



# Minutes

## Extra Ordinary Meeting of Tysoe Parish Council

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**Held on:** Monday 5<sup>th</sup> August 2019 at 7.15pm

**Place:** Tysoe Village Hall

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**Present:** Cllrs Jacqui Sinclair (Chair) David Roache (Vice Chair), Malcolm Littlewood, John Tongue, Jane Millward, Alison Cross and Jeremy Rivers-Fletcher

**In attendance:** District Cllr John Feilding, District Cllr Sarah Whalley-Hoggins

**Members of the public:** 6

**146/19 WELCOME and APOLOGIES**

Councillors **received** and **accepted** apologies from Cllr James Bardey who was away on business and Kerry Finlayson (Parish Clerk) who had a family commitment. Cllr Cross **agreed** to take the minutes.

**147/19 DECLARATION OF INTEREST**

Cllr Littlewood; declared a non-pecuniary interest in item **149/19 ii** as he was friends with the applicant.

**148/19 DISTRICT COUNCILLOR WHALLEY-HOGGINS**

DC Whalley-Hoggins was welcomed to the meeting and responded to a number of questions that had been forwarded to her prior to the meeting **Appendix A**

In addition to reading the document, DC Whalley-Hoggins said that whilst her Planning/Development remit covers 36 PCs, Tysoe was the only PC that had asked her to attend a meeting. She said the Tysoe Parish council was to be applauded for their dogged persistence in trying to get the best for the Parish. However, she said that she was comfortable that SDC Planning office were acting lawfully, albeit that not all of their decisions are to Tysoe PC's liking.

Cllrs reiterated that they felt frustrated and let down by the overall planning process, which allowed Planning applications to be agreed but, subsequently, lawfully amended later in the process in a manner that allowed developers to make undesirable changes with seemingly little scrutiny.

DC Whalley-Hoggins undertook to look into Cllrs concerns that building developments were being allowed to commence prior to the Management plan for the site being agreed and signed off. She also assured Cllrs that she would pursue with vigour, any allegations that were supported by evidence into improper relationships between planners and developers.

Councillors raised a number of additional points of concern:

- Tysoe PC had previously been given assurances that the planning process would be managed better following previous developments in Tysoe so that the same issues did not happen again. Plainly this was not the case.
- The PC should be allowed to specify road names for new developments; developers were being allowed to 'get in first'.
- Architectural advice seemed highly insufficient in the SDC planning process and asked DC Whalley-Hoggins to investigate the capability and reputation of the SDC Planning Department.

DC Whalley-Hoggins undertook to attend the October Tysoe PC meeting to further update Cllrs.

Cllr Sinclair thanked DC Whalley-Hoggins for attending the meeting.

**149/19 PLANNING**

i. **19/01776/FUL Tysoe Vale Farm**

**No objection** subject to the following conditions:

1. The materials used must match existing materials used
2. A landscaping scheme must be undertaken to screen the proposed garages from the road.

**Proposed Cllr Rivers-Fletcher**

**Seconded Cllr Millward All in favour**

ii. **19/01529/FUL The Orchards, Lower Tysoe Road**

**Objection** the amended application for the following reasons:

On 19th July the Parish Council submitted comments on the original application. These had been largely ignored.

