

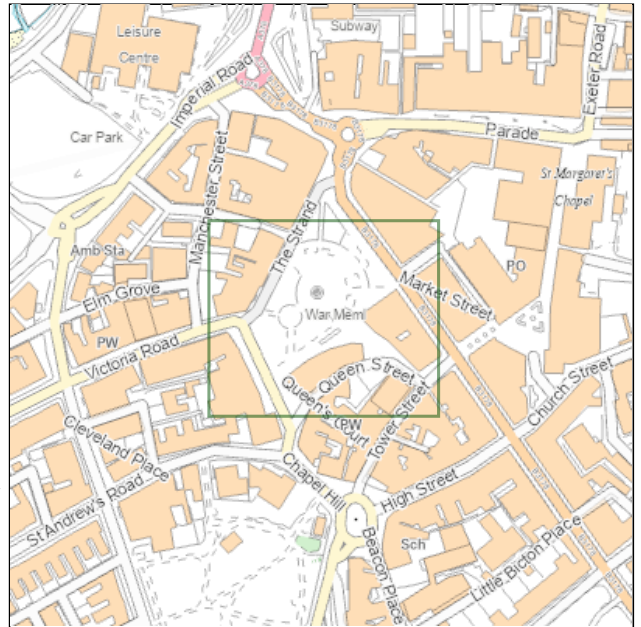
Ward Exmouth Town

Reference 26/0812/FUL

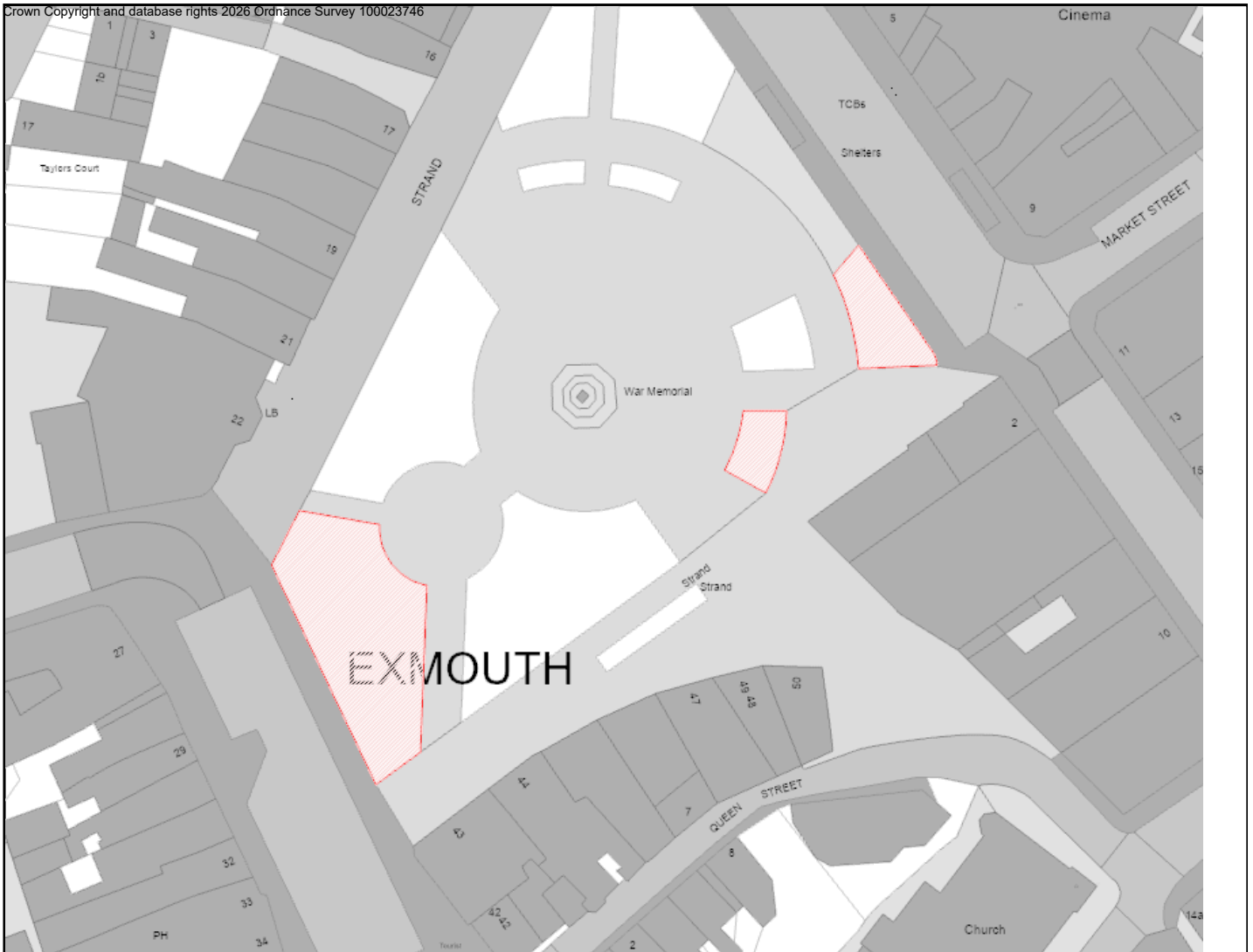
Applicant Naomi Harnett

Location Strand Gardens The Strand Exmouth

Proposal Temporary change of use of areas of land for the placement of tables and chairs on the Strand, Exmouth until 30.09.28 on a seasonal basis from the 1st April to the end of September each year



RECOMMENDATION: Approval with conditions



		Committee Date: 07.07.2026
Exmouth Town (Exmouth)	26/0812/FUL	Target Date: 22.06.2026
Applicant:	East Devon District Council	
Location:	Strand Gardens, The Strand	
Proposal:	Temporary change of use of areas of land for the placement of tables and chairs associated with the use of adjoining premises within Class E(b), on the Strand, Exmouth until 30.09.28 on a seasonal basis from the 1st April to the end of September each year	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the Planning Committee as EDDC are both the applicant and the landowner, and noise and nuisance concerns have been raised.

This application seeks the change of use of four grassed areas within Strand Gardens for the siting of tables and chairs, to be used to provide existing businesses the opportunity to extend their operation. This application follows three previous applications which have allowed the siting of tables and chairs on a seasonal and temporary basis.

The principle of the temporary change of 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 nighttime 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 is not considered that the proposal would give rise to any significant amenity concerns in terms of noise and pollution. EDDC would control operating hours through the licencing regime which would be sufficient to ensure that businesses do not operate outside at unsociable times. No heritage concerns are raised in respect of the impact to the conservation area, given the temporary and reversible nature of the proposal.

Given the above, the proposal would comply with policies contained within the East Devon Local Plan and is recommended for approval.

CONSULTATIONS

Local Consultations

Parish/Town Council

Meeting 11.05.26

No objection; however, concerns were expressed regarding visual clutter and a lack of uniformity in The Strand. Members considered that these matters would be addressed and mitigated through the licence to occupy.

Technical Consultations

Environmental Health

I have considered the application and do not anticipate any environmental health concerns.

Conservation

No objection. The proposal will enhance the conservation area by increasing its vibrancy and supporting the viability of the businesses around Strand Gardens, reducing the potential for vacant buildings. It is also fully reversible.

