

## **Minutes of the Faversham Creek Neighbourhood Plan Steering Group Meeting: Tuesday, 12 November 2013**

### Present

Nigel Kay, Faversham Town Councillor (FTC) – Chairman  
Mike Cosgrove, Swale Borough Councillor (SBC) – Vice Chairman  
David Simmons, Mayor, Faversham Town Council  
John Coulter, Faversham Town Councillor  
Trevor Payne, Faversham Town Councillor  
Andrew Osborne, Faversham Creek Consortium Management Group member  
Anne Salmon, Faversham Creek Consortium Management Group member  
John Sell, Faversham Town Council Planning Agent  
Professor Christopher Wright, Faversham Creek Trust  
Brenda Chester, Brents Community Association  
Janice Hennessey, Faversham Creek Management Company  
Janet Turner, Faversham Society

### In attendance

Jackie Westlake, Faversham Town Council Clerk – Secretary  
Natalie Earl, Senior Planner, Swale Borough Council

Before the start of the meeting, the Chairman took questions from the public. These are attached at Annex A.

### **1. Apologies for absence**

1.1 There were apologies for absence from Cllr Mike Henderson and Kirsty Northwood.

### **2. Minutes of the last meeting and matters arising.**

2.1 There were no declarations of interest.

2.2 The minutes were agreed with one query:

AOB: final bullet point re: CIL which appeared to be incomplete “Money – Parish councils with a Neighbourhood Plan would get 25% of CIL, uncapped. Without, they would get 15% capped at £100”.

**ACTION: Natalie Earl (NE) to check the latter figure**

2.3 All matters arising had been dealt with except the following:

- Natalie Earl (NE) to discuss the consultant’s recruitment process with SBC HR. NE said that SBC was content for one member of the Steering Group to sit on an interview panel should there be agreement to recruit. SBC Senior Management Team (SMT) had met and agreed the proposal should go before an informal Cabinet meeting in December

### **3. Feedback from the Town Council meeting on site proposals**

3.1 Nigel Kay (NK) said that the Town Council had agreed to use class proposals for the different sites around the Creek (see Annex B). The

Town Council had tasked the Steering Group to begin drafting the Plan. He asked for volunteers to help draft the various elements of the Plan.

3.2 The Group discussed whether, in the light of the discussion with Locality, it would be premature to begin drafting the Plan; what skills were needed, and whether members had those skills; and what were the constituent parts of the Plan.

3.3 Jackie Westlake (JW) outlined the generic chapter headings which DCLG recommended. They were:

- Why Does Faversham Creek Need a Neighbourhood Plan?
- How the Plan was Prepared
- What the Plan Aims to Achieve
- The Role of the creek as a part of Faversham
- Constraints and Opportunities
- Vision and Objectives
- The Plan
- Policies
- Delivering the Plan
- Projects

3.4 The Group went on to discuss how the consultation response would form part of the drafting process and how policies would relate to the overall objectives for the Creek (e.g. how all policies would encourage habitat). It was acknowledged that some responses had been more detailed than others, e.g. from the Faversham Creek Trust. Brenda Chester (BC) asked why such detailed responses had not received a formal response from the Steering Group. Anne Salmon (AS) explained that all the responses were reflected in the site report. It was noted that the Steering Group had limited resources and it was not possible to send a detailed response to all those who had commented.

3.5 The Group considered the wider issue of viability. It was agreed that viability had to be tested on all sites, and that alternative proposals should be tested at the same time. [Secretary's note: viability testing would only be done once by SBC. It would be necessary to have the proposals and alternatives prepared at the same time.] It would be important for the independent inspection stage to demonstrate that all possibilities for the sites had been properly considered. SBC would provide that expertise.

3.6 Andrew Osborne (AO) proposed, seconded by Trevor Payne (TP) that the Steering Group should begin drafting the Plan. The vote was 10 for, with two abstentions.

