

JW

28 May 2014

**TO: ALL MEMBERS OF FAVERSHAM TOWN COUNCIL'S  
FAVERSHAM CREEK NEIGHBOURHOOD PLAN STEERING GROUP**

The Mayor, N A Kay, and Cllrs J Coulter, D Simmons and Cllr T R Payne

**Together with:** SBC Cllr M Cosgrove, SBC Cllr M Henderson, A Salmon, A Osborne, N Earl, Ms S Akhurst, Ms B Chester, Dr P Reid, Ms K Northwood, Mrs J Turner

Dear Working Party Member

**YOU ARE HEREBY INVITED TO ATTEND** a meeting of Faversham Town Council's Faversham Creek Neighbourhood Plan Steering Group to take place at **7.00 p.m.** on Wednesday, 4 June 2014 in The Guildhall, Market Place, Faversham when the following business will be transacted.

Yours sincerely

Jackie Westlake OBE  
Town Clerk

**The Chair will allow fifteen minutes for Members of the Steering Group to receive questions from registered electors for the Town before the formal meeting starts.**

**AGENDA**

1. Election of Chairman and Vice-Chairman
2. Terms of Reference (paper 2.1)
3. To receive any apologies for absence
4. Minutes of the meeting of 29 April 2014 and matters arising (papers 4.1 and 4.2)
5. James Freeman, SBC on the National Planning Policy Framework and its implications for Faversham
6. Consultation update (Anne Salmon)
7. Budget
8. Any Other Business
  - Dissenting Report (paper 8.1)
  - Bridge update

## Faversham Creek Neighbourhood Plan Steering Group

### Terms of Reference

#### Area of Interest

1. The core area of interest to be all the land and channel included within the Area Action Plan for the area for Faversham Creekside as defined within the Vanguard Neighbourhood Plan designation.

#### Role

2. The role of the Steering Group will be to manage and guide the development of the Neighbourhood Plan and to assist with community engagement. It will be the responsibility of the Steering Group members to report back to their constituent bodies for scrutiny and comment on the content of the Plan as it progresses.

#### Membership

3. The Steering Group will consist of:

- **Faversham Town Council**; 4 Members and their Planning Agent. The Town Clerk will provide secretariat support
- **Swale Borough Council**; 2 Ward Members
- **The Faversham Creek Consortium**; 2 Members of their Steering Group
- **Faversham Creek Trust**: 1 Member
- **Faversham Society**: 1 Member
- **Faversham Traders Group**: 1 Member
- **Brents Community Association**: 1 Member
- **Faversham Creek Management Company**: 1 Member
- **Faversham Area Tourism Association**: 1 Member

4. In addition, an independent planning consultant will report to the Steering Group and assist with technical advice and production of the plan. A second Borough Council officer will provide planning support and procedural advice.

#### Procedural Matters

5. The Steering Group will elect a Chair from Faversham Town Council and a Vice Chair from the Swale Borough Councillors.

6. Decisions of the Steering Group that are to be presented to the Town Council for approval will be by a simple majority of the Town Council members present and voting. Other matters may be voted on by all Steering Group members, but that vote will be consultative only.

7. Each Steering Group meeting will be reported to the Town Council, and an update will include Town Council Member votes (if any), information on consultative votes (if any), and other detail required to enable the Town Council to make the necessary decisions on the development of the Neighbourhood Plan.

8. A quorum for a meeting of the Steering Group shall be 3 of the 4 of the voting members of the Group.

9. Seven days notice of exceptional meetings shall be given to members of the Steering Group.

10. The Steering Group may invite advisers or those with specialist knowledge to attend meetings by invitation of the Chair.

11. Minutes of meetings will be made and will be made available to the public.

12. All Members of the Steering Group shall declare relevant interests in a register to be maintained by the Secretary. Members shall be responsible for notifying the Secretary of any changes in their interests.

13. Meetings shall be held in accordance with Faversham Town Council Standing Orders

**FAVERSHAM CREEK NEIGHBOURHOOD PLAN STEERING GROUP MEETING: 29 APRIL  
2014: MATTERS ARISING**

<b>Anne Salmon (AS) to amend and forward final proofs of Part 1 and Part 2 to Jude Sach for printing</b>	Done.
<b>JW to circulate [draft survey] for comments by 30 April</b>	Done.
<b>JW to circulate a grid [on attendance at consultation events] for completion by members</b>	Done.

## DISSENTING REPORT

A dissenting report (also known as a minority report) is an established practice whereby members of a committee, panel or other group may put on record their dissent with a majority decision.

As members of the Faversham Creek Neighbourhood Plan steering group, the Faversham Creek Trust and the Brents Community Association wish to put on record to Faversham Town Council their dissent from the decision made by the steering group on 1 April 2014 to overturn resolutions made on 25 March 2014 which included alternative site use proposals in the draft Neighbourhood Plan, and from the way in which proposals are presented in the draft that is going out to public consultation this month.

