



## Appeal Decision

Site visit made on 26 September 2023

**by Juliet Rogers BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> October 2023**

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### **Appeal Ref: APP/R3325/W/23/3319679**

### **Holly Tree Farm, Longstrings Lane, Crewkerne, Somerset TA18 7EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
  - The appeal is made by Brett Adam Jacobs against the decision of South Somerset District Council.
  - The application Ref 22/00654/REM, dated 21 February 2022, sought approval of details pursuant to condition No 2 of outline planning permission Ref 19/02921/OUT, granted on 18 June 2021.
  - The application was refused by notice dated 8 February 2023.
  - The development proposed is described as "reserved matters application for approval of appearance, layout and scale of approval 19/02921/OUT the erection of 2 dwellings".
  - The details for which approval is sought are: appearance, layout and scale.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The planning application was refused by South Somerset District Council, which was replaced by Somerset Council on 1 April 2023. Although there have been changes to the administrative arrangements of the Council as a result, no changes have been made regarding any of the development plan considerations relevant to this appeal.

### **Main Issues**

3. The main issues are whether the proposed development is consistent with, and authorised by, the terms of the outline planning permission, and if so:
  - the effect of the proposed development on the character and appearance of the area;
  - whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to external amenity space;
  - whether the proposed development would be likely to have a significant effect on the integrity of the Ramsar; and
  - whether the proposed development would cause unacceptable harm to the safety of users of Longstrings Lane.

## Reasons

4. In June 2021 the Council granted outline planning permission<sup>1</sup> for the erection of two dwellings with all matters reserved except for access and landscaping on the appeal site, subject to a series of conditions. The terms of the outline planning permission include condition No. 2 which states that scale, layout and appearance were reserved for future consideration. The reserved matters application which is the subject of this appeal seeks approval for these matters. Although the principle of residential development on the appeal site has been established through the grant of outline planning permission, the details of any subsequent reserved matters applications must accord with the outline planning approval.
5. The proposed layout of the site is shown on the Site Location Plan and Site Block Plan<sup>2</sup> submitted with the reserved matters application. In addition to two dwellings, these plans also show an orchard and a building labelled as an Orchard Store. No reference is made to an Orchard Store within the terms of the outline planning permission, either within the description of development or any of the attached conditions. Furthermore, condition No. 4 limits the development to no more than two dwellinghouses and a combined gross internal floor space of 1000 square metres. Even though the combined floor space of the proposed development, including the Orchard Store, would be below this total area, the condition is precise in its application to the dwellings.
6. My attention has also been drawn to conditions No. 5 and No. 13 of the outline planning permission. Whilst condition No. 5 relates to the approval of a scheme of landscaping, it does not refer to an orchard or an orchard store. Additionally, the discharge of condition No. 5<sup>3</sup> refers only to the approval of landscaping works specified on page 3 and within Appendix A of the Design and Access Statement (DAS)<sup>4</sup>. The requirement to plant an orchard is stipulated, however, in condition No. 13 at point f) which states 'Plant an orchard at the rear of the properties using traditional Somerset species'. Notwithstanding this, an orchard store does not form part of this condition.
7. The appellant contends that the Orchard Store would be a structure pertinent to the normal use and functioning of two domestic buildings as it would provide vehicle parking for the dwellings, amongst other things. However, the DAS, also submitted with the reserved matters application, confirms its use for the storage of equipment and machinery ancillary to provide means for the management and husbandry requirements in propagating the orchard<sup>5</sup>.
8. My attention has been drawn to the definition of development as set out within the Town and Country Planning Act 1990 (the Act). Whilst Section 55 (2)(d)<sup>6</sup> and (2)(e)<sup>7</sup> provide exclusions from this definition in respect of dwellinghouses and forestry, this comprises the use of buildings or the land. It does not include the carrying out of building; this is defined as development for the purposes of Section 55 (1) of the Act.

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<sup>1</sup> Council ref: 19/02921/OUT dated 18 June 2021

<sup>2</sup> Drgs No. 2022/01 and 2022/02, both dated January 2022

<sup>3</sup> Email from Ben Gilpin to Brett Jacobs dated 21 March 2022

<sup>4</sup> Dated January 2022

<sup>5</sup> As specified by a technical note prepared by Natural England

<sup>6</sup> the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such

<sup>7</sup> the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used

9. Even if I were to consider the Orchard Store would be ancillary to the use approved, the evidence before me indicates that it did not form part of the proposed development contained within the outline planning application determined by the Council. I therefore conclude that the reserved matters application is not consistent with the terms of the outline permission.
10. It would not be appropriate for me to consider the appeal as a full application as it has not been advertised as such. Consequently, interested parties who may have wished to comment on the proposed development as a whole, would not have had an opportunity to do so, resulting in procedural unfairness.
11. Given my findings above, I must dismiss the appeal on the basis that the submitted details for the reserved matters application are not authorised by the outline permission. It has not therefore been necessary for me to consider the planning merits of the proposed development. Additionally, I am not required to address any other relevant matters raised by the Council or interested parties.
12. Even if no concerns about the Orchard Store were highlighted by the Council during the determination of the reserved matters application, the Council's handling of the application falls outside the remit of this decision.
13. I acknowledge the appellant's circumstances and the history associated with the appeal site. However, these are not reasons that are determinative in my decision.

### **Conclusion**

14. For the reasons given above, the appeal is dismissed.

*Juliet Rogers*

INSPECTOR