

Edwyn Ralph Timeline

16 July 2015 Received application for construction of five dwellings and garages (Ref: 152122)

22 February 2016 Letter from agent John Needham to reduce plot number from 6 to 5 due to 'legal position of the footpath'.

09 May 2016 Confirmation of reducing plot number from 6 to five.

30 November 2016 Appeal made for the Secretary of State against the decision by Herefordshire council for Non-determination.

4th January 2017 Mr Ede continues to comment on the appeal. Citing anthrax risks. Mentions a village petition registering their concern at the likely presence of anthrax infected cattle carcasses under the application site land. Request geophysical survey. **States exact location of burial site is unspecified, but it was indicated to be in the area of where plots 3 & 4 are located on agent's plan.**

24 March 2017- Appeal decision date.

Appeal decision is listed as 'dismissed'.

Phase 1 Development

25 April 2017 Herefordshire council received planning application (P171535/F) for proposed 3 dwellings and garages.

27th June 2017 Objection letter from Ashley Ede

25 September 2018 Application for approval of details reserved by conditions 6,9,14,15, 16,17,18,19 & 20 of Plots 2 and 3 attached to planning permission 171535. P183655/XA2.

04 October 2017 Decision date. *Granted* with following pertinent conditions:

-No development shall take place until the following has been submitted to and approved in writing by the local planning authority- desk study (3a)), then SI **if required**, then remedial plan **if required**.

-The remediation scheme (if required), shall be fully implemented before the development is first occupied.

-If contamination not previously identified is found to be present at site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted and obtained written approval of the amendments to the method statement detailing how this unsuspected contamination shall be dealt with.

Kevin Bishop, Lead Development Manager

1st December 2017- Sweco issue first Phase 1 Report as part of planning permission 171535. Related to blue line landholding (including areas developed during Phase 1 and the proposed Phase 2 development area).

7th December 2017- Sweco attend site to undertake four trial pits within the Phase 1 development area.

08/12/2017- Final Phase 1 report issued.

19 April 2018- Final Phase 1 report re-issued including clarification required by Herefordshire Council's Environmental Health Officer.

13th June 2018- Application of approval of details reserved by condition 3a 9 and 11 14 15 16 17 18 & 19 attached to planning permission 171535. Andrew Banks (development manager at Herefordshire Council) states the following:

'I refer to Phase 1 Contamination Report dated 8 December 2017, Phase 2 Contaminated Land Assessment dated 12 January 2018 and Speed Survey (Condition 11) . This was supplemented by a revised Phase 2 Contaminated Land Assessment dated 20 April 2018 received under cover of letter dated 18 May 2018

With regard to the conditions of the planning permission described above I would confirm the following:-

- **Condition 3a – The submitted details for the desk study risk assessment for the whole site are acceptable**

25th October 2018- Application for approval of details reserved by conditions 6 9 14 15 16 17 18 19 & 20 of Plots 2 and 3 attached to planning permission 182635. **Approval of details reserved by condition.** Conditions 6,9, 14,15,16,18,19 and 20 are fully discharged. 'I would draw your attention to Conditions 21, 23 and 25 the discharge of which currently remains outstanding. I would also draw your attention to Condition 5 in relation to the identification of contamination not identified previously and the requirements of Condition 22 in relation to plot 3'.

Phase 2 Development

13th June 2019 Planning application for 5 custom build dwellings with garages and private drive. Demolition of barn. P192165/F.

22nd August 2019- Ashley Ede and others object to the proposal P192165/F. He states 'the contamination test of December 7th 2017 in relation to application 171535 was carried out without prior warning to local residents. The trial digging procedure was dangerous and inappropriate for this type of pathogen. Since the whole reason for undertaking a contamination test is to avoid a digger bucket from striking into a carcass (INCORRECT-no requirement to formally undertake SI as part of planning and the risk based phased assessment approach confirmed very low risk conditions) that could release very harmful spores into the atmosphere, it beggars belief that a JCB should be allowed to dig straight into the soil with no prior warning to local residents with no pre-testing of the surface soil.' (INCORRECT-no requirement to forewarn local resident, Phase 1 indicated low risk and this was sufficient to discharge conditions relating to contaminated land. SI undertaken was on a voluntary basis)

The number of trial pits was insufficient for the area being tested on that day and samples were not taken at varying depths as the digging progressed (INCORRECT- ADDITIONAL SAMPLES WOULD HAVE BEEN COLLECTED HAD ANIMAL REMAINS BEEN ENCOUNTERED).