**ACTION: JW to email the Group seeking volunteers to draft various elements of the Plan. Anne Salmon (AS) to lead the process**

#### **4. Update from meeting with Locality**

4.1 JW said that she had received confirmation from Stella Scrivener (Planning Aid, England) that the Faversham Creek Neighbourhood Plan would receive the following support:

- URS to deliver support and advice on the allocation of sites for business, leisure and maritime industry uses, and advice on the scope of the NP and the evidence required to underpin it
- In addition, a new staff member joining Planning Aid in January would be assigned to Faversham, but in the interim, any immediate support would be provided by a senior planning adviser

4.2 BC questioned how this type of support had been arrived at, and why there was no community engagement support, as recommended by Stella Scrivener, at a meeting held on Friday 8 November. She also asked why Stella Scrivener would not be involved, given her extensive experience of working with more than 20 other Neighbourhood Plans

4.3 [Secretary's note: further to that support, an Independent Examiner from the Referral Service would be made available to review the draft NP and supporting documents, prior to the formal pre-submission consultation.]

#### **5. Communications and engagement**

5.1 The Group considered the paper from Danny Chesterman as well as other consultation documents. John Sell (JS) reported that, at the meeting with Locality, the Group was advised it was important to understand who had been consulted and where the gaps, if any, lay. The Independent Examiner would want to see evidence that the consultation had been representative. NE suggested that the Consultation Statement be prepared now, to act as an audit of consultation done to date. This could be updated at each further consultation stage.

5.2 The Group noted that other NPs had used different consultation processes. It was suggested that the first draft of the Plan would be a useful point at which to go out to residents, particularly those who were normally under-represented. Members of the Steering Group had already spoken to various groups, including school students. This should be recorded in the Consultation Statement. The outcome of these meetings and the views of those consulted should be recorded in the Consultation Statement.

5.3 It was suggested that input from both Danny Chesterman and Locality would be useful. The former could advise on the sorts of engagement needed, while the latter could advise on the evidence needed for the Independent Examiner. There was a discussion regarding lack of resources for more community engagement. BC reminded the group that, in June 2011, the Faversham Creek Trust had written to the Town Council

offering its support as members of the steering group, help with administration and community engagement. This offer had been declined.

5.4 AO proposed, seconded by AS that Danny Chesterman be invited to speak to the next meeting of the Steering Group (10 December 2013). The vote was eleven in favour with two abstentions.

**ACTION: JW to issue invitation to Danny Chesterman**

5.5 Chris Wright (CW) asked that two amendments be made to the Communications and Engagement Strategy:

Page 10: partiality of press reporting. The Group discussed whether it was fair to say the press had been partial in its reporting. It was agreed to delete the word 'partiality'

Page 11: need to work with the Faversham Creek Trust. CW said the FCT was not actively opposed to the Plan. It supported the right NP for the Creek. It was agreed to amend the paragraph.

## **6. Budget**

6.1 There had been no further expenditure on the NP budget since the last meeting.

6.2 The Mayor and the Deputy Mayor asked that the minutes recorded the additional time spent on the NP by the Town Clerk.

## **7. Any Other Business**

7.1 The following were raised under AOB:

- Compulsory Purchase Orders: the Group noted the paper prepared by James Freeman (SBC) in February 2011. It had been circulated purely to aid understanding on the issue of CPOs
- Community rights: there was a brief discussion on registering land and buildings as assets of community value

**ACTION: NE to circulate 'You've got the Power', a DCLG document explaining community rights**

**ACTION: the Localism Committee to consider representations on assets of community value as and when proposed**

## **8. Date of the next meeting**

7.1 Tuesday, 10 December.

**QUESTIONS FROM MEMBERS OF THE PUBLIC**

Q. The Neighbourhood Plan site use proposals override the feedback from public consultation, on the grounds that alternative uses preferred by the public would not be viable. Although this was challenged repeatedly at the steering group meeting by a member who has specialist knowledge, it was still allowed to pass on a majority vote. It has since been further challenged by the council's own advisor on planning matters, John Sell.

