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# **Report on the Faversham Neighbourhood Development Plan 2023-2038**

**An Examination undertaken for Swale Borough Council with the support of Faversham Town Council on the June 2023 submission version of the Plan.**

Independent Examiner: Derek Stebbing BA(Hons) DipEP MRTPI

Date of Report: 25 April 2024

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## **Main Findings - Executive Summary**

From my examination of the Faversham Neighbourhood Development Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – the Faversham Town Council (the Town Council);
- the Plan has been prepared for an area properly designated – the Faversham Neighbourhood Area, as identified on the map at page 7 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2023 to 2038; and,
- the policies relate to the development and use of land for a designated neighbourhood plan area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Faversham Neighbourhood Development Plan 2023-2038**

- 1.1 Faversham is a civil parish in the Borough of Swale in North Kent. It is situated at the head of Faversham Creek, south of the Swale, an inlet in the Thames Estuary that separates mainland Kent from the Isle of Sheppey, and north of Watling Street (now the route of the A2), the historic Anglo-Saxon and Roman route between London and Dover. There has been a settlement at Faversham since pre-Roman times. It was inhabited by the Saxons, and is mentioned in the Domesday book of 1086 as *Favreshant*.
- 1.2 Faversham developed as a market and port town due to its location on Faversham Creek. The town has an extensive Medieval core, with later Georgian, Victorian and Edwardian areas that extended the town. The rich architectural heritage of the town is protected by the large Faversham Conservation Area (first designated in 1971) which includes the town centre, the Creek, Davington and surrounding areas. There are two other Conservation Areas within the Parish, at Preston-next-Faversham and at Ospringe. In addition to the Conservation Areas, there are four Scheduled Monuments and around 350 Listed Buildings within the Parish, of which three are Grade I and 23 are Grade II\*.

- 1.3 Faversham was the centre of the explosives industry in the UK during the 19<sup>th</sup> century, but this declined during the early-20<sup>th</sup> century following a major explosion in 1916. The remaining three gunpowder factories closed in 1934. Another major industry in the town since the 16<sup>th</sup> century has been brewing, and the Shepherd Neame brewery remains a major employer.
- 1.4 Faversham is located 16 kilometres to the west of Canterbury, 27 kilometres east of Rochester and 77 kilometres south-east of London. London Road and Canterbury Road in the Parish are part of the A2 route, but the M2 motorway by-passes the built-up area of Faversham. Rail services link Faversham with London (St. Pancras, Cannon Street and Victoria), the Medway towns, Canterbury, Dover and Ramsgate. Local bus services connect to Maidstone, Sittingbourne, Ashford, Whitstable and Canterbury. The population of the Parish was 20,400 at the 2021 Census, within 8,800 households.
- 1.5 Faversham Town Centre has a wide range of retail and community facilities, including a cinema, theatre and museum. The Royal Cinema opened in 1936 and is a Grade II Listed Building, being one of only two mock-Tudor cinemas to survive in the UK. The Parish has a number of important open spaces, including the Faversham Recreation Ground and the Oare Country Park and nature reserve, partly on the site of a former gunpowder works. The Parish is close to the Kent Downs National Landscape.
- 1.6 The adopted Swale Borough Local Plan (2017) makes a number of strategic site allocations at Faversham to address part of the Borough's housing and employment growth requirements up to 2031. The emerging Local Plan Review, covering the period up to 2038, is addressing the growth requirements for that period and will consider the strategic options for the Faversham area.

### The Independent Examiner

- 1.7 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Swale Borough Council (the Council/SBC), with the agreement of the Town Council.
- 1.8 I am a chartered town planner, with over 45 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the local plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.9 I am independent of the qualifying body and the local authority and do not have an interest in any of the land that may be affected by the Plan.

## The Scope of the Examination

1.10 As the independent examiner, I am required to produce this report and recommend either:

(a) that the neighbourhood plan is submitted to a referendum without changes; or

(b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or

(c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.11 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:

- Whether the plan meets the Basic Conditions.
- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;
  - it does not include provisions and policies for 'excluded development'; and
  - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.12 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

## The Basic Conditions

1.13 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood 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 for the area;
- be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>1</sup>; and
- meet prescribed conditions and comply with prescribed matters.

1.14 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').<sup>2</sup>

## 2. Approach to the Examination

### Planning Policy Context

2.1 The Development Plan for this part of Swale Borough Council, not including documents relating to excluded minerals and waste development, consists of the adopted Swale Borough Local Plan – 'Bearing Fruits 2031' (SBLP)<sup>3</sup>, prepared by SBC and adopted on 26 July 2017. The SBLP covers the period from 2014 to 2031 and contains a suite of strategic and core planning policies for the Borough, together with development management policies and site allocations. The SBLP sets out the scale of housing and employment development required within the Borough and seeks to provide 13,192 new dwellings and 130,000 square metres of new employment floorspace over the plan period. Within the settlement hierarchy (known as settlement tiers) of the SBLP, Faversham is categorised as an Other Borough Centre which is the second tier. Policy ST4 makes allocations for 1,739 new homes and 53,325 square metres of industrial/office floorspace at Faversham during the period up to 2031. The SBLP's strategy for Faversham is that it will be the main focus for

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<sup>1</sup> The existing body of environmental regulation is retained in UK law.

<sup>2</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

<sup>3</sup> [Local Plans - Adopted Local Plan for Swale](#)

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growth in that part of the Borough, but at levels which reflect the historic importance of the town, the quality of its surroundings, and a need to manage levels of out-commuting.

- 2.2 The adopted SBLP will be replaced in due course by the emerging Local Plan Review (LPR) currently being prepared by the Council. This will cover the period up to 2038, and a Regulation 18 consultation on an Issues and Preferred Options document was undertaken in October/November 2021. Prior to this, a Regulation 19 pre-submission Plan had been published for consultation in February 2021 but following that consultation the Council resolved (in September 2021) to revert to publishing a Regulation 18 consultation document, before again proceeding to the Regulation 19 stage. The Regulation 19 consultation undertaken in February/March 2021 had not been preceded by a Regulation 18 consultation on the LPR. The Council's latest Local Development Scheme (LDS) was published in July 2022 and indicated that the Regulation 19 consultation on the LPR would be undertaken in October/November 2022 with formal submission for examination in February/March 2023. However, in October 2022, the Council resolved to postpone the next formal stage of the LPR. It was noted that this made the LDS out of date, and that the LDS will be revised as soon as possible "*after the proposed changes to the NPPF are published in Spring 2023*". On 14 March 2024, the Council's Planning and Transportation Working Group agreed to proceed with an updated timetable for the LPR that would include a Regulation 18 consultation in Autumn 2024 followed by a Regulation 19 consultation in early-2025. At the time of producing this report on my examination of the draft Plan, the revised LDS had not been published. However, as the Plan is covering the period up to 2038, I have necessarily had some regard to the advice in the PPG<sup>4</sup> in relation to the emerging LPR as part of this examination, albeit the Neighbourhood Plan must be tested against the extant Development Plan for the purposes of the Basic Conditions. I am clear that it will be necessary for the Faversham Neighbourhood Plan to be reviewed in due course when the emerging LPR has progressed from its present position, through the next Regulation 19 consultation, submission and examination, and its future adoption (which had been previously envisaged to occur in February 2024, but which will now be at a later date).
- 2.3 There are a number of strategic planning policies within the adopted Local Plan which affect the Plan area. These are fully listed at Section 5 of the Basic Conditions Statement and are not set out within this report. Where appropriate, I make reference to the relevant policies and proposed site allocations within the Council's adopted Local Plan as they affect the draft policies, site allocations and other guidance within the Neighbourhood Plan, as part of my detailed assessment contained in Section 4 of this report. Readers should refer to the Basic Conditions Statement and to the adopted Local Plan for further information on all relevant strategic planning policies and other policy guidance that affects the Plan area.

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<sup>4</sup> PPG Reference ID: 41-009-20190509.



- 2.4 The Basic Conditions Statement provides an overview assessment at page 4 of the compliance of the Plan with the legal requirements. A more detailed assessment is provided at pages 9-19 of how the policies proposed in the Plan have regard to national policy and are in general conformity with the relevant strategic policies in the adopted Development Plan, which is the SBLP. The Local Plan, adopted in July 2017, provides the necessary strategic planning context for the Neighbourhood Plan, and this has enabled the Neighbourhood Plan and its policies to be prepared.
- 2.5 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF).<sup>5</sup> In addition, the Planning Practice Guidance (PPG) offers advice on how the NPPF should be implemented.

### Submitted Documents

- 2.6 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Faversham Neighbourhood Development Plan 2023-2038 submission version (June 2023);
  - the Strategic Environmental Assessment (SEA) Environmental Report (December 2022) (AECOM);
  - the Habitats Regulations Assessment (HRA) Report (October 2022) (AECOM);
  - the Basic Conditions Statement (June 2023);
  - the Consultation Statement (June 2023);
  - Statement of Common Ground between Faversham Neighbourhood Plan Group and Swale Borough Council (Ref. FNPEX02) (October 2023);
  - all the representations that have been made in accordance with the Regulation 16 consultation; and
  - the request for additional clarification sought in my letter of 27 November 2023 to the Council and the Town Council (Ref. FNPEX01) and their combined responses dated 4 January 2024 (Ref. FNPEX03).<sup>6</sup>

### Supporting Documents

- 2.7 I have also considered the following supporting documents to the submission Plan:
- Faversham Town Council Local Cycling and Walking Infrastructure Plan (January 2022) (PJA);
  - Faversham Design Guidance and Codes (May 2021) (AECOM);

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<sup>5</sup> A revised version of the NPPF was published during the examination on 19 December 2023: all references in this report read across to the latest version (further updated on 20 December 2023).