EDDC Trees

Following a site visit, I can confirm that I do have concerns about the long-term impact that the increased footfall and associated issues of compaction will have on the long-term health of the trees within The Strand. These concerns are also echoed by the Streetscene Tree Officer who has current responsibility for managing the trees within The Strand.

Compaction of the rooting area will lead to reduced oxygen in the soil, will limit gaseous exchange, reduce root growth and will result in a general increase in stress levels for trees impacted making them more susceptible to pest and diseases. Ultimately this can lead to the long-term decline and in some cases death of trees. Compaction is well known to be a significant problem in reducing the health of trees and therefore is something that should be prevented from occurring in the first instance and where it does occur appropriate mitigation measures need to be put in place to ensure that the impact is minimised. This is especially important in this situation where the trees are council owned and managed. Any impact on the health of the trees will directly impact the inspection regime of the trees for Streetscene.

Having previously managed the trees in question over a number of years, I am aware of the harm caused to the area due to increased footfall following granting of consent to use the area in question back in 2020 for outside seating. At the time I raised concerns and recommended various mitigation measures. Some mulch has been laid around Area 2 though it was noted that the depth of this needs to be increased to appropriate levels. Areas already compacted should be airspaded or forked over to improve soil structure and then mulched. Ideally, all seating should be

located outside of the RPA of the trees; there is plenty of hard spaces where tables and chairs could be located without impacting the trees on The Strand.

However, if consent is granted I recommend the following condition:

A detailed AMS and TPP is required outlining how the trees are to be protected prior to the installation of any seating and tables. This should include but not be limited to details of ground protection (mulch) and soil improvement (airspading, forking over of the soil, mulching etc). Mitigation measures to restore the soil health following removal of the seating at the end of each season should also be undertaken.

Reason: to ensure the health of the trees and to prevent long-term damage from occurring.

Other Representations

One third party representation has been received, in objection to the proposal.

