

Edwyn Ralph Neighbourhood Development Plan

Independent Examiner's Report

December 2022

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Summary

I have been appointed by Herefordshire Council to carry out an independent examination of the Edwyn Ralph Neighbourhood Development Plan.

The examination was carried out in November 2022 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Development Plan area on 17 November 2022.

Edwyn Ralph Parish is a small rural parish in Herefordshire situated just to the north of the market town of Bromyard and is set in an area of deeply tranquil rolling countryside.

Subject to a number of modifications set out in this report, I conclude that the Neighbourhood Development Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Development Plan area.

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1. Introduction

1. Neighbourhood planning was introduced by the Localism Act 2011 and enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. Edwyn Ralph Parish forms part of the wider Thornbury Group Parish which also includes the parishes of Thornbury and Collington. It is the first parish in the group to prepare a neighbourhood plan. With a population of around 185 people, it is one of the smaller rural parishes in the County. It is situated in tranquil rolling countryside with the village of Edwyn Ralph at its centre.

3. The plan has been prepared in the context of the Herefordshire Core Strategy, adopted in 2015. It takes the opportunity to define a settlement boundary for Edwyn Ralph, to ensure the development strategy set out in the Core Strategy is taken forward.

4. The purpose of this report is to assess whether the Edwyn Ralph Neighbourhood Development Plan (NDP) complies with the relevant legislation and meets the Basic Conditions. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

5. The report also makes a recommendation about whether the NDP should proceed to the referendum stage. If there is a positive recommendation at referendum, the NDP can be “made” by Herefordshire Council and so become part of the wider development plan and then used by Herefordshire Council to determine planning applications in the plan area.

2. Appointment of the independent examiner

6. I have been appointed by Herefordshire Council, with the agreement of Thornbury Group Parish Council, to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

3. The role of the independent examiner

7. The role of the independent examiner is to ensure that the submitted NDP meets the Basic Conditions together with a number of legal requirements.

8. In examining the NDP I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check ¹ that:

- the policies in the plan related to the development and use of land for a designated neighbourhood area; and
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

9. I must also consider whether the NDP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions² if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- the making of the plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

10. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European site ³ or a European offshore marine site ⁴ either alone or in combination with other plans or projects and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this does not apply to this examination as

¹ Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended)

² Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007

it is not about a neighbourhood development order).

11. A further Basic Condition was added by legislation on 28 December 2018. The Neighbourhood Planning (General) Regulations 2012 para 1 states:

- In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act
- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

12. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

13. If the plan can proceed to referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

14. Herefordshire Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

4. Compliance with matters other than the basic conditions

15. Thornbury Group Parish Council applied to Herefordshire Council to designate the parish of Edwyn Ralph as a Neighbourhood Area and it was formally designated as a Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012 on 26 September 2019. The designated area covers the whole parish and does not cover any other Neighbourhood Area.

The plan covers the period from 2011 to 2031, which aligns with the timespan of the Herefordshire Core Strategy 2011 – 2031 which was adopted in October 2015.

16. The preparation of the plan has been managed by a Steering Group made up of volunteers from the Parish Council, members of Edwyn Ralph Residents Association and local residents. The group was supported by a professional planning consultant.

17. I am satisfied that the Neighbourhood Development Plan includes policies that relate to the development and use of land and does not include provision for any excluded development. The Edwyn Ralph NDP therefore meets the requirements set out in para 8 above.

5. The examination process

18. The documents which I considered during the course of the examination are listed in Appendix 1.

19. The general rule⁵ is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Edwyn Ralph NDP could be examined without the need for a public hearing.

20. I am also satisfied that I had all the information I required to carry out the examination.

21. As part of the Neighbourhood Plan Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 17 November 2022.

22. The plan has been assessed against the guidance in the National Planning Policy Framework (NPPF) dated July 2021.

23. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions. Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the plan, by section and comment on all of the policies, whether I have suggested

⁵ PPG para 004 ref id 41-004-20140306

modifications or not. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

6. Consultation

Consultation process

24. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the Neighbourhood Development Plan will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

25. In line with the Neighbourhood Planning (General) Regulations 2012⁶, the Steering Group has prepared a Consultation Statement for the NDP which sets out how the group approached public consultation.

26. Throughout the plan preparation process, the Steering Group has sought to consult and engage with the local community. Due to the Covid pandemic, the Steering Group had to adapt their consultation methods using more leaflet drops, community surveys and one to one discussions. They also communicated via the Neighbourhood Plan website and a series of newsletters. Nonetheless, the level of response was high and so the submission version of the plan reflects that the views and priorities of the community.

