

Extra Ordinary Meeting of Tysoe Parish Council



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| Date & Time: | Monday 29 June 2020 at 7.00pm |
| Location: | Zoom multi-user video software |
| Councillors present: | Jacqui Sinclair (Chair), David Roache (Vice Chair), Malcolm Littlewood, John Tongue, Jane Millward, Alison Cross, Jeremy Rivers-Fletcher, James Bardey |
| In attendance: | Beverley Thorpe (Parish Clerk), District Cllr John Feilding |
| Members of the public (MOP): | 44 |

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| | Prior to the official start of the meeting the Parish Clerk welcomed the public and advised that they should remain on mute during the meeting. Zoom reactions were explained. The Parish Clerk also stated that the meeting was being recorded. A reminder was given of the Welcome Notice relating to meeting etiquette. 15 minutes are allowed for the public forum, with a strict 3 minutes maximum per question. Any questions received before the meeting Cllr David Roache had seen and tried to answer in his update. |
| 42/20 | WELCOME and APOLOGIES NOTED Cllr Sinclair welcomed Members of the Public and asked for apologies. All Councillors present . |
| 43/20 | DECLARATION OF INTEREST None |
| 44/20 | CONFIRMATION OF MINUTES The minutes of the Parish Council meetings held on 2 March 2020 were confirmed . Cllr Sinclair confirmed they would be physically signed on 1 July 2020. Proposed Cllr David Roache Seconded Cllr Jane Millward All in favour |
| 45/20 | NEIGHBOURHOOD PLAN UPDATE <ol style="list-style-type: none"> 1) Cllr Sinclair invited Cllr Roache to give an update on the Neighbourhood Plan. 2) Cllr Roache (DR) commented that he was gratified to see so many people attending the meeting. He explained that he was going to read through his update and try to answer as many of the written questions (received in advance of the meeting) as he could in the process. 3) Following receipt of the Examiner's report in February, discussions with Stratford District Council (SDC) and Counsel's opinion, we are in the process of redrafting Tysoe's Neighbourhood Plan (NP). Without Counsel's opinion SDC would not have agreed to at least one of the matters being introduced in the redrafted plan. 4) Main changes in the redrafted NP are: <ol style="list-style-type: none"> a. Deletion of Roses Farm reserve site – leaving one reserve site - Herbert's Farm b. Alignment of Housing Mix policy with SDC's – 5% max of 4+ bedroom houses is now 20% c. Deletion of Built Up Area Boundary (BUAB) around Lower Tysoe d. Re-drawing of Strategic Gap boundary (SG) 5) This latter point (the SG) is now the only one not agreed with SDC. In answer to a question asked in advance, Cllr Roache stated that because the re-write is not just a simple inclusion of the Examiner's recommendations, SDC have insisted that the NP will go for a further 6-week consultation – Reg 17A. Whether an Examiner is appointed at the end of the Consultation is the choice of SDC. DR stated that he was doubtful that they would appoint one. 6) Purpose of Strategic Gap. <ol style="list-style-type: none"> a. To prevent coalescence of Middle and Lower Tysoe b. To help preserve the distinct and unique character of the two settlements. c. Residents indicated that was what they wanted. 7) The Neighbourhood Planning Group (NPG) have entered a lengthy discussion with SDC who have rejected their proposals (four so far). The final proposal (as map issued with agenda) was given to SDC on 11 May 2020. SDC have all along proposed that the SG should only protect the land on the western side of the road and not extend to the west of Church Farm Court etc. The NPG have maintained that it should also cover this undeveloped land. 8) SDC have prevaricated in responding and have now indicated they will "hopefully" respond by 10th July – about 10 weeks after receiving the proposal. 9) SDC have rejected all reasonable proposals which include the Examiner's and SDC's recommendations. 10) Relevance of the disagreement with SDC: |