1. The applicant continues to ignore the emerging Neighbourhood Plan (NDP) which identifies this site as an allocated site suitable for approximately 3 dwellings in a linear design.
2. The NDP proposes (and the Inspector, in refusing the appeal on the previous application, endorses) that only the frontage of the site should be developed and any development should replicate the built form in Lower Tysoe - that is a linear form. This would mirror the developments most adjacent to the site.
3. The original and amended Site Plan show the proposed development utilising land beyond what the applicant describes as "the current build line", this line also represents the western extent of the BUAB proposed in the emerging NDP. This would set a very unwelcome precedent in Lower Tysoe.
4. The proposed design, size and layout of the houses would be very much at odds with the local vernacular style as characterised by the stone cottages opposite the site.
5. The amended design is still a cul-de-sac. Plots 1, 4 and 5 form a cul-de-sac, a design more suited to an urban environment and alien to the vernacular in Lower Tysoe.
6. The previous appeal stated that the Core Strategy Policy CS 9 required new developments to respect local distinctiveness and ensure high quality design. The original and amended application does neither of these things. It would introduce an alien design into a sensitive site in close proximity to the Cotswold AONB.
7. The introduction of a second site entrance in the amended plan would render a difficult access problem more unacceptable. This is a busy and narrow road forming the northern entrance into the village, a second entrance will be a potential danger.
8. The very high proportion of 4 and 4+ bedroom houses proposed on the site also ignores the proposed policy (Housing Policy 5) in the emerging NDP and also ignores Policy CS 19 of the Core Strategy. 80% of the houses proposed in the amended application are 4 bedroom (Plot 5 also has a large "office" adjoining bedroom 4 which could easily be used as a 5th bedroom). CS 19 indicates a maximum of 20% 4+ bedroom houses on new sites and the Tysoe NDP proposes a lower level, up to 5%, as Tysoe already has a higher than average stock of 4+ bedroom houses. If this application were to be granted it would further exacerbate the lack of small, affordable housing in Tysoe and the District.

In summary, the Parish Council believe that the amendments have made no effort to address the concerns it had raised on the original application and nor do they address the concerns raised by the Inspector when turning down the appeal on the earlier application to build 7 houses on this site.

**Proposed Cllr Roache                      Seconded Cllr Millward    All in favour**

150/19

**DATE OF THE NEXT MEETING**

Monday 2<sup>nd</sup> September 2019 at 7.15pm with Cllr training beforehand at 6.30pm

151/19

**CLOSURE OF THE MEETING TO THE PUBLIC AND PRESS**

The meeting was closed at 8.30pm

**Proposed Cllr Millward                      Seconded Cllr Littlewood All in favour**

**SIGNED**

**DATE**

## APPENDIX A

### Briefing Note and Questions submitted to DC Whalley-Hoggins prior to PC Meeting together with DC Whalley-Hoggins and responses read out at Tysoe Parish Council – Monday 5<sup>th</sup> August, 2019

#### Summary:

Residents of Tysoe, including the PC, believe they have been poorly served by the planning function within SDC. Although not solely due to the errors committed with planning application 16/03572/FUL that was the most egregious example of poor service and it was repeated with planning application 16/02684/FUL. In addition to these two applications and the way in which they were dealt with we have also suffered from the slow, ponderous and ineffective service provided by planning enforcement within SDC.

In both of the cases cited above inferior materials were substituted for those originally approved when the applications were approved. It seems that in both cases the materials which were subsequently approved by officers would allow the developer to enhance their profit margin. Both of these applications, on neighbouring sites, were in possibly the most sensitive area of the village - opposite the Costwold AONB, adjacent to a Conservation Area and listed buildings and at the entrance to the village from the north. We believe that the substitute (and inferior) materials do harm to the appearance of the entrance to the village.

The main point of contention with both of these cases is that materials were specified in the original application which would have been suitable in the location, these were subsequently substituted for wholly inappropriate materials. In both cases there seems to have been very little that members of the Planning Committee could do to refuse the inferior materials. We believe that the materials were fundamental to the application - natural stone in both cases and, given the location of both developments and the preponderance of natural Hornton stone in the village (also included in the Village Design Statement in the emerging Tysoe Neighbourhood Plan) we believed the use of stone to be a key condition of the applications.

In the case of application 16/03572/FUL the approval of the use of reconstituted material in wholly the wrong colour was given by a planning officer who seemed to be ignoring the rules. This decision resulted in an apology being given by Cllr Pemberton (then planning portfolio holder) in the Stratford Herald shortly followed by him leaving this post. At a meeting with Tysoe PC Cllr Pemberton assured us that measures would be put in place to prevent this happening again, he also undertook to ensure that landscaping and planting would be put in place to mask the impact of the alien material. In a separate and earlier meeting Robert Weeks had given a similar undertaking to put measures in place to prevent this happening again.

