

DELEGATED DECISION REPORT

APPLICATION NUMBER

192165

Land To the Rear of Plots 1 & 2 & Woodhouse Farm, Edwyn Ralph, Bromyard, Herefordshire, HR7 4LX

CASE OFFICER: Mr Josh Bailey
DATE OF SITE VISIT: 30th July 2019

**Relevant Development
Plan Policies:**

**Herefordshire Local Plan – Core Strategy
Policies:**

SS1 – presumption in favour of sustainable development
SS2 – delivering new homes
SS4 – movement and transportation
SS6 – environmental quality and local distinctiveness
SS7 – addressing climate change
RA2 – housing in settlements outside Hereford and the market towns
H3 – ensuring an appropriate range and mix of housing
MT1 – traffic management, highway safety and promoting active travel
LD1 – landscape and townscape
LD2 – biodiversity and geodiversity
LD3 – green infrastructure
LD4 – historic environment and heritage assets
SD1 – sustainable design and energy efficiency
SD3 – sustainable water management and water resources
SD4 – waste water management and river water quality

Edwyn Ralph (part of the Thornbury Group Parish Area) is currently at the Neighbourhood Area Consultation stage, which runs between 14 August 2019 to 25 September 2019

NPPF

Sections:

1 – Introduction
2 – Achieving sustainable development
4 – Decision-making
5 – Delivering a sufficient supply of homes
8 – Promoting healthy and safe communities
9 – Promoting sustainable transport
11 – Making effective use of land
12 – Achieving well designed places
14 – Meeting the challenge of climate change, flooding and coastal change

- 15 – Conserving and enhancing the natural environment
16 – Conserving and enhancing the historic environment

Relevant Site History:

183655/XA2 – application of approval of details reserved by conditions 6, 9, 14, 15, 16, 17, 18, 19 and 20 of plots 2 and 3 attached to planning permission 171535 – approved

182635/F – application for variation of condition 2 of planning permission 171535/F (proposed 3 dwellings and garages) to allow alterations to visibility splays – approved with conditions

174818/XA2 – application of approval of details reserved by condition 3a, 9 - Plot 1, 11, 14 - plot 1, 15 - plot 1, 16 plot 1, 17 - plot 1, 18 - plot 1, & 19 attached to planning permission 171535 – approved

171535/F – proposed 3 no. dwellings and garages – approved with conditions

152122/F – five dwellings and garages – appeal for non-determination, appeal dismissed

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	X				X
Transportation	X			X	
Landscape	X				X
Ecologist	X	X			
Archaeology	X		X		
Buildings Conservation Officer	X				X
Environmental Health (contamination)	X				X
Welsh Water/Hyder	X			X (No comment)	
Open Spaces EAST	X	X			
PROW	X			X	
Ramblers	X			X	
Press/Site Notice	X				X (27 obj.)
Local Member for Hampton	X				X* (see representations)

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The site lies on the eastern side of the B4214, within Edwyn Ralph, a settlement identified under policy RA2 of the Herefordshire Local Plan – Core Strategy as a Figure 4.15 settlement where proportionate housing is appropriate. On inspection, it is clear that the topography land declines southwards from the highway, to which Woodhouse Farm is to the north of site. The roadside

boundary comprises a mixture trees and hedgerow, which has been broken up considerably following the approval of three dwellings in 2017 (P171535/F), which are currently under construction. The only other break in the roadside frontage comprises public footpath ER27 which crosses the application site.

The application before officers seeks planning permission for the erection of 5 no. custom build dwellings, each with their own garages and shared private drive, as well as the demolition of a barn at Woodhouse Farm, in order to facilitate the proposal. Below, I refer one to the proposed site plan and elevations of each dwelling:



Figure 1: Proposed Site Plan



Figure 2: Proposed Elevations and Floor Plans for Plot 1

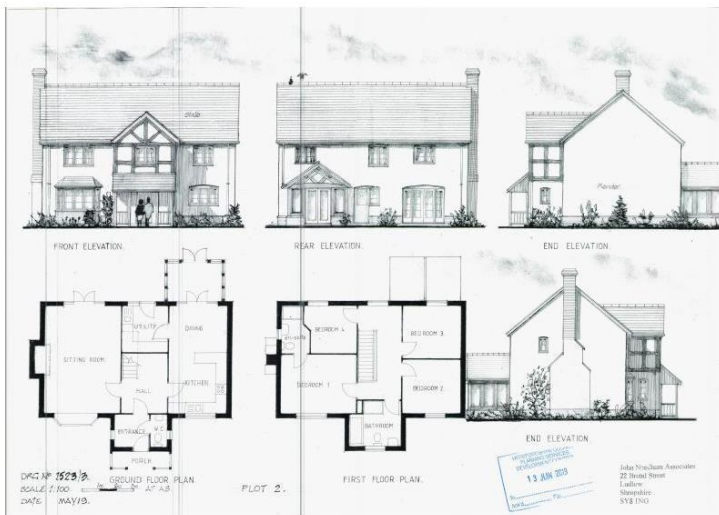


Figure 3: Proposed Elevations and Floor Plans for Plot 2



Figure 4: Proposed Elevations and Floor Plans for Plot 3



Figure 5: Proposed Elevations for Plot 4



Figure 6: Proposed Elevations for Plot 5



Figure 7: Proposed Floorplans for Plot 5

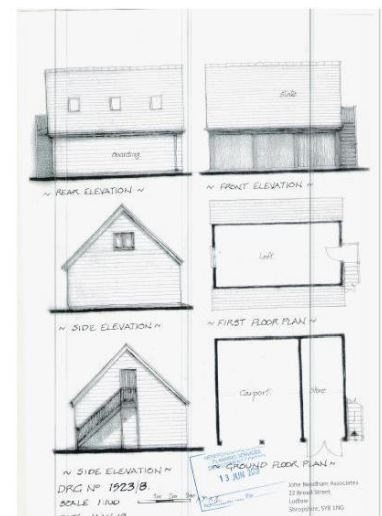


Figure 8: Proposed garages for plots 1 and 2

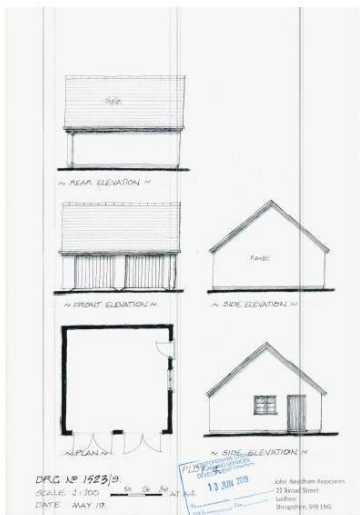


Figure 9: Proposed garages for plots 3 and 4

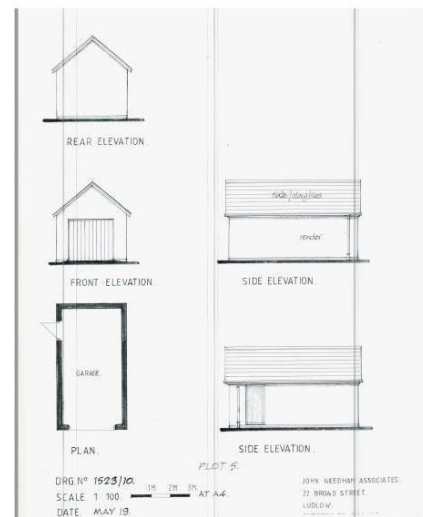


Figure 10: Proposed garage for plot 5

Full details of the proposed plans, including all supporting documents; application form and all representations are on the Council's website, through the following link: https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192165&search=192165

