



**Intelligent Plans**  
and examinations

# **Report on the Fawkham Neighbourhood Development Plan 2023 - 2040**

**An Examination undertaken for Sevenoaks District Council with the support of the Fawkham Parish Council on the April 2024 submission version of the Plan.**

Independent Examiner: Derek Stebbing BA (Hons) DipEP MRTPI

Date of Report: 24 October 2024

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## Main Findings - Executive Summary

From my examination of the Fawkham Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in the Appendix to 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 Fawkham Parish Council;
- the Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, the boundary of which is identified on the Map at Page 5 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2023 to 2040; 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

### Fawkham Neighbourhood Plan 2023-2040

- 1.1 The Parish of Fawkham is within the north of Sevenoaks district in Kent, adjoining the district's boundary with Dartford Borough and close to the boundary of Tonbridge and Malling Borough. To the east lies Hartley Parish, with Horton Kirby and South Darenth Parish to the west; Ash-cum-Ridley Parish to the south-east; and West Kingsdown Parish to the south. Until 1974, the Parish was within the former Dartford Rural District area.
- 1.2 Fawkham is a very rural Parish covering some 664 hectares. It has a distinctive landform and character comprising the long Fawkham dry chalk valley, the steep dry Pennis valley to the east and the Horton Wood ridge to the west, which separates the Fawkham valley from the Darent valley. The entire Parish is within the designated Metropolitan Green Belt.
- 1.3 Fawkham is defined as a hamlet by Sevenoaks District Council. There is no discernible village centre, and the main settlement pattern comprises three small clusters of development dispersed along the floor of the dry chalk valley, Fawkham Green, a cluster adjoining the primary school and village hall and Baldwins Green.

- 1.4 At the 2021 Census, the Parish's population was 553, with 59.1% of the population being aged between 16 and 64 and 23.1% being aged over 65. There were 223 households in the Parish in 2021.
- 1.5 Within the Parish, employment is focused on the businesses providing local services, such as the public and private primary schools, the sports and leisure businesses and the agricultural sector. The nature of the road network throughout the Parish, much of which comprises narrow, winding lanes, constrains many businesses using commercial vehicles. The Parish is not served by any public transport services, and there are no retail, health or children's play areas within the Parish. Most services and facilities serving the Fawkham community are in the towns of Gravesend and Dartford, both of which are 13 kilometres from Fawkham, and at Sevenoaks which is 19 kilometres to the south. Some services and facilities are available in the village of Longfield which is 4 kilometres to the north.
- 1.6 The Fawkham Local Landscape Character Assessment (2022) identifies five Local Landscape Character Areas (LLCAs) within the Parish, some of which extend across the Parish boundary into Hartley Parish. These are shown on Map 1 in the draft Plan. Almost 13% of the Parish is covered by Ancient Woodland, and in total 22% of the Parish is woodland. The Parish has 13 listed buildings and structures, the earliest being the Grade I listed St. Mary's Church dating from the 12<sup>th</sup> century. There is one designated Conservation Area at Baldwins Green, which includes St. Mary's Church and a cluster of historic buildings at the junction of Valley Road and Castle Hill. There are four Local Wildlife Sites in the Parish at Horton Wood, Churchdown Wood, Saxten's Wood and along a Field Edge near Fawkham.
- 1.7 Fawkham village hall is the principal community facility in the Parish and provides a venue for indoor leisure activities and other community events. The privately-owned Boxing Stables Gym and Brands Hatch Place Health Club serve a wider catchment.

### The Independent Examiner

- 1.8 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Sevenoaks District Council (the District Council), with the agreement of Fawkham Parish Council (the Parish Council).
- 1.9 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.

1.10 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 draft Plan.

### The Scope of the Examination

1.11 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.

1.12 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').

1.13 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

1.14 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.

1.15 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.<sup>2</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 At the date of this examination, the adopted Development Plan for this part of the Sevenoaks District Council area, not including documents relating to excluded minerals and waste development, comprises the Sevenoaks Core Strategy Development Plan Document (DPD), adopted on 22 February 2011, and the Allocations and Development Management Plan (DPD), adopted on 17 February 2015.
- 2.2 The Plan area is also covered by the Kent Minerals and Waste Local Plan 2013-2030 (as amended by Early Partial Review) (adopted September 2020) and its accompanying Mineral Sites Plan (adopted September 2020).
- 2.3 Sevenoaks District Council is presently preparing a new Local Plan (Plan 2040) covering the period up to 2040. Two Regulation 18 consultations have been undertaken, firstly during November 2022-January 2023 and secondly during November 2023-January 2024. Following the publication

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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.

in August 2024 of the proposed amendments to the National Planning Policy Framework (NPPF)<sup>3</sup>, it is understood that the District Council will now await final publication of the revised NPPF, with a view to undertaking a further Regulation 18 consultation in Spring/Summer 2025 taking into account the updated Framework policies. It is then expected that the Regulation 19 Pre-submission consultation will be held prior to the submission of the draft Plan to the Planning Inspectorate for Examination by the Government's proposed deadline of December 2026. This information updates the District Council's earlier response to Question No. 6 (see paragraph 2.8 below).

- 2.4 The Basic Conditions Statement (at pages 17-25) provides a full assessment of how each of the policies proposed in the Plan are in general conformity with the relevant strategic policies in each of the adopted Development Plan Documents. Whilst there is no requirement for the Plan to be in general conformity with any strategic policies in the emerging new Local Plan, there is an expectation that the District Council and the Parish Council will work together to produce complementary plans.<sup>4</sup> I therefore recommend a modification (see PM16) to address the future monitoring and review of this Plan in light of the emerging new Local Plan.
- 2.5 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF) and is accompanied by the Planning Practice Guidance (PPG) which offers guidance on how this policy should be implemented. All references in this report are to the latest iteration of the NPPF dated December 2023 and the accompanying PPG.

### 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 Fawkham Neighbourhood Plan 2023-2040 Submission Version (April 2024) and its Appendices;
  - the Strategic Environmental Assessment Screening Assessment Report (June 2023);
  - the Basic Conditions Statement (April 2024);
  - the Consultation Statement (May 2024);
  - all the representations that have been made in accordance with the Regulation 16 consultation<sup>5</sup>; and
  - the request for additional clarification sought in my letter of 30 July 2024 to the Council and the Parish Council and their responses

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<sup>3</sup> It is anticipated that the revised NPPF will be published in final form late 2024/early 2025): [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system)

<sup>4</sup> Paragraph 184 of the NPPF and PPG Reference ID: 41-009-20160211.

<sup>5</sup> View the submission documents at: [Fawkham Neighbourhood Plan | Sevenoaks District Council](#)



dated 29 August 2024 and 30 August 2024<sup>6</sup>, together with further correspondence regarding Question 4 (regarding Policy FNP15) (see paragraph 2.8 below) from the Parish Council on 2 September 2024 and 17 September 2024 and from the District Council on 12 September 2024.

