



# Kent Downs National Landscape

**CANTERBURY LOCAL PLAN REG 18 CONSULTATION**

**APRIL to JUNE 2024**

**RESPONSE FROM THE  
KENT DOWNS NATIONAL LANDSCAPE TEAM**

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## Introduction

On 22 November 2023 all designated Areas of Outstanding Beauty (AONBs) in England and Wales became 'National Landscapes' (NLs). As such, the Kent Downs AONB has been renamed the Kent Downs National Landscape. Its legal designation and policy status remain the same and the legislation still refers to Areas of Outstanding Natural Beauty. However, it is requested that references to the Kent Downs AONB are amended to the Kent Downs National Landscape in the Plan and an explanation of the new name is provided in future iterations of the Plan.

Also of note is an amendment to the Countryside and Rights of Way Act, the primary legislation relating to Areas of Outstanding Natural Beauty, introduced through the Levelling-Up and Regeneration Act 2023<sup>1</sup>. The amendment replaces the previous Duty of Regard in AONBs set out at Section 85 of the Act with a new, strengthened requirement that :

*'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority **must seek to further the purpose of conserving and enhancing the natural beauty** of the area of outstanding natural beauty'. (Part 12 - Miscellaneous; Section 245. Protected Landscapes; paras (5) - (10).*

This new duty came into legal effect on 26<sup>th</sup> December 2023 and places a much stronger duty on relevant authorities (including local authorities, the Planning Inspectorate and other Government Departments, Statutory Undertakers etc) to ensure that their actions and decisions seek to conserve and enhance AONBs, marking a significant change to the legal context of AONB policy. Guidance on the new Duty is currently being prepared by DEFRA and it is understood that this will include a specific provision that Local Plans should align with, and help deliver the aims, objectives and principles of the Kent Downs Management Plan.

For reasons we elaborate upon below, we have fundamental concerns that the Plan does not comply with this requirement and we would urge the Council to undertake a comprehensive review of the proposed Plan in light of this fundamental and important change. The new duty should be applied holistically throughout the plan, including within the Plan's vision and objectives; providing a single policy on the National Landscape does not, in our view, demonstrate compliance.

We hope that you find the following comments helpful and would welcome the opportunity to discuss these with you further.

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<sup>1</sup> [https://www.legislation.gov.uk/ukpga/2023/55/enacted#section-245-6\(6\)\]%20to%20\[https://www.legislation.gov.uk/ukpga/2023/55/enacted#section-245-10\]\(10\)\]](https://www.legislation.gov.uk/ukpga/2023/55/enacted#section-245-6(6)]%20to%20[https://www.legislation.gov.uk/ukpga/2023/55/enacted#section-245-10](10)])

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## CHAPTER 1: SPATIAL STRATEGY FOR THE DISTRICT

### Spatial Strategy paragraph 1.8

The Kent Downs National Landscape covers around a third of Canterbury district, and is thus a key element of the spatial context of this Plan. This landscape, which the City Council has a legal duty to further the purposes of conserving and enhancing its natural beauty, should have a significant influence on the spatial strategy that the Local Plan establishes to guide planning and development across the district for the years to 2040. We therefore consider that the Kent Downs National Landscape should be referenced in paragraph 1.8. This would be compliant with the NPPF (paragraph 181) and in line with the approach taken in previous Canterbury District Local Plans when establishing the spatial context of the Local Plan for the district.

### Vision

We welcome the commitment, in the overarching vision for the district to 2040, to deliver a thriving environment. However, we do not consider that the Vision as worded meets the new duty as set out in the recent amendment to the Countryside and Rights of Way Act introduced through the Levelling Up and Regeneration Act, 2023. This Act strengthens the Government's policy on AONBs and places a new statutory duty on relevant authorities, which includes Canterbury City Council, to seek to further the purpose of conserving and enhancing the natural beauty of AONBs in carrying out all of its actions.

In addition, the NPPF (paragraph 181) requires that Plans should distinguish between the hierarchy of international, national and locally designated sites and that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and AONBs (paragraph 182). It is therefore our view that, in setting out the framework that will underpin the approach to planning and development in this district to 2040, the Vision should clearly demonstrate the hierarchy of approaches to the landscapes of the district that will have been taken by the Council over the Plan period, and explicitly state that "the natural beauty of the Kent Downs AONB will have been conserved and enhanced", in order to comply with the new legal duty and with the NPPF.

### Strategic Objectives

As a comment we would suggest that these Strategic Objectives are numbered for ease of reference.

We welcome the strategic objective to "Protect and enhance our rich environment and valued landscapes, creating a network of green spaces, protecting and enhancing green gaps between settlements, supporting nature's recovery and biodiversity and improving the health and wellbeing of our communities". However, given the nationally protected landscape in this district, where great weight should be given to conserving and enhancing landscape and scenic beauty, we consider that the wording of this Strategic Objective needs strengthening. In particular, we request that it should be

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amended to include the legal duty of the Plan to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape:

“Protect and enhance our rich environment and valued landscapes, further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape, and in addition creating a network of green spaces, protecting and enhancing green gaps between settlements, supporting nature’s recovery and biodiversity and improving the health and wellbeing of our communities”.

### **Policy SS1 – Environmental strategy for the district**

Canterbury District has a particularly rich natural environment. A third of the district falls within the Kent Downs National Landscape. It is home to eight internationally protected sites (SPAs, SACs and Ramsar sites) and two national nature reserves, at Blean and at Stodmarsh. The inclusion of an environmental strategy for the district is therefore welcomed. However, we do not consider that Policy SS1 as currently worded is compliant with the NPPF, and with the new duty introduced through the Levelling Up and Regeneration Act 2023 which places a legal duty on the Council to seek to further the purpose of conserving and enhancing the natural beauty of the AONB in carrying out all of its actions. The Kent Downs National Landscape Team therefore objects to Policy SS1 as currently worded.