A summary of grounds for objection is as follows:

- The proposed seating is not shut off after hours, leading to noise impacts and anti-social behaviour.

PLANNING HISTORY

Reference	Description	Decision	Date
20/2383/COU	Change of use of areas of land in Strand Gardens for the siting of tables and chairs until 30 September 2021	Temporary Approval	06.01.2021
22/0658/FUL	Placement of tables and chairs on The Strand, Exmouth until 30 September 2023	Approval with conditions	24.05.2022
23/0405/FUL	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	Approval with conditions	15.06.2023

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries) Adopted
D1 (Design and Local Distinctiveness) Adopted
D3 (Trees and Development Sites) Adopted
E9 (Town Centre Vitality and Shopping Areas) Adopted
EN9 (Development Affecting a Designated Heritage Asset) Adopted
EN10 (Conservation Areas) Adopted
EN14 (Control of Pollution) Adopted
EN21 (River and Coastal Flooding) Adopted
E2 (Employment Generating Development in Built-Up Areas) Adopted

Exmouth Neighbourhood Plan (Made April 2019)

EB1: Conserve Heritage Assets
EB2: Design
EE1: Tourism
EN5: Surface water

Draft East Devon Local Plan 2020-2042 Policies

Strategic Policy SP05 (Development inside Settlement Boundaries) Draft
Strategic Policy AR01 (Flooding) Draft
Policy SE01 (Employment development within settlement boundaries) Draft
Policy SE07 (Town centre development, sequential approach and impact assessment) Draft
Strategic Policy DS01 (Design and local distinctiveness) Draft
Strategic Policy OL01 (Landscape features) Draft
Strategic Policy PB05 (Biodiversity Net Gain) Draft
Policy PB08 (Tree, hedges and woodland on development sites) Draft
Policy HE02 (Listed buildings) Draft
Policy HE03 (Conservation Areas) Draft

Government Planning Documents

National Planning Policy Framework 2024 (as amended)

ANALYSIS

Site Location and Description

The application site refers to a number of areas of grassed land in Strand Gardens at The Strand in Exmouth, within an area of pedestrianised public space within the town of Exmouth. The site is under the ownership of East Devon District Council.

The area is characterised by a mixture of commercial and business premises with residential accommodation 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 (BuAB) of Exmouth and falls under a 'Town Centre Shopping Area' designation as defined by the Local Plan. The site is within the Exmouth Conservation Area and also falls within flood zones 2 and 3. The site also contains a number of significant trees.

Proposed Development

Approval is sought for the use of four grassed areas for the siting of tables and chairs on a seasonal basis for use by the surrounding businesses. The four parcels of land total approximately 560 square metres in area.

Temporary approval is sought for the siting of tables and chairs on the four parcels of land each year from 1st April to 30th September for three years until 30th September 2028.

Hours of use of the sites would be controlled through the existing licensing, which allows the use of these spaces on Monday to Friday between 8am to 10pm, Saturday 7am -11pm and Sundays and Bank Holidays 8am to 10pm.

The application follows a number of previous temporary approvals at the site for the siting of tables and chairs within The Strand. These were originally allowed to provide establishments the opportunity to extend their business operation following the pandemic.

Analysis

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, the impacts to site trees and flood risk.

Principle of Development

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 provision of external seating areas would make an important contribution to the local economy and businesses. The outdoor seating areas have proven to be well used, and the proposal would allow for variety and increased activity within the town centre, in accordance with Policy E9.

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.

Design impact on character of site and the Conservation Area

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 is not considered that the change of use would result in any harm to the character and appearance of the area. EDDC's Conservation Officer has commented that the proposal will enhance the conservation area by increasing its vibrancy and supporting the viability of the businesses around Strand Gardens. Furthermore, the proposal is temporary and reversible.

In light of the above, the proposal would comply with Local Plan Policies D1 and EN10.

Residential / Neighbour Amenity

Policy D1 of the East Devon Local Plan requires that proposals do not adversely affect the amenities of existing occupiers. Additionally, 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 is not 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 commented that no environmental health concerns are anticipated in connection with the application.

Given that the Council would regulate operating hours through both licensing and the granting of the sitting-out consent, it is considered that these measures would be adequate to ensure businesses do not operate outdoors during unsociable hours, thereby preventing potential amenity impacts on residents living above the ground-floor commercial units.

As such it is considered the application would comply with Local Plan Policy D1 and E14.

Trees

The four grassed areas contain a number of significant site trees which contribute to the character of the conservation area.

EDDC's tree officer has raised concerns regarding the change of use of the site in connection with potential impacts to a number the trees which occupy the grassed areas.