## Supporting Documents

2.7 I have also considered the various supporting documents to the submission Plan, including:

- Evidence Reports on:
  - Biodiversity Assets (March 2024);
  - Community Facilities (February 2024);
  - Dark Skies (January 2024);
  - Flooding and Water Quality (January 2024);
  - Heritage Assets (January 2024), including the Baldwins Green Conservation Area Appraisal (Sevenoaks District Council – December 2003);
  - Housing (February 2024), including the Housing Needs Survey (February 2022) (Action with Communities in Rural Kent);
  - Informal Outdoor Recreation (January 2024)
  - Indoor Leisure Facilities (January 2024);
  - Local Economy (January 2024);
  - Open Space (January 2024);
  - Transport (January 2024);and
  - Views (January 2024);
- Fawkham Parish Landscape Character Assessment (April 2022) (Fiona Fyfe Associates Ltd.).
- Countryside Survey 2021.
- Fawkham Primary School Children’s Survey.
- Fawkham Parish Survey 2019.<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 District Council and the Parish Council on 30 July 2024<sup>8</sup> seeking further clarification and information on six matters contained in the submission Plan, as follows:

1. Firstly, with regard to Policy FNP5 (Groundwater Source Protection Zone), I considered that, as drafted, this Policy is too brief and fails to provide sufficient guidance for users of the Plan regarding the necessary mitigations that will need to be incorporated in development

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<sup>6</sup> View at: [Fawkham Neighbourhood Plan | Sevenoaks District Council](#) and at [Neighbourhood Plan – Fawkham Parish Council \(fawkhampc.org.uk\)](#)

<sup>7</sup> View at: <https://fawkhampc.org.uk/home-1/neighbourhood-plan/key-documents/>

<sup>8</sup> View at: [Fawkham Neighbourhood Plan | Sevenoaks District Council](#)

proposals, to ensure that there is no risk of contamination to groundwater sources. I therefore requested that the Qualifying Body provide me with a note setting out the draft text of an extended policy that addresses the important matters that are set out in the supporting justification to the Policy, which I may consider as a proposed modification to the Plan. In that regard, I drew the Qualifying Body's attention to the representation submitted by the Environment Agency which should be taken into account. I further noted that the representation submitted by Southern Water states, inter alia, that "*Southern Water does not provide water supply or wastewater collection services to Fawkham*". I requested that the Qualifying Body therefore check the accuracy of the information contained in the second paragraph of text on Page 40 in the draft Plan.

2. Secondly, with regard to Policy FNP7 (Soil Conservation), I also considered that, as drafted, this Policy is too brief and fails to provide sufficient guidance on how it can be implemented through the planning process. I noted that it will also not apply to all development proposals. I therefore requested that the Qualifying Body provide me with a note setting out the draft text of an extended policy that sets out the matters that should be addressed as part of the relevant development proposals to which the Policy could be applicable, which I may consider as a proposed modification to the Plan.
3. Thirdly, with regard to Policy FNP9 (Business Development), I noted that Part 3 of this draft Policy states that "*Priority will be given to business uses, or tourist facilities, in the conversion of buildings*". I considered that this part of the Policy does need to be amplified, for the benefit of users of the Plan, by providing clearer guidance particularly on the nature of the "tourist facilities" that would be considered to be appropriate. For example, does it include tourist accommodation or visitor attractions? I therefore requested that the Qualifying Body provide me with a note setting out the draft text of an extended Part 3 to this Policy which I may consider as a proposed modification to the Plan.
4. Fourthly, with regard to Policy FNP15 (Land at Small Grains), I noted from the representations submitted by the District Council that all of the land identified on Map 12 in the draft Plan for the proposed car parking improvements at Small Grains is owned by the District Council, and that, as the landowner, the District Council stated that it does not support this Policy and that the land is not available for the proposal. In this situation, without the agreement of the landowner, I considered that this Policy cannot be implemented. I therefore invited the Qualifying Body to confirm that the Policy and accompanying Map 12 should be recommended for deletion from the draft Plan. I further noted that Project FP2, as listed at Appendix 3 in the draft Plan, also addresses this matter, as a potential future community project to be led by the Parish Council and that my examination will not address the various projects that are listed at Appendix 3.

5. Fifthly, with regard to Policy FNP12 (Protection of Open Space, Sport and Recreation Facilities) and Map 10 in the draft Plan, I noted that the representations submitted on behalf of the Billings Group state that the Corinthian Sports Club and the Redlibbets Golf Club are operated as private member sports facilities with no non-paying general public access. As such, the representation states that neither of these sites should fall within the normal definition of 'open space' for the purposes of Policy FNP12. I considered that Policy FNP12 does need to distinguish much more clearly between the categories of open space, sports and other recreational facilities within the Parish and that, as drafted, the term 'open space' is not appropriate for all of the typologies of open space, sports and recreation provision that are defined on Map 10 (and also at Appendix 2) in the draft Plan. I therefore requested that the Qualifying Body provide me with a note setting out draft revisions to the text of Policy FNP12, in the context of the points that I had noted, and importantly providing a clear distinction between areas of public open space; other open spaces; and privately-owned sports and recreational facilities. This would enable me to consider an appropriate proposed modification to the Plan.
  6. Finally, with regard to the emerging Sevenoaks Local Plan (Plan 2040), I sought the District Council's confirmation that the Regulation 19 Pre-submission Consultation for the emerging Sevenoaks Local Plan (Plan 2040) is scheduled to be undertaken over Winter 2024/2025, as shown in the District Council's latest Local Development Scheme (July 2024). See also paragraph 2.3 above.
- 2.9 In response to my letter of 30 July 2024, the District Council and the Parish Council provided me with responses to the questions listed above on 29 August 2024 and 30 August 2024 respectively. With regard to the District Council's response to Question 6, this has subsequently been updated by further information provided by the District Council as set out at paragraph 2.3 above. These responses were then followed by further correspondence regarding Question 4 (regarding Policy FNP15) from the Parish Council on 2 September 2024 and 17 September 2024, and from the District Council on 12 September 2024. I have taken full account of the additional information contained in these responses and subsequent correspondence 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 District Council and Parish Council by their relevant number, e.g. Question 1. Readers should refer to paragraph 2.8 above, and to the response documents and subsequent correspondence from the Parish Council and the District Council, for the full text of questions and responses.

## Site Visit

- 2.11 I made an unaccompanied site visit to the Neighbourhood Plan Area on 25 August 2024 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.

## 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.

# 3. Procedural Compliance and Human Rights

## Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by Fawkham Parish Council, which is a qualifying body. An application to Sevenoaks District Council for the Parish Council area to be designated a neighbourhood planning area was made in January 2021 and was approved by the District Council in May 2021. The designated Fawkham Parish Neighbourhood Area is shown on the Map contained at Page 5 in the draft Plan.
- 3.2 It is the only Neighbourhood Plan for Fawkham and does not relate to land outside the designated Neighbourhood Plan Area.

## Plan Period

- 3.3 The Plan specifies (on the front cover and within the document) the period to which it is to take effect, which is between 2023 and 2040. This aligns with the end date of the emerging Sevenoaks Local Plan (Plan 2040), and covers the remainder of the plan period covered by the adopted Core Strategy DPD and the Allocations and Development Management DPD.

