



**Kent Downs
National
Landscape**

PINS REF : APP/U2235/W/23/3329481

MAIDSTONE BOROUGH COUNCIL REF: 23/500899/OUT

APPEAL AT: Land North Of The A20 Ashford Road Hollingbourne

Appeal against the refusal of permission for : Outline application for the erection a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure (All matters reserved except for access)

TRANSCRIPT OF VERBAL SUBMISSION MADE BY KENT DOWNS NATIONAL LANDSCAPE UNIT

MONDAY 8TH JANUARY 2024

1. My name is Katie Miller, I'm the Planning Manager at the Kent Downs National Landscape Unit, which is the new name for AONBs that was changed at the end of last year.
2. I'm a charter member of the RTPI and have held the position of Planning Manager with the Kent Downs since 2015, prior to which I was Deputy Team Leader of the Development Management Section at Canterbury City Council, where I'd been employed for some 15 years.
3. The National Landscape Unit has already set out its position in a written statement, and it is unusual for us to feel it necessary to participate in a Public Inquiry but there are a few points that I'd like to elaborate on and respond to a couple of points in the Appellant's submission and my attendance here today illustrates the particular concerns that the Kent Downs NL Unit has with the proposal.
4. As an initial point, and given that it is such a recent change, I'd like to reiterate that the primary legislation relating to AONBs or National Landscapes has changed with the

introduction of Levelling-Up and Regeneration Act. 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 Section 85 with a much 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'.*

As Public Bodies, Relevant Authorities include local authorities and the Planning Inspectorate.

5. While no supplementary Guidance has yet been published on the new Duty, Natural England, in a formal submission to the Lower Thames Crossing NSIP Examination last month¹, confirmed that the new duty to *'seek to further'* is an active duty, not a passive one and that any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape i.e. the conservation and enhancement of natural beauty, can be furthered.
6. Natural England also advised that the new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes. (The advice is reproduced as an Appendix to this Statement).
7. As set out in our Written Statement, the Kent Downs National Landscape Unit fully agrees with the Council that the proposal would adversely impact on the setting of the Kent Downs National Landscape.
8. The Council advise that their concern is in respect of the impacts on views toward the AONB. We agree that the proposal would adversely impact on such views, interrupting and degrading the views of the most important and prominent feature of the National Landscape; the actual escarpment of the North Downs. This was the main target when the AONB was designated back in 1968 and it is one of the components of the identified special qualities of the AONB – the dramatic landform of the impressive southward steeply sloping chalk slope.
9. Both national and local policy and guidance recognise that setting impacts can arise from the effects of development on views towards the designated landscapes. The National Planning Practice Guidance identifies 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** '*, as is the case with the Kent Downs. The Kent Downs Management Plan identifies that the *Setting is broadly speaking the land outside the designated area which is visible from the AONB **and from which the AONB can be seen***, and Principle SD8 of the Management Plan requires that *'proposals, do not negatively impact on the setting and views to and from the Kent Downs AONB.'*

¹ Natural England Deadline 9a Submission to the Lower Thames Crossing DCO Examination, Annex 2, page 6 [link](#)

10. While we are in agreement with the Council that the proposal would significantly and detrimentally impact on views towards the National Landscape, we consider that there would also be significant detrimental effects on views out from the escarpment of the Kent Downs.
11. The views out southwards from the escarpment were identified as one reasons for the designation, and they are identified as one of the National Landscape's special qualities and are consistently rated as one of the most important features of the Kent Downs in surveys carried out every 5 years as part of the Management Plan review.
12. The importance of the views out over the site and land in its immediate environs has consistently been recognised in previous appeal decisions that I have provided details of in my written statement so will not repeat again now.
13. I also go into detail in my written submission that the Inspector for the current adopted Local Plan, while finding that employment development at the adjacent Woodcut Farm site would result in harm to the setting of the AONB, accepted the need for the site, as being the only suitable available land to meet the District's employment needs. He concluded however that additional design and layout measures were needed in the Policy wording to further mitigate the landscape and visual impacts of the development on the setting of the AONB .
14. Unfortunately, it is the view of the National Landscape Unit that much of the development that has been permitted at Woodcut Farm fails to comply with the stringent and detailed requirements set out in the policy allocating the site, with buildings larger than the thresholds set out, failing to be sited to be end on to predominant views to and from the AONB and failing to be constructed in materials that are of sensitive colouring.
15. It is for these reasons that the National Landscape Unit has objected to various planning applications at Woodcut Farm, not, as expressed or inferred in the proof of evidence of the Appellants Planning Witness (Mr Ross) and also referenced by Mr Tucker this morning, as a matter of principle, as the AONB Unit acknowledged and accepted the fact the site was an allocation in the Local Plan in our responses, but because the AONB Unit considered that the application details did not complying with the specific requirements considered necessary by the Local Plan Inspector to help mitigate the impacts of the development on the setting of the AONB.
16. Unfortunately, the impacts of not complying with the requirements are all too apparent now the development at Woodcut Farm is progressing at pace in views from the escarpment as can be seen both on the ground and in the baseline photographs submitted in support of the appeal such as those from Viewpoint 12 .
17. The large mass and industrial form of buildings and pale coloured materials and lack of internal structural planting all result in the development appearing as an incongruous intrusion of industrial development in the largely rural views.
18. The development at Woodcut Farm and the adjacent appeal site is visible from a section of the North Downs, north of the appeal site that stretches from above Hollingbourne in the east to above the western extremity of Broad Street to the west, for a distance of over 2 km which incorporates many rights of way, including the North Downs Way national trail and extensive areas of well used open access land and where users attention is primarily focused on the views southwards. While small sections of the NDW are within vegetation that restrict views, where this is the case the site is still generally visible from other Public Rights of Way

and Access land on either side of the North Downs Way. This includes land that forms part of the Hucking Estate directly above the appeal site which is located on higher ground than the North Downs Way where there are extensive panoramic views southwards and from where there is a promoted Viewpoint, bench, sculpture and interpretation board and clear views of the development at Woodcut Farm. Sir, if time allows, we encourage you to visit this view point which is on Woodland Trust land between the North Downs Way and Boltons Wood, where the Viewpoint is well signed on a route called the North Downs Way link.