Concerns are raised in respect of compaction of the soil under the trees as a result of the siting of tables and chairs, and also in respect of the safety of people siting under the trees. To this end an Arboricultural Survey, Tree Risk Assessment Report and Arboricultural Impact Assessment has been undertaken in support of the application.

Proposed seating areas 1 and 2 contain three significant Category A trees; T1 - Lime, T2 - London Plane and T3 - Horse Chestnut. The condition of the grass has deteriorated since the site has been used for the siting of tables and chairs. The Arboricultural Impact Assessment notes that there is evidence of soil compaction to all four of the areas proposed for seating. Compaction of the rooting area reduces oxygen levels within the soil, restricts gaseous exchange, and limits root development. This places trees under increased stress, making them more vulnerable to pests and diseases, and can ultimately result in long-term decline. The report recommends the soil be hand forked at 20cm intervals in each area, avoiding tree roots and utilities, to improve aeration of the soil. The application of a 50mm depth of bark mulch is also recommended to ameliorate the soil.

Area 3 does not contain any trees (a category B maidenhair tree (T4) sits alongside this area). Area 4 contains two category B trees, T5 another maidenhair tree (ginko biloba) and T6 – a dawn redwood.

EDDC's tree officer has requested that any approval be conditional upon soil improvements and ground protection / mulching to all areas to restore the soil health following the removal of the seating at the end of each season.

With the appropriate conditions in place, the proposal would comply with Local Plan Policy D3.

Biodiversity Net Gain

The application is required to demonstrate a 10% uplift on biodiversity net gain at the site. The level of mitigation required means that it would not be feasible for the necessary planting to be provided on site, and therefore off-site credits would be required to achieve the necessary 10% uplift. This would be a matter to be resolved post-permission.

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 is not considered that there would be any increase in vulnerability to flood risk or that the use of the land for the siting of tables and chairs would increase flood risk elsewhere. The proposal is therefore considered to be an acceptable use for the flood zone area and would comply with Local Plan Policy EN21.

Other matters

The existing site comprises mown grassed areas which has a low ecological value. As such the proposal would not have any impact to any protected species. The grassed areas would be retained therefore drainage would continue to be via infiltration. The proposal would not affect any existing pedestrian or vehicular access to the site.

Planning Balance

The principle of the temporary change of use of the site for the siting of tables and chairs is supported by Policy E9 (Town Centre Vitality and Shopping Areas), which promotes uses that enhance the diversity and vitality of town centres. While the proposal would intensify the existing use of the area, operating hours would be controlled through licensing to prevent disturbance to nearby residents.

Due to its temporary and reversible nature, no heritage concerns arise and the proposal would increase the vibrancy of the area. Accordingly, the proposal complies with policies contained within the development plan and is recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The use of the land for the siting of tables and chairs is permitted annually from 1st April until 30th September until 30th September 2028, 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 to enable the Local Planning Authority to assess the impact of the use on the character and appearance of the area, and the amenities of neighbouring occupiers, in accordance with Policies D1 (Design and Local Distinctiveness) , EN10 (Conservation Areas) and EN14 (Control of Pollution) 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.)

3. Prior to the commencement of the development hereby approved, works to improve the aeration of the soil to Areas 1-4 inclusive should be carried out as detailed in the submitted Arboricultural Impact Assessment (AIA) prepared by Aspect Tree Consultancy dated 22nd May 2026. The approved development shall not be commenced until these works have been completed.

(Reason: A pre-commencement condition is required to ensure works are carried out in advance of the siting of tables and chairs to ensure the health of the trees and to prevent long-term damage from occurring, in accordance with Policy D3 Trees and Development Sites) of the adopted East Devon Local Plan 2013 -2031.)

4. Within two months of the date of this approval, details of mitigation measures to restore the soil health following removal of the seating at the end of each season, including the timetable for the mitigation works, shall be submitted to and approved in writing by Local Planning Authority. The works shall be carried out in accordance with the approved details and specification.

(Reason: To prevent long term damage to the trees occurring, in accordance with Policy D3 Trees and Development Sites) of the adopted East Devon Local Plan 2013 -2031.)

NOTE FOR APPLICANT

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 require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed 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 applies (planning permission for development already carried out).
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-built or custom housebuilding (as defined in section 1(A1) of the Self-built 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.

Where there are losses or deterioration to irreplaceable habitats a bespoke compensation package needs to be agreed with the planning authority, in addition to the Biodiversity Gain Plan.

For information on how to prepare and submit a Biodiversity Gain Plan please use the following link: [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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.

Plans relating to this application:

RP-0352-03	Block Plan	24.04.26
	Location Plan	27.04.26

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.