



**CANTERBURY LOCAL PLAN**  
**REGULATION 18**  
**JANUARY 2023**  
**COMMENTS SUBMITTED BY THE KENT DOWNS AONB**  
**UNIT**

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

The Kent Downs AONB Unit raises significant concerns over the proposed allocation of 51,400sqm of B8 floorspace at Highland Court Farm and a new garden community at Cooting. Our detailed comments on both allocations are provided under policies C21 and R1.

**C21 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 3 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 clearly 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 AONB Unit strongly objects to the allocation of this site for employment purposes, which would represent a major development in the AONB. Government policy on AONBs has not been weakened in anyway, indeed policy has been strengthened, with a newly twice repeated instruction in paragraph 176 for AONBs to 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. A new sentence has also been introduced into the NPPF which requires that the scale and extent of development within AONBs should be

limited, which clearly demonstrates the Government's commitment 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 51,400 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 177 of the NPPF; indeed 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 174 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 175 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 176 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 177 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 error of law to fail to consider

paragraph 116 (now 177) 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 177 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 AONB Unit 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 Final Report which identifies a requirement for ‘37.6 ha of employment land over the 25-year period 2020- 2045, the majority of which relates to distribution (B8) and light industrial (E(g)(iii)’ and the consequent proposed allocation of land at Highland Court for B8 floorspace in the emerging local plan.

The need for employment land is clearly a districtwide issue. In the context of the “need” considerations set out in paragraph 177, 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 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).

This states that strategic policies should provide for OAN **unless** the application of policies in the revised NPPF that protect specified designated areas including AONBs provide a strong reason for restricting the overall scale, type or distribution of development in the plan area. As the proposed development here would clearly be contrary to the provisions of paragraph 176 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 para. 177 that provides a presumption against Major Development, 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 176, 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, and whether the need can be met in another way, such as on smaller sites.

We note that in the Sustainability Appraisal at 5.6.8, in respect of identification of alternative garden communities it is advised *'As part of the second round of the Call for Sites, the council also undertook a process to proactively contact owners of land adjacent to large sites assessed as suitable in the first round of assessment. Additionally, as the creation of a new freestanding settlement received positive feedback at the Draft Options consultation stage, the Council contacted landowners to ascertain potential availability following a high level review of potential locations for a new freestanding settlement, taking into account major constraints such as environmental and heritage designations.'* We would query why no such approach has been adopted in respect of seeking alternative employment sites, given the fundamental constraint at Highland Court Farm.

In terms of detrimental effects on the landscape, our detailed comments on impacts to the Kent Downs AONB are provided below. The proposal would result in the direct and permanent loss of 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 AONB. 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 AONB, to which paragraph 176 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 7 of the draft Plan. It would also be contrary to the Kent Downs AONB Management Plan, the Council's adopted policy for managing the AONB.

The following policies 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.

**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

**AEU3** Diversions and stopping up of PRowS will be resisted unless it can be demonstrated that they will not have a detrimental impact on opportunities for access and quiet enjoyment of the Kent Downs AONB landscape and historic character.

**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 AONB

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

Accordingly, the Kent Downs AONB Unit 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 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 AONB Unit 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 AONB 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 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 AONB. It would be entirely inappropriate and to justify further harm to the AONB 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 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. While the proposal may not affect wider views, this is not the sole test for acceptability of development in an AONB - the NPPF is unambiguous in relation to its policy on AONBs, requiring protection of the *landscape* as well as the scenic (my emphasis) beauty of an AONB. This protection is principally independent of the extent of public views of a development and more in respect of the protection of the land itself. The Courts have held that the fact a development is not viewable by the general public does not mean that there is no harm to the intrinsic character of the AONB.

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 AONB. Tranquillity is specifically identified as one of the [Special Characteristics of the Kent Downs AONB](#). 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 current planning application which proposes 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 AONB strongly objects to the proposed allocation.

### **R1 Cooting – Proposed new garden community**

The site identified for a potential garden community at Cooting lies immediately adjacent to the Kent Downs AONB. In this location, the AONB boundary is formed by a historic byway, which cuts across landscape features. The land proposed for the allocation comprises predominantly open, gently sloping agricultural land of downland character. Given the proximity of the site to the AONB and the shared landscape characteristics, together with intervisibility between the site area and AONB, including from several points along the North Downs Way national trail, we consider that the proposed site of the allocation to form part of the setting of the AONB. We note that the Canterbury Landscape Character Assessment, LUC 2020 (LCA) also reaches this conclusion.

