

Jenna Murray
Carter Jonas

Sent by email to:
[REDACTED]

01 August 2023

Dear Jenna,

Canterbury Local Plan – Land south of Aylesham, Kent

Thank you for your engaging on the proposed strategic allocation on land south of Aylesham (Site R20 in the emerging Canterbury Local Plan. I have now had the opportunity to review the documents you re-forwarded to me on the 27th July 2023 and have the following comments. These are made on behalf of the Kent Downs AONB Unit and as such are at an officer level and do not necessarily represent the comments of the whole AONB partnership. The legal context of our response and list of AONB guidance is set out at Appendix 1 below.

The site lies within the setting of the Kent Downs AONB with a small part of the site within the AONB boundary. Any proposed development therefore needs to be tested against the purpose of the designation, to conserve and enhance the natural beauty of the Kent Downs AONB and the way that this purpose is represented in local and national policy.

The status of AONBs has been enhanced through measures introduced in the Countryside and Rights of Way (CROW) Act 2000, which gave greater support to their planning and management. The statutory duties state that in exercising or performing any functions in relation to, or so as to affect, land in these areas, relevant authorities “shall have regard” to their purposes.

The Act requires a management plan to be produced which must ‘formulate the (Local Authority) policies for the management of the AONB and for carrying out their functions in relation to it’. The policies of the Kent Downs AONB Management Plan are therefore the adopted policies of all the Local Authorities in the Kent Downs. The new Kent Downs Management Plan, Third Revision 2021 to 2026 has recently been adopted by all the local authorities in the Kent Downs, including Canterbury City Council, replacing the 2014 to 2019 Management Plan. The Management Plan sets out the policy for the conservation, enhancement and management of the AONB in a series of aims, actions and Principles.

The national Planning Policy Guidance, 2019, confirms that Management Plans can be a material consideration when assessing planning applications ([Paragraph: 040 Reference ID: 8-040-20190721](#)) and this view is confirmed in previous appeal decisions, including APP/U2235/W/19/3232201, Cossington Fields

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Kent Downs AONB Unit
West Barn
Penstock Hall Farm
Canterbury Road
East Brabourne
Ashford, Kent TN25 5LL
[REDACTED]

mail@kentdowns.org.uk
www.kentdowns.org.uk

Anglesey
Arnside and Silverdale
Blackdown Hills
Cannock Chase
Chichester Harbour
Chilterns
Clwydian Range
Cornwall
Cotswolds
Gower
Cranbourne Chase and
West Wiltshire Downs
Dedham Vale
Dorset
East Devon
Forest of Bowland
Howardian Hills
High Weald
Isle of Wight
Isles of Scilly
Kent Downs
Lincolnshire Wolds
Llyn
Malvern Hills
Mendip Hills
Nidderdale
Norfolk Coast
North Devon
North Pennines
North Wessex Downs
Northumberland Coast
Quantock Hills
Shropshire Hills
Solway Coast
South Devon
Suffolk Coast and Heaths
Surrey Hills
Tamar Valley

Farm North, Bell Lane, Boxley, Maidstone where at paragraph 5 of the Inspectorate's decision letter it is stated that "I am mindful of the policies contained within the Kent Downs AONB Management Plan (2014-2019) requiring development to conserve and enhance natural beauty of AONB to which I attach substantial weight." The decision can be downloaded at:

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3232201>

The following principles from the Management Plan are considered to be of particular relevance to the proposal:

MMP2 The Kent Downs AONB is a material consideration in plan making and decision taking, and so local authorities will give a high priority to the AONB Management Plan vision, aims, principles and actions in Local Plans, development management decisions, planning enforcement cases and in taking forward their other relevant functions.

SD1 Ensure that policies, plans, projects and net gain investments affecting the Kent Downs AONB take a landscape led approach are long term, framed by the Sustainable Development Goals appropriate to the Kent Downs, cross cutting and recurrent themes, the vision, aims and principles of the AONB Management Plan.

SD2 The local character, qualities, distinctiveness and natural resources of the Kent Downs AONB will be conserved and enhanced in the design, scale, siting, landscaping and materials of new development, redevelopment and infrastructure and will be pursued through the application of appropriate design guidance and position statements.

