

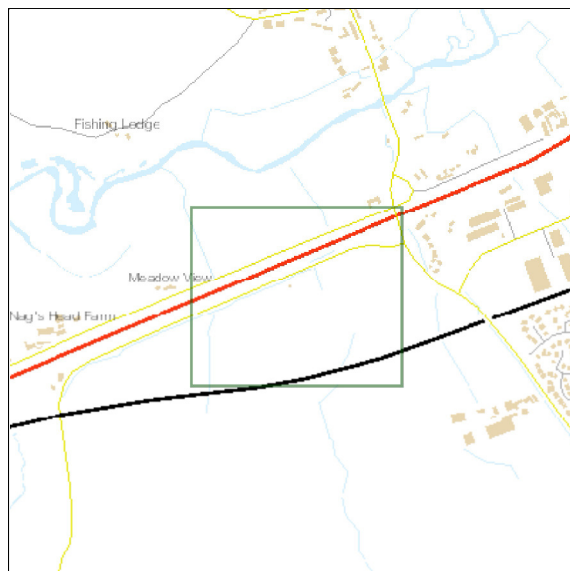
**Ward** Feniton & Buckerell

**Reference** 18/2806/VAR

**Applicant** Combe Estate

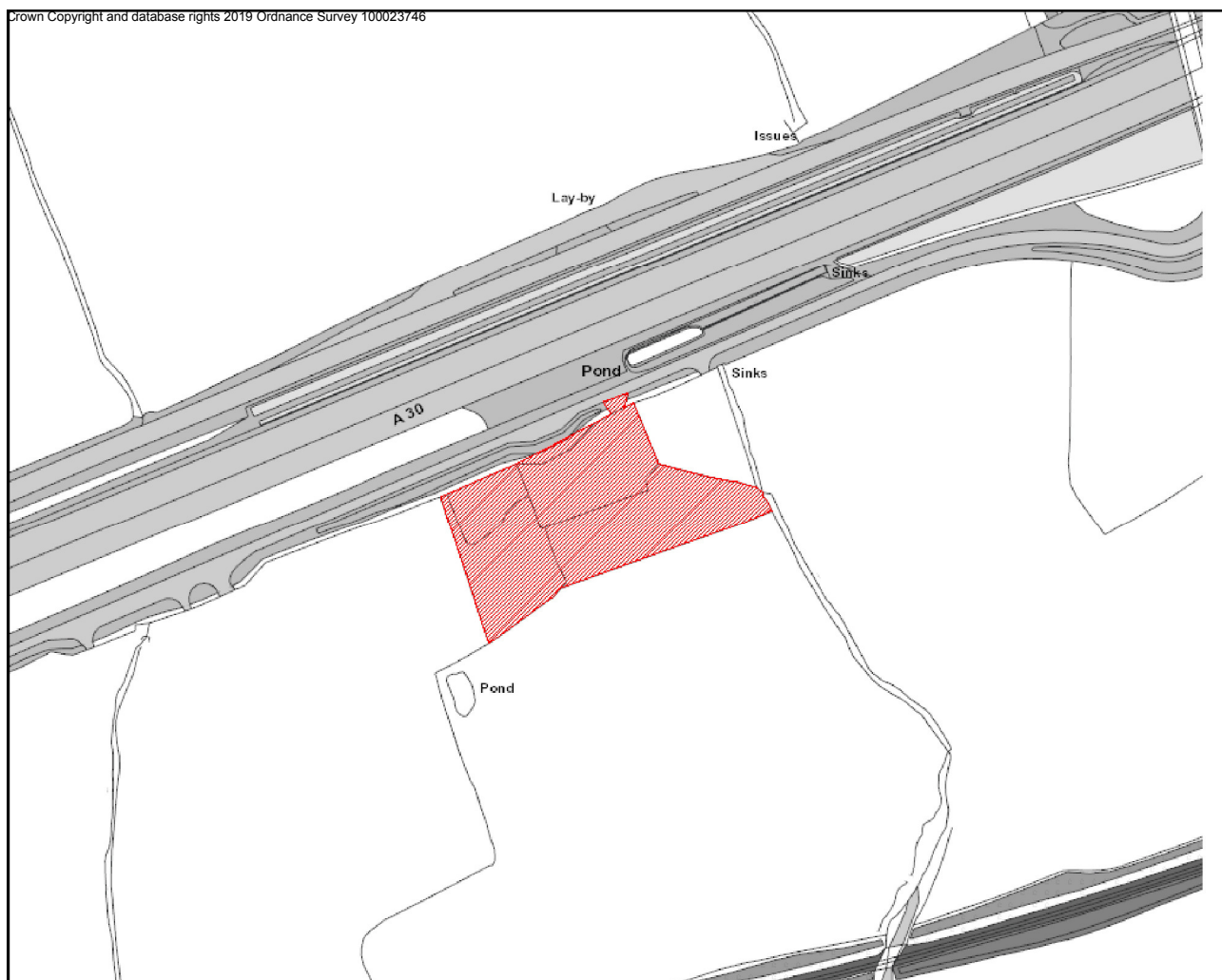
**Location** Land At Meadow View Nursery Honiton EX14 3PD