While recognising that the affected land does not exhibit the same very high landscape qualities of the adjacent AONB, it is nevertheless considered to be a sensitive landscape. The landscape sensitivity of the site and its importance in forming part of the setting of the AONB is clearly set out in both the LCA and Local Landscape Designation Review and Recommendations (LLD) carried out by LUC for Canterbury that forms part of the evidence base for the Local Plan. The LLD review recommends that the land proposed to be allocated, along with other land of similar character to the north and south, is retained as a Local Landscape Designation because of coherency and intervisibility with the adjacent AONB, and due to it demonstrating a number of identified special qualities of the adjacent AONB.

In the LCA, the land affected by the allocation lies wholly within the I1 Landscape Character Area, Adisham Arable Downland, part of the Downland Landscape Character Type. It is identified that this is a distinctive area of downland landscape forming part of the extended dip slope of the Kent Downs, which forms the setting to the Kent Downs AONB and which is *'a strongly rural*

*landscape that can be experienced and enjoyed by an extensive network of rights of way which connect through to the Kent Downs and the North Downs Way'.*

Relevant Landscape guidelines include in the LCA for I1 include:

- Conserve the traditional linear settlement form of Adisham in the chalk valley with a single line of dwellings along the road and views out between buildings to the rising slopes beyond.
- Conserve the more nucleated enclosed village forms at Woolage Green and Womenswold located on slight ridges.
- Avoid any development including large scale farm buildings in prominent locations such as on higher ground.
- Seek to ensure new development at Aylesham and along the Adisham Road in Dover District respects the rural character and quality of this area.
- Conserve the visual links with the AONB ensuring that this area continues to provide a rural dip slope setting to the Kent Downs.

The proposed allocation would be in direct conflict with these guidelines. The LCA also identifies that historic settlements in the area are distinctive in that they comprise either settlements nestled in the valleys or located on the ridge tops; the proposed new garden town would fail to respect this, introducing development across an ascending valley side.

Despite these identified conflicts with the District's own landscape evidence base, there appears to have been no further LVIA or landscape capacity study undertaken to provide appropriate evidence to justify the proposed allocation on landscape grounds or inform how this might take place without unacceptable harm to the landscape and/or setting of the adjacent AONB and to inform any necessary mitigation should the principle of strategic scale development in this location be found to be acceptable.

The Kent Downs AONB Unit also considers the proposed allocated land to form a 'gateway' to the AONB from the east and to be an important transition zone between the AONB and undesignated land to the east. Large scale development in this location would have a harmful impact on the experience of moving in to and out of the AONB, due to the loss of the currently rural, agricultural land of shared landscape character with the AONB and its replacement with a strategic scale new urban development. It would also affect this land's relationship with the AONB, creating an abrupt change in land use just outside the AONB boundary.

Lighting would be inevitable in a development of this size. At present the area has dark night skies which would be adversely impacted by a development of the scale proposed. Traffic and other inevitable noise would also challenge the tranquility of the area which is likely to be felt into the AONB and there would also be an increase in recreational pressures and potentially urban fringe issues,

including on nearby areas of protected Ancient Woodland, already subject of enforcement procedures due to unauthorised development.

It is our view that insufficient regard has been given to the environmental constraints of the AONB identified above. Neither is sufficient detail included in the proposed policy wording at this stage to provide the AONB Unit within the assurances that a strategic scale development could be accommodated in this location without unacceptable harm to the AONB. Furthermore, the proposed minimal separation between built form and the AONB shown on the indicative plan is considered wholly inadequate should the principle of a strategic scale development in this location be found to be acceptable. We also raise concerns that the impacts on the AONB are not considered within the Sustainability Appraisal. Given the potential for significant impacts to the AONB, we also query whether the Council has met its requirements under Duty to Co-operate in respect of discussion with Natural England, the Government's adviser for the natural environment, including on landscape issues.

As such, we consider it has yet to be demonstrated how the allocation would be consistent with national planning policy and in particular paragraphs 174, 175 and 176 of the NPPF that seek to protect and enhance valued landscapes, allocate land with the least environmental value and give great weight to conserving and enhancing AONBs, including a newly inserted requirement in the latest iteration of the NPPF for '*development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas*'. The proposal would also be contrary to several of the principles of the Kent Downs AONB Management Plan, in particular principle SD8 which states "proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated".

