

Burwash and its housing allocation

Understanding the issues

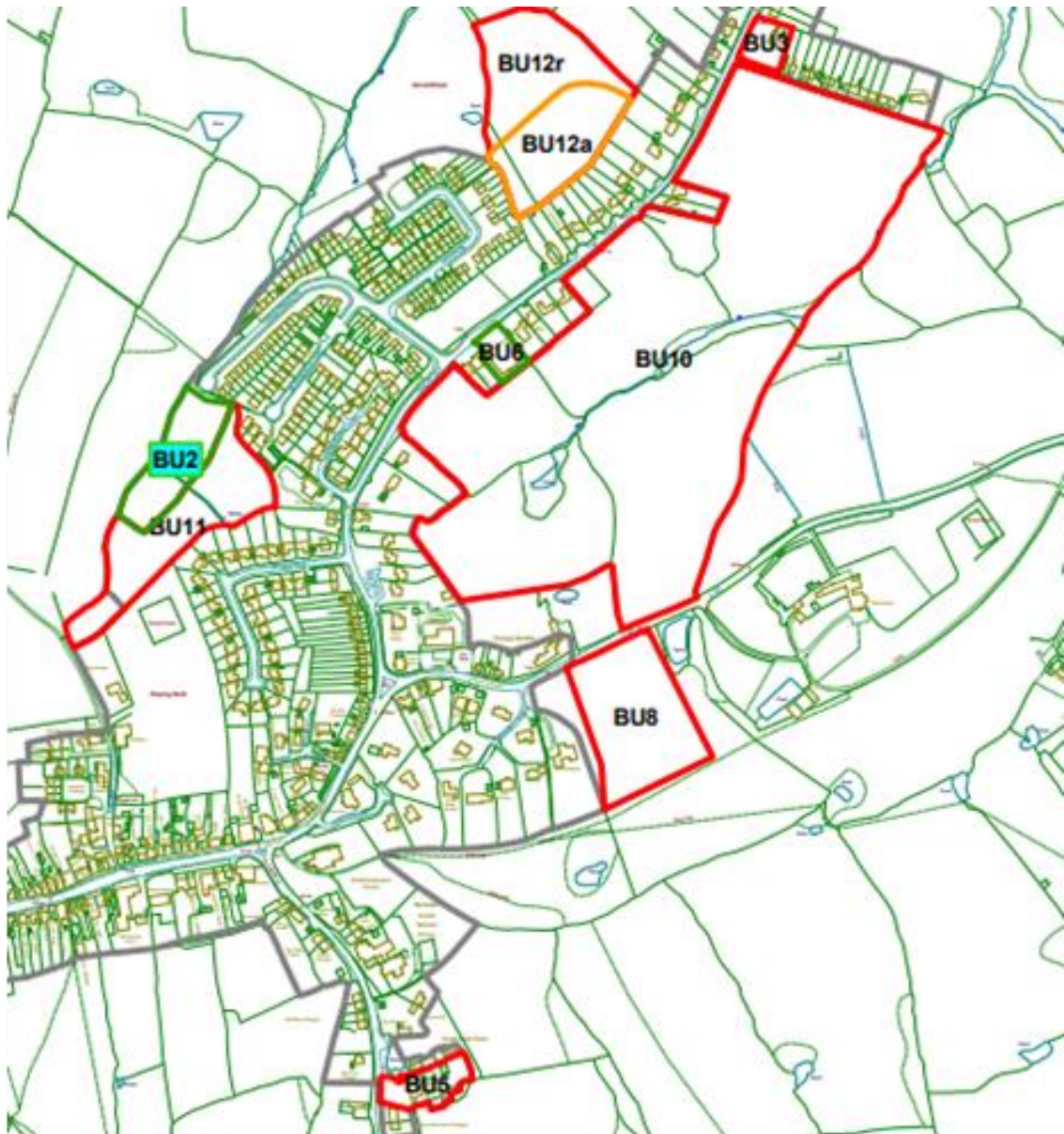
Background

What is the housing allocation?

