

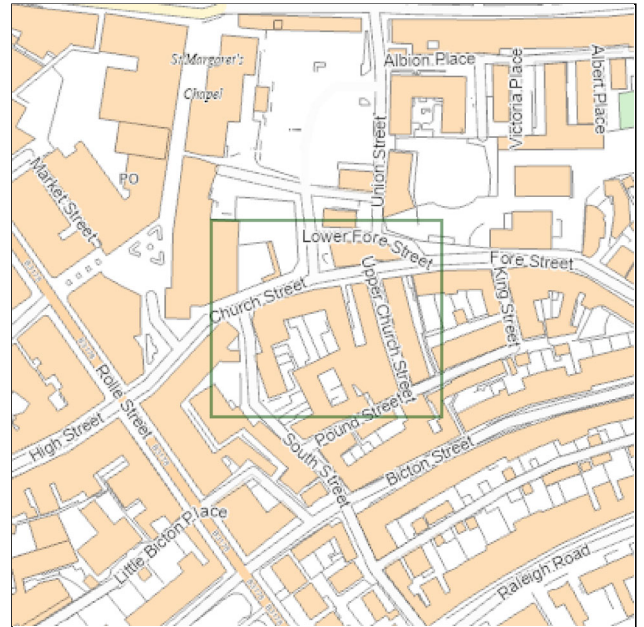
Ward Exmouth Town

Reference 25/1409/FUL

Applicant Mr Mark Williams

Location Flat 1 8 Church Street Exmouth Devon EX8 1PE

Proposal Proposed change of use from a residential garden to a Beer Garden for the adjoining Public House including new boundary fences and existing boundary wall increased in height



RECOMMENDATION: Approval with conditions

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		Committee Date: 18.11.2025
Exmouth Town (Exmouth)	25/1409/FUL	Target Date: 15.09.2025
Applicant:	Mr Mark Williams	
Location:	Flat 1 8 Church Street	
Proposal:	Proposed change of use from a residential garden to a Beer Garden for the adjoining Public House including new boundary fences and existing boundary wall increased in height	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is brought before the Planning Committee owing to the officer recommendation being in conflict with comments received from the Town Council, and following the scheme being referred to the Planning Committee by the Committee Chair.

The application relates to a site immediately to the south west of the First and Last Inn public house, in the centre of Exmouth. Approval is sought for the change of use of the central portion of the existing residential rear garden of No. 8 Church Street to form an enlarged beer garden to serve the public house. The proposed beer garden would occupy the central 47 square metres of the existing residential garden, leaving sufficient residential amenity area for the two apartments at No. 8 Church Street. The proposal would give rise to economic benefits through an increased trading area for the public house and through the addition of one full time employment position.

The proposal seeks to overcome the previous reason for refusal for a similar application for an extension to the beer garden, application 25/0715/COU refers. Neither the Parish Council nor Environmental Health made any objection to that application, but the application was refused on the grounds of inadequate separation between private residential areas and the proposed beer garden. These concerns have been overcome in this application.

Concerns have now been raised by Environmental Health in respect of noise in relation to this application following a couple of noise complaints received since the previous application was refused. A Noise Management Plan has been submitted in support of the application to limit the impacts to nearby residents, and the applicant has been actively working with Environmental Health to

address the noise issues.

Environmental Health have requested that a Noise Impact Assessment be undertaken to determine whether the proposed development is likely to adversely affect nearby residents. No such assessment has been provided, and as such Environmental Health have carried out their own desk top study which does raise concerns relating to potential adverse noise impact during peak time usage. The proposed beer garden would be likely to lead to noise being heard by nearby noise sensitive receptors and there would be the potential for sleep disturbance.

Conditions have therefore been proposed by Environmental Health to limit the opening hours of the beer garden, to prevent music or other amplified noise and to control external lighting in order to protect the amenity of local residents from noise and light pollution. With the appropriate conditions in place, it is considered the amenity of occupiers of adjoining residential properties would not be adversely affected.