## Neighbourhood Plan Preparation and Consultation

- 3.4 The Plan has been prepared in response to the Localism Act 2011. The Consultation Statement and its Appendices 1-7 contains a record of the principal consultation activities that took place. Preliminary informal engagement work was undertaken towards the end of 2020, with the preparation of the Plan commencing in early-2021 guided by a Neighbourhood Plan Steering Group comprising members of the community and Parish Councillors. A variety of methods were used to communicate with the community and stakeholders during the Plan preparation period, commencing in September 2021 with a Children’s Survey for the pupils of Fawkham Primary School, followed by a Countryside Survey in Autumn 2021 for residents of the Parish and visitors from other areas. A Local Housing Needs Survey, undertaken by Action with Communities in Rural Kent (ACRK), was undertaken in November 2021. Community engagement continued at regular intervals throughout the Plan preparation period up to July 2023 (when the Regulation 14 consultation commenced) through a Neighbourhood Plan section on the Parish Council’s website, leaflets, banners and posterboards, social media and events such as a picnic for residents and a stall at the Church fetes held in 2021, 2022 and 2023.
- 3.5 During 2022, a Landscape Character Workshop was held as part of the preparation of the Landscape Character Assessment (LCA) and a Visioning Workshop was held to enable residents to contribute to the development of the Plan’s Vision and key Objectives. A Business Survey was undertaken in Spring 2022 with the survey form being distributed to all houses and all known business premises in the Parish.
- 3.6 Work on the preparation of the draft Plan continued during 2022 and early-2023 culminating in the aforementioned Regulation 14 consultation, which was held from 3 July to 15 August 2023. This consultation was accompanied by the distribution of a leaflet to all residential properties in the Plan area, publicity on the Parish Council’s website and on banners and posters at various locations across the Parish, an exhibition at the village hall, together with separate consultations to statutory consultees. A total of 158 comments were made by respondents on the draft Plan, as set out in detail at Appendix 7 to the Consultation Statement.
- 3.7 The outcomes from the Regulation 14 consultation were assessed, and a number of focused amendments and changes were made to the draft Plan in response to the representations received during that consultation period. Further supporting documents were prepared following the Regulation 14 consultation, including the Basic Conditions Statement and the Consultation Statement. A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination Report was prepared by the District Council in June 2023, following consultation with Natural England, Historic England and the Environment Agency.

3.8 The Neighbourhood Plan was formally submitted to Sevenoaks District Council on 10 April 2024. The Plan was subject to further consultation from 7 June to 19 July 2024 under Regulation 16 and I take account of the 72 responses then received in writing this report, as well as the Consultation Statement. I am satisfied that the Plan has been prepared with an appropriate level of consultation with residents and businesses within the Neighbourhood Area at the key stages during its preparation. The consultation process has been open and transparent, has met the legal requirements for procedural compliance and has had regard to the guidance in the PPG on plan preparation and engagement.

### Development and Use of Land

3.9 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### Excluded Development

3.10 The Plan does not include any provisions and policies for 'excluded development'.<sup>9</sup>

### Human Rights

3.11 The Plan must have regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act 1998. From my assessment of the draft Plan, its accompanying supporting evidence and the consultation responses that were made to the Plan at the Regulations 14 and 16 stages, I am satisfied 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 draft Plan was screened for SEA by the District Council in a report dated June 2023. The Screening Determination Report confirms that the Plan has been assessed against the Schedule 1 criteria contained in the SEA Regulations<sup>10</sup> for determining the likely significance of the effects on the environment. The Screening Report concludes (at Section 5, page 16) that the Plan is unlikely to give rise to significant environmental effects and therefore that SEA is not required. The Environment Agency, Historic England and Natural England were consulted on the draft Screening Report during May-June 2023, and they each concluded that the

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<sup>9</sup> See section 61K of the 1990 Act.

<sup>10</sup> The Environmental Assessment of Plans and Programmes Regulations 2004, commonly referred to as the 'SEA Regulations'.



preparation of a SEA is not required. From my own consideration of the matter, I too arrive at that conclusion.

- 4.2 The Plan has also been assessed by the District Council in accordance with the Habitats Regulations Assessment (HRA) screening tests in order to assess its likely effects on sites of European importance. The District Council carried out a screening assessment and concluded that an HRA is not required for the draft Plan as there are no Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar sites that will be impacted by the Plan and its policies. I note that Natural England have not raised any concerns regarding that conclusion. From my own consideration of the draft Plan, I concur with the District Council's conclusion.
- 4.3 On the basis of the information provided and my independent consideration of the SEA Screening Assessment Report (June 2023) and the Plan, I am satisfied that the Plan is compatible with EU obligations as retained in UK law.

### Main Assessment

- 4.4 Having considered 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 1.14 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.
- 4.5 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 15 policies within Section 5 of the draft Plan. These form a part of the five themes of the Plan, which are the Natural and Built Environment, Housing, the Local Economy, Leisure and Wellbeing and Local Infrastructure. However, the Housing theme does not contain any policies as the draft Plan does not identify a specific need to allocate any sites for new housing developments, beyond the planning permissions granted by the District Council (up to March 2023).
- 4.6 I consider that overall, subject to the modifications I will recommend to specific policies, that individually and collectively the policies will contribute to the achievement of sustainable patterns of development and meet the other Basic Conditions. I set out my detailed comments below.
- 4.7 The Plan is addressing a Plan period from 2023 to 2040. The Plan seeks to introduce policies that will protect the distinctiveness provided by the landscape, heritage and character of the Plan area, as well as maintaining community facilities and the local economy.
- 4.8 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 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.*

- 4.9 The Vision for Fawkham Parish and the Strategy for the Plan are set out in Sections 3 and 4 respectively of the draft Plan. The Planning Policies are set out in Section 5 and future Monitoring and Review is addressed in Section 6. I am satisfied that the key issues arising from the NPPF and the strategic policies in the adopted DPDs for Sevenoaks district, as they affect Fawkham, are appropriately referenced within the draft Plan and more fully in the Basic Conditions Statement (at pages 17-25).
- 4.10 However, there are a number of detailed matters which require amendment to ensure that the policies have the necessary regard to national policy and are in general conformity with the strategic policies of the adopted DPDs. Accordingly, I recommend modifications in this report in order to address these matters.

#### Vision and the Fawkham Parish Neighbourhood Plan Strategy

- 4.11 The Vision of the Plan is as follows:

*“Our vision is for Fawkham Parish to retain and enhance the distinctive rural character of the landscape (particularly its woodland, biodiversity and views), the separate, small scale scattered hamlet of Fawkham and the historic Baldwins Green Conservation Area and its setting whilst meeting the limited local housing need, sustaining the local economy and retaining and enhancing the open space and community facilities of the Parish”.*

- 4.12 Key extracts from the Plan’s Strategy are set out below:

*“The national planning policy background to each of the Neighbourhood Plan themes is set out in the relevant sections of the Plan but the general context is that the whole Parish is washed over by the Green Belt where, with a few exceptions, the construction of new buildings is considered inappropriate. The Neighbourhood Plan must also be in general conformity with the strategic policies of the adopted Sevenoaks District Council local plan (currently the Core Strategy, 2011 and the Allocations and Development Management Plan, 2015). These plans do not alter the Green Belt boundary or allocate sites for development within the Parish.”*

*“The Settlement Hierarchy for Sevenoaks District, 2022 prepared by Sevenoaks District Council as a basis for the emerging Local Plan classifies*



*Fawkham as a hamlet with a very small population and very limited range of services and facilities, most of which are inaccessible by sustainable means of transport. The Settlement Hierarchy evidence concludes that it would be unrealistic to expect hamlets to accommodate much new development."*

