

Gravesham Borough Council  
Planning & Regeneration Services

FAO Mrs Amanda Grout

Sent by email to:  
[Planning.reps@gravesham.gov.uk](mailto:Planning.reps@gravesham.gov.uk)

25 August 2021



Kent Downs AONB Unit  
West Barn  
Penstock Hall Farm  
Canterbury Road  
East Brabourne  
Ashford, Kent TN25 5LL  
Tel: 01303 815170  
Fax: 01303 815179  
[mail@kentdowns.org.uk](mailto:mail@kentdowns.org.uk)  
[www.kentdowns.org.uk](http://www.kentdowns.org.uk)

Dear Amanda

**Application 20211052 : Batts Road, Cobham, Gravesend Kent**

**Proposed telecommunications installation off Batts Road, 27.5m 30H Tower on New Pad foundation and associated ancillary works.**

Thank you for consulting the AONB Unit on the above application. The following comments are from the Kent Downs AONB Unit and as such are at an officer level and do not necessarily represent the comments of the whole AONB partnership. The legal context of our response and list of AONB guidance is set out as Appendix 1 below.

National Planning Policy

The application site lies within the Kent Downs AONB. 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 requires local authorities to have regard to 'the purpose of conserving and enhancing the natural beauty of AONBs' in making decisions that affect the designated area.

The National Planning Policy Framework paragraph 176 requires great weight to be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, 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.

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'.

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



**Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

## Local Planning Policy

The Gravesham Local Plan Core Strategy 2014 Policy CS12: Green Infrastructure states that "5.7.26 The overall landscape character and valued landscapes will be conserved, restored and enhanced. The greatest weight will be given to the conservation and enhancement of the landscape and natural beauty of the Kent Downs Area of Outstanding Natural Beauty and its setting. Proposals will take account of the Kent Downs Area of Outstanding Natural Beauty Management Plan, the Gravesham Landscape Character Assessment, and the Cluster Studies where relevant".

## 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 AONB Unit produces a Management Plan on behalf of the local authorities within the AONB. The Management Plan has been adopted by all local planning 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 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 policies from the Management Plan are considered to be of particular relevance to the application:

**SD1** The need to conserve and enhance the natural beauty of the Kent Downs AONB is recognised as the primary purpose of the designation and given the highest level of protection within the statutory and other appropriate planning and development strategies and development control decisions.

**SD8** 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."

**SD11** 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 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.

**SD 12** Transport and infrastructure schemes are expected to avoid the Kent Downs AONB as far as practicable. Essential developments will be expected to fit

### **Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

unobtrusively into the landscape, respect landscape character, be mitigated by sympathetic landscape and design measures and provide environmental compensation by benefits to natural beauty elsewhere in the AONB.

The Kent Downs AONB Management Plan can be downloaded at:

<http://www.kentdowns.org.uk/guidance-management-and-advice/management-plan>

## **Landscape Character Assessment**

The site lies within the West Kent Downs Character Area as identified in the Landscape Assessment of the Kent Downs AONB. The site is in the northern part of the Luddesdown sub area which is described as follows:

"2.2.6 This is a tranquil, complex and distinctive landscape, with a peaceful remote feel, strong sense of place and few detracting features. It has a strong sense of time-depth, and the structure of the landscape has remained largely unchanged since the late nineteenth century, although there has been some field boundary loss. The thick belt of woodland along the eastern and southern scarp top plays an important role in preserving this atmosphere, by sheltering the area from the surrounding settlements and transport corridors".

The LCA also notes at paragraph 2.3.1 that "The main visual detractors are pylons, as several high voltage transmission lines cross the area". Landscape Management Recommendations include:

- Manage arable areas to encourage a diversity of pollen and seed rich habitats, hedgerow replanting and field margins to enhance the structure of the landscape and improve habitat connectivity. Encourage continued management and support for long term farm-based arable reversion projects to allow species richness of the grasslands to develop further. Promote new hedgerows and roadside trees from existing hedge stock.
- Manage hedgerows, including alongside roads, encouraging replanting rather than repair where they have become gappy.
- Within the setting of the LCA, work with Local Planning Authorities and designers to achieve the best possible landscape and ecological integration and minimal impact on views, with compensation achieved for any lost qualities.
- Use the existing and valued landscape characteristics and qualities to design new tree establishment as part of climate change mitigation.

## **The Application Site and Proposal**

The application is a revised proposal for a scheme that was withdrawn earlier in the year (202107690). As with the withdrawn proposal, the proposed mast is a larger and more intrusive structure than an earlier refused scheme, comprising a wider lattice mast structure that would 7.5 metres taller than the refused scheme and 2.5 metres taller than the withdrawn scheme. The location of the mast has been amended however, with the mast now proposed amongst a small copse. This will help reduce the visual impact of the infrastructure, although the top of the mast and antennae would still be visible above the tree tops. It should also be borne in mind that many of the trees within the copse appear to be mainly Ash and there can be no certainty

### **Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

therefore of their long term retention due to the prevalence of ash dieback disease in Kent.

