

Aylesford
Aylesford North and
North Downs

19 January 2022

TM/22/00113/OAEA

Proposal: Residential development of up to 950 dwellings, provision of a mixed-use local centre (including Class E, F and C3 with potential for retirement homes) provision of land to accommodate a new primary school, replacement sports pitches with changing facilities; associated green infrastructure including landscaping, public open space, allotments, sustainable urban drainage systems, biodiversity enhancements; new accesses from Bull Lane; new access and road/cycleway/footpath link to New Court Road

Location: Development Site Bushey Wood Phase 1 Bull Lane Eccles Aylesford Kent

Go to: [Recommendation](#)

1. Description:

1.1 Outline planning permission, with all matters reserved for future consideration with the exception of access, is sought for the following development:

- Residential development of up to 950 dwellings;
- 30% Affordable housing, including first homes;
- A new mixed use Local Centre;
- New sports hub and pavilion/changing facilities;
- Childrens playspace throughout the development;
- Amenity and semi-natural public space;
- Landscaping, including area required for sustainable drainage systems and biodiversity enhancements;
- Cycleway and footpath linkages throughout the development;
- Site accesses and associated highway improvements including a new link to New Court Road and closure of Bull Lane at its junction with Pilgrims Way, improvement works to Rochester Road, New Court Road and Pilgrims Way;
- Rear access provision to existing properties on Cork Street that adjoins the development;
- Additional areas of parking for existing residents;

- Part retention and part new allotments; and
 - Provision of site for new 2FE school to replace the existing St Marks Primary School and allow room for expansion at an appropriate time in the development phasing.
- 1.2 The new access arrangements are to be from New Court Road/Pilgrims Way and Bull Lane, with a new access to the south of Bull Lane/Eccles providing the southern end of the spine road and access into the new school. The highway works include for partial closure of Bull Lane to traffic, north of Eccles village to Pilgrims Way/Rochester Road junction (excluding emergency vehicles). In addition to the above, several pedestrian and cycle links will be established using existing PROW's and new routes through the development.
- 1.3 As the application is in outline form essentially this report is dealing with the principle of the development with all details, except for the general quantum of development and the means of access reserved for future consideration.
- 1.4 Whilst all other matters have been reserved for subsequent reserved matters applications the developer has submitted a number of plans and a Design Code to assist with the determination of the application. Some of the submitted plans identify key development parameters against which future reserved matters applications will be considered and as such they would constitute approved plans should consent be issued, whereas other plans are submitted purely for informative purposes to illustrate how a scheme could be developed in accordance with the formal parameter plans. These plans include the following:
*(Text in **Bold**, Formal Parameter plan)*
- Application Site Boundary
 - Aerial image of application site
 - District and Regional Context Plan
 - **Proposed Land Use Parameter Plan**
 - Green Infrastructure Plan
 - Master Plan
 - Phasing plan
 - Agriculture
 - **Movement Parameter Plan**
 - **Density Parameter Plan**

- **Building Heights Parameter Plan**
- **Green Infrastructure Parameter Plan**
- Heritage and Scheduled Ancient Monuments
- Air Quality
- Ground Condition and Contamination
- **Drainage Strategy Parameter Plan**
- Minerals
- Flood Risk and Drainage
- Climate Change and Energy

1.5 Whilst the scale and details of the proposed development is to be reserved for future reserved matters applications; as shown on the Building Heights Parameter plan (for approval) it is anticipated that the development would provide for a mix of 2 – 2 ½ storey dwellings. There would be 2 ½ storey dwellings closest to the village and 2 storey dwellings near the external boundary, abutting the more rural area. The parameter plan also indicates two zones where buildings would be up to 3 storeys as well as specific locations where taller 3 storey buildings may be deemed appropriate. The indicative housing mix set out within the application submission is below:

1 bed units	2 bed units	3 bed units	4 bed units
134	278	380	158

1.6 The proposed development is subject of an Environmental Statement following consideration of a scoping request submitted to the council in 2021 to establish the main environmental issues associated with the proposals.

1.7 The contents and conclusions contained within the ES are considered throughout the detailed assessment of the scheme which follows. In addition, a number of other supporting plans and documents have been submitted as part of the application.

- Proposed site access plan
- Environmental Statement volume 1 (Main Statement)
- Environmental Statement volume 2 (Appendices) to include :
 - Off site Ecological Compensation plan
 - Illustrative Masterplan

- Development Parameters plan
- Landscape Strategy plan
- Ecological Impact Assessment
- Built Heritage Assessment
- LVIA Assessment
- Archaeological Evaluation
- Transport Assessment
- Air Quality Assessment
- Noise and Vibration Assessment
- Flood Risk Assessment
- Environmental Statement Volume 3 (Figures)
- Environmental Statement Volume 4 (Non-Technical Summary)
- Planning Design and Access Statement
- Ecological Corridor
- Open Space Note and Measurements Plan
- Illustrative Housing Schedule
- Sequential Assessment and Exceptions Test
- Tree Survey and Tree Constraints Plan
- Financial Viability Assessments

1.8 Each topic assessment within the ES is designed to attach a level of significance to the identified effects (both positive and negative), i.e. either major, moderate, minor or negligible. Short and long-term (temporary and permanent), direct and indirect effects have been assessed. The EIA Regulations require that 'cumulative' effects are also considered in the ES. 'Residual effects' are defined as those that remain after mitigation measures have been implemented. The ES that accompanies the application is now considered to address all of the statutory requirements.

2. Reason for reporting to Committee:

- 2.1 The reason for reporting the application to committee is due to the application being a major site on an unallocated area of land forming a departure from the extant TMBC development plan.
- 2.2 That there is a need for the Council to consider its position in response to the applicant's submission of a non-determination appeal under The Town and Country Planning Act 1990: Appeal under Section 78 and to set out what Members consideration of the application would have been had they had an opportunity to determine the submission.
- 2.3 Councillors Dave Davies and Andrew Kennedy (former councillor) called in the application to Area 3 due to the size of development.

3. The Site:

- 3.1 This is a major planning application seeking outline approval for a residential led development on land adjoining the village of Eccles, see **Fig: 1**. The area of land incorporated within the application boundary is approximately 63.5ha (156.86 acres) of principally tenanted farmland located to the north, south and west of the village of Eccles. There are however some non-agricultural uses within the site boundary comprising areas of woodland, allotments bordering the village of Eccles, sports pitches west of Bull Lane, and the current St Mark's C.E. Primary School.
- 3.2 The application site surrounds the village of Eccles with the remainder of the site bounded by a mix of agricultural land and woodland with New Court Road forming the northern boundary.
- 3.3 A number of existing Public Rights of Way cross the site linking the existing settlement of Eccles with the wider countryside. There are currently no vehicular access routes through the site.

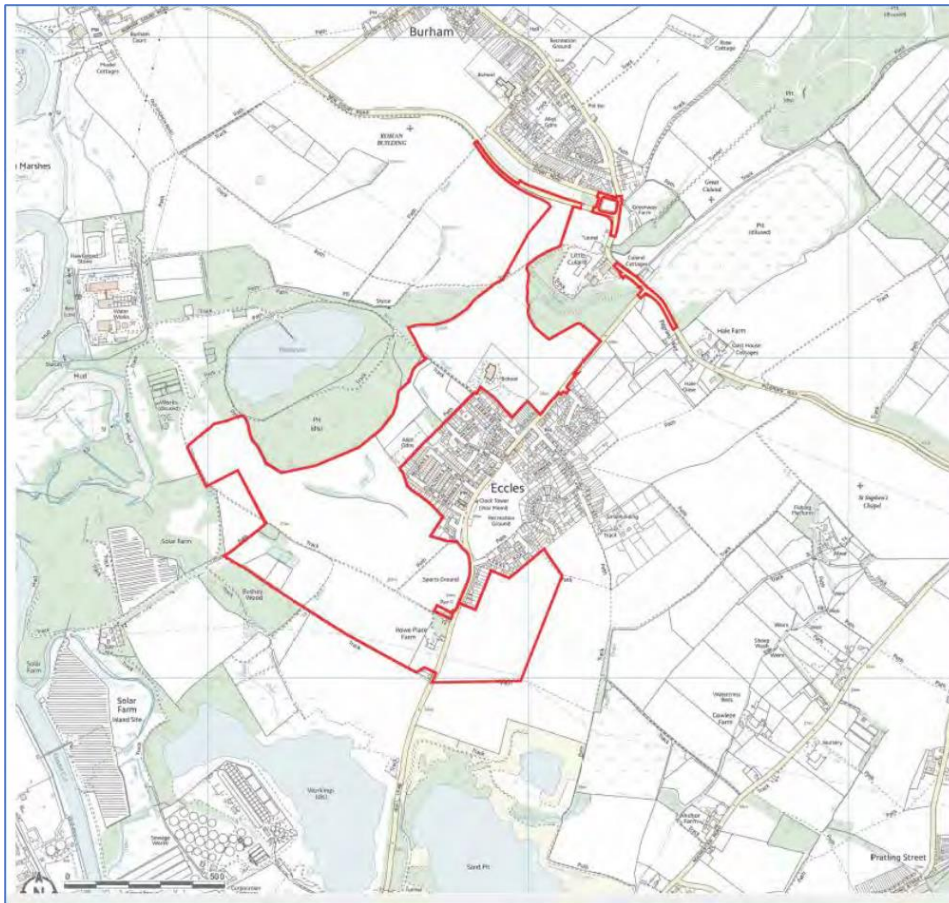


Fig 1: Application Site Boundary - (shown edged red)

Historical context

- 3.4 The existing village of Eccles adjoins the application site; Eccles was originally developed as a result of the opening of Thomas Cubitt's brickworks and cement manufacturing facilities close to the river, north of the present-day Old Eccles Pit reservoir in around 1850.
- 3.5 The first streets were constructed to the South of the village in the late 1900s and further development extended the village to the north and more laterally to the east of Bull Lane, see **Fig 2**.
- 3.6 The village offers local amenities including a village store, post office, a church, a doctor's surgery, a public house, and a primary school, as well as allotments and sports pitches, a recreation ground is also located centrally within the village.