Only one sample per trial pit appears to have been tested which is insufficient. This point alone renders the test procedure invalid (INCORRECT- SI was voluntary and for the collection of

supplementary data only). There is also no evidence that a public health inspector was present which there should be when such a test is taking place for this level of pathogen (PRESENCE OF PATHOGEN UNSUBSTANTIATED & NO REQUIREMENT FOR ATTENDANCE BY A PUBLIC HEALTH INSPECTOR).

Sweco's investigation was designed and carried out in accordance with recognised guidance and best practice including Public Health England's published "Guidance on assessing risk of anthrax on building land", 2014.

It is noteworthy that the appropriate authority considers the potential risk to be extremely low (even to grazing animals, which it not the case here), with "no evidence of any worker or member of the public being infected with anthrax as the results of development of brownfield sites including abattoirs and tanneries, areas traditionally associated with anthrax, or greenfield sites previously used for livestock."

No evidence of abattoirs / tanneries is evident at the study site, further reducing the likelihood of anthrax presence.

The guidance also states that "If building work is to take place in areas for which there is **documented evidence** of a **confirmed case** of anthrax in livestock, the site **can be** sampled and specimens sent for analysis for anthrax spores as detailed in the main text."

There is no documented evidence of a confirmed case of anthrax, the suggestion of animal burial being anecdotal at best. Even with appropriate lines of evidence confirming anthrax, the suggestion that no sampling should have been carried out is incorrect.

For day to day practice over virtually all sites in England and Wales where anthrax is not confirmed PHE have set out guidelines for sampling of soils. These are based on industry standard methods routinely used by Sweco for the purposes of recovery of information for a wide variety of ground investigations. Sweco's sampling and testing protocol reflected this guidance.

The area that forms the new application site for P192165 was never tested during the December 7th 2017 and accordingly the discharge of condition 3b.//was only made on the plot sites relating to application 171535... (INCORRECT- no requirement to discharge Condition 3B if 3A is discharged).

Assume JCB incident refers to 7th December 2017 Sweco Site investigation undertaken as part of the Phase 1 development?

4th September 2019- Planning application for 5 custom build dwellings with garages (Phase 2) (P192165/F)- REFUSED. Largely planning policy reasons but also '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'.

Letters of objection from local community including Ashley Ede. Ashley Ede states that he is aware that the developer is going to dig a trench for electricity running from an electricity post in his hedgerow across land in the blue line boundary. He states the land in the blue line boundary was never tested in accordance with Planning Condition 3B of the planning application 171535. This is factually incorrect- the planner discharged condition 3A (desk study) and as the risk was considered

low there was never a requirement to discharge planning condition 3B. Also the intrusive investigation undertaken in the Phase 1 development area was done voluntarily.

26th September 2019- The newly built plots (Phase 1 of the development) require service connection (electrical cables) to enable them to be heated during the winter. This is to be done by Western Power Distribution. Thornbury Parish Council send an email to Western Power Distribution to advise them of the anthrax risk associated with burial of livestock at the Site. States *'When planning permission was granted for the three houses, conditions were placed to ensure that only the land within the 'red line' of the boundaries of the development were allowed to be disturbed and strictly nothing beyond this point. A survey was carried out within this boundary to ensure no contamination had taken place but no such report has been completed in the land below. It is believed that Western Power have already marked outside the boundary line of the three houses and therefore breaking the conditions of the planning application'*.

22nd November 2019- John emails Tony Vine, states Robin contacted him regarding the H&S concerns Western Power distribution have regarding the installation of electrical cables at the site. It is likely that the houses would not be connected by Western Power Distribution unless they receive information that the risks raised by the Parish Council can be managed by their H&S management protocols.

29th November 2019- Tony V advises undertaking a watching brief during the excavation of the trench which includes collection of soil samples for anthrax testing.

30th November 2019- John Needham requests a quote to undertake the watching brief from Sweco.

The Parish Council therefore wish to receive a guarantee from Western Power that no work will commence at all until a thorough investigation is completed regarding the proposal of where the cables will be placed.

3rd December 2019- Sweco provides a quote for the watching brief. This is accepted by Robin. Robin requests a quote for another intrusive investigation of the proposed 5 residential plots associated with planning permission P192165/F.

5th December 2019- Sweco's proposal for the additional works sent to Robin.

5th December 2019- Steve Collins (developer) requested that Sweco contact Gary Lambert at Western Power Distribution to confirm that the cable route falls within the blue line boundary previously investigated during a Phase 1 desk study. States they can progress excavation of trench once Gary receives this. Charlotte Bithell send email through to Gary confirming this and also stipulating that both the Phase 1 report and Phase 2 report indicated that the likelihood that historical and (then) current activities at the site led to significant, widespread contamination was very low or at worst low.