Case Law confirms that the requirement to give great weight to conserving and enhancing AONBs set out in paragraph 176 is not restricted to development proposals located within an AONB but is applicable when proposals located outside affect them (*Stroud District Council v Secretary of State for Communities and Local Government v Gladman Developments Limited* [2015] EWHC 488 (Admin)). It is also worth noting that the national Planning Practice Guidance now provides additional guidance on how development in the setting of AONBs should be dealt with, confirming that '*Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important*', (Paragraph 42), as is the case in the Kent Downs with views out from the AONB identified as one of its special qualities and characteristic.

Accordingly, we also have concerns regarding whether the Duty of Regard set out at Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act), the primary legislation relating to AONBs, has been complied with. This requires that Public Bodies (which includes both central and local government), to have

regard to the purposes of AONB designation in the carrying out of their functions i.e. the conservation and enhancement of the natural beauty of the landscape. As confirmed in the PPG this Duty is also relevant in considering development proposals that are situated outside of AONB boundaries, but which might have an impact on their setting or protection.

### **R5 – Bridge**

The policy wording erroneously refers to policy R4 within the text – this should state R6.

Policy R5 specifies '*In addition to the 13 homes allocated on Site R4, between 2020 and 2045 the neighbourhood plan housing requirement figure for Bridge Parish, is 75 dwellings.*' It is not clear how this figure has been established; it does not appear to be considered or addressed in the 2021 Housing Needs Assessment. As advised in the Governments Guidance on Neighbourhood Planning, the figure needs to be tested through the Bridge Neighbourhood Plan examination, which has yet to take place.

As Bridge is located within the Kent Downs AONB, we are keen to establish whether this figure takes this into account the constraints of this national landscape designation. We would also advise that small scale carefully designed development can usually be accommodated more successfully in the landscape whilst retaining its character than larger-scale developments which are much more challenging to integrate successfully without detrimental effects. We would therefore recommend that should the requirement remain at 75, a number of smaller sites rather than one large site is progressed, which would also be in line with paragraphs 176 and 177 of the NPPF.

### **R6 – Great Pett Farmyard**

The site lies within the Kent Downs AONB, however 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.

While the proposed requirement for 30% affordable housing included in a(i) is supported, it is not clear how this relates to criterion (b). It is considered preferable that affordable housing should be provided on site.

We would also query the appropriateness of the wording of 2(b). The proposed requirement of a sensitive farmstead type development is supported, however the current character of the site itself is one of a modern farmstead with large, functional agricultural buildings. We would suggest this is amended to refer to development needing to reflect the character of the historic farmstead that is located to the immediate north and also to be informed by the [Kent Downs AONB Farmstead Guidance](#).

### **R20 – Aylesham south**

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.

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.

### **R23 Land adjacent to Valley Road, Barham**

The site lies within the Kent Downs AONB. The part of the site indicated within the concept masterplan for development would seem an appropriate site for development, reflecting the existing settlement pattern in this part of the village and in view of its relationship with the built confines of the existing settlement is considered acceptable in AONB landscape terms.

We do however have concerns at the extent of the site area identified in the Plan and consider it would be preferable to the site boundary to be drawn more tightly and/or the policy wording should be clearer as to where built development would be appropriate; built form extending outside of the area to the south of the access track may be less acceptable in landscape terms. Criterion 2 (b) is not very clear in this respect, only referring to development in the 'east' of the site.

We support the requirements for provision of 20% biodiversity net gain.

We also support the requirements for landscape and biodiversity enhancements in line with the AONB Management Plan. We consider however that strengthened requirements should be included in the policy to ensure that

development takes place in a way that conserves and enhances the AONB. We therefore request the inclusion of a criterion that requires the design, form, materials, colour palette and heights of buildings to be sensitive to the site's location within the Kent Downs AONB.

In order to help mitigate impacts on the AONB, it is also considered essential for a requirement for the retention of the existing mature trees along the western boundary of the proposed developable area of the site to be retained, as these would help integrate the proposed development into the site and also form part of an historic field boundary that should be retained.

