



Kent Downs AONB Unit

Representor Number 592

**Issue 3 / Strategic objectives**

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**Are the strategic objectives and the strategic approach to housing delivery and economic development delivery in terms of distribution and location sound having regard to the needs and demands of the Borough, national policy and Government objectives and the evidence base and preparatory processes? Has the Local Plan been positively prepared?**

**v) In setting the strategic objectives and the approach to delivery has regard been had to the purposes of the Areas of Outstanding Natural Beauty within the Borough as required by section 85 of the Countryside and Rights of Way Act 2000 and as explained in the PPG on Natural Environment? (ID 8-003-20140306)?**

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 makes it clear that the key consideration is whether land in the AONB is affected. It is not relevant where the activity is being carried out, or whether it is being carried out in relation to the AONB. Activities occurring outside of the AONB which may affect it, are subject to the same duty of regard as those carried out within the AONB. The underlying legal principle of the duty is that land in the AONB should be conserved and enhanced regardless of where any effect on it arises from. The key test is whether the activity conserves or enhances the AONB. This is confirmed at paragraph 003 Reference ID:8-003-20140306 of the nPPG, where it is stated that "The duty is relevant in considering development proposals that are situated outside of National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on the setting of and implementation of the statutory purposes of these protected areas".

The nPPG also advises that AONB Management Plans highlight the value and special qualities of the particular AONBs and that they should be taken into account in the local planning authorities' Local Plans. The Kent Downs AONB Management Plan identifies views out from the Kent Downs as one of the AONBs special characteristics and qualities and that views out from the AONB and in particular southwards from the escarpment of the North Downs were a principle reason for the designation of the AONB. The Management Plan also states that 'where the qualities of the AONB which were instrumental in reasons for its designation are affected, then the impacts should be given considerable weight in decisions. This particularly applies to views to and from the scarp of the North Downs'. Policy SD8 from the Management Plan states:

**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.*

In respect of proposals within the AONB, the following Management Plan policies are considered particularly relevant:

**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.*

**SD2** *The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development, redevelopment and infrastructure and will be pursued through the application of appropriate design guidance and position statements which are adopted as components of the AONB Management Plan.*

**SD9** *The particular historic and locally distinctive character of rural settlement and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conservation work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, setting, scale, contribution to settlement pattern and choice of materials. This will apply to all development, including road design (pursued through the adoption and implementation of the AONB Rural Streets and Lanes Design handbook), affordable housing, development on farm holdings (pursued through the farmstead design guidance), and rights of way signage.*

The vision for the draft local plan, as set out at para 3.11 states that the Kent Downs AONB will be conserved and enhanced. Such a statement is in accordance with the Countryside and Rights of Way Act 2000 and the AONB Management Plan. This is carried through to policy SP1 which identifies a strategic objective (b) as being to conserve and enhance the Boroughs natural environment, including designated and undesignated landscapes.

At paragraph 3.28.4 of the Plan, it is advised that there are locations adjoining the towns which can accommodate new development without undermining the wider environmental objectives of the plan.

The AONB Unit considers that while an intent to ensure the AONBs are conserved and enhanced is set out in the Strategic objectives, this would not be the outcome due to insufficient mitigation being incorporated into the proposed policy wording in respect of large scale allocations S2 (Kennington) and S47 (Land east of Hothfield Mill), proposed in the setting of the AONB where views out from the escarpment of the Kent Downs would be significantly impacted. Photograph 1 below shows the prominence of site 2 in views from the Kent Downs AONB, taken from Broad Downs. Similarly, proposed allocations S41 (Mulberry Hill, Old Wives Lees), S44 (Watery Lane, Westwell) and S53 (Nat's Lane Brook) would fail to conserve and enhance the special characteristics and qualities of the AONB, as set out in the Kent Downs AONB Units original representations to the Regulation 19 Local Plan and subsequent Main Changes consultation document.



Photo 1 – Proposed allocation S2 Kennington, taken from Broad Downs, Wye Downs Nature Reserve, Coldharbour Lane