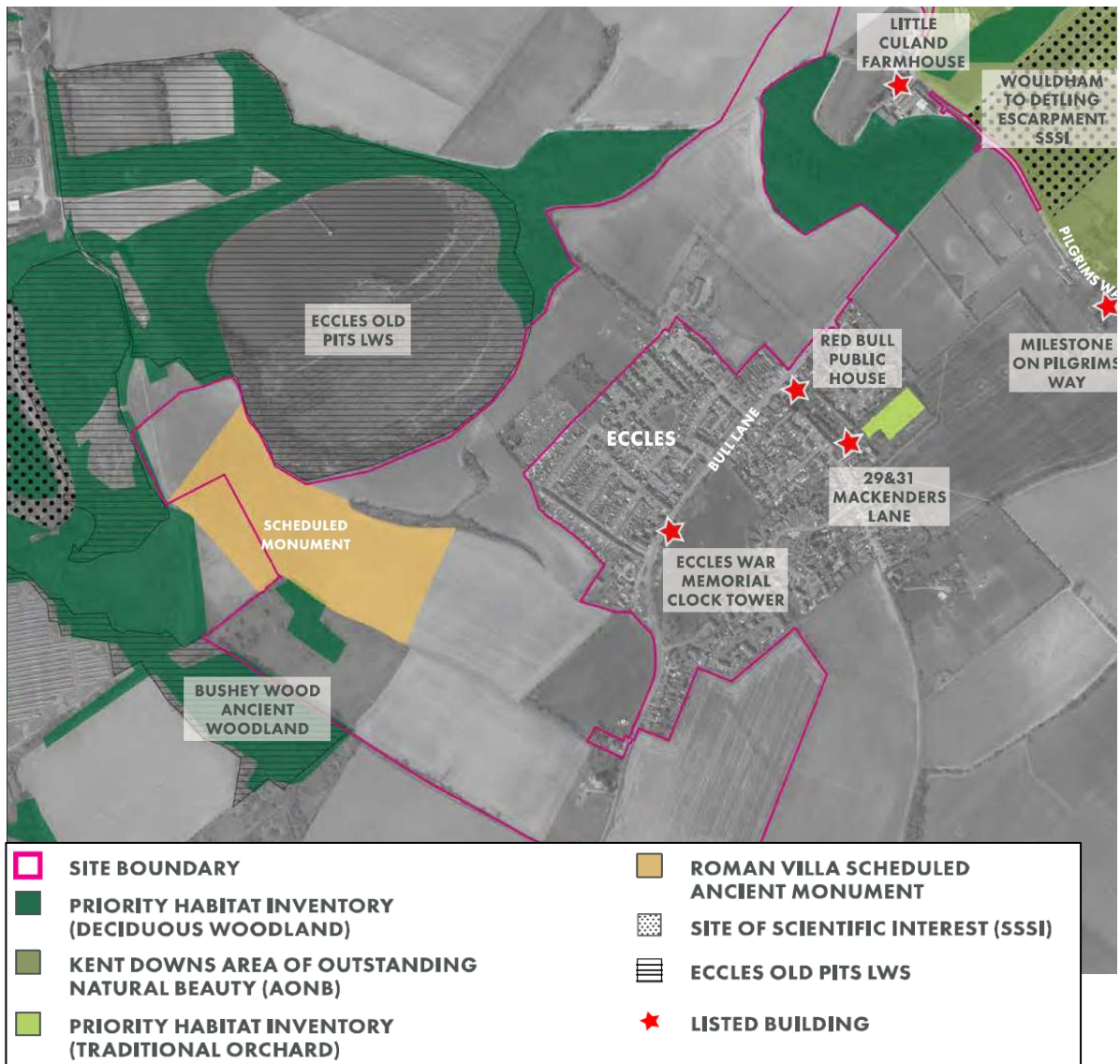


Fig 2: Historic Monuments, Listed Assets, AONB and SSSI

Highways and Transport

3.7 The application site has a frontage to Bull Lane, which routes through the centre of Eccles. Bull Lane has a 30 mile per hour speed limit within the village, which increases to the 40 mph and national speed limit beyond the northern and southern extents of the village. It connects with Rochester Rd/Pilgrim's Way to the north of Eccles and Aylesford to the South. Rochester Rd/Pilgrims way is a single carriageway road which routes north from Bull Lane through Burham towards Wouldham and the south east connecting via A229, see **Fig 3**.

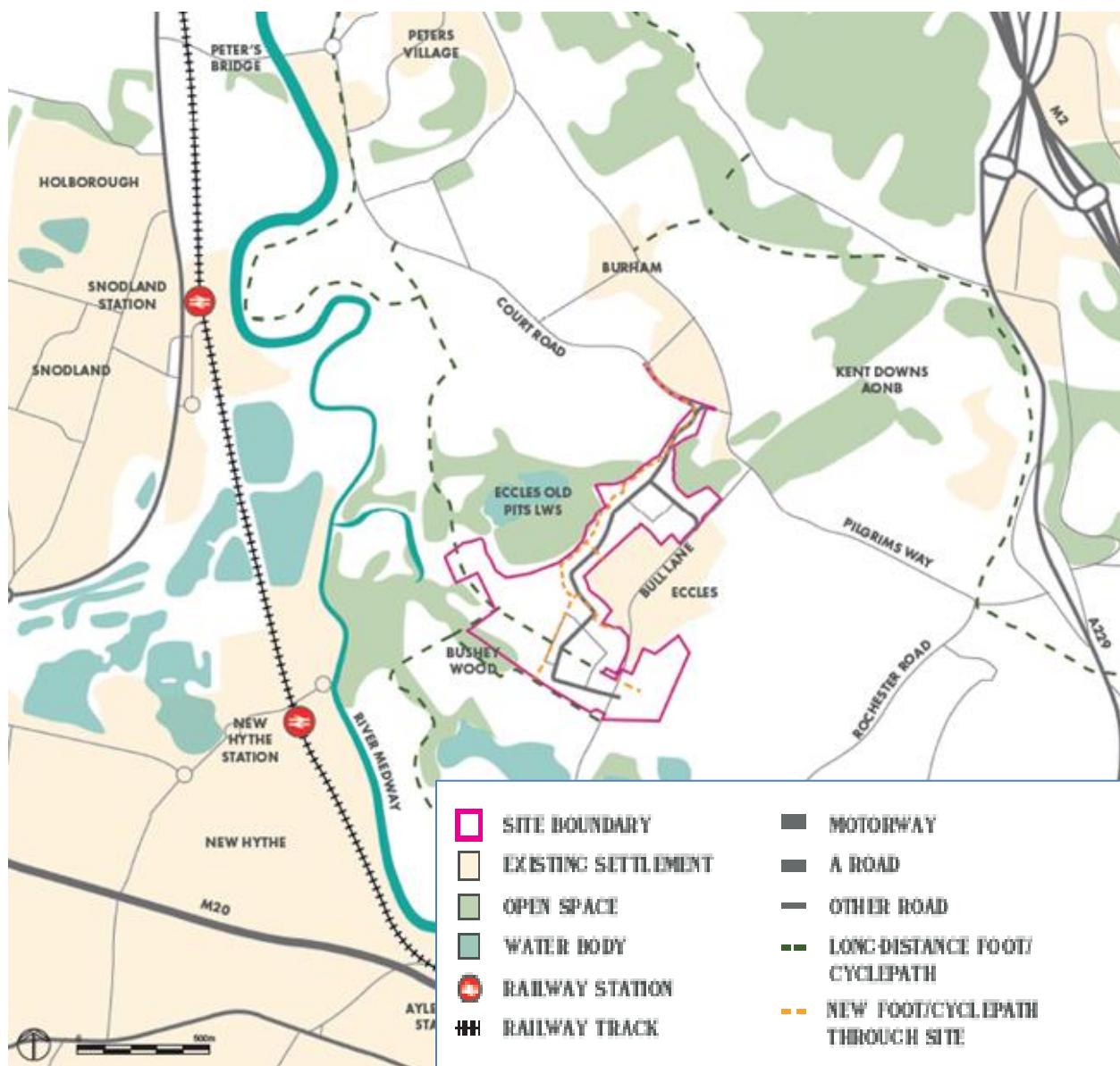


Fig 3. Overview of application site and general area - (showing railways, roads etc.)