<sup>6</sup> View all the documents at: [Faversham - Regulation 16 Consultation \(swale.gov.uk\)](https://www.swale.gov.uk/faversham-regulation-16-consultation)  
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- Faversham Neighbourhood Plan – Site Options and Assessment (October 2021) (AECOM);
- Faversham Housing Needs Assessment (HNA) (June 2022) (AECOM);
- Net Zero Carbon Toolkit (October 2021) (Levitt Bernstein, Elementa, Passivhaus Trust and Etude);
- Faversham Critical Junctions (May 2022) (PJA);
- More Faversham – Report and Recommendations from October 2016 Workshops (October 2016) (Design South East);
- South East Faversham Housing Manual (March 2019) (The Prince’s Foundation); and
- Swale Landscape Sensitivity Assessment (May 2019) (LUC).<sup>7</sup>

## Examiner Questions

2.8 Following my appointment as the independent examiner and my initial review of the draft Plan, its supporting documents and representations made at the Regulation 16 stage, I wrote to the Council and the Town Council on 27 November 2023<sup>8</sup> seeking further clarification and information on thirteen matters contained in the submission Plan, as follows:

1. With regard to the Swale Local Plan Review, I requested that the Borough Council provide me with an update on the position regarding the emerging Plan Review and whether the following statement published on the Borough Council’s website (as viewed on 22 November 2023) remains correct?

*"Local Plan Timetable*

*Following the meeting of the Policy and Resources Committee on Wednesday, 19 October 2022, 7.00 pm (swale.gov.uk) Members agreed to postpone the next formal consultation of the Local Plan Review. This makes the latest LDS out of date. The LDS will be revised as soon as possible after the proposed changes to the NPPF are published in Spring 2023. Until this is confirmed, background work on the Local Plan Review continues. Updates to the timetable and new LDS will be posted here in due course."*

2. With regard to Meeting Housing Need, as referenced at pages 26 and 27 in the draft Plan, I requested that the Council and the Qualifying Body provide me with an updated schedule of site allocations in the Neighbourhood Plan Area (including strategic site allocations) with planning permissions granted and dwelling completions (including those forming part of the 'made' Faversham Creek Neighbourhood Plan) since the adoption of the Swale Borough Local Plan in July 2017. I requested this information in order to assess the extent to which housing need is being met in Faversham, and whether or not there is

<sup>7</sup> View all the documents at: [Evidence Base - Faversham Town Council](#)

<sup>8</sup> View at: [Faversham - Examination \(swale.gov.uk\)](#)

any unmet need in light of current development plan policies and proposals. Furthermore, I requested that the Council also provide me with further information, and the source and date of that information, regarding the statement in the draft Plan (at page 26) that “*Swale Borough Council identified the level of growth required would be 200 new homes in the Faversham Neighbourhood Plan period*”. I wished to establish whether that statement applies to the current proposed Plan period of 2023-2038, or to a different Plan period. In that respect, I had seen a report considered by the Council’s Local Plan Panel on 29 October 2020, which at paragraphs 3.14-3.18 contains material recommending to Members that a total of 3,500 new dwellings be provided at Faversham under the development strategy (Option c) over the period 2022-2038, including “*the allocation of approximately 200 new dwellings within the boundary of Faversham town itself to be identified through the Faversham Neighbourhood Plan*”. I requested that the Council confirm to me whether that material remains relevant to my examination of the draft Plan, in light of the Council’s postponement of the next stage of the Local Plan Review (see also Question 1 above), and my consideration of the representations that have been submitted regarding future housing need in Faversham.

3. With regard to Policy FAV5 (Critical Road Junctions), I noted that, as presently drafted, I was concerned that this Policy is, at least in part, not a land-use planning policy. I recognised that it is supported by a study of the critical road junctions across the Neighbourhood Area, but the Policy primarily addresses the responsibilities of Kent County Council, as Highways Authority, in terms of assessing highway capacity and road safety, and not the functions of the Local Planning Authority. I considered that the Policy requires significant revision if it is to constitute an effective land-use planning policy, in a similar way to the structure and content of Policy FAV6. I therefore invited the Qualifying Body to provide me with a note containing draft revised text for this Policy, referring to the Faversham Critical Junctions study (May 2022) but not listing the 25 critical junctions, that I may consider as a modification to the draft Plan.
4. With regard to Policy FAV7 (Natural Environment and Landscape), I requested that the Council confirm that the Biodiversity Net Gain (BNG) requirement of 20% net gain for greenfield sites set out at Clause 2b of this Policy is an acceptable requirement in the context of Borough-wide policies for BNG.
5. With regard to Policy FAV13 (Local Green Space) and Figures 13-20 (at pages 70-78 in the draft Plan), I noted that, as presented, Figures 13-20 are not appropriate inset maps for the proposed eight Local Green Spaces listed in Policy FAV13, as it is not possible to accurately scale the extent of the sites’ areas and boundaries from these maps. I stated that I would require Figures 13-20 to all be replaced by Inset Maps on an Ordnance Survey map base, probably at a scale of 1:1250. These Inset Maps should simply identify the exact boundaries of each

of the proposed Local Green Spaces with no further policy notations being shown. I requested that the Qualifying Body, possibly in conjunction with the Council (as holder of the necessary Ordnance Survey licence), provide a set of replacement Inset Maps for the proposed Local Green Spaces (FNP/LGS/001-FNP/LGS/008) that I may consider as a modification to the draft Plan.

6. With regard to the map and figure References in the draft Plan, I noted that the draft Plan presently contains a number of inaccuracies with regard to its references to maps and figures. By way of examples, Policy FAV7 refers to Figures 6-9, which I believed should be to Figures 7-9, whilst Policy FAV11 refers to Figure 14 but which should be to Figure 12. I therefore requested that the Qualifying Body undertake a review of all such Policy-related cross-references in the draft Plan and provide me with a note on any necessary corrections. I was also further concerned that certain maps within the draft Plan, but most importantly Figure 1 on page 7, are using an outdated base map, and that the full extent of some recent built developments in the Faversham Town area are not shown. I therefore requested that the Council undertake a review of all of the maps within the draft Plan for their current accuracy, and whether any necessary updated base maps need to be prepared.
7. With regard to Policies FAV19/20/21/22/24/25/26/27/29 (Site Allocations) and Figures 23-34 (pages 97-123) in the draft Plan, I noted that, as presented, Figures 23-34 are not appropriate inset maps for the proposed nine site allocations listed in Section 1.12, as it is not possible to accurately scale the extent of the sites' areas and boundaries from these maps. I stated that I would require Figures 23-34 to all be replaced by Inset Maps on an Ordnance Survey map base, probably at a scale of 1:1250. Again, these Inset Maps should simply identify the exact boundaries of each of the proposed site allocations with no further policy notations being shown. I requested that the Qualifying Body, in conjunction with the Borough Council, provide a set of replacement Inset Maps for the proposed site allocations (FAV19/20/21/22/24/25/ 26/27/29) that I may consider as a modification to the draft Plan. Furthermore, I requested that the Qualifying Body also confirm that this section of the draft Plan should be numbered 3.12 and not 1.12 as shown on pages 3 and 93.
8. With regard to the site at Land East of Ham Road, Faversham, I requested that the Council provide me with a note setting out the current position with regard to a planning application (Ref: 23/502113/OUT) that was submitted to the Borough Council in May 2023 by Gladman Developments Ltd. which is referenced in Representation Ref. FAVNP14.
9. With regard to the site at Land at Bysing Wood Road, Faversham, and with reference to the representations submitted on behalf of The Brett Group (Ref. FAVNP16), I requested that the Qualifying Body provide

me with a note regarding the suggested inconsistencies in the definition of Green and Blue Spaces in Faversham (as defined on Figure 7), where they affect the land interests of The Brett Group at Bysing Wood Road, Faversham, and whether in light of this representation the Town Council considers that a modification to Figure 7 will be necessary. I indicated that should the Qualifying Body consider that a modification to Figure 7 will be necessary, I would require a revised map in order to replace Figure 7 (also correcting the spelling error in the notation panel), that I may consider as a modification to the draft Plan.

10. With regard to the site at Land at the former Oare Gravel Works, off Ham Road, Faversham, and with reference to the representations submitted on behalf of the Anderson Group (Ref. FAVNP17), I requested that the Council provide me with a note regarding the suggested inconsistencies that are identified in this representation concerning Figures 7-10 (inclusive) as they relate to the planning permission (Ref: SW/14/0257) that was granted in September 2017 for the 'Faversham Lakes' development. I indicated that, should the Council, in liaison with the Qualifying Body, consider that modifications to Figures 7-10 will be necessary, I would require revised maps in order to replace each of those figures, that I may consider as modifications to the draft Plan. (See also Question 9 above regarding Figure 7). I further requested that the Council also provide me with a note setting out the current position with regard to a planning application (Ref: 23/502775/FULL) which is referenced in these representations.
11. With regard to the site at Land at Ospringe Street, Ospringe, Faversham and with reference to the representations submitted on behalf of St John's College (Ref. FAVNP31), I requested that the Qualifying Body provide me with a note regarding the suggested inconsistencies in the definition of this land as defined on Figures 7-9 (inclusive) in the draft Plan as they affect the land interests of St John's College at Ospringe Street, Ospringe, Faversham, and whether in light of this representation the Town Council considers that modifications to Figures 7-9 will be necessary. I indicated that, should the Qualifying Body consider that modifications to Figures 7-9 will be necessary, I would require revised maps in order to replace Figures 7-9, that I may consider as modifications to the draft Plan (see also Questions 9 and 10 above regarding Figures 7-9).
12. With regard to the Swale Borough Local Plan Review, I noted that it is clear that a substantial amount of material in the draft Plan is based on the pre-submission draft Local Plan (Regulation 19 stage) that was published by the Borough Council for consultation in February-April 2021. Following that consultation, the Council did not proceed with the submission of that draft Plan and published a further Issues and Preferred Options document (Regulation 18 stage) for consultation in October-November 2021. Subsequently, in October 2022, the Council

resolved to postpone the next formal stage of the Local Plan Review. (See also Question 1 above). I observed that each Policy sub-section in the draft Plan contains material under the heading of "*Local Plan Review 2021 – Pre-Submission Document Regulation 19, Swale Borough Council*", together with other material at various places in the document, e.g. at page 25. I noted that this material is out-of-date and is now misleading and is likely to require an extensive set of modifications to address the necessary amendments. I therefore sought the Council's advice on how this examination should proceed with regard to the Plan's current content on the pre-submission draft Local Plan Review (Regulation 19) that is now superseded. (See also Question 1 above).