Representations:

Thornbury Parish Council – Objection: “The Parish Council held a meeting on 13th August 2019 to discuss the proposal for five more houses on the land adjacent to Woodhouse Farm and confirm the meeting was extremely well attended by residents of the village showing great concern for this proposal. The Parish Council strongly object to the application and cannot understand how it has been allowed when taking into consideration the ‘history’ of all previous applications in relation to this site. This application is substantially similar to the original application no. 152122 for 6 houses and then subsequently changed to 5 houses. Therefore, reference should be made and taken into account from the report made by the Secretary of State dated 24th March 2017. The Planning Inspectorate clearly stated on point 9 that “with the exception of plot 1 would not reflect the existing linear pattern of development. The 4 plots to the rear of the site would extend beyond the existing built form of this part of the village and would intrude to open countryside.” The Inspectorate also made reference to

Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which requires when considering whether to grant planning permission, special regard shall be made to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Policy SS6 of the Core Strategy states that development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets. Due to several heritage assets and the existing layout within the village, the proposed development is contrary to the report made by the Secretary of State and the policies within the Core Strategy. Reference should also be made to the conditions set out on the revised application for three dwellings application no. 171535 namely: 1. A phased contamination survey for the presence of anthrax. This has not been carried out on the land where the new proposal is set and therefore insist on a thorough investigation. 2. Landscaping condition to plant orchard trees on the remaining 'undeveloped' land. A recorded transcript is held of the Herefordshire Council Committee meeting dated 4th October 2017 confirming this condition and therefore another planning proposal cannot/should not take place. 3. Removal of permitted development rights for the three plots to be approved. The Inspectorate dismissed the proposal in 2017 clearly outlining a number of reasons as to why the development was not suitable and together with the conditions set on the revised application for three dwellings the Parish Council strongly advise Herefordshire Council to object this new proposal with immediate effect".

Transportation/Highways – Qualified Comments: *"The proposals include a new access onto the B4214, whilst no details have been provided of this access the gradient should not exceed 1 in 12 when joining the highway and should permission be granted this would need to comply with the construction specification set out in Herefordshire Council's Highways Specification for New Developments. This will ensure a flatter area will be available for vehicles to safely emerge from the access onto the B4214. It is noted that the alignment of the B4214 is such that visibility will be adequate for these movements.*

The proposal includes a 3m wide shared private drive to the 5 dwellings; this is narrower than the minimum 3.5m width set out in Herefordshire Council's Highways Design Guide. This wider dimension is to assist with the use of the shared private drive as a shared space and the narrowness limits this. Additionally the Design Guide also requires passing places on a drive of this length to limit the amount of reversing that will be required, especially back onto the B4214 at the access.

There is sufficient parking and turning for the scale of the development plots.

Should permission be granted at this location it is recommended that the condition CAE (Vehicle Access Construction) is applied to control/rectify the points above".

Landscape – Objection:

" Designations/Constraints

PROW Footpath ER27 (Within site).

Historic saw pit - post medieval - 1540 AD to 1900 AD (Refer figure 1).

– The Manor, grade II listed building (Adjacent south west-corner of site boundary).

Relevant Policy

NPPF

- | Chapter 12 127 c
- | Chapter 14: 150a & 157 c
- | Chapter 15: 170 a

Core Strategy

- LD1,LD3, SS6 and SD3

Landscape & Visual Amenity

- *Topography: Relatively steep falls across site in a south-east direction (Refer Figure 3)*
- *Vegetation: Pasture, hedgerows and trees within and to the perimeter of the site.*
- *Landscape Character: Timbered Plateau Farmlands with characteristics of medium-open views due to the undulating topography and field boundary hedgerows (Refer figure 2). (Source: Landscape Character Assessment, SPG 2004, updated 2009, Herefordshire Council).*
- *Historic: Historic saw pit - post medieval - 1540 AD to 1900 AD and path network to The Manor, grade II listed building. Orchard plantations and woodlands (Refer figure 1).*
- *Views:*
 - *North: Screened by road side trees and dwellings. Dwellings have clear view over site.*
 - *East: Due to topography views upper part of site is exposed providing views on/off site. Lower part of site screened by tree corridor (Refer figure 2).*
 - *South: Views onto site from neighbouring dwellings.*
 - *West: Screened by trees.*

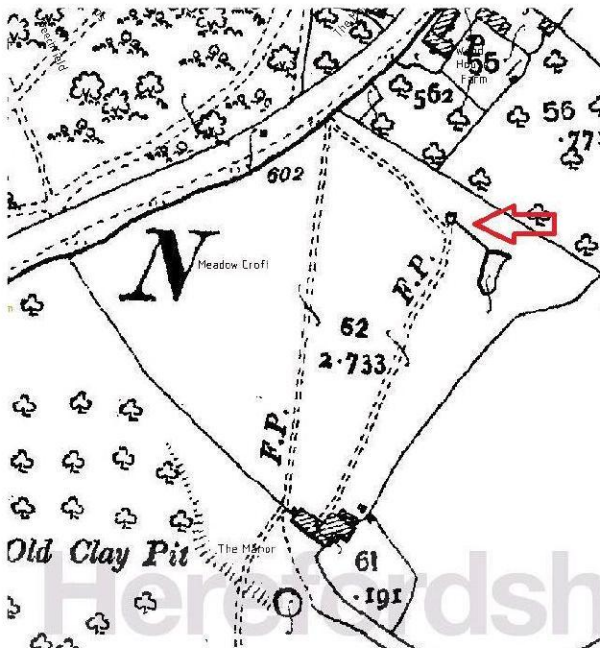


Figure 1: Saw pit (post medieval - 1540 AD to 1900 AD), image circa 1891-1912, marked with red arrow. Note, The Manor, grade II listed building.



Figure 2: Landscape character derived by undulating topography, with open views onto site and off site over the valley towards respective knolls. (Site marked with red circle).



Figure 3: Recent aerial image, indicating 5m contour; PROW (pink line) and listed building (dark blue hatch).

Impact

Site and Layout appropriateness

- ☐ Damage and potential loss of historic saw pit (post medieval - 1540 AD to 1900 AD). (Refer figure 1).
- ☐ The gradient of the site will require earthworks (cut and fill) to achieve compliant roads, parking and footpaths. This may have physical impacts on soil, geology, hydrology, trees and existing edge conditions. This in turn may affect the visual amenity, if infrastructure such as retaining walls are required to create building platforms or removal of trees and landscape occurs due to soil displacement.
- ☐ Light pollution not considered. This is particularly relevant due to the potential visibility from south-east of the site (Refer figure 2).

Valued Landscape

- ☐ Loss of Timbered Plateau Farmland character.
- ☐ Destruction of grade three (good to moderate) agricultural soil, biodiversity and habitats. (Reference: West Midland Region Agricultural Land Classification, 2010, Natural England).

Green infrastructure

- ☐ The scheme does indicate a network of hedgerows and hedgerow trees associated with dwelling property boundaries, however no mention of species is provided. There appears to be little in the way of public domain landscape amenity along the roads.

Retention of onsite water (reduction of flooding).

- ☐ The sloped nature of the site will require a water management strategy (i.e. SuDS system). This is not evident.