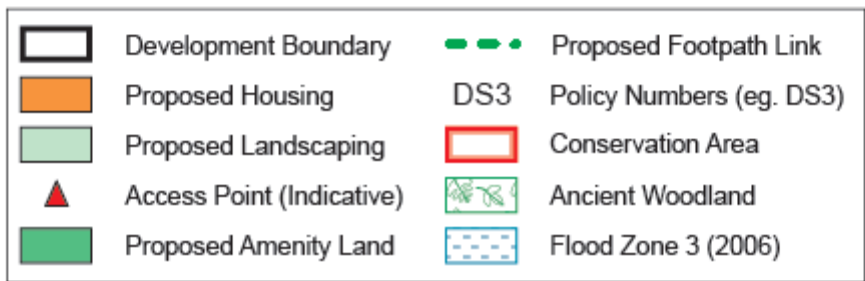
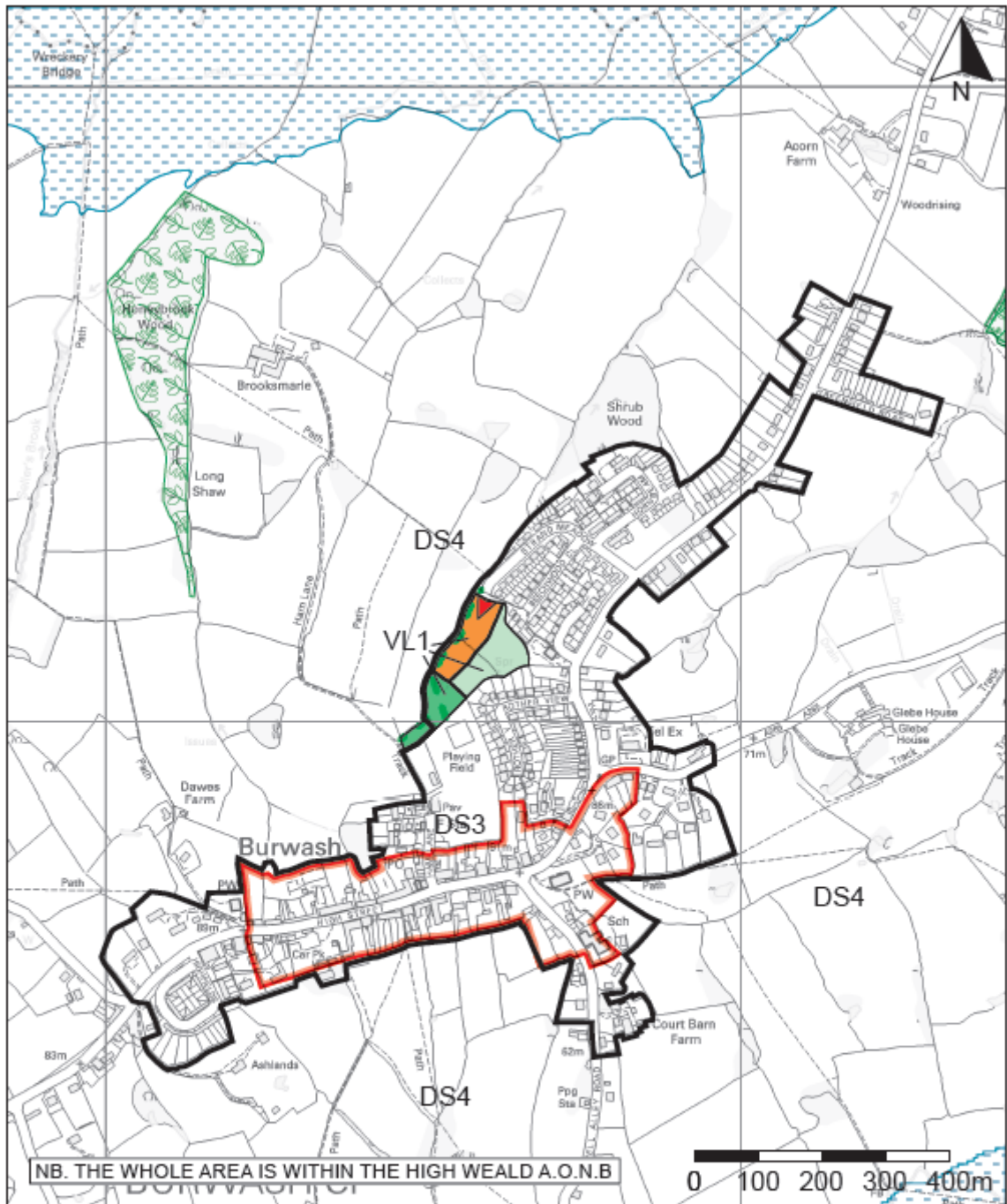
- 1 Rother District Council has set the required housing allocation for Burwash at 52 housing units. The allocation for Burwash Weald is nil and the allocation for Burwash Common is nil.