13. With regard to the consultation on the draft Plan undertaken with National highways, I noted that the representations submitted by National Highways (Ref. FAVNP43) and the accompanying Technical Note (Ref. K454), conclude (at paragraphs 15-20 to that note) that there is a requirement for an assessment of the traffic impacts on the Strategic Road Network arising from the proposed site allocations in the draft Plan that are not included within the current adopted Local Plan. Such an assessment would need to be carried out in accordance with DfT Circular 01/2022. In the absence of any evidence before me that the necessary traffic assessments have been undertaken or are in progress, either by the Qualifying Body, the Council or Kent County Council (as Highways Authority), I therefore invited the Qualifying Body and the Council to consider these representations in full and provide me with a note on how they wish me to proceed with the examination of the proposed site allocations contained within the draft Plan and of the various additional sites being proposed as part of representations to the draft Plan.
- 2.9 In response to my letter of 27 November 2023, the Council and the Town Council provided me with a combined response on 4 January 2024.<sup>9</sup> Revised Inset Maps (all dated December 2023), addressing Question Nos. 5 and 7, were supplied by the Council on 18 December 2023. I have taken full account of the additional information contained in the combined response and the revised Inset Maps as part of my assessment of the draft Plan, alongside the documents listed at paragraphs 2.6 and 2.7 above.
  - 2.10 To avoid unnecessary repetition in subsequent sections of this report, I refer to the questions and to the responses from the Council and Forum by their relevant number, e.g. Question No. 1. Readers should refer to paragraph 2.8 above, and to the combined response document from the Council and the Town Council for the full text of questions and the responses.

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<sup>9</sup> View at: [Faversham - Examination \(swale.gov.uk\)](https://www.swale.gov.uk/faversham-examination)

## Site Visit

- 2.11 I made an unaccompanied site visit to the Neighbourhood Plan Area on 18 December 2023 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

## Written Representations with or without Public Hearing

- 2.12 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters raised under the written representations procedure, and that there was not a requirement to convene a public hearing as part of this examination. In all cases, the information provided has enabled me to reach a conclusion on the matters concerned.

## Modifications

- 2.13 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications in full in the Appendix to this report.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by Faversham Town Council. An application to the Council for the designation of the proposed Neighbourhood Area was made by the Town Council in April 2020. The Council's Local Plan Panel considered the application at its meeting held on 9 July 2020, and recommended that the approval of the application be delegated to the Cabinet Member for Planning. The application was approved on 11 August 2020.
- 3.2 The designated Neighbourhood Area is shown on the map (Figure 1) at page 7 in the submission Plan. It includes the entirety of the earlier designation of the Faversham Creek Neighbourhood Area by the Council on 20 February 2014 for the purposes of the Faversham Creek Neighbourhood Plan 2016-2031, which was made by the Council on 28 June 2017 following a positive referendum result. Should this Plan proceed in due course to a referendum, with the outcome of that future referendum being a positive result, the Faversham Creek Neighbourhood Plan will be replaced in its entirety by the Faversham Neighbourhood Plan (with its consequent removal from the current suite of statutory development plan documents for Swale Borough) at the time at which a

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decision is taken by the Council to make this Plan, in order that this Plan will be the only Neighbourhood Plan for this Neighbourhood Area.

- 3.3 The Town Council is the Qualifying Body for the preparation of the Plan. The preparation of the Plan has been led by a Neighbourhood Plan Steering Group (NPSG), which was established in November 2019, comprising Town Councillors alongside community representatives of the Faversham Future Forum and assisted by a Technical Committee.

#### Plan Period

- 3.4 The draft Plan specifies (on page 8) the period to which it is to take effect, which is from 2023 to 2038. The Plan period encompasses the remaining part of the plan period for the adopted SBLP (up to 2031). I make a recommendation and proposed modification **PM2** (see paragraph 4.11 below) with regard to the future review of the Plan to take account of the emerging review of the adopted SBLP. The Plan should also identify the Plan period (2023-2038) on its Front Cover, and I recommend modification **PM1** accordingly.

#### Neighbourhood Plan Preparation and Consultation

- 3.5 The Consultation Statement sets out a comprehensive record of the Plan's preparation and its associated engagement and consultation activity between November 2019 and Spring 2023. The decision to undertake the preparation of the Neighbourhood Plan was taken by the Town Council on 11 November 2019.
- 3.6 The preparation of the Plan and the associated community engagement and consultation has involved four main stages, as follows:
- Stage 1: Initial work and community engagement (Spring 2020 to Autumn 2020).
  - Stage 2: Evidence gathering, research and survey work, preparation of evidence base documents and continued engagement with residents and key stakeholders, led by the NPSG (Autumn 2020 to Autumn 2022).
  - Stage 3: Preparation of draft Plan for pre-submission Regulation 14 consultation (in January/February 2023) and associated community engagement and consultation activities (Autumn 2022 to Spring 2023).
  - Stage 4: Revisions and amendments to the draft Plan following the Regulation 14 consultation (see paragraph 3.10 below) and preparation of the final draft Plan and supporting documents. Submission to the Council (Regulation 15), Regulation 16 consultation and submission for examination under Regulation 17 (Spring 2023 to Summer 2023).



- 3.7 Stage 1 was focused upon community engagement activities across the Neighbourhood Area, with two exhibitions being held in Autumn 2020 in the Town Hall seeking the community's views on the key themes and topics that would be covered by the Plan.
- 3.8 Work was focused during Stage 2 on preparing the evidence base studies that underpin the draft Plan's policies and guidance and survey work, including a household survey (November 2020-January 2021) and a youth survey and a business survey (January-April 2021). A call for sites was launched in December 2020, followed by a Local Green Space call for sites in March 2021. During Summer 2021 further consultation work was undertaken on the key themes of the emerging Plan that had emerged from the earlier exhibitions and a further exhibition was held in July-August 2021. Following the publication of the AECOM report on "Site Options Assessment" a specific consultation on that report was held in March 2022. In June 2022, a series of Stakeholder Engagement Workshops was held with local groups such as the Faversham Society and the Faversham Creek Trust, facilitated by Urban Vision Enterprise CIC.
- 3.9 During Stage 3, work was focused on preparing the draft Plan for the Regulation 14 pre-submission consultation which was undertaken between 3 January and 14 February 2023. Section 4 of the Consultation Statement contains a full record of the consultation responses that were received from national and statutory bodies, local authorities and Parish Councils, residents and local societies, and from landowners and developers. The consultation was accompanied by extensive local publicity, various 'pop-up' events across the Plan area and with a leaflet being distributed to all households and businesses in the Plan area.
- 3.10 At Stage 4, amendments were made to the draft Plan, following the Regulation 14 consultation, and Section 4 of the Consultation Statement includes a comprehensive record of the actions taken by the NPSG in response to all representations received during the Regulation 14 consultation. The draft submission Plan and its supporting documents were finalised, and following approval by the Town Council, it was formally submitted to the Council for examination in June 2023.
- 3.11 Regulation 16 consultation was then held for a period of six weeks from 4 September 2023 to 16 October 2023. A total of 39 duly made responses were received during the consultation period. From my assessment of the Consultation Statement, I am satisfied that a transparent, fair and inclusive consultation process has been followed for the Plan, that has had regard to advice in the PPG on plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

## Development and Use of Land

- 3.12 Subject to Policy FAV5 (see paragraphs 4.28 – 4.31 below), I am satisfied that the draft Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

## Excluded Development

- 3.13 From my review of the documents before me, the draft Plan does not include policies or proposals that relate to any of the categories of excluded development.<sup>10</sup> Kent County Council is the Minerals and Waste Planning Authority for the Plan area, and the relevant Development Plan document for these matters is the adopted Kent Minerals and Waste Local Plan 2013-2030 (adopted September 2020).

## Human Rights

- 3.14 Neither the Council nor any other party has raised any issues concerning a breach of, or incompatibility with Convention Rights (within the meaning of the Human Rights Act 1998). From my assessment of the Plan, its accompanying supporting documents and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. I consider that none of the objectives and policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The Council issued a Strategic Environmental Assessment (SEA) Screening Report in September 2022 and a Habitats Regulations Assessment (HRA) Screening Assessment, also in September 2022, in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations') and the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'). These Screening Assessments were prepared on the basis of the pre-submission policies contained in the draft Plan prior to the Regulation 14 consultation undertaken in January-February 2023. Following consultation with Historic England, Natural England and the Environment Agency, the SEA Screening Assessment concluded that a full SEA should be undertaken of the draft Plan as Likely Significant Effects will occur in view of the extent and location of the development proposals within the draft Plan. The HRA Screening Assessment concluded that there would be Likely Significant Effects arising from the draft Plan on Natura 2000 sites, including The Swale Special Protection Area (SPA)/Ramsar site, and that an HRA Appropriate Assessment should be undertaken.
- 4.2 Accordingly, AECOM Limited was commissioned by Locality to undertake the full SEA process and to prepare an Environmental Report for publication alongside the draft Plan at the Regulation 14 consultation

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<sup>10</sup> The meaning of 'excluded development' is set out in s.61K of the 1990 Act.  
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stage, and to undertake the Appropriate Assessment for the draft Plan in accordance with the Habitats Regulations. The submission Plan is accompanied by an Environmental Report (dated December 2022) and by an HRA Report (dated October 2022) prepared by AECOM.

