

Tysoe Neighbourhood Development Plan

Independent Examiner's Clarification Note

Tysoe Parish Council's responses in red text below

Abbreviations used:

TPC – Tysoe Parish Council

SDC – Stratford on Avon District Council

NDP – Tysoe Neighbourhood Plan

NPG – Neighbourhood Plan Group (sub-committee of TPC)

Context

This note sets out my initial comments on the submitted Plan. It also sets out areas where it would be helpful to have some further clarification. For the avoidance of any doubt matters of clarification are entirely normal at this early stage of the examination process.

Initial Comments

The Plan is very well-presented. The quality of the photographs and the maps is very good. It results in a very readable and interesting document. The distinction between the policies and the supporting text is very clear.

I have read the submitted documents and the representations made to the Plan. I have also visited the neighbourhood area. I am now in a position to raise some initial issues for clarification. They are predominantly for the Parish Council. There are also specific questions for the District Council.

The responses to the various questions will be used to assist in the preparation of my report. They will also inform any potential modifications that may be necessary to the Plan to ensure that it meets the basic conditions.

TPC is grateful for the complimentary comments made above and for the constructive questions and observations made below by the Examiner, they are much appreciated .

Points for Clarification (for the Parish Council)

General

Several policies incorporate both policy and supporting text within the policy box.

I am minded to recommend the repositioning of the text into the relevant sections of 'Explanation' associated with the policy or to delete the text where the matter is already addressed in the 'Explanation'

Does the Parish Council have any observations on this proposition?

Some similar comments have been made by SDC. TPC will examine each policy and where appropriate will move the supporting text from the Policy box.

Housing Policy 1

Lower Tysoe is both smaller and physically separate from Middle and Upper Tysoe. I saw from my visit that it has a different character and appearance.

As such on what basis has the Parish Council chosen to define a built-up area boundary for this part of the neighbourhood area?

How does the proposed approach relate either to the adopted Core Strategy or to the emerging Site Allocations Plan?

The question of Lower Tysoe has been the subject of much discussion within the village and in comments submitted by residents and SDC on the various pre-submission Plans and the submission Plan. TPC's argument and justification for the treatment of Lower Tysoe is contained in the separate document, submitted alongside this and others, entitled "*TPC's responses to representations made by residents and others to TPC's Reg16 Neighbourhood Plan*" in the section headed TPC 1. SDC's Site Allocations Plan (SAP) does not regard Lower Tysoe as part of the Tysoe LSV and as such there is no proposed BUAB around Lower Tysoe in that document. TPC has lodged comments with SDC as part of the consultation on the SAP objecting to this treatment. TPC does not believe that the treatment of Lower Tysoe in the NDP is inconsistent with the Core Strategy, indeed in SDC's comments on the July 2018 pre-submission Plan (which treated Lower Tysoe in the same way as proposed in the Submission Plan) they said "*SDC generally comfortable with the justification for including Lower Tysoe within the BUAB for Tysoe*", from this we can only conclude that the treatment is considered to be compliant with the Core Strategy.

In summary TPC's rationale for the inclusion of Lower Tysoe is based on the following factors which are discussed at length in the separate document referred to above and in various other responses to comments on the NDP:

1. The majority of residents of the village, with the exception of a small, vociferous group in Lower Tysoe, have either expressed support for the policy or have not expressed a view.
2. TPC believes that the historic and cultural evidence is that Lower Tysoe and its residents demonstrate a "belonging" to the larger community of Tysoe.
3. As to the question of the physical separation of Lower Tysoe from the rest of the village TPC maintain that most of Lower Tysoe is, in practice, no more distant from the school, church and shops in Middle Tysoe than are significant parts of Upper Tysoe and the fact that there is undeveloped land separating Lower and Middle Tysoe is irrelevant to the argument. Indeed, had the gap been already developed this argument would never have arisen.
4. In addition to SDC's statement in their comments on the pre-submission Plan referred to above, their determination of a recent planning application demonstrates their acceptance of TPC's proposal.
5. TPC does not believe that the stance taken in the SAP is conclusive. Para 4.1.15 on p28 states that where a NDP is "made" during the process of progressing the SAP then the BUAB in that NDP will prevail over that defined by SDC. It is unfortunate that our NDP has been unnecessarily delayed by over 4 months coincident with the progressing of the SAP.

