

Appendix I: List of Examiner’s Recommended Modifications and Swale Borough Council Responses

Proposed modification number (PM)	Page no./ other reference	Examiner’s Recommended Modification(s)	Response and Reasons
PM1	Front Cover	Insert the Plan period “ 2023-2038 ” prominently on the Front Cover.	Dates added to title and other updates made. Examiner’s Recommended Modification Agreed.
PM2	Page 6	<u>Paragraph 1.3 – Monitoring and Review</u> Delete second sentence in full and replace with: “ The Plan will be formally reviewed should the emerging review of the adopted Swale Borough Local Plan contains policies and proposals that will necessitate such a review, in order that the Plan remains in general conformity with the relevant strategic policies of the Local Plan. Similarly, the Plan will be reviewed should any changes in national policies necessitate revisions to the Plan’s policies. ”	The decision on whether to review the Plan will lie with the Town Council at some point in the future. The Town Council has set out the issues it will monitor. The suggested wording pre-empts this decision, based on a narrower set of considerations. Also, it implies that the Plan would have to be updated to be in general conformity with a future Local Plan. There is no legal basis for this. It would be a matter for a future independent examination, if and when the Neighbourhood Plan is revised. The suggested wording could represent a level of risk. Examiner’s Recommended Modification Rejected.
PM3	Page 28	<u>Policy FAV2 – Housing Development</u> Add new clause 1 of the Policy text to read as follows:	The Examiners comments appear to consider policy FAV2 in isolation rather than the wider Neighbourhood Plan, which also makes housing site allocations and

		<p>“1. Proposals for new residential development within the Plan area will be supported where they reflect the presumption in favour of sustainable development in accordance with national policy and the relevant policies and proposals contained in the adopted Swale Borough Local Plan, and where they take account of all relevant policies in this Plan.”</p> <p>Amend existing clauses 1 and 2 to be clauses 2 and 3 respectively.</p> <p>Add the word “also” after the words “Residential development will” in clause 2.</p> <p>Amend third paragraph of the text under ‘Interpretation’ to refer to clause 2.</p>	<p>other support for housing. In addition, it is clear that site allocations in the adopted Local Plan are not restricted by the Neighbourhood Plan. Therefore, it is unclear why an additional clause is necessary.</p> <p>The suggested clause refers to compliance with national policy and local plan policy, which are already in place. The suggested wording is inconsequential. Feedback from previous examinations suggests that a Neighbourhood Plan may not apply national policy or policies in the adopted local plan. Adding this as a first clause could be interpreted as bypassing other policies relating to housing site allocations, implying that housing would be supported elsewhere. The suggested clause was not in the Plan at the Regulation 14 or Regulation 16 versions, and this may have implications in terms of legal compliance under planning law and consultation case law.</p> <p>As a consequence, the other detailed changes have not been made.</p> <p>Examiner’s Recommended Modification Rejected.</p>
PM4	Page 29	<p><u>Policy FAV3 - Residential Mix and Standards</u></p> <p>Delete clauses 2, 3 and 4 of the draft Policy text, and replace with:</p> <p>“2. The provision of affordable housing, as an integral part of proposed residential development, in accordance with the requirements of Policy DM8 of</p>	<p>The current policy sets proportions for affordable housing based on evidence of housing need. It therefore meets the requirements set out in national policy and guidance. The suggested wording replaces this with a reference to local plan policy. However, it is unclear why. Feedback from previous examinations suggests that a Neighbourhood Plan may not apply</p>

		<p>the adopted SBLP. The provision of such housing should take account of the Faversham Housing Needs Assessment (HNA) (June 2022) in determining the mix and tenure of affordable housing units, and include the provision of First Homes, in accordance with national policy, and any prospective community-led housing projects to meet local needs.”</p>	<p>policies in the adopted local plan (they already apply). Also, by refereing to a specific Housing Needs Assessment, the policy has built in obsolescence. This does not appear to meet the Basic Condition relating to National Policy and guidance.</p> <p>Clause 1 amended to refer to ‘based on the latest available evidence’. Interpretation amended to make reference to the AECOM Faversham Housing Needs Assessment (June 2022). Also, wording on National Housing Standards amended to take account of Planning Practice Guidance.</p> <p>Clause 2 not deleted. It is evidenced based and meets the Basic Conditions. Similar policies in other ‘made’ neighbourhood plans were successful at examination.</p> <p>Clause 3 is compatible with national policy and guidance and has therefore not been deleted.</p> <p>It is unclear why clause 4 is suggested for deletion. It reflects similar policies in other ‘made’ neighbourhood plans.</p> <p>Examiner’s Recommended Modification Rejected.</p>
PM5	Page 36	<p><u>Policy FAV5 - Critical Road Junctions</u></p> <p>Delete existing Policy text in full and replace with:</p> <p>“1. In considering whether development proposals would have adverse impacts upon the highway</p>	<p>Feedback from examinations on other Neighbourhood Plans suggests that they should not set submission requirements. The proposed wording sets requirements for a submitted statement, but not for the development itself to meet. The suggested</p>