- 4.3 I have given careful consideration to the Environmental Report and to its SEA Framework and assessment of reasonable alternatives for the focus of development within the Plan area. The report (at Section 4) identifies two options as reasonable alternatives, Option A, which is a “greenfield first approach” and, Option B, which is a “brownfield first approach”. It appraises these options in the context of the key SEA topics of air quality, biodiversity and geodiversity, climate change, landscape and townscape, historic environment, land, soil and water resources, community wellbeing and transportation. The report concludes that, overall, Option B performs more favourably than Option A, with the exception of air quality where uncertainty is noted for both options. The report (at Section 5) then undertakes an appraisal of the 29 proposed Policies that are included in the draft Plan. It concludes that the draft Plan is likely to have significant positive effects in relation to the SEA topic of community wellbeing and to have positive effects in respect of the topics of landscape and townscape, land soil and water resources and biodiversity and geodiversity. However, the report notes that the HRA Report contains recommendations for mitigation measures to ensure that there are no adverse impacts on the integrity of internationally designated sites as a result of the policies and proposals in the draft Plan. On the SEA topic of climate change, the report notes that the outcomes will be dependent upon the extent to which developments incorporate the necessary adaptation measures into their design. It also notes that the Plan will further initiate several beneficial approaches regarding the topics of transportation and air quality, given its focus on enhancing the active travel network and encouraging sustainable modes of transportation. Finally, the report notes that the Plan should be monitored by the Council to identify any unforeseen effects at an early stage and to take remedial action as appropriate, although no significant negative effects are considered likely in the implementation of the Plan. I take account of the report’s assessments and conclusions as part of my examination of the draft Plan.
- 4.4 The HRA Report identifies four designated European sites, The Swale SPA/Ramsar site, the Blean Complex Special Area of Conservation (SAC), The Outer Thames Estuary SPA and the Tankerton Slopes and Swalecliffe SAC, as being sites that should be subject to the necessary assessments under the Habitats Regulations. Of these sites, The Swale SPA/Ramsar site is within the Plan area, whilst the other three sites are all within 10 kilometres of the Plan area.
- 4.5 Section 3 of the HRA Report sets out the conservation objectives and the reasons for the designation of each of the four sites, with a summary of the current pressures and threats faced at the sites. Section 4 sets out the potential pathways of impact for the sites arising from the draft Plan’s policies and proposals which, in summary, are public access/recreational

pressure, loss of functionally linked land, noise and visual disturbance, changes in air quality, water resources and water quality. This section concludes that Tests of Likely Significant Effects (ToLSEs) are necessary to assess the impacts arising from recreational pressure and loss of functionally linked land upon The Swale SPA/Ramsar site and the impacts arising from noise and visual disturbance upon The Swale SPA/Ramsar and The Outer Thames Estuary SPA sites. Section 5 of the HRA Report contains the full ToLSEs which indicated that 13 draft Policies in the Plan (encompassing all of the proposed site allocations) were considered to pose Likely Significant Effects for European sites in combination with other projects and plans due to contributing to recreational pressure. Two of the proposed site allocations were considered to have potential for Likely Significant Effects at The Swale SPA/Ramsar site resulting from noise and visual disturbance during construction and a further site allocation was considered to pose a risk of in combination effects through loss of functionally linked land. Section 6 of the HRA Report sets out the full Appropriate Assessment arising from the ToLSEs and contains recommendations concerning Policies FAV7, FAV19 and FAV21, to take account of the need to strengthen those policies. Those recommendations are carried forward into Section 7 (Conclusions and Recommendations). I take full account of the HRA Report's conclusions and recommendations as part of my examination of the draft Plan.

- 4.6 On the basis of the information provided and my independent consideration of the SEA Environmental Report (December 2022) and the HRA Report (October 2022), I am satisfied that the draft Plan is compatible with EU obligations under retained EU law.

#### Main Assessment

- 4.7 The NPPF states (at paragraph 29) that "*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*" and also that "*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*". The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.
- 4.8 Having considered above whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.13 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.

## Specific Issues of Compliance

4.9 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 27 policies, which address the following themes: Faversham Town Centre; Residential Development; Movement and Sustainable Transport; Environment; Design; Historic Buildings, Places and Landscapes; Community Facilities, Local Green Space; Renewable Energy; Faversham Creek; and, the proposed site allocations. As part of that assessment, I consider whether the policies in the Plan are sufficiently clear and unambiguous, having regard to advice in the PPG. A policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.<sup>11</sup> I recommend some modifications as a result.

## Overview

4.10 The Plan is addressing the period from 2023 to 2038 and seeks to provide a clear planning framework to ensure that the town centre continues to provide the range of services and facilities to meet the needs of residents and visitors, whilst protecting the natural environment and the heritage of the area which contribute to its charm and appearance.

4.11 Section 1 of the Plan, entitled 'Introduction', describes the purpose and status of the preparation of the Neighbourhood Plan and also includes a short section on Monitoring and Review. This includes references to the future monitoring of the Plan and potential need to review the Plan, if and when necessary. However, taking into particular account the current position with regard to the Swale Local Plan Review, I consider that the Plan does need to include a much clearer statement that the Plan will be reviewed in light of any relevant changes in national policies and the emerging review of the Swale Local Plan, and this is addressed by recommended modification **PM2**.

4.12 Section 2 of the Plan, entitled 'Local Context', is a brief section including a description of the main features of the Plan area including a pictogram of Census 2021 data, a résumé of the community engagement work that was undertaken during the preparation of the draft Plan, the aims of the Plan and a sub-section setting out the Plan's overall planning strategy.

4.13 The Plan has seven aims, which are as follows:

- To promote the vitality and viability of Faversham Town Centre, as a resource for local people and visitors;
- To support sustainable housing growth to meet the diverse needs of the local community;
- To create more sustainable live-work patterns, based on neighbourhoods with residential, employment and community facilities in easy walking distance;

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<sup>11</sup> PPG Reference ID: 41-041-20140306.

- To promote sustainable transport and active travel, including cycling and walking;
- To protect Faversham's green spaces and natural environments and ensure environmental quality;
- To promote sustainable design, to complement Faversham's local distinctiveness; and
- To preserve or enhance Faversham's diverse heritage and promote heritage-led economic development.

4.14 The overall planning strategy of the Plan is to seek to achieve sustainable physical and economic development and growth through its policies. In addition to the strategic allocations made in the adopted Local Plan, the Plan aims to deliver the growth strategy set by the Council for 219 new homes over the remaining part of the plan period of the adopted Local Plan up to 2031. It seeks to achieve this through a combination of policies, including the site allocations contained in Policies FAV19-FAV22/FAV24-FAV30. The natural environment is also a key priority of the Plan, and it seeks to protect the green and blue infrastructure and contribute to the protection of the natural environment and its assets. The Plan also seeks to promote sustainable and innovative design, including high energy performance and low carbon development, and also a balanced and sustainable range of transport. The Plan's policies seek to augment those in the adopted Local Plan, setting requirements more specific to Faversham.

## Policies

4.15 Section 3 of the Plan contains the draft Policies and is divided into twelve sub-sections (3.1-3.12) addressing the various themes listed at paragraph 4.9 above. Sub-section 3.1 sets out a listing of the 27 policies. Each of the Policy sub-sections is structured under the headings of Purpose, Rationale and Evidence, Policies and Interpretation.

## Faversham Town Centre

- 4.16 Sub-section 3.2 addresses the theme of Faversham Town Centre and contains one policy (Policy FAV1).
- 4.17 Policy FAV1 (Faversham Town Centre) has four clauses. Clause 1 states that development in the town centre will be supported where it would complement or enhance its vitality and viability, including retail, food and drink, offices and other uses in Use Class E, recreational, community or cultural uses, tourist or visitor attractions and facilities and other uses that help to diversify the town centre's economy. Clause 2 states that the conversion of upper forms in commercial properties to residential uses, visitor accommodation or business uses will be supported. Clause 3 states that support for development as set out in Clauses 1 and 2 is subject to maintaining active frontages and uses in ground floor units on main shopping streets, there being no adverse impacts on the amenity or viability of existing town centre uses and that proposals take account of

Policies FAV10 and FAV11. Clause 4 states that the redevelopment of the multi-use external spaces at Central Car Park, Queen's Car Park, Partridge Lane/Thomas Road Car Park and Institute Road Car Park will only be supported where a similar alternative provision is made nearby or it can be demonstrated that the capacity of the remaining car parks would be sufficient.

- 4.18 I am satisfied that the policy is appropriately drafted and that the draft Plan's section on Faversham Town Centre and Policy FAV1 are in general conformity with the strategic policies of the SBLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Residential Development

- 4.19 Sub-section 3.3 addresses the theme of Residential Development and contains two policies (Policies FAV2 and FAV3). This section of the draft Plan is based fundamentally upon meeting an identified need for 200 new homes in the Plan area during the period up to 2038. This requirement is in addition to the housing growth contained in the made Faversham Creek Neighbourhood Plan, which contains an indicative housing requirement for 94 new homes over the period 2016-2031<sup>12</sup>. As at January 2022, 75 new homes had been built or granted planning permission in the area covered by the Faversham Creek Neighbourhood Plan, leaving a residual requirement of 19 homes to be met by this Plan, thereby making the Plan's housing requirement to be for 219 new homes. I raised the question of whether the identified requirement for 200 new homes, which was a requirement provided to the Town Council by the Borough Council, applies to the proposed Plan period of 2023-2038 or to a different Plan period, as part of Question No. 2, and I take account of the Borough Council's response to that question and the Statement of Common Ground (FNPEX02) between the Borough Council and the NPSG in my assessment. I am clear that, if the Plan is to take account of the unmet housing requirements of the made Faversham Creek Neighbourhood Plan and the proposed site allocations within that Plan, the 'combined' housing requirement (219 new homes) for this Plan cannot be considered to extend beyond 2031 (i.e. up to 2038), as both Plans have quite clearly been prepared, with the Borough Council's support, on the basis of meeting part of the current adopted Local Plan housing requirement for the Borough up to 2031. The Borough Council's decision in October 2022 to postpone the next formal consultation stage of the emerging Local Plan Review (and the continuing ongoing postponement of that consultation) means that, at present, I cannot give sufficient weight or certainty to the prospective housing requirement for the Plan area over the period beyond 2031 that may be identified in the Local Plan Review.