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| | <p>a. In July 2019 SDC published their Site Allocation Plan (SAP) which included reserve site (Site E) on land adjacent to Church Farm Court. Site E is identified for 28 houses; however, it would be naive to assume that once permission were granted, permission would not be sought to develop the whole field – possibly leading to in excess of 70 houses.</p> <p>b. All reserve sites in the SAP have been through a preliminary review and only included if they are deemed “deliverable” – thereby having “tacit approval”. They have already been designated as deliverable and developable. There is no planning application on the land (Site E), but SDC have indicated that it is open for development by including it in their SAP. This would infringe Tysoe’s proposed SG.</p> <p>c. The NPG believe there is a high risk this site will be developed</p> <p>d. Tysoe Parish Council raised strong objections to the SAP when published</p> <p>e. We believe that current SG complies with all of the Examiner’s and SDC’s requirement</p> <p>11) Although Site E is outside the BUAB and may arguably have some protection from development under SDC’s planning policies, the fact that it is included in the SAP means that it is considered as developable. The argument that it is protected falls at the first fence. Because it is included in the SAP means that those policies would fall aside.</p> <p>12) The process, as decreed by SDC, is for Tysoe’s revised NP to go to a further 6-week consultation under Reg 17A. SDC will run the consultation. Unless SDC agree the revised NP, they will not put it forward to consultation. SDC will not agree the NP unless they agree the SG. SDC have so far not told the NPG why they have failed to agree the proposed SG.</p> <p>13) One of the criticisms Legal Counsel made of the Examiners Report was that they felt that the Examiner had gone beyond his legal remit. The Examiner should only object to a plan if it fails to meet basic conditions. SDC have failed to tell us which basic conditions the SG fails to meet. Tysoe Parish Council believes that SDC are acting unreasonably.</p> <p>14) A question from a MOP in advance of the meeting asked why it was decided to give SDC an ultimatum or final proposal. There is a strict time element which is why we have had to push for some resolution of the matter with SDC:</p> <p>a. SDC are currently re-drafting their SAP.</p> <p>b. The SAP is likely to take precedence over a NDP not ‘made’ or in final form</p> <p>c. Tysoe’s NDP must be in consultation prior to the SAP being approved. If it is not, it is likely that the SAP will take precedence.</p> <p>15) It is important to consider what recourse the Parish Council has, to either stop the SAP or force SDC to accept the SG. The Council could consider re-starting the whole NP process again and hope for a favourable Examiner’s report – but this would take too long. At the other end of the spectrum there is the possibility of an appeal to the Secretary of State or Judicial Review.</p> <p>16) To date the NPG have received free advice from a planning lawyer (ex-SDC Legal Counsel). To determine the options available. It is proposed that she now carries out a full review and makes recommendations on the next course of action – with a cost cap £2,000. The Council should also consider making a formal complaint to the SDC Monitoring Officer about the unwarranted delay in responding to our SG.</p> <p>17) As a final point, and to answer further questions from a MOP, the Parish Council is elected to look after the best interests of the entire village population, not just a small minority. In doing this it does not have to consult on every move it makes, it does not have to hold a referendum on every decision it makes. It takes sound advice from people who are expert in their field and it then follows a course of action intended to bring about a result which will benefit the whole village. There seems to be a view held by some that the Parish Council should consult on every action taken and discuss and make public the advice it receives – it does not have this obligation. It needs to act reasonably and in line with the express wishes of residents – that is what we are doing.</p> <p>18) Cllr Roache concluded by saying that he may not have answered all of the questions that were sent in before the meeting but there will be an opportunity in the Public Forum to ask any that he had missed.</p> |
| 46/20 | <p>OPEN FORUM</p> <p>Members of the public (MOPs) were invited to address the Parish Council.</p> <p>1) MOP1 - If we did get the Strategic Gap included in the Plan how much protection would that provide from future development?</p> <p>a. Cllr Roache answered that it is probably the best protection possible. The piece of land in question is outside the BUAB which gives it an element of protection. Designating it</p> |

