

Case Officer: Mrs Katherine Parker
Gravesham Borough Council

Sent by email to:
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21 October 2025



**Kent Downs
National
Landscape**

**Kent Downs
National Landscape**
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Dear Katherine

20251012: Erection of a temporary container to house a pop-up pub for a period of 6 months

Brookers Farm , Luddesdown Road, Luddesdown, Gravesend

Thank you for your recent consultation on the above. The following comments are on behalf of the Kent Downs National Landscape (NL) team and as such are at an officer level and do not necessarily represent the comments of the whole Kent Downs NL partnership. The legal context of our response and list of National Landscape/AONB guidance is set out at Appendix 1 below.

On 22 November 2023, all designated Areas of Outstanding Beauty (AONBs) in England and Wales were renamed 'National Landscapes' (NLs). Accordingly, the Kent Downs AONB is now the Kent Downs National Landscape. Its legal designation and policy status remain the same.

Also of note is the changes introduced through the Levelling-Up and Regeneration Act 2023, which came into force on 26/December 2023. The Act amends the Countryside and Rights of Way Act, which is the primary legislation relating to AONBs and replaces the previous Duty of Regard to AONBs set out at S85 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 clearly places a much stronger duty on relevant authorities, which includes local authorities, to ensure that their actions and decisions seek to conserve and enhance AONBs, marking a significant change to the legal context of AONB policy.

Further advice is provided in Appendix 2.

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

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National Planning Policy

The application site lies within the Kent Downs National Landscape. The application therefore needs to be tested against the purpose of the designation, to conserve and enhance natural beauty and the way that this purpose is represented in national and local policy. Section 85 of the Countryside and Rights of Way Act 2000, as amended by the Levelling Up and Regeneration Act, requires that local authorities 'must seek to further the purpose of conserving and enhancing the natural beauty of the Area of Outstanding Natural Beauty' in making decisions that affect the designated area.

The National Planning Policy Framework (NPPF) paragraph 189 requires great weight to be given to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas. The scale and extent of development within these designated areas should be limited.

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

"i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development⁷; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination".

National Landscapes are listed in footnote 7 and the most relevant policies in the Framework are paragraphs 189 and 190. A court of appeal case¹ confirms that, if a proposal causes harm to a National Landscape sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or 'tilted balance' expressed in ii) above should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the National Landscape as required by NPPF paragraph 189.

The national PPG revised in 2019 provides additional guidance on new development in National Parks and AONBs (Paragraph: 041 Reference ID: 8-041-20190721). This specifies that 'all development within nationally protected landscapes needs to be located and designed in a way that reflects their status as landscapes of the highest quality'.

Major Development

In the event that the decision-maker concludes that development is 'major' in terms of its impact on the National Landscape, paragraph 190 of the NPPF states that "Planning permission should be refused for major development⁶⁷ other than in exceptional

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

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circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Footnote ⁶⁷ states: "For the purposes of paragraphs 189 and 190, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined".

Local Planning Policy

Adopted Gravesham Local Plan Core Strategy policy CS12 seeks to conserve, restore and enhance the landscape character of the Borough and requires that the greatest weight is given to the conservation and enhancement of the landscape and natural beauty of the Kent Downs AONB and its setting.

Kent Downs AONB Management Plan

Under the Countryside and Rights of Way Act, local authorities are required to prepare an AONB Management Plan which must "formulate the policies for the management of the AONB and for carrying out their functions in relation to it". The Kent Downs National Landscape team produces a Management Plan on behalf of the local authorities within the National Landscape. The Kent Downs Management Plan, Third Revision 2021 to 2026 has been adopted by all the local authorities in the Kent Downs, including Gravesham Borough Council. The Management Plan sets out the policy for the conservation, enhancement and management of the National Landscape in a series of aims, actions and Principles.

The national Planning Policy Guidance, 2019, confirms that Management Plans can be a material consideration when assessing planning applications ([Paragraph: 040 Reference ID: 8-040-20190721](#)) and this view is confirmed in previous appeal decisions, including APP/U2235/W/19/3232201, Cossington Fields Farm North, Bell Lane, Boxley, Maidstone where at paragraph 5 of the Inspectorate's decision letter it is stated that "I am mindful of the policies contained within the Kent Downs AONB Management Plan (2014-2019) requiring development to conserve and enhance natural beauty of AONB to which I attach substantial weight." The decision can be downloaded at: <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3232201>

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

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

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

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

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

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

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

SD9 The particular historic and locally distinctive character of rural settlements and buildings of the Kent Downs AONB will be maintained and strengthened. The use of sustainably sourced locally-derived materials for restoration and conversion work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, siting, scale, contribution to settlement pattern and choice of materials.

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.

FL5 Farm diversification activities will be supported if they help achieve the vision, aims and principles of the Kent Downs AONB Management Plan.