SD3 Ensure that development and changes to land use and land management cumulatively conserve and enhance the character and qualities of the Kent Downs AONB rather than detracting from it.

SD7 New projects, proposals and programmes shall conserve and enhance tranquillity and where possible dark night skies.

SD8 Ensure proposals, projects and programmes do not negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the Kent Downs AONB.

LLC1 The protection, conservation and enhancement of special characteristics and qualities, natural beauty and landscape character of the Kent Downs AONB will be supported and pursued.

Kent Downs AONB Units comments on the proposed allocation under policy R20 of the 2023 Regulation 18 Local Plan submitted to City Council

The AONB Unit provided the following comments on the proposed allocation of the site:

As with the proposed allocation at Cooting under R1, the proposed allocation at Aylesham is also within an area identified as a Local Landscape Designation and where the District's Landscape Character Assessment would not appear to support large scale development. Similarly, there appears to be no landscape evidence to support the proposed allocation.

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However, in terms of potential impacts on the setting of the Kent Downs AONB, it is considered that subject to the development being confined to the area not identified as a County Park on the Concept Masterplan, the relationship with the Kent Downs AONB looks more manageable and impacts potentially capable of being mitigated due to the site's closer association with existing and proposed development at Aylesham, its location on top of the ridge - corresponding with existing settlement pattern, increased separation from the AONB boundary, lesser intervisibility with the AONB, a lesser scale of development and extensive areas of proposed mitigation in the form of a country park between the developable part of the site and the AONB boundary.

Nevertheless, we consider it essential that appropriate landscape evidential work is carried out prior to the allocation being taken forward in any subsequent stage of the Local Plan to confirm that development is appropriate in landscape terms given the proximity to the AONB and conflict with the LCA.

Furthermore, despite the proximity of the site to the AONB, with the site adjoining the AONB boundary along part its western side, this is not acknowledged in the policy or its supporting text. If the allocation is taken forward, it will be essential for appropriate safeguards to be included in the policy to help mitigate potential impacts on the AONB, which should be informed by the landscape work referred to above. The AONB Unit would welcome the opportunity to discuss what form this should take in more detail with the Council.

We therefore welcome the provision of the additional landscape information and studies and the opportunity to discuss the proposals in more detail with you. As identified in our response to the proposed allocation in the Regulation 18 Local Plan, we consider there to be scope for the proposed strategic allocation in terms of AONB impacts however having viewed the additional information supplied, we remain concerned about the lack of appropriate safeguards to manage and mitigate AONB impacts in the policy wording as well as the emerging concept plan and in particular the juxtaposition of the proposed recreational facilities relative to the AONB boundary.

With regards to the proposed residential built form, we support the proposed location of this away from the AONB boundary. Nevertheless, as recognised in the LVA, the built form is likely to be seen from the AONB, including from highly sensitive recreational receptors of users of the North Downs Way, a national trail, introducing built form into what is currently a largely undeveloped and rural view. We therefore maintain our position that safeguards should be included in any policy wording allocating the site to assist in mitigating the impact of this. This should include for example, requirements for the development to be designed to avoid or minimise impacts on the AONB through siting, design, massing and material choice.

LVA

With regards to the LVA, it is disappointing that we were not consulted on the proposed viewpoints. Had we been, we would have liked to have seen two additional ones included:

- a. One further northwest on the North Downs Way to VP6 as this is on much higher ground, approximate grid reference 622248 150879.
- b. One from Public footpath CB213, approximate grid ref 622459 151144.

At 1.31 there is an extremely out of date reference to the East Hampshire AONB. This designation was revoked in 2010 when it became part of the South Downs National Park.

At 1.32, we would consider reference should be included to the dry valleys of the AONB – one of its main landscape characteristics and, which along with the escarpment of the North Downs, were the prime target of the designation.

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Developing Concept Plan

With regards to the developing concept plan, we are supportive in general of the proposed landscaping mitigation strategy including connecting areas of Ancient Woodland and the re-establishment of former historic field boundaries with hedgerows incorporating hedgerow trees. Historic OS mapping and old aerial photography indicate the boundary of the site with Pond Lane used to comprise a wider strip of vegetation, possibly a shaw. We would encourage consideration of this being re-established.