**Proposal** Variation of Conditions 2 (approved plans) and 3 (restriction on sale goods) of planning permission 17/1053/FUL (Proposed garden centre) to facilitate a restaurant/cafe use within the building



**RECOMMENDATION: Approval with conditions**

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|  |   | <b>Committee Date: 5<sup>th</sup> March 2019</b> |
| <b>Feniton &amp; Buckerell (GITTISHAM)</b> | <b>18/2806/VAR</b>  | <b>Target Date: 13.03.2019</b>                   |
| <b>Applicant:</b>                          | <b>Combe Estate</b>   |  |
| <b>Location:</b>                           | <b>Land At Meadow View Nursery Honiton</b>  |  |
| <b>Proposal:</b>                           | <b>Variation of Conditions 2 (approved plans) and 3 (restriction on sale goods) of planning permission 17/1053/FUL (Proposed garden centre) to facilitate a restaurant/cafe use within the building</b> |  |

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members because it is a departure from the development plan and because the recommendation is contrary to the view of the Ward Member.**

**Planning permission is sought for a restaurant/café within the recently opened Combe Garden Centre on the edge of Honiton. The permission for the garden centre restricts the goods that can be sold to mainly garden products. This was in the interests of protecting the vitality and viability of the town centre. The main consideration in this application is whether a café at the garden centre would undermine that objective.**

**Local and national policies seek to direct main town centre uses, such as cafes, to established centres, known as the ‘town centre first’ approach. This proposal would be contrary to that approach but there are a number of mitigating factors to consider. First, the use would represent a small part of the overall business and it is considered that most of the customers would be visiting for the garden products primarily and not for the sole reason of visiting the café. It is unlikely, therefore, that there would be a significant draw away from the high street which will continue to attract customers for the many goods and services that are not available at the garden centre.**

**Second, while there is no suggestion that the garden centre would be unprofitable without a cafe, the argument that the cafe would help the transition between busy times of the year is accepted and weighs in favour of the proposal. As is the argument that other similar facilities have ancillary cafes.**

**Given that the business would still be restricted to the sale of garden products whereas the high street has a much broader offer, it is likely that there would be limited overlap between customers. Those needing the shops and services available on the high street will not find them at the garden centre and therefore the high street will continue to play an important role in the local economy. The addition of a cafe to the offer at the garden centre would improve the viability of that business while drawing limited custom away from the high street.**

**Although the application is short on evidence, the balance of considerations falls in favour of approval, subject to a restriction on the size of the cafe.**

## **CONSULTATIONS**

### **Local Consultations**

#### **Clerk To Gittisham Parish Council**

Gittisham parish councillors have no objections to this application.

#### **Feniton And Buckerell - Cllr S Bond**

This application is in my ward and my preliminary view is that it should be REFUSED.

I was disappointed to see this application to vary Condition 3 of the original application for the garden centre (17/1053/MFUL). The condition categorically restricts the use of the garden centre to horticultural retail activities in order to maintain the vitality and viability of Honiton town centre.

In support of the original planning application, the Council's Economic Development Manager said, "The proposed development has emphasised the local employment and economic benefit of its development and operations, representing a high quality commercial diversification for the Combe Estate. This laudable local economic focus should seek to complement and not compete with existing town centre businesses in order to preserve and possibly enhance both footfall and visitor spend." Addition of a café/restaurant facility with free parking will be unfair competition for the many coffee shops and small restaurants in Honiton town centre.