3.8 There have been a series of improvements to the road network recently associated with the development of Peters Village. New Court Road provides a new road link to the northwest of Eccles connecting to Peters Village and then Peters bridge providing an important crossing linking the east and west Bank of the river Medway, enhancing the accessibility between the existing settlements.

4. Planning History (most relevant):

21/02024/EASP

20 September 2021

Request for a Scoping Opinion under Town and Country Planning (Environmental Impact Assessment) Regulations 2011: Environmental Impact Assessment of development on Land at Eccles, Kent, pursuant to Regulation 15 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

TM/01/00646/CR3

21 July 2001

New seven classroom primary school (to be built in two phases) with hard surfaced play area, netball court, playing field, new car parking and vehicular and pedestrian circulation and fencing and landscaping

5. Consultees:

- 5.1 Consultation responses are summarised below. The full text is available on the Councils website viewable at <https://publicaccess2.tbmc.gov.uk/online-applications/>
- 5.2 *Wouldham Parish Council:* Updated comments were received following further revisions made to the scheme. The concerns relate to lack of parking provision and the timely delivery of the additional infrastructure referred to as part of the application (leisure provision, GP surgery, School). Concerns also remain over general traffic distribution as a result of the proposed development.
- 5.3 *Aylesford Parish Council:* No objection in principle to the development noting the safeguarding of the site for development post 2021 and the current position on five-year housing supply. However, has indicated that development should be restricted to that land identified in policy CP16 and nothing beyond and raised specific concerns over detailed elements of the scheme. However, on the basis that an appeal has been lodged without addressing the detailed concerns with the proposal the parish council object to the proposal as submitted.
- 5.4 *Burham Parish Council:* Objects to the proposals on the basis of specific highway related concerns, implications arising from the cancellation of a local bus service, air quality impacts and noise during construction, impacts on heritage assets, impacts on ecology, concerns with the delivery of GP surgery facilities noting the issues arising with Peters Village provision, the need to provide 40% affordable housing and the future delivery of the additional infrastructure included as part of the description of development (particular issue over lack of control of current school site).
- 5.5 *Tracey Crouch CBE MP:* Objects to the proposals on the basis of the highways impact, overdevelopment of the site, impact on existing health care provision and that the proposals are premature to the new Local Plan.
- 5.6 *National Highways:* Requested a holding objection on the application until 15 May 2023 to allow for further information to be provided to demonstrate the full impacts of the proposals on the SRN. Further comments provided dated 12 May confirming that whilst working in accordance with the Memorandum of Understanding there were still outstanding matters to be resolved and therefore the holding objections ought to be extended until 15 August 2023.

- 5.7 *Natural England*: Initial objection to the scheme on the basis of the need for further information, including an HRA to be submitted by the Council. This information was submitted but no formal response was included within the subsequent response issued December 2022. Objection remains in respect of AONB, air quality, water quality and agricultural land but confirmed that further landscape advice should be sought from AONB unit as unable to advise further.
- 5.8 *Historic England*: Raise specific concerns with the proposals concluding that the proposals result in less than substantial harm to the designated heritage assets with that harm being in the middle of the range. Concluded that if consent were recommended on the basis of the benefits outweighing the identified less than substantial harm that they are secured through appropriately robust conditions.
- 5.9 *NHS PCT*: No objection subject to the applicant agreeing to developer contributions towards expansion of Phoenix Medical Practice and/or refurbishment/reconfiguration/extension or new premises for Wateringbury Surgery.
- 5.10 *Environment Agency*: No objection subject to the imposition of suitably worded planning conditions.
- 5.11 *Southern Water*: No objection although have recommended that a fully detailed odour assessment is conducted given the potential risks of receptor encroachment into an area where sewage works type odours are shown to be pervasive frequent and established. Requested a suitably worded condition.
- 5.12 *Kent Police*: Specific comments were raised regarding compliance with Secured by Design principles but no objection in principle.
- 5.13 *KCC Ecology*: Initial comments identified the need for additional information relating to mitigation strategy for protected species, greater protection for surrounding designated sites and also the biodiversity net-gain assessment calculations. Subsequent information addresses the majority of concerns save for the BNG matters.
- 5.14 *KCC Economic Development*: No objections subject to the applicant agreeing to developer contributions relating to Education,
- 5.15 *KCC Flood and Water*: Further confirmation that alterations made to the scheme have minimal impacts from a surface water aspect and no objection is raised.
- 5.16 *KCC Heritage*: Stated that the applicant's consideration of archaeology does not reflect the importance, significance and range of heritage of the development site. Considers that the Design Code does not sufficiently address historic environment issues.

- 5.17 *KCC Highways*: No objections subject to the imposition of suitable worded planning conditions and securing of highways improvements through a section 278 Agreement and by way of s106 Developer Contributions
- 5.18 *KCC Minerals and Waste*: No objection
- 5.19 *KCC PROW*: No objection subject to the imposition of suitably worded planning conditions.
- 5.20 *Environmental Health (contamination)*: No objection subject to the imposition of suitably worded planning conditions.
- 5.21 *Environmental Health (noise)*: No objection subject to the imposition of suitably worded planning conditions.
- 5.22 *Environmental Health (air quality)*: No objection subject to provision for EV charging points for all houses.
- 5.23 *Housing services*: Initially objected to the application on insufficient information provided on affordable housing but now accept the most recent offer of proposed affordable housing provision of 30% with mix as set out below which was informed by viability considerations. They also request reference to a local lettings plan to be included in the S106, giving priority to households with a local connection to the wards immediate to the development for all tenures.

Type	First Homes (25%)	Affordable Rent (52.5%)	Shared Ownership (22.5%)
1 bed flat	18	74	0
2 bed flat	18	16	9
2 bed house	18	14	18
3 bed house	17	31	30
4 bed house	0	8	7
5 bed house	0	7	0
TOTAL	71	150*	64

*10% of rented provision to be suitable for wheelchair users to occupy in line with Part M4 of the Building Regulations, 15 units to be agreed with the Council in due course.

- 5.24 *Leisure Services*: Supports the provision of pitches but requests additional financial contribution due to the shortfall in provision based on size of scheme, to be secured through a s106 Agreement. New provision must meet FA guidance and cater for all 3 pitches to be used at the same time. Parks and garden provision to be secured by way of financial contribution secured through s106 Agreement.
- 5.25 *CPRE*: Object to the proposals on the basis that they will not result in sustainable development/community, results in the loss of best and most versatile agricultural land, results in the loss of intrinsically dark landscapes, results in the loss of tranquillity, has an impact on the setting of the Kent Downs AONB, and provides insufficient detail on the provision of affordable housing.

- 5.26 *Kent Downs AONB*: Recognises that the site has been safeguarded for development in the current Core Strategy and within Local Plan to which no objection was raised by the AONB unit. The submission of the Design Code was welcomed to address specific concerns initially raised, albeit noting that some measures identified on the parameter plans are not entirely reflected in the Design Code.
- 5.27 *Kent Wildlife Trust*: No objection in principle but concerns over maintaining at least a 15m buffer to the ancient woodland and Eccles Old Pits LWS. There is also a request that a management plan is secured by condition for the Eccles Old Pit LWS as part of the opportunity to secure biodiversity net gain.
- 5.28 *Geoconservation Kent*: Raise concerns that heritage mitigation makes no reference to geological heritage. Request a commitment to including geological and palaeontological heritage highlighting the RIGS designation in the interpretation plan and look to securing the freehold of Culand Chalk Pit SSI and part of the Wagon's Pit RIGS for the local community of suitable charity.
- 5.29 *Sport England*: No objection subject to the imposition of suitably worded planning conditions.
- 5.30 Third Party Representations: 738 individual objection responses. Objections are summarised as follows:-
- Loss of wildlife area, wildlife corridors and natural habitat, which should be protected for educational value and mental wellbeing of residents.
 - Need to be reducing carbon footprint which is not possible if plants and trees are destroyed, and there is less habitat for animals being pushed out of their natural environment.
 - Enough houses in the area, proposed houses are not needed, Eccles will no longer be a village.
 - Should be more green parks and better community spaces.
 - Insufficient infrastructure in place for more development.
 - Primary school is already full, Station car park is full by 8am, insufficient GP surgery places, inadequate shop provision, all of which should be rectified before adding more houses.
 - The only secondary school residents' children can get into has a poor rating, another one is needed.
 - Existing highway hazard due to cars speeding on New Court Road more houses will make it worse.