Given the above, the application complies with policies contained with the Local Plan the Exmouth Neighbourhood Plan and the NPPF and is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 04.08.25

Objection, this revised application so did not mitigate the reasons for the previous application to be refused. The proposal would have an unacceptable impact on the residential amenity of the existing residents in respect of noise, fumes and privacy.

Technical Consultations

Environmental Health - 20.08.2025

The application has been reviewed and due to ongoing noise complaints, Environmental Health have concerns regarding potential noise issues. The proposed expansion of the premises beer garden brings it closer to existing noise sensitive dwellings and their associated amenity spaces. I am concerned that the potential noise impact of the development has not been adequately assessed.

Environmental Health recommends that the applicant carries out a Noise Impact Assessment. This assessment should determine whether the proposed development is likely to adversely affect nearby residents and evaluate whether appropriate noise mitigation measures are being proposed.

Environmental Health - 24.10.2025

Noise associated with people noise such as talking, shouting, laughing and other general social activities in your proposed development (beer garden in a densely populated town centre surrounded by noise-sensitive receptors), is difficult to measure and predict.

However, a noise impact assessment using the IEMA Guidelines for Environmental Noise Impact Assessment (2014) assessing the existing baseline noise environment, predicting the future noise levels and evaluating the potential impact on nearby sensitive receptors (NSRs) can be undertaken.

In the absence of any noise impact assessment, I have carried out a desktop study reviewing published information to establish speech levels. I have taken two speech levels (measured 1 metre from the person speaking) as being representative for people noise in the beer garden:

1. Female speech: 55 dB(A) (normal) and 63 dB(A) (raised)
2. Male speech: 58 dB(A) (normal) and 65 dB(A) (raised)

Normal trading conditions has been defined as periods when approximately half of the beer garden is occupied and people are generally conversing in normal, relaxed voices. This situation is considered typical during daytime hours.

Raised speech conditions are more representative of peak trading times when the beer garden is fully occupied. During these peak times, most patrons are speaking in louder, raised voices. This is regarded as more of a worst-case scenario likely to occur during evenings, weekends and holiday periods. Raised speech does not include shouting or singing, as these elements are too difficult to reliably quantify or predict.

The estimated noise levels from the beer garden have been assessed as follows:

Normal trading times:

8 males resulting in 67 dB(A) and 2 females resulting in 58 dB(A), giving a combined level of approximately 68 dB(A).

At a distance of 11 metres from the centre of the beer garden to the façade of a habitable room, this equates to 47 dB(A). Allowing for a 15 dB reduction through an open window (open to provide ventilation), the internal noise level is estimated at 32 dB(A).

Peak times:

16 males resulting in 77 dB(A) and 4 females resulting 69 dB(A), giving a combined level of approximately 78 dB(A).

At a distance of 11 metres from the centre of the beer garden to the façade of a habitable room, this equates to 57 dB(A). Allowing for a 15 dB reduction through an open window (open to provide ventilation), the internal noise level is estimated at 42 dB(A).

* No reflected noise has been included in these calculations which, will result in an underestimation of decibel levels.

In the revaluation of the application, the decibel level predictions do raise concerns relating to potential adverse noise impact during peak time usage. During peak time use, it is likely that people noise from the beer garden will be heard by nearby NSRs (due to the proximity) causing small changes in behaviour, attitude or other physiological responses i.e., having to close windows for some of the time because of the noise. Due to the higher decibel levels, there would be the potential for sleep disturbance for NSRs.

Taking this into consideration and to minimise and reduce the adverse impact of the development, I would recommend that the following conditions are applied to the application:

1. The beer garden shall only be used by customers/members of the public between the hours of 08:00 and 21:30 on any day and at no time outside of these hours.

Reason: To protect the amenity of local residents from noise.