Housing Policy 2

In what way has the Plan sought (directly or indirectly) to make a meaningful contribution towards the need for 700 new homes within Local Service Villages (Category 2) as identified in Policy CS16 of the Core Strategy?

First of all it should be noted that the 700 homes referred to above and the proportion to be found by each LSV (12%) is not a "target". In fact SDC have been very assiduous in their various comments in maintaining that there are NO targets for LSV's to meet. Having said that, TPC has considered very carefully the housing numbers now proposed in the NDP. Since 2011, the start of the Plan period, there have been 49 houses either built or granted

planning permission in Tysoe (this number includes a recent application granted permission for 5 houses which will require a small amendment to the text of the NDP). The Plan proposes a further 15 (again, after amendment for the recent permission granted) with two reserve sites which could contribute a further 21 houses if circumstances arise allowing their release. Of these 49 houses either built or granted permission 24 are now built representing a rate of approximately 3 per year. The remaining 25 houses not yet built plus the 15 proposed in the NDP would represent an average of slightly above 3 per year if they were all built by 2031. TPC believes that this average rate of circa 3 per year is achievable and sustainable within the village.

A wider context to this discussion should include consideration of SDC's overall housing target. In their Core Strategy they set out policies to achieve 14,600 new homes in the Plan period. It is clear from correspondence we have had with SDC that this "target" is in the process of being exceeded by a significant margin even before any "reserve sites" are released for development. Part of this excess above 14,600 comes from the various LSVs and Main Rural Centres contributing more than their projected allocation in the Core Strategy. Whilst TPC is not relying on the argument that because other LSVs have over contributed there is no need for Tysoe to contribute so many houses it does believe that the figure of 64 (49 already built or given permission plus 15 proposed in the NDP) plus a reserve of 21 makes a very valuable and sustainable contribution to SDC's Core Strategy "demand".

Should site 1 be removed from the schedule now that planning permission has been granted?

Yes it should and it will be in the final version of the NDP. Figures quoted above have been adjusted for this recent development.

Does the note at the end of site 3 refer to paragraph 6.3.0.6?

Yes it does and the text will be amended to make this clear in the final version of the NDP.

Housing Policy 3

The Plan acknowledges that there are constraints to the development of the two sites. Are they available for development and deliverable?

TPC believes that both sites are available for development. Site 4 is included in SDC's SAP as a reserve site and is considered by SDC as deliverable. Although this site is currently occupied by farm buildings (and is in the ownership of Warwickshire County Council and is currently without a tenant) TPC believe that the buildings could easily be accommodated further back on the site if development were approved. The owner of Site 5 already has an outline plan of how this site could be developed if circumstances allowed. This plan has anticipated the problem of safe pedestrian access and has proposed a means of safe vehicular access also. We believe that any small harm done by the development of this site would be outweighed by the potential provision of affordable homes on the site.

In any event how would the sites be released for development? In particular has the Parish Council considered release mechanisms similar to those proposed in the District Council's Site Allocations Plan (Policy SAP2)?

TPC consider that the release mechanisms for these sites would be identical to those proposed by SDC in their SAP.

Employment Policy 1

In the final part of the policy does 'extensions' refer to individual buildings or to the extension of industrial sites/areas?

"Extensions" refers to existing individual buildings and groups of buildings. There is only one recognised "industrial site" in the village where several industrial buildings are grouped together and where a recent application has been supported by the TPC.

Did the Parish Council specifically decide not to include any reference to the development of new businesses in the policy?

Within Employment Policy 1 we state that the Parish Council is keen to encourage and facilitate small business ventures including home-located businesses. TPC is realistic in recognising that employment opportunities in the village are few and that the only viable opportunity for new ventures relates to small enterprises, probably home-located. We believe that the two Employment Policies correctly express TPC's support of viable and feasible enterprises.

Employment Policy 2

The section on homeworking comments that new dwellings will be 'encouraged' to include space for home working. Does this mean that the provision of such space will be supported? Or that such provision should be provided?

TPC believes that it would be difficult to enforce mandatory inclusion of home-working facilities therefore this policy limits ambition to encouragement. In practice this means that where applications for developments came forward without such provision then TPC's support may only be granted if the application were amended.