*"The Neighbourhood Plan is looking to ensure that the limited development which is permitted in the Green Belt will be of an appropriate use and scale, well located and designed to respond to the distinctive local character. As well as the 59 dwellings already permitted in the Parish, limited additional housing development may come forward through affordable housing required to meet local community needs under policies set out in the Local Plan."*

*"The planning strategy seeks to retain the four principal business sites within the Parish and give priority to business uses, or tourist facilities, in the conversion of buildings in the rural area. It is recognised that such sites are situated in the countryside and in locations that are not well served by public transport and development should therefore be sensitive to its surroundings, not have an unacceptable impact on local lanes and exploit any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).*

*"In accordance with the NPPF, the strategic role set for Fawkham in the adopted Local Plan, limited accessible services and the absence of significant local needs, priority is given to protecting the distinctive landscape character of the countryside including the key components of trees, woodland and hedgerows, rural lanes and important public views. The planning strategy also seeks to protect and enhance biodiversity, Local Wildlife Sites and other elements of the Local Ecological Network, and conserve local heritage assets, including listed buildings, the historic character of Baldwin's Green Conservation Area, and their settings."*

*"The Neighbourhood Plan recognises the important community networks in Fawkham and seeks to retain the village hall and public house as important social hubs of the Parish. The church is also protected through its designation as a Grade 1 listed building. The importance of all types of open space is recognised, whether local amenity green space or the tranquil churchyard; local woodland or outdoor sports provision. The Neighbourhood Plan seeks to protect and enhance these areas and the public rights of way that connect them."*

- 4.13 From everything that I have considered and assessed as part of this examination, I consider that the Plan's Strategy is appropriate for the Parish of Fawkham in the context of national policies and the strategic policies of the current adopted DPDs for Sevenoaks district.

## The Planning Policy Context

- 4.14 The draft Plan has been prepared in the context of national policy to contribute to the achievement of sustainable development, and this is also recognised in the Plan's Strategy. It is more fully addressed in the Basic Conditions Statement (at pages 15/16).
- 4.15 I turn now to consider the draft Policies in the Plan, under each of the five themes listed at paragraph 4.5 above.

## Natural and Built Environment

- 4.16 This theme has the following Objectives:
- To protect and enhance the landscape qualities within the Parish.
  - To conserve and enhance woodland, trees and hedgerows.
  - To protect important public views.
  - To retain the character of rural lanes.
  - To conserve and enhance biodiversity and connectivity between habitats.
  - To protect groundwater sources and mitigate the risk of increased surface water flooding.
  - To ensure sustainable on-site soil management associated with development proposals.
  - To preserve and enhance the heritage of the area.
- 4.17 This theme contains eight Policies (Policies FNP1-FNP8), which are considered below.

## Policy FNP1 – Protection and Enhancement of Landscape Character

- 4.18 This Policy states that:
- "Within Fawkham Parish priority will be given to protecting and enhancing the visually rural and predominantly undeveloped landscape from inappropriate development. A proposal for development will only be permitted where it would:
- a) be informed by, and contribute to, local landscape character;
  - b) respect the landscape qualities of the Horton Wood Ridge; Upper Fawkham Valley; Central Fawkham Valley; Pennis Valley and Lower Fawkham Valley Local Landscape Character Areas;
  - c) ensure development would not visually intrude onto the undeveloped horizons and undeveloped slopes of the Upper, Central and Lower Fawkham Valley;
  - d) protect and enhance the distinctive pattern of woodland on high ground and upper valley sides;
  - e) retain and enhance existing hedgerows as landscape features;
  - f) minimise the visual impact of conversions or redevelopment so that they do not have a materially greater impact on the landscape than the current development;

- g) maintain and not adversely impact the distinctive views of the surrounding countryside from public vantage points, in particular the Important Public Views defined in Map 2; and
- h) maintain the areas of dark skies and low level of light pollution away from existing light sources."

It goes on to state that "Proposals for private or public external lighting which are required for safe access and, where carefully justified, for security purposes should:

- i) comply with the current guidelines on the Reduction of Obtrusive Light, 2021 set out by the Institute of Lighting Professionals and the Bat Conservation Trust Guidance Note 08/18 (or any subsequent revisions);
- ii) include full details of the proposed lighting to be installed (number, design, specification, position, height, angle and method of control), documented within a Lighting Plan (or Strategy for larger sites);
- iii) demonstrate within the Lighting Plan/Strategy that proposals are designed to avoid or minimise impacts on retained/proposed habitats and all associated wildlife, including but not limited to legally protected and priority habitats and species;
- iv) be time limited, ideally motion-controlled and installed at a low height;
- v) limit the correlated colour temperature of lamps to 3000 Kelvins or less
- vi) include full shielding (at the horizontal and above) of any lighting fixture exceeding 500 initial lumens."

Finally, it states that "Floodlighting to enable the use of sports facilities will need strong justification and will be required to have time restrictions and automated controls for switch off and dimming with reference to the Guidance Notes for the Reduction of Obtrusive Light, 2021 set out by the Institute of Lighting Professionals and the Bat Conservation Trust Guidance Note 08/18 (or any subsequent revisions)."

- 4.19 This is a lengthy policy and I have given careful consideration to its content and, in particular, whether it is necessary to include the full extent of the various policy criteria that are listed, for example in relation to external lighting proposals. However, I do recognise that this is an important policy which seeks to protect and enhance the landscape characteristics and the natural environment of the Parish, and the maintenance of dark skies and the avoidance of unnecessary light pollution is an important matter in the consideration of development proposals within the Plan area. As such, I consider that its content and length is justified, as it provides comprehensive guidance for users of the Plan on those matters that should be addressed in development proposals. I do recommend one focused amendment to the Policy text, in order to reflect the fact that the Parish Council does not have the function of being able to determine planning applications. This amendment is addressed by recommended modification **PM1**.

## Policy FNP2 – Woodland, Trees and Hedgerows

4.20 This Policy states that:

“A proposal for development will only be permitted where it would:

- a) conserve and enhance woodland, trees and hedgerows;
- b) protect Ancient Woodland, as defined on Map 3, and ancient and veteran trees;
- c) protect Important Hedgerows, as defined on Map 3;
- d) demonstrate that suitable opportunities for the restoration, enhancement or planting of woodland, trees and hedgerows are identified and incorporated provided this would avoid damaging valued areas of other habitat such as species-rich grassland;
- e) provide adequate protection zones and buffers around existing hedgerows and trees to prevent damage to root systems, taking account of future growth; and
- f) plant an appropriate mix of native species, using, where possible, UK & Ireland sourced and grown trees.”

4.21 I am satisfied that this Policy is appropriately drafted, subject to one focused amendment, again to replace the word “permitted” with “supported” in order to reflect the functions of the Parish Council. This amendment is addressed by recommended modification **PM2**.

## Policy FNP3 – Rural Lanes

4.22 This Policy states that:

“A proposal for development will only be permitted where it would not result in unsympathetic change to the character of a rural lane and would have regard to the Boundary Treatment Good Practice Guide in Appendix 1.”

4.23 I consider that this Policy is appropriately drafted, and makes a necessary reference to Appendix 1 of the Plan which contains fuller guidance on boundary treatments which will retain the rural character of the ancient lanes and routeways that characterise the road network in the Parish. A text amendment is necessary, as with other Policies, to reflect the functions of the Parish Council, and this is addressed by recommended modification **PM3**.