Recommendations

For a development of this type on a sloped topography it is advisable to provide the following information to ensure that in landscape terms it takes into considerations the inherent site attributes; contextual considerations; physical and visual impacts that occur when addressing existing levels and proposed levels; an understanding and acknowledgement of existing trees and vegetation to support proposed soft landscape strategy and design; environmental conditions (wind and sun); provide green infrastructure (how does development support broader environmental aims); landscape mitigations methods; materiality that is appropriate for local conditions and sustainability and colour considerations.

Landscape appraisal

- ☐ An informal LVIA is recommended to contribute to the 'appraisal' of the development proposal and to demonstrate that the applicant has undertaken a rigorous investigation of

the site, context, impacts and mitigation methods to achieve an optimum design proposal for planning consideration. The LVIA should address the both effects on the landscape as a resource in its own right and effects on views and visual amenity.

** Refer to the Guidelines for Landscape and Visual Impact Assessment, 2013, Landscape Institute and Institute Environmental Management and Assessment.*

Tree survey

– Provide a topographical survey, arboricultural method statement and relevant documentation as per BS5837:2012 trees in relation to design, demolition and construction – recommendations.

Landscape led masterplan

– Provide a scheme that takes into consideration context, solar gain orientation and pedestrian connectivity, with a strong emphasis on creating a green and healthy environment.

Hard landscape

Hard landscape plan (scale 1:200 or equivalent scale to communicate the information clearly), with existing and proposed levels. Indicate external paving, lighting, fencing, walls and other external elements.

– Sections of site to communicate levels, interfaces and conditions that impact on the landscape.

– Written specification of materials (type, sizes and colours).

Soft landscape

Soft landscape plan (scale 1:200 or equivalent scale to communicate the information clearly), with trees and planting areas set out.

– Written specification setting out species, size, quantity, density and cultivation details.

Drainage and water attenuation

Provide a SuDS proposal (Refer to Sustainable Drainage Systems (SuDS) Handbook www.herefordshire.gov.uk for guidance), and a proposal that integrate water management, landscape amenity and useable open space.”

Ecology – No response received

Archaeology – No objection: *“Regarding archaeology as generally understood, I am of the view that the impact of the development is likely to be minimal. There are no real issues of concern here. The ‘sawpit’ referred to only relates to a field name recorded on the 1840 tithe map of the parish. On this map, and also on the later Ordnance Survey first edition map, a substantial zone to the north west of the settlement is indicated as being woodland. Evidently, the field in question was used for processing the timber coming from that woodland. There is nothing unusual about such a use, and the significance / implications of it are I think limited in this particular case”.*

Buildings Conservation Officer – Objection:

“We object to this proposal for the following reasons:

1. The pattern of development proposed of houses in double depth behind the road is alien to Edwyn Ralph where existing development is limited to the roadside.

2. The proposed development comes right up to the boundary of the grade II listed building ‘The Manor’. The setting of the manor is largely private gardens enclosed by planting, but the open fields around this help emphasise its history as a remote rural cottage. Extending development as proposed

would physically link the listed building to the modern settlement. This represents a low level of less than substantial harm to one aspect of the listed building's setting".

Welsh Water/Hyder – Qualified Comment: "We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development".

Environmental Health (Contaminated Land) – Objection/Further Information Required – "We provided pre-application advice broadly regarding this site (183082). I would ask that the information asked for be provided. We would defer comment until this has been submitted."

183082 comment:

"I refer to the above application and would make the following comments in relation to contaminated land and human health issues.

I'd recommend a minimum of a Preliminary Risk Assessment (PRA) be submitted in support of any application. This should be appropriate and specific to this application and recognise potential risks from anthrax which has been discussed previously. Resubmission of the previous desk study/site investigation report would not be considered sufficient without amendment. Further iterations should be informed by additional information available and I'd recommend the commissioned technical specialist contact us to discuss prior to any submission.

Depending on what's submitted we'll be able to comment further. The above relates only to the site outlined in red on the supporting information".

Open Spaces Society East – No response received

PROW – Qualified comment: "Public footpath ER27 is not mentioned in the Design Statement but has been shown on plans. If the original stile is to be removed, PROW would prefer that a gap is left, as there is no need for stock control. Permission is required to erect any structure in a new position. If a structure is required for safety reasons, the applicant could seek permission to install a pedestrian gate to British Standards. A stile would not be acceptable. The footpath must be given a minimum width of 2m. If hedges are planted next to the footpath, they must be well maintained by the applicant/homeowners so that they do not encroach on to the path".

Ramblers – Qualified comment: "This development doesn't appear to have any impact upon the adjacent Public Right of Way, Edwyn Ralph ER27, however we ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times".

Site Notice/Press – To date, (12:00 on 30th August 2019), 27 different letters of comment have been received, all of which object to this application. To avoid repetition and duplication, these points are summarised below:

- Fails to reinforce local distinctiveness
- Impact on landscape character
- Impact on heritage assets
- Highway/pedestrian safety
- Loss of green space/habitats
- Contamination Land issues
- Sustainability of location due to lack of public transport
- Non-compliance with previous planning conditions

- Noise and light pollution
- Overlooking and overshadowing
- NDP in progress, should be afforded weighting
- Out-of-date supporting information, with particular relevance to heritage and biodiversity
- Application is 'substantially similar' to previous applications
- Discrepancies in proposed plans
- Loss of view

Local Member – Ward Cllr Harrington, the local member for Hampton, had made a conditional re-direction for this application to be referred to the Planning and Regulatory Committee for consideration, if the officer was minded to approve this application. However, following email correspondence being received on 31st August 2019, following an update from the officer on 30th August 2019, the local member has withdrawn the re-direction request and is content for officers to determine this application as a delegated matter, in accordance with the officer recommendation.

Pre-application discussion:
183082/CE – A. Prior

Constraints:
B4214
Grade II Listed Building adjacent
Contaminated Land on part of site
PROW footpath
Saw Mill Monument part of site

Appraisal:

Policy context and Legislation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

In this instance, the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within Edwyn Ralph, which is currently at the neighbourhood area consultation stage. The National Planning Policy Framework 2019, is also a significant material consideration.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Herefordshire Local Plan – Core Strategy

Core Strategy Policy SS1 echoes the NPPF's presumption in favour of sustainable development. Setting out the strategy for the delivery of new homes, CS Policy SS2 provides that the majority of housing is directed to Hereford city or one of the five market towns, including Bromyard, and in the rural areas, housing will be focused within identified settlements listed under CS Policy RA2. One hundred and nineteen settlements have been identified under policy RA2 to be a focus of proportionate housing development, which includes Edwyn Ralph, as a figure 4.15 settlement.

Residential development is to be located within or adjacent to the main built up area(s) of the named settlements. This is to categorically ensure that unnecessary isolated, non-characteristic and discordant dwellings do not arise which would adversely affect the character and setting of a settlement and its local environment, and is particularly critical with figure 4.15 settlements. Outside of Hereford city, the market towns and settlements listed under RA2 (and their settlement boundaries defined within Neighbourhood Development Plans or the Rural Areas Site Allocation DPD), sites are considered to be within a countryside location and residential development strictly controlled and limited to exceptions listed under CS Policy RA3.

Core Strategy policies RA3 restricts residential development within the open countryside to exception criteria as follows –

- meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
- accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
- involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
- would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
- is rural exception housing in accordance with Policy H2; or
- is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
- is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.

Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations*. Policy SS6 then states in its list of criteria *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty*.

Core Strategy policy SS7 – *Addressing climate change* describes how development will be required to mitigate their impact on climate change, and strategically, this includes:

- focussing development to the most sustainable locations
- delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport

Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.