	<p>network in the Plan area, the submission of a Transport Assessment will be required for those proposals likely to generate significant levels of traffic.</p> <p>The necessary Transport Assessment should take account of the guidance issued by Kent County Council (as Highways Authority) and National Highways for the preparation of such assessments, together with the ‘Faversham Critical Junctions’ study (May 2022) which was prepared as technical evidence to support this Plan.</p> <p>The Transport Assessment should address whether any mitigations will be required, and how such mitigations can be provided as part of the development proposals.”</p> <p><u>Interpretation</u></p> <p>Delete existing text in full and replace with:</p> <p>“Applying this policy will require consideration of the impact of the proposed development, together with the combined impact of other approved developments. The submission of a Transport Assessment for qualifying schemes is a requirement of the Local Planning Authority and the Highways Authority.”</p>	<p>wording does not meet the Basic Conditions, including the requirements in Paragraph 16d of the National Planning Policy Framework (December 2023).</p> <p>The Examiner’s text has been added to the interpretation as useful guidance on transport assessment. Also, the list of critical junctions has been moved from the policy itself into the interpretation.</p> <p>Examiner’s Recommended Modification Partially Agreed.</p>
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PM6	Page 37	<p><u>Policy FAV6 - Footpaths, Bridleways and Cycleways</u></p> <p>Amend Policy title to read:</p> <p>“Public Rights of Way, National Trails, Promoted Routes and Cycleways”.</p>	<p>Title amended. Overall planning strategy pg 14 amended, table on page 16 amended and contents page updated (consequential amendments).</p> <p>Examiner’s Recommended Modification Agreed.</p>
PM7	Page 48	<p><u>Policy FAV7 – Natural Environment and Landscape</u></p> <p>Clause 1 – delete the words “see figures, 6;7;8;9).” and replace with “(as shown on Figures 7-11)”.</p> <p>Clause 1 – add the following text to this clause:</p> <p>“Any potential adverse impacts should be minimised and, if required, appropriate mitigation and enhancement should be secured as part of development proposals, in line with other requirements within this policy.”</p> <p>Clause 2 – delete the words “create net gain” and replace with the words “to create Biodiversity Net Gain”.</p> <p>Clause 3 – delete the word “though” and replace with “through”.</p> <p>Clause 6 – add the following text after the words “fruit orchards:</p> <p>“that meet the relevant criteria to be considered a BAP priority habitat.”</p>	<p>Text amended as suggested.</p> <p>Additional text added to clause 1.</p> <p>Text amended as suggested.</p> <p>Typo amended.</p> <p>Additional text added to clause 6 as suggested.</p>

		<p>Add new paragraph of text to the Policy's Interpretation (as a new final paragraph on Page 49) to read as follows:</p> <p>"It should be noted that, due to the large scale of the maps used for Figures 7-10, the information portrayed may include some inaccuracies. The maps have been prepared by Kent Wildlife Trust based on O.S. mapping data available at the time and may not reflect recent developments. Figures 7-10 should therefore only be used for general information purposes."</p>	<p>Text added to interpretation.</p> <p>Examiner's Recommended Modification Agreed.</p>
PM8	Page 51	<p><u>Policy FAV9 – Air Quality</u></p> <p>Amend clause 2 of the Policy text to read as follows:</p> <p>"Development proposals within or affecting the A2 Air Quality Management Area should include measures that will avoid any worsening of air quality and lead to improvements in air quality within that area."</p>	<p>Clause 2 amended.</p> <p>Examiner's Recommended Modification Agreed.</p>
PM9	Page 55	<p><u>Policy FAV10 - Sustainable Design and Character</u></p> <p>Add new opening sentence of Policy text to read as follows:</p> <p>"Proposals for new development in the Plan area should take account of the following design requirements, and also the guidance set out in the</p>	<p>Other examinations have deleted 'new' and 'in the plan area'. Additional clause (10) added to the policy to make reference to the Faversham design guidance and codes document.</p>