The NPPF (paragraph 20 (d)) requires that Local Plans set out strategic policies to conserve and enhance the natural environment. Paragraph 181 requires that in doing so, Plans should distinguish between the hierarchy of international, national and locally designated sites. Paragraph 182 requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and AONBs. Paragraph 183 states that planning permission should not be granted for major development in AONBs, other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

Policy SS1 does not require the conservation and enhancement of the natural environment. It does not distinguish between the hierarchy of international, national and locally designated sites in the district, nor does it require that great weight should be given to conserving and enhancing landscape and scenic beauty in the Kent Downs AONB. Instead, Policy SS1 2. applies the same strategic policy approach to development affecting all green and blue infrastructure, regardless of international or national designation. The failure to make explicit that national policy requires that the Kent Downs National Landscape has the highest level of landscape protection and that great weight should therefore be given to conserving and enhancing landscape and scenic beauty here, is incompatible with national policy as set out in the NPPF (paragraphs 181 and 182).

Furthermore, the LURA Act has strengthened national policy on AONBs and places a new statutory duty on relevant authorities, which includes Canterbury City Council, to seek to further the purpose of conserving and enhancing the natural beauty of AONBs in carrying out all of their actions. Policy SS1, which sets the environmental strategy for

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the district fails to require that development conserve and enhance the natural beauty of the Kent Downs National Landscape, and does not therefore, in our view, meet the requirements of this new legal duty on the Council.

We consider, firstly, that the hierarchy of environmentally international, national and locally designated sites in the district should be clearly set out, either in Policy SS1 or in the supporting text to this policy at paragraph 1.18. (Such an approach would mirror that taken in the Plan to the historic environment and archaeology in Policy DS26, which clearly separates the different approaches that will be taken development affecting the different tiers of heritage designations).

Secondly, that the strategic policy approach of the Plan to the Kent Downs National Landscape is amended to accord with national policy for National Landscapes as set out in the new Duty, and in the NPPF (paragraphs, 20, and 180 – 183). Finally, we find the use of the word 'will' in Policy SS1 2., rather than 'should' or 'must' as used in the other strategic policies of the Plan, to be inappropriate and more applicable to a vision than a policy. We therefore suggest that in amending SS1 2 to deliver a policy that is compliant with the new legal duty on the Council regarding the Kent Downs National Landscape, the wording is changed to 'should conserve and enhance'.

The definition of natural beauty has long been accepted to include not just the look of the landscape, but, amongst other things, the rich history of human settlements over the centuries. Canterbury district has a wealth of historic rural settlements. In this regard, we would recommend that the wording of Policy SS1 4 is amended to acknowledge that, in addition to the local economy, culture and quality of life, heritage assets make a significant contribution to the character and appearance of the district, including the settlement pattern and built form of its historic villages.

Policy SS1 5. We support the commitment in the Plan to the delivery of a minimum of 20% BNG.

Policy SS1 9. The Plan's support for carbon sequestration and the development of renewable and low-carbon sources of energy is welcomed. However, in order to comply with both the new legal Duty on the Council and the NPPF Paragraph 183, proposals for renewable energy developments in the Kent Downs National Landscape must be of an appropriate scale, location and design in relation to the character of the landscape and its setting. We therefore propose some alternative wording to Policy DS25 to ensure that the natural beauty of this protected landscape is conserved and enhanced in any such developments.

### **Policy SS3 – Development strategy for the district**

The Kent Downs National Landscape Team strongly objects to the allocation of 'employment development and viticulture hub' at Highland Court Farm in the Kent Downs AONB, in open countryside between the villages of Bridge and Kingston. Our detailed representation on this allocation is provided against Policy C17. The following additional comments are made against Policy SS3.

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With regard to the supporting text to Policy SS3, we find that sections of it are contrary to the allocation at Highland Court Farm (Policy C17). Paragraph 1.43 states that “this Plan focuses growth proportionally at the most sustainable settlements within the district”. The allocation at Highland Court Farm, remote from any settlement and located within the Kent Downs National Landscape, is entirely at odds with this statement. The definition of sustainable development as set out in the NPPF (paragraph 8) is clear that achieving sustainable development is predicated on the protection and enhancement of the natural environment.

Paragraph 1.45 states that “the strategy seeks to protect the countryside and the rural character of the district from inappropriate development.” Again, the allocation at Highland Court Farm is entirely at odds with this statement. Highland Court Farm is located in open countryside, remote from any settlement. The allocation of this remote rural site for significant levels of commercial development, with a consequent significant impact on the local highway network and traffic, is inappropriate, contrary to national policy and will not protect the countryside and the rural character of the district. Finally, Paragraph 1.47 states that “Areas of the district outside of the urban areas and the rural settlement boundaries are designated as countryside where development will generally be restricted.” The allocation at Highland Court Farm is entirely at odds with this statement.

In response to needs identified in the Economic Development and Tourism Study and Focused Update, Policy SS3 provides for 30,780 sqm of office use, 45,160 sqm of light industrial use, 11,200 sqm of general industrial use and 53,960 sqm of warehousing (B8) use, through planning permissions and site allocations over the Local Plan period to 2040. The Policy does not specify where such floorspace requirements are to be provided. We raise significant concern at the lack of clarity on this point, given the allocation at Highland Court Farm (Policy C17) a site which lies in the Kent Downs National Landscape and where national policy is clear that major development should be refused, unless there are exceptional circumstances *and* where it can be demonstrated to be in the public interest and that the scale and extent of development should be limited.

The allocation at Highland Court Farm states that “planning permission will be granted for [...] a minimum of 35,500sqm of B8 floorspace [...] and a limited amount of supporting uses such as commercial and business.” This wording differs from all other major allocations in not indicating an approximate level of employment floorspace provision on the site that will be acceptable to the planning authority, or indeed any upper limit on B8 and ‘commercial and business’ development on this site.