Core Strategy policy RA2 – Housing outside Hereford and the market towns identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Policy RA2 also states that housing proposals will be permitted in identified settlements where the following criteria are met:

- Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout,

character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;

- Their locations make best and full use of suitable brownfield sites wherever possible;
- They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
- They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.

Policy RA3 – Herefordshire’s countryside specifies in rural locations outside of settlements either listed under RA2 or adopted Neighbourhood Plans, residential development will be limited to proposals which satisfy one or more of the seven exception criteria.

Core Strategy policy LD1 criteria requires new development must achieve the following:

- ☐ demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
- ☐ conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area’s character and by enabling appropriate uses, design and management.

SD1 of the HCS states that development should be designed to maintain local distinctiveness, achieved through the incorporation of architectural detailing and the use of appropriate materials. Development should safeguard amenity of existing and proposed residents, including appropriate development of the site, and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration. This refers to the overshadowing or overlooking of neighbouring properties and how overbearing a structure is.

Core Strategy policy MT1, ensures that new development is required to incorporate principle requirements covering movement and transportation, with particular regard to the following relevant criterion :

- ☐ “demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that the traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development”
- ☐ “ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services”.

Edwyn Ralph Neighbourhood Development Plan

At the time of writing this report, Thornbury Group Parish Council submitted a request to Herefordshire Council for a Neighbourhood Area to be created at Edwyn Ralph. As such, the status of this is at the pre-draft plan stage, namely the Neighbourhood Area Consultation stage, which runs between 14 August and 25 September 2019. Progress of the NDP for the area can be viewed on the Council’s website:

https://www.herefordshire.gov.uk/directory_record/5794/edwyn_ralph_neighbourhood_development_plan

National Planning Policy Framework

The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life.

Paragraph 7 sets out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 to Paragraph 11 states this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The local authority is currently failing to provide a 5 year Housing Land Supply, plus a buffer and as such Paragraph 11 is triggered due to conflict with the relevant requirements of NPPF chapter 5 *Delivering a sufficient supply of homes*.

Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.

This position was crystalised at the Appeal Court prior to the NPPF February 2019 coming into effect and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG* [2016] EWCA Civ 168 were described by the Court thus *We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision-maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H).*

Accordingly, the Council's housing land supply position vis-à-vis the NPPF does not result in the proposal being acceptable when there are both material considerations demonstrating the development should be refused or where, locally, housing supply targets can be demonstrated.

NPPF paragraph 48 sets out the weight which can be attributed to NDPs and indicates The Local Planning Authority may give weight to relevant policies in emerging plans according to:

- a) The stage the preparation of the emerging plan
- b) The extent to which there are unresolved objections

c) The degree of consistence of relevant policies in the merging plan to this framework.

NDPs which have passed a successful referendum are therefore part of the statutory development plan.

NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines Planning decisions should ensure that developments:

- └ will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- └ are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- └ are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- └ establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- └ optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- └ create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies specific to protected landscapes (including AONBs) are detailed in section 15, namely at paragraph 172 and states *Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. The scale and extent of development within these designated areas should be limited.*

NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.

Assessment

Principle of Development

Core Strategy policies SS2 and H3, along with in this instance CS policy RA2, are considered to be in clear conformity with the NPPF and its social objective, which as one of the three pillars of the NPPF, underpins sustainable development, where the needs of all groups within the community should be assessed and inform local policies. Notwithstanding the Council's housing land position with the lack of a five-year housing land supply, the requirements of CS policies H3 and RA2 do not restrict development and as such are not considered out of date and as such are afforded weight in the determination of this application.

The Core Strategy, in line with national guidance, emphasises the importance of not promoting unsustainable patterns of development and advises within the preamble to policy RA2 (paragraph 4.8.23) that where appropriate, settlement boundaries will be defined by NDP's and that where these are in place, new housing will be restricted to avoid unsustainable patterns of development. Indeed, sustainability is more than simply a matter of location.

The core principles upon which RA2 is founded can be summarised as an expectation that development proposals should reflect the size, role and function of the village concerned; make best use of brownfield land where possible; result in high-quality, sustainable development which enhances local character, where possible, and does not result in unsustainable patterns of development. It is my view, therefore, that although out-of-date, RA2 may continue to attract weight in the determination of this application. This is because it is positively worded and does not seek to impose a cap on development. It does, however, require development to be built within or adjacent the main built up part of the settlement concerned, and that locational aspect of the policy cannot carry weight in the current context. In particular, smaller settlements, identified under Figure 4.15, proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned.

The settlement character of Edwyn Ralph, lies principally along the B4214 which runs through the village, with the distinctive pattern of development also evident along 'The Crest' and onto 'Wood Lane'. This site is adjacent to the B4214 and the site is identified as being within the main built up area of the village. However, one important settlement characteristic which makes Edwyn Ralph unique, is that the village form comprises a linear single-plot depth, particularly prevalent to the east of the village along the B4214, if including the three dwellings approved under 171535/F, which is also noticeable throughout the remainder of the village if one was to walk throughout the settlement, in which dwellings address the road frontage. Given Edwyn Ralph is identified as a settlement under figure 4.15, to which it is a smaller settlement identified in the CS as a settlement where proportionate housing is appropriate. The Core Strategy is clear under Policy RA2 point 1 in so that,

"Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned".

The form of the settlement is linear in nature, including the distinctive patterns of development along 'The Crest' and onto 'Wood Lane' and as such, houses generally front onto the roadside and are dispersed along the road on a west-east axis, heading north through the village, which the majority of dwellings west of the B4214. The houses clearly establish a frontage onto the main road, beyond which there is little, if any, development. Although there are instances in the settlement whereby clusters of buildings extend beyond the frontage development, these relate to farmsteads and consist of a mixture of agricultural buildings and outbuildings, and not residential development. As a consequence, the defining characteristic of the settlement is its linear form created by the layout of the dwellings which line the road in a consistent manner.

Indeed, as part of the previous appeal relating to Woodhouse Farm, Edwyn Ralph (APP/W1850/W/16/3159485), point 8 of the inspector's decision, provides a clear and concise layout of the settlement, namely that,

"The built form of the village is largely focussed on the northern side of the road, with linear development being a characteristic of the area. The southern side of the road is largely undeveloped apart from buildings at Wood Farm, adjacent the appeal site and a bungalow to the west which are located close to the road. The Manor is accessed from the road via a long drive and is located at a lower level than the appeal site. It is not readily visible from the road".

The application proposes to introduce five new dwellings that would introduce a pattern of development that would be akin to a double plot, almost estate-type depth to the east of the B4214, which would be considered incongruous to Edwyn Ralph where existing development is described as

being linear and limited to the roadside, which has also been identified by the view of the Council's Building Conservation Officer as well as the previous appeal decision I referred to above.