2. No sound-amplifying equipment, loudspeaker, or public address system shall be installed/operated or music played within the beer garden hereby approved.

Reason: To protect the amenity of local residents from noise.

3. No external lighting shall be installed on-site until a lighting scheme has been provided for the site and agreed by the LPA which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with Policy EN14 for the avoidance of light pollution.

Other Representations

Five third party representations have been received, in objection to the proposal. A summary of grounds for objection are as follows:

- Concerns over loss of amenity and security issues with the change of use, through potential increases in noise levels, antisocial behaviour and smoke fumes.
- Since the existing pub wall was lowered back in December 2024 occupants of the current pub garden are able to see into neighbours' gardens, impacting upon privacy.
- The ongoing noise, drunken and disruptive behaviour from customers late into the night, which affects nearby residents' sleep, privacy, and sense of security would be exacerbated by the expansion of the pub garden closer to residential boundaries.
- Current noise levels mean residents are unable to open doors and windows.

- Concerns that existing anti social behaviour such as fights, patrons relieving themselves and vomiting in the street would increase as a result of a larger beer garden.

PLANNING HISTORY

Reference	Description	Decision	Date
84/P0644	Change Of Use To Offices	Approval	22/05/1984
87/P2006	Single Storey Office Extension	Approval	10/11/1987
88/P2253	Conversion Of Office Into 2 No Flats	Approval	21/12/1988
08/0547/FUL	Change of use from residential garden to Beer Garden for adjoining pub	Refusal	10/04/2008
25/0715/COU	Proposed change of use from a residential garden to a Beer Garden for the adjoining Public House	Refusal	06.06.2025

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries) Adopted

Strategy 37 (Community Safety) Adopted

D1 (Design and Local Distinctiveness) Adopted

EN14 (Control of Pollution) Adopted

E2 (Employment Generating Development in Built-Up Areas) Adopted

Exmouth Neighbourhood Plan (Made)

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP05 (Development inside Settlement Boundaries) Draft

Policy SE01 (Employment development within settlement boundaries) Draft

Strategic Policy DS01 (Design and local distinctiveness) Draft

Policy OL09 (Control of pollution) Draft

Government Planning Documents

National Planning Policy Framework 2024 (as amended)

ANALYSIS

Site Location and Description

The application site is an existing residential garden to the rear of No. 8 Church Street, which is situated within the town centre of Exmouth. No. 8 is sited within a row of terraced houses along the southern edge of Church Street. Immediately adjoining No. 8 to the east is The First and Last Inn, a public house. No. 8 has been divided into a ground and first floor flat, and the garden extends 25 metres to the rear and abuts the south western boundary of the existing pub.

The existing rear garden to the pub has an area of approximately 48 square metres, just under half of which is under a polycarbonate roofed smoking shelter, approved under application 07/1373/FUL.

The site is within the Built up Area Boundary of Exmouth but no other designations apply to the site.

Proposed Development

Permission is sought for the change of use of the central portion of the rear garden of No. 8 to form an enlarged beer garden to the existing pub. The application is similar to the previously submitted application 25/0715/COU but seeks to overcome the previous reason for refusal which reads as follows:

1. The proposed beer garden, in close proximity to windows and doors of existing habitable rooms within existing adjacent dwellings, would lead to overlooking and a poor standard of privacy for existing residents. Furthermore, the proposed layout would also provide inadequate separation between private residential amenity areas and the proposed beer garden, leading to a poor standard of residential amenity and security to the existing and future residents, contrary to Policy D1 (Design and Local Distinctiveness) and Strategy 37 (Community Safety) of the Adopted East Devon Local Plan 2013-2031 and Strategic Policy DS01 (Design and Local Distinctiveness) of the Draft East Devon Local Plan 2020 - 2042.)