The allocation of “a minimum of 35,500 sqm” at Highland Court Farm equates to a minimum of 66% of the entire district’s B8 floorspace requirement for the plan period as set out in Policy SS3. The wording “a minimum of” in Policy C17 combined with the failure to specify where the need for each quantum of employment land uses in Policy SS3 is to be provided, means that the Plan would support 100% of the entire district’s requirement for B8 being provided on this site which lies in the Kent Downs National Landscape, in open countryside remote from any settlement, in direct conflict with

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national policy and with the new legal duty on the Council to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape as is set out in more detail in our response to Policy C17.

Furthermore, policy C17 states that permission will also be granted for “a limited amount of supporting uses, such as commercial and business, related to the delivery of the viticulture hub.” This unquantified support for provision of additional commercial and business floorspace at Highland Court Farm to meet the need set out in Policy SS3 is contrary to national policy set out in the NPPF and the NPPG and with the statutory duty on the Council. The absence of any details in Policy SS3 as to where the employment floorspace requirements of the Plan are to be provided, together with the wording of Policy C17 is contrary to the NPPF, NPPG and to the legal duty on the Council to further the purpose of conserving and enhancing the natural beauty of the AONB. The Kent Downs National Landscape Team therefore objects to the failure of Policy SS3 to make clear how and where the Plan proposes to meet need for employment land over the Plan period and does not accept that the legal duty on the Council to conserve and enhance the natural beauty of the Kent Downs has been met by the Policy SS3 as worded.

## **CHAPTER 2: CANTERBURY**

### **C17 Canterbury Business Park**

As an initial point, we can find no justification for including the proposed allocation in the Canterbury Chapter of the draft Local Plan, rather than the Rural Chapter. On page 5 of the Plan, it clearly specifies that Chapter 2 ‘sets out the strategic policy framework for development in the urban area of Canterbury’. Given the proposed allocation is located in a rural area, outside of any settlement in the open countryside, its inclusion within the Canterbury Chapter could be regarded as disingenuous, and we also raise concerns that it may also have skewed the findings of the Sustainability Appraisal, in particular Appendix I: Appraisal of Policy Sections.

The Kent Downs National Landscape Team strongly objects to the allocation of this site for employment purposes, which would represent a major development in the National Landscape. Government policy on AONBs has recently been strengthened, with the recent amendment to the Countryside and Rights of Way Act introduced through the LURA 2023 which places a new statutory duty on relevant authorities, which includes Canterbury City Council, to seek to further the purpose of conserving and enhancing the natural beauty of AONBs in carrying out all of their actions. It is our assessment that the proposed allocation would fail to comply with this new statutory requirement.

Furthermore the NPPF contains a twice repeated instruction in paragraph 182 that AONBs should be enhanced, as well as conserved, bringing the policy in line with the primary legislation relating to AONBs, the Countryside and Rights of Way Act 2000. It also includes a sentence which requires that the scale and extent of development within AONBs should be limited, which clearly demonstrates the Government’s commitment

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to avoiding any sizable development within AONBs and is applicable to both major and non-major development and to plan making as well as decision-taking.

With a site area of 22ha and a proposed minimum provision of 35,500 sqm of B8 floorspace, taking into account the undeveloped, greenfield nature of the site, away from any existing settlement, there is no doubt that the proposal constitutes a 'Major Development' for the purposes of assessment under paragraph 183 of the NPPF, notwithstanding the reduction in floorspace since the previous iteration of the Plan. This was accepted in a recent planning application for a smaller scheme on part of the proposed allocation (CA/22/02055). As such, an assessment needs to be made as to whether the proposal is in the public interest and whether exceptional circumstances apply.

The proposed allocation is justified on the basis of meeting the District's need for employment land, as set out in the Economic Development and Tourism Study and Focused Update and on the basis that no other suitable sites are available in the District. However NPPF paragraph 11 makes it clear that AONB designation may provide "a strong reason for restricting the overall scale, type or distribution of development in the plan area". This is reinforced in the Planning Practice Guidance updated in July 2019 which under 'How should development within National Parks, the Broads and Areas of Outstanding Natural Beauty be approached?' states "The National Planning Policy Framework makes clear that the scale and extent of development in these areas should be limited, in view of the importance of conserving and enhancing their landscapes and scenic beauty. Its policies for protecting these areas may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process, and they are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas".

Furthermore, paragraph 180 of the NPPF requires that planning policies should contribute to and enhance the natural and local environment by 'protecting and enhancing valued landscapes (in a manner commensurate with their statutory status)'. Paragraph 181 of the NPPF requires that plans distinguish between the hierarchy of international, national and locally designated sites and requires that Plans allocate land with the least environmental value, while paragraph 182 of the NPPF confirms that AONBs, along with National Parks and the Broads have the highest status of landscape protection. Clearly, land at Highland Court Farm, by virtue of its location within the nationally protected AONB, has the highest level of environmental value and allocating a large employment site within an AONB would be in conflict with these policies.

Proposals involving major development in AONBs must constitute exceptional circumstances and be in the public interest in order for the presumption in favour of sustainable development to be engaged. As explained above, it is considered that the proposal comprises major development and as such it also needs to be assessed against this part of the NPPF. Whilst paragraph 183 specifically refers to planning permissions, it has also been considered relevant by Local Plan Inspectors to allocations within Local Plans. Legal advice provided to the South Downs National Park Authority by Landmark Chambers also concluded that "it would arguably amount to an

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error of law to fail to consider paragraph 116 (now 183) at the site allocations stage of plan making for the National Park. The consequence of doing so would be to risk allocating land for major development that was undeliverable because it was incapable of meeting the major development test in the NPPF”.

As indicated in paragraph 183 of the NPPF, consideration of the exceptional circumstances and public interest tests for major development applications should include an assessment of:

1. the need for the development;
2. the cost of – and scope for – developing outside the AONB or meeting the need in some other way;
3. detrimental effects.

Tests 1 and 2 are indeed more appropriate to determine at plan-making stage when the needs for development are established and alternative options for provision fully considered. The scope for this to be done at planning application stage is much more restricted.