In the case of application 16/02684/FUL Hornton stone has been substituted by soft-wood cladding on a number of garages. The garages are large and very visible on the development. The only reason for such a substitution being cost. It appears that the developer had no intention of building the garages from stone as he had evidently ordered the timber framed garage structures prior to obtaining the permission. It seems that the developer has cited timber construction on neighbouring houses, unfortunately these are the wholly inappropriately designed houses which are the subject of application 16/03572/FUL.

The PC contend that in sensitive areas, such as with both of these applications, there are matters within the applications which are quite fundamental - materials being one of those matters. To then change the materials for something that is clearly inferior to the materials originally granted in the application is perverse in the extreme. This demonstrates that the planning function is tilted very much in favour of the developers and seems to take very little cognisance of what the community wants. It is a consequence of the close relationship that planning officers have with developers, conversing with them on a daily basis, and the very remote (almost non-existent) relationship they have with the community whose taxes pay for them.

In addition to these extremely disappointing decisions Tysoe has been poorly served by planning enforcement. From the case of the unapproved extension of gardens into adjoining agricultural land to the appalling management of the building site managed by Loxton Developments (16/02684/FUL) enforcement have been slow to react, weak in carrying out their work and poor in terms of ensuring that decisions are actually carried out. The Loxton Development site has caused multiple problems which enforcement have been aware of but have been slow to remedy. The development was allowed before any enforceable construction management plan had been put in place. This resulted in up to 14 vehicles regularly parking on the verge at the entrance to the village

making the road almost impassable at school drop-off and pick-up times. The village has had to endure this for months in addition to enormous heaps of spoil on the adjoining field and the site presenting a general eye-sore in the village. I am sure you have now visited the site and will be able to assess it yourself.

All of these problems leave us with a number of specific points that we would like you to address when you attend the meeting on 5<sup>th</sup> August - they are:

1. Why, after receiving separate assurances from Robert Weeks and from Cllr Pemberton, did we suffer an almost identical problem with the Loxton Developments application as we suffered with application 16/03572/FUL?

Response: There is a misunderstanding here. The approval of the stone for: 16/03572/FUL was an error for which apologies have been issued and which prompted a change to the process for approving stone in developments. There has been no error in the process followed for considering the changes to materials in 16/02684/FUL. In this case the new process was followed which afforded the planning committee the final decision after consultation with the Parish Council had generated an objection. The committee voted unanimously in support of the change after hearing all of the arguments and considering the detailed case officers report. Importantly, disagreement with the decision does not make the decision or the process wrong. The committee is free to approve, refuse or even defer applications; to suggest that the committee had no alternative in this case is wrong and disrespectful of the committees ability to accurately assess the planning merits of applications.

2. What measures were put in place following Cllr Pemberton's assurances to prevent a repeat of the problem?

Response: Where stone is proposed for a development the parish/town council is consulted on the chosen material. Where no agreement can be reached the decision is referred to the planning committee. Parish/Town Councils were not consulted previously.

3. Can you give us an assurance that where there are matters in an application which are clearly fundamental to the context of that application (i.e. the materials specified) then no changes to those matters will be approved subsequently?

Response: No, this would be unlawful. Once permission has been issued it is lawful for the permission owner to apply to the planning authority to amend the conditions of that permission. The planning authority must then determine that application after considering the planning merits of the amendment(s) being sought. This decision rests with the planning authority and not the Parish Council, the blanket ban on changes being sought by the Parish Council is simply not possible.

4. Specifically, what is happening to enforce against the inclusion of windows in the garages on the Loxton site? These were not included in the original application and have now been included by the developer and described by your enforcement officer as "minor changes".

Response: The Enforcement Team received these concerns on 10th July and officers visited the site on 12th July where it was noted that a small window was in situ to the rear of the garages on the site. The case has been considered by senior officers in the usual way and it has been agreed that because this window is in a garage (non-habitable) and not in close proximity to existing neighbours it is not considered to be harmful and can be addressed through an application for a non-material amendment.

The developers have confirmed that an application for a non-material amendment will be submitted in due course. The Parish Council were provided with an update on 19 July 2019.

Therefore I cannot share the Parish Councils view that the concerns have not been investigated promptly. It may be that the Parish had been expecting some form of enforcement action as a punishment however this case is far from serious enough to warrant any enforcement action. The Parish Council may disagree but again, this does not make the actions of the Council wrong or inappropriate for the circumstances.