The boundary between the proposed pub beer garden would be 0.85 metres away from the bottom of the existing external stair from the upper flat at No. 8 Church Street, and would extend perpendicular to the party wall between No. 8 and No. 6 Church Street, to provide a private amenity area for residents of the flats at No. 8. The boundary would be constructed using a 2.0 metre high timber fence and would incorporate a gate through to the beer garden.

A 2.5 metre wide section of the existing boundary wall between the existing beer garden and the rear residential garden has already been removed, and steps have been constructed from the lower level of the existing beer garden up to the level of the existing residential garden.

The proposed beer garden would occupy the central 47 square metres of the existing residential garden. Beyond this, a new wooden fence and gate would be installed between the beer garden and a further private residential garden for No. 8 Church Street.

The application drawings indicate that the existing brick party boundary wall between No. 6 and No. 8 would be increased in height to 2.0 metres, in bricks to match the existing brickwork. The drawings also indicate that new acoustic panels would be fitted to the beer garden boundaries although the number and size of these is not stated. The application form states that Mass Loaded Vinyl (MLV) acoustic fence wrap would be incorporated into the wooden fence and into panels mounted on the walls for noise reduction.

The submission states that the proposal would increase the number of full time equivalent (FTE) employees from the current 6 to 7 FTE employees.

Analysis

The principal issues for consideration are the principal of development and the impact of the proposal upon the residential amenity of the surrounding properties.

Principle of Development

The site is within the Built Up Area Boundary (BuaB) of Exmouth, where Strategy 6 (Development Within Built-up Area Boundaries) applies. Its provisions permit growth and development within BuABs subject to various criteria being met.

Local Plan Policy E2 - Employment Generating Development in Built-Up Areas lends support for new businesses or expansion of existing businesses within Built up Areas, subject to the proposal meeting a number of criteria in respect of accessibility, residential amenity and townscape considerations amongst other criteria. Unlike the previously submitted scheme, the application form indicates the proposal would lead to an increase in employment of one full time equivalent member of staff.

Exmouth Neighbourhood Plan also contains policy support for employment development within the town centre. Policy EE2 states that 'New development which delivers an increase in workspace within the town, generating increased employment opportunities, will be supported.

As such, subject to an assessment of the other impacts of the proposal, the principal of development is considered to be acceptable, and in line with Local Plan Strategy 6 and Policy E2, and Exmouth Neighbourhood Plan EE2.

Residential / Neighbour Amenity

Local Plan Policy EN14 states that permission will not be granted for development which would result in unacceptable levels, either to residents or the wider environment of amongst other things noise, smells and fumes.

Other relevant policies include Local Plan Policy D1, which states that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties.

The proposed change of use of the existing residential garden to a beer garden has the potential to impact upon the residential amenity of the existing residents of Church Street through noise, fumes and privacy.

The proposal has moved the beer garden further away from the existing residential properties in comparison to the previously scheme, and allows for a private amenity area of 3.0 metres by 3.8 metres between the existing flats and the beer garden. The previous

delegated report for the 25/0715/COU application erroneously referred to the rooms at the rear of No. 6 and No. 8 Church Street as habitable rooms. It has since been clarified that these rooms are a bathroom to No. 6 and a kitchen at No. 8 which would not be classed as habitable rooms. The proposed 2 metre high boundary fence and gate across the rear of the amenity area would provide adequate separation, security and privacy between the two uses.

A further private residential amenity area is proposed at the opposite end of the beer garden, which would be separated from the beer garden by a timber fence and gate. Residents would still have to go through the beer garden in order to access the private area. This is not ideal, but it would be the residents' choice to go through the beer garden to access the second amenity area. The amenity area provided adjacent to the flats is considered adequate for residential amenity purposes given the urban location of the site.

The existing beer garden is at a lower level than the garden of No. 8 and is enclosed by a substantial rendered garden wall. The area in question proposed for change of use is at a higher level than the existing beer garden and the boundary immediately adjacent the rear of No. 8 and No. 6 Church Street is relatively low, at just over a metre in height. Beyond the external staircase the party boundary wall rises to a height of approximately 1.8 metres. In mitigation, the proposal would look to increase the height of the boundary wall to 2.0 metres in brickwork to match the existing wall, which would help to provide some noise reduction.