27. Community consultation started with the Community Survey in October 2020, followed by the draft Vision and Objectives in January 2021. This was supported by a Character Assessment and Call for Sites exercise and a further Community Survey.

28. The Consultation Statement demonstrates that the Steering Group has fully engaged with the local community and kept people informed as the plan progressed. As a result, the community's vision for the parish reflects the views and priorities of the community. This is :

In 2031, Edwyn Ralph will remain a rewarding place to live and work in, having grown only modestly while retaining its uniquely tranquil rural character. The rich legacy of its historic buildings and monuments, natural habitats, trees and woodlands and expansive vistas from its elevated position will have been protected and enhanced. Limited residential growth to

⁶ Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

provide for a range of needs will have taken place in a form which maintains the distinctive linear pattern of existing properties.

Road safety within the village will have been further improved as a result of traffic calming measures, and the network of footpaths and bridleways protected and extended.

Our community will have a shared sense of pride and belonging, giving a sense of strong social cohesion to the main village and the wider rural Parish beyond.

Statutory consultations and representations received

29. Preparing the NDP has involved two statutory six-week periods of public consultation. The Regulation 14 consultation was held between 17 December 2021 and 12 February 2022. In all, ten representations were received – three from the local community and seven from statutory stakeholders.

30. The second consultation on the Submission Draft NDP was managed by Herefordshire Council and took place between 2 August and 13 September 2022. This generated twelve responses – two from internal service providers at Herefordshire Council, seven from statutory consultees and three from members of the community.

31. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

32. From the evidence in front of me, it is apparent that the Edwyn Ralph NDP has been subject to all the necessary public consultation, involving much time and effort by the Steering Group. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

7. Compliance with the basic conditions

33. In my role as independent examiner I must assess whether the Neighbourhood Development Plan meets the Basic Conditions⁷ set out in the Regulations as described in paras 8-11 above.

34. I have considered the Edwyn Ralph Neighbourhood Development Plan Basic Conditions

⁷ Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

Statement produced on behalf of the Steering Group to assist my assessment which is set out below.

National Policy

35. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Planning Practice Guidance⁸ states that all plans should be prepared positively, be shaped by effective engagement with the local community and contain policies which are clearly written and unambiguous. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Sustainable development

36. The qualifying body also has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF⁹. Table 2 of the Basic Conditions Statement sets out an assessment of how the Neighbourhood Development Plan meets the objectives of sustainable development and I therefore conclude that this Basic Condition is met.

Development Plan

37. The NDP also has to demonstrate that it accords with the strategic policies of the Development Plan and the NPPF. Table 1 of the Basic Conditions Statement sets out how the policies in the NDP comply with the provisions of the NPPF. However, I note that table is titled "Table 1 – NPPF paragraph 16 criteria and the Bredenbury, Wacton and Grendon Bishop Neighbourhood Development Plan". This needs to be corrected.

- **Recommendation : Change the title of Table 1 of the Basic Conditions Statement so that it relates to the Edwyn Ralph NDP.**

⁸ Planning Practice Guidance Paragraph: 041 Reference ID: 41-041-20140306

⁹ NPPF paragraph 16

38. Section 6 of the Basic Conditions Statement sets out, in Table 3, how each policy is in general conformity with the Herefordshire Core Strategy.

39. From my assessment of the plan's policies in the rest of my report, it is evident that the strategic policies of the adopted Herefordshire Core Strategy have generally been carried through to the NDP. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NDP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

European obligations and Human Rights Requirements

Strategic Environmental Assessment (SEA)

40. The SEA Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes. A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination is made by the responsible authority that the plan is not likely to have "significant effects".

41. Strategic environmental assessment of the NDP has been undertaken by Herefordshire Council. An initial screening opinion concluded that the NDP would require further assessment for the purposes of Strategic Environmental Assessment. A Scoping Report was prepared in March 2020 and published for consultation. Subsequently, a SEA of the draft Plan was undertaken in December 2021 and an Environmental Report was published for consultation at the same time as the draft NDP. An updated version was produced for the Submission Plan in June 2022.

42. This concludes that the NDP is in general conformity with both national planning policy contained in the NPPF and strategic policies set within the Herefordshire Core Strategy. It also reports that the cumulative effect of the NDP will contribute to the achievement of the SEA objectives.

43. Also, none of the NDP policies were considered to be in direct conflict with or propose greater levels of growth and development than strategic policies contained in the Core Strategy, which themselves have undergone a full Sustainability Appraisal.