How was the number fixed for Burwash?

- 2 In 2013, Rother District Council's planners conducted the SHLAA (Strategic Land Housing Availability Assessment) exercise and identified sites that could be suitable for development in Burwash village in the period to 2028. The requirement to have such a plan was laid down in the government's National Planning Policy Framework 2012.
- 3 The sites for consideration for the housing allocation were colour coded 'green' and 'amber'. Sites colour coded in red were unsuitable for development. The green and amber sites were considered to have a reasonable prospect of being suitable for development within 10 years. An amber site is one that 'requires more detailed investigations of the key factors and clarification of key matters', see SHLAA 2013 Review Part 1 para 7.42. All such sites would need to be further tested through a statutory Neighbourhood Development Plan, full public consultation and in the alternative the planning application process. That meant the sites would be subject to all national and local statutory and policy requirements.
- 4 The SHLLA map follows.



- 5 The grey line is the development boundary. However, as it is not altogether clear, the whole development boundary appears below.



- 6 The only green or amber sites identified in Burwash were:
- Strand Meadow (Watercress Field) BU2 for 17 units (outline planning had already been approved for 17 housing units),

- b) Old Laundry site BU6 for ‘6 possible housing units’,
 - c) Shrub Wood BU12a for ‘up to 30 housing units’.
- 7 The total in the SHLAA was listed as 35 units. All other sites were rejected by Rother District Council as not being suitable for development.
- 8 From this exercise, 50 housing units were allocated for Burwash, see page 84 of Rother District Council’s Core Strategy and the SHLAA Review Part 1 page 7. This was later increased to 52. The table was as follows.

Settlements/ Area	All net completions in plan period (01/04/2011- 31/3/2013 ¹)	Current commitments ²	Allocations remaining ³	Potential new sites ⁴	Total new housing 2011- 2028 ⁵
Burwash	-7	22	0	35	50

- 9 Since 2013:
- a) The Old Laundry site eventually produced only four, not six housing units. None of these four housing units counted towards the total, because there must be six units on one site/ 0.2 hectares [sic] for the units to count.
 - b) Shrub Wood meadow (BU12a/BU12r) There was an application by Denton Homes for 42 (net 40) housing units which was refused by Rother District Council’s Planning Committee in October 2018. The developer appealed the decision but later withdrew the appeal with the following comment:

‘Protected Landscape Policy

Since the determination of the original application and the lodging of the appeal, our research has shown that appeals involving landscape are increasingly being dismissed. This has not been helped by the continuation of the ambiguity in guidance for protected landscape in the revised NPPF.’
 - c) Strand Meadow (BU2) Outline permission was already in place for 17 housing units when the SHLAA was drawn up and in 2018 the developer, Park Lanes Group, applied to increase this to 30 housing units of which 40% would be affordable. When the application was submitted for full planning permission, the developer withdrew all the affordable houses as it was claimed he had discovered that the land would be more expensive to build on and would not be viable because it would not make the set-down 20% return on gross build value. Detailed planning permission was refused by Rother District Council’s Planning Committee in January 2019 and in July 2019, the developer’s appeal to the Planning Inspectorate was dismissed.

¹ Includes permissions and applications delegated to approve subject to section 106. Full details of all commitments are contained in Part 2 of the SHLAA (page 112).