6th December 2019- Gary confirms that he is happy to release the scheme for construction and that the excavation can commence based on the level of risk associated with Western Power distributions activities and the presence of a Sweco engineer during the excavation.

10th and 11th December 2019- Sweco undertake the watching brief and SI during trench excavation. Was planning to undertake the additional SI in the footprint of the additional five plots but this was not undertaken due to inclement weather slowing the progression of the trench. Trench excavation completed on the 11th December 2019.

20 December 2019- Sweco issue final investigation report to John Needham and Robin. Report confirms absence of both animal remains and anthrax spores along the length of the utilities trench.

02 January 2020 – Nick James contacts Sweco by phone to advise that new information was made available to him in 25th July 2018 regarding a potential burial site within the wider blue line area. Nick advises against Sweco undertaking the proposed SI of the Phase 2 Development. Nick states he feels that Phase 1 Desk Study which discharged Condition 3A of planning application 171535 is not sufficient to discharge any conditions associated with the Phase 2 development although it considers land within the wider blue line land holding:

'They [Sweco's Phase 1 and Phase 2] are after February 2018 and refer to 174818- Phase 1. Not the site we are talking about here – Which is the Phase 2 element recently refused that had pre app provided in February 2019 (183082 followed by refusal 192165).

I don't know how else to phrase this John but I'll try. My understanding is that all reports submitted to date and for which Discharge of Condition has been approved are for those under 171535. Discharged in June 2018. This is the 'Phase 1' Development as I understand it. That with the three approved houses near the road – those within the red boundary. Not the blue line.

To try and put it in a nutshell, anything outside of this does not have any sort of report which has been accepted or recommend for approval by ourselves be it desk study or site investigation i.e. Phase 2 .

With regard to your plan you subsequently sent through – Our comments relate to the red line boundary only of 175135– that in the plan copied below. We've made that clear on many occasions. How it's been phrased or interpreted by the planner is something you may need to take up with them. Our comments are unequivocal.

Nick states he received an email from Josh Bailey (Herefordshire Council planner) stating:

'....As far as I see it, the site [Phase 2 development] currently does not benefit from planning permission so anything which this being done, particularly in terms of development, is unauthorised.'

03 January 2020- Email communication between Nick James and John Needham continue.

Nick James: *My understanding is that all reports submitted to date and for which Discharge of Condition has been approved are for those under 171535. Discharged in June 2018. This is the 'Phase 1' Development as I understand it. That with the three approved houses near the road – those within the red boundary. Not the blue line. To try and put it in a nutshell, anything outside of this does not have any sort of report which has been accepted or recommend for approval by ourselves be it desk study or site investigation i.e. Phase 2'.*

John Needham: *'Nick*

Thanks but I can only suggest that you look at the condition 3a in approval ref 171535 which clearly states " a desk study report including previous site and adjacent site uses"

This was done and is the reason why Andrew Banks referred to the whole site when approving the condition and Kevin Bishop has confirmed since that the whole site is mentioned on the website when I asked him to confirm it to Western Power.

I will ask Tony Vine to look back at the information he sent to you and say whether this is correct or not because I had assumed you had forgotten this when you did the pre-app'.

Nick James: *'You have my view. I do not believe there to be an approved desk study for the site edged in blue on 171535. I have advised you of this on a number of occasions now and cannot do so any further it. I did not forget about it at the pre-app stage. I knew what I was writing as I knew I had stated that the part of the site marked in blue did not form part of our comments when discharging the condition for Phase 1. That is abundantly clear from what we wrote to the planner. If you were uncertain, you could have contacted me at the pre-app stage for Phase 2 rather than assumed. You did not do this...*

There is a risk that has been identified on this Phase 2 land by a 3rd party which needs to be addressed through the desk study (initially). To disregard on the basis of interpretation of a letter from planning is to dismiss these potential risks on the basis of a technicality. To my mind, the site has no planning. It therefore has no approved reports pertaining to it. I cannot put this in any other way than I already have'

You and your commissioned technical experts have been advised not to progress intrusive works at this stage.

John Needham suggests he is going to lodge an appeal against the refusal of the Phase 2 works (P192165/F).

03 January 2020 - Tony Vine (Sweco) send email to John Needham to provide Sweco's opinion on the developments at the site.