Otherwise this is an excellent policy

Natural Environment Policy 4

Has the Parish Council undertaken an assessment of each Local Green Space (LGS) against the criteria in the NPPF at some point in the plan-making process?

Yes, TPC have completed assessments for all LGSs. These are referred to in the References on p59 of the Submission Plan where a link is available.

The allotments in Shenington Road (Site 9) appear to occupy an extended area (in its eastern corner) that does not correspond with that on Map 8. Please can the Parish Council clarify this matter.

There is an error on Map 8, the green area representing site 9 is incorrect and should extend further to the south-east. This will be corrected.

The final paragraph goes well beyond the matter of fact approach in the NPPF. I am minded to recommend that the national approach is applied to LGSs and that the final part of the policy becomes supporting text. Does the Parish Council have any comments on this proposition?

TPC would accept the Examiner's proposal on this matter.

Natural Environment Policy 5

In the final sentence the policy comments about the need or otherwise for a landscape and visual impact assessment. How would the word 'may' be interpreted in the development

management process? In particular how would both the District Council and developers understand when such work was required?

TPC believes that it would probably be obvious when a development impinged upon such a view or landscape, however, we accept the Examiner's observation that this may not always be so. Certainly TPC would always point out, in its representations on a particular planning application whether it believed that a Visual Impact Assessment was necessary as would Cotswold AONB board. Whether SDC, as the planning authority, then acted upon this would be beyond TPC's control.

Natural Environment Policy 6

Is saw the physical distinction between Tysoe and Lower Tysoe when I visited the neighbourhood area.

However, to what extent is the designation of a Strategic Gap necessary beyond the controls already included within existing local planning policies?

The area of undeveloped land between Middle and Lower Tysoe is highly valued by many residents who believe that this should remain undeveloped. Whilst there is protection afforded by the AONB on the east side of the road that protection does not extend to the west of the road. Recent planning applications submitted for sites to the immediate north of Middle Tysoe and in the proposed Gap have failed partially because the planners have referred to the emerging Plan policy regarding the Strategic Gap (whilst affording the Plan little weight overall). The village would not like to see this specific protection diluted in any way. The area of highest sensitivity – close to the school and church, we consider the most vulnerable as it is adjacent to and in the same ownership as the recently developed site immediately north of Church Farm Court. TPC believes that special, specific protection is required.

The Basic Conditions Statement indicates that this policy has a relationship with Policy CS9 of the Core Strategy. However, as I read that policy and the supporting text its focus is on the design of the built environment. Please can the Parish Council advise on this matter.

Policy CS 9 states *"All forms of development will improve the quality of the public realm and enhance the sense of place, reflecting the character and distinctiveness of the locality. Proposals that would damage or destroy features which positively contribute to local distinctiveness will not be permitted"* TPC believes that any development which produced a coalescing of Middle and Lower Tysoe would be highly detrimental to the character of both settlements but probably more so Lower Tysoe. In the Examiner's own words he *"saw the physical distinction between Tysoe and Lower Tysoe"* This distinction is marked and should be protected. TPC believes that the unique built character of Lower Tysoe can best be preserved and protected by preventing the sort of coalescence that happened between Middle and Upper Tysoe. A maintained Gap would provide this protection.

How did the Parish Council define the proposed boundaries?

TPC defined the boundaries, to the maximum extent possible, by reference to marked footpaths and field boundaries. Whilst it may be said that the defined Gap is larger than strictly necessary to provide the protection needed the boundaries follow the closest physical features possible.

In particular at the time of preparing Map 8 were the diagonal lines in the south west and south east of the proposed Gap the lines of the footpaths through the fields? When I visited the neighbourhood area the footpath in the south east of the proposed Gap now runs around

the western and northern side of that field. In addition, the footpath to the immediate north of the School now appears to have been redefined by a new post and wire agricultural fence.

All of the footpaths used to define the boundaries of the Strategic Gap are maintained and marked. After harvest and while new planting is being established the footpath diagonally to the lower eastern end of the Gap is not established, as soon as crops emerge the farmer clears the footpath and maintains it across the cropped field. The footpath on the western lower edge of the Gap has recently had a wire fence erected across it, however the route of the footpath has remained unchanged and gates in the new fence have been placed to enable the path to remain in place.