It is not enough for a landowner who is unwilling to accept an alternative option to simply say it wouldn't be viable, or for someone to make this assumption on his/her behalf. The National Planning Policy Framework (paragraph 173) defines the viability test in terms of "competitive returns to a willing land owner and willing developer" – in other words, if the landowner were willing to sell or to rent the land for the alternative use, would he/she be able to get a reasonable return?

The definition of what is reasonable may vary, but the calculation should be based on an objective assessment of the actual value of the land in its current designated use, not on what it might be worth if it were to be granted change of use for residential development.

There is no evidence that any valid viability tests have been carried out on any of the options, so it would be premature to accept or reject any site use recommendations on the grounds of viability.

Will the council therefore refer this document back to the steering group and ask them to redraft it, giving priority to alternative uses that are compliant with the consultation feedback?

A. The site report was clear where the consultation feedback proposals were not considered viable. The Town Council is supporting work to look at the business case to investigate the Creek's potential to be a working creek for the repair and maintenance of barges, smacks and other vessels. In addition, SBC will review viability. As part of that work, it would be important to review whether the consultation feedback proposals were viable.

Q. Given that the Neighbourhood Plan is in Flood Zone 3 (the highest level of risk), why is it not compliant with the NPPF policy which says that new development should be directed away from areas of highest flood risk?

A. Tony Fullwood's report, along with the flood risk statement, went to LDF Panel on 25th November 2010. Members agreed that the addendum to the Swale Strategic Flood Risk Assessment for Faversham Creek be agreed.

"During preparation of the feasibility report, discussions with the Environment Agency (EA) made it apparent that the current Strategic Flood Risk Assessment (SFRA) 2009 would not allow for anything other than essential infrastructure or water compatible uses in the functional floodplain, zone 3b. Most of the potential regeneration sites

within the AAP are within zone 3b and therefore the regeneration of Faversham Creek would be largely undeliverable.

3.7 The consultant has worked with the EA to devise a new approach to this issue and an addendum to the Swale SFRA has been produced which provides guidance on the change of use or redevelopment of previously developed land within the 1:20 year flood risk area of Faversham Creek. This Supplementary Document applies only to Faversham Creek due to the relatively confined nature of the floodplain - which should enable safe access and egress to most sites whilst achieving the Local Planning Authority's long standing aim for regeneration in the area. Given the previously developed nature of these areas, and the prevailing convention to remove built-up areas from functional floodplain, a special designation is given to those previously developed areas which are located within the 1:20 year flood risk zone – Flood Zone 3a(i). This means that there is an acknowledgement of the high flood risk in these areas, without applying the strict policy restrictions associated with functional floodplain (Flood Zone 3b). This will become supplementary to the adopted Swale SFRA 2009.” (<http://www.swale.gov.uk/assets/Planning-General/Planning-Policy/Faversham-Creek/Final-doc-for-web.pdf>)

Further advice would be sought on whether the NPPF would have an impact on the Supplementary Document.

Q. Does the Steering Group support Visions of a Creek website's alternative approach to the Neighbourhood Plan, with a clear objective of the regeneration of the Creek and Port through maritime industry, tourism and the creative industries?

A. There is already a vision for the Creek, which the Steering Group was working towards. It has 16 objectives for the regeneration of the Creek, which covered maritime industry, tourism and the creative industries. The vision and objectives were drawn up in workshops with Urban Initiatives, and had been consulted on in May 2012 and June 2013.

Q. Why is the Steering Group a formal Committee of the Town Council when it had been originally set up as an advisory body and all members could then vote? The Brents Community Association wrote to the Town Council on this matter and has not yet received a response.

A. This has already been reviewed at the last meeting of the Steering Group. All members are able to vote in an advisory capacity. Only Town Council Members vote on procedural matters relating to Standing Orders. A response to the Brents Community Association will be sent as soon as possible.

Q. Does the Steering Group approve of the formality of the Committee, which requires members to declare an interest and leave the room

when there is a pecuniary interest, which stifles debate and prevents those with expertise and an interest from taking part?

A. The rules relating to declarations of interest are clear and are there to ensure the public has the right information about how decisions were being made. They limit the potential for intimidation. In addition, having an interest is not the same as being interested.