The applicant has submitted a Noise Management Plan with the application. The measures proposed within the Plan to limit noise include the following:

- Limiting the beer garden open hours from Sunday - Thursday 10:00 - 22:00 (pub opening hours 08:00 - 00:00) and Friday - Saturday 10:00 until 00:00 (pub opening hours 08:00-01:00)
- Fitting of noise reduction panels to boundary walls and fences
- Staff to monitor outside area for unruly and noisy customers
- Furniture to be fitted with rubber protectors to feet and furniture will not be moved late at night
- The CCTV System is proposed as being upgraded to cover the extended beer garden area
- No further speakers are to be placed in extended garden area
- No bottles bins / skips to be placed in extended area and empty glasses are to be removed from tables regularly to reduce breakages.
- Signage is proposed requesting customers to be mindful of the neighbours both when on the premises and when leaving.
- A robust complaint recording procedure will be put in place.

Planning Practice Guidance on noise recognizes that commercial developments including restaurants, hot food takeaways, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. The PPG advises that noise impacts may be partially offset if residents have access to a quiet façade or amenity space. The remaining amenity space would be on the southern end of the beer garden, therefore the noise impacts of the proposal would not be able to be offset.

The Noise Policy Statement for England aims to avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development, and seeks to mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise.

It is recognised that the site is within a busy town centre which is by its nature not quiet. However the proposal could lead to worsening quality of life as a result of noise for nearby residents. Mitigation measures that could be employed in the case of new dwellings planned near a source of noise are not fitted to the existing dwellings and the quality of life of existing residents could be compromised by not being able to open windows when the noise levels are at their highest. The proposed noise reduction panels to be fitted to the boundaries of the beer garden would help to absorb some of the noise generated within the beer garden, however the way in which sounds travels means any mitigation would have a limited impact as the garden is open and sound still would travel upwards.

In terms of policy E14, the proposal could also potentially lead to higher levels of fumes from cigarette smoke and vapes given the close proximity of the proposed beer garden to windows within the existing residential properties. However it should also be noted that the garden of No. 8 Church Street already abuts the existing beer garden. The proposal would bring the beer garden just over 5 metres closer to the residents of No. 6 Church Street.

Environmental Health have commented on this application that due to ongoing noise complaints, Environmental Health have concerns regarding potential noise issues and have recommended a Noise Impact Assessment be undertaken to determine whether the proposed development is likely to adversely affect nearby residents.

It is noted that Environmental Health did not object to the previous 25/0715/COU application, stating that if noise issues developed, they would be dealt with through the Licensing regime.

A number of High Court decisions have emphasised the need for consistency in planning decisions. North Wiltshire District Council v Secretary of State for the Environment [1993] 65 P & CR 137 stated that one important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the process.

R (King's Cross Railway Land Group) v Camden LBC [2007] EWHC 1515 (Admin) emphasizes the importance of consistency in planning decisions and the necessity for decision-makers to provide reasons when deviating from previous conclusions.

However, Environmental Health stated that the request for a Noise Impact Assessment was made in light of recent noise complaints, since the previous scheme for the beer garden was refused in June 2025. The complaints related to excessive music noise levels from a band jam night on 24th July 2024 which continued until after 23:00, and excessive music noise levels from an open mic night on 31st July which also continued until after 23.00. The complainant stated that this is a repeated problem on Thursday, Friday and Saturday evenings with windows and doors left open.

In light of these complaints, Environmental Health stated that having on-going noise complaints made against a licensed premises does draw into question the effective management of the premises.