## Policy FNP4 – Conserve and Enhance Biodiversity

4.24 This Policy states that:

“A proposal for development should protect and enhance biodiversity of the Parish by:

- a) protecting Local Wildlife Sites and priority habitats, as defined on Map 3, and protected and priority species;

- b) preserving or enhancing the Local Ecological Network, as defined on Map 4;
- c) enhancing biodiversity through a minimum of 10% net biodiversity gain (or as subsequently amended by the Local Plan). Enhancements should focus on protected and priority species known to be present in the Parish, with, where appropriate, priority given to the creation/restoration/ enhancement of species-rich grasslands, hedgerows, woodland and traditional orchards and/or improvements to the connectivity between these habitats, to enhance the Local Ecological Network shown in Map 4. Proposals must include a detailed management plan to ensure successful enhancement secured for at least 30 years, including arrangements for regular monitoring; and
- d) providing an appropriate depth of buffer between the development and a component of the Local Ecological Network. The size of that buffer shall be appropriate to safeguard the significance of that habitat and must itself create, and be maintained as, a suitable complementary natural wildlife haven.

Features such as hedgehog highways and associated holes in fencing; bird and bat boxes; a diverse range of planting providing habitat and forage all year round in landscaping; real turf; ponds and leaving landscape 'wild' with woodpiles and other features are encouraged."

- 4.25 I am satisfied that this Policy is appropriately drafted and takes account of the national policy requirement to secure a minimum of 10% net Biodiversity Net Gain (BNG). However, for accuracy<sup>11</sup>, an amendment to the Policy text is necessary which is addressed by recommended modification **PM4**.

#### Policy FNP5 – Groundwater Source Protection Zone

- 4.26 This Policy states that:

"A proposal for development within the Groundwater Source Protection zones, as shown in Map 5 will be permitted if any risk of contamination can be adequately mitigated."

- 4.27 As part of my initial assessment of the draft Plan, I considered that this Policy fails to provide sufficient guidance for users of the Plan regarding the necessary mitigations that will need to be incorporated in development proposals to ensure that there is no risk of contamination to groundwater sources. In that regard, as part of Question 1 (see paragraph 2.8 above), I drew the Qualifying Body's attention to the representation submitted by the Environment Agency which should be taken into account. I further noted that the representation submitted by Southern Water states, inter alia, that "*Southern Water does not provide water supply or wastewater collection services to Fawkham*" which may conflict with part of the supporting justification for this Policy.

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<sup>11</sup> Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

4.28 In its response to Question 1, dated 30 August 2024, the Parish Council has proposed a set of substantive amendments to the Policy text, and three focused amendments to the text set out on Page 40 of the Plan. I consider that all of these amendments serve to address my initial concerns with regard to this Policy and its supporting justification, and I therefore recommend that the Parish Council's proposed amendments be incorporated in full in the draft Plan. This is addressed by recommended modification **PM5**.

#### Policy FNP6 – Surface Water Flooding

4.29 This Policy states that:

"A proposal for development should be designed to ensure it would not increase surface water run-off and the risks of surface water flooding and, where mitigation measures are required, should give preference to Nature Based Solutions style SuDS, with engineering solutions used only when it has been demonstrated that no other form of SuDs is feasible. Where practicable, SuDs should be positively designed into schemes from the outset as public realm and/or biodiversity features."

4.30 The District Council comment that the Policy should indicate that surface water flooding risk should not be increased both on-site and beyond. I agree with that comment. I also consider it necessary that the Policy text be redrafted to ensure it is clear for users of the Plan. Accordingly, I recommend a modification to the Policy text to provide the necessary clarity, and this is addressed by **PM6**.

#### Policy FNP7 – Soil Conservation

4.31 This Policy states that:

"A proposal for development should demonstrate sustainable on-site soil management and minimise the import of subsoil and topsoil and the export of any excavated ground materials."

4.32 Upon my initial assessment of the draft Plan, I considered that, as drafted, this Policy is too brief, and fails to provide sufficient guidance on how it can be implemented through the planning process. I noted that it will also not apply to all development proposals. I therefore requested, as Question 2 (see paragraph 2.8 above), that the Qualifying Body provide me with a note setting out the draft text of an extended policy that addresses the matters that should be addressed as part of the relevant development proposals to which the Policy could be applicable.

4.33 In its response to Question 2, dated 30 August 2024, the Parish Council has proposed some substantive amendments and revisions to the Policy text, and to the supporting justification for the Policy that is contained on Page 44 in the draft Plan. I consider that these amendments do address my concerns with regard to this Policy, and I therefore recommend that



the Parish Council's proposed amendments be incorporated in full in the draft Plan, and this is addressed by recommended modification **PM7**.

### Policy FNP8 – Heritage

4.34 This Policy states that:

“Fawkham Parish's listed buildings and their settings should be conserved. The open rural character of Baldwin's Green Conservation Area and its setting should be preserved and enhanced. Any development should be designed to a high quality and retain those buildings and other features, including open spaces, trees and views which make a significant contribution to the character of Baldwin's Green Conservation Area.”

4.35 Kent County Council consider that the Policy text should be amended as, at present, the policy only addresses a part of the heritage of the Plan area. I agree with that assessment, and I therefore recommend modifications to the Policy text in order that it reflects more fully the need to conserve the wider heritage of the Plan area. The necessary amendments to the Policy text are addressed by recommended modification **PM8**.

4.36 With recommended modifications PM1-PM8, I consider that the draft Plan's theme on the Natural and Built Environment and its accompanying Policies (Policies FNP1-FNP8) is in general conformity with the strategic policies of the adopted Sevenoaks Core Strategy DPD and Allocations and Development Management DPD, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Housing

4.37 This theme has the following Objective:

- To facilitate local people staying in the Parish through existing and future windfall planning permissions, supporting the adaptation and proportionate additions to existing homes and, where justified, enabling a limited supply of affordable housing which meets the needs of the Parish within the identified policy and environmental constraints.

4.38 The District Council comment that, as this theme does not contain any specific housing policies, particularly in relation to meeting local housing need, it is unclear how the above Objective can be monitored effectively. I do share that concern and it is unusual, in my experience, for a rural Parish such as Fawkham not to contain a policy that seeks to promote the provision of new affordable housing on appropriate sites to meet local needs. In view of the length of this Plan period extending to 2040, the Parish Council may wish to give this matter more detailed consideration as part of a first review of the Plan, in light of an updated Local Housing Needs Assessment as suggested by the District Council. Notwithstanding

this, I recognise ultimately the scope and content of the Neighbourhood Plan is a matter for the Parish Council to determine.

## Local Economy

4.39 This theme has the following Objective:

- To maintain a thriving rural economy by retaining and enabling the regeneration of well-located existing business sites.

4.40 This theme contains one Policy (Policy FNP9), which is considered below.

## Policy FNP9 – Business Development

4.41 This Policy states that:

“1. Sites used for business purposes, as defined on Maps 6 – 9, will be retained in business use unless it can be demonstrated that there is no reasonable prospect of their take up or continued use for business purposes during the Plan period.