44. Initial screening in September 2019 found that the River Wye (including the River Lugg) SAC is located 10.5km away from the Parish boundary. The Parish is, however, within the River Lugg catchment. It concluded that the NDP would require further environmental assessment for Habitats Regulations Assessment and Strategic Environmental Assessment.

45. An Appropriate Assessment of the draft NDP was undertaken by Herefordshire Council and published in December 2021. This concluded there will not be a significant effect on the integrity of the River Wye (including River Lugg) SAC when the mitigation and avoidance measures have been taken into account. This Report was updated in June 2022 alongside the Submission Plan.

46. As the Environmental Report and the Appropriate Assessment prepared to support the NDP been prepared in light of the updated basic condition referred to in para 11 above and local advice obtained by Herefordshire Council, I conclude that the necessary legislative requirements have been met and that the basic condition is complied with.

Human rights requirements

47. The Basic Conditions Statement, in Table 4, briefly explains how the plan fulfils other EU human rights obligations.

48. I am satisfied, therefore, that the NDP is compatible with the requirements of EU obligations in relation to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations and therefore meets the Basic Conditions.

Other Directives

49. I am not aware of any other European Directives that would apply to this NDP, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

Basic Conditions Statement – conclusions

50. I have considered the Basic Conditions Statement and the supporting evidence and representations made to the Edwyn Ralph NDP and I am satisfied that the plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

51. At a practical level, however, a few of the policies in the Submission NDP need some minor adjustment to ensure that they comply with the NPPF and the strategic guidance in the adopted Core Strategy. I have therefore suggested a number of modifications in Section 8 below, to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

8. Neighbourhood Plan policies

52. The NDP is well presented with a clear structure distinguished by separate sections. The plan's policies are set out in sections and cover seven topics. Very helpfully, the Core Strategy policies which are relevant to each topic are set out at the start of each topic area. The policies are presented in a consistent way and the policy itself is shown as a separate text box, followed by some brief supporting text and mapping as appropriate. The relevant supporting evidence is listed at the end of the section. All in all, this is a very clear approach to setting out neighbouring planning policies and is to be commended.

1. Introduction, 2. The development of the plan and 3. Vision and Objectives

53. These sections introduce the Neighbourhood Development Plan, explain why a NDP is being prepared, how it has been prepared and some useful background information about the parish. They also summarise the community consultation activities that have informed the preparation of the plan and set out its vision and objectives.

4. The Plan Policies

A Strategy for Edwyn Ralph

Policy ER1 Promoting a Sustainable Community

54. My only comment is that the wording of clauses 3 and 4 could be strengthened.

- **Recommendation : In Policy ER1, Clause 3 delete “infrastructure limits” and replace with “the capacity of existing infrastructure”. In Policy ER1, Clause 4, delete “the effects” and replace with “any adverse effects” in line 2**

Policy ER2 Development Strategy

55. I have no comments on this policy.

Protecting and enhancing Local Character

Policy ER3 Protecting and enhancing Local Character

56. Guidance on protecting key views is set out in Clause 3 of Policy ER3. These are shown by arrows in Map 9 of the Neighbourhood Plan Characterisation Study. In order to provide clarity for future users of the NDP, a suitably referenced version of Map 9 should be added to the NDP to support Policy ER3.

- **Recommendation : Add a suitably referenced version of Map 9 of the Neighbourhood Plan Characterisation Study to show the key views listed in Clause 3 of Policy ER3. Amend Clause 3 accordingly to include map reference**

57. Clause 6 refers to the protection and enhancement of local habitats and wildlife corridors , but does not refer to protecting Local Wildlife Sites which are shown on the Edwyn Ralph Parish Policies Map. The policy needs amending accordingly.

- **Recommendation : In Clause 6 of Policy ER3 after “enhancement of”, add “local wildlife sites (shown on the Edwyn Ralph Parish Policies Map)”**

58. Clause 3 needs minor rewording .

- **Recommendation : Delete “so” after “it is shown” in the third line of Clause 9 of Policy ER3**

Policy ER4 Heritage Assets

59. My only comment is that paragraph 4.2.7 needs a minor amendment.

- **Recommendation : in Para 4.2.7 add “and” after “listed buildings”**

Providing for housing needs

Policy ER5 The scale of new housing

60. Edwyn Ralph is identified in the Core Strategy as a location where new housing will be supported and the proportional growth calculation indicates that a minimum of 13 new dwellings are required over the plan period 2011-31. I note that a number of homes have already been built and others are in the pipeline. Policy ER5 explains that the NDP will provide for a minimum of 17 new dwellings so the housing requirements in the Core Strategy should be met, with the slightly higher total providing

choice and flexibility. I therefore have no comments on Policy ER5.

