

Tysoe Neighbourhood Development Plan

Independent Examiner's Clarification Note

Context

This note sets out my initial comments on the submitted Regulation 17A Plan. It also sets out areas where it would be helpful to have some further clarification.

Initial Comments

The Plan follows the very well-presented format of the original submitted Plan. 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 Regulation 17A documents and the representations made. I have also visited the neighbourhood area. I am now in a position to raise some 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.

Points for Clarification for the Parish Council

Strategic Gap – Geographic Area

I can see the way in which the Plan now proposes to define a Strategic Gap to the west of Meadow Lane and Red Horse Close by way of reference to natural boundaries and features.

To what extent did the Parish Council balance the importance of securing this objective on the one hand with the risk of extending the proposed geographic boundary of the proposed Gap to the west on the other hand?

Does the area now identified for a Strategic Gap continue to run the risk that it incorporates a disproportionately large area for a such a planning policy tool (albeit a different area to that proposed in the submitted Plan of 2019)?

There are no guidelines for determining whether or not a SG is too large. Our guidance was that the SG had to be sufficient for the purpose intended – to retain the unique characteristics of the two settlements, Lower and Middle Tysoe, and to prevent the coalescence of those two settlements. Balancing that requirement with the need to keep the area of the Gap as small as reasonably possible we determined that the only configuration that fulfilled all requirements was the one now proposed. The aim has been to prevent coalescence on a north-south axis or a north-west to south-east axis (i.e. parallel with Tysoe Road or in a direction towards the settlements on Lane End in Lower Tysoe). Unambiguous field boundaries have been used to this end. Alternative boundary configurations were discussed with the LPA but rejected on the grounds of conflict with our Natural Environment Policy 6 or to avoid utilising boundaries that were insubstantial or temporary in nature such as footpaths or new stock fences.

We believe that the boundary needs to be looked at on its own merits, i.e. is it the minimum that is required to fulfil the stated objectives of the SG. The area of land encompassed by the boundary should not be the sole determinant when considering whether the boundary is compliant.

The Gap proposed in our Reg 17A Plan is considerably smaller than that in our Reg 16 Plan. Following comments by both the Examiner and the LPA on the Reg 16 Plan we have now omitted land to the east of Tysoe Road from the Gap and now rely on that land's AONB status for protection from development. In terms of the size, the SG encompasses some 9.33 hectares compared with the total size of the Neighbourhood Area of 4,940 hectares. This represents just 0.19% of the total Neighbourhood Area, a very small proportion of the land in the Neighbourhood Area.

Strategic Gap – Policy Wording

I can see that the proposed wording of Natural Environment Policy 6 follows the recommended modification in my report of 14 February 2020. This approach continues in the 'Explanation' (8.7.01/8.7.02). However, that wording was intended to be for a general policy within a Plan which did not specifically include a geographically-defined Strategic Gap in the event that the recommended modifications were accepted.

Please can the Parish Council clarify its intention on this matter?

The QB and the LPA both agreed that it would be necessary to retain a map of the SG to illustrate the extent of the SG referred to in policy NE6. Without such a map defining the boundary it would be very difficult for decision makers to know whether the policy would apply in a particular planning proposal.

Notwithstanding the statement above, the PC would consider making a minor amendment to the wording of NE Policy 6 if it was felt that clarification was necessary.

In particular does it intend that the second part of the policy should apply only within the proposed Strategic Gap?

Yes

Reserve Housing Sites

To what extent has the eventual delivery of the Herbert's Farm proposed reserve site now changed from the position that existed in February 2020?

The Parish Council (TPC) do not believe that the delivery of the Herbert's Farm site has changed at all since February 2020. At February 2020 the site was identified by the LPA as a reserve site in its Site Allocations Plan (SAP), published July 2019. TPC's Reg 17A Plan now states in Housing Policy 3 that the site would only be released for development if the conditions of the LPA Core Strategy Policy CS 16 were met. The LPA have since submitted a revised SAP – Reg 18 Preferred Options, approved by the LPA for public consultation on 19th October, 2020. This document retains Herbert's Farm as a reserve site and clarifies, but does not change, the release criteria outlined in CS 16. TPC understands, based on advice from WCC Highways, that any traffic issues associated with the development of this site could be overcome and that development of the site would not prevent the continued farming activity currently carried out on the site. The farm buildings could, as the policy explanation states, be moved back on the site to accommodate limited development without jeopardising the farming activity.

Points for Clarification for the District Council

What is the current programme for the adoption of the emerging Site Allocations Plan?

The timetable for the Site Allocations Plan (SAP) has slipped but we have yet to formally publish a new Local Development Scheme (LDS) to confirm a revised timescale. Informally, our latest thinking is that we are aiming to carry out (at the earliest) a Reg.19 consultation on the Proposed Submission version SAP in Autumn this year, which could lead to an Examination of the Plan in Spring 2022 and adoption by late Summer 2022.

Please can I be provided with the technical evaluation work on all 'amber' Reserve Housing sites within the Site Allocations Plan as highlighted in the 'Justification for amendment' heading in the table of proposed amendments.