19. We would like to clarify that contrary to the statement in the Mr Cooks Proof of Evidence at 6.23, that we have never been contacted by the Appellant to clarify particular locations where we consider the proposal site to have a significant impact on views from the National Landscape, rather we were asked by the Council's Planning Officer as to where we considered an appropriate location for the Inspector to assess potential impacts from.
20. It is considered inappropriate to justify the proposal on the basis of the existing harm caused by the development at Woodcut Farm. The appeal proposal comprises a building that is even larger than the approved buildings at Woodcut Farm, that sits on land that is slightly elevated above these buildings and would introduce further large scale industrial development into the view extending the intrusion of large scale built form eastward in the views from the higher elevations of the Kent Downs.
21. We note that a new photomontage of the proposal is provided from View Point 12 in Appendix 11 of Mr Cook's Proof of Evidence, which is located on the escarpment of the Kent Downs above the Appeal site.
22. This is the third photomontage that has been provided in support of the proposal. The first one submitted with the application from this viewpoint showed the proposed building inexplicably constructed on a site some distance remote from the actual application site.
23. On having the error pointed out to the applicant, this was subsequently amended, but there is no explanation as to why a third photomontage has been provided in support of the appeal and which varies significantly from the amended second photo montage produced at the application stage.
24. The most recent photomontage shows a much lower building, or one that is constructed lower into the ground than the one that is illustrated in the second montage, appearing much lower in height in comparison to existing trees than was illustrated previously, most notably on the proposed east elevation.
25. No explanation has been provided as to why there is such a variance between the two photomontages which in our mind brings into question the accuracy of them. We are also concerned that the colouring applied to the proposed building in the photomontage is wholly unrealistic. While should the appeal be allowed, we would be in favour of dark, muted natural colours as shown, rather than the paler grey of the buildings at Woodcut Farm which make them more apparent in views from the Kent Downs, the reality of a proposed building being as camouflaged as is illustrated is, we consider highly unlikely.
26. In conclusion, the open countryside to the immediate south of the AONB in which the appeal site sits, forms the setting for the Kent Downs National Landscape.

27. The proposed development would introduce a large scale and intrusive form of development that would result in significant harm to the landscape and setting of the AONB, with a deterioration of views out from the AONB, one of the AONB's recognised special qualities, as well as adversely impacting on views towards the escarpment of the Kent Downs, looking north, that would neither conserve nor enhance this part of the setting of the AONB.
28. It is therefore our view that the proposal is contrary to principle SD8 of the AONB Management Plan (2021-2026) which requires proposals to avoid negatively impacting on the setting and views to and from the AONB. It would also be in conflict with adopted Local Plan policy SP17 and in particular criterion 4 that requires proposals to not have a significant adverse impact on the setting of the Kent Downs AONB.
29. It would be contrary to the NPPF, and in particular previous paragraph 176, now 182, failing to be sensitively located or designed within the setting of the National Landscape. Furthermore, the National Landscape Unit does not consider that the proposal would comply with the newly amended primary legislation for AONBs requiring relevant authorities to seek to further the purposes of conserving and enhancing AONBs.

APPENDIX – Natural England’s advice on the new Duty to Further as submitted as part of the Examination of the DCO for the Lower Thames Crossing

Date: 15 December 2023
Our ref: 460242
Your ref: TR010032



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Mr Rynd Smith
Lead Member of the Examining Authority
The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol BS1 6PN

By email only, no hard copy to follow

Dear Mr Smith

**Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing
Natural England’s response to Deadline 9a
Natural England User Code: 20034784**

Natural England is pleased to provide our Deadline 9a response for the Lower Thames Crossing Examination within the annexes appended to this letter.

Given the number of documents submitted at Deadline 9, Natural England has used best endeavours to review these but have had to prioritise our document review. The absence of comments on a document should not be taken that Natural England’s previous concerns have been addressed, it is more a reflect on us needing to prioritise our advice given the challenging timeframe.

For ease, we have provided our comments in the following Annexes:

- Annex 1: Natural England’s delayed comments from Deadline 9 regarding documents submitted by the Applicant at Deadline 8
- Annex 2: Annex 2: Natural England’s addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty
- Annex 3: Comments on the Applicant’s submissions at Deadline 9
- Annex 4: Final Statement of Common Ground
- Annex 5: Final Principal Areas of Disagreement
- Annex 6: Natural England response to the Procedural Decision 45, Rule 17 letter regarding ‘The Wilderness’

Natural England hopes our Deadline 9a comments are helpful.

Yours sincerely

James Seymour
Deputy Director, Sussex and Kent Team

John Torlesse
Deputy Director, West Anglia Team

Email lrc@naturalengland.org.uk

2 Annex 2: Natural England's addendum to our Deadline 9 response in relation to the enhanced duty in relation to Protected Landscapes including the Kent Downs Area of Outstanding Natural Beauty

- 2.1.1 Natural England apologise for inadvertently omitting our advice in relation to the enhanced duty on public bodies in respect of Areas of Outstanding Natural Beauty provided through the Levelling Up and Regeneration Act in our Deadline 9 Response.
- 2.1.2 As discussed during Issue Specific Hearing 11, 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.
- 2.1.3 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. If it is not practicable or feasible to take those measures the relevant authority should provide evidence to show why it is not practicable or feasible.
 - 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.