² Subject to review and re-assessment as part of SHLAA process. Numbers in brackets indicate any revisions as part of re-assessment. See SHLAA Part 2 for details.

³ Estimated from suitable and developable (green and amber) SHLAA sites. Core Strategy policy expectation that new allocations are within or immediately abutting a village development boundary. See SHLAA Part 2 for details.

⁴ Individual village number may be higher as a result of additional windfalls and rural exception sites.

⁵ Rural Exception sites (which by definition are both locally driven by the community, and on sites that would not normally be suitable for housing) are considered separately and in response to a locally specific need. The overall rural area target is derived from the Council’s Housing Strategy.

- 10 The two key sites of Shrub Wood and Strand Meadow on which the housing number target for Burwash was based had been put to the test as set out in the SHLAA process. Neither was be found suitable for housing by either the planning committee or the Planning Inspector. Neither were they supported by the community or by the authors of the draft Neighbourhood Plan.
- 11 However, because the Strand Meadow site has outline planning permission, those 30 housing units count, making the residue required 22 units, see Tim Hickling's letter to Burwash Parish Council 21 February 2020, Appendix A. Tim Hickling is the Service Manager Strategy and Planning at Rother District Council.

How does government encourage councils to achieve their allocations?

- 12 There is a carrot and a stick approach. The carrot is that councils receive money for new houses built. It is called the CIL (Community Infrastructure Levy). The stick is that when a council is in housing deficit (which means the area has not reached its required target), the planning procedure is tilted towards development. Crucially all planning rules remain in place.

The overall problem

The reason why there are no further sites in Burwash

- 13 The main problem is that Burwash is a ridge-top development where it is not possible to build on the north or south sides. As the main road runs east-west there is nowhere for the housing to go on the north or south sides. At the west end there is only a road with a slope on either side. At the east end there are also no sites, as the AONB makes the sites listed below inappropriate.

Rother District Council's position

- 14 On many occasions the planning officers have said they do not know any possible sites for housing in Burwash and have rejected all sites (except Watercress Field and Shrub Wood meadow as already stated). There are sites for housing like the Oakleys site, the Higher Nature site and the Ashwood site. The owners of the last two sites are seeking pre-planning advice.
- 15 Burwash: Save our Fields group supports housing on all these sites. Oakleys is a redundant garage at the west end of the village near the village hall and Highfields. The Higher Nature site is off Goodsole Lane in Burwash Common. It is a redundant office and packing site. There are access problems, which could be solved by making Goodsole Lane one way. The site is well hidden by trees. The Ashwood site is at the junction of the A265 and Stonegate Road in Burwash Common. It is a redundant nursing home. Attempts to sell it as a commercial business have failed.
- 16 The first site has never been put forward by the owner. The last two sites are not in Burwash village so are unacceptable to planning officers at Rother District Council. It is claimed that Burwash Weald/Burwash Common is cannot have a sustainable development. It has the same buses as Burwash village. It also has a public house, a café, another café about a mile away, a church, a football pitch, a cricket pitch, a children's play area and a community hall with a bar and kitchen.
- 17 When pressed about the demand for Burwash Parish Council to find the sites, Rother District Council has been unable to justify the contradiction between the council's demands and what sites the council says are suitable for housing.