- 4.20 I consider it to be extremely likely that the Council will consider potential strategic growth options for the Faversham area, as part of the Local Plan

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<sup>12</sup> [Neighbourhood planning - Faversham Creek \(swale.gov.uk\)](https://www.swale.gov.uk/Neighbourhood-planning-Faversham-Creek)

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Review, based upon the town's position in the settlement hierarchy, and I acknowledge that the Council is continuing to progress the necessary evidence base work in order to inform its consideration of strategic options for the Borough. This does not serve to inhibit my examination of the submitted draft Plan, but does reinforce and confirm the necessity for the Plan to be formally reviewed when the Local Plan Review reaches a more advanced stage (see also **PM2**).

4.21 In the context of meeting housing need, I have therefore considered the identified requirement for 219 new homes (at page 26 of the draft Plan) to be the basis for this examination, but that this requirement is for the period 2023-2031, and not for the period beyond 2031. Similarly, I have considered the various representations to the draft Plan that propose additional housing growth within the Plan area in that context, and that representations which clearly propose strategic-level growth (including non-residential proposals) should be considered, in the first instance, by the Council as part of its assessment of strategic options for the emerging Local Plan Review. Accordingly, I draw no conclusions or make any recommended modifications to the draft Plan in respect of such representations, including those which propose levels of new residential development above the identified requirement for 219 new homes up to 2031. For the avoidance of doubt, the representations which fall into this category are:

- Land east of Ham Road, Faversham (ca. 250 new homes) (Ref. FAVNP14);
- South East Faversham (which extends beyond the Plan area) (proposed strategic residential development) (Ref. FAVNP20);
- Land north of Graveney Road, Faversham (ca. 240 new homes) (Ref. FAVNP35);
- Land to the west of the Western Link Road, Faversham (35.6 hectares) (which extends beyond the Plan area) – electric vehicle forecourt, solar photovoltaic farm, energy storage facilities (Ref. FAVNP37);
- Land at Brogdale Road, Faversham (ca. 400 new homes) (ref. FAVNP41);
- Lions Field, London Road, Faversham (ca. 35 new homes) (Ref. FAVNP42); and
- Non-site specific (Ref. FAVNP38).

Although not directly related to proposals for additional residential development, a representation submitted on behalf of Hallam Land Management Limited (Ref. FAVNP29) seeks to promote a Use Class E mixed-use development for the remaining undeveloped part of the approved Perry Court development, to replace the proposed Use Class B1 land allocation. I consider that this is a matter that should be addressed by the Council and the Town Council as part of the development management process and it is not necessary for me to propose any modifications to the draft Plan to take account of this particular matter.



- 4.22 A key factor in my assessment has been the representation submitted by National Highways which contains a requirement for assessments of the impact of proposed net additional housing growth in the Plan area upon the Strategic Road Network and, specifically, upon the M2 motorway and the operation of Junction 7 (Brenley Corner). This is likely to require strategic traffic modelling, probably also including Kent County Council (as Highways Authority), for the levels of development being proposed in a number of the representations set out above, and site-specific transport assessments for other proposals, including a number of the site allocation proposals within the draft Plan (see also Question No. 13). In my experience, it is relatively unusual for National Highways to express concerns about the traffic impacts arising from the level of proposed developments in a neighbourhood plan. However, I do note that National Highways did seek information regarding the level of development being proposed in the draft Plan at the Regulation 14 consultation stage and their later representation demonstrates to me that there are significant capacity issues affecting the M2 motorway in this part of Kent and the operation of Junction 7 (M2/A251 junction) which is within the Plan area. The Plan will need to take account of these concerns and I consider this matter further in relation to the proposed site allocations within the draft Plan at paragraph 4.74 below. Finally, and in the round, it should be noted that the PPG is clear that whilst neighbourhood plans can allocate sites for development, including housing<sup>13</sup>, "The scope of neighbourhood plans is up to the neighbourhood planning body".<sup>14</sup>
- 4.23 Policy FAV2 (Housing Development) has two clauses and states that residential development will be supported where it comprises infill development for gaps within existing building frontages, the redevelopment of existing buildings, providing that it does not involve the demolition of heritage assets, or the sensitive refurbishment of existing buildings, including heritage assets. It goes on to state that support for such schemes is subject to there being no loss of public amenity space and that the proposals meet the design requirements of Policy FAV10 and other relevant policies.
- 4.24 As drafted, this important Policy focuses only upon residential development on infill sites or on previously developed ('brownfield') sites. Whilst the support for development of previously developed sites accords with national policy, the policy is too restrictive and does not have sufficient regard to national policy, which sets out a presumption in favour of sustainable development. The Policy and its supporting justification also fails to give appropriate consideration to the various residential developments that are coming forward in the Plan area through the site allocations contained in the adopted SBLP. Whilst a number of these developments have the benefit of existing planning permissions, it is likely that further proposals will come forward during the Plan period in the context of the adopted SBLP's site allocations, which will fall to be

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<sup>13</sup> PPG Reference ID: 41-042-20170728.

<sup>14</sup> PPG Reference ID: 41-104-20190509.

considered in the context of the policies of both the SBLP and this Plan. Accordingly, I consider that the Policy should address these matters, and recommended modification **PM3** sets out the necessary amendments.

- 4.25 Policy FAV3 (Residential Mix and Standards) has seven clauses and, in summary, addresses the requirements for residential development proposals to include an appropriate housing mix to meet local housing need, affordable housing provision, broadband connectivity, design and landscape features to reduce carbon impact and promote biodiversity, to meet the requirements of Policies FAV7 and FAV10, and the provision of discreetly located waste and recycling storage space. There have been a number of representations concerning this Policy, which I have taken into consideration alongside my own assessment. In particular, I have given careful consideration to the Policy's three draft clauses concerning the provision of affordable housing. In my assessment, these clauses should be consolidated into one clause that contains a more general requirement for the provision of appropriate levels of affordable housing, that is aligned more closely to Policy DM8 in the adopted SBLP. Recommended modification **PM4** addresses the necessary amendments to the Policy text.
- 4.26 With recommended modifications PM3 and PM4, I consider that the draft Plan's section on Residential Development is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### Movement and Sustainable Transport

- 4.27 Sub-section 3.4 of the draft Plan addresses the theme of Movement and Sustainable Transport and contains three policies (Policies FAV4-FAV6).
- 4.28 Policy FAV4 (Mobility and Sustainable Transport) has five clauses and states that development that generates additional journeys must be supported by a balanced mix of transport provision, including sustainable and active travel options. Development should provide direct and convenient pedestrian and cycle links to surrounding facilities, including provision of new crossings where necessary, and the layout and design of development should prioritise walking and cycling within the site. Development must also be designed to accommodate the needs of people with a range of mobilities and impaired vision. The Policy goes on to state that secure, covered and easily accessible storage for cycles and other personal vehicles must be provided for all development and that electric charging points for motor vehicles and cycles should be provided for all new homes and new or expanded employment accommodation. I consider that this policy is appropriately drafted and provides clarity for users of the Plan.
- 4.29 Policy FAV5 (Critical Road Junctions) states that for development that impacts on junctions with identified safety and/or capacity issues, schemes will only be supported where they would not result in severe

impact, taking account of any mitigation measures. The policy then lists 25 road junctions across the Plan area that are considered to fall within its scope.

- 4.30 Upon my initial assessment of the draft Plan, I was concerned that, as drafted, this Policy, is at least in part, not a land-use planning policy. I recognised that it is supported by a study of the critical road junctions across the Neighbourhood Area, but I considered that the policy primarily addresses the responsibilities of Kent County Council, as Highways Authority, in terms of assessing highway capacity and road safety, and not the functions of the Local Planning Authority. Therefore, as Question No. 3, I invited the Qualifying Body to provide me with a note containing draft revised text for the Policy, referring to the supporting Faversham Critical Junctions study (May 2022) but not listing the 25 critical junctions, that I may consider as a modification to the draft Plan. The Town Council responded by stating that the wording of the Policy reflects the requirements of the paragraphs 110 and 111 (now paragraphs 114 and 115) of the NPPF, that it is evidence-based and that similar policies have been included in other neighbourhood plans, with the Biddulph Neighbourhood Plan being stated as an example.
- 4.31 I have given careful consideration to this draft Policy and its supporting evidence, to the Town Council's response to Question No. 3 and to the various representations that have been made to the draft Policy including those by Kent County Council. I have also taken note of the equivalent policy (Policy INF1) in the Biddulph Neighbourhood Plan, but note that it has particular regard to four key junctions on the A527 route which is a Class A primary distributor road between Stoke-on-Trent and Congleton. Importantly, the interpretation notes for Policy INF1 state that "*Applying this policy will require consideration of the impact of the new 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*". In my judgement, that is the correct approach for assessing the transportation impacts of development proposals, both individually and cumulatively, and is the approach advocated by Kent County Council in their representations. I have also given consideration to those representations which have cited other junctions on the highway network in the Plan area, for example, at Brent Hill/Davington Hill and at Priory Row/Priory Hill/Davington Hill, that it is argued should be listed within the scope of the Policy. Together with the representations that have been submitted by National Highways (see paragraph 4.22 above), this demonstrates to me that undoubtedly there are significant issues of traffic congestion and capacity across parts of the local highway network in the Plan area. As drafted, I do not consider that the Policy contains sufficiently clear guidance for users of the Plan on how these issues should be addressed in development proposals, for consideration by the Local Planning Authority and the Highways Authority and, if necessary, by National Highways. Accordingly, I conclude that the Policy requires comprehensive

amendment to reflect those points, and recommended modification **PM5** sets out the necessary revisions.