Q. Was work on the marine-related industry study still on-going, given the Steering Group's lack of interest in supporting alternative use proposals?

A. It is not true to say that the Steering Group is not interested in alternative site use proposals, but it is not the role of the Group to take the lead on preparing viable alternatives. The Steering Group, through the Town Council, is supportive of the work on developing a business case to investigate the Creek's potential to be a working creek for the repair and maintenance of barges, smacks and other vessels. The study mentioned has been overtaken by the work on the business case.

**SITE PROPOSALS AS AGREED BY FAVERSHAM TOWN COUNCIL**

Site 1 – The Purifier

The Town Council acknowledges the work carried out by Faversham Creek Trust in bringing this building back into use and is broadly supportive. We feel Faversham Creek Trust should seek Planning Permission. Use classes B1/B2/D1.

Site 2- Ordnance Wharf

The Town Council is aware that current thinking for this site is different from previous thoughts; there is a stated preference from some to see no residential development adjacent to the inner basin. At this stage the Town Council believes it should remain open minded about use classes for this site to enable any alternative to mixed development to be worked up. Use classes mixed development and/or other?

Site 3 – BMM Weston

The Town Council welcomes the proposals for this site and is in full agreement with the use class suggestions as they currently stand. In particular we support the desire to create a quayside by piling and back filling to create moorings onto a quay rather than a pontoon.

Site 4 – Frank and Whittome

The Town Council is pleased with the contribution made by Creek Creative to the vitality of the town in recent years and is in full agreement with the use classes suggested.

Site 5 – Swan Quay

The Town Council acknowledges the challenges presented by this site. Whilst not all the buildings are listed, most do have a certain merit. Any development should be of a scale and design to match existing. We believe that this site is an important pedestrian gateway to the North Eastern part of the Creek and as such care must be taken in drafting the Plan to make sure the site is not overdeveloped. In light of these concerns the Town Council accepts the use classes proposed but we ask the Steering Group to investigate ways in which our reservations can be addressed.

Site 6 – The Oil Depot

The Town Council agrees with the proposals for this site. In particular we would wish to see the residential accommodation set well back from the front, with good pedestrian connectivity along the creek side and the provision of moorings.

Site 7 – The Coach Depot

The Town Council broadly accepts the use class proposals for this site, any development, as on other sites, should be allow at least 4 metres from the creek side. We welcome the provision of showers and toilets but are concerned about potential over development.

#### Site 8 – Standard Quay

The Town Council is aware that part of this site is subject to a planning appeal, and part to a retrospective planning application. We are broadly in support of the use classes proposed and believe that in the main existing buildings should be retained, enhanced and protected. The scale and style of these buildings and the use of this area are important to the history and heritage of The Town and Port of Faversham. We fully support the emphasis on the importance of maritime uses on this site as one of the last remaining quays in Faversham.

#### Site 9 – Standard House

The Town Council supports the proposal that this site should be refurbished as a residential house, but we note that it originally had a Kent peg tile roof and recommend that Kent peg tiles would be more appropriate than a new slate roof.

#### Site 10 – Fentiman’s Yard

The Town Council fully agrees with the preferred use of this site.

#### Site 11 – The Brents Industrial Estate

The Town Council fully supports the proposed current use of this site. We would welcome any improvements to the appearance of the site especially the road surfaces.

#### Site 12 – Iron Wharf

The Town Council fully supports the preferred use of this site to include all existing elements. We note that the informality of this area adds considerably to its character and charm. We support the improvement of the public footpath through the Oyster Bay House site.

#### General

The Town Council wishes to see improvements to existing Creek side footpaths and fully supports the creation of good quality, quay side pedestrian access on those sites which border onto the Creek.

The Town Council’s Public Realm Working Group has had much success in recent years in improving the built environment of the Town Centre. We welcome the proposals of the Faversham Creek Streetscape Strategy (June 2012), but wish to record that our financial resources are limited. Considerable additional funding will be required to meet many of the ambitions highlighted in the strategy.

#### Next steps

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.