Please can the Parish Council clarify this detailed matter. *See above.*

Is there a specific reason why the proposed Strategic Gap extend to the immediate east of Lower Tysoe?

Again, this is the most expedient way of utilising existing boundaries to define the Gap. It could be said that the extension east of Lower Tysoe is somewhat redundant but is the only viable option if field boundaries are to be used.

Built Environment Policy 1

This policy takes an appropriate approach to this important matter.

However, to what extent is it required and distinctive beyond national policy?

Tysoe is fortunate in being very well blessed with a abundance of unique historical and Heritage Assets. Whilst it may be the case that the protection of such assets is generally enshrined in national policy TPC believes that the inclusion of a specific policy on this matter strengthens this protection and gives the TPC further authority to demand that comprehensive assessments are carried out where such assets may be at risk.

Built Environment Policy 6

The role of this policy is unclear. In particular it incorporates empty homes and redundant agricultural buildings in the same policy.

Is the empty homes part of the policy necessary as bringing empty homes back into use does not in itself need planning permission?

Does the agricultural buildings part of the policy apply to all agricultural buildings irrespective of their age and location?

The Examiner is echoing comments made by SDC. The policy relates to empty or redundant buildings whether they are agricultural or residential. The policy states that bringing such buildings back into use would be supported subject to a number of criteria. It is clear from the policy that "conversion" would be supported if the criteria were met.

We will change the wording to read "...back into use or which convert redundant agricultural buildings to residential use will be supported and....."

The policy has very clear criteria which would have to be met in order for such conversion to be supported and as such it does not relate to all agricultural buildings irrespective of age or location.

SDC Policy AS10 states:

The following forms of development and uses in the countryside are acceptable in principle: Community (a) Small-scale schemes for housing, employment or community facilities to meet a need identified by a local community in a Parish Plan, Neighbourhood Plan or other form of local evidence, on land within or adjacent to a village. Residential (b) Small-scale housing schemes, including the redevelopment of buildings, within the Built-Up Area Boundary of a Local Service Village (where defined), or otherwise within the physical confines, in accordance with Policy CS.15 Distribution of Development and Policy CS.16 Housing Development. (c) Conversion to a residential use of a building within the physical confines of a village. (d) Conversion to a residential use of a redundant or disused building in open countryside, constructed of brick or stone, that is listed or of local historic, architectural or other merit. In such cases, residential should be the only viable use and the building should be capable of conversion in a manner that is appropriate to its character and setting.

We believe that this policy, containing the criteria it does, complies with AS10.

We will delete the sentence “The conversion of agricultural buildings.....Permitted Development Rights.”

Community Assets Policy 1

Is the final part of the policy either necessary or land use in its format?

Final para of Policy 1 will be amended to read “Community Infrastructure Levy funds will be used to contribute towards the funding of Community Assets where appropriate. This will allow the Parish Council considerable freedom.....” TPC believes that the final part of the policy is necessary.

Points for Clarification (for the District Council)

Is the Council still working to the programme for the adoption of the Site Allocations Plan as shown in the Local Development Scheme (December 2018)?

The representations on the SAP are still being analysed and as such officers will not be in a position to report to Cabinet in December. As such, the Plan will not be submitted to the Secretary of State for Examination this year, as expressed in the LDS. Whilst it is acknowledged this will result in some slippage, a revised timetable for submission has not yet been set.

Representations made to the Plan

Does the Parish Council wish to make observations on any of the representations made to the Plan?

TPC makes representations and observations on comments received from SDC and from residents and other subscribers in a separate document which is made available to the Examiner.

In particular does it have any observations on representations raised on the following matters:

- the proposed built-up area boundary for Lower Tysoe (Housing Policy 1); and
- the consultation processes and the way in which the Parish Council engaged with local residents?

See separate document: “TPC’s responses to representations made by residents and others to TPC’s Reg16 Neighbourhood Plan” – TPC 1, TPC 2 and TPC 3 in that document.

Protocol for responses

I would be grateful for comments on the various questions by 29 November 2019. Please let me know if this timetable may be challenging to achieve. It reflects the factual basis of the questions raised.

In the event that certain responses are available before others I would be happy to receive the information on a piecemeal basis. Irrespective of how the information is assembled please can all responses be sent to me by the District Council and make direct reference to the policy/issue concerned.

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Independent Examiner

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14 November 2019