FL7 Proposals for conversion from agricultural land to leisure use and the creation of both agricultural and non-agricultural structures must demonstrate that there will be no individual or cumulative negative impact on the landscape character and qualities of the Kent Downs AONB.

Landscape Character

The site lies within the Cobham sub-area of the West Kent Downs Character Area as identified in the Landscape Assessment of the Kent Downs AONB, updated in 2020. Within this landscape character area, key characteristics are identified as a dip-slope landform of dry valleys running roughly north-south, interspersed with broad undulating ridges and plateaux, extensive blocks of woodland, as well as strips of woodland on valley sides, luxuriant hedgerows and (in places) parkland trees add to the sense of enclosure and of a well-treed landscape. Arable agriculture is the predominant land use, with some pasture. Fields vary in

shape and size, but are generally hedged. A strongly historic landscape, much of which has seen relatively little landscape change, historic settlements and churches are linked by a network of ancient lanes, within a setting of fields, woodland and historic parkland. Main roads are limited to the periphery, and the lanes which run through it are generally narrow, quiet and lined with trees or hedges. Some are sunken, particularly where they cut through valley sides.

Landscape Management Recommendations include:

- Protect the deeply rural character of the area, resisting development which gives it a more urbanised character. This includes retaining the character of rural lanes.
- Protect historic features of the landscape- these include Listed Buildings, Conservation Areas etc. (and their settings and views), but also the historic hedgerows, farms and lanes which have formed the fabric of the landscape for centuries.
- Protect the enclosed landscapes of the dry valleys formed by the steep valley sides and numerous woodland blocks.
- Promote access and sensitive recreation in this area, including signage, interpretation, path restoration etc. where needed and generate a coherent shared plan between individual sites. This should be balanced with enabling a viable agricultural landscape.
- Ensure that any new development around historic villages respects the scale, layout, massing and materials of existing buildings, and also their relationship with the landform.

Impacts on the Kent Downs National Landscape

The application seeks consent for the installation of steel container and a marquee structure, both proposed for a temporary period of six months to enable the existing public house to remain operational while works take place in the format of a 'pop up'. It is advised that the structures will be removed at the end of the six month refurbishment period and that the landscaping that is required to be removed to facilitate the structures would be reinstated.

The proposed structures are proposed to be sited mainly within the newly formed car park adjacent to the Brookers Farm farmstead, but would also encroach slightly southwards into agricultural land south of this. In respect of potential landscape impacts and the KDNL, the Planning Statement sets out at 4.2.12:

"The proposed development is small in scale and time limited. The proposed development would be visible from short distant views from Cutters Ridge Road and Luddesdown Road but set within a dry valley that precludes long distance views of the site. Views of the proposed development would be seen in the context of the existing car park and the farm buildings of Brookers Farm behind."

This statement fails to acknowledge that the development would also be visible from the extensive Public Rights of Way network that surrounds the site, with numerous public footpaths traversing the dry valley sides and tops, from which the structures are likely to be visible. Of particular concern to the KDNL is the proposed marquee structure. The scale and

plastic white canvas material of this structure is such that it is likely to appear particularly prominent in views, due to its shiny surface and pale colour which would draw the eye and appear as an incongruous feature in this sensitive landscape. It is our conclusion that this would neither conserve nor enhance natural beauty. While noting that consent is sought for a temporary period only, we would recommend that should the principle of development be found to be acceptable, that an alternative to the proposed marquee is provided, or alternative materials are used on the marquee, such as a darker coloured canvas (non-reflective) material.

We would also request that any consent issued is for the temporary period applied for only and that conditions are attached requiring the reinstatement of the land, including the removed car park landscaping.

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

Yours sincerely



Katie Miller
Planning and Place Manager, Kent Downs National Landscape team

APPENDIX 1

Planning consultations with the Kent Downs National Landscape Team

Background and context:

The Kent Downs National Landscape partnership (which includes all the local authorities within the National Landscape) has agreed to have a limited land use planning role. In summary this is to:

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

The Countryside and Rights of Way Act 2000

The primary legislation relating to AONBs is set out in the Countryside and Rights of Way Act 2000. Section 85 of this Act, as recently amended by the Levelling Up and Regeneration Act, requires that in exercising any functions in relation to land in an AONB, or so as to affect land in an AONB, relevant authorities, which includes local authorities, must seek to further the purpose of conserving and enhancing the natural beauty of the AONB. Compliance with this requirement can be demonstrated in part by testing proposals against the policies set out in the Kent Downs AONB Management Plan and its supporting guidance (see below).

Relationship of the AONB Management Plan and Development Management

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

Under the CRoW Act, the Management Plan is required to 'formulate the (Local Authority) policies for the management of the AONB and for carrying out their functions in relation to it'. The policies of the Kent Downs AONB Management Plan are therefore the adopted policies of all the Local Authorities in the Kent Downs.