Sweco's Desk Study report assessed the risk of contamination for the full extent of the planning application boundary in order to help with the discharge of Condition 3a in approval ref 171535. This exercise was followed by your voluntary intrusive investigation which was specific to the first three housing plots and included confirmation of ground engineering conditions and soil quality. Looking at the planning records, discharge of Condition 3a was subsequently made.

Sweco have since carried out additional sampling along the length of the service trench to provide further comfort on overall soil quality and to inform Western Power's health and safety approach.

The combined conclusion from these exercises is that there is no evidence of any buried animal remains, and all soil samples taken and analysed for anthrax have been proven to be negative.

Notwithstanding this, the desk study includes factual data which is relevant to both the existing development (phase 1) and that proposed for the further 5 dwellings (phase 2). The intention has always been to supplement this information with targeted intrusive investigation and soil sampling along the same lines as for the phase 1 plot.

It appears to me that, the argument around whether the existing data meets the requirements of the planning authority, may not be swiftly concluded. Finding the quickest way forward acceptable to all parties is the primary objective.

I propose that Sweco prepare a combined Desk Study and intrusive investigation report for submission focussing on the Phase 2 plots. This would allow the pertinent elements of the desk study to be used to re-evaluate the initial risk assessment and help with the design of the soil sampling already proposed....

Regarding the soil sampling exercise for the phase 2 plots, Sweco will adopt the same robust risk based working methods as we have previously used with the highest level of personal protective equipment provided and used as standard. Our approach has always taken into account the possible risks associated with potential presence of anthrax, however slight. As the new information from

Nick is unlikely to introduce any new risk, the approach required would not be significantly altered. The need to confirm whether anthrax in soil is present once and for all would still remain.

I would therefore recommend that the intrusive works go ahead as proposed on the understanding that depending on the new information, it may be necessary to modify the position of the trial holes and increase the number of tests, just to be sure we cover all the bases.

With respect to Nick's advice not to carry out any work, I'm not convinced that Nick is able to restrict work on private land. The site investigation work would not meet the definition of development requiring planning and I'm sure Nick does not intend to suggest that the site meets the statutory definition of Contaminated Land in law which could restrict site activities.

In summary, I think we need to review the new information (we will contact Nick for this separately), build this into a revised desk study, whilst preparing to move ahead with the intrusive investigation.

I hope this suggestion will help find a way forward.

06 January 2020- Unofficial sign appears at the site of the Phase 1 development. Nick James makes no comment on this. Originator of the sign unknown.

Sweco make a formal EIR for the additional information known to be held by Nick James.

Sweco confirms with Steve Collins that the proposed investigation of the five additional plots has to be postponed.

08 January 2020- Results of EIR are issued. Word document with brief description of the nature of the information- a '*third party identified a specific site where anthrax infected stock were buried. This falls within the area identified on the maps you provided. The information is said to have been provided by two parties.*' A PDF image shows a large portion of the southern-most field has been annotated as the potential burial site. This potential burial site extends across the planned community orchard and Plots 5 and (possibly) 4

Nick James states he would expect formal enquiries to be made to the HSE, APHA and PHE.

Regarding the information reviewed by Sweco on 8th January 2020, it appears likely that this is substantially (if not wholly) based on information previously provided by Mr Ede in his objection lodged against the original planning application in Summer 2016.

Whilst the 2020 EIR data was clearly not available to Sweco at the time of our 2017 fieldworks (reported in April 2018), the assertion that a burial event had taken place at or near the site was in the public domain and was fully taken into account in our desk study and later intrusive works.

The main change between the original source of the anecdotal information from Mr. Ede and the data in the 2020 EIR is the formalisation of the alleged impacted area, which is now shown on site maps provided by Herefordshire CC to lie in the southwestern portion of the site closest to the Manor.

As Nick James has stated, he was made aware of this data on 25th July 2018 after the determination of Condition 3a attached to the grant of permission reference 171535, dated 13th June 2018.

In summary, the information provided in the EIR does not provide confirmation of any actual burial of diseased cattle, with only verbal sources cited drawing on anecdotal evidence, not substantiated by formal records. No definitive location plan or map is available to help focus investigations.

Indeed, the area shown on the Council's map is very large suggested either a very significant event likely to have required reporting or at least generating attention, or alternatively, a vague and imprecise recall of a possible smaller event based on heresay.

Sweco would contest that the EIR does not include any "new" information, but rather the current data is re-cast of earlier data already published.

Notwithstanding this, Sweco have taken into account the potential concerns and provided further lines of evidence which confirm that the potential risk to development and human health from possible anthrax infected cattle buried at the site is acceptably very low.