This landscape is nationally recognised and highly valued for its own sake. It is for the case officer to judge whether the proposed location meets the requirements of national policy in relation to the consideration of alternative sites and other ways of meeting the need. However, if the proposal is considered acceptable in principle, the Kent Downs Management Plan policies SD11 and 12 require that the local planning authority secures the mitigation of and compensation for the adverse landscape effects on the AONB. Minimal mitigation or landscape enhancement appears to be included to help moderate the impacts of the proposal, other than the revised siting. Should the proposal be found to be acceptable by the local authority, we consider the following measures should be secured to help moderate impacts:

- All structures and surfaces should be designed to accord with the Kent Downs AONB Guidance on the selection and use of colour in development;
- The proposed close-boarded fence should be an open wire fence, with native hedgerow planted around it.
- Additional tree planting should take place to compensate for the wider landscape impact of the proposed development. This is particularly important in view of the prevalence of ash in the existing copse.
- All new planting should be with native, locally sourced plants which complement and support the biodiversity of the adjacent habitats and 'plant healthy' accredited stock be used.

Mobile communication technology is constantly changing and it is unknown how this will develop in the future. In recognition of this, we would also welcome a commitment from the applicant to review the continued need for the mast and/or any new innovations in mobile communications that would have a less damaging impact on the landscape and the removal of the mast and all associated structures/infrastructure and the restoration of the land following their removal should they no longer be required

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

Yours sincerely



Katie Miller  
Planning Manager, Kent Downs AONB Unit

#### Enhancing landscapes and life in the Kent Downs

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

## **APPENDIX 1**

### **Planning consultations with the Kent Downs AONB Unit**

#### **Background and context:**

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

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

#### **The Countryside and Rights of Way Act 2000**

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

#### **Relationship of the AONB Management Plan and Development Management**

The CRoW Act requires that a management plan is produced for each AONB, and accordingly the first Kent Downs AONB Management Plan was published in April 2004. The second revision Management Plan (20014-2019) has been formally adopted by all the local authorities of the Kent Downs. The Management Plan may be viewed on the Kent Downs web site. Please let us know if you would like any hard copies.

<https://s3-eu-west-1.amazonaws.com/explore-kent-bucket/uploads/sites/7/2018/04/18113849/KDAONB-Management-Plan.pdf>

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

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

#### **Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration". The decision can be downloaded at:

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

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

## **Other Kent Downs AONB Guidance**

### [Kent Downs 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.

### [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.

## **Enhancing landscapes and life in the Kent Downs**

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.

## The NPPF and AONBs

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

Paragraph 172 of the revised NPPF specifies that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.' It is advised that the scale and extent of development within AONBs should be limited and that major developments should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within an AONB, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

The thrust of the NPPF as set out in paragraph 11 is that there is a presumption in favour of sustainable development. It specifies that in respect of decision taking, proposals that are in accordance with an up to date development plan should be granted, however where there are no relevant development plan policies, or policies are out of date, permission should be granted unless the application of specific policies in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Footnote 6 to this paragraph specifies that such policies include those relating to AONBs. A Court of Appeal case in June 2017<sup>1</sup> clarified that identification of policies indicated in Footnote 6 (previously footnote 9 to paragraph 14 of the 2012 NPPF), does not shut out the presumption in favour, rather the specific policy or policies have to be applied and planning judgment exercised. In the case of AONBs, this would mean an assessment of the acceptability of the proposal against paragraph 172 of the NPPF.

---

<sup>1</sup> Barwood Strategic Land II LLP (Appellant) and (1) East Staffordshire Borough Council and (2) Secretary of State for Communities and Local Government (Respondents), on appeal from the Administrative Court Planning Court, [2017] EWCA Civ 893 Case No: C1/2016/4569 [2016] EWHC 2973 (Admin), before: Lord Justice Gross, Lord Justice Underhill and Lord Justice Lindblom, on 25th May 2017.

### Enhancing landscapes and life in the Kent Downs

The Kent Downs AONB Joint Advisory Committee (JAC) promotes and co-ordinates the conservation and enhancement of the Kent Downs AONB. Funding is provided by DEFRA, Kent County Council and the local authorities of Ashford, Bromley, Canterbury, Dover, Gravesham, Medway, Maidstone, Sevenoaks, Shepway, Swale and Tonbridge & Malling. Other organisations represented on the JAC include Natural England, the Environment Agency, Country Land and Business Association, National Farmers Union, Kent Association of Parish Councils and Action with Communities in Rural Kent.