

Planning Committee Update Elms Park (16/02000/OUT)**Planning Conditions**

It is recommended that condition 4a be amended to include reference to Building Demolition Plan (21614- BM – M – 22 Revision A) which identifies the buildings along Tewkesbury Road which will be demolished. This plan also identifies that the dwelling known as Fairfields and an associated outbuilding in the western part of the site is to be demolished.

It is recommended condition 4a is amended to state:

'Condition 4a – Approved Drawings

The development hereby permitted shall be carried out in substantial accordance with the details shown on the following submitted Parameter Plans:

- *Land Use and Access 21614-BM-M-07 (F)*
- *Density Plan 21614-BM-M-12 (B)*
- *Green Infrastructure 21614-BM-M-13 (D)*
- *Building Demolition Plan 21614-BM-M-22 Revision A*

In relation to the retention of trees shown on the Green Infrastructure Parameter Plan, this should be cross-referenced and comply with Table 3 in the Arboricultural Assessment December 2023 by FPCR and accompanying Tree Retention Plans (dwgs 3313-T-06 revB; 3313-T-07 revB; 3313-T-08 revB; 3313-T-09 revB).

And the following submitted Access Plans (unless superseded by the implementation of similar accesses included as part of the M5 Junction 10 DCO works).

- *Access Drawings 1041-101 (B) / 1041-102 (A) / 1041-114 (A)*

Reason: In order to define the permission, to ensure that the development takes place in accordance with the principles and parameters contained within the Environmental Statement, to protect green infrastructure and to ensure safe and suitable access to the site'

Condition 54 - Liability for Planning Obligations. It has been identified that there have been plans submitted as part of the planning application with the same Drawing Numbers. In order to ensure conditions are precise and clear it is recommended condition 54 is amended to refer to the full title of the plans which are subject to this planning condition. It is therefore recommended condition 54 is amended to state:

'Condition 54 - Liability for Planning Obligations

No development (including demolition, ground works and site clearance) shall take place on land comprising Third Party Land Parcel A as shown edged red on plan Titled Third Party Land A - Project Number 333100748 – Drawing Number BM-M-13 – dated 17.03.2025, or Third Party Land Parcel B as shown edged red on plan Titled Third Party Land Parcel B – Project Number 333100748 – Drawing Number BM-M-14 – dated 17.03.2025, unless and until all parties with a legal or equitable interest in that land have been joined as parties to the Section 106 Agreement on the basis of which this permission is granted, and the title to such land has been properly deduced to the Local Planning Authority.

Reason: To provide a mechanism so these parts of the development do not come forward without the appropriate mitigation necessary in respect of those and that the development comes forward in a satisfactory manner. A pre-commencement condition is required as development cannot commence on the stated land parcels until a planning obligation is in place.'

Errors in Committee Report

Dwellings known as Fairfields and Fayre Oaks

Paragraphs 8.292 – 8.293 of the Committee Report refer to the dwelling known as 'Fairfield' which is encircled by application site. This is an error and the paragraphs should be referring to the dwelling known as 'Fayre Oaks' which is encircled by the application site. The analysis and conclusions in the Committee Report are unaltered by this clarification.

The dwelling known as 'Fairfield' is located to south of 'Fayre Oaks' and is located within the application site. Fairfield and an accompanying outbuilding are shown to be demolished on Building Demolition Plan 21614-BM-M-22A. Fairfield and the surrounding land to the south is third party land as shown on plan Third Party Land Parcel B (333100748 – BM-M-14). Should Fairfield not be demolished and the accompanying land parcel not be the subject of future reserved matters applications then the analysis of paragraph 8.293 of the Committee Report would also apply to Fairfield that being additionally that *'The application is in outline and therefore the specific inter-relationship with the dwelling known as Fairfield, as well the relationship of the proposed dwellings with each other, will need careful consideration as part of any future reserved matters application. However, officers consider that subject to the approval of details at reserved matters stage, the residential amenity of existing and future occupiers would be acceptable in regard to matters such as overlooking and over-bearing impact.'*

Kingsditch Lane/Wymans Lane

There is an error within paragraph 8.169 of the Committee Report which describes the highway mitigation package principals works as including:

“Kingsditch Lane / Wymans Lane

- Improvements to walking and cycling infrastructure between Tewkesbury Road to Swindon Village.”

This description should also reference the signalling of the Kingsditch Lane / Wymans Lane double mini roundabout and the same therefore should also be referenced within Condition 23.

Additional Representations

Third Party Landowner Parcel B

Further to the publication of the Committee Report, officers have received comments from the owners of the third party land shown as Parcel B edged red on plan 333100748 BM-M-14 in respect of condition 54. This land includes the dwelling known as Fairfields.

The owners of the land have made it clear that they are not party to the planning application, have not entered any type of agreement with the applicants, and do not want land within their ownership to developed. As such they would like their land to be removed from the planning application.

In response to these comments, Officers advise that applicants are not required to be the owners of land for which they apply for planning permission. Should a parcel of land benefit from planning permission, this does not mean the land must be developed. The Parameter Plans submitted in support of the outline planning application show a layout of development which would allow for the delivery of the principal supporting infrastructure including the schools, sports hub and community buildings without reliance on land within Land Parcel B and the parcel is shown as providing housing and/or green infrastructure. If Land Parcel B is not developed it would not prevent the delivery of the supporting infrastructure on the application site as a whole, and it would need to be ensured that the relationship of future development with the dwelling known as Fairfields is acceptable through the consideration of future reserved matters applications and discharge of conditions.

Third Party Landowner Parcel A

Further to the publication of the Committee Report, officers have received comments from the owners of the third party land shown as Parcel A edged red on plan 333100748 BM-M-13 in respect of condition 54.

The owners, who are not party to the application, advise that they still strongly object to the inclusion of their land parcel in condition 54, that it is not necessary as they are willing to be a party to the S106. The owners do not consider there are 'exceptional circumstances' to justify the imposition of this planning condition.

The owners are seeking for the reference to their parcel of land (Parcel A) to be removed from the condition 54 or at least that it should be resolved at the meeting that condition 54 cannot be finalised until further discussions with third party land owners have taken place.

In response to these comments, as set out above, applicants are not required to be the owners of land for which they apply for planning permission. Should a parcel of land benefit from planning permission, this does not mean the land must be developed. The Parameter Plans submitted in support of the outline planning application show a layout of development which would allow for the delivery of the principal supporting infrastructure including the schools, sports hub and community buildings without reliance on land within Land Parcel A and the parcel is shown as providing housing and/or green infrastructure. If Land Parcel A is not developed it would not prevent the delivery of the supporting infrastructure on the application site as a whole.

Officers' view remains that there are exceptional circumstances for the imposition of the condition in respect of both Land Parcel A and Land Parcel B and the condition is necessary to ensure no part or parcels of the development come forward without the appropriate mitigation as set out at paragraph 8.448 to 8.502 of the Committee Report.

Letter of Support from South West Transport Network Railfuture Severnside

A letter of support has been received from Railfuture welcoming the delivery of homes, community uses and employment, and emphasizes the importance of focusing on public transport provision