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- part of the SG would give it added protection. It would not stop a planning application coming forward but given that it would be enshrined in the NP which had been put forward to referendum, and presumably passed and approved by the village, it would give as good a protection as its possible to get.
- 2) **MOP1 - Does the proximity to a Grade 1 listed building hold any weight at all?**
- a. Cllr Roache responded that it does. The proximity to both the church and the school are important. The SG has two reasons behind it. One is to prevent coalescence and the other is to preserve the distinct and unique nature of the two settlements. Part of the unique nature of Middle Tysoe are the listed buildings and structures at the north end – the church, the well heads and the school.
- 3) **MOP2 - Has anybody looked into the nitrate levels in the land? A recent article from Natural England noted that planning applications in Hampshire had been refused permission on several sites due to the high levels of nitrates in the land. Could this be looked into and used in these circumstances?**
- a. Cllr Roache responded this was a good point. Nobody had done a soil survey to his knowledge. It would be a cheap and easy exercise and a good idea.
- 4) **MOP3 - What is the status of Herbert's Farm? It remains a reserve site in the SAP. Please recap.**
- a. Cllr Roache responded that it has not changed. It is an SDC Reserve Site in their SAP and the sole Reserve Site in the NDP. The conditions under which it would be released for development are all contained in SAP and our revised NP. There are several reasons why it may be released but the most likely is if SDC housing supply fell below a five-year supply. They would then look to release the sites for development. It is not clear how they would do this. There would probably be a pecking order for release.
- 5) **MOP4 - Confirmed that he would entirely support a complaint about SDCs behaviour and the way they have treated Tysoe. In his own dealings with SDC he has seen first-hand the inconsistency, thoughtlessness and obstructiveness of the planning department and their sheer incompetence on occasions. Inconsistency is the key to it. The biggest concern re the land in question is possibly back development. Tysoe has developed on a ribbon development pattern over the years. If this development were to go ahead it would set an unfortunate precedent and be wholly undesirable in itself. Does anybody have any ideas for alternatives, and could they be outside the scope of the current draft NP?**
- a. Cllr Roache agreed that any development on the land would be back development making any development on that piece of land even more unwelcome. To be clear, at the moment, there is no formal indication of any development taking place on that land. What we are arguing about here is putting in place a protection were somebody to consider developing the land. Protection that would be in a lasting form. Nothing is going to stop an application (for planning) coming forward for a piece of land within a designated SG, but they would find it extremely difficult to get permission granted.
- 6) **MOP5 - Why is everybody against the two SAP sites in this area? Location wise they are the best sites in the village, close to the shops and the school. The one behind Mark Robert's site will not be visible from the road because it is obscured by the current site being built, which is of an extremely high standard, the kind of development people would welcome. Also, what are we giving to SDC in exchange for the Strategic Gap? We are not being pragmatic. If we want SDC to give way, we need to offer them something in exchange.**
- a. Cllr Roache responded that this was not a horse trade. SDC and the Examiner can only reject a plan if it does not meet basic conditions. It is not a trade. This is about what is right and what Tysoe residents want. The basis of Localism and the basis on which the NP was consulted was to come up with a NP that residents wanted. What we are putting forward meets basic conditions, meets what residents want and is entirely reasonable. It also meets the Examiner's objections in his report. SDC in any guise are behaving unreasonably. Cllr Roache said he did not understand the point about 'giving something' in return to SDC. We have done all of the giving, conceding points that the Examiner and SDC have made. This is the last point and we will not give in on this.
- 7) **MOP6 - If we already have new builds that have been sat unsold and empty for 2 years now, is there really any need to for a further 70 homes to stand empty? If they are going to build 70 homes can we stipulate that they all need to be 2/3 bed houses not 4/5 as there is already abundance of 4/5 beds.**
- a. Cllr Roache responded that the first point is purely commercial. To build large houses that remain empty is a commercial decision for the developers. To clarify again no planning applications have come forward in relation to the land under discussion. If an

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application did come in, the Parish Council expect SDC to apply their policy CS19 which limits the number of 4/5 bed houses to 20% on any large development. This should limit the number of new builds of that size but, he noted, SDC have failed to apply their policy to any developments in Tysoe in the last five years.

- 8) **MOP7 - said that they also support a complaint against SDC. Localism allowed the development of a Plan but SDC appear to be influenced by developers persuading them differently. MOP7 supports the NP as previously agreed. Observation on the nitrate levels is a good idea, as well as the bats in the area. Flooding may also be an issue after the excavations of the current development.**

There have been legal precedents set about ribbon developments in the past, can we call on that precedent? Are we considering the whole area of land between Middle and Lower Tysoe?

- Cllr Roache responded that the proposed SG would protect the land to the north-west of Church Farm Court, Meadow Lane, Red Horse Close etc from development. The Examiner said that the original SG encompassed too much land.
- The NPG designed the SG to protect the land without blanketing the whole area between Lower and Middle Tysoe. It would be nearly impossible to develop the land beyond the minimum SG that has been proposed.
- The Parish Council want to prevent houses being built that would coalesce the two settlements. Cllr Roache also affirmed that the NPG is interested in the whole area between Lower and Middle Tysoe, and that a minimum strategic gap has been drawn to protect that.

The Clerk asked permission from the Chairman to continue the Public Forum for another 15 minutes? Chairman agreed to four more questions.