Following on from the complaints, the applicant has been working with Environmental Health to address the noise issues. Environmental Health stated that as the improvements made so far have only been relatively recently made, they have not been able to establish their effectiveness. EH had requested a Noise Impact Assessment. This assessment should determine whether the proposed development is likely to adversely affect nearby residents and evaluate whether appropriate noise mitigation measures are being proposed.

Despite this information being requested, no noise impact assessment has been supplied by the applicant in respect of the proposed change of use.

The applicant has queried the suitability of such an assessment given that people noise is difficult to measure and predict. Environmental Health confirmed a noise impact assessment can be undertaken however using the IEMA Guidelines for Environmental Noise Impact Assessment (2014) assessing the existing baseline noise environment, predicting the future noise levels and evaluating the potential impact on nearby sensitive receptors (NSRs).

In the absence of any noise impact assessment, Environmental Health have carried out a desktop study reviewing published information to establish speech levels. Two speech levels (measured 1 metre from the person speaking) have been taken as being representative for people noise in the beer garden:

1. Female speech: 55 dB(A) (normal) and 63 dB(A) (raised)
2. Male speech: 58 dB(A) (normal) and 65 dB(A) (raised)

Normal trading conditions have been defined as periods when approximately half of the beer garden is occupied and people are generally conversing in normal, relaxed voices. This situation is considered typical during daytime hours.

Raised speech conditions are more representative of peak trading times when the beer garden is fully occupied. During these peak times, most patrons are speaking in louder, raised voices. This is regarded as more of a worst-case scenario likely to occur during evenings, weekends and holiday periods. Raised speech does not include shouting or singing, as these elements are too difficult to reliably quantify or predict.

The estimated noise levels from the beer garden have been assessed as follows:

Normal trading times:

8 males resulting in 67 dB(A) and 2 females resulting in 58 dB(A), giving a combined level of approximately 68 dB(A).

At a distance of 11 metres from the centre of the beer garden to the façade of a habitable room, this equates to 47 dB(A). Allowing for a 15 dB reduction through an open window (open to provide ventilation), the internal noise level is estimated at 32 dB(A).

Peak times:

16 males resulting in 77 dB(A) and 4 females resulting in 69 dB(A), giving a combined level of approximately 78 dB(A).

At a distance of 11 metres from the centre of the beer garden to the façade of a habitable room, this equates to 57 dB(A). Allowing for a 15 dB reduction through an open window (open to provide ventilation), the internal noise level is estimated at 42 dB(A).

No reflected noise has been included in these calculations which, will result in an underestimation of decibel levels.

In the evaluation of the application, the decibel level predictions do raise concerns relating to potential adverse noise impact during peak time usage. During peak time use, it is likely that people noise from the beer garden will be heard by nearby NSRs (due to the proximity) causing small changes in behaviour, attitude or other physiological responses i.e., having to close windows for some of the time because of the noise. Due to the higher decibel levels, there would be the potential for sleep disturbance for NSRs.

Taking this into consideration and to minimise and reduce the adverse impact of the development, Environmental Health have recommended a number of conditions are applied to the application to protect the amenity of local residents from noise and light pollution, which include the following:

- The beer garden shall only be used by customers/members of the public between the hours of 08:00 and 21:30 on any day and at no time outside of these hours.
- No sound-amplifying equipment, loudspeaker, or public address system shall be installed/operated or music played within the beer garden hereby approved.
- No external lighting shall be installed on-site until a lighting scheme has been provided for the site and agreed with the LPA which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

The current premises license allows the public house to be open from 08:00 until 00:30 from Monday to Wednesday and on Sunday, and until 01:30 on Thursday, Friday and Saturday. Live music is only permitted indoors, and recorded music is permitted in the current beer garden until 21:00 between April and September and until 19:00 between October and March.

With the above conditions in place to restrict the hours of use of the proposed extension to the beer garden, and to prevent music being played, it is considered the proposal would not lead to any adverse effects to the amenity of occupiers of adjoining residential properties.