## **R28 – Countryside**

The proposed policy wording in respect of 1 (housing) supports the provision of new housing in the hamlets identified in Policy SS3 , under criterion (a). This appears to conflict with:

- the background text provided at 5.45 which states *'All parts of the district outside of settlement boundaries of the urban areas, rural service centres and local service centres are therefore defined as countryside, where priority will be given to protecting the rural character of the district'*; and
- Policy SS3 which at 7. states *'Within the countryside, which is defined as any parts of the district outside of the settlement boundaries of the urban areas, rural service centres and local service centres, priority will be given to protecting the rural character of the district. In this context, new housing development will only be supported in very limited circumstances...*'; and
- Paragraph 6.7 of the draft Local Plan, which states *'As set out elsewhere in this plan, housing development in the countryside outside of settlement boundaries is generally considered to be unsustainable and will only be supported in very limited circumstances.'*

As the hamlets are classified as countryside (which is defined in 7. of SS3 as *'as any parts of the district outside of the settlement boundaries of the urban areas, rural service centres and local service centres..'*), we would query their inclusion within 1(a) of policy R28.

## **DS1 Affordable Housing**

The AONB unit 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 64. 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 AONB.

#### **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 36 of para. 72 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 para. 176 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 AONB, 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 development is limited, sensitively located and designed to avoid or minimise adverse impacts on these designated landscapes'

#### **DS11 Tourism development**

The AONB Unit 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 AONB 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 current Kent Downs EXPERIENCE project; a €23.3 million project co-financed by the European Regional Development Fund that aims 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**

Support.



## **Policy DS19 – Habitats, landscapes and sites of local importance**

Support.

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

The Kent Downs AONB Unit 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 AONB Unit would be supportive of allocating sites specifically for BNG within the Local Plan and would encourage these to be located within the Kent Downs AONB. Net Gain provides the potential to generate substantial new investment streams to achieve the sustainable development and biodiversity objectives of the 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 DM1 – Conversion of existing rural buildings**

There is a typo in 1h – 'compliments' is used instead of 'complements'. We also query whether it is appropriate to require alterations to complement building character, as existing buildings may not reflect local vernacular character and their conversion may offer opportunities for enhancement in terms of materials etc.

## **DM2 – RESIDENTIAL GARDEN LAND**

We are concerned that the policy appears to apply district wide including in the countryside. For clarity, it is considered the policy should clarify that is applicable within the settlement boundaries of the urban areas, rural service centres and local service centres only.

## **Policy DM18 – Light pollution and dark skies**

Support.

## **DUTY TO CO-OPERATE**

We query statements made at 4.4 in the Duty to Cooperate Compliance Statement that '*The council has cooperated constructively with key statutory bodies throughout the preparation of the Local Plan to assess the impacts of planned growth on the natural and historic environment, and identify effective solutions to mitigate any impacts.*' While not a statutory body, the City Council has not engaged directly with the Kent Downs AONB Unit in the preparation of the Plan, which given potential implications for the AONB of proposed strategic scale development would have been appropriate. It is also our understanding

that co-operation with Natural England has not included any discussion of the potential landscape impacts of the Plan.

## **SUSTAINABILITY APPRAISAL STRATEGIC SITES**

We consider it a fundamental shortcoming of the SA that Objective 5 'To conserve and enhance the landscapes of the District for people and wildlife' fails to include consideration of impacts on AONB setting. While reference is included in the objective appraisal criteria to 'Conserve, protect and enhance protected sites in accordance with the Protection hierarchy (i.e. international, national or locally designated),' no mention or assessment of impacts on Local Landscape Designations of proposed allocations appears to have been included in the Appraisal (such as the North Downs LLD when assessing the proposed Garden Community at Cooting and housing allocation at South Aylesham).

With regards to the assessment of the site specification allocation at Canterbury Business Park, it is stated '*While the SA has identified significant minor negative impacts it is considered that these can be suitably addressed with a sensitive and landscape-led design approach to minimise and mitigate any adverse impacts*'.

It is presumed that the reference to '*significant minor negative impacts*' is an error and this should state significant negative effects. The Kent Downs AONB Unit strongly disagrees with the suggestion that these identified impacts can be addressed '*with a sensitive and landscape-led design approach to minimise and mitigate any adverse impacts*'. A landscape led approach means using landscape as a framework to understand the site and formulate a design response. Applying a landscape-led design approach requires analysing the context, character, qualities and socio-ecological functioning of the proposed site within its wider landscape setting, and using this understanding to inform site layout, design, and capacity. Any genuine landscape-led response to the site would conclude that as a sensitive area it does not have the capacity for a development comprising B8 storage and distribution buildings, the nature of such is that it would not be possible to mitigate adverse impacts in any meaningful way due to the scale and functional design requirements of the buildings.