- 9) **MOP8 - If this delay is hanging on the Strategic Gap and what SDC will or will not accept, what planning policy evidence do we have that the Strategic Gap will give us more protection for that land?**

- Cllr Roache responded that there is a fair amount of planning precedent. His understanding was that there have been applications in other parts of the country that have challenged a SG and that, generally, an Inspector has upheld the protection the SG has put in place. It is the articulation of the resident's wishes that they don't want development on that piece of land. Cllr Roache said that he could not quote planning policy, but there is a fair amount of precedence where SG have prevented coalescence of land outside of Stratford district.

- 10) **MOP9 - We seem to have back development in the NP, specifically Site 2 off Sandpits Lane and Herbert's Farm, both seem to be Back development.**

- Cllr Roache said that he did not necessarily agree. Herbert's Farm is a Reserve site and not an Allocated site. Any development on the front of Herbert's Farm would be defined as infill. The sites on Sandpits Road (which I think are being referenced) are not back development either. The ultimate test will come when a planning application came forward. That would be examined and if back development were not allowed, it would fail.
- Sandpits Road has been included because the site is developable. It is a reasonable thing to do in that area of the village. The NPG believe that a reasonable density of houses in that part of the village would not be amiss and it could include some affordable houses.

- 11) **MOP10 - I strongly support protecting Site E. I think that there is a real risk that if Herbert's Farm were to be developed and Site E remained as a Reserve site those two could be linked together and you would need road access through Back Lane, School Lane and Meadow Field. If that did happen our village will be ruined. Is the proximity to Badgers Setts any argument to protect that site?**

- Cllr Roache responded that this is a real concern. Looking at a map of the village with Herbert's Farm and Site E marked on it, if both were developed there would be a horseshoe shaped development around the school which is highly undesirable. It is not suggested that this is likely to happen, but it might happen. As for badgers' setts, natural habitats are of concern to us all. If there was a danger of a development compromising natural habitats, then it would be used as an argument to try and prevent it.

- 12) **MOP11 - Agree with MOP10. Some of us are very aware that the developer has disregard for rules and regulations. As soon as the site becomes a reserve site you can bet, he will**

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be in with planning application to develop the site. As far as the badgers are concerned, I have spoken strongly to the workers from the development because I am very concerned about them dumping soil on the field by the badger's sett.

- a. Cllr Roache commented that he could not and would not make any comments about the personalities involved. The only interest is in preserving the land between Lower and Middle Tysoe, irrespective of who owns the land. This should not be a personal issue.

13) MOP11 - A lot of children use the field to go and to and from school from Lower Tysoe to Middle Tysoe. This would detract from them be able to walk through the fields to school rather than along roads.

14) MOP12 - Made the point that children walking to school would not be able to walk to school alone if they had to walk along the roads.

- a. District Councillor Feilding said that he had spoken to the Senior Planning Officer that afternoon and that there are no planning applications relating to the land in question. If there were, Councillors would be alerted straight away. DC Feilding also said that he is pressing Enforcement to investigate the dumped soil on the field. The soil is subsoil (not topsoil) which he believes includes a lot of waste that should not be spread on the field. He is pressing Enforcement to go and investigate and test the soil.
- b. Cllr Roache thanked DC Feilding for the reassurance that there are no current applications in the pipeline, suggesting that applications of this scale only come out after considerable discussion with the District Council. It would be naïve of us to think that there have not been discussions between the landowner of Site E and the Council. The site is in the SAP for a reason and it would be naïve of to ignore that.
- c. DC Feilding said that there is some protection after the last Planning Inspectors report related to the Orchard development, after the Inspector came down in favour of the gap between Lower and Middle Tysoe.

Public Forum concluded at 30 minutes.

Cllr Sinclair thanked everybody, saying that we had all learnt a lot by listening to the questions from the residents of the village. 44 residents in attendance.

47/20

NEIGHBOURHOOD PLAN – NEXT STEPS

Cllr Sinclair asked each of the councillors for their individual views.