The starting point of this policy is that major development should only be permitted in an AONB “in exceptional circumstances, and where it can be demonstrated that the development is in the public interest”. This is a separate requirement to the tests above and sets a very high bar. The National Landscape Team does not consider the allocation to either truly represent exceptional circumstances nor to be in the public interest; both tests need to be met. When considering whether the development is in the public interest it is important to note that AONBs are landscapes whose distinctive character and natural beauty are so outstanding that it is in the nation’s interest to safeguard them. As such, for the development to be considered to be in the public interest, the potential benefits must outweigh the national significance of conserving and enhancing the natural beauty of the AONB.

#### In terms of need for the development

The application is justified on the basis of an identified need for employment floorspace that is set out in the emerging Local Plan evidence base – in the Lichfield Economic Development and Tourism Study 2020 and subsequent EDTS Focused Update Supplementary Report dated August 2023 which identifies a requirement for employment land ‘equivalent to 60,320 sqm or 13.2 ha over the 21-year Plan period to 2041, again driven mainly by distribution (B8) and light industrial (E(g)(iii)) uses’. This is a notable reduction from the previous identified need of 37ha set out in the evidence base for the earlier Regulation 18 Local Plan.

The need for employment land is clearly a districtwide issue. In the context of the “need” considerations set out in paragraph 183, if need for employment land alone equalled exceptional circumstances/the public interest, then that would be to effectively say employment is acceptable in all cases within the AONB, subject only to

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assessing individual landscape harm (which removes any special AONB protection at all).

To justify major development on the basis of meeting objectively assessed needs for the local planning authority area is a circular argument at plan-making stage because the impact of the scale and distribution of development on the AONB should be taken into account in deciding the level of employment provision. If such levels can only be achieved by allocating major development in an AONB, which by definition will have “a significant adverse impact on the purposes for which the area has been designated” then this is a good indicator that the impact on the AONB provides “a strong reason for restricting the overall scale, type or distribution of development in the plan area” (NPPF paragraph 11). As the proposed allocation would clearly be contrary to the provisions of paragraph 182 that requires great weight to be given to conserving and enhancing natural and scenic beauty and for development in AONBs to be limited in scale and extent, and paragraph 183 that provides a presumption against Major Development, should alternative provision elsewhere not impacting on the Kent Downs National Landscape not be possible, a case for not meeting the OAN should be made.

We would also comment that there is no functional or specific need for employment development at this location; a case cannot be made such as for minerals extraction for example, where there is a functional requirement for a specific location. While we recognise that the site has access to the strategic road network, and that this represents a benefit of the site, it does not, in our view, provide a sufficient or robust reason to justify the allocation in view of the resultant significant harm that would occur to a nationally protected landscape.

In terms of impacts on the local economy, clearly, there would be benefits to the local economy, however this does not in itself equate to exceptional circumstances. Furthermore, the benefits are not, we would contend, dependent on this specific site being developed and could be achieved on other sites.

With regards to scope for developing outside of the AONB, Case law has clarified that ‘no permission should be given for major development save to the extent the development ... met a need that could not be addressed elsewhere or in some other way’. ( R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#))). Paragraph 35).

Only 27.8% of the district lies within the AONB and while there are other local landscape designations, as confirmed in the NPPF at paragraph 182, AONBs (along with National Parks) have the highest status of landscape protection and planning decisions should protect and enhance valued landscapes in a manner commensurate with their statutory status (paragraph 174). The 72.2% of the District that does not fall within the AONB designation would clearly be more appropriate to meet any strategic employment development needs. The Council should be more proactive in seeking to accommodate its employment needs outside of the AONB and should more robustly explore all available options outside the AONB, or whether the need can be met in another way, such as on smaller sites.

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In terms of detrimental effects on the landscape, our detailed comments on impacts to the Kent Downs National Landscape are provided below. The proposal would result in the direct and permanent loss of around 22ha of currently undeveloped countryside that is wholly in keeping with landscape character and representative of the Kent Downs special character and qualities and makes a positive contribution to the landscape and scenic beauty of the Kent Downs National Landscape. The nature and scale of the allocation, that would effectively triple the size of the existing Business Park and proposes predominantly B8 use with its associated large, functional buildings would not only undermine its characteristically open, undeveloped and rural nature, but be a particularly harmful form of development, the impacts of which are not capable of being mitigated to any significant extent. While the site may be relatively contained within the wider landscape and the proposal may not affect wider views, this does not account for the impacts to landscape character or views from within and close to the site itself.

Taking the above into account, it is not considered the allocation constitutes exceptional circumstances and that meeting the District's general B8 employment needs does not provide a sufficient or robust enough reason to justify the allocation proposed development in view of the resultant significant harm that would occur to a nationally protected landscape and the weight the contribution the site would make to providing B8 employment land for the District is, in our view, outweighed by the significant adverse impact the development would have on the landscape and scenic beauty of the Kent Downs National Landscape to which NPPF paragraph 182 requires great weight to be attached.

In addition to being in conflict with the NPPF as identified above, the allocation also conflicts with the Council's own strategic objective to 'Protect and enhance our rich environment and valued landscapes' as set out on Page 9 of the draft Plan. It would also be contrary to the Kent Downs AONB Management Plan, the Council's adopted policy for managing the National Landscape.

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

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.

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.

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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.

SD11 Major development should avoid the Kent Downs AONB in line with NPPF guidance. Where it is decided that development will take place that will have a negative impact on the landscape character, characteristics and qualities of the Kent Downs AONB or its setting, mitigation and or compensatory measures appropriate to the national importance of the Kent Downs landscape will be identified, pursued, implemented and maintained. The removal or mitigation of identified landscape detractors will be pursued.

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.

AEU10 Support will be given to the North Downs Way and England Coast Path National Trails as the main promoted routes in the Kent Downs, the establishment of a North Downs Way multiuser route will be supported.

AEU 14 Proposals which detract from the amenity and enjoyment of users of the Public Rights of Way network will be resisted.