- Inadequate road infrastructure, rural lanes and proposed access point cannot accommodate increased traffic, impacts on Wouldham Village will exacerbate the current traffic problems, rat running and road rage.
- Existing traffic problems in Wouldham due to incidents on either the M20 or M2 will become worse, pressure and damage to this single-track road will worsen.
- Harm to views of the AONB.
- Traffic data submitted is based on out-of-date information and fails to mention the increase in sewage/waste lorries.
- Current sewage network is failing.
- Confusing number of documents updated and submitted so unclear what is proposed.
- Buildings should be no more than 2 stores in keeping with the village.
- Harmful impact to wildlife, flora and fauna and birds on site, including orchids, bats, Great Crested Newts, Little Owl, Turtle Doves and swans.
- Harmful noise and disturbance, traffic and mess during construction.
- Harmful impact from light pollution caused by streetlighting and air pollution resulting from traffic.
- Impact on setting of adjacent existing dwellings.
- Property devaluation.
- Inadequate parking provision.
- Trenport have used bribery and there are already court cases against them for not delivering what was promised to existing residents. They have failed to deliver what is necessary for the existing communities they have already built on.
- Approving puts profit before the impact upon local communities.
- Loss of countryside setting and green space, the countryside should be protected for future generations.
- Current new build housing remains unsold.
- Increased pollution due to vehicles.

- No benefit to anyone in the community or surrounding area.
- Overdevelopment putting pressure on already overloaded roads and infrastructure.
- Previous objections should be carried over to this application.
- Increased anti-social behaviour and crime.
- Impact of development on the SSSI, SAC and LWS will harm biodiversity net gain. There should be greater mitigation for legally protected species.
- Lack of comments from Wildlife Trust.
- Lack of local plan is not justification to allow this, to approve would be irresponsible when current infrastructure is at breaking point.
- Eccles will be detrimentally affected.
- With hybrid working these days people should be encouraged to move north to reduce the need to build here.
- Kent will no longer be the "Garden of England" with no farmland left.

Comments in support (3) are summarised as follows: -

- The amendment to the means of access removing it from the Culand Chalk Pit SSSI and RIGS is welcomed.
- Suggestion that the freehold of the Culand Chalk Pit SSSI and RIGS is given to the local community as a "Community Asset" or donated to a suitable charity in order to protect it for future generations as a geological site of national importance.

6. Determining Issues:

Introduction

6.1 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN). The stated housing land supply position as of 31 March 2022 is 3.22 years. This means that the presumption in favour of sustainable development as set out at paragraph 11 of the Framework (2021) must be applied. For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission 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; 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.

6.2 In undertaking this exercise, the adopted development plan remains the starting point for the determination of any planning application (as required by s.38 (6) of the Planning and Compulsory Purchase Act 2004) and which is reiterated at paragraph 12 of the Framework. The consequence of this in these circumstances is that consideration must be given to the extent of conformity between development plan policies and the policies contained within the Framework as a whole.

6.3 The most important policies for the determination of this application are listed below together with an indication of the level of weight that ought to be afforded to each of them based on various recent appeals and the council's own assessment:

Core Strategy

- Policy CP1 Sustainable Development – whilst parts of this policy have diminished weight or no weight, the policy overall is still to be afforded weight in the determination of applications.
- Policy CP2 Sustainable Transport – This policy is deemed to be consistent with the Framework and therefore afforded full weight.
- Policy CP5 Strategic Gap – This policy is deemed to be out of date and therefore afforded very limited weight since the abolition of the Regional Spatial Strategies that supported such a designation, as confirmed by various subsequent appeal decisions locally.
- Policy CP7 Areas of Outstanding Natural Beauty – There are certain discrepancies over precise wording and requirements diminishing the amount of weight to be afforded, such that the Framework requirements take precedence where any conflicts are identified, and parts of the policy afforded some weight.

- Policy CP14 Development in the Countryside – This policy has been accepted as being inconsistent with the Framework and therefore afforded limited weight in the determination of this application.
- Policy CP16 Bushey Wood Area of Opportunity – This policy can only be read in conjunction with paragraph 73 of the Framework and is considered to be consistent. The weighting is tempered by the failure to have delivered on the Area Action Plan, however overall the policy is compliant and therefore capable of being afforded significant weight.
- Policy CP17 Affordable Housing – Generally consistent with the Framework and therefore capable of being afforded full weight.
- Policy CP24 Achieving a High Quality Environment – This is to be read in conjunction with section 12 of the Framework and considered to be afforded full weight still.
- Policy CP25 Mitigation of Development Impacts - This is to be read in conjunction with paragraphs 55-58 and 194-208 of the Framework and considered to be afforded full weight.

6.4 Other relevant policies for consideration include:

Managing Development and the Environment Development Plan Document

- Policy SQ1 Landscape and Townscape Protection and Enhancement
- Policy OS3 Open Space Standards
- Policy OS4 Provision of Open Space
- Policy NE4 Trees, hedgerows and woodland
- Policy SQ1 Landscape and Townscape Protection and Enhancement
- Policy SQ8 Road Safety

6.5 With regard to the application of the presumption in favour of sustainable development, regard must first be had to whether any restrictive policies within the Framework (paragraph 11 d (i), footnote 7) provide a clear reason for refusing the development proposed.

6.6 In this case, it is to be noted that the site abuts a SSSI to the north and south, is directly opposite the Kent Downs Area of Outstanding Natural Beauty and within 50m of the Eccles Old Pit Local Wildlife Site. These are not designations that wash over the application site itself though so as to come within the scope of footnote 7 of the NPPF.

- 6.7 The site contains a designated heritage asset in the form of a SAM (that being the Romano-British villa, Anglo-Saxon cemetery and associated remains) and the proposals are considered to result in less than substantial harm overall, set at the medium level of harm, such that footnote 7 is engaged on this matter. The requisite test is therefore to consider whether the public benefits of the proposals outweigh the harm.

Impact on heritage assets and archaeological matters

- 6.8 Paragraph 197 of the Framework states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.9 Paragraph 199 requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.10 Paragraph 200 sets out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, such as SAMs, should be wholly exceptional.
- 6.11 Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, etc.
- 6.12 Paragraph 202 requires that when a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.13 Annex 2 of the Framework defines the setting of a heritage asset as being: "The surroundings in which a heritage asset is experienced. Its extent is not fixed and

may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

- 6.14 Historic England have submitted revised comments following the submission of the Design Code by the applicant. Whilst welcoming the principles of the Design Code concerns still remain over the proposed vegetation cover for the setting of the scheduled ancient monument along its eastern boundary, despite a commitment to a 5m buffer set out in the Design Code. The impacts are considered to be less than substantial and at the middle level of that harm as per the definition in paragraph 202 of the Framework. Historic England have concluded that there is no objection to the proposal on heritage grounds subject to the imposition of suitably worded planning conditions.
- 6.15 KCC Heritage have updated their comments following further engagement with the applicant’s heritage consultant. Whilst welcoming the further discussions they still note that “the applicant is not setting out proposals or measures to conserve or enhance the historic environment” and go on to comment that “the Design Code does not sufficiently address historic environment issues.”
- 6.16 KCC Heritage note that the gathering of information on the historic environment has been “reasonable” but consider that “the proposed mitigation for the remarkable heritage resource is limited.” Whilst noting these concerns, and the offer to discuss the comments further, no specific objection to the proposals on heritage grounds has been raised by reference to the development plan policies.
- 6.17 It is therefore accepted that the proposals will give rise to less than substantial harm to the setting of a designated heritage asset (the SAM) and it is necessary to weigh the public benefits arising from the scheme as part of the planning balance.