- 4.32 Policy FAV6 (Footways, Bridleways and Cycleways) is in three parts and states that development should not encroach onto footpaths, bridleways or cycleways or have any adverse impacts on their amenity, safety or accessibility. It goes on to state that opportunities should be taken to improve the setting, amenity, safety and accessibility of existing footpaths, bridleways and cycleways, and that a priority for allocation of developer contributions should be to provide new footpaths and cycleways, and links with the existing network. Kent County Council seek an amendment to the title of this Policy to reflect the full extent of its potential application, and I concur with that suggestion. Subject to recommended modification **PM6**, which addresses the amendment to the title of the Policy, I consider that the Policy is appropriately drafted and provides clarity for users of the Plan.
- 4.33 With recommended modifications PM5 and PM6, I consider that the draft Plan's section on Movement and Sustainable Transport (Policies FAV4-FAV6) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Environment

- 4.34 Sub-section 3.5 of the draft Plan addresses the theme of Environment and contains three policies (Policies FAV7-FAV9).
- 4.35 Policy FAV7 (Natural Environment and Landscape) is in seven parts, and is related to the content of Figures 7 (Green and Blue Spaces of Faversham), 8 (Priority Habitats for Protection), 9 (Natural Habitats), 10 (Habitat Corridors) and 11 (DEFRA Magic Map Data). In summary, the policy states that development should have no adverse impacts on green or blue infrastructure. It goes on to state that major development proposals should include positive features in its design and landscaping and create Biodiversity Net Gain at levels of 10% net gain for brownfield sites and 20% net gain for greenfield sites. The loss of green or natural landscape through development should be balanced through provision of green infrastructure, landscaping, planting and net gains to wildlife and biodiversity in the design and layout of development. It also addresses the topics of trees, woodland and hedges, the best and most versatile agricultural land, fruit orchards and the use of native species or other species with high value for wildlife in landscaping and planting schemes.
- 4.36 Five of the questions (Question Nos. 4, 6, 9, 10 and 11) (see paragraph 2.8 above) related to matters concerning this Policy and its accompanying plans, and in particular to Figure 7. I have taken account of the responses to these questions provided by the Council and the Town Council in my assessment of this Policy and Figures 7-11. I note that, in the context of the Council's emerging Local Plan Review, the requirement

for 20% Biodiversity Net Gain (BNG) for greenfield sites is acceptable to the Council, and I do not recommend any amendments to the proposed BNG requirements on the basis that the Council is seeking to justify its greenfield BNG requirement.<sup>15</sup> With regard to the representations submitted by the Brett Group (Ref. FAVNP16) concerning land at Bysing Wood Road, Faversham, on behalf of the Anderson Group concerning land at the former Oare Gravel Works, off Ham Road, Faversham (Ref. FAVNP17) and on behalf of St. John's College concerning land at Ospringe Street, Ospringe, Faversham (Ref. FAVNP31), I note the responses of the Council and the Town Council on the various matters raised and that Figure 7 has been sourced from the Kent Wildlife Trust. The Kent Wildlife Trust use the Kent Landscape Information Systems (KLIS) to prepare their mapping data, but the Council and the Town Council are not able to amend the mapping outputs. However, I am satisfied from my appraisal of the above-mentioned representations that Figure 7, and possibly also Figures 8-10, contain cartographical errors that are potentially affecting landowners' interests. This situation is also affected by the large scale of these plans and the consequential difficulties in being able to interpret, with reliability, the precise extent of map notations as they affect specific sites within the Plan area. Although I am not able to recommend the replacement of Figures 7-10 for the reason stated above, I consider that the Policy does need to be qualified by an advisory note regarding their accuracy for the information of future users of the Plan. I further consider that, in any future review of the Plan, Figures 7-10 should be replaced by a series of plans that depict the extent of the various landscape and habitat designations within the Plan area with much greater clarity. I also take account of other representations that have been made to this Policy and consider that a number of amendments to the Policy text are necessary. These amendments are addressed by recommended modification **PM7**.

- 4.37 Policy FAV8 (Flooding and Surface Water) is in four parts and states that development must have no significant adverse impact on the risk of flooding and should take opportunities to improve flood water disposal, and that development will not be supported if it would compromise infrastructure to prevent flooding or the management of flooding incidents. It goes on to state that new-build development should include Sustainable Drainage Systems as an integral part of the landscape and green infrastructure, and that hard surface treatments should be permeable to allow water to penetrate, where ground conditions allow. I consider that the Policy is appropriately drafted.
- 4.38 Policy FAV9 (Air Quality) is in three parts and states that development must have no significant adverse impact on local air quality. Development within the A2 Air Quality Management Area (AQMA) must include features to avoid any worsening of air quality or to improve air quality. It goes on to state that development which generates additional car journeys should

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<sup>15</sup> See Swale Biodiversity Baseline Study report (referenced in response to Question No. 4) and PPG Reference ID: 74-006-20240214.

include tree planting using native species or other design or landscape features to help improve air quality.

- 4.39 I consider that the Policy is appropriate, subject to one focused amendment to provide clarity for users of the Plan. This amendment is addressed by recommended modification **PM8**.
- 4.40 With recommended modifications PM7 and PM8, I consider that the draft Plan's section on Environment (Policies FAV7-FAV9) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Design

- 4.41 Sub-section 3.6 of the Plan covers the theme of Design within the Plan area and contains one policy (Policy FAV10) which addresses sustainable design and character.
- 4.42 Policy FAV10 (Sustainable Design and Character) is a lengthy policy with nine parts. In summary, it provides policy guidance on the topics of townscape character, site topography, landscaping, public realm, permeability of site layouts to prioritise pedestrian movement, meeting the needs of people with limited mobility, street frontage boundary treatment, building materials, environmental performance and external lighting. The policy takes account of the supporting document, Faversham Design Guidance and Codes (May 2021) (AECOM), in establishing the design principles that are contained in the policy.
- 4.43 Kent County Council recommend one focused amendment to the Policy text, with which I concur. I also consider that the Policy should make reference to the 'Faversham Design Guidance and Codes' supporting document, to enable users of the Plan to fully interpret the Policy's requirements. Accordingly, I recommend modification **PM9** to address these amendments.
- 4.44 With recommended modification PM9, I consider that the draft Plan's section on Design and its accompanying policy (Policy FAV10) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Historic Buildings, Places and Landscapes

- 4.45 Sub-section 3.7 of the Plan covers the theme of Historic Buildings, Places and Landscapes within the Plan area and contains one policy (Policy FAV11).
- 4.46 Policy FAV11 (Heritage) is a lengthy policy with nine parts. In summary, it states that heritage-led regeneration and the adaptation and re-use of

historic buildings will be supported, providing such works preserve or enhance the character or appearance of Conservation Areas and preserve listed buildings and their settings. Development should take opportunities to use and refurbish non-designated heritage assets. Development in the three Conservation Areas should preserve or enhance their character or appearance and setting. It further states that development should have no adverse impact on the rural setting of Faversham, including on historic and surviving historic features and that development should take opportunities to realise the cultural and economic potential of the heritage associated with Faversham's traditional industries. It also states that development within or affecting the Urban Archaeological Zones, as defined on Figure 12, should take account of this in its design, mitigation of impacts and construction, and that the design and layout of development must take account of key views towards the churches and historic landmarks in the Plan area. Finally, it sets out guidance on the retention of historic shopfronts or surviving features and new or altered shopfronts.

- 4.47 Subject to a number of focused amendments and additions necessary to ensure its clarity for users of the Plan, and to correct some errors<sup>16</sup>, I consider that the Policy is appropriately drafted. Accordingly, I recommend modification **PM10** to address the necessary amendments.
- 4.48 With recommended modification PM10, I consider that the draft Plan's section on Historic Buildings, Places and Landscapes and its accompanying policy (Policy FAV11) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Community Facilities

- 4.49 Sub-section 3.8 of the draft Plan addresses the theme of Community Facilities within the Plan area and contains one policy (Policy FAV12).
- 4.50 Policy FAV12 (Community Facilities) is in five parts and states, in summary, that development to provide new or improved community facilities will be supported in and around Faversham Town Centre, where there are existing clusters of community facilities, in easy walking distance of existing housing and as part of new housing development. It goes on to state that, for housing schemes, the design of recreational space and play facilities should take account of the needs of people of all ages, including children and teenagers. The loss of community facilities, including public houses and sports facilities, will only be supported where similar or better facilities are provided in close proximity, or where it can be demonstrated that continuing use is non-viable. Finally, it states that development should support active travel, meeting the requirements of

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<sup>16</sup> Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

Policies FAV4 and FAV10. I consider that the Policy is appropriately drafted, subject to one focused amendment which is addressed by recommended modification **PM11**.

- 4.51 With recommended modification PM11, I consider that the draft Plan's section on Community Facilities and its accompanying policy (Policy FAV12) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Local Green Space

- 4.52 Sub-section 3.9 of the Plan is entitled Local Green Space and contains one policy (Policy FAV13).

- 4.53 The draft Plan notes that 18 Local Green Spaces within the Plan area are presently designated by the adopted SBLP through Policy DM18 (Local Green Spaces) in the Local Plan. Policy FAV 13 (Local Green Space) proposes the designation of a further eight Local Green Spaces as follows:

FNP/LGS/001 – Playing field and play area at the Windermere Estate.

FNP/LGS/002 – Land adjacent to New Creek Road.

FNP/LGS/003 – Playing area and pitch at junction of Bysing Wood Road and Giraud Drive.

FNP/LGS/004 – Crab Island, Front Brents.

FNP/LGS/005 – Field from Upper Brents towards Faversham Creek.

FNP/LGS/006 – Woodlands at Wildish Road.

FNP/LGS/007 – Former play area off Wallers Road and rear of Lion Field.

FNP/LGS/008 – Playing area and field at Lower Road/Bensted Grove.

The Policy states that development should not encroach onto Local Green Space, unless it is specifically required to support the community use of the space, it is small in scale and discreetly located and its design complements the green character of the space. It goes on to state that development adjacent to Local Green Space or affecting its setting must have no adverse impact on the amenity, safety or accessibility of the space and should take opportunities to enhance the settling of the space.