The reasons for dissent are as follows:

1. The ground given for this action was that the 25 March resolutions were incompatible with the Town Council's site use resolution of 28 October, which under Standing Orders cannot be rescinded for six months. The 28 October resolution, however, explicitly allows for changes and alternatives: "Members agreed the Steering Group could begin to draft the Neighbourhood Plan, *bearing in mind that there would be opportunities throughout the drafting process for further amendments to be proposed and alternative uses to be presented*" and thus is not incompatible with the inclusion of alternative use proposals.
2. Even if the alternative proposals had been incompatible with the 28 October resolution, which they are not, it would have been perfectly possible to wait three weeks until the 6-month period had expired. The plan has been under development for two and a half years, and a further three weeks would have made little difference. Documents could have been prepared in advance and ready to go to print once approved by the Council.
3. The Town Council decided that the steering group had to be a statutory committee of Faversham Town Council, and as such would be bound by the same standing orders. By overturning resolutions made only one week earlier it is in breach of the very order which it invoked as a reason for doing so.
4. The steering group should have put the alternative proposals to the Town Council and given it the opportunity to decide for itself on their inclusion or exclusion.
5. The draft Plan acknowledges (2.11) that there is a divergence of opinion (although it grossly misrepresents the nature of that divergence) but in the following paragraph (2.12) it implies that the policies encapsulate common ground except on one site. This is not true. The policies for the sites from which alternatives were excluded do not encapsulate common ground. We have asked for this to be corrected, but our request was refused.
6. The argument that the exclusion of alternatives makes no difference, since the public can put them forward in response to the consultation, is invalid. There is a world of difference between (a) considering two or more options that have been presented and expressing a preference, and (b) considering a single proposal and having to imagine and develop alternative possibilities.
7. By excluding information on alternative options which would enable an informed comparison, the Council is in risk of breaching the Gunning (or Sedley) principles which in law require that consultation must be at a time when proposals are still at a formative stage, and must give sufficient reasons to permit of intelligent consideration and response. Similarly, the Aarhus Convention (ratified by the UK in 2005) requires that "the public concerned must be informed early in the process while all options are still open."
8. The exclusion of options that respond to feedback from previous consultations in May 2012 and June 2013, and of references to that feedback, is a further breach of the Aarhus Convention on consultation ("Account must be taken of the outcome.") and the Gunning/Sedley principles ("The product of consultation must be conscientiously taken into account in finalising any proposals.")
9. The exclusion of options jeopardises the Plan's chances of succeeding at examination and will alienate members of the public who responded to the earlier consultations.
10. The steering group members who proposed and seconded the motion to overturn the resolutions made on 25 March were the same members who in August 2013 openly questioned the feedback from the June 2013 consultation, criticising the number of responses (278 to the general questionnaire and 100-130 per site, plus further detailed responses and alternative proposals) and suggesting that they should be taken as indicative and not directive. Both actions indicate a level of disregard for public opinion, when it fails to support predetermined views, which is not acceptable in a process which is supposed to be an exemplar of local democracy.
11. By contrast, consultation on the Faversham Creek Streetscape Strategy, which the steering group has embraced as an integral part of the Plan, comprised a one-day display on a market stall which elicited twenty-four responses

on the day and a further ten in the following three weeks. Two responses were from the same person, and four criticised the presentation. The completed strategy document was never put out for consultation.

12. The steering group's arguments against alternative proposals are invalid. Ignoring professional advice, they refuse to acknowledge that viability is not dependent on land ownership, they take no account of the impact of residential hope value on land valuation and sale/development decisions, and they make unfounded assumptions about the economics of competing options.

13. The steering group's assumption that its own proposals are viable is unevidenced. The employment component of its proposed mixed-used developments is unquantified, and there is no business case or strategy. Given site constraints on construction, and the implications of flood risk for both construction and insurance, it cannot be assumed that even residential development will be viable. The example of Waterside Close, which bankrupted three developers and has never been completed, should not be forgotten.

14. The Chairman's reference to a "£1 million funding shortfall" in proposals for business and community-led regeneration is factually incorrect. Firstly, a cost is not equivalent to a shortfall. A shortfall arises when funding has been sought and not been obtained. This is not the case. Secondly, the bulk of any such cost relates to an opening bridge, which is not specific to the business-led alternative and is described in the Plan (2.10) as something upon which there is unanimous consensus. Thirdly, the cost of the bridge is still being evaluated and may be significantly lower.

15. The steering group fails to mention the cost of the Faversham Creek Streetscape Strategy – estimated in the strategy document as £811,000 at 2012 prices, not including the cost of works proposed for Standard Quay – and gives no indication as to how this would be paid for. There have been references to "pooled funding" but no indication as to the source(s) of this funding.

16. The Streetscape Strategy is the only aspect of the steering group's proposals which offers any form of benefit for the community. By contrast, the business and community-led alternatives offer economic benefits both direct (maritime industry) and indirect (tourism), together with social benefits from community facilities and public amenities.

17. There is no evidence to support the claim that the steering group's proposals will help to meet Faversham's housing need. No data for Faversham have been provided, but from the wider data for Swale it would appear that upmarket waterfront housing is unlikely to be a priority in terms of need.

18. The wording of policy HO2 is misleading since it implies that 35% of all housing will be affordable when in practice it is highly unlikely that this will be the case on many of the sites, since the Growth and Infrastructure Act (2013) allows developers to appeal against quotas on grounds of non-viability.

19. We dissent from paragraphs 2.11 to 2.15 inclusive of the draft Plan, which were inserted with no opportunity for discussion at a Steering group. We agree that it may be advantageous to have a Neighbourhood Plan, but we do not accept the exaggerated claims being made to 'sell' the steering group's proposals on the grounds that the only alternative is a developers' free-for-all under the National Planning Policy Framework. A Neighbourhood Plan will not take precedence over national or local planning policy. The Plan itself is subject to the NPPF, and the NPPF – with or without a Neighbourhood Plan – offers significant protection against inappropriate development in areas of high flood risk and areas of heritage significance.

20. In this context, the steering group's proposals do not pay sufficient regard to heritage significance, and there has been no industrial heritage assessment.

Sue Akhurst

The Faversham Creek Trust representative on Faversham Creek Neighbourhood Plan Steering Group

Brenda Chester

The Brents Community Association representative on Faversham Creek Neighbourhood Plan Steering Group