Nature of development

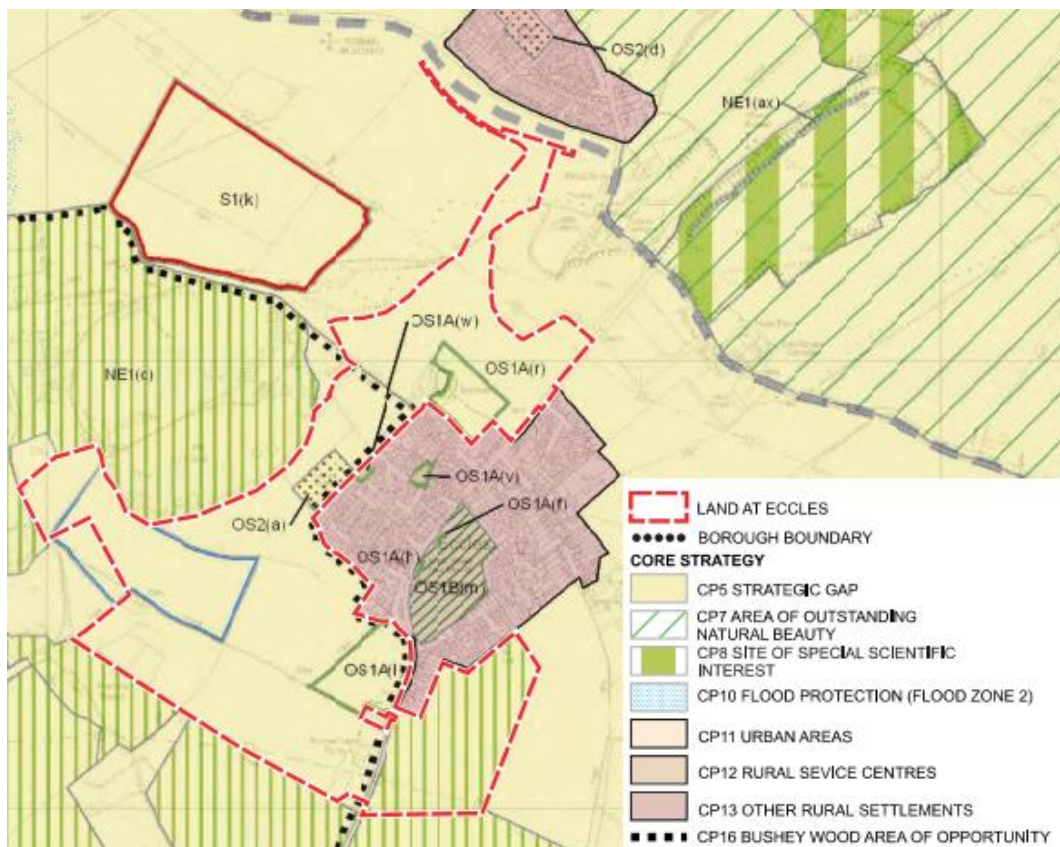
- 6.18 The application seeks to create a new settlement of up to 950 dwellings comprising a mix of house types and sizes. The scheme will deliver a range of affordable homes across tenure and sizes, with the specifics of the affordable housing discussed in more detail below.
- 6.19 The scheme will also deliver a new mixed use local centre along with new sports facility provision in terms of pitches and sports hub/pavilion.
- 6.20 The provision of up to 950 new dwellings would contribute to the overall housing requirement for the borough through both providing new market and affordable dwellings.

6.21 The scheme also makes provision of a site for new 2FE school to replace the existing St Marks Primary School and allow room for expansion at an appropriate time in the development phasing.

Locational characteristics and associated impacts

6.22 Paragraph 79 of the Framework states that “planning policies and decisions should avoid the development of isolated homes in the countryside”. Whilst the site is located within the designated countryside, it is located immediately adjacent to the defined settlement of Eccles and cannot be reasonably said to be isolated in any way. The development would therefore meet the requirements of paragraph 79 of the Framework.

6.23 The site is broadly located within the area of opportunity as defined under policy CP16 of the Core Strategy suitable for future development. The northern most part of the application site does not however fall within this wider opportunity area as identified on the extract plan below. This additional area is referenced as being the “Island Site” and minerals workings to the west of Bull Lane, Eccles. The benefit of including this area is that it will enable the future of the entire area, including the restoration of the mineral workings and long-term access to the Island Site, to be considered comprehensively and prevent any prejudicial development in the meantime. It also provides a larger area within which new development can be planned, but this does not necessarily mean that more development will be proposed.



- 6.24 The supporting text noted at paragraph 6.3.17 of the Core Strategy in relation to policy CP16 states that “Since there is unlikely to be a need for further housing land to meet strategic requirements up to 2021, there is no need to firmly allocate any land for this purpose. It is therefore carried forward as an area safeguarded for long-term development beyond the time horizon of the LDF.”
- 6.25 This is then further expanded upon at paragraph 6.3.20 where it notes that “Although it is unlikely that any development will be justified at Bushey Wood within the current plan period it is important that the principle of development is reaffirmed, and the broad area safeguarded for the following reasons:
- to make clear the Borough Council’s longer-term intentions for the area and to provide guidance on the broad extent of the area;
 - to provide a context to resist any proposals made in the short-term which might prejudice the longer-term potential of the area;
 - to provide a context for detailed planning work that will be needed in order for development to commence in the longer-term, in particular, to ensure a viable comprehensive transportation strategy for the whole of the East Bank that has regard to the longer term possibility of development in the area;
 - to indicate a clear direction for longer-term growth in the Borough to protect the Green Belt and other areas of importance for countryside conservation.”
- 6.26 The adopted policy noted that “Land will only be released for housing development within the Area of Opportunity through the preparation of an Area Action Plan.” However, the supporting text clarified this noting that “the Area Action Plan would need to be in place before the approval of the first review of the South East Plan.” The lack of an Area Action Plan as part of the LDF is not therefore considered to be a matter of principle preventing compliance with policy CP16 for this scheme given that its timing was linked to the review of the South East Plan which has long since been abolished. In any case requirements for Area Action Plans are no longer referenced as being part of the development plan. Furthermore, the present position regarding the five-year housing supply position (3.22 years as of 31.03.22) confirms the need for suitable sites to come forward now to meet the development needs, as recognised by the Core Strategy for the period from 2021.
- 6.27 Although now withdrawn, it is also to be noted that the application site was identified as a strategic site allocation under draft policy LP27 in the Tonbridge and Malling Local Plan. The supporting text noted at paragraph 5.1.9 that “Phase 1 will deliver approximately 900 dwellings and these are expected to be completed by 2031.” The draft policy itself identified a set of key requirements for any application, including that it provides for:
- primary school – 2 form entry

- secondary education – proportionate contribution to provision of a new school in the north-east part of the borough
- road links to Bull Lane (north and south) and Court Road and other mitigation and improvement measures on the local network arising from the Transport Assessment
- healthcare provision to meet the needs of the development
- allotments & playing fields – replacement provision

6.28 Given the status of the withdrawn Local Plan, draft policy LP27 can be afforded no weight, albeit that the evidence base supporting it can be a material consideration. However, it is further evidence of the identification of Bushey Wood as being suitable for future development to meet the identified needs of the Borough.

6.29 When assessed against the requirements of policy CP16, and indeed the aspirations of the withdrawn policy LP27, it is evident that the proposed development subject of this application delivers on the wider aims of the plan. There is an identified lack of five-year housing supply post 2021 when the site was envisaged to come forward pursuant to policy CP16 and has been designed to deliver the necessary infrastructure identified through the more recent policy LP27.

6.30 It should also be noted that alongside the provisions of policy CP16 it is relevant to consider the requirements of the other designations covering the site under the terms of the Core Strategy and Managing Development and the Environment DPD. As the map extract above identifies, parts of the site are also designated as Open Spaces to be Protected (policy OS1A), Allotments (OS2) and Regionally Important Geological Site (NE1).

6.31 Policy OS1 seeks to safeguard existing open spaces and prevent their loss unless “a replacement site is provided which is equivalent or better in terms of quantity, quality and accessibility.” In this instance the land use parameter plan identifies built development in the location of the two identified existing open spaces protected under the terms of the policy. However, the land use parameter plan and green infrastructure plan identify key areas of amenity open space, recreation grounds and landscape buffers of suitable amounts to demonstrate compliance with the requirements of the policy on the basis of replacement provision.

6.32 Policy OS2 relates to provision of allotments and in the same manner as open spaces and policy OS1 seeks to retain provision unless alternative provision is included as part of development proposals. The green infrastructure plan identifies part retention of the existing allotments as well as new provision to the north of the site to demonstrate compliance with the requirements of the policy.

- 6.33 Policy NE1 states that development adversely affecting RIGS will not be permitted unless it can be demonstrated that either the benefits of development override the need to safeguard the site, or that any adverse impacts can be adequately mitigated. In this instance whilst adverse impacts are mitigated where possible it is the case that the wider benefits arising from the proposed development override the need to safeguard the site thereby deeming the proposals to be appropriate.
- 6.34 The proposed development is therefore considered to comply with the aims of policy CP16 as well as policies OS1, OS2 and NE1 such as to be acceptable in principle.