2. Existing business sites may be regenerated through redevelopment or the limited extension of an existing building provided:

- a) the redevelopment or extension would not materially harm the openness of the Green Belt;
- b) the extension would be proportional and subservient to the original building;
- c) development, including advertising and lighting, would be integrated sensitively into its context respecting the landscape character of the area and, where applicable, the character and heritage of any existing building;
- d) the amenities of any neighbouring residential occupiers or the tranquillity of the countryside would not be significantly adversely affected;
- e) development would not generate a type or amount of traffic that would be inappropriate to the rural lane network that serves the site and should exploit any opportunity to make the site more sustainable; and
- f) sufficient on-site car and cycle parking would be provided for visitors, staff and delivery vehicles.

3. Priority will be given to business uses, or tourist facilities, in the conversion of buildings.”

4.42 As part of my initial assessment of the draft Plan, I noted that Part 3 of the draft Policy states that “*Priority will be given to business uses, or tourist facilities, in the conversion of buildings*”. I considered that this part of the



Policy does need to be amplified, for the benefit of users of the Plan, by providing clearer guidance particularly on the nature of the “tourist facilities” that would be considered to be appropriate. I therefore requested, as Question 3 (see paragraph 2.8 above), that the Qualifying Body provide me with a note setting out the draft text of an extended Part 3 to this Policy. In its response to Question 3, dated 30 August 2024, the Parish Council has proposed some amendments to Part 3 of the Policy text, and some additional text to the supporting justification for the Policy that is contained on Page 52 in the draft Plan. I consider that these amendments do address my initial concerns with regard to this Policy, and I therefore recommend that the Parish Council’s proposed amendments be incorporated in full in the draft Plan, and this is addressed as part of recommended modification **PM9**.

4.43 The District Council considers that parts of this Policy are contrary to both national and local policy, and in particular clause 2 a). I do not consider that the policy conflicts with national policies, but I do recommend a modification to clause 2 a) of the Policy to ensure that development proposals are consistent with national and local policies for the designated Metropolitan Green Belt. This is also addressed as part of recommended modification **PM9**. Part of the supporting text for this Policy makes a premature judgement of whether permitted development rights would apply to the conversion of buildings at the business sites, and I consider that this should be removed from the Plan. This amendment is also addressed by modification **PM9**.

4.44 With recommended modification PM9, I consider that the draft Plan’s theme on the Local Economy and its accompanying Policy (Policy FNP9) is in general conformity with the strategic policies of the adopted Sevenoaks Core Strategy DPD and Allocations and Development Management DPD, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

### Leisure and Wellbeing

4.45 This theme has the following Objectives:

- To promote well-being and healthy living.
- To protect and enhance open space and the network of footpaths serving the Parish.
- To maintain community meeting places to serve the Parish.

4.46 This theme contains four Policies (Policies FNP10-FNP13), which are considered below.

### Policy FNP10 – Protection of Fawkham Village Hall

4.47 This Policy states that:

“The loss of the village hall community building will be resisted unless it can be demonstrated that demand within the locality for the facility no longer exists and that suitable alternative provision is made elsewhere.”

- 4.48 I consider that a focused amendment is necessary to the text of this Policy in order to ensure that it is clear, and this amendment is addressed by recommended modification **PM10**.

#### Policy FNP11 – Protection of Public House

- 4.49 This Policy states that:

“The loss of The Rising Sun Inn public house will be resisted. Exceptions will be made where evidence is provided to the District Council to show that the operation of the facility is no longer financially viable and where there are no other realistic proposals for a public house use on the site.”

- 4.50 Subject to one focused amendment, I consider that this Policy is appropriately drafted. Recommended modification **PM11** addresses the necessary amendment.

#### Policy FNP12 – Protection of Open Space, Sport and Recreation Facilities

- 4.51 This Policy states that:

“Open space, as defined on Map 10 and Appendix 2, will be retained and, where appropriate, enhanced. Development may exceptionally be allowed where replacement provision of at least equivalent value to the local community is provided.”

- 4.52 As part of my initial assessment of the draft Plan and the representations submitted at the Regulation 16 consultation stage, I took account of the representations submitted on behalf of the Billings Group which stated that the Corinthian Sports Club and the Redlibbets Golf Club within the Parish are operated as private member sports facilities with no non-paying general public access. As such, the representation stated that neither of these sites should fall within the normal definition of ‘open space’ for the purposes of this Policy. I considered that the Policy does need to distinguish more clearly between the categories of open space, sports and other recreational facilities within the Parish, and that, as drafted, the term ‘open space’ is not appropriate for all of the typologies of open space, sports and recreation provision that are defined on Map 10 (and also at Appendix 2) in the draft Plan. I therefore requested, as Question 5 (see paragraph 2.8 above), that the Qualifying Body provide me with a note setting out draft revisions to the text of Policy FNP12, in the context of the points that I had noted, and providing a clear distinction between areas of public open space, other open spaces and privately-owned sports and recreational facilities. This would enable me to consider an appropriate proposed modification to the Plan.

4.53 In its response to Question 5, dated 30 August 2024, the Parish Council has proposed a series of amendments to the Policy text and to the supporting justification for the Policy which is set out on Pages 59-64 in the draft Plan. I have given careful consideration to all of the proposed amendments. I consider that these amendments do serve to address my initial concerns with regard to this Policy and its supporting justification, and I therefore recommend that the Parish Council's proposed amendments be incorporated in full in the draft Plan. This is addressed by recommended modification **PM12**.

#### Policy FNP13 – Protection of Existing Public Rights of Way and Historic Routeways

4.54 This Policy states that:

"The alignment and character of existing public rights of way and historic routeways, as shown on Map 11, will be protected and enhanced unless the alignment causes substantial harm to existing private amenity space by way of overlooking and loss of privacy."

4.55 Kent County Council raise a concern over the wording of this Policy in that, as drafted, the Policy could be interpreted to not protect Public Rights of Way where their alignment causes substantial harm. The Plan cannot contain policies that would lead to the diversion or extinguishment of a Public Right of Way, which is a legal procedure within the responsibilities of the County Council. The Policy text therefore requires amendment, and recommended modification **PM13** addresses the necessary amendments. The County Council also consider that the Monitoring Target for this Policy that is set out on Page 66 in the draft Plan should be revised by the Parish Council, as the target of "*No net loss of length*" would only result from legal Orders made by the County Council or by the County Council on behalf of the District Council. The County Council further comment that it is unclear who would assess any "*net loss of character*". I concur with the County Council's concerns regarding the Monitoring Target and recommend a modification accordingly, which is also addressed by recommended modification **PM13**.

4.56 With recommended modifications PM10-PM13, I consider that the draft Plan's theme on Leisure and Wellbeing and its accompanying Policies (Policies FNP10-FNP13) is in general conformity with the strategic policies of the adopted Sevenoaks Core Strategy DPD and Allocations and Development Management DPD, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

#### Local Infrastructure

4.57 This theme has the following Objective:

- To ensure sufficient infrastructure is provided in a timely manner, appropriate to the scale of new development.

- 4.58 This theme contains two Policies (Policies FNP14 and FNP15), which are considered below.

#### Policy FNP14 – Securing Infrastructure

- 4.59 This policy states that:

“A proposal for development will be expected to ensure provision of the necessary social, physical and green infrastructure needed to support the proposed development.”

- 4.60 The District Council comment that the viability tests set out in both national and local policies may impact on the infrastructure that comes forward as part of development proposals, which could be less than that which might be considered as being ‘necessary’. I agree with that point, and recommend focused amendments to the Policy text accordingly. These amendments are addressed by recommended modification **PM14**.