However, in addition, I am equally concerned about the impact this new offer would have on Bartlett's Farm Shop, just south of the new Hayne Lane development and within walking distance of the garden centre. I note that the submission from Bell Cornwell completely ignores this business. Bartlett's is a thriving family business on Combe Estate land which would undoubtedly suffer if this variation were allowed.

However, I will reserve my position until all the facts are known and until I have heard full discussions at committee.

## **Technical Consultations**

### **Economic Development Officer**

I'm minded to recommend support to both of these variations. I appreciate that now, more than ever, we need to do all we can to support our High Streets and I haven't arrived at the view lightly.

The issue I come back to in my considerations is that in permitting these variations, Honiton as a whole becomes more attractive to visitors from outside the town and the High St will benefit as a result. A proportion of these visitors will then make the trip into the town centre for linked trips, many of which could include visits to cafes within the town.

I don't feel that the Garden Centre should be refused the opportunity to compete with much larger and more established businesses like Otter Nurseries (with a v. well established food offer) and Starbucks. Likewise, Heron farm should be provided the opportunity to become more established and draw additional footfall into the town. The benefit to visitors and consumers is increased choice and a wider offer.

Town centre café businesses concerned about potential competition have the opportunity of taking up free business support via the Growth Hub to help adapt and diversify their offer to meet local food and drink demand as it evolves.

### **Environmental Health**

I have considered the application with respect to the location of this site and any near residential neighbours. We do not anticipate any detrimental impact in view of the distance of the nearest residence and therefore have no concerns. We have advised our commercial colleagues of the proposal for a new food business and they may have requirements in relation to both the facilities provided and the extraction system required.

### **Other Representations**

None received at the time of writing the report.

## **PLANNING HISTORY**

| <b>Reference</b> | <b>Description</b>   | <b>Decision</b>          | <b>Date</b> |
|------------------|--|--------------------------|-------------|
| 17/1053/MFUL     | Proposed development of garden centre, incorporating new building, covered sales area, outdoor sales area, storage and car parking and widening of the access. | Approval with conditions | 07.09.2017  |

|             |   |                 |            |
|-------------|---|-----------------|------------|
| 16/1353/CPE | Certificate of lawful use of the site as a nursery, inc. erection of polytunnels and storage of agricultural, horticultural and building materials along with ancillary sales to members of the public. Erection of office building associated with on site activities. | CPE<br>Approved | 10.03.2017 |
|-------------|---|-----------------|------------|

## **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
Strategy 6 (Development within Built-up Area Boundaries)

Strategy 23 (Development at Honiton)

E11 (Large Stores and Retail Related Uses in Town Centre Areas)

Government Planning Documents  
NPPF (National Planning Policy Framework 2018)  
National Planning Practice Guidance

## **Site Location and Description**

The garden centre opened in December 2018 and occupies a parcel of land which is surrounded by fields but is only about 400 metres by road from the Heathpark Industrial Estate. In the East Devon Local Plan 2013-2031 the site and a further 15 hectares of agricultural land between the A30 and the railway line is allocated for employment uses (B Use Classes). The Built-up Area Boundary for Honiton has also been extended to include this allocation. Land to the south of the railway line near the site has been granted approval for the 291 houses and these are currently under construction.

Although the site is within the BuAB for Honiton, it lies within the parish of Gittisham.

## **Proposal**

Planning permission is sought for a restaurant/café within the recently opened Combe Garden Centre on the edge of Honiton. The café would not add any additional floorspace to the development, it simply proposes to use 165sqm of retail sales space for a café.

## **ANALYSIS**

The main issue for consideration is the impact on the town centre and other café from the proposal.

## Impact

Planning approval for a garden centre was granted in 2017 and the business opened in December 2018. The permission was granted subject to a condition limiting the range of goods that could be sold to items such as garden plants and garden related goods. This application now seeks permission to use part of the building as a cafe.