### Impacts to the Kent Downs National Landscape

#### Landscape Character:

The site of the allocation lies in the open countryside and is rural in nature. It comprises gently undulating land that forms part of the dip slope of the North Downs. The land is predominantly in fruit production, with smaller areas of pasture and seasonal workers caravans. The site contains hedges and shelter belts dividing the fruit growing areas. Historic mapping identifies that the landscape has changed little over the years, despite the introduction of the A2 to the immediate west of the site, with the field pattern remain relatively intact although there has been introduction of shelter belts within the field structure.

In the Landscape Character Assessment of the Kent Downs, which has recently been updated, the site lies in the East Kent Downs Landscape Character Area, one of 13 character areas and within this, in the Elham sub area. Summary characteristics of this Character Area include the rounded chalk plateau dissected by a series of parallel narrow dry valleys, becoming increasingly pronounced towards the south, extensive woodland blocks, particularly on ridge tops, shaves, copses and hedgerow trees throughout, the dominant land use is identified to be arable agriculture, but areas of parkland, orchards, vines, woodland and pasture are also present. Field patterns are variable, but are generally larger on ridges than in valleys, reflecting historic processes of enclosure. Overall it is identified to be a relatively tranquil part of the Kent Downs

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National Landscape, with a strongly rural feel. Landscape Management Recommendations within the LCA include:

- Protect non-designated historic landscape features such as lanes and field patterns, particularly where they are threatened with highways works or other development.
- Protect the small scale, isolated pattern and rural character of settlements within this LCA. Avoid ribbon development along roads and large scale development.
- Protect skylines and consider the impacts of new developments (including communications masts) on open skylines.
- Protect open views and long views along valleys, avoiding the introduction of new developed elements into these views.
- Protect tranquillity, resisting developments which increase levels of noise and movement in the landscape
- Promote high design standards for rural developments to ensure that they make a positive contribution to landscape character, for example through careful choice of materials, and an appropriate scale and massing of building. Seek the sympathetic use of local materials – brick, tile and flint.

The Kent County Landscape Character Assessment carried out in 2004 aligns both geographically and in terms of content with the Kent Downs AONB LCA. This identifies the area to be coherent with few visual detractors and to be in good condition. Rolling downland is identified as the dominant visual element. This LCA determines that the area has a high sensitivity and assigns it a conserve landscape strategy, including conserving open views and the influence of vernacular building styles as well as conserving the isolation of farmsteads and resisting additional development.

The site, in the main, reflects the characteristics of the LCAs and the Kent Downs AONB and contributes to the landscape and scenic beauty of it. Historically, orchards have played an important part in the special character of the Kent Downs landscape, the regular striate form enhancing the rise and fall of the land. Modern orchards provide an important link to a valued historic landscape. The Kent Downs AONB Landscape Character Assessment Update specifically notes (at paragraph 4.26) that there are pockets of orchards on the less exposed northern slopes of the Elham local character area.

The proposal would result in the direct loss of the currently undeveloped countryside, by introducing built development of what would effectively comprise an industrial estate with large scale industrial and storage/warehouse buildings, on a site where there currently is no built development which would undermine its characteristically open, undeveloped and rural nature, failing to contribute to or re-enforce the landscape character. While it is noted that some existing trees and hedges within the site could be

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retained and that additional supplementary landscaping is proposed, the essentially rural character of this land would be wholly compromised.

Accordingly, the Kent Downs National Landscape Team is of the view the development associated with the allocation would result in a major adverse impact to landscape character and that the proposal would not conform with the 'Conserve' strategy identified in the KCC LCA which identifies the East Kent Downs: Elham LCA as having a high sensitivity to change. It would also conflict with numerous of the Landscape Management Recommendations in the Kent Downs AONB LCA such as avoiding large scale development, protecting skylines and tranquillity and ensuring development is of an appropriate scale.

Overall, it is the conclusion of the Kent Downs National Landscape Team that there would be a significant adverse effect on landscape character which would result in significant residual harm to the landscape qualities of the site and the special character and that the Kent Downs National Landscape would be neither conserved nor enhanced.

#### Visual impacts:

The site of the proposed allocation comprises attractive fields predominantly used for fruit growing, separated and bounded by hedges and shelter belts, located on high ground on the dip slope to the North Downs. In terms of visual impacts, longer and middle distance views to the site are generally curtailed from most directions as a result of the presence of trees and woodland. Much of the tree cover in and within the vicinity of the site comprise Ash which is being severely impacted by Ash die-back disease (*Chalara Fraxinea*) in the locality, as noted locally on site. Loss of the majority of ash trees (up to 98% mortality) in the Kent Downs AONB is anticipated which is likely to result in views of the site being opened up; the potential impacts of Ash dieback disease need to be taken into account.

While longer distance views towards the site are limited, there would nevertheless be views from within the site itself, and from close up views including from the North Downs Way National Trail to the immediate west and north west of the site and public bridleway CB324 which connects to the North Downs Way and passes through the centre of the proposed site allocation. While the site benefits from some enclosure by trees, hedges and shelter belts, in the main these comprise single lines of relatively mature trees, often with clear, well spaced trunks, that allows for views into the site, such as along the boundary with Cold Harbour Lane and along much of the western boundary, which is flanked by the North Downs Way. The height of the trees along a section of the north boundary is lower which would also allow views of the site from the North Downs Way to the north west.

The proposed use of the site for predominantly B8 Use (storage and distribution), which, by its nature, will necessitate large, utilitarian, functional buildings that would emphasize their industrial use and would be entirely out of keeping with the existing rural character of the site and Kent Downs and more appropriate on an urban Industrial

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Estate. While landscaping might reduce visual impacts from locations outside of the site, given the scale of the buildings this would take some considerable time to be effective and would not mitigate impacts from within the site itself.

While noting that the site is proposed adjacent to an existing Business Park, this is an anomaly in the landscape, established historically as an extension to the agricultural activity at Highland Court Farm. Although relatively contained from the wider landscape in views, the development has a significant detrimental impact in close up views. The expansion of the Business Park as proposed would significantly exacerbate the effects on the character and appearance of this part of the National Landscape. It would be entirely inappropriate and to justify further harm to the Kent Downs National Landscape due to the presence of this existing detracting feature in the landscape.

Ultimately, the proposed allocation would result in the provision of large scale industrial buildings within undeveloped agricultural land that is designated as an AONB, where the purpose of designation is the conservation and enhancement of scenic beauty. The proposal would essentially transform the views and experience in this part of the AONB from an attractive landscape of rural character to a large scale industrial development.

The scale and nature of the proposal and its rural location means that it also has potential to impact on the tranquillity of the Kent Downs National Landscape. Tranquillity is specifically identified as one of the [Special Characteristics of the Kent Downs](#) National Landscape. The site is traversed and surrounded by several Public Rights of Way including the North Downs Way National Trail. While recognising that tranquillity at the site is affected by the A2, the proposal would further erode tranquillity by virtue of increases in noise, activity and traffic at the site. The increase in traffic on Coldharbour Lane to access the site would also be in direct conflict with users of the North Downs Way National Trail that crosses the Lane closer to its junction with the A2. There would also be conflict between the vehicular traffic and users of Public Right of Way CB324 within the site. This would include pedestrians, cyclists and horse riders as both impacted PRow are classified Bridleways.

Construction activity associated with the proposal would have a major, albeit temporary, negative impact on tranquillity as a result of noise, HGV movements, deliveries and general increased activity across the site. However, the increase in activity as a result of the proposed development once operational would permanently impact on the currently rural agricultural setting, as enjoyed by users of the public rights of way that lie close to/adjacent to the site. In respect of the recent planning application which proposed approximately 42,000 sqm of employment floorspace, anticipated daily vehicular movements are 3161, of which 470 would be HGVs.

Taking the above into account, the Kent Downs National Landscape Team considers the Council are failing in their new statutory duty to seek to further the conservation and enhancement of the natural beauty of the Kent Downs National Landscape and strongly objects to the proposed allocation.



## CHAPTER 5: RURAL AREAS

### R2 Great Pett Farm

The site lies within the Kent Downs National Landscape. It comprises an existing farmstead with large agricultural buildings that is relatively well contained within the landscape and a sensitively designed residential scheme here would provide an opportunity to enhance the immediate surroundings.

The amended criterion from the earlier iteration of the Local Plan for affordable housing to be provided on site is welcomed and is in accordance with the Management Plan principle VC3. We remain supportive of the requirement for the design to be based on 'a sensitive farmstead-type development', and the amended wording for this to be in keeping with the character of the historic farmstead to the north and addition of the reference to the Kent Downs AONB Farmstead Guidance is welcomed. It is also considered necessary however for the requirements in the criterion in the Design and Layout section to be strengthened to ensure compliance with the newly imposed duty to seek to further. We suggest the following amendment:

#### 2. Design and layout

The design and layout of the site should:

a) Provide a high quality built environment, in line with Policy DS6, with an appropriate density, and that is sensitive to the site's location within the Kent Downs National Landscape and further the conservation and enhancement of its natural beauty;

(b) Provide a sensitive farmstead-type development, in keeping with the character of the historic farmstead to the north and informed by the Kent Downs AONB Farmstead Guidance;

Criterion 3(c) is for the green and blue infrastructure strategy for the site to '*Incorporate opportunities where possible for landscape and biodiversity enhancements with regard to The Kent Downs AONB Management Plan*'. We raise concerns that this is not clear or prescriptive enough and the wording should be amended to ensure that such enhancements are delivered as part of any redevelopment to help ensure that development here furthers the conservation and enhancement of the natural beauty of the Kent Downs. The following amendment to the wording is suggested:

3 (c) Incorporate opportunities ~~where possible~~ for landscape and biodiversity enhancements ~~with regard to~~ informed by the Kent Downs AONB Management Plan and its associated guidance documents;

The inclusion of the requirement for a substantial landscape buffer around the site is supported. Given the site's sensitive location within the Kent Downs National Landscape we would however request that this is amended to incorporate a requirement for this to be appropriate to landscape character:

3(f) Provide a substantial landscape buffer to the east, south and west of the site that is appropriate to landscape character, to provide visual separation between development and surrounding countryside.

## **R11 Local Service centres**

There are two Local service centres located within the Kent Downs National Landscape; Barham and Petham. We are concerned that Policy R11 does not appropriately reflect the new statutory duty imposed on the Council in respect of criterion 2 (a) and (d). We are generally supportive of the intention to resist the loss of community facilities and businesses, as set out at 2(a) which is in line with the Management Principle VC4. The policy, however, then appears to provide unconditional support for any proposal which enhances 'the community and business offer' providing it is within the settlement boundaries. This is considered inappropriate within the Kent Downs National Landscape as there may be instances where such proposals would not further the conservation or enhancement of the natural beauty of the Kent Downs. While some safeguards are incorporated in respect of community and business facilities that are proposed outside of settlement boundaries at 2 (d), again these do not adequately reflect the requirements for furthering the conservation and enhancement of the national landscape. It is therefore suggested that the policy is amended to provide sufficient safeguards and help ensure the Council complies with its new statutory duty:

2. The council will seek to protect and enhance the sustainability of the Local Service Centres by:

(a) Resisting the loss of community facilities and services and business or employment premises, and supporting proposals which further enhance the community and business offer, within the settlement boundaries. In Barham and Petham, proposals must also comply in the first instance with the primary requirement of conserving and enhancing the natural beauty of the Kent Downs National Landscape, and, where this is demonstrated, the scale and extent of development is limited, sensitively located and designed to avoid impacts and furthers the purpose of the designated landscape.

(d) Supporting proposals for new community facilities and services, business or employment space and tourism facilities outside settlement boundaries, where:

(i) There is an identified local need for the proposal which outweighs any harm;

(ii) The development would be well related to and proportionate to the scale of the existing settlement and protects the rural character of the area;

(iii) The development is appropriately accessible by walking and cycling; and

(iv) The development would not undermine the viability of existing provision within the Settlement; AND

(v) In Barham and Petham, proposals must also comply in the first instance with the primary requirement of conserving and enhancing the natural beauty of the Kent Downs National Landscape, and, where this is demonstrated, the scale and extent of development is limited, sensitively located and designed to avoid impacts and furthers the purpose of the designated landscape.

### **R13 Barham**

The site lies within the Kent Downs AONB. In the previous consultation draft Plan, the site was allocated for 9 dwellings and the concept masterplan for development indicated that development would be limited to a small part of the overall site area. The Kent Downs National Landscape Team advised that this was considered appropriate, reflecting the existing settlement pattern in this part of the village and raised no objection in principle to the allocation in view of the site's relationship with the built confines of the existing settlement. We advised that we would however have concerns if built form was to extend outside of the area to the south of the access track.

The proposed allocation has now increased significantly in scale from 9 to 20 dwellings and the proposed developable area been amended to incorporate the land to the north of the access track in addition to the previously proposed land to the south. As such, the allocation proposes development across the entire site (excluding a small strip adjacent to the road) which would result in the loss of an important green space that currently contributes significantly and positively to the character of Barham by virtue of its undeveloped agricultural nature, which, with its individual infield mature trees has an almost parkland character. The site has a very high sensitivity to change, which is further increased as a result of its location on the side of a dry valley, one of the main targets of the original designation of the AONB and now recognised as one of its special characteristics. The allocation would result in the loss of the open and undeveloped character of the site which currently forms an important green gap in the village and which makes a significant contribution to the rural character of Barham. Harm would be exacerbated by the siting of built form on the rising valley side that would increase the visual prominence of any development. As such, the larger allocation now proposed would, in our view, fail to conserve and enhance the landscape and scenic beauty of the Kent Downs National Landscape.

### **R19 Countryside**

While the policy includes some safeguards that require new development to protect rural character and/or mitigate impacts, as currently worded this falls short of the requirement set out in the NPPF at paragraph 182 for *great weight* to be attached to the conservation and enhancement of landscape and scenic beauty in AONBs and the new statutory duty introduced through the Levelling Up and Regeneration Act for the City Council to seek to further the conservation and enhancement of the natural beauty of the Kent Downs National Landscape. It is therefore requested that additional safeguards are incorporated into the policy wording for proposals located within the Kent Downs National Landscape:

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7. Additionally, for all proposals located within the Kent Downs National Landscape, proposals must also comply in the first instance with the primary requirement of conserving and enhancing the natural beauty of the Kent Downs National Landscape, and, where this is demonstrated, the scale and extent of development is limited, sensitively located and designed to avoid impacts and furthers the purpose of the designated landscape.

## **DISTRICT-WIDE STRATEGIC POLICIES**

### **DS1 Affordable Housing**

The Kent Downs National Landscape Team supports the requirement for affordable housing on schemes of between 6 and 9 units within the AONB, which is in compliance with the NPPF paragraph 65. The provision of well designed, sustainable and affordable housing, particularly for workers employed in the land-based economy is an identified aim of the AONB Management Plan and its provision is supported in Principle VC3 which seeks the provision of suitably located affordable housing that is of a high-quality design and of an appropriate scale.

This should, however, be ring fenced to provide affordable housing elsewhere in the Kent Downs National Landscape.

### **DS4 – Rural housing**

We have concerns that in combining the requirements for rural exception sites and entry level exception sites the policy fails to comply with the NPPF which is specific at footnote 38 of para. 73 that 'Entry-level exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty or land designated as Green Belt.'

### **DS5 – Specialist housing**

In respect of 7. Traveller and gypsy sites, we are concerned that the policy fails to comply with the requirements of the NPPF paragraph 182 that requires great weight to be afforded to conservation and enhancement of AONBs.

The nature of gypsy sites is such that they rarely conserve and enhance landscape character. AONBs merit the highest level of protection, as specified in the NPPF and accordingly gypsy sites should not be released in the AONB unless there are no other alternatives available and then only when impact can be appropriately mitigated and the AONB conserved and enhanced for example through appropriate landscaping, design and maintenance.

We therefore suggest an additional criterion:

'Within the Kent Downs National Landscape, that the proposal complies in the first instance with the primary requirement of conserving and enhancing landscape and scenic beauty, and where this is demonstrated, that the scale and extent of

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development is limited, sensitively located and designed to avoid or minimise adverse impacts on these designated landscapes.'

### **Policy DS6 Sustainable Design**

Support. Request reference to the Kent Downs AONB Landscape Design Handbook and future updates either in the Policy or the supporting text.

### **Policy DS8 Business and employment areas**

Two of the designated Business and Employment Areas in the district are located in the Kent Downs National Landscape where the Council has a legal duty to further the purposes of conserving and enhancing natural beauty. The Kent Downs National Landscape Team requests that an additional criterion is added to Policy DS8 with regard to 'Canterbury Business Park' near Bridge, and Barham Business Park in order to comply with national policy and the legal duty on the Council. Such an additional criterion should make clear that proposals to intensify or extend business and employment uses onto land adjoining these two Areas will only be permitted in exceptional circumstances and where it can be demonstrated that the development will not harm the landscape character and natural beauty of the Kent Downs.

### **DS11 Tourism development**

The Kent Downs National Landscape Team recognises the role of tourism in maintaining the vitality of local communities in the Kent Downs and encourages sustainable tourism proposals where they are compatible with the purpose of National Landscape designation i.e. conserving and enhancing natural beauty. This is recognised in Principle VE6 of the Kent Downs AONB Management Plan 2021-2026 and also reflected in the recent Kent Downs EXPERIENCE project; a €23.3 million project co-financed by the European Regional Development Fund that aimed to bring 20m visitors to project partner regions in the UK and France including Kent over the next few years by reinventing the way the economy, environment, communities, and brands interact – focusing on sustainable, low-impact tourism activities to secure the future resilience of our natural and cultural assets.