- 4.54 With regard to the above-listed proposed Local Green Spaces, I raised a question (Question No. 5) regarding the mapping of each of the proposed allocations. These are presently shown on Figures 13-20 in the draft Plan, but these maps are not appropriate for a statutory development plan document. I therefore requested that the Qualifying Body, possibly in conjunction with the Council, provide a set of replacement Inset Maps that I may consider as a modification to the draft Plan. As part of the combined response to the questions dated 4 January 2024, the Council has provided a set of replacement Inset Maps on an Ordnance Survey base, defining (with a red line) the boundaries of each of the proposed Local Green Spaces.



4.55 I visited all of the sites listed above during the course of my site visit and have assessed the proposed designation of each of the eight sites as a Local Green Space against the criteria set out in the NPPF (at paragraph 106), which states that the Local Green Space designation should only be used where the green space is:

- "a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land."*

I have also given careful consideration to the public consultation that took place in August 2021 regarding the eight proposed Local Green Spaces, following the earlier Call for Sites. The public consultation included an assessment of each site in the context of the NPPF criteria set out above. From my own assessment, including the site visits, I do not disagree with any of the conclusions set out in the assessments that were subject to public consultation in August 2021. I draw specific attention to site FNP/LGS/005 which, although comprising fields mainly in agricultural use, quite evidently comprises an important and sensitive buffer between the urban area of Faversham and the designated Site of Special Scientific Interest (SSSI) and The Swale Ramsar site that lie beyond. The site itself is partly within the SSSI and the Ramsar site and includes priority habitats, and I consider that its designation as a Local Green Space is justified in view of its importance for protecting and safeguarding biodiversity in the area.

4.56 I conclude that all of the eight sites meet the criteria set in paragraph 106, and I further consider the sites should be capable of enduring beyond the end of the Plan period (NPPF, paragraph 105). Accordingly, the sites should be designated as Local Green Spaces in the Plan.

4.57 With regard to the policy text, and specifically in relation to managing development within a Local Green Space, this should be consistent with that for Green Belts (NPPF, paragraph 107). I therefore recommend that the policy text as drafted be modified to reflect that requirement. I also recommend the replacement of Figures 13-20 with the replacement Inset Maps provided by the Council as part of its response dated 4 January 2024. Recommended modification **PM12** addresses the necessary amendments to Policy FAV13 and to Figures 13-20 in the draft Plan.

4.58 With recommended modification PM12, I consider that the draft Plan's section on Local Green Space and its accompanying policy (Policy FAV13) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Renewable Energy

- 4.59 Sub-section 3.10 in the draft Plan is entitled Renewable Energy and contains one policy (Policy FAV14).
- 4.60 Policy FAV14 (Local Renewable Energy Schemes) is in two parts. It states that local renewable energy schemes will be supported, subject to there being no significant adverse impact on the amenities of residential properties and Faversham's historic and natural environments, and also that support will be given to inclusion of micro-generation features in new-build residential, industrial or employment development. Subject to a focused amendment, which is addressed by recommended modification **PM13**, I consider that this policy is appropriately drafted and provides clarity for users of the Plan.
- 4.61 With recommended modification PM13, I consider that the draft Plan's section on Renewable Energy and its accompanying policy (Policy FAV14) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Faversham Creek

- 4.62 Sub-section 3.11 in the draft Plan addresses the Faversham Creek area and contains two policies (Policies FAV15 and Policy FAV16). This section of the Plan is intended to take account of existing policies within the made Faversham Creek Neighbourhood Plan, which will be replaced should this Plan be made following a referendum.
- 4.63 Policy FAV15 (Faversham Creek Policy Area) covers the Policy Area that is defined on Figure 21 and which corresponds to the extent of the area that is presently covered by the made Faversham Creek Neighbourhood Plan. Figure 21, largely due to its scale, is somewhat indistinct and should be replaced by a clearer plan of the Faversham Creek Policy Area, as it is critical to being able to interpret the requirements of this Policy. The Policy is in eight parts and, in summary, states that development will be supported within the Policy area where it comprises uses that enhance the economic, leisure, maritime or recreational use of the Creek, uses that are set out in Policy FAV16 (see also below) or uses that are specified in the relevant site allocation policies for sites within the Policy Area (Policies FAV19-FAV21, FAV24-FAV28 – see also below). Other clauses within the Policy seek to protect existing employment uses, provide more detailed guidance for the development of waterfront sites and guidance to preserve or enhance the Faversham Conservation Area and to preserve the heritage assets in the Faversham Creek area.
- 4.64 I have given careful consideration to the representations that have been made concerning this policy, including those by Southern Water. Overall, I consider that the Policy is appropriately drafted and contains the

necessary guidance for the consideration of development proposals within this important part of the Plan area, subject to certain focused amendments necessary to take account of matters that have been raised within representations. These amendments are addressed by recommended modification **PM14**.

- 4.65 Policy FAV16 (Maritime Gateway Heritage Regeneration Area) also covers sites within the Faversham Creek Policy Area and provides more detailed guidance for developments affecting the use, re-use and refurbishment of buildings and other development proposals in the context of the maritime heritage within the Faversham Creek area. The area covered by this policy is defined on Figure 22. The Policy is in five parts and provides support for proposals that will complement or enhance, and does not harm, the tourism and visitor potential of the area. The Policy notes that development should meet the requirements of Policy FAV15. It identifies business, hospitality, leisure, assembly, recreation, tourism and community uses and workshops, studios and exhibition space, with residential use on upper floors as part of mixed-use schemes, as suitable uses for the historic buildings within the area. It further states that development should include a public walkway along the Creek edge and must take account of the high risk of flooding and include appropriate mitigation. The supporting justification notes that early engagement with the Environment Agency and Southern Water will be required.
- 4.66 I visited the Faversham Creek area during my site visit and have given careful consideration to the various representations that have been made regarding the draft Policies and proposed site allocations that are made within the Plan concerning this area. With regard to Policy FAV16, subject to one reservation, I consider that it is appropriately drafted and provides suitable guidance for proposed developments within the Maritime Gateway Heritage Regeneration Area. I do, however, consider that it should include guidance on the necessity for transport assessments (which I also address in relation to the proposed site allocations) in light of the representations submitted by National Highways. This is addressed by recommended modification **PM15**.
- 4.67 With recommended modifications PM14 and PM15, I consider that the draft Plan's section on Faversham Creek and its accompanying policies (Policies FAV15 and FAV16) is in general conformity with the strategic policies of the SBLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

## Site Allocations

- 4.68 Sub-section 3.12 in the draft Plan (which is incorrectly printed as 1.12) contains ten site allocations within the Plan area for proposed residential or mixed-use development. These are as follows:

Policy FAV19 – Former Coach Depot, Abbey Street – allocated for mixed-use development in Uses Classes C3 and E, and

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- accompanied by Figure 23.
- Policy FAV20 – Ordnance Wharf, Brent Road - allocated for mixed-use development in Uses Classes C3, E and F2, and accompanied by Figures 24 and 25.
- Policy FAV21 – Former Fentiman’s Yard, New Creek Road - allocated for mixed-use development in Uses Classes C3 and E, and accompanied by Figure 26.
- Policy FAV22 – The Railway Yard, Station Road allocated for residential development in Use Class C3, and accompanied by Figure 27.
- Policy FAV24 – Former White Horse Car Park Site, North Lane – allocated for residential development in Use Class C3, and accompanied by Figure 28.
- Policy FAV25 – BMM Weston Ltd. (Parcels 1b and 1c) – land at Brent Road - allocated for residential development in Use Class C3, and accompanied by Figures 29 and 30.
- Policy FAV26 – BMM Weston Ltd. (Parcel 2) – land at Brent Road allocated for residential development in Use Class C, and accompanied by Figure 31.
- Policy FAV27 – BMM Weston Ltd. (Parcel 3) – land at Brent Road - allocated for mixed-use development in Use Classes C3 and E with community uses, and accompanied by Figure 32.
- Policy FAV29 – Kiln Court and Osbourne Court - allocated for residential development in Use Classes C2 and C3, and accompanied by Figure 33.
- Policy FAV30 – Land at Beaumont Davey Close, Ashford Road – allocated for residential development (Uses Classes not specified), and accompanied by Figure 34.

4.69 For clarity, there are not proposed site allocations in the draft Plan with the policy references FAV17, FAV18, FAV23 and FAV28. Therefore, Policies FAV19-FAV22/FAV24-FAV27/FAV29/FAV30 need, in due course, to be re-numbered as Policies FAV17-FAV26 to avoid any possible misunderstandings for users of the Plan.<sup>17</sup>

4.70 With regard to the above-listed site allocations, I raised a question (Question No. 7) regarding the mapping of each of the proposed allocations. I requested that the Qualifying Body, possibly in conjunction with the Council, provide a set of replacement Inset Maps that I may consider as a modification to the draft Plan. Furthermore, I sought confirmation that this section of the Plan should be numbered 3.12. As part of the combined response to my questions dated 4 January 2024, the Council has provided a set of replacement Inset Maps on an Ordnance Survey base, defining (with a red line) the boundaries of each of the proposed site allocations. The Qualifying Body also confirmed that this section of the draft Plan should be numbered 3.12. I address these necessary amendments as part of recommended modification **PM16**.

<sup>17</sup> See paragraph 4.76 below.