Condition number 3 stated:

*The premises shall be used as a garden centre only in accordance with the email dated 17 August 2017 from Combe Estates and for no other purpose (including any other purpose in Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).*

*(Reason - To define the nature of the approval hereby granted, to control the nature and extent of retail activities to those associated with horticulture or gardening in order to maintain the vitality and viability of the town centre in accordance with Policy E11 (Large Stores and Retail Related Uses in Area Centres) of the East Devon Local Plan 2013-2031 and guidance in the National Planning Policy Framework.)*

The email referenced in the condition specified a long list of garden related goods as well as Christmas tree stands, lights, etc., and fuels such as logs, coal, etc. The purpose of this condition was to ensure the vitality of the town centre by preventing an unrestricted retail use which would draw custom away from the town centre.

The 'town centre first' approach remains a key principle of the Local Plan (Policy E11) and the 2018 NPPF. Paragraph 86 of the NPPF states:

*86. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*

The only exception to this given in the NPPF is for 'small scale rural development'. However, given that the garden centre is within the BuAB, the 'town centre first' (sequential test) should be applied.

The supporting statement does not address this requirement and contains no discussion on the availability of town centre premises for a cafe. Rather than address the sequential test, it argues that a town centre location would not achieve the applicant's desired objectives which are to offer similar facilities to other garden centres and to create more full time rather than seasonal jobs, both of which it claims would underpin the viability of the garden centre. Importantly, neither of these considerations were raised when planning permission was sought for the garden centre and arguably it is a failure of their business plan that they were not anticipated at that time.

While it is accepted that most garden centres offer cafe or restaurant facilities, they are mostly long established and generally not as close to town centres as this site. In arguing that the cafe is needed in order to underpin the viability of the garden centre, the submission ignores the viability of the town centre. Moreover, arguments that the cafe will lead to more job creation and a way of adding value to Combe Estate farm produce do not address the effect on the viability of the town centre.

Notwithstanding these shortcomings, the proposal has received support from the Council's Economic Development Manager (alongside support for a new cafe at the nearby Heron Farm, Weston, application number 18/2908/VAR). He argues that the cafe would result in increased choice and would give rise to some linked trips into the town centre.

The underlying premise of this argument is that the garden centre would remain the principal attraction, rather than the cafe. It also follows from this argument that the main competitors would be other garden centres rather than other cafes. While there is no evidence to support these arguments in the applicant's submission, it is accepted that for some customers this will be the case. Furthermore it could be argued that town centre cafes trade on their proximity to other businesses and people making linked trips within the town centre. If they draw much of their custom from people who are in the town centre for other reasons, such as work, shopping, or because they live there, then the garden centre cafe would have a negligible impact.

To summarise, there are two arguments being made in this case. On one side there is an argument that new cafes should be directed to town centre locations; on the other side there is an argument that this cafe would not be in competition with those in the town centre. On balance, the latter argument is supported in this case.

The reasons for this being that the cafe would be a small part of the overall offer to customers and the rest of the business would still be restricted to the sale of garden products. It is also anticipated that on an annual basis a significantly higher proportion of income would be generated from the sale of garden products than from the cafe. While some people may visit the cafe who have no need of the garden centre, they are likely to represent a small proportion of customers. On the assumption that most customers would be visiting the garden centre for garden products, it is very unlikely that they would have been visiting the town centre for such items anyway. A further consideration is the impact of the cafe on the viability of the garden centre. While there is no suggestion that the garden centre would be unprofitable without a cafe, the argument that the cafe would help the transition between busy times of the year is accepted and weighs in favour of the proposal.

### Other matters

A concern has been raised about the impact of the proposal on the cafe at the nearby Bartletts Farm Shop. While there may be some impact, it is not the role of the planning system to stifle competition. Furthermore, the construction of 291 dwellings on adjacent land would be likely to add to their customer base.

The submitted floor plan indicates the area of the building in which the cafe would be located. It would be reasonable, in the interests of ensuring that the cafe remains a small part of the overall business, to impose a condition restricting the cafe to that area. It would also be reasonable to restrict the opening hours so that they are the same as the garden centre to ensure that the cafe did not become an attraction in its own right.

The site is on land designated for Class B uses and this would be a Class A use. For this reason the proposal is a departure from the development plan. This issue was addressed when permission was first granted for the garden centre and, as in that instance, the cafe would not prejudice the development of the surrounding land.

Parking provision at the site would remain the same but is considered to be adequate to serve the business in future.

