

Case Officer: Robert Allan  
Folkestone & Hythe District Council



**Kent Downs  
National  
Landscape**

**Kent Downs  
National Landscape**  
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Sent by email to:  
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26 November 2025

Dear Sir,

**25/1967/FH: Land opposite Stockham Cottages, Swingfield, Nr Dover,  
Kent CT15 7HQ**

**Proposal: Erection of a single storey dwelling with detached garage and off road parking**

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 (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 proposed<sup>7</sup>; or  
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

Areas of Outstanding Natural Beauty are listed in footnote 7 and the most relevant paragraphs in the Framework are paragraphs 182 and 183. A court of appeal case<sup>1</sup> confirms that, if a proposal causes harm to an AONB sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or ‘tilted balance’ expressed in ii) above should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the AONB as required by NPPF paragraph 182.

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 AONB, paragraph 183 of the NPPF states that “Planning permission should be refused for major development<sup>64</sup> other than in exceptional circumstances, and where it can be demonstrated

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

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 <sup>64</sup> states: “For the purposes of paragraphs 182 and 183, 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

Policy CSD4 of Folkestone and Hythe’s adopted Core Strategy Review requires planning decisions to have close regard to the need for conservation and enhancement of natural beauty in the AONB, which will be given the highest status of protection in relation to these issues. This is also reflected in policy NE3 of the Places and Policies Local Plan which requires the natural beauty and locally distinctive features of the AONB and its setting to be conserved and enhanced and proposals to reinforce and respond to the distinctive character and special qualities of the AONB, as well as for development to meet the policy aims of the AONB Management Plan.

### 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 Folkestone and Hythe District 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.

**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.

### Landscape Character

The site lies within the Alkham sub-area of the East Kent Downs Landscape Character Area, one of the 13 Character Areas identified in the Landscape Character Assessment of the Kent Downs, close to its boundary with the Elham sub-area.

This a remote, peaceful area of downland. Summary characteristics of this LCA are identified as including the rounded chalk plateau, dissected by a series of parallel narrow dry valleys, extensive woodland blocks particularly on ridge tops and strips of woodland on valley sides, shaves, copses and hedgerow trees throughout, a dominant land uses of arable agriculture with variable field patterns – generally larger on ridges than in the valleys, scattered historic buildings including churches, manors, country houses, farms and cottages, relatively sparse settlement of scattered farms and occasional nucleated villages, often of brick and flint construction, a dense network of historic roads and tracks, including Prehistoric routeways, Roman roads, Medieval drover roads and turnpikes; sunken single-track lanes are also characteristic. A relatively tranquil part of the Kent Downs National Landscape, with a strongly rural feel, views are often linear and channelled by landform; there are long views from high ground, overlooking adjacent valleys.

Landscape Management Recommendations for this area include:

- protecting 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
- protect the isolated nature of farmsteads, protect open views and long views along valleys, avoiding the introduction of new developed elements into these views

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- protect tranquillity, resisting developments which increase levels of noise and movement in the landscape, and maintain the remote, undeveloped qualities of the valleys
- 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
- Ensure that high quality design of settlement edges is integrated into any plans for development within the LCA or on its periphery

The application site and its immediate environs are considered to be largely reflective of these identified characteristics and to make a positive contribution to the landscape and scenic beauty of the Kent Downs AONB.

### Impacts on the Kent Downs National Landscape

The application site comprises two fields of open grassland, bordered to the east, west and south by mature hedgerows and trees, with a post and rail fence to the north. Less than a kilometre to the west lies the hamlet of Selsted. A public bridleway runs along the western boundary of the site. There is an existing field access onto Stockham Lane, a single-track sunken lane which winds steadily upwards from the A260 to the chalk plateau at Swingfield Street and the remote 13<sup>th</sup> Century chapel and hall of St John's Commandery. The proposal involves the change of use of the site from agricultural land to residential, through the erection of a 4 bedroom dwelling with a detached double garage, off road parking and landscaping including a pond to the front of the dwelling.

This is a highly remote and peaceful area of downland typical of the East Kent Downs LCA. Development here is limited to isolated farm buildings or dwellings, such as the semi-detached pair of cottages opposite the site. The site is surrounded by open countryside and contrary to the applicant's Design and Access Statement the erection of a detached dwelling on this site, remote from any settlement would therefore not amount to 'infilling'. Nor would a new dwelling here 'integrate seamlessly into the existing street scene.' Stockham Lane, one of the many ancient single-track lanes which characterize this Landscape Character Area, serves only a small number of largely farm buildings and is lined on both sides by tall, mature hedgerows which make an important contribution to the character of the landscape here.

The erection of a new dwelling here would therefore be at odds with, and would detract from, the prevailing character and qualities of this protected landscape, including tranquility, and would fail to conserve and enhance its natural beauty. Notwithstanding the applicant's view that the design of the proposed dwellings is of such an exceptional design as to override the national policy approach to the development of isolated homes in the countryside (paragraph 84 e) of the NPPF), this is not the 'test' of paragraph 189 of the NPPF which requires that great weight to be given to conserving and enhancing landscape and scenic beauty in National Landscapes which, national planning policy and guidance make clear, have the highest status of protection in relation to these issues, and where development should be limited. It should be noted that Paragraph 84 e) also requires that the exceptional quality of the design 'should significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.' For the reasons set out above, we do not consider that the erection of a dwelling here in open countryside, isolated from any settlement, would be sensitive to the landscape character of this remote part of the National Landscape.

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The proposed development would be contrary to the Landscape Management Recommendations for this Character Area. These include avoiding ribbon development, protecting tranquility, resisting developments which increase levels of noise and movement in the landscape, and maintaining its remote, undeveloped qualities. The proposals would be contrary to Principles SD1, SD2, SD3, SD7 and LLC1 of the Kent Downs AONB Management Plan and we therefore do not support this application.

I hope this is of assistance to you.

Yours sincerely,

A solid black rectangular box used to redact the signature of Catherine Hughes.

**Catherine Hughes**

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 where at paragraph 5 of the Inspectorate's decision letter it is stated that "I am mindful of the policies

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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 Unit 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 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 182 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. Paragraph 183 of the NPPF states that major developments should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. No definition is given as to what constitutes major development within an AONB, however a footnote to this paragraph states that this is 'a matter for the relevant decision taker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined'.

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

"i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or  
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

Areas of Outstanding Natural Beauty are listed in footnote 7 and the most relevant policies in the Framework relating to AONBs are paragraphs 182 and 183. A court of appeal case<sup>2</sup> confirms that, if a proposal causes harm to an AONB sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or 'tilted balance' expressed in ii) above) should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the AONB as required by NPPF paragraph 182.

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).

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<sup>2</sup> 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*’.

It is anticipated that guidance on the new duty will be published by DEFRA soon. In the meantime, the following advice has been provided by Natural England in respect of the new duty<sup>[1]</sup> :

*Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities in exercising or performing any functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty (“National Landscape”) in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in making planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers.*

*It is anticipated that the government will provide guidance on how the duty should be applied in due course. In the meantime, and without prejudicing that guidance, Natural England advises that:*

- *the duty to ‘seek to further’ is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or an AONB) can be furthered;*
- *The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose.*
- *The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England’s view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape’s statutory management plan. The relevant protected landscape team/body should be consulted.*

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

Further guidance can be found in our [Interim Advice Note](#) for LPAs on the new duty.

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<sup>[1]</sup> Advice provided by Natural England to the Lower Thames Crossing DCO Examining Authority on the implications of the new duty to further, Annex 2 of letter dated 15<sup>th</sup> December 2023 [link](#)