landward side of the road.

The proposal is for a change of use to a café with indoor seating, two small extensions and glazing alterations.

Given the location of the site, the change of use is considered acceptable, with minimal visual impact and conditions to ensure protection of the adjacent marine environment.

CONSULTATIONS

Local consultations

Parish/Town Council

29/02/24 - Meeting 26.02.24

No objection in principle, however, members were concerned about Exmouth's heritage, and questioned the need for the proposed extensions for the change of use. Concern was also raised regarding the potential economic impact on neighbouring business and if the proposal

would present a substantive threat to other operators in the area (Policy E12.5 East Devon Local Plan).

Technical Consultations

Environment Agency

23/04/24 - Environment Agency position

Following review of the revised Flood Risk Assessment (FRA) ref. J-3394 -Rev.01 by EDS dated 11/04/2024, we have no objections to the proposal as submitted

Environmental Health

28/02/24 - Prior to the first use of the premises, details of any proposed extract ventilation equipment designed to deal with cooking odours shall be submitted to the LPA and agreed in writing by them. The premises shall thereafter be operated at all times in accordance with the agreed arrangements.

Reason: To protect the amenities of local residents from odour.

Natural England

07/03/24 - Thank you for your consultation on the above dated 19 February 2024 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on designated sites. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- A Habitats Regulations Assessment

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites and advice on other issues is set out below.

The proposed works are located directly adjacent to the Exe Estuary Site of Special Scientific Interest (SSSI), Exe Estuary Special Protection Area (SPA), and Exe Estuary Ramsar. Further information on these sites can be found via Natural England's Designated Sites System (DSS)¹.

The Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)

Despite the proximity of the application to the European Site the consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been

considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA).

It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on the European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England must be consulted on any appropriate assessment your authority may decide to make.

When completing your HRA, the assessment conclusions should be made with consideration of the sites Conservation Objectives and should include within the assessment, inter alia, consideration of activities that may disturb birds and any potential pollution pathways to the designated sites.

Marine Management Organisation (MMO) licence

Natural England would advise that if any proposed works are located within the intertidal (between Mean High Water and Mean Low Water) zone we recommend the applicants contact the Marine Management Organisation to ascertain whether a marine licence is required for this development.

Please consult us at consultations@naturalengland.org.uk. once the above information is available.

Ecology

The site is located directly adjacent to the Exe Estuary Site of Special Scientific Interest (SSSI), Exe Estuary Special Protection Area (SPA), and Exe Estuary Ramsar. Natural England has commented that the application requires a Habitats Regulations Assessment (HRA). The nearest all year wildlife refuge for qualifying species of the designed sites is located c. 900 w at Dawlish Warren and Exmouth winter refuge is located approximately 730 m north of the site.

There is a potential for the development to result in a potential increase in a recreational disturbance of the qualifying features of the designed sites or direct impact of the beach, in extreme circumstances, e.g., deposition of building materials.

Given the small scale of the proposed development, it is considered the development is unlikely to result in any direct or indirect impacts on the qualifying features of the nearby designated sites to result in a Likely Significant Effect (LSE). This is in consideration of the sites conservation objectives, the nature of the works, and proposed use of the building. Therefore, it is considered that the proposal could be screened out of an appropriate assessment under the HRA process.

Other Representations

Three objections received, the planning matters raised in the objections are:

- Loss of amenity for a sheltered seating area.
- Detrimental impact on access to the beach.
- Increase in traffic delivering to the site.
- Additional sewerage capacity needed.
- Sea level surges in storm conditions.
- Not in keeping with the Heritage streetscene

PLANNING HISTORY

02/P0183 - New Sea Wall Access Steps And Ramp To Beach - Approved

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

E9 (Town Centre Vitality and Shopping Areas)

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-Up Area Boundaries)

Strategy 31 (Future Job and Employment Land Provision)

Strategy 33 (Promotion of Tourism in East Devon)

Strategy 48 (Local Distinctiveness in the Built Environment)

EN5 (Wildlife Habitats and Features)

EN18 (Maintenance of Water Quality and Quantity)

EN21 (River and Coastal Flooding)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Neighbourhood Plan

Exmouth Neighbourhood Plan

Site Location and Description

The site is located on the seafront, off the Esplanade. The existing building is an ice cream shop with a covered terrace around the full outside area. The surrounding land is largely flat, and Exmouth beach is on the outside of the built surrounds of the building. 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 of this development lies just outside the designations.

The site is located within a flood zones 2 and 3, as designated by the Environment Agency.

The site is within the built-up area of Exmouth, but has no residential properties adjoining it. There are, however, other beach/tourism related buildings located reasonably close to the site, on the landward side of the road.

Proposed Development

This application seeks full planning permission for the change of use from shop (Class E, a) to Cafe (Class E, b), two side extensions and internal alterations to allow provision of catering preparation space and a covered external seating area on the terrace on the western side of the building. Some fenestration changes to the existing building area are included.

Assessment

The main considerations in the determination of this application relate to:

- Principle;
- Impact on surroundings;
- Flood Risk;
- Highway safety and parking;
- Ecology; and
- Representations received.