Although the site provides an open space between the north of the three approved dwellings under 171535/F and Wood House Farm, the proposed dwellings would extend significantly beyond the strong line of development which is established by the houses which front onto the main road and into the open countryside beyond. As a consequence, the proposal would be demonstrably at odds with the prevailing form and layout of the existing settlement. The submitted location plan reinforces the character of the settlement hereabouts below and photos to show the current use of the site:



Figure 11 – Proposed Location Plan



Figure 12 – Site when viewed from PROW ER27



Figure 13 – Site when viewed from Woodhouse Farm



Figure 14 – Site viewed from rear of Plot 1 approved under P171535/F, looking towards Woodhouse Farm

Due to its location, the application site appears removed and somewhat divorced from the houses that front onto the highway. Consequently, the change of the use of agricultural land, which the site comprises, represents an encroachment beyond the settlement into open countryside and for that reason it is demonstrably at odds with the prevailing layout of development. Its presence does not therefore weigh in favour of these proposals. For the reasons identified above, the proposal would fail to complement the prevailing form and layout of the surrounding settlement. I therefore view that the proposals would harm the character and appearance of the area. Consequently, they would fail to accord with Policy RA2 of the CS, particularly given Edwyn Ralph's status as a figure 4.15 settlement which seeks amongst other things to ensure that housing proposals demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement, and which is consistent with policies within the National Planning Policy Framework (the Framework) in that regard. The proposal has also failed to consider the existing pattern of development in terms of layout, design

and site selection, contrary to policy LD1 of the CS and would fail to reinforce local distinctiveness hereabouts and the character of the settlement, also contrary to policies SD1 and SS6 of the CS.

These dwellings are identified as being for 'custom-build' in order to meet the requirements of the self build register that is kept by the Council. However, custom-build is a product not a tenure and therefore it can be an option for both open market and affordable housing, this means that custom build/self build does not satisfy any of the criteria set out in Policy RA3. Indeed, numerous appeal decisions in the county have confirmed this interpretation.

The applicant appears to focus particularly in the design and access statement on the fact that the proposals seek to deliver custom build plots, and that the Council is not fulfilling its obligations to deliver them. Whilst not implicit from the submissions made, the appellant appears to have in mind a particular definition as to what might constitute a 'serviced plot' and says: The LPA seem to think that general permissions, granted in the recent past, in accordance with the development plan to people not on the register and without a Unilateral Undertaking count towards their statutory obligations but clearly this is not so.

For the avoidance of doubt, the Self-build and Custom Housebuilding Act 2015 defines a service plot as follows:

- (a) has access to a public highway and has connections for electricity, water and waste water, or
- (b) can be provided with those things in specified circumstances or within a specified period;

National Planning Practice Guidance provides some further detail about what constitutes a serviced plot: A serviced plot of land is a plot of land that either has access to a public highway and has connections for electricity, water and waste water, or, in the opinion of a relevant authority, can be provided with access to those things within the duration of a development permission granted in relation to that land.

It goes on to say: For example a plot of land alongside an existing public highway that is an infill between existing dwellings would count as being serviced. There is no expectation that services must be physically connected to the plot at the time of granting planning permission.

The Council is required by the legislation to grant sufficient permissions to meet the demand on the self build register. The legislation states that relevant authorities have three years in which to permission an equivalent number of plots of land, as there are entries for each base period. Therefore, for example, the Council has until 31 October 2019 to grant sufficient planning permissions for the first base period which ended on 30 October 2016.

Having read the legislation and the NPPG, the local planning authority can find no other definition of a serviced plot or anything that suggests that permissions granted to individuals who are not listed on its register should not be counted towards its total of serviced plots. The Council does not impose a local connection requirement to those people wishing to place themselves on its self build register. Therefore it does not consider that there is a need for a Unilateral Undertaking and, by submitting one, the applicant is imposing their own more rigorous level of compliance in suggesting such a requirement in necessary.

Planning applications for custom/self-build proposals should be considered against the relevant development plan policies. There is no statement in the legislation or government guidance which states otherwise, or that development plans are out of date if they do not include custom/self build planning policies. The Council accepts that the provision of custom/self build sites can be a material planning consideration but maintains that the appeal proposal is contrary to the development plan and that this is not outweighed by any other material considerations.

Clearly, regardless of suggesting that proposing 'custom-build' dwellings would bring minor benefits, conflict has been identified in terms of the character, layout and form of the settlement pattern of Edwyn Ralph, which not only conflicts with the development plan and also reinforces the appeal decision in terms of lack of regard for layout, but furthermore, fails to contribute to the social well-being of the settlement.

Landscape

Policy RA2 is underpinned by Policy LD1 of the Core Strategy - Landscape and townscape. Development proposals need to demonstrate that features such as scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings. Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) also seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment.

The B4214 and public footpath ER27 (within the red line of the application site) represents a route corridor which when travelling in an easterly direction provides orientation and fine outstanding long-distance panoramic views towards the Bromyard Downs and beyond. The proposed development, through both the principle and its inappropriate response to context, would have numerous, including significant landscape impacts, comprising –

Site and Layout appropriateness

- ☐ Damage and potential loss of historic saw pit (post medieval - 1540 AD to 1900 AD).
- ☐ The gradient of the site will require earthworks (cut and fill) to achieve compliant roads, parking and footpaths. This may have physical impacts on soil, geology, hydrology, trees and existing edge conditions. This in turn may affect the visual amenity, if infrastructure such as retaining walls are required to create building platforms or removal of trees and landscape occurs due to soil displacement.
- ☐ Light pollution not considered. This is particularly relevant due to the potential visibility from south-east of the site (Refer figure 2).

Valued Landscape

- ☐ Loss of Timbered Plateau Farmland character.
- ☐ Destruction of grade three (good to moderate) agricultural soil, biodiversity and habitats. (Reference: West Midland Region Agricultural Land Classification, 2010, Natural England).

Green infrastructure

- ☐ The scheme does indicate a network of hedgerows and hedgerow trees associated with dwelling property boundaries, however no mention of species is provided. There appears to be little in the way of public domain landscape amenity along the roads.

Retention of onsite water (reduction of flooding).

- ☐ The sloped nature of the site will require a water management strategy (i.e. SuDS system). This is not evident.

The councils Landscape Officer has concluded that there is insufficient information submitted. For a development of this type on a sloped topography (south-east direction) it is advisable to provide adequate information to ensure that in landscape terms it takes into considerations the inherent site attributes; contextual considerations; physical and visual impacts that occur when addressing existing

levels and proposed levels; an understanding and acknowledgement of existing trees and vegetation to support proposed soft landscape strategy and design; environmental conditions (wind and sun); provide green infrastructure (how does development support broader environmental aims); landscape mitigations methods; materiality that is appropriate for local conditions and sustainability and colour considerations.

In the absence of such information, officers consider that there would be there would be material adverse visual effects and the irrevocable loss of part of a valued landscape view when seen from the B4214 and its public right of way footpath and the loss of valued landscape, namely the loss of the Timbered Plateau Farmland character, which would be eroded through the proposed development. In these important environmental respects the proposal would be contrary to NPPF paragraphs and the Core Strategy as it is also concluded that, the development of this site in the form proposed would represent a form of development that would give rise significant and demonstrable harm through the loss of landscape character and the character and setting of the settlement, contrary to the requirements of policies LD1, SD1, SS6 and RA2 of the Herefordshire Local Plan – Core Strategy and policy.

Design and Amenity

Notwithstanding the objection in principle, CS policy SD1 requires that new development should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design and safeguard residential amenity for existing and proposed residents.

As set out under the principle of development, the proposal is not considered to represent an appropriate response to context and furthermore, as result of inappropriate scale, mass, height and articulation, is harmful to the local area and its landscape and heritage setting. This is particularly considering that a number of garage outbuildings are not considered appropriately subservient and would indeed compete with a number of dwellings in terms of their size. I refer here to the proposed garages of plot 1 which is of a similar scale to the dwelling proposed for plot 5.