Policy ER6 Housing allocation

61. The NDP Steering Group carried out a Call for Sites exercise to inform the process of selecting sites to meet the village's housing needs, resulting in the allocation of Site 3 and the drawing up of the settlement boundary.

62. A representation suggested that Site, which was put forward at the site selection stage as an alternative allocation to Site 3, could potentially accommodate five dwellings.

63. I saw from my site visit that Site 5 lies immediately below a number of recently constructed homes on the east side of the B4214. Development in this location would intrude into the open countryside and would not be consistent with the single-depth linear pattern of development which is typical of the settlement.

64. Another representation has suggested amending the settlement boundary at the western end of Wood Lane at Greystones, to secure permitted development rights. This would extend development into the open countryside, contrary to policy RA3 of the Core Strategy.

65. I therefore have no comments on Policy ER6 which allocates Site 3 for housing development.

Policy ER7 Housing in the countryside

66. I have no comments on this policy.

Policy ER8 Extensions to Dwellings

67. I have no comments on this policy.

Policy ER9 Design of new housing

68. My only comment is that the words "to be supported" at the start of the policy are superfluous and should be deleted.

- **Recommendation : Delete "To be supported" at the start of Policy ER9**

Policy ER10 Ensuring an appropriate range of tenures, types and sizes of houses

69. I have no comments on this policy.

Policy ER11 Affordable housing

70. I have no comments on this policy.

Sustaining and enhancing the local economy

Policy ER12 Business development

71. I have no comments on this policy.

Policy ER13 Protection of existing business premises

72. I have no comments on this policy.

Policy ER14 Agriculture and forestry enterprises

73. I have no comments on this policy.

Improving road safety and accessibility

Policy ER15 Transport and connectivity

74. Policy ER15 requires some minor rewording to improve clarity for future users of the NDP.

- **Recommendation : Add “will be provided “ at the end of Clause 1 of Policy ER15. Reword Clause 3 to read “Parking facilities should be constructed of permeable surfaces, to reduce surface water run-off and contribute to local flood reduction”. Reword Clause 4 to read “Additional street lighting within or beyond developments should only be provided where it is essential for public safety”**

Providing for the needs of the Community

Policy ER16 Enhanced services and facilities for the community

75. I have no comments on this policy.

Policy ER17 Protection of community facilities

76. The introductory sentence of Policy ER17 could be construed as meaning only facilities provided over the lifetime of the Neighbourhood Plan are covered, so I suggest this reference is removed.

- **Recommendation : Delete “which are provided over the lifetime of the Neighbourhood Plan” from the first sentence of Policy ER17.**

Providing for Infrastructure, utilities and services

Policy ER18 Broadband and mobile telephone infrastructure

77. My only comment on this policy is that the format is different to that used for other policies in the NDP. This should be amended.

- **Recommendation : Delete a) and b) sub numbering from Policy ER18 and substitute 1. and 2.**

Policy ER19 Renewable energy

78. In Policy ER19, the strikethrough wording should be deleted.

- **Recommendation : In Policy ER19 delete the strikethrough text**

5. Implementation and monitoring

79. This section sets out the community priorities for public and private investment in infrastructure, which could become available through payments via planning obligations or the Community Infrastructure Levy. As such, this is a very clear approach and the Steering Group are to be commended for setting out the community’s priorities clearly and succinctly.

9. Conclusions and Recommendations

80. I have examined the Edwyn Ralph Neighbourhood Development Plan and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

81. I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications set out in my report, the Edwyn Ralph Neighbourhood Development Plan should proceed to referendum.

82. I am also required to consider whether the referendum area should be extended beyond the Edwyn Ralph Parish Council area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that

effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Herefordshire Council in September 2019.

APPENDIX 1: Background Documents

In undertaking this examination, I have considered the following documents:

- Edwyn Ralph Neighbourhood Development Plan 2011-31 : Submission Draft – October 2021
- Environmental Report for Edwyn Ralph Neighbourhood Area : Herefordshire Council - June 2022
- Appropriate Assessment Report for Edwyn Ralph Neighbourhood Area : Herefordshire Council - June 2022
- Edwyn Ralph Neighbourhood Development Plan : Consultation Statement – October 2021
- Edwyn Ralph Neighbourhood Development Plan Basic Conditions Statement - November 2021
- Progression to Examination Decision Document : Herefordshire Council – September 2022
- Herefordshire Local Plan Core Strategy: Adopted October 2015
- National Planning Policy Framework (NPPF) July 2021
- Planning Practice Guidance March 2014 and subsequent updates