We are generally supportive of the retention of existing tourist facilities. In respect of new tourism facilities, we are concerned that as worded, the policy fails to comply with requirements for AONBs to be conserved and enhanced. We therefore request the inclusion of an additional criterion that within AONBs, any proposals also protect the rural character of the area and any adverse impacts on the landscape are appropriately mitigated.

### **Policy DS18 – Habitats and landscapes of national importance**

The Kent Downs National Landscape Team objects to Policy DS18, which we do not consider compliant with the NPPF (paragraphs 182 and 183) or with the new legal duty on the Council to seek to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape. The policy wording should also reflect the recent renaming of AONBs to National Landscapes. We therefore suggest the

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following amendments to paragraph 6.53 of the supporting text and Criteria 1 and 2 of the Policy:

6.53 Much of the southern part of the district falls within the Kent Downs National Landscape ~~Area of Outstanding Natural Beauty~~, which is a nationally important landscape where major development is only permitted in exceptional circumstances and where it can be demonstrated that the development is in the public interest ~~not normally permitted~~. The council will continue to work with partners to support the implementation of the Kent Downs AONB Management Plan and to further the purpose of conserving and enhancing natural beauty ~~goals~~ of this national landscape through implementation of Local Plan policies.

Policy DS 18 Habitats and landscapes of national importance

1. ~~Proposals for major developments and proposals which conflict with the objective to conserve and enhance the Kent Downs Area of Outstanding Natural Beauty (AONB), or that endanger tranquillity, will not be permitted except in exceptional circumstances.~~ Proposals for major development within the Kent Downs National Landscape, will not be permitted except in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

2. ~~In considering proposals for development within the AONB, or its setting, the emphasis should be on proposals that are sustainably and appropriately located and designed to enhance and further the character of the AONB. All other proposals within the Kent Downs National Landscape and its setting should further the conservation and enhancement of the natural beauty of the designated area, including tranquillity, and be sensitively and sustainably located.~~ The council will grant proposals which support the economy and social well being of the AONB and its communities, including affordable housing schemes, provided that they do not conflict with the ~~aim~~ purpose of conserving and enhancing natural beauty by addressing location, scale, form, high quality design, materials and mitigation and have regard to the advice set out in the Kent Downs AONB Management Plan and its supporting guidance.

## **Policy DS21 – Supporting biodiversity recovery**

The Kent Downs National Landscape Team supports 20% BNG which reflects the position of the Kent Nature Partnership that, where possible there should be a minimum requirement for 20% biodiversity net gain, rather than the mandatory minimum 10% . This is reflected in the AONB's adopted Third Revision Management Plan 2021 to 2026.

Where off-site provision is determined to be acceptable, the Kent Downs National Landscape team would be supportive of allocating sites specifically for BNG within the Local Plan and would encourage these to be located within the Kent Downs National Landscape. Net Gain provides the potential to generate substantial new investment streams to achieve the sustainable development and biodiversity objectives of the

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Kent Downs AONB Management Plan, within areas of strategic opportunity for nature recovery and low threat of future development – this places the Kent Downs as a potential strategic area for net gain investments.

### **Policy DS22 – Landscape character**

Support.

### **Policy DS25 Renewable energy and carbon sequestration**

In line with national policy and with the Levelling Up and Regeneration Act 2023, all proposals for renewable energy and carbon sequestration developments in the Kent Downs National Landscape are required to conserve and enhance natural beauty and, in the case of major renewable energy and carbon sequestration developments, should only be permitted in exceptional circumstances and where it can be demonstrated that the development is in the public interest. We therefore request that an additional criterion is added to Policy DS25 to make this clear.

We also suggest that the supporting text to this policy is amended to require promoters of medium and large scale renewable energy proposals in the Kent Downs National Landscape to prepare an environmental assessment and landscape impact statement in order to demonstrate clearly how conservation and enhancement of the Kent Downs will not be compromised and satisfactorily address any potential impacts, particularly with regard to landscape character, views and setting. In particular, the Kent Downs National Landscape Team will wish to see evidence that an adequate site selection process has been carried out, including proper consideration of alternative sites and options outside the National Landscape, and justification for the chosen site.

## **DEVELOPMENT MANAGEMENT POLICIES**

### **DM 11 – Residential design**

In respect of criterion 2 (h) relating to boundary treatments, it is suggested that this is amended to state that the boundary treatment should be appropriate to local landscape/townscape character.

2 (h) Boundary treatments such as hedgerows, low walls or fences should be provided to front elevations and/or gardens that is appropriate to local townscape/landscape character so that the definition between public and private space is made clear;

### **DM 12 – Non-residential design**

In respect of criterion (d) relating to boundary treatments, it is suggested that this is amended to state that the boundary treatment should be appropriate to local landscape/townscape character.

(d) Boundary treatments, including hedgerows, should be provided where appropriate and be designed to be appropriate to local townscape/landscape character. Planting schemes should include native species and encourage biodiversity.

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## GLOSSARY

### Area of Outstanding Natural Beauty (AONB)

As advised in the introduction to this consultation response, all designated Areas of Outstanding Beauty (AONBs) in England and Wales were renamed 'National Landscapes' in November 2023. It is requested that the Glossary is updated to reflect this name change:

An AONB is a national landscape designation, the primary statutory purpose of which is to conserve and enhance the ~~country's~~ designated area's natural beauty. AONBs are designated by Natural England. In 2023, all AONBS in England and Wales were renamed 'National Landscapes'. Their legal designation and policy status remain the same.

For clarity, it is requested that 'National Landscape' is also included in the Glossary:

### National Landscape

In 2023 Areas of Outstanding New Beauty (AONBs) were renamed National Landscapes. Their legal designation and policy status is unchanged.