The proposed dwellings whilst not unprepossing have, with respect to their footprints and accommodation provide, a development that is 'car dominated' with access roads and parking areas accounting for both significant and prominent landscape layout components of the design. Numerous plots are surrounded by parking or moving vehicles. Overall the proposal as an urban layout, almost estate-type, and forms at odds with its rural context. There is sufficient separation distance between the proposed dwellings and those previously approved in terms of sufficient residential amenity to satisfy SD1.

Housing Mix

Whilst officers acknowledge that the scheme proposed would bring forward 1 no. 2 bedroomed dwelling and 2 no. 3 bedroomed dwellings, the scheme would also introduce 2 no. 4 bedroomed dwellings. Policy RA2(4) identifies that housing proposals should result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, which reflects local demand. Edwyn Ralph forms part of the Bromyard Rural Housing Market Assessment. As taken from the Herefordshire Local Housing Market Assessment – 2012 Update by GL Hearn, the Bromyard Housing Market Assessment identifies that there is a over-supply of 4+ bedrooms in the Bromyard Rural area already.

Table 94: Estimated Size and Type of Dwellings Required 2011 to 2031 – Market Housing (Bromyard HMA)

Type/size	Bromyard Urban		Bromyard Rural		Bromyard HMA	
	Number	%	Number	%	Number	%
1 bedroom	13	4.3%	1	0.5%	14	2.7%
2 bedroom	66	22.0%	73	33.3%	139	26.8%
3 bedroom	142	47.3%	166	75.8%	308	59.3%
4+ bedroom	79	26.5%	-21	-9.6%	58	11.3%
Total	300	100.0%	219	100.0%	519	100.0%
Houses	306	102.1%	224	102.6%	531	102.3%
Flats	-6	-2.1%	-6	-2.6%	-12	-2.3%
Total	300	100.0%	219	100.0%	519	100.0%

Source: Housing Market Model

An introduction of 2 no. 4+bedroomed dwellings does not reflect local demand and local need and is not considered to be acceptable, conflicting with Policy RA2 of the Core Strategy. However, given the provision 1 no. 2-bedroom dwellings and 2 no. 3 bedroom dwelling, the submitted housing mix would be considered acceptable.

Heritage

To the south-west of the site lies The Manor a grade 2 listed building and designated heritage asset. Whilst consent has been given for a development akin to the highway previously, The Manor and its setting of the building was considered under appeal APP/W1850/W/16/3159485.

Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:

“to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.

Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.

Paragraphs 193 - 196 of the NPPF (2019) deal with the approach to decision-making according to the significance of the heritage asset and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. This is unless such harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or where all 4 stated exceptions criteria apply.

Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.

Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to heritage advice from statutory consultees, whether the proposal in this case represents substantial harm to or total loss of significance of the Grade II listed building (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy.

A heritage statement had been submitted as part of supporting information for this application. However, it is my understanding that this statement clearly relates to 171535/F, which was for three dwellings and as such, does not truly reflect the significance of The Manor given this application is for five dwellings, which seek to introduce an additional plot depth. I do not consider that the submitted heritage statement is acceptable and actually truly reflects the extent of the development proposed. Paragraph 189 of the NPPF identifies that,

"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".

As quantified by the Council's Building Conservation Officer, the proposed development comes right up to the boundary of the grade II listed building 'The Manor'. The setting of the manor is largely private gardens enclosed by planting, but the open fields around this help emphasise its history as a remote rural cottage. Extending development as proposed would physically link the listed building to the modern settlement. This represents a low level of less than substantial harm to one aspect of the listed building's setting.

It is concluded from their comments that the development give rise to 'less than substantial harm' and that paragraph 196 would apply. As such the public benefits arising from the scheme must be weighed accordingly, with that weight a matter for the decision-maker.

While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.

The harm to the setting of adjoining listed buildings is not considered within the Heritage Statement as required by policy 189 of the NPPF nor does it have the clear and convincing justification as required by policy 194 of the NPPF, given this proposal is for five dwellings and not for three, as the heritage statement makes out. As such the proposals would cause less than substantial harm to aspects of the setting of The Manor which contribute to its significance as a building of historic and architectural interest. Policy 196 of the NPPF would apply given that the Council's Building Conservation Officer has identified that the proposals would induce less than substantial harm to the setting of The Manor.

The proposals do not relate to the site context and in their current form the proposals would be harmful to the setting of the listed building. The Inspector under appeal decision APP/W/1850/W/16/3159485, made clear that The Manor derives a degree of its significance from the open fields around it. Whilst this property is well screened from the site under consideration, there is limited inter-visibility, the development of the site with new dwellings would have some appreciable impact on the setting of this heritage asset. The loss of open fields around the building would likely have an adverse impact on the significance of the setting of this heritage asset.

The applicant views that the proposal would protect the setting of The Manor although has not advanced public benefits in support of the scheme. Notwithstanding this, it is clear that the provision of new housing, in an area where there is an identified shortfall in the supply of housing land is a public benefit which does weigh in favour of the proposal. The provision of construction jobs, is a further public benefit. However, against this, taking into account the view raised by the Building Conservation Officer, harm would be caused to the character and appearance of the area. Such harm would significantly and demonstrably outweigh the minor public benefits associated with five dwellings.

Given this, the proposal would not preserve the significance of the nearby heritage asset because of the harm that would be caused to its setting. The proposal therefore conflicts with the statutory test and with CS Policies SS6, LD1 and LD4 in this regard. There would also be conflict with the environmental role of sustainability because the proposal would not protect or enhance the historic environment and conflict with the heritage aims and objectives of the NPPF.

In archaeological terms, the Council's Archaeologist raises no objection. This is in relation to a saw mill monument dating to approximately Tudor Times (circa. 16th century), to which, based on the considerations of the Council's Archaeologist, I am of the view that the impact of the development is likely to be minimal. The 'sawpit' referred to only relates to a field name recorded on the 1840 tithe map of the parish. On this map, and also on the later Ordnance Survey first edition map, a substantial zone to the north west of the settlement is indicated as being woodland. Evidently, the field in question was used for processing the timber coming from that woodland. There is nothing unusual about such a use, and the significance / implications of it are I think limited in this particular case.

Contaminated Land

A contamination issue has been raised in representations, and previous site history, that the prospect that there is anthrax infected cattle buried on the site. The Environmental Health Contaminated Land officer recommended the minimum of a Preliminary Risk Assessment (PRA) be submitted in support of any application, which was made clear to the applicant during pre-application discussion, and which has failed to materialise. This should need to be appropriate and specific to this application and recognise potential risks from anthrax which has been discussed extensively previously and something which I will not go into here. The resubmission of the previous desk study/site investigation report would not be considered sufficient without appropriate amendment. Further iterations should be informed by additional information available and it was recommended that the commissioned technical specialist contact the Council to discuss prior to any submission.

Given this has failed to materialise, as such, in the absence of this information, the Council is unable to consider the potential risks from contaminated land, namely anthrax and that this is contrary to Policy SD1 of the Core Strategy, which makes clear that proposals must ensure that new development, where contaminated land is present, undertakes appropriate remediation where it can be demonstrated that this will be effective and safeguarded for future occupiers.

Highways

A number of objections have raised concerns in respect of highway safety. The Council's Highways Area Engineer has commented that the proposals include a new access onto the B4214, and that whilst no details have been provided of this access, the gradient should not exceed 1 in 12 when joining the highway and should permission be granted this would need to comply with the construction specification set out in Herefordshire Council's Highways Specification for New Developments. This will ensure a flatter area would be available for vehicles to safely emerge from the access onto the B4214. It is noted that the alignment of the B4214 is such that visibility will be adequate for these movements and that there is sufficient parking and turning for the scale of the development plots.