A condition would also be required to ensure compliance with the Noise Management Plan. Given the hours of use of the beer garden proposed by Environmental Health, a revised Noise Management Plan would need to be submitted and approved in writing by the LPA to reflect the proposed hours of use.

The proposed changes to the boundaries of the beer garden have resolved the previous concerns regarding the inadequate separation between the proposed beer garden and the existing residential dwellings. The increased height of the boundary between No. 6 and No. 8 and the new boundary across the garden between the beer garden and the rear of No. 8 would ensure reasonable privacy for residents. Given the above, the proposal is considered to be compliant with Local Plan Policy D1 and E14.

Design impact on character of site

The proposal would look to increase the height of the existing party boundary wall between No. 8 and No. 6 to a height of 2 metres, using matching bricks. The proposed acoustic treatment would be applied to the internal face of the proposed beer garden boundaries, therefore it is not considered that the proposal would have an adverse impact upon the appearance of the area. Further details of the boundaries and the proposed acoustic treatment would be required by way of condition to ensure the impacts to neighbours from noise are minimised and that the proposal does not impact the character of the area.

No information is contained within the application regarding lighting. Given the proposed opening hours of the beer garden, it is assumed some lighting would be proposed. As referred to above, should the application be recommended for approval a condition would be required in respect of lighting to ensure that residents are not impacted by light intrusion.

With the appropriate conditions in place the proposal would be in accordance with Local Plan Policy D1 and EN14.

Drainage

The application does not state how surface water would be disposed of. A condition would therefore be imposed upon any approval requiring disposal of surface water by soakaway.

As such the proposal would be in accordance with Local Plan Policy EN22.

Biodiversity Net Gain

The existing residential garden comprises predominately hard paving, with the area to the south eastern end of the existing garden being surfaced in a mixture of gravel, weeds and paved stepping stones. The existing paving would be classed as a sealed surface which would be assigned a 'zero' score under a Biodiversity Gain Metric. The paved area is proposed as being retained, and the existing gravelled area is proposed as being surfaced with either more gravel or with bark chippings. The area proposed for change of use which is not paved is approximately 20 square metres, which would be below the Biodiversity Net Gain 'de minimus' threshold of 25 square metres. As such the provisions of Biodiversity Net Gain would not apply and the scheme is not required to demonstrate a 10% uplift in biodiversity at the site.

Other matters

No changes are proposed to the existing access or parking therefore the proposal would not lead to any highways impacts. There are no listed buildings near the site that could be impacted by the proposal. There are no trees on the application site. The site is within flood zone 1 therefore there are no concerns in respect of flooding.

CONCLUSION

The proposal to create a larger beer garden to the existing public house would give rise to economic benefits through the creation of a larger trading area, and would lead to the creation of one additional full-time job.

The concerns regarding the impacts of the proposal to existing residents of Church Street in close proximity to the proposed beer garden, in respect of noise and fumes, are acknowledged.

The proposal has been revised to allow for improved separation and security for the residents of No. 8 Church Street, and the proposal allows for adequate external amenity space for the residents of No. 8. The height of the proposed boundaries between the beer garden and the existing dwellings would also ensure adequate privacy for residents.

Environmental Health's request for a Noise Impact assessment was made in light of recent noise complaints since the previous application was refused. No such assessment has been provided by the applicant, and as such Environmental Health have carried out their own desk top study which does raise concerns relating to potential adverse noise impact during peak time usage. The proposed beer garden would be likely to lead to noise being heard by nearby noise sensitive receptors and there would be the potential for sleep disturbance.

Conditions are therefore proposed to limit the opening hours of the beer garden, to prevent music or other amplified noise and to control external lighting in order to protect the amenity of local residents from noise and light pollution.

As such, subject to the appropriate conditions to ensure impacts to neighbours are minimised, the application complies with policies contained with the Local Plan and the Exmouth Neighbourhood Plan and is recommended for approval.