		<p>accompanying ‘Faversham Design Guidance and Codes’ (May 2021) (AECOM) supporting document:”</p> <p>Part 4 of the Policy text amend the words “with connections to surrounding pathways,” to read “with connections to the Public Rights of Way network and National Trails, the surrounding”.</p> <p>Add new clause 10 to read as follows:</p> <p>“10. Green design features, including the provision of street trees and garden trees, the use of traditional hedges for boundary treatment and features to support wildlife such as bat boxes, bird boxes, swift bricks and hedgehog gaps.”</p>	<p>Text amended as recommended.</p> <p>This does not make grammatical sense. Wording modified and added to the policy as new clause (11). Reference to Swift bricks added to existing list of green features in the interpretation.</p> <p>Examiner’s Recommended Modification Partially Agreed.</p>
PM10	Page 61	<p><u>Policy FAV11 – Heritage</u></p> <p>Part 1 of the Policy text – amend the words “conservation areas” to read “Conservation Areas”.</p> <p>Part 5 of the Policy text – amend the words “Ham marshes” to read “Ham Marshes”.</p> <p>Part 7 of the Policy text – amend the words “(see figure 14)” to read “as shown on Figure 12”.</p> <p>Add new paragraph of text to the Policy’s Interpretation (as a new first paragraph on Page 61) to read as follows:</p> <p>“Proposals for new development should also take account of the guidance and information contained in</p>	<p>Text amended as suggested.</p> <p>Text amended as suggested.</p> <p>Text amended as suggested.</p> <p>Text added to interpretation, as suggested.</p>

		<p>supporting documents including the Swale Heritage Strategy and Action Plan (2020) (Swale Borough Council), the Kent Historic Towns Survey (2003) (Kent County Council) and the Kent Historic Landscape Characterisation (2001) (Kent County Council)."</p>	<p>Examiner's Recommended Modification Agreed.</p>
PM11	Page 66	<p><u>Policy FAV12 - Community Facilities</u></p> <p>Part 4 of the Policy text – delete the word "better" and replace with "improved", and add the following text at the end of this clause:</p> <p>"or it can be demonstrated to form a necessary part of a wider public service reorganisation."</p>	<p>Numbering error corrected.</p> <p>FNP Steering Group would like to retain "better" as it protects against loss of facilities.</p> <p>Wording added as suggested.</p> <p>Examiner's Recommended Modification Partially Agreed.</p>
PM12	Pages 67-78	<p><u>Policy FAV13 - Local Green Space</u></p> <p>Re-title Section 3.9 as "Local Green Spaces".</p> <p>Re-title Policy FAV13 as "Local Green Spaces".</p> <p>Delete parts 2 and 3 of the Policy text in full, and replace with:</p> <p>"2. Development proposals in the eight designated Local Green Spaces listed above and defined on</p>	<p>Text amended as suggested. Updates also made to contents page as consequential amendments.</p> <p>Text amended as suggested. Updates also made to contents and pages 13 and 16 as consequential amendments.</p>

		<p>Figures 13-20 will be managed in accordance with national policy for Green Belts.”</p> <p>Replace Figures 13-20 with the replacement Inset Maps contained in the Council’s response to Question No. 5 dated 4 January 2024.</p>	<p>Text deleted and replaced as suggested.</p> <p>Maps replaced as suggested.</p> <p>Examiner’s Recommended Modification Agreed.</p>
PM13	Page 81	<p><u>Policy FAV14 – Local Renewable Energy Schemes</u></p> <p>Amend the word “faversham’s” in clause 1b to read “Faversham’s”.</p>	<p>Word capitalised.</p> <p>Examiner’s Recommended Modification Agreed.</p>
PM14	Pages 86 and 88	<p><u>Policy FAV15 – Faversham Creek Policy Area</u></p> <p>Clause 3 c) – delete existing text in full and replace with:</p> <p>“c. take opportunities to improve public access to the waterfront and provide links to the Public Rights of Way network and to the King Charles III England Coast Path (KC3CP) National Trail.”</p> <p>Clause 7 – add the following text to this clause:</p> <p>“It is a stipulation by Southern Water that no surface water will be allowed to connect to the foul or combined sewer networks in the Policy Area, unless agreed in advance.”</p>	<p>Replacement text added into 3c.</p> <p>This is a statement and not policy. Also, it deals with matters outside of the scope of planning. Wording of interpretation modified to reflect Examiner’s wording.</p>