Character and pattern of development and impact upon visual amenities

- 6.35 Policy CP24 of the Core Strategy requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape. These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments.
- 6.36 In particular, paragraph 130 seeks to ensure that developments:-
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 6.37 Furthermore, paragraph 134 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).
- 6.38 The application is supported by a comprehensive Design Code that sits alongside the parameter plans to be determined as part of the application. Whilst the detailed design of street layouts, sense of space and overall building qualities are matters for the subsequent RM stages, the Design Code establishes the Framework against which all future submissions would be assessed. The Design Code addresses matters of Land use; Access and Movement; Green Infrastructure; Building Heights; Density; and Character Areas to demonstrate how a successful scheme could be delivered on the site to respond to the issues raised over detailed design appearance.
- 6.39 The Design Code was prepared in response to initial comments that raised concerns regarding the nature of the outline proposals and how they failed to deliver a sense of place and ensure high quality design is achieved. The supporting parameter plans (notably the land use, access and movement, and green infrastructure parameter plans) demonstrate the approach to hierarchy of streets, legibility within the site, access to open space from all development parcels and overall ease of movement. These are illustrated in more detail on the indicative layout to demonstrate how a scheme can be delivered in accordance with those parameters to comply with the relevant national and local design policy criteria.
- 6.40 Given the sites position in relation to the Kent Downs AONB it is also necessary to consider the relevant policy. Paragraph 177 of the Framework does not apply in that the application site is not within the AONB itself. TMBCS Policy CP7 requires that: "Development will not be proposed in the LDF, or otherwise permitted, which would be detrimental to the natural beauty and quiet enjoyment of the Areas of Outstanding Natural Beauty, including their landscape, wildlife and geological interest, other than in the exceptional circumstances of:
- a) major development that is demonstrably in the national interest and where there are no alternative sites available or the need cannot be met in any other way; and

(b) any other development that is essential to meet local social or economic needs.

Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design.”

- 6.41 It is however important to note that supporting text at paragraph 6.2.17 which makes reference to situations “within AONBs” and as such the policy itself has limited weight in the context of assessing applications on sites falling outside of the AONB.
- 6.42 The assessment therefore falls to be considered against the terms of paragraph 176 in that “development within their [AONB] setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”
- 6.43 The application is supported by a detailed Landscape and Visual Impact Assessment which forms part of the ES information. The LVIA considers the two individual aspects that are required when assessing landscape and visual effects of a development, which are:
- Assessment of landscape effects – assessing the effects on the landscape as a resource in its own right, and
 - Assessment of visual effects: assessing the effects on specific views and on the general visual amenity experienced by people.
- 6.44 The LVIA establishes that the proposed development will inevitably have an impact on the surrounding landscape significantly changing the landscape character of the area and creating more of a mixed suburban and rural setting. The ES further states that the condition of the landscape of the site when taking account of all the factors considered to contribute towards landscape value, is of low to medium value, and a medium to low sensitivity to change of the type proposed. Scenic quality was assessed to be of medium value.
- 6.45 The building heights parameter plan indicates that buildings will be predominantly 2 to 2.5 storeys in height, with certain central locations considered suitable for up to 3 storeys. The taller buildings are focussed around the edges of the existing built up area, reducing to 2 storeys towards the edges of the site in order to reduce intervisibility from beyond. This is further enhanced with reference to the Green Infrastructure parameter plan which sets out the various landscape buffers to be adopted as minimums.
- 6.46 The LVIA has assessed the impacts upon the site and the associated surroundings in detail and concludes that there will be inevitable change within the site and adjacent to the boundary. However, the viewpoints assessed

located some distance from the site would be separated by intervening landscape so would experience a negligible or no significant effects.

- 6.47 The green infrastructure parameter plan for the site when combined with the building heights parameter plan ensure that the proposed scheme, albeit only shown as illustrative for the purpose of the masterplan, is compliant with the relevant landscape policies of the development plan.
- 6.48 It is also pertinent to note that the scheme has evolved through the submission of the Design Code and through discussions with the applicant to address concerns raised. Notably, the Kent Downs AONB unit initially objected to the scheme on the basis of the perceived impacts to the setting of the AONB. Through the subsequent amendments secured during the course of the consideration of this scheme the AONB unit now no longer object to the proposals subject to details being secured through condition and subsequent RM applications.
- 6.49 Overall, on this basis it is considered that the proposed development is in accordance with CP7 and CP24 of the Core Strategy, SQ1 of the MDE DPD and the Framework.

Ecology and biodiversity

- 6.50 Policy NE2 of the MDE DPD requires that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 6.51 Policy NE3 states that development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in overall enhancement. It goes on to state that proposals for development must make provision for the retention of the habitat and protection of its wildlife links. Opportunities to maximise the creation of new corridors and improve permeability and ecological conservation value will be sought.
- 6.52 Policy NE4 further sets out that the extent of tree cover and the hedgerow network should be maintained and enhanced. Provision should be made for the creation of new woodland and hedgerows, especially indigenous broad-leaved species, at appropriate locations to support and enhance the Green Infrastructure Network.
- 6.53 These policies broadly accord with the policies of the Framework. In particular, paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing sites of biodiversity value and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

- 6.54 The site and surrounding area are subject to a number of ecological designations. The site is subject of a non-statutory designation for geological interest forming part of the Wagon's Pit, Aylesford RIGS. Statutory designated sites for ecological interest include the wetland habitats of Holborough to Burham Marshes SSSI to the west and the chalk downland of the Wouldham to Detling Escarpment SSSI to the north-west. In addition, there is also the Eccles Old Pits Local Wildlife Site.
- 6.55 Following initial comments from Natural England in respect of Regulation 63 of the Conservation of Habitats Regulations 2017 (as amended), a shadow HRA was submitted by the Council referencing air quality and water runoff. Natural England gave no response to the HRA but discussion with KCC ecology did not reveal any issues which would cause significant ecological issues. KCC Ecology confirmed their agreement with the findings of the HRA carried out under stage 4 of the Habitat Regulations Assessment and are of the view that the proposal will not result in any Adverse Effect on Site Integrity (AESI) of the Old Peters Pit Local Wildlife Site.
- 6.56 The Ecological Impact Assessment submitted with the application considered the impact of the proposals upon important bird habitats and populations, concluding that as a result of the development the impacts would be minor negative. Regarding all other assessed species the predicted impacts would be minor negative with the majority of instances where post mitigation is taken into account being neutral or positive.
- 6.57 During the course of the application Biodiversity net gain was also detailed in accordance with the use of the DEFRA Biodiversity Metric Calculator 2.0. This confirmed that the proposed development would deliver a 10% net gain in biodiversity. KCC Ecology commented on this and have advised that the matter of BNG and offsite offsetting are appropriate matters to be addressed in the course of future RM submissions subject to control by way of suitable planning conditions.
- 6.58 The proposed mitigation and compensation measures, and consideration of the on-site biodiversity are considered to accord with the aims of paras 174 and 180 of the Framework, and local plan policies NE1, NE2 and NE3.

Affordable Housing

- 6.59 The Affordable Housing Protocol November (2021) lays out in detail the Council's position on Affordable Housing Delivery in the interim period before a new Local Plan is adopted. This protocol is used for Development Management decisions. In addition, policy CP17 sets out a 40% affordable housing requirement, with a 70/30 split between affordable housing for rent and other affordable housing tenures. This site is therefore required to provide 40% affordable housing in accordance with council policy, along with the provision of First Homes that is now also a policy requirement.

- 6.60 The supporting text set out at paragraph 6.3.26 notes that the policy aim for 40% provision is a starting point for negotiations and that regard will be had to amongst other things the overall viability of a development.
- 6.61 A Financial Viability Statement (FVA) was prepared by Pioneer on behalf of the applicant in September 2022. Since this submission there have been ongoing negotiations between the Council, its appointed viability consultant Bruton Knowles and the applicant. Reviews have also been undertaken together with the appointment of external cost consultants to review notably the costs associated with infrastructure provision. There have been a number of areas where agreement has been reached regarding inputs between the parties. Such areas include residential base build costs, S106 contribution costs, external costs, garage costs, abnormal costs, professional fees etc, however, there have also been areas where inputs have not been agreed between the parties. These include acquisition costs, Infrastructure costs, Benchmark Land Value, Sales and Marketing etc.
- 6.62 Both the applicants and the Council’s viability consultants agree that a policy compliant development which delivers 40% affordable housing in line with policy CP17 and the Affordable Housing Protocol is an unviable form of development. The Council’s viability consultant considers that a 30% Affordable housing provision is a viable form of development.
- 6.63 Whilst there are still areas of disagreement between the consultants to which agreement cannot be reached due to varying opinions on inputs on viability grounds, the Council and the applicant have reached a position on the level of affordable housing including the mix and tenure that the development can viably deliver.
- 6.64 The Council’s Housing Manager in her latest comments confirms the following for an agreed level of affordable housing based on the viability discussions which have been on-going for eight months. These are summarised in the table below.
- 6.65 30% affordable housing comprising the following tenure split and indicative mix:

Type	First Homes (25%)	Affordable Rent (52.5%)	Shared Ownership (22.5%)
1 bed flat	18	74	0
2 bed flat	18	16	9
2 bed house	18	14	18
3 bed house	17	31	30
4 bed house	0	8	7
5 bed house	0	7	0
TOTAL	71	150*	64

*10% of rented provision to be suitable for wheelchair users to occupy in line with Part M4 of the Building Regulations, 15 units to be agreed with the Council.