However, the proposal includes a 3m wide shared private drive to the 5 dwellings; this is narrower than the minimum 3.5m width set out in Herefordshire Council's Highways Design Guide and would not facilitate the prospect of passing places accordingly to limit the amount of reversing that will be required, potentially back onto the B4214 at the junction with the proposed site access.

The majority of objections have also expressed concerns on the grounds that the proposal would adversely impact both current traffic levels and the local highway network, with access and parking provision for existing and proposed residents being inadequate, and would be unable to accommodate such levels as a result of the proposals. Policy MT1 of the Core Strategy explains that new development is required to incorporate principle requirements covering movement and transportation, with particular regard to the following relevant criterion:

□ *“demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that the traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development”*

“ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services”.

On my site visit, it was felt that the nature of the access, the proposed number of properties which would service it, is of some concern. The consultation response from transportation identifies that the width of the shared drive does not meet the Herefordshire Highways Design Guide, which would be significantly restricted near its junction with the B4214. The provision of five additional dwellings, in which it would be regarded that at least 10-12 cars at a minimum, would exacerbate this situation, resulting in an intensification on site and would have an adverse impact on the local highway network in terms of trip generation. Accordingly, I am of the view that parking and access arrangements of the dwelling are unsatisfactory given the proposed material intensification

Due to oncoming traffic in either direction with no footway through Edwyn Ralph on the B4214, given the clear consensus that no speed survey has been submitted. The turning in of vehicles to the junction and along the shared access drive may become problematic and does present issues of visibility and manoeuvring on the road, particularly for larger vehicles.

The increase of vehicular traffic via an additional five dwellings does increase the likelihood of associated accidents and injuries as a result of this lack of visibility. Emergency vehicles, delivery vehicles and refuse vehicles, some of which may not be used to manoeuvring within this road, would find it difficult to navigate safely, particularly if they were to meet other vehicles and be forced to potentially reverse back onto the public highway which in itself would present a clear concern to highway safety and potential pedestrian safety. Indeed, given the lack of frequent public transport in the area (1 bus a month), there would be a considerable reliance on private transport to access nearby services and facilities and the scheme would be contrary to Policy SS4 of the CS (which seeks

that development be designed to minimise impacts to the transport network); Policy SS7 of the CS; Policy MT1 of the CS which amongst a number of criterion seeks that development be designed without adversely affecting the safe and efficient flow of traffic) and paragraphs 108 and 109 of the Framework (which seeks that safe and suitable access to the site can be achieved for all users, and seeks that development is resisted where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe).

Biodiversity

Whilst the Council's ecologist has not formally responded, a biodiversity report has been submitted for consideration. However, this is considerably out of date. It was actually carried out in October 2015. BS42020 requires that surveys are "sufficiently up to date (e.g. not more than two/three years old or as stipulated in good practice guidance)".

The survey was also carried out in October a time at which certain species, such as nesting birds, may not have been present and which is sub-optimal for identification of most other species. The Joint Nature Conservation Committee guidance on Phase 1 Habitat Surveys (with which the report purports to comply) accepts that different habitats and species are best surveyed at different times of year and that this would be impractical for this level of survey. It advises:

"A reasonable compromise would be to select for survey in spring and early summer those areas most rich in woodlands, to survey in midsummer those areas most likely to have semi-natural grasslands and to leave areas of moorland until later in the field season."

As the application site is grassland, the JNCC guidance suggests that the optimum time for the survey would have been mid-summer, although given the species-rich hedgerows mentioned in the survey, an earlier survey to identify nesting birds would have been appropriate.

BS 42020 also advises that ecological surveys should be: "undertaken over a sufficient period of time and at an appropriate time of year to reveal sufficient details of populations or habitat characteristics." This survey was conducted on a single day.

The survey does not include the whole site proposed for development and includes a fundamental error in that it describes the appeal site as "arable." Notwithstanding the above, it is clear that in the absence of an updated and detailed ecological survey, including any identified 'optimal period' survey requirements which reflects current circumstances, the local planning authority is unable to assess the potential impact upon protected species, in particular crevice dwelling bat species and nesting birds. The proposal is therefore contrary to Policy LD2 of the Herefordshire Local Plan – Core Strategy, paragraph 99 of circular 06/2005 and the relevant aims and objectives of the National Planning Policy Framework.

Drainage

The proposed development triggers Section 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) whereby an Appropriate Assessment is required to consider the implications of the development upon the conservation objectives of the River Wye Special Area of Conservation. The Local Planning Authority as the competent authority have undertaken an Appropriate Assessment in consultation with Natural England (statutory nature conservation body), and in the absence of a viable foul water drainage solution the proposal cannot conclude beyond reasonable doubt that the proposed development will have an unmitigated 'significant adverse effect' upon the integrity of the River Wye Special Area of Conservation (SAC). The application is therefore contrary to The Conservation of Habitats and Species Regulations 2017, policies LD2, SD3,

SD4, SS6 and SS1 of the Herefordshire Local Plan Core Strategy, and the provisions of the National Planning Policy Framework (NPPF).

Other comments

Thornbury Group Parish Council have submitted a Neighbourhood Area request to Herefordshire Council during consideration of this application. At the of this report being written, the consultation runs from 14 August June 2019 to 25 September 2019 and so at this time cannot be afforded weight.

As a procedural note, the Council is unable to 'decline to determine' this application under Section 70B of the Town and Country Planning Act 1990. The red line has changed considerably, as well as layout and the proposed 'custom-build' element, and the updated NPPF revisions in recent months, has meant that I feel that the application has needed to be considered accordingly against the development plan at this time. However, it is clear that conflict with the development plan has been identified.

The dwellings are identified as being for custom build in order to meet the requirements of the self build register that is kept by the Council. However, criteria 5 of Policy RA3 "is rural exception housing in accordance with Policy H2". Custom-build is a product not a tenure and therefore it can be an option for both open market and affordable housing, this means that custom/self-build does not satisfy any of the criteria set out in Policy RA3.

Officers note that reference has been made in objections received to a landscaping condition which was requested to be added on the decision notice 171535/F and which have not been complied with, given this application has been submitted. However, this would be a matter for Planning Enforcement to investigate if there had been a breach of planning conditions.

Summary

It is accepted that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites with a 20% buffer. In such circumstances, the National Planning Policy Framework (the Framework) advises at Paragraph 11 that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted for development proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.

The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Sustainable development is identified as having 3 roles economic, social and environmental, as set out in paragraph 8 of the Framework. These roles are mutually dependent and should not be undertaken in isolation.

There would be economic benefits associated with the proposal, including the creation of jobs during the construction phase and the support the intended future occupiers would be likely to give to nearby services and facilities through local expenditure. Although Edwyn Ralph does not have a shop or local facilities, albeit a village hall, it has been recognised by the Council as being suitable for new housing development, as a RA2 settlement. Furthermore, it is reasonably close to Bromyard where there are a range of services and facilities that the intended future occupiers of the scheme would be likely to support. The proposal would make a contribution to the supply of housing in an area where there is a recognised shortfall. These matters comprise social benefits in support of the proposal.