We are however deeply concerned about the proposed location of the recreational facilities. The current plan includes the provision of allotments, grass sports pitches, a pavilion, parking and a NEAP as part of the facilities, all on the immediate boundary of the AONB. It is also indicated that vehicular access to this, along with visitors to the Country Park, could be from Pond Lane. Such a proposal has potential to significantly impact on the special qualities of the AONB, replacing the current undeveloped agricultural landscape with much more formal and urbanising uses that would result in a significant change in landscape character and fail to protect the immediate rural setting of the AONB. Such uses here would also be in direct conflict with guidelines included in Canterbury's LCA such as '*Seek to ensure new development at Aylesham and along the Adisham Road in Dover District respects the rural character and quality of this area*' and '*Conserve the visual links with the AONB ensuring that this area continues to provide a rural dip slope setting to the Kent Downs*'

Such uses in such close proximity to the AONB also have potential to impact on the tranquility of the AONB, one of its recognised special characteristics as a result of intensive increased activity including from the sports pitches as well as impacts to the dark night skies of the AONB if lighting is proposed.

The use of Pond Lane to access the facilities is also of concern. Pond Lane forms the boundary of the AONB. At present this is a narrow single land track, rural in character. Narrow lanes are noted as a key characteristic of this local character area in the Canterbury LCA with a key sensitivity identified as '*The strongly rural qualities of the landscape, with its mosaic of farmland and woodland with isolated farms linked by quiet roads*'. The increase in vehicular use of this very narrow rural lane and the likely requirements for works to facilitate increased use are also considered to have unacceptable impacts on the AONB.

Neither the submitted LVA or Design Concept documentation appear to consider or reference impacts from this part of the scheme on the AONB, instead focusing only on the potential impacts of the proposed residential development on the AONB.

Taking the above into account, we would be unable to support either the current location of the recreational facilities or proposed vehicular access from Pond Lane and we would strongly recommend that this part of the Concept Plan is reviewed.

I hope this is of assistance to you. I would be happy to discuss the issues raised further if this would be helpful.

The advice is offered informally and without prejudice to any subsequent comments or advice we might provide in respect of the proposed allocation/development in the future.

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Yours sincerely



Katie Miller MRTPI
Planning Manager, Kent Downs AONB Unit

Cc Andrew Thompson, Canterbury City Council

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APPENDIX 1

Planning consultations with the Kent Downs AONB Unit

Background and context:

The Kent Downs Area of Outstanding Natural Beauty partnership (which includes all the local authorities within the AONB) has agreed to have a limited land use planning role. In summary this is to:

- Provide design guidance in partnership with the Local Authorities represented in the AONB.
- Comment on forward/strategic planning issues-for instance Local Development Frameworks.
- Be involved in development management (planning applications) in exceptional circumstances only, for example in terms of scale and precedence.
- Provide informal planning advice/comments on development control (planning applications) at the request of a Kent Downs AONB Joint Advisory member and /or Local Authority Planning Officer.

The Countryside and Rights of Way Act 2000

The primary legislation relating to AONBs is set out in the Countryside and Rights of Way Act 2000. Section 85 of this Act requires that in exercising any functions in relation to land in an AONB, or so as to affect land in an AONB, relevant authorities, which includes local authorities, shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. This is known as the 'Duty of Regard'. The Duty of Regard can be demonstrated by testing proposals against the policies set out in the Kent Downs AONB Management Plan and its supporting guidance (see below).

Relationship of the AONB Management Plan and Development Management

The CRoW Act requires that a management plan is produced for each AONB, and accordingly the first Kent Downs AONB Management Plan was published in April 2004. The third revision Management Plan (2021-2026) has been formally adopted by all the local authorities of the Kent Downs. The Management Plan may be viewed on the Kent Downs web site:

<https://explore-kent-bucket.s3.eu-west-1.amazonaws.com/uploads/sites/7/2021/11/16141210/The-Kent-Downs-AONB-Management-Plan-2021-2026-Adopted.pdf>

Under the CRoW Act, the Management Plan is required to 'formulate the (Local Authority) policies for the management of the AONB and for carrying out their

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functions in relation to it'. The policies of the Kent Downs AONB Management Plan are therefore the adopted policies of all the Local Authorities in the Kent Downs.

The national Planning Policy Guidance confirms that AONB Management Plans can be a material consideration in planning decisions and this view is confirmed in previous appeal decisions, including APP/U2235/W/15/3131945, Land west of Ham Lane, Lenham, Maidstone, where at para 48 of the Inspectorate's decision letter, it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration". The decision can be downloaded at:

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3131945>

Any Kent Downs AONB Unit response to consultations on planning applications will reflect the policies of the Management Plan along with other Kent Downs AONB produced guidance which help support the delivery of the policies of the Management Plan, as set out below.

Other Kent Downs AONB Guidance

[Kent Downs AONB Guidance on the selection and use of colour in development – Guidance](#)

The purpose of this guidance is to provide guidance on the selection and use of colour for building development within the AONB and its setting. 'Development' includes any building work, ranging from home extensions and conversions through to house building, agricultural and industrial premises, and retail and office buildings. It also includes infrastructure developments associated with transport, flood defences, power generation and distribution, communications and other utilities.

[Kent Downs Landscape Design Handbook](#)

Design guidance based on the 13 landscape character areas in the Kent Downs. Guidance is provided on fencing, hedges, planting, gateways etc. to help the conservation and enhancement of the AONB.

[Kent Downs Renewable Energy Position Statement](#)

Provides a clearly articulated position for the Kent Downs AONB partnership with regards to renewable energy technologies. It recognises that each Local Planning Authority must balance the impact of proposals for renewables on the AONB with all the other material planning considerations.

[Kent Rural Advice Service Farm Diversification Toolkit](#)

Guidance on taking an integrated whole farm approach to farm developments leading to sound diversification projects that benefit the Kent Downs.

[Kent Downs Land Manager's Pack](#)

Detailed guidance on practical land management from how to plant a hedge to creating ponds and enhancing chalk grassland.

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[Rural Streets and Lanes - A Design Handbook](#)

Guidance on the management and design of rural lanes and streets that takes the unique character of the Kent Downs into account. This document discusses the principle of shared space and uses examples from around the UK and Europe. The Handbook has been adopted by Kent County Council as policy.

[Managing Land for Horses](#)

A guide to good practice on equine development in the Kent Downs, including grassland management, fencing, trees and hedges, waste management and basic planning information.

[Kent Farmstead Guidance and Kent Downs Farmstead Guidance](#)

Guidance on the conservation, enhancement and development change of heritage farmsteads in the Kent Downs based on English Heritage's Kent and National Character Area Farmstead Statements. Includes an Assessment method and Design Guidance.

[Kent Downs Setting Position Statement](#)

An advisory document providing guidance on issues of setting including the legislative basis for considering setting, identification of where setting is likely to be an issue and provision of advice on how to mitigate potential impacts.

The NPPF and AONBs

National planning policies are very clear that the highest priority should be given to the conservation and enhancement of Areas of Outstanding Natural Beauty. The NPPF confirms that AONBs are equivalent to National Parks in terms of their landscape quality, scenic beauty and their planning status.

Paragraph 176 of the revised NPPF specifies that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.' It is advised that the scale and extent of development within AONBs should be limited and at paragraph 177 that major developments should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within an AONB, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

NPPF paragraph 11 explains the presumption in favour of sustainable development. For decision-making this means that proposals in accordance with the development plan should be approved. Part d says that where there are no relevant development plan policies or the relevant ones are out of date (for instance in applications involving new housing where there are housing supply or delivery deficits) then permission should be granted unless:

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- “i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

Areas of Outstanding Natural Beauty are listed in footnote 7 and the most relevant paragraphs in the Framework are 176 and 177. A recent court of appeal case¹ confirms that, if a proposal causes harm to an AONB sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or ‘tilted balance’ expressed in ii) above) should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the AONB as required by NPPF 176.

¹ Monkhill Limited vs Secretary of State for Housing, Communities and Local Government and Waverley Borough Council Case No: C1/2019/1955/QBACF

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