		<p>Figure 21 – replace this plan with an updated and clearer base map at an appropriate scale to identify the extent of the Faversham Creek Policy Area with greater clarity.</p>	<p>O.S Base map is the most up to date version. Mapped areas will also be added to the Swale Borough Council interactive planning map that enables the map to be viewed in greater detail.</p> <p>Examiner’s Recommended Modification Partially Agreed.</p>
PM15	Pages 89 and 90	<p><u>Policy FAV16 – Maritime Gateway Heritage Regeneration Area</u></p> <p>Clause 1. Insert the words “within the area defined on Figure 22” after the words “other development” in the first line of text.</p> <p>Add new Clause 6 to the Policy text to read as follows:</p> <p>“6. In considering whether development proposals would have adverse impacts upon the highway network in the Plan area, the submission of a Transport Assessment will be required for those proposals likely to generate significant levels of traffic.”</p> <p>Page 90 – 3rd paragraph – delete “Frank Whitsome” and replace with “Frank & Whittome”.</p>	<p>Text added to clause 1.</p> <p>This sets a submission requirement, which may differ from validation criteria. Text added to interpretation, with some modifications to that suggested by the examiner (for example applying to the defined area addressed by the policy rather than the entire plan area).</p> <p>Text amended as suggested.</p> <p>Examiner’s Recommended Modification Partially Agreed.</p>

PM16	Between Pages 93 and 123	<p><u>Section 1.12 – Site Allocations</u></p> <p><u>Policies FAV19-FAV22/FAV24-FAV27/FAV29/FAV30</u></p> <p>Re-number this section of the draft Plan as “3.12”.</p> <p>Replace Figures 23, 24, 26-34 with the replacement Inset Maps contained in the Council’s response to Question No. 7 dated 4 January 2024.</p> <p><u>Note</u> that it is not necessary to replace Figure 25.</p> <p>Add the following additional clause to the policy text for each of Policies FAV19-FAV22/FAV24-FAV27/FAV29/FAV30:</p> <p>“In considering whether development proposals would have adverse impacts upon the highway network in the Plan area, the submission of a Transport Assessment will be required for those proposals likely to generate significant levels of traffic.”</p> <p><u>Policy FAV19 – Former Coach Depot, Abbey Street</u></p> <p>Add additional clause to the policy text to read as follows:</p> <p>“Development should have no adverse impact on Public Right of Way ZF39 and the King Charles III</p>	<p>Section renumbered.</p> <p>Maps replaced as suggested.</p> <p>This sets a submission requirement, which may differ from validation criteria. Text added to interpretation of the policies suggested, with some modifications to that suggested by the examiner (for example deleting ‘in the plan area’).</p> <p>Clause added as suggested (7).</p>

	<p>England Coast Path (KC3CP) National Trail which are adjacent to this site.”</p> <p><u>Policy FAV22 – The Railway Yard, Station Road</u></p> <p>Add additional clause to the policy text to read as follows:</p> <p>“Development should have no adverse impact on Public Right of Way ZF24 which crosses this site and contributions to the improvement of the route to the Town Centre and to the Recreation Ground may be required.”</p> <p><u>Policy FAV25 – BMM Weston Ltd. (Parcels 1b and 1c) – Land at Brent Road</u></p> <p>Add additional clause to the policy text to read as follows:</p> <p>“Development should have no adverse impact on Public Right of Way ZF40 and the King Charles III England Coast Path (KC3CP) National Trail which are in close proximity to this site, and contributions to the improvement of public footpaths in the vicinity of the site may be required.”</p> <p><u>Policy FAV27 – BMM Weston Ltd. (Parcel 3) - land at Brent Road</u></p> <p>Add additional clause to the policy text to read as follows:</p>	<p>Clause added as suggested (6).</p> <p>Clause added as suggested (4).</p> <p>Clause 4 replaced with the suggested wording.</p>
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		<p>“Development should have no adverse impact on Public Right of Way ZF40 and contributions to the improvement of public footpaths in the vicinity of the site may be required.”</p> <p><u>Policy FAV29 – Kiln Court and Osbourne Court</u></p> <p>Add additional clause to the policy text to read as follows:</p> <p>“Development proposals at Kiln Court will require contributions to the improvement of Public Bridleway ZF17 in order to improve pedestrian and cycle links to Western Link.”</p>	<p>Clause added as suggested (3).</p> <p>Examiner’s Recommended Modification Partially Agreed.</p>
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