

Tysoe Neighbourhood Development Plan 2011-2031

**A report to Stratford-on-Avon District Council on the
Tysoe Neighbourhood Development Plan
(Regulation 17A Version)**

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Executive Summary

- 1 I was appointed by Stratford-on-Avon District Council in January 2021 to carry out the independent examination of the Tysoe Neighbourhood Development Plan. The purpose of the examination is very specific. Its focus is on the way in which the Council and Tysoe Parish Council have responded to two of the recommended modifications contained in the initial independent examination of the Plan (in February 2020).
- 2 The examination was undertaken by written representations. I visited the neighbourhood area on 24 February 2021.
- 3 The Plan as a whole includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. This examination was focused on an assessment of the way in which the Council's proposed revisions of Housing Policy 3 and Natural Environment Policy 6 meet the basic conditions.
- 4 In reaching my conclusions I have taken account of the targeted consultation on the revisions to the policies concerned.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the two revised policies in the Tysoe Neighbourhood Plan meet all the necessary legal requirements.
- 6 In this context I restate the earlier examination findings that the Plan should proceed to referendum and that the referendum should be held within the neighbourhood area.

Andrew Ashcroft
Independent Examiner
4 May 2021

1 Introduction

- 1.1 This report sets out the findings of the second independent examination of the Tysoe Neighbourhood Development Plan 2011-2031 (the 'Plan').
- 1.2 The Plan was originally submitted to Stratford-on-Avon District Council (SDC) by Tysoe Parish Council (TPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan. I examined the Plan in late 2019 and early 2020. My initial report was sent to SDC on 14 February 2020.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its updates in 2018 and 2019. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. The focus of this examination is the two council's responses to the recommended modifications to two policies in the Plan (Housing Policy 3 – Strategic Reserve Housing Sites and Natural Environment Policy 6 – Strategic Gap) in the report on the initial examination of the Plan. In each case the policies were recommended to be deleted from the Plan.
- 1.6 Within the context set out above this report assesses whether the responses to the initial recommended modifications are legally compliant and meet the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to the two policies and associated supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the Plan area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by SDC, with the consent of the TPC, to conduct the examination of the Plan and to prepare this report. I continue to be independent of both SDC and the TPC. I continue not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Sections 7 and 8 of this report.

Other examination matters

- 2.6 In examining the Plan I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must 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 for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report. I am satisfied that the two policies comply with these requirements in the rather limited context of this second examination of the Plan.

3 Procedural Matters

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

- the decision statement on the initial examination report;
- the proposed Regulation 17A version of the Plan;
- the proposed changes to the initial recommended modifications;
- the initial examination report (February 2020);
- the comments received to the Council's proposed modifications;
- the adopted Stratford-on-Avon District Core Strategy;
- the emerging Site Allocations Plan Preferred Options October 2020;
- the District Council's Heritage Impacts Assessment report on the emerging Site Allocation Plan (on potential reserve sites);
- the comments received to the Site Allocations Plan Preferred Options made by Loxton Developments and the White Family and Lone Star;
- the National Planning Policy Framework (February 2019);
- Planning Practice Guidance (March 2014 and subsequent updates); and
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 24 February 2021. I looked at those areas affected by the two revised policies in the Plan in particular. My visit is covered in more detail in paragraphs 5.9 to 5.13 of this report. Its purpose was to look at the specific matters in general terms and to assess the extent to which factors on the ground had changed materially from those that were in place at the time of my initial visit to the neighbourhood area (13 November 2019) as part of the first examination of the Plan.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I concluded that the Plan could be examined in this way.

3.4 In procedural terms this examination has a very limited remit. SDC has already accepted the majority of the recommended modifications as an outcome of the first examination. As part of that process the initial examination had assessed the wider Plan against the basic conditions. However, for clarity I asked SDC to undertake a brief assessment of the extent to which its proposed revisions to the two policies would have any effect on the Habitats Regulations Assessment. Its conclusions on this matter are included in Section 6 of this report.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 SDC has prepared a Schedule of Proposed Changes to the examiner's recommended modifications. This Statement sets out the background to the matter and then comments about the examiner's recommendations. It then proposes the Council's response to the two recommendations concerned.

Representations Received

- 4.3 Consultation on the Council's proposed modifications to the two policies was undertaken by SDC that ended on 4 December 2020. This exercise generated comments from the following organisations:
- Coal Authority
 - Highways England
 - Historic England
 - Inland Waterways Association
 - Loxton Developments
 - National Grid
 - Natural England
 - Warwickshire County Council
 - White Family and Lone Star
- 4.4 In addition two comments were received from local residents.
- 4.5 Where it is appropriate to do so I refer to specific representations in this report. I have taken account of all the comments received in my assessment of the Regulation 17A Plan against the basic conditions.