- 4.71 The supporting justification to these policies (at pages 94 and 95) sets out the process by which the sites covered by the proposed site allocations for residential development were identified and assessed. In summary, the Swale Strategic Housing Land Availability Assessment (SHLAA) (April 2020) was reviewed, which identified a total of 24 sites in the Plan area, two of which are only partly within the Plan area. This was followed by a Call for Sites in early-2021<sup>18</sup>, which yielded submissions for a total of 20 sites, five of which were included in the SHLAA. The Town Council then undertook a public consultation on its proposed site selection criteria in May 2021.<sup>19</sup> This was followed by the preparation of the Site Options and Assessment Report (October 2021) by AECOM and then by consultation on the proposed sites to be included in the draft Plan in March 2022.<sup>20</sup> It should be noted that five of the proposed site allocations (Policies FAV19-FAV21, FAV25 and FAV26) are carried over from the made Faversham Creek Neighbourhood Plan, as development has not yet been commenced at those sites.
- 4.72 The draft Plan has been prepared on the basis of meeting a housing requirement for 219 new homes (see also paragraphs 4.14 and 4.19 above) during the Plan period, which in this context I consider to be for the period up to 2031, pending the publication by the Council of its preferred strategy for addressing the Borough's growth requirements for the period beyond 2031 as part of the emerging Local Plan Review.
- 4.73 I have considered all of the supporting studies and evidence that underpin the identification, assessment and selection of the proposed sites listed above and am satisfied that a comprehensive and transparent approach was undertaken, in accordance with the published guidance on this topic. I visited all of the sites during the course of my site visit and am satisfied that they all constitute appropriate site allocations for the types of development being proposed.
- 4.74 However, I note that the proposed policies do not contain indicative estimates of the likely numbers of residential units or the extent of Class E and other floorspace that could be delivered as part of the proposed development of each site. Some of this information is available in the supporting studies, but is variable depending upon the density and potential mix of development. I do not recommend any specific modifications to the policy text to address this particular point, as ultimately it will depend upon the submission and consideration of detailed planning applications and whether they meet the requirements of all relevant planning policies in this Plan and the adopted SBLP. In reaching that conclusion, I have taken account of all representations that have been made concerning the specific site allocations and the proposed uses at each of the sites. Nevertheless, I do take account of the representations submitted by National Highways who seek greater clarity

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<sup>18</sup> [Site Selection - Call for Sites - Faversham Town Council](#)

<sup>19</sup> [Site Selection Criteria: Public Consultation - Faversham Town Council](#)

<sup>20</sup> [Long-list-Feb-2022-version.pdf \(favershamtowncouncil.gov.uk\)](#)

on the proposed quanta of residential units and non-residential floorspace that will come forward. This is a matter that I consider can also come forward at the planning application stage, but does necessitate an amendment to the Policy text to stipulate that transport assessments will be required for the development proposals at these sites. I also recommend a series of other focused amendments to take account of matters raised in other representations, notably by Kent County Council. These matters are all addressed by consolidated modification **PM16**.

## Other Matters

- 4.75 As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications in this report, it should be re-checked for any typographical errors and any other consequential changes, etc. For example, there are some minor errors across the Plan regarding references to its Policies, e.g. at sub-section 2.4, and a number of spelling mistakes, e.g. "Kent Country Council" on page 65. Minor amendments to the text and numbering (sections, paragraphs etc.) can be made consequential to the recommended modifications, alongside any other minor non-material changes or updates, in agreement between the Town Council and the Council.<sup>21</sup> The many references in the draft Plan to the "Local Plan Review 2021 – Pre-Submission Document Regulation 19, Swale Borough Council" may also need to be updated and qualified to reflect the prospective revised timetable for the next stages of the Local Plan Review, which had not been published at the time of this examination. The most recent statement set out on the Council's web-site states that:

*"At the meeting of the Council on 15<sup>th</sup> November 2023 Members agreed to continue to postpone the next formal consultation stage of the Local Plan Review. This makes the latest LDS out of date. The LDS is intended to be revised after the next NPPF has been published and the Government's intention towards Local Plan making has been made clear. Until then background work on the Local Plan Review continues. Updates to the timetable and new LDS will be posted here in due course."*

(as viewed on 12 February 2024)

- 4.76 Similarly, factual references in the draft Plan to the published NPPF should be updated to reflect the most recent December 2023 version, for example at pages 18, 26 and 94 (the latter two references should now cite NPPF paragraphs 67 and 68).

## Concluding Remarks

- 4.77 I conclude that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Faversham Neighbourhood Development Plan 2023-2038 meets the Basic Conditions for neighbourhood plans.

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<sup>21</sup> PPG Reference ID: 41-106-20190509.

## 5. Conclusions

### Summary

- 5.1 The Faversham Neighbourhood Development Plan 2023-2038 has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the Plan, and the supporting documents submitted with the Plan together with the Town Council and the Council's responses to my questions.
- 5.2 I have made recommendations to modify certain policies and other matters to ensure that the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. I conclude that the Faversham Neighbourhood Development Plan 2023-2038, as modified, has no policy or proposal which I consider to be significant enough to have an impact beyond the designated Neighbourhood Development Plan boundary, requiring the referendum to extend to areas beyond that boundary. I therefore recommend that the boundary for the purposes of any future referendum on the Plan, should be the boundary of the designated Neighbourhood Area.

### Overview

- 5.4 It is clear that the Faversham Neighbourhood Plan 2023-2038 is the product of much hard work undertaken since 2020 by the Town Council and the many individuals and stakeholders who have contributed to the preparation and development of the Plan. In my assessment, the Plan reflects the land use aspirations and objectives of the Faversham community for the future planning of their area up to 2038. The output is a Plan which should help guide the area's development over that period, making a positive contribution to informing decision-making on planning applications by Swale Borough Council.

*Derek Stebbing*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Front Cover	Insert the Plan period “ <b>2023-2038</b> ” prominently on the Front Cover.
PM2	Page 6	<p><u>Paragraph 1.3 – Monitoring and Review</u></p> <p>Delete second sentence in full and replace with:</p> <p><b>“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.”</b></p>
PM3	Page 28	<p><u>Policy FAV2 – Housing Development</u></p> <p>Add new clause 1 of the Policy text to read as follows:</p> <p><b>“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.”</b></p> <p>Amend existing clauses 1 and 2 to be <b>clauses 2 and 3</b> respectively.</p> <p>Add the word “<b>also</b>” after the words “Residential development will” in clause 2.</p> <p>Amend third paragraph of the text under ‘Interpretation’ to refer to <b>clause 2</b>.</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><b>"2. The provision of affordable housing, as an integral part of proposed residential development, in accordance with the requirements of Policy DM8 of 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."</b></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><b>"1. 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.</b></p> <p><b>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.</b></p> <p><b>The Transport Assessment should address whether any mitigations will be required, and how such mitigations can be provided as part of the development proposals."</b></p>

		<p><u>Interpretation</u></p> <p>Delete existing text in full and replace with:</p> <p><b>“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.”</b></p>
PM6	Page 37	<p><u>Policy FAV6 - Footpaths, Bridleways and Cycleways</u></p> <p>Amend Policy title to read:</p> <p><b>“Public Rights of Way, National Trails, Promoted Routes and Cycleways”.</b></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 <b>Figures 7-11</b>)”.</p> <p>Clause 1 – add the following text to this clause:</p> <p><b>“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.”</b></p> <p>Clause 2 – delete the words “create net gain” and replace with the words “<b>to create Biodiversity Net Gain</b>”.</p> <p>Clause 3 – delete the word “though” and replace with “<b>through</b>”.</p> <p>Clause 6 – add the following text after the words “fruit orchards:</p> <p><b>“that meet the relevant criteria to be considered a BAP priority habitat.”</b></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><b>"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."</b></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><b>"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."</b></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><b>"Proposals for new development in the Plan area should take account of the following design requirements, and also the guidance set out in the accompanying 'Faversham Design Guidance and Codes' (May 2021) (AECOM) supporting document:"</b></p> <p>Part 4 of the Policy text amend the words "with connections to surrounding pathways," to read "<b>with connections to the Public Rights of Way network and National Trails, the surrounding</b>".</p> <p>Add new clause 10 to read as follows:</p> <p><b>"10. Green design features, including the provision of street trees and garden trees, the use of traditional hedges for</b></p>

		<b>boundary treatment and features to support wildlife such as bat boxes, bird boxes, swift bricks and hedgehog gaps."</b>
PM10	Page 61	<p><u>Policy FAV11 – Heritage</u></p> <p>Part 1 of the Policy text – amend the words "conservation areas" to read "<b>Conservation Areas</b>".</p> <p>Part 5 of the Policy text – amend the words "Ham marshes" to read "<b>Ham Marshes</b>".</p> <p>Part 7 of the Policy text – amend the words "(see figure 14)" to read "<b>as shown on Figure 12</b>".</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><b>"Proposals for new development should also take account of the guidance and information contained in 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)."</b></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 "<b>improved</b>", and add the following text at the end of this clause:</p> <p><b>"or it can be demonstrated to form a necessary part of a wider public service reorganisation."</b></p>
PM12	Pages 67-78	<p><u>Policy FAV13 - Local Green Space</u></p> <p>Re-title Section 3.9 as "<b>Local Green Spaces</b>".</p> <p>Re-title Policy FAV13 as "<b>Local Green Spaces</b>".</p> <p>Delete parts 2 and 3 of the Policy text in full, and replace with:</p>

		<p><b>"2. Development proposals in the eight designated Local Green Spaces listed above and defined on Figures 13-20 will be managed in accordance with national policy for Green Belts."</b></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>
PM13	Page 81	<p><u>Policy FAV14 – Local Renewable Energy Schemes</u></p> <p>Amend the word "faversham's" in clause 1b to read "<b>Faversham's</b>".</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><b>"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."</b></p> <p>Clause 7 – add the following text to this clause:</p> <p><b>"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."</b></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>
PM15	Pages 89 and 90	<p><u>Policy FAV16 – Maritime Gateway Heritage Regeneration Area</u></p> <p>Clause 1. Insert the words "<b>within the area defined on Figure 22</b>" 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><b>“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.”</b></p> <p>Page 90 – 3<sup>rd</sup> paragraph – delete “Frank Whitsome” and replace with <b>“Frank &amp; Whittome”</b>.</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 <b>“3.12”</b>.</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><b>“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.”</b></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><b>“Development should have no adverse impact on Public Right of Way ZF39 and the King Charles III England Coast Path (KC3CP) National Trail which are adjacent to this site.”</b></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><b>“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.”</b></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><b>“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.”</b></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><b>“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.”</b></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><b>“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.”</b></p>
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