The SAP Heritage Evidence Documents can be found on the Council's website through the following link:

[SAP Heritage Evidence Documents | Stratford-on-Avon District Council](#)

Representations made to the Plan

Does the Parish Council have any comments on the representations made to the proposed Regulation 17A Plan?

In particular does it have any comments on the representations made by:

- Loxton Developments; and
- The White Family/Lone Star?

Regarding the representation made by Loxton Developments

TPC's first observation is that Loxton Developments may be conflicted as we believe that either Loxton or a director of Loxton is owner of the land in question and would presumably financially benefit from any development on that land. Having said that we believe that there is little merit in the claims made in their representation.

Loxton state that the current proposed Gap is neither appropriate nor justified. TPC maintain that there is a real and imminent threat of development on the land in question. There was originally no access to this land from the main road, but as part of the development at Meadow Lane, Loxton have provided access via a road and gate and would appear to be intent on developing further. This would serve to increase the coalescence between Middle and Lower Tysoe on a north-west/south-east axis.

Loxton's argument that as there is "no significant risk of development" (their words) then there is no justification for the Gap is specious. The proposed Gap is intended to remain in place for the long-term and beyond any reliable view of a developer's intentions that can be determined at the current time.

Loxton maintain that any development on this land would be at the southern end of the site and would be of modest size. TPC maintain that once any development was allowed on the site coalescence would have occurred and a precedent would have been established for larger scale development. TPC find Loxton's arguments in support of development on the site self-serving and in direct opposition to the views and wishes of residents as established through very considerable consultation.

Loxton's argument that the new fences could have been used to define the Gap boundary fails to recognise that a fence erected over a matter of days could just as easily be taken down. The use of historic field and natural boundaries that are identified on OS maps has to be preferable to the use of hastily erected stock fences.

Loxton's assertion that development of the land west of Meadow Lane would not constitute coalescence is incorrect. That argument only considers the coalescence along Tysoe Road, however, as scrutiny of Map 8 in our Plan will indicate, Lower Tysoe extends to the west and south along Lane End and any development west of Meadow Lane will certainly reduce the distance between Middle and Lower Tysoe.

In conclusion Loxton put forward proposals that they suggest would have the effect of supporting the objectives of the SG policy whilst avoiding the prohibition of development. This seems entirely to miss the point of the policy which is to protect the land within the Gap boundary from most forms of development on the basis that that would constitute coalescence and would compromise the distinct nature and character of the settlements of Lower and Middle Tysoe. The TPC believes that proposals in the Heritage Impact Assessment that Loxton present would not provide as robust protection for the heritage assets at the northern edge of Middle Tysoe as do Natural Environment Policy 6 and Built Environment Policy 1. Loxton's proposals would, however, significantly enhance the value of the land in question. TPC strongly believes that the proposed Strategic Gap provides precisely what residents have indicated is important – to keep the open land between Lower and Middle Tysoe free from development and to preserve the distinctive character of the two settlements.

Regarding the representation by the White family and Lone Star

Again, TPC consider the respondent to be conflicted as it is believed that they own a site on the edge of the village, off Oxhill Road, which was identified in the LPA's July 2019 SAP as a potential reserve site but which was not included as such in their October 2020 Preferred Options SAP. They have lobbied for the inclusion of that site as first an allocated site and latterly as a reserve site in our NDP. Residents have consistently objected to its inclusion following an Inspector's report against an appeal made by an unsuccessful applicant (Gladman Developments) for development on that site. Clearly, if the Herbert's Farm site were to be omitted from our Plan as a reserve site the likelihood of development on the Oxhill Road site may well be enhanced.

This representation concerns the inclusion in our Reg 17A Plan of a reserve site – Herbert's Farm. The site we are proposing is in virtually all respects identical to the developable area of site TYS 16 in the LPA's latest draft SAP. Our stated release criteria are aligned with those in the LPA's policy CS16.

The Examiner's comments on our Reg 16 Plan referred to there being no assurance on the eventual delivery of the Herbert's Farm site. TPC maintain that the purpose of the inclusion of a reserve site in our Plan is to provide a "safety valve" should the occasion arise whereby the LPA cannot meet its housing requirement. The hierarchy of release of reserve sites identified in the SAP has now been clarified in the latest draft of that document – SAP 3 & 4. TPC believe that it is prudent to include the reserve site as, should the criteria for release of sites as described in the SAP be met, then the identified reserve site in our Plan should be the site to be released rather than another site being "imposed" on the village. Whilst TPC admit that the Herbert's Farm site is not without its drawbacks in terms of deliverability, the LPA designate it as deliverable.

The conclusion that White/Lone Star draw, that the inclusion of Herbert's Farm is contradictory with the SAP is ill-founded as the site remains in the Reg 18 version of the SAP and the release criteria identified in our NDP policy are identical with the SAP and with CS 16. Our Reg 17A Plan addresses the issue of the impact that development on the site would have on the working farm. TPC also believes that the traffic issues are capable of being addressed.

Protocol for responses

I would be grateful for comments on the various questions by 16 March 2021. 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.

Andrew Ashcroft

Independent Examiner

Tysoe Neighbourhood Development Plan (Regulation 17A)

24 February 2021