#### Policy FNP15 – Provision of Small Grains Residents Parking

- 4.61 This Policy states that:

“Land at Small Grains, as defined in Map 12, is allocated for the provision of residents’ car parking.”

- 4.62 The District Council has raised strong objections to this Policy, which I noted as part of my initial assessment of the draft Plan. The objections state that the District Council, as landowner, does not support the allocation of the land defined on Map 12 for car parking. They further state that the Parish Council has not been able to demonstrate site suitability, availability and deliverability and that the proposed allocation has not been fully evidenced or justified. I noted from the Consultation Statement that the issue of car parking at Small Grains had been raised at one of the consultation events held during the Plan’s preparation, and the proposed project for the provision of a parking area and further car parking spaces “*would be an expensive option both in terms of installation and maintenance, although use of CIL funds may be possible*”. I noted from the Regulation 14 Consultation Responses document (at Reference No. 103) that the Parish Council’s response to concerns expressed by the District Council at the Regulation 14 consultation stage was that “*A highway design has been Drawn up by a consultancy of highway engineers to meet Kent County Council standards*”. It is my assumption that this design is the technical drawing contained at Appendix 4 to the Plan, although that is not stated in the Plan itself.
- 4.63 Following my initial assessment, I therefore raised Question 4 (see paragraph 2.8 above) with regard to this Policy. This question stated that I had noted from the representations submitted by the District Council that all of the land identified on Map 12 in the draft Plan for the proposed car parking improvements at Small Grains is owned by the District Council, and

that, as the landowner, the District Council stated that it does not support this Policy and that the land is not available for the proposal. In this situation, without the agreement of the landowner, I considered that this Policy cannot be implemented. I therefore invited the Qualifying Body to confirm that the Policy and accompanying Map 12 should be recommended for deletion from the draft Plan. I also noted that Project FP2, as listed at Appendix 3 in the draft Plan, also addresses this matter, as a potential future community project to be led by the Parish Council and that my examination would not address the various projects that are listed at Appendix 3.

- 4.64 In its response to Question 4, dated 30 August 2024, the Parish Council concluded (at Page 8 of its response document) by stating *“that the Parish Council does not consider that a conclusive or formal decision has been taken by Sevenoaks District Council concerning the current lawful use of the allocated site, its potential preferred use in planning terms or its release. Without such a determination, it cannot be concluded that this Policy cannot be implemented. Given these circumstances, the Parish Council are not currently in a position to confirm that Policy FNP15 and accompanying Map 12 should be recommended for deletion from the draft Plan”*. I subsequently also received details of an application that has been made by the Parish Council to the District Council for a Lawful Development Certificate (Ref. 24/02223/LDCEX) concerning areas of land described as the northern and southern car parks and associated access at Small Grains. At the time of writing this report that application had not been yet determined, and a decision had not been issued.
- 4.65 Following the Parish Council’s response, I received further correspondence from the District Council’s Senior Asset Surveyor on 12 September 2024. This stated, inter alia, that the District Council has always been clear that its objection to the Parish Council’s proposals is to the proposed land use as parking improvements. It goes on to state that the land is not a designated open space as the land was acquired by a predecessor council for housing purposes. Following that correspondence from the District Council, I received a further letter from the Parish Council dated 17 September 2024 commenting on the points raised by the District Council. This letter concluded by stating that *“In the absence of the potential alternative housing development, it is the Parish Council’s wish to work with the District Council to evolve a scheme within the allocated site which serves the adjoining housing development whilst protecting the remaining open space and enhancing the local environment. For this reason, the Parish Council are not currently in a position to confirm that Policy FNP15 and accompanying Map 12 should be recommended for deletion from the draft Plan”*.
- 4.66 I have given very careful consideration to this Policy and to the representations made by the District Council at the Regulation 16 consultation stage and reiterated in subsequent correspondence. I have also taken into account the Parish Council’s response to Question 4 and to the further correspondence and information that I have received from the

Parish Council on this matter. I visited the Small Grains area during the course of my site visit to assess the existing situation and the proposed parking improvements defined on Map 12 in the draft Plan.

- 4.67 I do recognise the Parish Council's desire to achieve improved car parking arrangements for the residents of Small Grains, as it was quite clear from my site visit that there are issues with cars being parked on various parts of the open space, on the roadside verges and on the pedestrian footways. In some places, it is leading to potential hazards for people walking in the area. However, in my assessment the over-riding factor for the purpose of this examination is that the District Council as landowner does not support the Policy and the proposed parking improvements, in principle and in detail. Furthermore, I am not convinced that the proposed new parking arrangements are necessarily the best option that could be designed for providing improved car parking at Small Grains, and that there may be more environmentally acceptable options for providing improved car parking and pedestrian movement in this area.
- 4.68 I further note that the Plan (at Map 10) has removed the Amenity Open Space notation from the land at Small Grains (Site Ref. A4) covered by the proposals contained in Policy FNP15 and Map 12. I do not comment on that point as, in my assessment, that will depend in part upon the outcome of the Parish Council's application for a Lawful Development Certificate (see above) for the areas described as the northern and southern car parks.
- 4.69 It is my conclusion that the Policy, Map 12 and the supporting text should be deleted from the draft Plan, as it is very simply the case that the Policy and its accompanying allocation of land at Small Grains for parking improvements cannot be implemented and delivered without the support of the District Council. The proposals are also the subject of Project FP2 in the list of projects set out at Appendix 3 and I believe that is the most appropriate way to progress the project. To that end, I recommend that the parking turning/tracking drawing at Appendix 4 be linked to Project FP2. I therefore recommend modification **PM15** to reflect my conclusion on this Policy. The way forward, in my view, is for the Parish Council to explore the options for securing some parking improvements at Small Grains with the District Council.
- 4.70 With recommended modifications PM14 and PM15, I consider that the draft Plan's theme on Local Infrastructure and its accompanying Policy (Policy FNP14, following the recommended deletion of Policy FNP15) is in general conformity with the strategic policies of the adopted Sevenoaks Core Strategy DPD and Allocations and Development Management DPD, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.



## Monitoring and Review

- 4.71 Section 6 of the draft Plan addresses the future Monitoring and Review of the Plan. It does take account of the emerging Local Plan currently being prepared by the District Council, but I consider that it should contain a clearer statement regarding the potential need to review the Plan following the adoption of the new Local Plan, in order that it remains in general conformity with the strategic policies of the Local Plan. This matter is addressed by recommended modification **PM16**.

## Appendices

- 4.72 The draft Plan contains four Appendices. Appendix 1 entitled 'Boundary Treatment Good Practice Guide' provides design guidance for boundary treatments to retain the rural character of the Parish. Appendix 2 comprises a set of maps of the Amenity Open Spaces (A1-A5) and Churchyard (C1) and is linked to Policy FNP12 and Map 10 in the Plan. Appendix 3 comprises a listing of Community Projects (numbered FP1-FP23) that arise from the preparation of the Plan. Appendix 4 comprises a turning and vehicle tracking plan for the proposed Small Grains Residents' Car Park, which is the subject of Policy FNP15 (see also paragraphs 4.61 – 4.69 above). I do not comment on any of the Community Projects listed at Appendix 3, which are outside the purview of this examination, and which contains projects and initiatives that are priorities of the Parish Council and which largely extend beyond land use planning policy considerations.<sup>12</sup> However, in view of my recommendation to delete Policy FNP15, Map 12 and the relevant supporting text on Page 68 from the Plan, I also consider it should be made clear that Appendix 4 relates only to Community Project FP2 as listed on Page 83 of the Plan (see PM15 above).