5 The Neighbourhood Area and the Development Plan Context

The Neighbourhood Area

- 5.1 The neighbourhood area consists of the parish of Tysoe. Its population in 2011 was 1143 persons living in 511 houses. It was designated as a neighbourhood area on 10 February 2014. It is an irregular area located to the east of Shipston-on-Stour. The neighbourhood area is predominantly a rural parish and much of its area is in agricultural use.
- 5.2 The neighbourhood area has two very different elements of built development. The main element is Upper and Middle Tysoe. It is a traditional village with a range of commercial and community facilities. The majority of the historic core of both Upper and Middle Tysoe are designated Conservation Areas. In both cases there are several vernacular buildings constructed of the distinctive local ironstone. The second element of built development is in Lower Tysoe. It is located approximately 400 metres to the north of Middle Tysoe. It consists of a looser structure of buildings located off Tysoe Road and Lane End and Badgers Lane running along a north-south alignment off Tysoe Road.
- 5.3 The remainder of the neighbourhood area consists of a very attractive agricultural hinterland. The south-eastern part of the neighbourhood area is within the Cotswold Area of Outstanding Natural Beauty. It is significantly higher than the remainder of the neighbourhood area and is particularly open and sylvan in its character.

Development Plan Context

- 5.4 For neighbourhood planning purposes the principal element of the development plan covering the neighbourhood area is the Stratford-on-Avon District Core Strategy 2011 to 2031. The following policies in that Plan are particularly relevant to the various policies in the submitted Plan:

Policy CS5	Landscape
Policy CS6	Natural Environment
Policy CS9	Design and Distinctiveness
Policy CS11	Cotswold Area of Outstanding Natural Beauty
Policy CS15	Distribution of Development
Policy CS16	Housing Development
Policy CS18	Affordable Housing
Policy CS19	Housing Mix and Type
Policy CS22	Economic Development
Policy AS10	Countryside and Villages

- 5.5 Core Strategy policies in general, and Policies CS15 and 16 in particular, provide the strategic context for new residential development in the neighbourhood area. The distribution of development in Stratford-on-Avon District during the plan period 2011 - 2031 is based on a pattern of balanced dispersal, in accordance with the distinctive

character and function of the wide range of sustainable locations. It takes a hierarchical approach which seeks to concentrate the majority of planned growth in Stratford itself, Main Rural Centres, New Settlements and Local Service Villages. Tysoe is one of the identified Local Service Villages (LSVs) (Category 2). Policy CS16 identifies a need for approximately 700 homes in total in the Category 2 LSVs, of which no more than around 12% should be provided in any individual settlement. The LSVs as a whole are expected to deliver some 2,000 homes across the plan period 2011 to 2031. The Core Strategy is clear that only homes built within the identified LSVs will contribute to the LSV housing numbers; homes built in all other settlements or within the wider parish contribute to a residual housing number for the rural area. In this context Lower Tysoe is identified, by default, as one of a series of 'other rural settlements'

- 5.6 SDC is in the process of preparing its Site Allocations Plan. It has progressed further from the point that it had reached at the time of the initial examination. In October 2020 SDC approved the Preferred Options document. A consultation period followed thereafter and which concluded in December 2020. This Plan replaced the previous Plan as published in Autumn 2019 which is now not being progressed. In this context whilst the Plan now includes additional/improved policies on the delivery of reserve housing sites based on further technical assessment work/evidence, in procedural terms it has taken a step backwards in the wider plan-making process.
- 5.7 The primary purpose of the Site Allocations Plan is to provide further detail to that already included in the adopted Core Strategy and to identify potential reserve housing sites and mechanisms for their release. Policies SAP1 to SAP5 propose a series of reserve sites throughout the District and mechanisms for their release. Two reserve sites are identified in the neighbourhood area. Policy SAP7 also proposes built up area boundaries (BUABs). That policy acknowledges that, during the process of progressing the Plan, a number of neighbourhood plans which have not yet reached an 'advanced stage' will change status as they progress through the various plan-making steps. Once 'made', the settlement boundary identified in a neighbourhood plan will prevail over the BUAB defined by the District Council in the Site Allocations Plan. SDC anticipates that the Site Allocations Plan will be submitted for examination by December 2021 and adopted in Summer 2022.
- 5.8 The neighbourhood plan has been prepared at the same time as SDC has been preparing its District-wide Site Allocations Plan that will accompany the adopted Core Strategy. In general terms it is good practice to align work on strategic and neighbourhood plans particularly where they are being developed at similar times. However, in this case the process has been challenging given that the District Council and the Parish Council have taken different positions on certain aspects of the two plans. Nonetheless the submitted Plan has been prepared within its wider adopted development plan context. In doing so it has relied on up-to-date information and research that has underpinned existing planning policy documents in the District. This reflects key elements in Planning Practice Guidance on this matter. The recommended modifications included in Section 7 of this report seek to ensure that the relationship between the policies in the adopted development plan, the emerging neighbourhood plan and the emerging Site Allocations Plan are properly configured. In particular they seek to maintain the distinction between matters which are properly determined at a

