

Kathryn Altieri
 Planning and Building Control
 Maidstone Borough Council

Sent by email to:
Planningsupport@midkent.gov.uk

12 June 2019

Dear Kathryn

Application: 19/502469/FULL: Pilgrims Retreat, Hogbarn lane, Harrietsham

Retrospective planning application for the change of use of land from mixed uses (leisure 180 caravans) and residential (19 caravans) for a residential park home site comprising 248 caravans, including engineering works to create terracing, retaining walls and the extension of the site along the south eastern boundary.

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.

Pilgrims Retreat lies within the Kent Downs AONB. The application should therefore be tested against the purpose of the AONB designation, to conserve and enhance the natural beauty of the AONB, in line with paragraph 172 of the NPPF and policy SP17 of Maidstone's Local 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 formally adopted by the local authorities in Kent in which the AONB occurs, including Maidstone Borough Council. The national Planning Policy Guidance confirms that 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 paragraph 48 of the Inspectorate's decision letter it is confirmed that "the Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration".

The Kent Downs AONB Management Plan, Second Revision 2014-2019 can be downloaded at:

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

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

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.



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
 www.kentdowns.org.uk

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



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 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.

SD3 New development or changes to land use will be opposed where they disregard or run counter to the primary purpose of the Kent Downs AONB.

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.

SD7 To retain and improve tranquillity, including the experience of dark skies at night, careful design and the use of new technologies should be used. New developments and highways infrastructure which negatively impact on the local tranquillity of the Kent Downs AONB will be opposed unless they can be satisfactorily mitigated.

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.

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.

WT1 Threats to the existing extent of woodland and transitional habitats around woodland will be resisted. Extension of both habitats types will be supported where appropriate to landscape character. The loss of ancient woodland will be opposed.

WT7 Activities and developments causing damage to woodlands, such as disease, illegal and harmful recreation, an expanding deer population, poorly managed use for game rearing and development associated with wood lotting, will be addressed by appropriate means. Inappropriate developments subject to planning control will be opposed, other available regulatory mechanisms supported, and positive, strategic management interventions pursued.

The application site lies within the Mid Kent Downs landscape character area as classified in the Landscape Character Assessment of the AONB where one of the overall landscape character objectives is identified as to seek to conserve the small scale of the roads and villages and the remote quality of the countryside and control urban fringe pressures. Within the Mid Kent Downs LCA, the site lies within the Bicknor Local Character Area where specific guidelines include seeking the use of sympathetic local materials such as brick, tile and flint.

Large scale and/or permanent Caravan Parks in the AONB rarely constitutes appropriate development as by reason of the utilitarian design of the caravans, they fail to conserve or enhance the local character, qualities and distinctiveness of the AONB and therefore fail to meet the key requirement of conserving and enhancing landscape and scenic beauty within the

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.

designated area. This retrospective application, which involves a significant extension in the number and density of caravans at the site, which is in a remote, rural location that is unconnected to existing settlement pattern in the locality, would fail to comply with the guidelines for development in the Mid Kent Downs LCA and would clearly be in conflict with the objectives of the Kent Downs AONB Management Plan as well as national and local plan policies that seek to conserve and enhance the AONB. Harm would be exacerbated by the removal of existing vegetation including trees, remodeling of land levels to form artificial terraces and the construction of a retaining wall, introducing a suburban feature in this rural location. Harm would also arise as a result of an increase in lighting as a result of both an increase in numbers of caravans and also the permanent, rather than temporary occupation of the caravans. The increase in the amount and density of caravans allows little in the way of significant tree planting between the units to help assimilate them into their rural surroundings. The proposed landscape mitigation is considered very meagre and fails to adequately compensate for the substantive harm that would result from the proposal.

The AONB Unit strongly disagrees with the conclusions of the LVIA submitted in support of the proposal. We do not consider the Sensitivity of the site to be 'low to medium' and given the site's location within the nationally designated AONB, on a vegetated valley side that (prior to the works) was entirely in keeping with the identified local landscape character, consider landscape value should be assessed as high. Clearance and leveling of 0.8ha of coppiced valley side with artificially engineered platforms to accommodate an expanded area of permanently stationed caravans does not in our view constitute a 'minor' change to the landscape, nor do we agree that there would be a 'low to medium' magnitude of change to landscape character. It is also considered incorrect to assess a lower impact on landscape character on the basis of a lack of wider visibility of the site. The AONB Unit considers the high sensitivity of the site and a high magnitude of change would give rise to a major adverse (i.e. significant) effect on landscape character. Furthermore, reducing assessed levels of harm on the basis of the small scale of the area affected and visual dissociation with the surrounding area is wholly inappropriate; while the site is relatively contained within the wider landscape and the development may not affect wider long distance views, this is not the sole test for acceptability of development in an AONB. The AONB is a wide and large expanse of area and any development which significantly detracts from elements which contribute to that wider natural and scenic beauty would not conserve or enhance it. The proposal would have a detrimental impact on many of the special characteristics and qualities of the Kent Downs including landform and views, tranquillity (through the introduction of additional lighting), biodiversity rich habitats and woodland and trees – contrary to the conclusion in the LVIA that 'there would only be a very minor impact on very few elements of the special qualities and characteristics of the AONB'.

In conclusion, it is considered that the proposal would weaken the characteristics and qualities of natural beauty and have a significant detrimental impact on landscape character and the proposal disregards the primary purpose of the AONB designation, namely the conservation and enhancement of its natural beauty and would therefore be contrary to both paragraph 172 of the NPPF and policy SP17 of Maidstone's Local Plan.

The Kent Downs AONB Unit therefore objects to this application.

I would be happy to discuss further if this would be helpful.

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,

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.

where at para 48 of the Inspectorate's decision letter, it is confirmed that "the Kent Downs 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 2017¹ 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.

¹ 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.