



Strategic Planning Team  
Sevenoaks District Council Offices  
Argyle Road  
Sevenoaks  
TN13 1HG

## Growth and Communities

Invicta House  
County Hall  
Maidstone  
Kent  
ME14 1XX

Phone: 03000 415673  
Ask for: Francesca Potter  
Email: Francesca.Potter@kent.gov.uk

### BY EMAIL ONLY

19<sup>th</sup> July 2024

Dear Sir / Madam,

### Re: Fawkham Neighbourhood Plan – Regulation 16 Consultation

Thank you for consulting Kent County Council (the County Council) on the Fawkham Neighbourhood Plan in accordance with the Neighbourhood Planning (General) Regulations 2012.

The County Council has reviewed the Neighbourhood Plan and for ease of reference, has provided general comments on the Plan itself, as well as commentary structured under the chapter headings and policies used within the document.

### Regulation 14 comments and response

Public Rights of Way (PRoW): As a general statement, the County Council is keen to ensure its interests are represented with respect to its statutory duty to protect and improve Public Rights of Way (PRoW) in the county. PRoW is the generic term for Public Footpaths, Public Bridleways, Restricted Byways, and Byways Open to All Traffic. The County Council is committed to working in partnership with local and neighbouring authorities, councils and others to achieve the aims contained within the [Rights of Way Improvement Plan](#) (ROWIP) and the ['Framing Kent's Future' strategy for 2022-2026](#). The County Council intends for people to enjoy, amongst others, a high quality of life with opportunities for an active and healthy lifestyle, improved environments for people and wildlife, and the availability of sustainable transport choices.

In respect of PRoW matters, the County Council welcomes the consideration shown to its comments at the Regulation 14 consultation and would advise that the following are addressed for the benefit of residents:

*Comment 91*

PRoW: The County Council notes the response to the suggestion of the creation of Public Bridleways in the parish. The availability of off-road hacking facilities in the parish is positive, but the response suggests such access is via express permission and so not as of public right. The response also suggests such access is not available to cyclists. Therefore, in totality the County Council concludes that the availability of off-road hacking is not widely known by the public. These matters would all be positively addressed with the creation of Public Bridleways. Off road provision for equestrians is limited in Kent, and the County Council would advise opportunities are taken to formalise use. The Parish Council is encouraged to include the creation of bridleways within Appendix 3, with opportunities to be identified and investigated in consultation with the County Council.

*Comment 97*

PRoW: The County Council considers there should be clarity in the terms used throughout the Plan. This can be achieved with a Glossary. Defining terms such as 'Active Travel' and 'PRoW' will assist people's understanding and ability to interpret and apply the Plan.

**Fawkham Neighbourhood Plan (2023-2040) Regulation 15 Version April 2024**

**Section 5: Neighbourhood Plan Policies**

PRoW: It is noted the Natural and Built Environment Objectives (page 16) and Leisure and Wellbeing Objectives (page 57) refer to 'footpaths' and not PRoW, or indeed other modes. The County Council would advise that PRoW are included. Off-road cycling can similarly contribute to walking for residents' and visitors' health, wellbeing, and enjoyment, which would add weight to seeking to create Public Bridleways in the parish. Desire for safe local cycling is exemplified by Comment 124 within the Regulation 14 comments and we would ask that you refer back to this response accordingly.

**Biodiversity**

*Policy FNP4 – Conserve and Enhance Biodiversity*

Biodiversity: The County Council notes that FNP4 refers to an appropriate depth buffer as follows:

*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.*

However, it is not clear within the submitted information how an appropriate depth buffer can be identified. The County Council recommends that the Plan should specify how an appropriate buffer can be created/met.

## Built Environment

### *Non-Designated Heritage Assets*

Heritage Conservation: The text suggests that the identification of non-designated heritage assets rests with the local planning authority (Sevenoaks District Council). Historic England has explicitly stated that non-designated heritage assets can be identified during the development of a Neighbourhood Plan - '[Local Heritage Listing: Identifying and Conserving Local Heritage Historic England Advice Note 7 \(Second Edition\) \(2021\)](#)' (section 3, paragraph 19). The Parish Council is therefore able to identify heritage assets that it wishes to conserve as non-designated heritage assets if it chooses.

### *Policy FNP8 – Heritage*

Heritage Conservation: The opening sentence of the current text only refers to listed buildings which only comprise a small part of the heritage of the Neighbourhood Plan area. The County Council would suggest this be changed to:

***“Fawkham Parish’s heritage sites including archaeological sites and listed buildings and its historic landscape and their settings should be conserved in a manner appropriate to their significance”***

The County Council welcomes the opportunity provided in FP18 ‘Creation of a Local List of Non-designated Heritage Assets’. The Historic Environment Record can play a key role in suggesting appropriate sites for such a list and should also be updated with information about the listed assets at its conclusion. The County Council would be happy to assist with the project.

## Leisure and Wellbeing

### *Policy FNP13 – Protection of existing Public Rights of Way and historic routeways*

PRoW: Revised Policy FNP13 (formerly Policy FNP14) states: *“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.”* The policy as worded could be interpreted to not protect PRoW where their alignment causes substantial harm. It is recommended Policy FNP13 is reworded to protect PRoW at all times and support enhancement of all PRoW. PRoW are public highways used by people with a need or purpose and so are deserving of equal consideration and enhancement. Also, it should not be misunderstood that the Neighbourhood Plan serves to identify existing PRoWs where use can adversely affect enjoyment of existing residential properties and can therefore lead to a diversion or extinguishment of the PRoW. This is out of scope of the Neighbourhood Plan and subject to a separate legal procedure, beginning with a formal application to the County Council by an interested party.

The Parish Council is encouraged to revise the stated target of *“No net loss of length or character of Public Rights of Way”* (page 66). Any changes to PRoW alignments can only

arise from formal legal Orders, made by the County Council or the County Council on behalf of Sevenoaks District Council, and so are outside the scope of the Plan. It is also unclear who would consider any net loss of character.

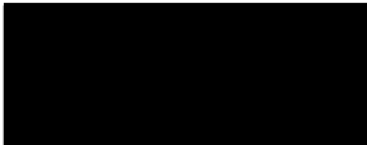
The County Council welcomes recognition of Nationally Planning Policy Framework (NPPF) paragraph 104 and the aims of the ROWIP to enhance the local PRoW network. The Neighbourhood Plan comments that whilst supporting the aims of the KCC Active Travel Strategy, most local PRoW are used for leisure purposes. It is reasonable to think this may be the result of the local network consisting solely of Public Footpaths, and that being a somewhat elongated parish with undulating landscape that connecting, for example, Fawkham Green to Hartley Green or Longfield, would not be quick or direct. The County Council considers this adds weight to the recommendation made above to create Public Bridleways as part of works under Appendix 3.

Regarding on-going monitoring of PRoW, the Parish Council's on-going support of its local PRoW network through an annual inspection programme is welcomed. Liaison with the Public Rights of Way and Access Service is encouraged to ensure exchange of information, including identification and prioritisation of issues.

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KCC would welcome continued engagement as the Neighbourhood Plan progresses. If you require any further information or clarification on any matters raised above, please do not hesitate to contact me.

Yours faithfully,



**Stephanie Holt-Castle**  
Director for Growth and Communities