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

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

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

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

Other Kent Downs AONB/National Landscape Guidance

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

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

[Kent Downs Landscape Design Handbook](#)

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

[Kent Downs Renewable Energy Position Statement](#)

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

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

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

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

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

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

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

[Managing Land for Horses](#)

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

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

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

[Kent Downs Setting Position Statement](#)

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

[The Kent Downs Landscape Character Assessment Update 2020](#)

An update of the original Landscape Character Assessment of the Kent Downs that was published by the Countryside Commission, that identifies 13 different landscape character areas in the Kent Downs, describes their key characteristics and identifies recommended actions, investments and priorities to help with the conservation and enhancement of the Kent Downs National Landscape.

The NPPF and National Landscapes

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

Paragraph 189 of the NPPF (December 2024 version) specifies that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes, which have the highest status of protection in relation to these issues.' It is advised that the scale and extent of development within National Landscapes should be limited. Paragraph 190 of the NPPF states that major developments should be refused in National Landscapes except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within a National Landscape, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

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

"i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination".

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National Landscapes are listed in footnote 7 and the most relevant policies in the Framework relating to National Landscapes are paragraphs 189 and 190. A court of appeal case² confirms that, if a proposal causes harm to an AONB sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or 'tilted balance' expressed in ii) above) should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the National Landscape as required by NPPF paragraph 189.

The national [Planning practice guidance](#) provides further information on how development within National Landscapes should be approached and advises that all development with Areas of Outstanding Natural Beauty will need to be located and designed in a way that reflects their status as landscapes of the highest quality. (Paragraph: 041 Reference ID: 8-041-20190721, Revision date: 21 07 2019).

² Monkhill Limited vs Secretary of State for Housing, Communities and Local Government and Waverley Borough Council Case No: C1/2019/1955/QBACF

APPENDIX 2 : ADVICE ON THE NEW STATUTORY DUTY ON RELEVANT AUTHORITIES, SECTION 245 OF THE LEVELLING UP AND REGENERATION ACT 2023

The Levelling-up and Regeneration Act (2023) amended section 85 of the CROW Act, to create a new duty on public bodies to '*seek to further the purpose of conserving and enhancing the natural beauty of the area*' when discharging their functions in Areas of Outstanding Natural Beauty (now known as National Landscapes). The single purpose of AONB designation is '*the conservation and enhancement of natural beauty*'.

On 16 December 2024 the Department for Environment, Food and Rural Affairs published "[Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes](#)". This "*sets out how the Protected Landscapes duty is intended to operate and provides broad principles to guide relevant authorities in complying with it*". The guidance advises that the new duty is decision making in respect of development management, planning applications and nationally significant infrastructure projects. When seeking to further the purposes, relevant authorities should consider the information contained in a Protected Landscape's Management Plan.

The Guidance confirms that the duty is an active, not passive one which means that:

- a relevant authority should take appropriate, reasonable, and proportionate steps to explore measures which further the statutory purposes of Protected Landscapes
- as far as is reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of the natural beauty, special qualities, and key characteristics of Protected Landscapes
- a relevant authority should be able to demonstrate with proportionate, reasoned, and documented evidence the measures to which consideration has been given when seeking to further the statutory purposes of Protected Landscapes
- for development management decisions affecting a Protected Landscape, a relevant authority should seek to further the purposes of the Protected Landscape - in so doing, the relevant authority should consider whether such measures can be embedded in the design of plans and proposals, where reasonably practical and operationally feasible.

It is also advised that the decision maker should consider:

- Whether measures which would further the purposes align with and help to deliver the targets and objectives in the Protected Landscape's Management Plan?
- Are such measures appropriate and proportionate to the type and scale of the function and its implications for the area? For instance, are measures in keeping with the natural beauty, the special qualities and key characteristics of the Protected Landscape?
- Could the measures contribute to the conservation and enhancement of the Protected Landscape's wildlife, ecological value and quality, geological and physiographical features, water environment, cultural heritage, dark skies, tranquillity, opportunities for access to nature, and landscape character for which the area was designated?

In determining this application, the local planning authority should be able to demonstrate how they have actively sought to further the purpose of conserving and enhancing the

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natural beauty of this National Landscape. The way in which the purpose of designation might be furthered, or the evidence of the genuine attempt to seek to do so, should be open to scrutiny and therefore documented.

Further guidance can be found in an [Interim Advice Note](#) produced by the Kent Downs National Landscape team for LPAs on the new duty and in a Guidance Note by the National Landscapes Association [Applying the CroW Act section 85 duty to 'seek to further the purpose in National Landscapes \(AONBs\)](#).

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