### **Conclusion**

Given that the business would still be restricted to the sale of garden products whereas the high street has a much broader offer, it is likely that there would be limited overlap between customers. Those needing the shops and services available on the high street will not find them at the garden centre and therefore the high street will continue to play an important role in the local economy. The addition of a cafe to the offer at the garden centre would improve the viability of that business while drawing limited custom away from the high street. Although the application is short on evidence, the balance of considerations falls in favour of approval, subject to a restriction on the size of the cafe.

### **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 following approved plans:  
16/732/05A Other Plans received 22.06.17  
16/732/06A Proposed Elevation received 22.06.17  
Location Plan received 22.06.17  
2016-046-01 General Correspondence received 14.05.17  
16.732/01A Proposed Elevation received 22.06.17  
18/886/02A Proposed Floor Plans received 10.12.18  
16.732/03A Proposed Site Plan received 22.06.17  
VISIBILITY SPLAYS Other Plans received 15.05.17  
Email from Combe Estates received 17.08.17  
(Reason - For the avoidance of doubt.)



3. Other than the area hatched in red on drawing number 18/886/02 rev. A, the premises shall be used as a garden centre only in accordance with the email dated 17 August 2017 from Combe Estates and for no other purpose (including any other purpose in Use Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).  
(Reason - To define the nature of the approval hereby granted, to control the nature and extent of retail activities to those associated with horticulture or gardening in order to maintain the vitality and viability of the town centre in accordance with Policy E11 (Large Stores and Retail Related Uses in Area Centres) of the East Devon Local Plan 2013-2031 and guidance in the National Planning Policy Framework.)
4. No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority. External Lighting shall be installed in accordance with the agreed plan.  
(Reason - In the interests of the amenity of the locality, the safe and efficient operation of the A30 trunk road, and to protect the integrity of the trunk road embankment in accordance with Policies EN14 (Control of Pollution) and TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)
5. The visibility splays at the site access provided in accordance with drawing number 16.022-001 Rev. A shall be maintained clear of all obstructions greater than 600mm in height.  
(Reason - To provide adequate forward visibility from and of vehicles using the road in accordance with Policy TC7 (Adequacy of Road Network and Site Access) of the East Devon Local Plan 2013-2031.)
6. The turning space and parking areas shown on the approved plans shall be retained and kept available for those purposes at all times and shall not be used for any other purpose.  
(Reason - To ensure that adequate and safe provision is made for the development in the interests of highway safety in accordance with the requirements of Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031.)
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no mezzanine or other form of internal floor to create a first floor level shall be constructed in the development hereby permitted.  
(Reason - In the interests of town centre vitality and viability, in order to enable the Local Planning Authority to consider individually whether planning permission should be granted for additional floor space in accordance with Policy E11 (Large Stores and Retail Related Uses in Area Centres) of the East Devon Local Plan 2013-2031.)

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.  
(Reason - In the interests of town centre vitality and viability, in order to enable the Local Planning Authority to consider individually whether planning permission should be granted for additional floor space in accordance with Policy E11 (Large Stores and Retail Related Uses in Area Centres) of the East Devon Local Plan 2013-2031.)
9. The restaurant/cafe use (Use Class A3) hereby approved shall only take place within the area hatched in red on drawing number 18/886/02 rev. A, and shall only be open for trade during the opening hours of the garden centre.  
(Reason - To define the nature of the approval hereby granted, to control the nature and extent of the restaurant/cafe in order to maintain the vitality and viability of the town centre in accordance with Policy E11 (Large Stores and Retail Related Uses in Area Centres) of the East Devon Local Plan 2013-2031 and guidance in the National Planning Policy Framework.)

#### 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:

|             |                        |          |
|-------------|------------------------|----------|
| 18/886/02   | Proposed Floor Plans   | 10.12.18 |
| 16/732/05A  | Other Plans            | 22.06.17 |
| 16/732/06A  | Proposed Elevation     | 22.06.17 |
|             | Location Plan          | 22.06.17 |
| 2016-046-01 | General Correspondence | 14.05.17 |
| 16.732/01A  | Proposed Elevation     | 22.06.17 |
| 16.732/03A  | Proposed Site Plan     | 22.06.17 |
| AGENT       | General Correspondence | 17.08.17 |
| VISIBILITY  |                        |          |
| SPLAYS      |                        |          |

##### List of Background Papers

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