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. Prior to the occupation of the development hereby permitted, details of the proposed acoustic treatment to the beer garden boundaries shall be submitted to and approved in writing by the Local Planning Authority. Details shall include detailed plans / elevations of proposed acoustic treatment / panels to boundaries.
The works shall be carried out strictly in accordance with the approved details and shall be completed prior to the development being brought into use and thereafter retained and maintained for the lifetime of the development.

(Reason - In the interests of reducing adverse impacts to residential amenity in accordance with D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)
4. The boundary gates and fences shall be provided prior to the first use of the development hereby approved. Prior to the first use of the development hereby approved the gates shown on 'Proposed Plans' dated 03/07/2025 shall be fitted with a locking mechanism that is operable from both sides. The gates and fences shall be retained and maintained as such for the lifetime of the development.

(Reason - In the interests of providing secure layouts and safe access for users in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)
5. Notwithstanding the submitted details, prior to the occupation of the development hereby approved a revised Noise Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved is to accord with the approved Noise Mitigation Strategy for the lifetime of the development.

(Reason - To protect the amenities of neighbouring properties in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031).
6. The development hereby approved shall only be used by customers and members of the public between the hours of 08:00 and 21:30 on any day and at no time outside of these hours.

(Reason - To protect the amenities of neighbouring properties in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013 -2031).

7. No sound-amplifying equipment, loudspeaker, or public address system shall be installed/operated or music played within the beer garden hereby approved.

(Reason - To protect adjoining occupiers from excessive noise in accordance with Policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)

8. No cooking shall take place in the development hereby approved.

(Reason: To reduce the impacts of smoke and odours open nearby residents in accordance with Policy D1 (Design and Local Distinctiveness) and Policy EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031).

9. Prior to the installation of any external lighting to the development hereby approved, full details of that lighting shall be submitted to and approved in writing by the Local Planning Authority. The installation shall comply with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable. The installation of the lighting and its operation shall then be carried out in accordance with the approved details.

(Reason - In the interests of the amenity of occupiers of adjoining residential properties in accordance with D1 (Design and Local Distinctiveness) and Policy EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031).

10. The brickwork to be used to increase the height of the boundary wall between No. 6 and No. 8 Church Street shall match the existing wall in terms of brick type, colour, coursing and coping details. The height of the boundary wall shall be increased in accordance with the approved plans prior to the development being brought into use and shall be retained as such for the lifetime of the development.

(Reason - To safeguard the architectural character of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031).

11. Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100-year storm event plus 45% for climate change unless details of an alternative means of surface water drainage is submitted to and approved in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be brought into use until the agreed drainage scheme has been provided and it shall thereafter be retained and maintained for the lifetime of the development.

(Reason - In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy EN22 (Surface Run-Off Implications of New Development) of the adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Biodiversity Net Gain Informative:

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 means that this planning permission is deemed to have been granted subject to "the biodiversity gain condition" (BG condition).

The Local Planning Authority cannot add this condition directly to this notice as the condition has already been applied by law. This informative is to explain how the biodiversity condition applies to your development.

The BG conditions states that development may not begin unless:

- (a) a Biodiversity Gain Plan (BG plan) has been submitted to the planning authority, and
- (b) the planning authority has approved the BG plan.

In this case the planning authority you must submit the BG Plan to is East Devon District Council.

There are some exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will **not require the approval of a biodiversity gain plan** before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

In this case exemption 4.2 from the list below are considered to apply:

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

(i) the application for planning permission was made before 2 April 2024;

(ii) planning permission is granted which has effect before 2 April 2024; or

(iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

(i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

(ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

(i) consists of no more than 9 dwellings;

(ii) is carried out on a site which has an area no larger than 0.5 hectares; and

(iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Plans relating to this application:

	Proposed Combined Plans	03.07.25
	Location Plan	14.07.25
Boundary Elevations	Other Plans	21.07.25

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.