The enforcement case (reference 19/00073/DESB0C) remains open and the case officer will be monitoring the submission of this application.

5. [What has happened to the landscaping on the Kendrick Homes development?](#)

Response: 17/00637/COUENF- Lower Grounds, Main Street, Tysoe

The above case is currently pending consideration.

The complaint was initially raised in relation to the landscaping on the site approved as part of the original development and concerns were also raised that agricultural land had been incorporated as garden land serving two of the new dwellings.

**Landscaping**

The developer has advised that they are reviewing the landscaping in response to the concerns raised by officers. The developer advised that as the properties are now occupied that this review would take longer.

This element needs to be reviewed and a site visit is planned to take place shortly. The case will be reviewed after that site visit.

With respect to the additional landscaping offered by Daren Pemberton, the landscape consultant who had been instructed by the council was stood down following receipt of an email from the Parish clerk dated 18 June 2018 confirming that the Parish Council was now satisfied with the approved landscaping scheme and therefore no additional planting was felt necessary once this work was completed.

**Garden Land**

In respect to the garden land on the site a retrospective planning application was submitted to retain the land as garden land (reference 18/01056/FUL). This application was refused and an appeal was lodged against the refusal of planning application 18/01056/FUL.

The case was then considered at Regulatory Committee in June 2019. A decision was made not to use formal action at this time but instead to review the case following the determination of the outstanding appeal. The appeal was determined on the 10 July 2019.

The appeal was part allowed and part dismissed in so far as the area to the east of the public right of way was granted planning permission to be used as garden land and the shed was granted planning permission. The appeal was dismissed for the land which encloses the public right of way.

Following the determination of the above appeal a site visit is due to be carried out to review the situation on the site as required by Regulatory committee.

6. [Why is it that the enforcement function of SDC seems unable to rectify matters raised in a timely and effective way?](#)

Response: I am sorry that you consider that the Enforcement Team are unable to rectify matters in a timely and effective way however enforcing breaches of planning control must be carried out in a proportionate way depending on the breach of planning control as well as following national and local planning policies. Local Planning Authorities are encouraged to seek resolution by negotiation wherever possible in the first instance with formal enforcement action being considered a last resort and for the most serious of matters. It is important to understand that the enforcement service will not be used by complainants to pursue neighbour disputes which may have their origins in issues outside of the complaints made or, used in an attempt to obstruct developments which have been permitted against local opposition. In regards to the development taking place at Land Adjoining Church Farm Court and Main Road it is felt that whilst it is a contentious site, officers have dealt with issues as and when they have arisen having regard to the harm being caused and the Local Enforcement Plan (Feb 2018). In particular, when concerns were initially raised on 12th February officers immediately contacted the developers to seek clarification on the works being undertaken and raised any outstanding issues such as conditions. When the works commenced the developers had already submitted a discharge of condition application some 6 months prior to this date. Consequently, the enforcement team had to take a view on the submitted details in order to establish whether works should be allowed to continue. As the majority of the submitted details were considered to be acceptable, works were allowed to continue at the developers

own risk. The developers were also given a clear set of instructions in regards to delivery times, parking etc. which were complied with for the majority of the time.

There have also been a number of matters raised which are not breaches of planning control such as alleged destruction of badger sets, blocking of Public Rights of Way and storage of materials on land adjacent to the site. The Council has however liaised with the relevant authorities to address these matters and informed any complainants that the storage of materials on adjacent land is permitted development by virtue of Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The most recent issue has been parking on the verge opposite the site which has been taking place since development commenced. However as these vehicles were off the road they were not causing an obstruction to other road users and as such the situation was considered to be acceptable.

Notwithstanding this, once the developers began accepting deliveries for materials the parking on the verge became an issue as other road users were unable to pass the delivery lorries. Upon receipt of these concerns officers immediately visited the site and ensured that all contractors vehicles were moved onto an adjacent parcel of land, vehicles are now being accommodated on site and the Council have received no further concerns since this time.

DRAFT