strategic level (in this case the emerging Site Allocations Plan) and at a more local level (in this case the Tysoe Neighbourhood Development Plan).

Unaccompanied Visit

- 5.9 I visited those parts of the neighbourhood area covered by the two policies on 24 February 2021. I observed the social distancing arrangements that were in place at that time.
- 5.10 I looked initially at the proposed revised boundary of the Strategic Gap. I followed the footpath into the countryside beyond the Primary School. I saw the recently-erected post and wire fences and the relationship of the open landscape to the new residential developments off Red Horse Close and Meadow Lane. I saw the way in which the south-west element of the proposed Strategic Gap had been defined to follow natural features.
- 5.11 Thereafter I continued along the footpath network to the Tysoe Road. I walked up the hill to Lower Tysoe. In doing so I looked at the proposed western boundaries of the Strategic Gap in its northern part.
- 5.12 I walked back down the hill to Middle Tysoe. I looked at Herbert's Farm. It was unchanged from that at my initial visit in 2019/2020. I looked carefully at its relationship with the surrounding buildings and the wider Conservation Area.
- 5.13 I finished my visit by looking generally at the village centre. The village shop/Post Office remains at the heart of the community and was responding well to the commercial pressures associated with the Covid pandemic.

6 The Neighbourhood Plan and the Basic Conditions

6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions.

6.2 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan in the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations; and
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7).

6.3 I assess the Plan against the basic conditions under the following headings.

National Planning Policies and Guidance

6.4 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in February 2019. This approach was reflected in the Basic Conditions Statement submitted with the Regulation 15 version of the Plan in 2019.

6.5 The NPPF sets out a range of core land-use planning issues to underpin both plan-making and decision-taking. The following are of particular relevance to the Tysoe Neighbourhood Plan:

- a plan led system– in this case the relationship between the neighbourhood plan and the adopted Core Strategy;
- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- taking account of the different roles and characters of different areas;
- highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
- conserving heritage assets in a manner appropriate to their significance.

6.6 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic

needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.7 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 6.8 Having considered all the evidence and representations available as part of the examination I am satisfied that Council's approach towards the two policies has had regard to national planning policies and guidance in general terms. They set out a positive vision for the future of the neighbourhood area in general, and the relationship between the various settlements and the wider countryside in particular.
- 6.9 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance in March 2014. Paragraph ID:41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.10 As submitted the Council's modifications to the policies in the Plan do not fully accord with this range of practical issues. My recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.11 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the responses to the modification to the two policies concerned have set out to achieve sustainable development in the neighbourhood area. Housing Policy 3 addresses the economic and social needs associated with the delivery of reserve sites to meet the overall strategic housing needs in the District. Policy NE6 proposes an approach to maintain the separation of the settlements of Middle Tysoe and Lower Tysoe.

General conformity with the strategic policies in the development plan

- 6.12 I have already commented in detail on the development plan context in Stratford-on-Avon District in paragraphs 5.4 and 5.5 of this report.
- 6.13 I consider that the submitted Plan delivers a local dimension to this strategic context. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

European Legislation and Habitat Regulations

- 6.14 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required. A Habitats Regulations Assessment (HRA) is also required.
- 6.15 The initial examination was satisfied that these requirements were met. I asked SDC to assess whether its modification to the two policies would affect the HRA outcome. It advised that this was not the case.
- 6.16 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 6.17 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. In addition, there has been full and adequate opportunity for all interested parties to take part in this specific stage of the preparation of Plan and to make their comments known. On the basis of all the evidence available to me, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Summary

- 6.18 On the basis of my assessment of the Plan in this section of my report I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

7 The Neighbourhood Plan Policies

- 7.1 This section of the report comments on the policies in the Plan where the two councils have decided not to proceed with the recommended modifications in the initial examination report of the Plan (February 2020). In particular, it makes a series of recommended modifications to ensure that they have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans.
- 7.3 I have addressed the policies in the order that they appear in the Council's consultation statement on the modifications to the policies.
- 7.4 For clarity this section of the report comments on each of the affected policies whether or not I have recommended modifications in order to ensure that they meet the basic conditions. This report does not comment on any of the other policies in the Plan as originally submitted. SDC and TPC have already agreed to the recommended modifications in the initial report.
- 7.5 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

General Comments

- 7.6 An examination of this nature is unusual. It is not an opportunity for a second examination of the same Plan. However, it does present a separate opportunity to test whether the response made by SDC and the TPC to the initial recommended modifications meet the basic conditions in their own right.
- 7.7 In this context SDC and the TPC have sought to respond positively to the recommended modifications to the initial examination on a policy-by-policy basis. In particular the two councils have reconfigured the two policies to address those matters which caused the initial examination to recommend their deletion from the submitted Plan. The modifications made to the two policies are of such a scale and significance that they would not naturally have been recommended as examination modifications. This reflects the remit of an examiner as set out in paragraph 1.4 of this report.
- 7.8 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.3 to 7.5 of this report.

Housing Policy 3 – Strategic Reserve Housing Sites

- 7.9 The initial submitted Plan proposed two reserve housing sites – Herbert's Farm and Roses Farm
- 7.10 The initial report recommended that the policy was deleted from the Plan. It commented that the policy offered no assurance on the eventual delivery of the two sites concerned or included substantive information about how site-specific design and access issues could be addressed. In addition, it commented about the lack of

evidence and that the justification was insufficient for their retention in the Plan particularly with a lack of release mechanism (should they be required to come forward) and concerns relating to conflicts between the neighbourhood plan and emerging Site Allocations Plan in terms of housing policy.

- 7.11 The Roses Farm site has been deleted from the policy. However, the Herbert's Farm site has been retained in the Plan.

General Context of the Policy

- 7.12 The justification for the retention of the Herbert's Farm site as a proposed Reserve Housing site comments that this approach is entirely consistent with the Site Allocations Plan. The site was included as an 'amber site' in the Proposed Submission version SAP in 2019. The 2020 Site Allocations Plan Preferred Options retained Herbert's Farm as a proposed Reserve Housing site. This followed on from the completion of technical evaluation work on all 'amber' reserve housing sites to assess the potential impact of development on nearby heritage assets.

- 7.13 The SDC Heritage Impact Assessment comments about the Herbert's Farm site as follows:

'Based on the assessment of the designated and non-designated heritage assets affecting this particular site, it is concluded that development would cause less than substantial harm to the setting of nearby listed buildings and the Conservation Area. It is considered that mitigation measures (such as the introduction of a high-quality design/layout of appropriate scale and materials) would be possible in order to reduce the potential harmful impact development in this location would cause. It is concluded that development in this location would result in less than substantial harm to designated and non-designated heritage assets'

- 7.14 The approach taken in the Regulation 17A Plan has attracted a detailed representation from the White Family/Lone Star which is promoting a potential reserve site off Oxhill Road. The representation makes a detailed assessment of the extent to which the approach to reserve sites in the Regulation 17A Plan has addressed the findings of the initial examination. It concludes by commenting that:

'the proposed amendment to Housing Policy 3 of the Tysoe NDP which would retain Herbert's Farm contrary to the Examiner's recommendation, is flawed as it is based on contradictory evidence, the most recent of which has not been subject to independent examination. Furthermore, the Examiner concluded the retention of the reserve sites in the NDP had the potential to conflict with wider proposals in the emerging SAP which may well end up identifying different sites'

- 7.15 This specific representation overlaps with the White Family/Lone Star representation to the Site Allocations Plan Preferred Options (October 2020). Detailed objections were raised to the identification of the two reserve sites in Tysoe in that Plan on the following grounds:

- reserve sites should not be deleted from the Site Allocations Plan until the relevant made neighbourhood plan identifies sufficient sites to meet the relevant Core Strategy housing requirements;
- the land at Oxhill Road should be reinstated in the Site Allocations Plan as a reserve housing site to ensure that Tysoe meets the strategic housing requirement for the village;
- the SDC Heritage Assessment on the Oxhill Road site is flawed; and
- the land south of Oxhill Road is the most suitable and deliverable site in Tysoe.

7.16 Several issues are at play on this policy. Crucially they include the relationship between the development of the neighbourhood plan and the Site Allocations Plan and the way in which the latter addresses reserve sites in those parts of the District with made or advanced neighbourhood plans.

7.17 The Site Allocations Plan is very clear on its approach. Its paragraphs 1.2.4/1.2.7/1.2.8 comment as follows:

‘There is, however, a tension within the plan-making system between these ‘bottom-up’ views of the community as expressed through a NDP and the ‘top-down’ approach of a Local Plan prepared by the Local Planning Authority that has to take a strategic or Districtwide perspective. This tension is further reinforced by the different methods for preparing and adopting a NDP and a Local Plan - the former having to satisfy a number of basic conditions whereas the latter is subject to detailed scrutiny to ensure that its proposals are positively prepared, justified, and effective - although both then go on to form part of the statutory Development Plan’ (paragraph 1.2.4).

‘The Council has taken the approach of not identifying reserve sites in those settlements with a reserve site identified in its neighbourhood development plan (NDP). The Council has applied this approach to those NDPs that are at a significantly advanced stage, i.e. those NDPs that are either made or where the Council has resolved to submit the NDP for referendum. This is because it is only at this point that the content of the NDP is not liable to change’ (paragraph 1.2.7).

‘Notwithstanding this, the Council acknowledges that the Site Allocations Plan is only at Preferred Options stage and that a number of neighbourhood development plans (NDPs) with identified reserve sites are progressing well. It is expected that these NDPs will have reached an advanced stage (as defined above) by the time the Site Allocations Plan is ready for submission. As such, it is fully expected that the Submission version of the site Allocations Plan will be amended to reflect the changing status of these NDPs. However, at the current time, for consistency purposes, the Council has not taken into account emerging NDPs’ (paragraph 1.2.8).

7.18 Plainly these are important matters. They get to the heart of the relationship between the adopted Core Strategy, the emerging Site Allocations Plan and the well-developed neighbourhood plan agenda in the District. Nevertheless, the appropriateness or otherwise of the approach taken in the Site Allocations Plan is a separate matter which is not within my remit. In factual terms the emerging Tysoe neighbourhood plan falls within the circumstances set out in paragraph 1.2.8 of the Site Allocations Plan (plans which are progressing well but have not been made). Plainly it will be impracticable to

anticipate the timescale for the final stages of either the neighbourhood plan or the Site Allocations Plan at this point.

- 7.19 I have however considered the extent to which the approach taken in the Regulation 17A version of the neighbourhood plan has regard to national policy in respect of the delivery of strategic and non-strategic policies in the parish. This matter is neatly captured in paragraphs 28-30 of the NPPF as follows:

‘28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies

30. Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently’

- 7.20 In this context I am satisfied that the emerging neighbourhood plan is setting out to support the delivery of strategic policies in the neighbourhood area. It has proposed its own housing allocations (in Housing Policy 2 of the Plan) and has included the Herbert’s Farm site as a reserve site. The approach to reserve housing sites mirrors the approach in the emerging Site Allocations Plan. Similarly, I am satisfied that the approach being taken in the emerging neighbourhood plan does not inhibit the development of the strategic approach in the emerging Site Allocations Plan either in general terms, or as it affects Tysoe in particular. In any event Policy CS.16 of the Core Strategy does not set targets for individual villages. The overall figures are split by Local Service Villages (LSVs) category with an approximate number to be fulfilled by the villages (as a whole) within each category. The Core Strategy suggests that Category 2 LSVs (of which Tysoe is one) should achieve approximately 700 dwellings between them, with no more than around 12% of that figure in any one settlement. There are current commitments in LSV2 villages for 691 dwellings, which already fulfils the requirements of the policy. The Site Allocations Plan will be subject to its own examination and part of that process will assess the appropriateness of the approach taken in its paragraphs 1.2.4 to 1.2.8. Plainly in this context the White Family/Lone Star (and others) will be able to pursue their representations to the wider approach. In this context the principles of paragraph 30 of the NPPF would apply.

The Assessment of the Policy approach

- 7.21 The Regulation 17A version of the Plan addresses the potential development of the Herbert's Farm site in an updated fashion to that which was included in the Regulation 15 version of the Plan. In particular it addresses the issues raised in the initial examination report. Taking account of all the information available to me I am satisfied that the modified approach meets the basic conditions. I have reached this judgement for a series of related reasons which are set out in paragraphs 7.22 to 7.24 of this report.
- 7.22 The first reason is that the policy now offers an enhanced assurance about its eventual delivery in the event that it is released as a reserve site. Whilst there are conservation area, design and access issues to be overcome at a future point the SDC Heritage report now provides more substantive information about the way in which these issues would be resolved. In this context I am satisfied that these matters have the potential to be addressed in a positive fashion through the development management process and associated pre-application advice. In addition, I am also satisfied that the site is sustainably located within the village in general and has excellent access to community facilities, the shop/post office and the village school in particular.
- 7.23 The second is that the proposed approach in the neighbourhood plan is now more aligned to the wider package proposed in the emerging Site Allocations Plan. The relationship between the approach in the two plans is now much more consistent than was the case at the time of the previous examination. In addition, as I have already commented in paragraph 7.20 of this report, the way in which reserve sites is addressed in the neighbourhood plan does not prohibit a wider strategic debate on this matter from taking place in the context of the emerging Site Allocations Plan.
- 7.24 The third is that the policy now provides a specific methodology for the eventual release of the site and which marries up with that in the emerging Site Allocations Plan. Whilst that approach has yet been examined it has a clear and functional relationship with the equivalent policies in the adopted Core Strategy.

The policy itself

- 7.25 The policy has two related components. The first safeguards the site as a reserve site. The second identifies release mechanisms which relate directly to those identified in Policy CS.16 of the Core Strategy. In general terms the approach meets the basic conditions. However, to bring the clarity required by the NPPF I recommend detailed modifications to the wording used in the policy. Its effect remains unchanged.
- 7.26 I also recommend modifications to the supporting text. They have two effects. The first shifts the emphasis to the ways in which technical and heritage issues should be addressed rather than being presented as obstacles to development. The second makes specific reference to the Heritage Impact assessment work recently undertaken by SDC.

Replace the policy with:

‘The Plan safeguards land at Herbert’s Farm as shown on Map 8, Site 3 (page 30) as a reserve housing site (with the potential for future residential development of up to 16 houses).

The safeguarded site will only be released during the Plan period if it can be demonstrated through the submission of evidence that there is an identified housing need for their early release having regard to the criteria in Policy CS.16 of the Core Strategy 2011-2031’

Replace the final four sentences of paragraph 6.4.0.1 with:

‘The development of the site will need to incorporate a satisfactory and safe vehicular access. It will also need to address a series of issues relating to heritage assets in this part of the village. These matters have been addressed in the District Council’s Heritage Impacts Assessment report of potential reserve sites in the District. In this context the Parish Council considers that any harm can be ameliorated by sympathetic design and careful use of materials. Moreover, any potential development of the site could be undertaken without affecting the future functioning and viability of the working farm itself as development is only anticipated on a small area fronting Saddledon Street. In this context the existing farm buildings could be relocated elsewhere on the wider farm holding’

Natural Environment Policy 6 – Strategic Gap

- 7.27 The initial Plan proposed a Strategic Gap which extended both to the west and to the east of Tysoe Road between Middle Tysoe and Lower Tysoe.
- 7.28 The initial report recommended the deletion of a geographically-defined Strategic Gap and the replacement of the policy with one which had general effect to prevent the coalescence of the two settlements.
- 7.29 The area included in the initial Strategic Gap to the east of Tysoe Road (in the Cotswolds AONB) has now been removed. TPC has accepted that there is no need for this approach as the land is within the Cotswolds AONB and already has appropriate and robust protection.
- 7.30 The Plan now proposes the incorporation of the recommended general policy wording together with a revised geographic Strategic Gap. The proposed extent of the Strategic Gap to the west of Tysoe Road has been extended further to the west at its southern end to ensure that it follows natural boundaries.
- 7.31 In the response to the initial report TPC indicated that it was happy to accept the new policy wording and revised text for the explanatory paragraphs. However, it wished to retain a ‘physical embodiment’ of a gap on the Policies Map. This took account of its view that there was evidence to suggest that land between the two settlements was under significant risk of incremental development which would gradually reduce the effectiveness of the existing separation between the two settlements and lead to coalescence.

7.32 In the submission documents TPC has produced a justification for its revised approach to the Strategic Gap. That justification identifies five attributes which have underpinned its approach as follows:

- it recognises that coalescence would occur not only if development took place along the road between Middle and Lower Tysoe but also in the field west of Church Farm Court/Meadow Lane and that this would be undesirable and against residents' wishes.
- it recognises that there is a significant risk of development in the southern area of the proposed Gap. That area includes a site proposed as a reserve site (site 'E') in the District Council's Proposed Submission version of the Site Allocation Plan (SAP) 2019 which heightens the risk of development. That field is also in the same ownership as the recent adjacent development at Meadow Lane. (Development risk may reduce if Site E is excluded from the next draft of the SAP)
- it utilises entirely physical and defensible field boundaries.
- it encompasses the smallest area of land compatible with providing adequate protection against coalescence.
- by extending as far as the school boundary it will also protect and preserve the unique and separate characters of Middle and Lower Tysoe and the settings of several important listed structures in keeping with the NPPF regarding the historic environment. Such different characters of Middle and Upper Tysoe have been compromised by the coalescence that occurred between those two settlements in the 1960s.

7.33 The resulting definition of the proposed Strategic Gap in the Regulation 17A Plan raises the following overlapping issues:

- the extended geographic area of the proposed Gap to the west of Tysoe Road from that proposed in the Regulation 15 version of the Plan;
- the way in which the proposed geographic extent of the Gap relates to sites which have been considered as potential housing sites in the emerging Site Allocations Plan; and
- the proposed hybrid approach of seeking to apply a general policy to a specific geographic area.

I address these matters in the following sections of the report.

The extended geographic area of the proposed SG to the west of Tysoe Road

7.34 On the first matter the proposed Strategic Gap now extends across an extended area to the west of Tysoe Road and to the immediate north of Middle Tysoe. TPC comments that it has taken this approach as a response to the concerns raised in the initial examination about the boundary of the Strategic Gap in this locality. The extended Strategic Gap has now been drawn to take account of natural boundaries. This part of the proposed Strategic Gap (including the recent post and wire internal fences) is now much more clearly defined than it was in 2020 whilst the development of Meadow Lane was taking place and part of the area was used for the storage of construction materials.

7.35 This proposed extended area of the Strategic Gap has attracted a representation from Loxton Developments. In summary it contends that:

- the development (being promoted by Loxton) would be sited at the southern end of the field adjacent to the built-up area boundary. As such the extent of development that could be delivered, and the resulting reduction in gap between settlements, is insignificant.
- any development in this location would be constrained by the route of the public right of way and associated heritage effects on approach to the settlement, limiting any potential for further development towards Lower Tysoe. As such a gap of in excess 500m would be retained between the built form of the two settlements.
- as a result of the routes of surrounding public rights of way and public vantage points, any development to the west of Meadow Lane would always be viewed in the context of the development along Main Street/Tysoe Road. It cannot be reasonably considered that a modest development in this location would cause coalescence between the settlements when in the views from public vantage points, development would be visible that is closer to Lower Tysoe.
- the development being promoted by Loxton does not seek to create a blunt edge to the settlement that would adversely affect the open/rural character, nor, would it have coalescing effects. The (proposed) development area has been sympathetically designed to ensure the routes of the public rights of way are retained along their length as agricultural land, retaining the relationship between the settlement and surrounding landscape.
- even if the (proposed) site were to be developed in the future, it would not place pressure on further incremental development into the countryside/towards Lower Tysoe. The location of the proposed development is constrained by the route of the public right of ways and associated effects.
- there are alternative physical and defensible boundaries which can be used to define a Strategic Gap.

7.36 The representation proposes two options for a revised boundary of a Strategic Gap in this part of the parish.

7.37 I looked at this element of the proposed Strategic Gap carefully when I visited the neighbourhood area. Having taken account of all the information available to me I am not satisfied that a geographically-defined Strategic Gap needs to incorporate the proposed parcel of land to the west of Meadow Lane. I have reached this conclusion for the following related reasons:

- the overall extent of the proposed Strategic Gap would be disproportionately large and beyond that necessary to protect the existing separation between Middle Tysoe and Lower Tysoe;
- in the event that the southern part of the land to the west of Meadow Lane was eventually developed (as proposed by Loxton Developments in its representation) the built development would be seen as an extension of Middle Tysoe rather than as an isolated development which would result in the coalescence of the two settlements; and

- the parcel of land is set back from the Tysoe Road and is farther away from Lower Tysoe than the existing built development in Middle Tysoe along Tysoe Road.

The overlap between the proposed Strategic Gap and sites considered in the Site Allocations Plan as potential reserve sites

- 7.38 On the second matter, the proposed Strategic Gap incorporates two sites which have been considered as part of the preparation of the Site Allocations Plan. TY.01 (Land west of Tysoe Road) and TY17 (Land west of Church Farm Court). TY01 and part of TY17 was initially included in the proposed Strategic Gap in the initial version of the submitted neighbourhood plan.
- 7.39 This highlights the tensions between the ongoing preparation of the neighbourhood plan and the Site Allocations Plan. On the one hand there is no procedural reason why a neighbourhood plan cannot proceed in advance of a local plan. On the other hand, the neighbourhood plan's proposed incorporation of a Strategic Gap is addressing a potentially strategic matter in its own right. In addition, it is an issue which may have an impact on SDC's ability to take a balanced decision on the allocation of either housing sites or reserve housing sites in the neighbourhood area.
- 7.40 In this context the representation from Loxton Developments to the emerging Sites Allocations Plan comments about the form and layout of its proposed development to the west of Meadow Close (on the TY.17 site). In particular it provides a detail analysis and rebuttal of SDC's comments about the impact of the development of the site on heritage assets (as set out in the SDC Heritage Impact Assessments).
- 7.41 The TY.01 site (a paddock area) was not included in the Site Allocations Plan Preferred Options as a result of two dismissed appeals relating to residential development of the site. No equivalent representation has been made by the owners of the land to the west of Tysoe Road (TY.01) to the emerging Site Allocations Plan Preferred Options or to the Regulation 17A neighbourhood plan.
- 7.42 Having taken account of all the information available to me I am not satisfied that it is appropriate for a neighbourhood plan to identify a strategic gap which would directly or indirectly interfere with the natural outcome of the Site Allocations Plan process. In addition, it is not within my remit to make judgements on the emerging Site Allocations Plan. This general approach would apply specifically to the potential site to the west of Meadow Close (TY.17).
- 7.43 However, given the recent planning history on the paddock to the west of Tysoe Road (TY.01), I am satisfied that it should be included within a defined strategic gap. Its format, character and appearance consolidate the existing gap between Tysoe and Lower Tysoe. This judgement relates to the two recent appeal decisions on the site. In particular the most recent appeal decision (APP/J3720/W/19/3223161-November 2019) in relation to an application for five dwellings on the site comments that:

'the site forms part of the southern edge of a distinct green gap which separates the built-up area of Middle Tysoe from the southern edge of Lower Tysoe. I saw during my

site visit that the spaciousness and verdancy of the gap, including the site, are distinctive characteristics which contribute to the rural setting and identity of the village. As such, the site is part of an important visual break between Middle and Lower Tysoe, and part of a rural 'patchwork' of fields' (paragraph 14)

- 7.44 In all the circumstances, I recommend that the proposed Strategic Gap is reduced in extent to the parcels of land to the immediate south of Lower Tysoe and the paddock to the immediate south of the footpath which heads west of Tysoe Road (and as shown on the map at Appendix 1 of this report). Plainly it is a smaller area than that shown in the Regulation 17A Plan. However, it is a defensible area which would fulfil TPC's ambition to have a geographically-defined strategic gap.

The policy itself

- 7.45 I can understand TPC's view that it would prefer to have a defined Strategic Gap given the continuing overlaps between the emerging neighbourhood plan and the emerging Site Allocations Plan. However, the hybrid nature of the policy does not have the clarity required by the NPPF.
- 7.46 In order to remedy this lack of clarity, I recommend a modified format for the policy which refers to the proposed geographic area of the Gap as shown in Appendix 1. The policy wording takes account of the wider approach to development in the countryside as identified both in the Core Strategy and in Housing Policy 1 of the neighbourhood plan. Given the way in which this report has addressed wider strategic planning matters the recommended modification substitutes the wording of 'Strategic Gap' with 'Settlement Gap'. This will ensure that its purpose is clear and transparent and has a local application in the neighbourhood area. The modified wording does not alter the intended effect of the policy. For clarification the supporting text is worded in a general fashion and as such does not need any consequential modifications other than on the matter of the revised language used to describe the Gap.

Replace the policy with:

'The Plan defines a Settlement Gap between Middle Tysoe and Lower Tysoe (as shown on the Policies Map) within which new development will be strictly controlled to safeguard the separate and distinctive identity of the two settlements.

Development proposals within the Settlement Gap should ensure the retention of the open character of the countryside between the two settlements. Proposals for the re-use of rural buildings, agricultural and forestry-related development, playing fields, other open land uses within the Settlement Gap will be supported where:

- **they would preserve the separation between the two settlements and retain their individual character and appearance; and**
- **they would otherwise take account of the spatial plan for the parish as set out in Housing Policy 1 of this Plan'**

Replace the extent of the Settlement Gap on the Policies Map with that in Appendix 1

In 8.7.0.3 replace 'strategic' with 'settlement'

8 Summary and Conclusions

Summary

- 8.1 The District Council and the Parish Council have responded positively to the outcome of the initial examination. The two policies concerned have been extensively configured. The proposed revised policies provide their individual distinctive approaches to matters of importance to the local community.
- 8.2 Following my independent examination of these matters I have concluded that the two modified policies proposed by Stratford-on-Avon District Council and the Parish Council in the Regulation 17A version of the Tysoe Neighbourhood Development Plan meet the basic conditions for the preparation of a neighbourhood plan subject to recommended modifications that have arisen directly from this second examination process.

Conclusion

- 8.3 On the basis of the findings in this report I recommend to Stratford-on-Avon District Council that subject to the incorporation of the modifications set out in this report that the Tysoe Neighbourhood Development Plan should proceed to referendum.

Referendum Area

- 8.4 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as originally approved by Stratford-on-Avon District Council on 10 February 2014.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner.

Andrew Ashcroft
Independent Examiner
4 May 2021