- 6.66 The Heads of terms for the draft S106 would also seek to include reference to a local lettings plan, giving priority to households with a local connection to the wards immediate to the development for all tenures and the table would be included within the negotiated S106 agreement.
- 6.67 Based on the viability appraisals conducted and following an eight-month review by the perspective consultants, it is considered that the development can viably deliver 30% affordable housing, based on the above tenure split and indicative mix. A 40% level of affordable housing would be unviable. As such the affordable housing provision would accord with policy CP17 of the Core Strategy.

Access and Highways

- 6.68 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided.
- 6.69 It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 6.70 Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.
- 6.71 Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.72 Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.
- 6.73 Paragraph 111 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 goes on to state that, within this context, applications for development should:
- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the

catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.74 Paragraph 113 then sets out that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.75 The application proposes three access points into the site as shown on the Access and Movement Parameter plan ref: D 3041-FAB-00-XX-DR-Y-028. These relate to the following arrangements:

- A compact roundabout with New Court Road;
- A compact roundabout with Bull Lane (south of Eccles); and
- A connection to Bull Lane (north of Eccles).

6.76 In addition, the proposals require partial closure of Bull Lane north of Eccles to the Pilgrims Way/Rochester Road junction to all but emergency vehicles. The Access and Movement Parameter plan identifies the pedestrian and cycle links through the site to existing infrastructure.

6.77 The proposals, as a result of the partial closure of Bull Lane, would have resulted in the rerouting of the 155 bus service into the proposed development whilst still maintaining the same route and service for existing residents of Eccles. However, that service no longer exists following withdrawal of funding and the applicant has agreed to provide £1,995,000.00 additional funding for bus service provision as part of the agreed s106 agreement contributions.

6.78 The supporting Transport Assessment identifies a potential 526 two-way trips in the AM peak and 502 two-way trips in the PM peak from the proposed development. The assessment considers that the reprovision of sports pitches will not generate additional trips, whilst the new junior pitches would generate very few additional weekday trips due to the use being more associated with

weekend activities. For the school provision the assessment has concluded that the increase of 1FE provision could result in an additional 156 two-way movements in AM peak, having taken into account trip generation from the existing 1FE provision already impacting on local traffic levels.

- 6.79 The proposals seek to provide dedicated parking for the proposed new allotments as well as retention of parking for the existing allotments. An amended provision of parking to the north of Belgrave Street is proposed with the provision of at least the same number of spaces to be detailed in future proposals. In addition, the scheme would allow for provision of rear parking access for those properties onto Cork Street, subject to the necessary consents for dropped kerb or crossover access. This could assist to reduce on-street parking pressures locally.
- 6.80 KCC highways have confirmed that they have no objection to the proposals subject to improvements to the Pilgrims Way/Rochester Way junction being secured through a Section 278 Agreement and a contribution of £1,955,000 towards a Monday through to Saturday bus service between the Development, Maidstone Town Centre, Burham, and Peters Village (with a peak time extension to Snodland Station).
- 6.81 In addition, KCC Highways have requested that conditions be imposed requiring the submission and approval of a Construction Management Plan and the adoption of a Travel Plan to reduce reliance on the private car, as advocated by paragraph 113 of the Framework.
- 6.82 National Highways registered a holding objection which has subsequently been renewed in their latest comments to the application in their correspondence relating to the application on the basis of requiring more information to fully assess the proposals. Whilst a Reg25 was served on the applicants following this submission, the Council has confirmed that it would have withdrawn the request before being able to determine the application had the appeal not been submitted. The applicant has been working with National Highways to address the matters raised and have entered into a Memorandum of Understanding as of April 2023. Whilst National Highways originally raised nine matters requiring further information this has since been reduced to four outstanding matters as identified below from the extract of the Memorandum of Understanding.

Topic	Comment	Status
1. Department for Transport Circular 01/2022	Note of Transport Vision with signposting to submission documents	Agreed
2. Trip Assignment	Full detail analysis referred to in TA	Agreed
3. Existing Traffic Flows	- M20 Junction 6 (2022) - M2 Junction 3 (2019) - M2 Junction 2 (2023) - M20 Junction 4 (2023)	In progress
4. Committed Development	Provide list based on recent agreed applications	In progress
5. Assessment Scenarios	Agreed 'Core' and 'Vision' scenario	Agreed
6. Junction Assessment	- M20 Junction 6 - M2 Junction 3 - M2 Junction 2 - M20 Junction 4	In progress
7. Collision Analysis	Agreed time period and area for analysis	In Progress
8. Travel Plan	Condition	Agreed
9. Construction Management Plan	Condition	Agreed

6.83 Discussions remain ongoing and it is anticipated that all outstanding matters will be resolved during the appeal process so that National Highways will withdraw the holding objection and confirm that subject to specific conditions/s106 requirements there are no objections to the proposals. Such matters will then be agreed through the Inquiry process. Given this on-going work and commitment between the parties as set out in the Memorandum of Understanding to address the concerns raised by National Highways, it is not therefore considered that a ground of refusal on a lack of supporting information to address National Highways concerns could be sustained at appeal.

6.84 In light of the above, notably the lack of objection from KCC Highways and ongoing works to resolve matters with National Highways, and taking into account the necessary contributions from the developer I am satisfied that the development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. It would therefore not conflict in any way with Policy SQ8 of the MDE DPD or paragraphs 111-113 of the Framework.

Flood risk and drainage

6.85 Policy CP10 states that:

1. Within the floodplain development should first seek to make use of areas at no or low risk to flooding before areas at higher risk, where this is possible and compatible with other policies aimed at achieving a sustainable pattern of development.

2. Development which is acceptable (in terms of PPS25) or otherwise exceptionally justified within areas at risk of flooding must:

(a) be subject to a flood risk assessment; and

(b) include an appropriately safe means of escape above flood levels anticipated during the lifetime of the development; and

(c) be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain.

6.86 Paragraph 166 of the Framework states that “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

6.87 The FRA submitted with the application confirms that the site is within flood zone 1 and therefore has a low risk of surface water flooding. The submitted FRA indicates that it is proposed to manage surface water flows into detention basins/ponds or cellular storage tanks, dependent upon the catchment in question and then discharged into the existing ordinary water courses/ditches at an agreed rate. Several surface water catchments have been identified on site, and the current drainage strategy has been designed to accommodate land within the existing school (as part of catchment 1B) should it come forward for development at a later stage. This method of discharge is deemed acceptable subject to further details to be secured by way of planning condition.

6.88 With regard to foul water drainage it is proposed that this will connect into Southern Water’s existing foul water network, which runs in a Southerly direction through the site boundary from New Court Road, going through the existing school site which currently sits outside of the site boundary and serving the properties within the existing Eccles village. The final details are proposed to be secured by way of planning condition.

6.89 Subject to the proposed planning conditions the development would therefore accord with the requirements of policy CP10 and the Framework.

Contamination

6.90 Paragraph 183 of the Framework states that planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

6.91 Paragraph 184 makes clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.92 The application is supported by a Phase 1 Ground Conditions Assessment including a Tier 1 Preliminary Risk Assessment, which are considered to adequately review the history and environmental setting of the site. The Phase 1 report adequately reviews the history and environmental setting of the site.

6.93 Potential sources of contamination have been identified in relation to the site's agricultural use and have therefore identified a site-wide potential contamination hazard. Localised small-scale potential hazards include areas of made ground and fly-tipping of waste and an offsite landfill shown on mapping to extend into the application site. Natural geology of the site also identifies the presence of Radon and potentially elevated Lead concentrations associated with the allotment area.

6.94 As a result of the potential contamination hazards the report concludes that an intrusive investigation is recommended utilising machine excavated trial pits and boreholes. These are considered satisfactory and conditions are proposed requiring appropriate site investigation and (where necessary) appropriate remediation measures to take place. These conclusions have been agreed by the Council's Environmental Protection officer and accordingly a number of conditions have therefore been recommended to be imposed on any permission granted.

Climate Change and Renewable Technologies

- 6.95 Adopted policies CC1 and CC2 within the MDE DPD are considered to be out-of-date following the Housing Standards Review in 2014 which removed the voluntary Code for Sustainable Homes and made it clear that local plans should not be setting any additional local technical standards or requirements relating to energy performance of new dwellings. These matters are within the remit of the national Building Regulations. Notwithstanding that, paragraphs 152 to 154 of the Framework are relevant and demonstrate that the Council's Climate Change Strategy can be considered a material consideration.
- 6.96 The planning application demonstrates a range of sustainable design considerations which will be incorporated within the scheme, including:
- Reducing greenhouse gas emissions from energy use (Fabric First);
 - Provision of renewable energy (10% energy demand met by renewables);
 - Sustainable transport measures, including electric vehicle charging provision;
 - Efficient use of materials;
 - Reduction in water consumption; and
 - Provision of green infrastructure and ecological protection and enhancement measures.
- 6.97 In addition, the scheme also intends to exceed Part L of the Building Regulations which contains requirements relating to the conservation of fuel and power. In particular:
- External walls 20% improvement;
 - Floors 40% improvement;
 - Roof 50% improvement;
 - Windows 35% improvement; and
 - Air tightness 50% improvement.