Principle

The site lies in the built-up area boundary of Exmouth close to a range of essential services and infrastructure as well as being served by good transport links including, rail, bus, bicycle and on foot. The change of use of the premises from a shop to a café would not require planning permission as it would remain within use class E, however the two small extensions on either side elevation require permission.

Impact on surroundings

The building form is octagonal. There would be a small store proposed on the east roadside angle of the café, and a toilet extension on the west roadside angle. It is proposed to construct an enclosed store beneath the canopy.

When viewed from the north (looking towards the sea) the walls around the terrace would fit within the octagonal shape. There would be vertical timber cladding on the external walls of the building.

The foremost change in view of the building would be on approach from the west when walking along or driving along the esplanade. As proposed the restaurant would have full length glazing and a small area of timber cladding around the store extension. However, this is not considered to be detrimental to the character and appearance of the area and would assimilate well with the design of the overall building.

Accordingly, the lightweight structure would allow views through the external verandah and is of a scale that would not take away from the original design of the building such that it is considered acceptable in relation to Policy D1 of the EDDC Local Plan.

The fenestration changes are considered minor in nature and would add to the design of the building such that they are considered acceptable in accordance with Policy D1 of the EDDC Local Plan.

Flood Risk

The 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, however it is considered that the layout would not increase the risk of flooding given that the proposed extensions are minor and would be located within current hardstanding area. The use would remain categorised as a less vulnerable use.

The EA and the County Council Flood Risk Department have assessed the application and provided comments that they have no objections.

Given the comments above, it is considered that the proposal could proceed without giving rise to flooding or drainage concerns, in accordance with the relevant planning policy.

Accordingly, the proposed development is considered acceptable in accordance with Policy EN21 (River and Coastal Flooding) of the East Devon Local Plan and advice contained in the NPPF.

Impact on highway safety/parking layout

This application proposes no alteration to parking or highways. The seafront is served by a considerable amount of on street car parking and dedicated car parks such that there would be sufficient parking available to persons attracted to the site. The proposal is therefore considered to be acceptable in relation to Policy TC7 of the EDDC Local Plan.

Ecology

The proposal relates to a minor development located within close proximity to the Exe Estuary Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Wetland of International Importance under the RAMSAR Convention (Ramsar Site).

Natural England has drawn attention to the CWS adjoining part of the site, and highlighted the potential for any changes to drainage to be detrimental to that designation. Such matters can be considered during the design of any SUDS/drainage alterations needed, and these matters can be conditioned. However, it is also noteworthy that the nature of the site and the proposed development is such that only limited drainage works would be required.

The proposed development is unlikely to increase the recreational pressures on the Exe Estuary as it is a small café that would serve people already in the area, furthermore there is already a free flowing access to the beach adjacent to the application site.

In having regard for the likely impacts of the proposal on these environmentally sensitive, the proposed development is unlikely to have any significant effects

Representations

The main issue raised within the representation is the competition with surrounding venues. Competition between establishments is not a planning matter for consideration with this application. Policy E12 – Neighbourhood Centres and shops is satisfied given that the proposed unit is a small food retail unit at present and would not be detrimental to the amenity of neighbouring residents, can be served by a variety of means of transport and is not considered to impact upon the viability or vitality of the nearby centre of Exmouth.

Traffic issues have been raised with regards to deliveries to the site at present. The parking of vehicles in an unsuitable way is regulated by other bodies, and the change of use of this unit to a café would not have any impact upon this.

Sewerage is currently created at the site with a staff toilet and the addition of a further single toilet would not add significantly to the output from this unit.

The FRA submitted with the application confirms that there would be no additional impact from the alterations, and the site is susceptible to storm events at present, with an inherent risk of damage to the fabric of the building. The change of use would not exacerbate this.

Access to the beach will remain at it is at present.

Conclusion.

The proposed change of use and extensions are considered acceptable, not diluting the design or impacting negatively on the character and appearance of the surroundings and providing facilities for a more effective use of the building.

In considering the above, it is clear to Officers that the benefits proposed significantly outweigh any harm created by the proposal.

In light of this, the lack of wider amenity impacts, lack of highway safety concerns, lack of harmful visual impacts, and lack of other harm, it is considered that the proposal complies with policy, and it is recommended that this application is approved.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

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.)

3. Full details of extract ventilation equipment designed to deal with cooking odours, including details of the manufacturer's recommendations for cleaning and maintenance, shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Prior to the opening of the take-away section of the premises to customers for the sale of hot food, the equipment shall be fully installed and tested, and shall thereafter be cleaned and maintained all in accordance with the approved treatment scheme, and used at all times when cooking is taking place.
(Reason - To avoid odours detrimental to the living conditions of occupiers of other premises in the locality in accordance with Policy EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)

4. A Construction and Environment Management Plan must be submitted to and approved by the Local Planning Authority prior to any works commencing on site, and must be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.
(Reason: A pre-commencement condition is required to ensure that the details are agreed before the start of works to protect the amenities of existing and future residents in the vicinity of the site from noise, air, water and light pollution in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

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:

8782-04 REV A	Proposed Elevation	13.02.24
8791-03 REV A	Proposed Combined Plans	13.02.24
8791-LP	Location Plan	13.02.24

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.