- 1) Cllr Roache said that he would make two proposals after everybody else had an opportunity to speak.
- 2) Cllr Rivers-Fletcher said that he had been really heartened listing to the general public basically agreeing with the NP as it is progressing, agreeing that the Council should do everything it can to make sure that the SG happens, and that the Public realise that this is a democratic process. The Councillors represent the people of Tysoe and are trying to get a NP through that will protect Tysoe in the way that everybody wants.
- 3) Cllr Littlewood said that he has listened carefully to the questions and comments made. He felt that the Council are in an insidious situation put upon them by SDC for whatever reason. He thought the Council should go forward and protect the NP as it stands on behalf of the community.
- 4) Cllr Millward agreed with Cllr Littlewood and Cllr Rivers-Fletcher had said and said that was very heartening to hear what people in the village have to say. Cllr Millward said that we do need to protect the SG. The Parish Council have given points to SDC and the Council should continue to do what the village has asked us to do in terms of the NP.
- 5) Cllr Tongue agreed with Cllr Roache and Cllr Littlewood and the other Councillors. He said that it is not an either-or situation, but both. The land is going to be protected by the fact it is not to be developed and the proposed SG. If it is even hinted that it is a site suitable in the SAP, then the Council have almost lost. If planners have included it in the SAP they have okayed it for development. The Council must support what Cllr Roache has said and put 'our money where our mouth is' if necessary.
- 6) Cllr Cross said that she thought the SG important. People are concerned it may not protect the field, but the truth is, it's the best chance of protecting that field. Nothing is guaranteed. If it is outside the BUAB it should be protected. Cllr Cross said that SDC have not demonstrated that they interested in keeping that land clear of development. The last thing wanted is 50-60 houses on a huge estate gradually developed over 2/3 years on that land. Important to get on with it. Time is against us, as soon as the SAP is in place, SDC will argue that it trumps the Tysoe NP, which SDC seem to have taken an awful long time getting anywhere with. Cllr Cross wholly supports what the Council are proposing. It is what the majority of people in the village want after consultation, not everybody but the majority.

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| | <p>Cllr Sinclair stated that there had not yet been any proposals, and that Councillors were just debating what their thoughts were.</p> <p>7) Cllr Bardey said that he thought it in incredibly important to get the NP across the line, and the best way to do that is in accordance with how people in the village have voted previously. He thought the NPG should just press on with this. He welcomes that Cllr Roache has gone some way to appeasing SDC and making it more likely that the NP get through.</p> <p>8) Cllr Sinclair echoed her fellow Councillors views and appreciated that they should confirm what the residents of Tysoe have said when consulted.</p> |
| 48/20 | <p>NEXT STEPS</p> <p>Cllr Roache made the following proposals</p> <p>1) Instruct the lawyer to draw up a roadmap and make a recommendation on the way forward with a fee cap of £2000 for the advice. The cost of work beyond that would be open to debate. The most expensive option would be JR which we could cap at £5000. DR said that he did not expect that to be the only option open to the Council but that would be the most expensive option.</p> <p>a) Cllr Cross asked for confirmation that the lawyer would be the same one who has been giving free advice to us in recent times? Cllr Roache confirmed that it is the same lawyer, Leenamari Aantaa-Collier of The Wilkes Partnership LLP based in Birmingham. Leenamari was previously Legal Counsel for SDC.</p> <p>2) For the Council to raise a formal complaint to the SDC Monitoring Officer regarding the unhelpful and unreasonable behaviour of the Policy planning Department in responding to our Strategic Gap.</p> <p>Cllr Sinclair asked if there were any other proposals.</p> <p>3) Cllr Millward asked if we could finish the NP, including the proposed SG and submit it to SDC. Cllr Roache answered yes, we could do that. Cllr Cross asked why we would not do this? Cllr Roache said that this is second string to our bow. The NP is days from completion. We could complete it and submit it to SDC, they would then legally have to respond to it in a reasonable timeframe. Cllr Roache suggested that the NP could be submitted regardless of the proposals tabled at the meeting. The NPG will present the revised plan to the Council for approval when ready, prior to it being submitted to SDC. He would expect this to be before the next scheduled Extra-Ordinary Parish Council meeting on 22 July 2020. Cllr Tongue asked whether the Council should wait for the legal advice before submitting the revised NP. Cllr Roache said that he had already been advised to submit the NP as soon as possible.</p> <p>Proposed Cllr Roache Seconder Cllr Tongue All in Favour</p> |
| 49/20 | <p>DATE OF THE NEXT MEETING</p> <p>1) Wednesday 22 July 2020 at 7.15pm, Extra Ordinary Meeting to agree the Annual Accounts.</p> |
| 50/20 | <p>CLOSURE OF THE MEETING TO THE PUBLIC AND PRESS</p> <p>1) The meeting closed at 20.10.</p> |

SIGNED

JD Sinclair

DATE

31 July 2020