The environmental role of sustainability includes protecting and enhancing the natural, built and historic environment. The applicants consider that the site would be landscaped and there would be

opportunities to enhance biodiversity upon the site. Whilst such matters would comprise environmental benefits, I have identified conflict with the development plan in so that the proposed dwellings would be incongruous with the prevailing pattern of development, protruding into a largely undeveloped area of countryside and going against the single-depth linear pattern of development which is a characteristic element of the settlement. The formation of a single access to serve the proposed dwellings, considerably set back from the road, would introduce an alien, urbanised and 'estate' type form of development into this largely rural area. This would be out of keeping with, and harmful to the character and appearance of the area hereabouts in terms of the locality and would not protect or enhance the natural or built environment of the area. Less than substantial harm has also been identified from a heritage perspective, which would not be outweighed by the public benefits of the proposals and harm has also been identified from a highways, biodiversity, drainage, and contaminated land perspective, all of which would have considerable implications for any future occupiers of this site.

In light the above, the proposal would fail to conserve or subsequently enhance the environmental assets that contribute towards the settlement character of Edwyn Ralph. This would result in conflict with numerous CS Policies and a number of core planning principles of the NPPF, namely relating to character. There would also be conflict with the environmental role of sustainability.

It follows that the adverse impacts would significantly and demonstrably outweigh the minor benefits and so the proposal does not represent sustainable development. As such, this application is recommended for refusal. The local member has been updated and is content for officers to determine this application as a delegated matter, in accordance with the following recommendation and reasoning below.

RECOMMENDATION: **PERMIT** ☐ **REFUSE** ☒

REASONS FOR REFUSAL:

1. The proposed development fails to respect the prevailing form, layout and character of the Edwyn Ralph settlement and subsequently fails to reinforce local distinctiveness as a consequence. This is because the proposed development would introduce a scheme which would be incongruous with the existing development pattern which comprises a linear development with single-plot depth to the east of the B4214, and would therefore not contribute to the social-well being of Edwyn Ralph. This is contrary to Policies RA2, LD1, SD1, SS6 and SS1 of the Herefordshire Local Plan – Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

2. The proposed development would give rise to demonstrable harm upon the local landscape through the loss of the valued timbered plateau farmland landscape character and the character and setting of the locality hereabouts. This would also result in material adverse landscape impact from public vantage points and the enjoyment of overlooking public rights of way, namely public footpath ER27, to which this identified is not considered to be outweighed by the minor benefits of the scheme proposed. As such the proposal is viewed as contrary to Herefordshire Core Strategy policies LD1, SD1 and SS6 and the landscape aims and objectives of the National Planning Policy Framework.

3. The heritage statement, as submitted, fails to appropriately take into account the extent of the development proposed for consideration by the Local Planning Authority. It subsequently cannot be constituted as appropriate supporting information in order to adequately describe the significance of heritage assets affected, including any contribution made by their setting, which in itself is contrary to paragraph 189 of the National Planning Policy Framework. As a consequence, the Local Planning Authority considers that the proposed development itself would result in less than substantial harm to the setting of The Manor, a Grade II listed building. However, this would not be outweighed by the public benefits of the proposal, as it would neither conserve nor enhance the setting of the heritage

asset and impact upon the public's ability to experience the heritage asset from surrounding public vantage points, including public footpath ER27. The proposal is therefore contrary to section 16 of the National Planning Policy Framework, and Policies LD4, LD1 & SS6 of the Herefordshire Local Plan – Core Strategy.

4. In the absence of a Preliminary Risk Assessment, as requested, the Local Planning Authority is unable to assess the potential risks from contaminated land on this site. As such, in being unable to demonstrate appropriate remediation which could satisfy the proposed change of use in the land to residential purposes, the proposal cannot beyond reasonable doubt ensure that new residential development would safeguard future occupiers from experiencing significant adverse effects from contaminated land. The proposal is therefore contrary to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the relevant paragraphs of the National Planning Policy Framework.

5. In the absence of an updated, detailed and relevant ecological survey, as requested, including any identified 'optimal period' survey requirements which reflects current circumstances, the Local Planning Authority is unable to assess the potential impact upon protected species, in particular with relation to crevice dwelling bat species and nesting birds. The proposal is therefore contrary to Policies LD1 and LD2 of the Herefordshire Local Plan – Core Strategy, paragraph 99 of circular 06/2005 and the relevant paragraphs of the National Planning Policy Framework.

6. The proposed development triggers Section 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) whereby an Appropriate Habitats Regulation Assessment is required to consider the implications of the development upon the conservation objectives of the River Wye Special Area of Conservation. The process requires sufficient information to be supplied such that the required appropriate assessment completed by this planning authority (the 'Competent Authority') can conclude beyond reasonable scientific and legal doubt that there are no unmitigated 'likely significant adverse effects on the integrity of the River Wye (River Lugg) Special Area of Conservation (SAC); and that this appropriate assessment has received a 'no objection' response from Natural England as the statutory nature conservation body. There is insufficient information to allow the planning authority to conclude beyond all reasonable scientific and legal doubt that there would not be any likely significant adverse effects on the River Lugg Site of Special Scientific Interest. As such, it is contrary to Herefordshire Local Plan Core Strategy policies SS6, LD2, LD3, SD3 and SD4, the relevant aims and objectives of the National Planning Policy Framework 2018 and Conservation of Habitats & Species Regulations 2017.

7. The proposal has failed to consider the character of the locality in demonstrating that the development would positively influence the design, scale and nature of site selection submitted. As such, by virtue of their scale, height and massing, the outbuildings proposed are not considered subservient to a number of dwelling houses proposed. This consequently would not reinforce a positive contribution to the distinctive appearance and character of the area hereabouts, namely the setting of the Edwyn Ralph settlement. The proposal is thus contrary to Policies SD1; LD1 and SS6 of the Herefordshire Local Plan – Core Strategy and the relevant design policies of the National Planning Policy Framework.

8. The proposed site layout represents an unacceptable risk to highway safety and the free flow of traffic, due to the proposed material intensification upon the local highway network. The proposal has therefore inadequately demonstrated the potential for the adverse impacts identified, by virtue of site layout, to be mitigated to an acceptable standard without compromising on residential amenity as a consequence. This is in particular reference to a lack of sustainable transport provision, inappropriate operational and manoeuvring space, which satisfies the Herefordshire Council Highways Specification for New Developments, and the inability to incorporate suitable passing places, which can allow for the continued safe entrance and exit onto the B4214 to meet the needs of all, including access for the emergency services, because of a proposed inadequate road width within site. As such, the proposal

is contrary to Herefordshire Core Strategy policies SS1, SS4, MT1 and SD1, as well as Section 9 of the National Planning Policy Framework.

9. Notwithstanding the Local Planning Authority's lack of a five-year housing land supply, the proposed development does not represent a justifiable form of sustainable development. Whilst there is a presumption in favour of sustainable development, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, the adverse impacts identified as a consequence of the proposed development, are viewed to significantly and demonstrably outweigh the minor benefits identified. This is when assessed against the policies in the National Planning Policy Framework, as a whole, and the Herefordshire Local Plan – Core Strategy. Furthermore, the proposal fails to align with the three mutually interdependent objectives identified under paragraph 8 of the National Planning Policy Framework. Therefore, the proposal conflicts with Paragraphs 8 and 11 of the National Planning Policy Framework and Policy SS1 of the Herefordshire Local Plan – Core Strategy.

Informatives

1. IP5 – APPLICATION REFUSED WITHOUT DISCUSSION – NO WAY FORWARD



Signed: Dated: 4/9/19

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT ☐

REFUSE ☐

Signed: Dated: