



DECISION STATEMENT

NEIGHBOURHOOD PLAN PROCEEDING TO REFERENDUM

1. Tysoe Neighbourhood Development Plan

- 1.1 I confirm that the Tysoe Neighbourhood Development Plan (TNDP), as revised according to the modifications set out below, complies with the legal requirements and Basic Conditions set out in the Localism Act 2011, and with the provision made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004. The Plan can therefore proceed to referendum. A referendum could be held in January 2022.
- 1.2 I also declare that I have no personal or prejudicial interest in respect of this decision.

Signed

A handwritten signature in black ink that reads 'JCP Careford'.

John Careford,
Head of Place and Economy,
Stratford-on-Avon and Warwick District Councils

1. Background

- 2.1 The District Council confirms that for the purposes of Regulation 5 (1) of The Regulations, Tysoe Parish Council is the "Qualifying Body" for their area.
- 2.2 On 4 November 2013, Tysoe Parish Council requested that, in accordance with section 5(1) of the Neighbourhood Planning (General) Regulations 2012 ("The Regulations"), the Parish of Tysoe be designated as a Neighbourhood Area, for which a Neighbourhood Development Plan will be prepared.
- 2.3 In accordance with Regulation 6 of the Regulations, Stratford-on-Avon District Council placed on their website this application, including a Parish boundary map, for a 6 week period between 28 November 2013 and 17 January 2014. In addition, it publicised the application by issuing a press

release. Similarly, the relevant application, together with details of where representations could be sent, and by what date, was advertised within the appropriate Parish via the Parish Council.

- 2.4 The District Council designated the Tysoe Neighbourhood Area by way of approval of The Cabinet on 10 February 2014.
- 2.5 In accordance with Regulation 7 of The Regulations, the decision to designate the Tysoe Neighbourhood Area was advertised on the District Council website together with the name, area covered and map of the area.
- 2.6 Tysoe Parish Council consulted on a pre-submission version of their draft Neighbourhood Development Plan between 9 July and 16 September 2018 fulfilling all the obligations set out in Regulation 14 of The Regulations.
- 2.7 Tysoe Parish Council submitted their Neighbourhood Development Plan to Stratford-on-Avon District Council in April 2019 in accordance with Regulation 15 of The Regulations.
- 2.8 The District Council publicised the submitted Plan and its supporting documents for 6 weeks between 16 May and 28 June 2019 in accordance with Regulation 16 of The Regulations.
- 2.9 Mr Andrew Ashcroft was appointed by the District Council to independently examine the Neighbourhood Plan, and the Examination took place between November 2019 and January 2020, with the final Examiner's report being issued on 14 February 2020.
- 2.10 The Examiner concluded he was satisfied that the Tysoe Neighbourhood Development Plan was capable of meeting the legal requirements set out in the Localism Act 2011, including meeting the Basic Conditions, subject to the modifications set out in his report, as set out in the table below.
- 2.11 Schedule 4B s.12 of the Town and Country Planning Act 1990, as inserted by the Localism Act 2011, requires that a Local Authority must consider each of the recommendations made in the Examiner's report and decide what action to take in response to each recommendation. If the Local Authority is satisfied that, subject to the modifications made, the draft Neighbourhood Development Plan meets the legal requirements and Basic Conditions as set out in legislation, a referendum must be held on the 'making' (adoption) of the Plan by the Local Authority. If the Local Authority is not satisfied that the plan meets the basic conditions and legal requirements then it must refuse the proposal. Should a referendum take place, a majority of residents who turn out to vote must vote in favour of the Neighbourhood Plan (50% plus one vote) before it can be 'made'.
- 2.12 The Basic Conditions are set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the Basic Conditions, the Neighbourhood Plan must:
 1. Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 2. Contribute to the achievement of sustainable development;
 3. Be in general conformity with the strategic policies contained within the development plan for the area;

4. Be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations; and
 5. Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017
- 2.13 Following receipt of the Examiner's report, the Parish Council assessed each of the proposed modifications and asked that the LPA give consideration to alternative modifications to those recommended by the Examiner, in three specific circumstances:
 - Retention of the built-up area boundary for Lower Tysoe
 - Retention of a revised (smaller) strategic gap between Middle and Lower Tysoe, based on revised evidence
 - Retention of Herbert's Farm as a Reserve Housing site
 - 2.14 In accordance with Schedule 4B of the Town and Country Planning Act 1990, the District Council must consider each of the Examiner's recommendations and the reasons for them.
Under Schedule 4B of the Town and Country Planning Act 1990, paragraph 12, where an Examiner has made a report, the local planning authority must:
 - (a) Consider each of the recommendations made by the report (and the reasons for them); and
 - (b) Decide what action to take in response to each recommendation.
 - 2.15 The District Council is not obliged to adopt the Examiner's recommendations (since the report is not binding) and it is open to them to reject any of the modifications provided the Council is satisfied that the Plan meets the Basic Conditions, is compatible with Convention Rights and other statutory provisions without the Examiner's modifications.
 - 2.16 The District Council can make its own further modifications to the Plan after the Examiner has reported but only if they are needed to secure that the Plan meets the Basic Conditions, ensure it is compatible with Convention Rights or for correcting errors, as set out in paragraph 12(6) of Schedule 4B to the Town and Country Planning Act 1990. In terms of the three matters raised by the Parish Council:
 - The District Council agreed with the Examiner that the built-up area boundary for Lower Tysoe should be omitted from the Plan.
 - Seeing as the Examiner did not object to a Strategic Gap per-se and recommended it be omitted due to its scale and lack of evidence, the Parish Council submitted evidence supporting a revised (smaller) gap, which officers were content to re-consult upon.
 - Seeing as Herbert's Farm was being promoted as a Reserve Housing site through the District Council's Site Allocations Plan, the Parish Council were of the opinion that the NDP and SAP were aligned on this issue. As such, officers were content to re-consult on this issue.
 - 2.17 To this end, a 6 week consultation was held in accordance with Regulation 17A of The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 between 22 October and 4 December 2020 on the matters relating to the Strategic Gap and Herbert's Farm.
 - 2.18 Mr Andrew Ashcroft was then re-appointed by the District Council to Independently Examine the Reg.17A version Neighbourhood Plan. The

Examination took place between January and April 2021, with the Examiner's report being issued on 4 May 2021.

- 2.19 The Examiner concluded he was satisfied that the Tysoe Neighbourhood Development Plan (as set out in the Reg.17A consultation) was capable of meeting the legal requirements set out in the Localism Act 2011, including meeting the Basic Conditions, subject to the modifications set out in his report.
- 2.20 Following receipt of the Examiner's report, the Parish Council assessed each of the proposed modifications and asked that the LPA give consideration to an alternative modification to that recommended by the Examiner, in the following specific circumstances:
- Amend the Policy wording for Natural Environment Policy 6 [Protected Strategic Gap] to align with modification as recommended by the Examiner in his Examination of the Submission version NDP in 2020, not in accordance with the wording recommended as a modification in his Examination of the Reg.17A NDP in 2021
 - Amend associated explanatory text to the policy as recommended by the Examiner, but with some additional text proposed
 - Remove the geographical representation of a Strategic Gap from Map 8 [Policies Map], not amend the extent of the gap as recommended by the Examiner (see p.30 of Reg.17A consultation version NDP to view extent of revised Strategic Gap)
 - Amend Policy title to read "Protected Settlement Gap"
- 2.21 The District Council had been content with the Examiner's conclusions and recommendations on the issue relating to Natural Environment Policy 6 of the Tysoe NDP in his Examination of the Submission version Plan in 2020 (under Reg.16) in which the Examiner had proposed revised policy wording and the removal of the geographical representation of a strategic (or settlement) gap from Policies Map 8. For the reasons set out in his report of February 2020, the Examiner was content that the modified policy met the Basic Conditions test and SDC officers agreed with his assessment.
- 2.22 Therefore, in order to support the Parish Council and in the spirit of Localism, officers considered it appropriate to re-consult on a further revised strategic gap policy since the Parish Council had also re-consulted with the local community on this issue, since this proposal had not been put forward as an option to the parishioners, previously. Therefore, the proposed change to the policy was submitted to SDC by the Parish Council on the grounds of 'new evidence'. As such, officers were content to re-consult on this issue.
- 2.23 To this end, a further 6 week consultation was held in accordance with Regulation 17A of The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2016 between 16 September and 29 October 2021 on the matters relating to the Strategic Gap policy.
- 2.23 Since the policy as proposed by the Parish Council and consulted upon through this second Reg.17A consultation has been previously considered by the Independent Examiner of Tysoe NDP at Submission stage, the LPA is of the opinion the issue does not need to be re-examined and that the Council is entitled to decide what action to take in response to each recommendation, in accordance with Schedule 4B s.12 of the Town and

Country Planning Act 1990, as inserted by the Localism Act 2011. The LPAs response is set out in the table on the following pages.

Proposed Modifications the subject of Reg.17A consultation (2021) and Local Authority's Response (Regulation 18(1))

[Text to be deleted ~~struck through~~; text to be added underlined]

Proposed Modification to Policy beyond that recommended by the Independent Examiner through original Reg.17A consultation process	Section/page no. in submission draft NDP	SDC Decision and reason	New text or amendment to original text, as applicable – as to be shown in Referendum version NDP
Natural Environment Policy 6 [Protected Strategic Gap] (p.16 to 21 of report)			
<p>Replace the policy with:</p> <p>“Development proposals should ensure the retention of the historic open character of the countryside between Middle Tysoe and Lower Tysoe.</p> <p>Proposals for the re-use of rural buildings, agricultural and forestry-related development, playing fields, other open land uses and minor extensions to existing dwellings in the area between the two settlements off Tysoe Road will be supported where they would preserve the separation between the two settlements and retain their individual and distinct character</p>	<p>Section 8 - Natural Environment Policy 6 (p.49 of Reg.17A NDP v.2)</p>	<p><i>Modification Agreed.</i></p> <p>Having considered the option for a revised settlement gap as proposed by the Examiner following the Reg.17A consultation, the Parish Council wished to amend the policy to echo the modification originally put forward by the Examiner following examination of the Submission version NDP at Reg.16 stage.</p> <p>Officers were content with the re-worded policy suggested by the Examiner following the original examination and concurred</p>	<p>The Reg.17A (2021) version NDP Replaced the Examiner's recommended policy wording as set out in his report dated 4th May 2021 as follows:</p> <p><u>Examiner's proposed policy (from Reg.17A Examination (2020)):</u></p> <p>“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.</p> <p>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</p>

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<p>and appearance.</p> <p>Other forms of development not specifically listed in this policy will not be supported within the open countryside between the two settlements."</p>		<p>with his view that the modified policy would meet the basic conditions test.</p> <p>Whilst the final paragraph proposed at Reg.17A was over and above the wording proposed by the Examiner in the original examination, officers are content that this additional wording is not so different to the wording as proposed by the Examiner as to change its emphasis or meaning.</p> <p>As such, officers consider the policy as set out in the Reg.17A version NDP 2021 is in conformity with Local and National Policy, meets the Basic Conditions tests and is appropriate for retention in the NDP as drafted. No further modifications necessary.</p>	<p>where:-</p> <ul style="list-style-type: none"> - 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" <p><u>Policy as proposed in Reg.17A version NDP 2021:</u></p> <p><u>"Development proposals should ensure the retention of the historic open character of the countryside between Middle Tysoe and Lower Tysoe. Proposals for the re-use of rural buildings, agricultural and forestry-related development, playing fields, other open land uses and minor extensions to existing dwellings in the area between the two settlements off Tysoe Road will be supported where they would preserve the separation between the two settlements and retain their individual and distinct character and appearance. Other forms of development not specifically listed in this policy will not be supported within the open countryside between the two settlements."</u></p>

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Map 8 [Proposals Map] (p.31)			
Delete the Strategic Gap hatching and the associated element within the Legend on Map 8 – Proposals Map.	Map 8 Proposals Map (p.30)	<p><i>Modification Agreed.</i></p> <p>Having considered the option for a revised settlement gap as proposed by the Examiner in his report on the Reg.17A consultation in 2021, the Parish Council wished to amend the map to echo the modification originally put forward by the Examiner following examination of the Submission version NDP at Reg.16 stage.</p> <p>The Reg.16 modification was the deletion of a geographic representation of a Strategic Gap and the use of a suitably worded policy, alone.</p> <p>Officers were content with the suggested modification put forward by the Examiner following the original</p>	Map 8 in the Reg.17A version NDP (2021) has been modified to remove any geographical representation of a Strategic Gap between Middle and Lower Tysoe.

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		<p>examination and concurred with his view that a policy with no geographic representation on a settlement map would meet the basic conditions test.</p> <p>As such, officers consider the revised map as set out on p.30 of the Reg.17A version NDP 2021 is in conformity with Local and National Policy, meets the Basic Conditions tests and is appropriate for retention in the NDP. No further modifications necessary.</p>	
Section 8.7 Explanatory Text (p.31)			
<p>The Examiner proposed the following modification:</p> <p>“In para 8.7.0.3 [explanatory text] replace ‘strategic’ with ‘settlement’.”</p> <p>The proposed changes over and</p>	<p>Paragraph 8.7.0.1 (p.49)</p>	<p><i>Modification Agreed.</i></p> <p>The changes proposed to the explanatory text were to complement the changes to the associated policy and policies map. The wording includes the recommended</p>	<p>The explanatory text for Natural Environment Policy 6 has been amended to read as follows in the Reg.17A consultation version NDP from 2021:</p> <p>“8.7.0.1 This policy seeks to protect the essential countryside character of the important area between the settlements of Middle Tysoe and</p>

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above the Examiner's recommended modification is shown in column 4 of this table.		<p>modifications as set out by the Examiner following examination of the Submission version NDP (para's 8.7.0.1 and 8.7.0.3) and proposes two new para's (8.7.0.2 and 8.7.0.4) introduced to better explain the reasoning of the settlement gap (i.e. to prevent coalescence and protect the setting of nearby designated heritage assets).</p> <p>Officers are content that the explanatory text helps set out the reasons for the revised policy set out in the Reg.17A (2021) version NDP.</p> <p>As such, officers consider the wording as set out in the Reg.17A version NDP 2021 is in conformity with Local and National Policy, meets the Basic Conditions tests and is appropriate for retention in the NDP as drafted. No</p>	<p>Lower Tysoe. Its ambition is to prevent coalescence between these separate settlements and to protect their distinctive individual character and setting. In doing so, it will conserve the way that the main settlements sit within the wider landscape, retaining the open agricultural landscape in order to keep a clear 'rural' buffer between settlements.</p> <p><u>8.7.0.2 To clarify what is meant by "coalescence" – this policy seeks to prevent any further diminution of the open countryside gap between the two settlements whether that be along Tysoe Road or across the open countryside between Middle Tysoe and the western extent of Lower Tysoe on Lane End.</u></p> <p>8.7.0.2 3 This policy does not seek to prevent development that may otherwise be suited to a countryside location. Nevertheless, it seeks to ensure that the scale, massing and height of proposals do not result in the integrity of the separation between existing settlements and other groups of built development being undermined. Development that is consistent with this policy might include minor extensions to existing buildings, the creation of playing fields, or other open land uses. As a policy it will have</p>

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		further modifications necessary.	<p>effect in a complementary fashion with other development policies'</p> <p>8.7.0.3 4 Although not specifically intended to, the strategic strategic <u>The settlement</u> gap will also help to protect the church and school, both valuable <u>heritage assets and</u> listed buildings, from encroachment by development which would <u>could</u> compromise their settings. <u>See also Built Environment Policy 1 Designated and Non-Designated Heritage Assets and Map 4 page 13."</u></p>

Assessment of the Neighbourhood Plan as a whole, against the three dimensions of sustainable development, as set out in the National Planning Policy Framework (NPPF):

Sustainable Development Role (NPPF)	Neighbourhood Development Plan's Contribution
Economic	<p>The Neighbourhood Plan seeks to support the local economy through the protection and enhancement of existing employment sites and the promotion of flexible home working and proposals for small-scale mixed use development within the neighbourhood area, comprising commercial space and living accommodation.</p> <p>If implemented these policies will have a positive impact on the local economy, safeguarding jobs and local services and promoting flexible opportunities to work from home or in adapted work spaces.</p>
Social	<p>The Neighbourhood Plan sets a framework that will help to support the achievement of sustainable social development.</p> <p>The Plan promotes the retention and improvement of local community facilities (which are individually listed within Community Assets Policy 1). It also supports the development of new community facilities.</p> <p>The Plan looks to safeguard and promote improvements of locally important sites.</p> <p>Policies seek to promote the local distinctiveness of the area, and protect heritage assets within the neighbourhood area.</p>
Environmental	<p>The Neighbourhood Plan includes a number of policies that support environmental sustainability for the community.</p> <p>The Plan has policies that look to protect the Cotswolds Area of Outstanding Natural Beauty, dark skies, natural features, biodiversity, valued landscapes as well as designate areas of Local Green Space.</p> <p>The NDP includes policies to protect the natural environment for future generations which have a positive impact on the environmental sustainability of</p>

	the plan.
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3.1 The District Council concurs with the view of the Examiner that:

- Subject to the modifications above, the Tysoe Neighbourhood Plan meets the Basic Conditions set out in paragraph 2.12 above; and
- The referendum area should be coterminous with the neighbourhood area.

4. Availability of Decision Statement and Examiner's Report (Regulation 18(2))

This Decision Statement and the Examiners Report can be inspected online at:

www.stratford.gov.uk/tysoenp

And can be viewed in paper form at:

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