## Concluding Remarks

- 4.73 Amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes<sup>13</sup>, factual up-dates, or corrections in agreement between the District Council and the Parish Council.<sup>14</sup> As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications, it should be re-checked for any typographical errors and any other consequential changes, etc. I also consider, again as an advisory comment, that the Plan would benefit by the addition of paragraph numbering for the benefit of future users of the Plan.
- 4.74 I consider that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Fawkham Neighbourhood Plan meets the Basic Conditions.

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<sup>12</sup> See PPG Reference ID: 41-004-20190509.

<sup>13</sup> PPG Reference ID:41-106-20190509.

<sup>14</sup> See for example Representation Ref: SNPS:6 and SNPS:18.

## 5. Conclusions

### Summary

- 5.1 The Fawkham Neighbourhood Plan 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 for all the responses made following consultation on the Neighbourhood Plan, and the supporting documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure 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. The Fawkham Neighbourhood Plan, as modified, has no policies or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### Overview

- 5.4 It is clear that the Fawkham Neighbourhood Plan is the product of much hard work since 2019 by the Parish Council, the Neighbourhood Plan Steering Group and the many individuals and stakeholders who have contributed to the development of the Plan. I am satisfied that the Plan reflects the aspirations and objectives of the Fawkham community for the future development of their area up to 2040. The output is a Plan which should help guide the area's development over that period in a positive way and it should inform good decision-making on planning applications by Sevenoaks District Council.

*Derek Stebbing*

Examiner



## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Pages 31 and 32	<u>Policy FNP1 – Protection and Enhancement of Landscape Character Profile Plan Overview</u> 3 <sup>rd</sup> line of Policy text – delete the word “permitted” and replace with “ <b>supported</b> ”.
PM2	Page 35	<u>Policy FNP2 – Woodland, Trees and Hedgerows</u> 1 <sup>st</sup> line of Policy text – delete the word “permitted” and replace with “ <b>supported</b> ”.
PM3	Page 36	<u>Policy FNP3 – Rural Lanes</u> 1 <sup>st</sup> line of Policy text – delete the word “permitted” and replace with “ <b>supported</b> ”.
PM4	Page 39	<u>Policy FNP4 – Conserve and Enhance Biodiversity</u> Clause c) – 1 <sup>st</sup> line of text – replace the words “net biodiversity gain” with “ <b>Biodiversity Net Gain (BNG)</b> ”.
PM5	Pages 40 and 43	<u>Policy FNP5 – Groundwater Source Protection Zone</u> Amend the Policy text, and the supporting text set out on Page 40, to incorporate in full the amendments set out in the Parish Council’s response dated 30 August 2024 to Question 1, as contained at Pages 1-3 of the Parish Council’s response document, subject also to the replacement of the word “permitted” in the 5 <sup>th</sup> line of amended Policy text with the word “ <b>supported</b> ”.
PM6	Page 44	<u>Policy FNP6 – Surface Water Flooding</u> Delete existing Policy text in full and replace with:  “ <b>Proposals for new development in the Plan area should be designed to ensure that they will not increase surface water run-off and the risks of surface water flooding, both on the development site and elsewhere. Where mitigation measures are required, preference should be given to Nature Based Solutions style sustainable drainage systems (SuDS),</b>

		<b>with engineering solutions being used only where it can be demonstrated that no other form of SuDs is feasible.”</b>
PM7	Page 44	<p><u>Policy FNP7 – Soil Conservation</u></p> <p>Amend the Policy text, and the supporting text set out on Page 44, to incorporate in full the amendments set out in the Parish Council’s response dated 30 August 2024 to Question 2, as contained at Pages 4 and 5 of the Parish Council’s response document.</p>
PM8	Page 49	<p><u>Policy FNP8 – Heritage</u></p> <p>Delete the first paragraph of Policy text in full and replace with:</p> <p><b>“Fawkham Parish’s heritage sites including archaeological sites, listed buildings, historic landscape features and their settings should be conserved in a manner appropriate to their significance.”</b></p>
PM9	Pages 52 and 55	<p><u>Policy FNP9 – Business Development</u></p> <p>Amend Part 3 of the Policy text, and the supporting text set out on Page 52, to incorporate in full the amendments set out in the Parish Council’s response dated 30 August 2024 to Question 3, as contained at Page 6 of the Parish Council’s response document.</p> <p>Delete Clause 2a) of the Policy text in full, and replace with:</p> <p><b>“a) the proposals do not conflict with national and local policies for developments within the designated Green Belt;”</b></p> <p>Page 52 - Delete the penultimate sentence of text in full.</p>
PM10	Page 58	<p><u>Policy FNP10 – Protection of Fawkham Village Hall</u></p> <p>Delete the words “is made elsewhere.” in the 3<sup>rd</sup> line of Policy text and replace with:</p> <p><b>“is available elsewhere within the Parish to meet community requirements.”</b></p>

PM11	Page 59	<p><u>Policy FNP11 – Protection of Public House</u></p> <p>Delete the words “on the site” in the 4th line of Policy text and replace with:</p> <p><b>“to remain at the site.”</b></p>
PM12	Pages 59-64	<p><u>Policy FNP12 – Protection of Open Space, Sport and Recreation Facilities</u></p> <p>Amend the Policy text, and the supporting text set out on Pages 59-64, to incorporate in full the amendments set out in the Parish Council’s response dated 30 August 2024 to Question 5, as contained at Pages 11-15 of the Parish Council’s response document.</p>
PM13	Page 66	<p><u>Policy FNP13 – Protection of Existing Public Rights of Way and Historic Routeways</u></p> <p>Delete Policy text in full and replace with:</p> <p><b>“The alignment and character of existing Public Rights of Way and historic routeways within the Plan area, as shown on Map 11, will be protected and enhanced.”</b></p> <p><u>Monitoring Target</u></p> <p>Delete the words “No net loss of length or character of Public Rights of Way” and replace with:</p> <p><b>“Undertake an annual inspection of all Public Rights of Way in the Parish and assessment of their condition.”</b></p>
PM14	Page 68	<p><u>Policy FNP14 – Securing Infrastructure</u></p> <p>Delete the word “necessary” in the first line of text.</p> <p>Add the words <b>“that will be”</b> after the word “infrastructure” in the second line of text.</p>
PM15	Pages 3, 68, 69 and 86	<p><u>Policy FNP15 – Provision of Small Grains Residents Parking</u></p> <p>Delete this Policy in full.</p> <p>Delete Map 12.</p> <p>Delete all text under the heading of ‘Small Grains’ on Page 68.</p>

		Appendix 4 – Clarify in this Appendix that it relates to Project FP2 as listed on Page 83.
PM16	Page 70	<p><u>Section 6 – Monitoring and Review</u></p> <p>Delete 4<sup>th</sup> and 5<sup>th</sup> paragraphs of text, and replace with:</p> <p><b>“Sevenoaks District Council is preparing a new Local Plan (Plan 2040) to cover the period up to 2040. In due course, this Neighbourhood Plan will be reviewed when necessary to seek to align the Neighbourhood Plan with the new Sevenoaks Local Plan.”</b></p>