Agricultural land

- 6.98 Guidance for assessing the quality of agricultural land in England and Wales is set out in the Ministry of Agriculture, Fisheries and Food (MAFF) revised guidelines and criteria for grading the quality of agricultural land (1988) and summarised in Natural England's Technical Information - Note 0492.

- 6.99 Agricultural land in England and Wales is graded between 1 and 5, depending on the extent to which physical or chemical characteristics impose long-term limitations on agricultural use. The principal physical factors influencing grading are climate, site and soil which, together with interactions between them, form the basis for classifying land into one of the five grades.
- 6.100 Grade 1 land is excellent quality agricultural land with very minor or no limitations to agricultural use, and Grade 5 is very poor-quality land, with severe limitations due to adverse soil, relief, climate or a combination of these. Grade 3 land is subdivided into Subgrade 3a (good quality land) and Subgrade 3b (moderate quality land). Land classified as Grades 1, 2 and 3a in the ALC system is defined in Annex 2 of the Framework as the best and most versatile agricultural land.
- 6.101 The Provisional ALC map shows this application site as Grade 2 land with a small portion of undifferentiated Grade 3 land. However, TIN049 explains that:
- Approximately 37ha within the site (to the south and west of Eccles) was subject to a detailed ALC survey carried out by MAFF in 1998 and by RAC in 2000. Both surveys found similar results, with the land to the south of Eccles, classified mostly as Grade 2, with the land to the west of Eccles as Subgrade 3b, with some Subgrade 3a classified to the south-west.
- 6.102 Whilst the proposed development will therefore result in the loss of some BMV land this must be balanced in the context of the current position regarding the lack of a five-year supply of housing land, as well as the identification of the site as an opportunity area for development in the adopted Core Strategy and now withdrawn Local Plan. The loss of BMV is therefore outweighed by the wider benefits attributable to the proposed development such as not to conflict with the aims of policy CP9.

Lighting

- 6.103 The Applicant has submitted a Lighting Assessment prepared by their Consultant, Tetra Tech (their ref 784-B030784, dated December 2021). The Assessments predicts a low level of impact when the proposed lighting (which has adopted a worst-case scenario) is compared with relevant documents. The Council's EHO confirms the need for a condition to address lighting for the Sports pitches and a suitably worded condition has been recommended to address this.

Developer Contributions

- 6.104 Regulation 122 of the CIL Regulations (2010) set out the statutory Framework for seeking planning obligations and states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

6.105 Paragraph 57 of the Framework reflects this statutory requirement. Policy CP25 of the TMBCS states that:

1. Development will not be proposed in the LDF or permitted unless the service, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation.

2. Where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Where the implementation of appropriate mitigation is still likely to result in a residual adverse impact then compensatory measures will be required.

6.106 The scheme proposes to provide 30% of the total number of dwellings as affordable housing as justified by a viability appraisal and therefore accords with Policy CP17 of the TMBCS and the affordable housing protocol. The approval of the specific size, type and tenure of affordable housing and implementation of the provision will be secured under a S106 agreement in line with the table set out below to ensure that the provision comes forward in a manner that reflects and meets local need.

Type	First Homes (25%)	Affordable Rent (52.5%)	Shared Ownership (22.5%)
1 bed flat	18	74	0
2 bed flat	18	16	9
2 bed house	18	14	18
3 bed house	17	31	30
4 bed house	0	8	7
5 bed house	0	7	0
TOTAL	71	150*	64

6.107 The S106 will also seek 10% of the rented provision to be suitable for wheelchair users to occupy in line with Part 4 of the Building Regulations and reference will be included giving priority to households with a local connection to the wards immediate to the development for all tenures. The detailed drafting of the provisions to be contained within the legal agreement in this respect will be

worked up in liaison with the Council's Housing Services team to ensure the provision acceptably meets identified need within this part of the Borough.

6.108 KCC has advised that in order to mitigate the additional impact that the development would have on delivery of its community services, the payment of appropriate financial contributions is required, as follows (noting that this is based on the illustrative mix for the proposals):

- Primary Education contribution - £6,460,000.00
- Special Education contribution - £1,157,993.00
- Secondary Education contribution - £4,917,200.00
- Land for Secondary Education contribution - £3,964,578.00
- Community Learning contribution - £15,599.00
- Youth Service contribution - £62,225.00
- Libraries contribution - £52,677.50
- Social Care contribution - £139,536.00
- Waste contribution - £174,486.50

6.109 KCC Highways seek a total of £1,995,000 towards a Monday through to Saturday bus service between the Development, Maidstone Town Centre, Burham, and Peters Village. A contribution of £1,422 towards the monitoring of the submitted travel plan is also sought.

6.110 Leisure/open space seek contributions of £1,053,510 towards off site parks and gardens and a further £1,558,084 towards off site outdoor sports facilities.

6.111 The NHS seek a contribution of £820,800 towards expansion of Phoenix Medical Practice and/or refurbishment, reconfiguration, extension or new premises for Wateringbury Surgery.

6.112 Sufficient detail has been provided in all these respects to ensure the relevant statutory and policy tests have been met, and the contributions should be secured through the legal agreement, which KCC would also be a party to given the size of the development.

6.113 There was a request by KWT and KCC Ecology, and supported by the AONB unit, over the future of Eccles Pit LWS to be secured via a management plan, however this falls outside of the applicant's red line ownership boundary and it therefore cannot be covered as a condition or as part of a s106 agreement.

Planning balance and conclusions

- 6.114 Since the Council cannot demonstrate a 5yr housing land supply, the presumption in favour of sustainable development as set out at paragraph 11 (d) of the Framework applies in this instance (the tilted balance). That means that permission should be granted unless the application of policies relating to designated heritage assets provide a clear reason for refusing the development; or there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.115 It has been demonstrated that the proposals would result in less than substantial harm to setting of a designated heritage asset (the SAM), with a medium level of harm. This has to be weighed against the benefits of the proposal.
- 6.116 Whilst there would be some change in character from the loss of previously open fields, the parameters of this outline scheme provide sufficient confidence that the development would be acceptably landscaped, such that the impacts are not deemed to be significantly harmful or adverse.
- 6.117 The loss of best and most versatile agricultural land, whilst a clear harm that weighs against the scheme, is limited by the extent of the land which would be lost, and lack of connectivity with wider agricultural parcels, reducing the value this land has for agriculture. In addition, in the analysis of the land quality it has been shown that the land is not of the best quality.
- 6.118 In terms of benefits it is accepted that the proposal would provide 950 new dwellings (including a policy compliant affordable housing provision when considering the viability evidence) at a time when the Borough Council cannot demonstrate a five-year housing supply (3.22 years). Additional key benefits listed in the supporting planning statement can also be summarised as follows:
- Significant investment in the Borough and beyond, through construction and other job creation, spending in local shops and services from future occupants.
 - The use of land not subject to more sensitive designations like Green Belt, AONB, land subject to flooding or close to Conservation Areas or other Heritage assets.
 - The provision of 10% biodiversity net gain, new open and play space, linked footpaths and increased accessibility through the development.
 - New funding for community infrastructure, off site open space, sports infrastructure, social and education infrastructure including a new school.

- 6.119 Taken together it is considered that these benefits must be attributed very substantial weight in favour of granting permission, particularly the provision of up to 950 dwellings, a significant amount that would make a strong contribution towards existing housing shortfall, as well as delivering urgently needed affordable homes. These new homes would strengthen the Council's housing supply position and help it resist inappropriate schemes in more sensitive areas.
- 6.120 Furthermore, the development is considered to be policy compliant in almost every respect, including in regard to ecology, flooding / drainage, neighbouring amenity, air quality, land contamination, minerals and noise, conservation and heritage aspects. The only issue which has not at this stage been resolved is that of the strategic road network on the M2/M20. Despite the further holding objection issued by National Highways, it is considered that the outstanding National Highways issues are likely to be resolved as part of the appeal process and are therefore not considered to be sustainable grounds to object to this application.
- 6.121 Overall, and for the reasons set out throughout this report, it is concluded that that the less than substantial heritage harm does not provide a clear reason for refusing permission. Further, there are no adverse impacts of granting planning permission for the development that would significantly and demonstrably outweigh the benefits that the development would bring, when assessed against the policies in the Framework taken as a whole.
- 6.122 It is therefore recommended that, had the Council been able to determine the application, outline planning permission would have been granted subject to the finalisation of a legal agreement securing various planning obligations as set out throughout this report and various planning conditions to ensure that the development comes forward in an acceptable, high-quality fashion.

7. Recommendation:

- 7.1 Had the Council been able to determine the application, that outline planning permission would have been granted subject to the finalisation of a legal agreement securing various planning obligations as set out above and the conditions attached (which are subject to agreement with the Appellant as the appeal progresses).

The current draft list of conditions are included as **Appendix 1**, together with the appropriate informatives, with the final wording to be agreed as part of the appeal process.