An illustration of the problem – Judins flats

- 18 To understand the development difficulties in Burwash parish it is advantageous to look at one site as an illustration of the problem and then look at the individual sites separately.
- 19 The application chosen as an illustration is the one for Judins flats on the Heathfield Road to the east of Burwash Weald. It was wrongly called by the owner Coppers Hill, which is elsewhere. The number was RR/2013/2196/P. The appeal number was APP/U1430/W/14/3001015. Although the appeal decision was five years ago, it remains up-to-date referring to sustainability, biodiversity, car-based developments and dark-sky policies. It is in a green buffer between the last house in Burwash (Orchards) and the first house in Burwash Weald (Ghyll Farm).
- 20 The application was for five houses at the southern end of the field. There were over 500 objectors to the application and the appeal. East Sussex Highways objected to the site for multiple safety reasons. Rother District Council's report listed multiple objections and the application was rejected without being referred to the planning committee. The Inspector refused the application for the following reasons ('see para ...' refers to the relevant paragraph of the Inspector's decision):
- a) 'The proposed housing would occupy an area of a truly rural character, see para 10. It would be in the AONB characterised by attractive rolling countryside consisting of small fields separated by hedgerows and small woodlands. The High Weald AONB Management plan Objective FH2 requires maintenance of the existing pattern of fields and boundaries as 'a rare survival of an essentially medieval landscape'. Objective S2 is to protect the historic pattern of settlements in the High Weald, see para 14. The proposed development would introduce built development, hardstanding, lighting and domestic gardens into a presently open setting. This would disrupt the ancient field pattern described above and detract from the tranquil nature of the area. Whilst planning conditions relating to outdoor lighting and landscaping could potentially mitigate their effect to some extent, the development would remain a discordant feature in the landscape, see para 18.
 - b) The site was broadly typical of its surroundings within the AONB and it contributed to its special character and appearance accordingly, see para 15.
 - c) The proposed buildings would be visible over the hedge and through the site access. If the hedge were removed, the dwellings would be highly visible. They could also be seen from the south side of the valley, see para 17.
 - d) As explained above, the proposal would involve the removal of the majority of the roadside hedge to improve visibility for traffic leaving the site access. The hedge is well established; apparently of mixed species; and the council suggests that it is likely to be many hundreds of years old. The objective of the AONB Management Plan. to preserve medieval fields and boundaries, weighs in favour of its preservation, see para 26. Paragraph 118 of the National Planning Policy Framework (NPPF) aims to conserve and enhance biodiversity by, amongst other things, requiring the refusal of planning permission for development which would result in the loss or deterioration of irreplaceable habitats unless the need for and benefits of it would clearly outweigh the loss. This principle is intended to apply to ancient woodland and veteran trees and [there is] no reason why it should not also apply to the historic hedgerow in question. Given that the biodiversity interest of the latter derives substantially from its age and is, therefore, specific to it, a new hedge planted elsewhere on the site would not provide adequate compensation for its destruction, see para 27.

- e) The proposed development would cause harm to the biodiversity interests of the site, so conflicting with Core Strategy Policy RA2 of the in respect of its aim to conserve the natural and ecological resources of the countryside; and with Policy EN5 of the same plan, which includes several provisions to protect and enhance biodiversity, see para 28.
- f) The siting of the proposed development in the middle of the field in this remote location would be highly incongruous, see para 18.
- g) It was important [to protect] the green buffer between Burwash Weald and Burwash, see para 14.
- h) Taking paras 14-18 into account, the proposed development would cause significant harm to the character and appearance of the AONB and would fail to conserve and enhance the natural beauty of the area. Thus it would be contrary to Policies OSS3, OSS4, RA2, RA3 and EN1 of the Core Strategy, all of which include provisions intended to protect the character of the countryside. Having regard to paragraph 115 of the NPPF, the harm is given great weight in this decision, see para 19.
- i) It would be necessary to remove most of the existing roadside hedge to be able to see clearly without pulling into the carriageway. Even then, it would only be possible to achieve visibility splays measuring approximately 150m, rather than the required 202m, see paras 21 and 20. East Sussex Highways' concerns that the substandard visibility splays would be detrimental to highway safety are accepted, see para 22.
- j) East Sussex Highways' opinion that drivers moving along the A265 would not expect to encounter slow-moving traffic entering and leaving the site is accepted. So is their opinion that drivers might be more inclined to perform overtaking manoeuvres on this relatively straight stretch of road, which would add to the risks identified, see para 23. For these reasons, this proposed development would be detrimental to highway safety on the A265, contrary to Core Strategy Policy CO6 (ii), see paras 24 and 25.
- k) The A265 is a fast, unlit road with no footways and few people would walk along it. Taking into account the bus service, the residents would be highly dependent upon the private car, making the proposed development isolated contrary to the then NPPF para 55, see para 11. This would mean the proposed development was not sustainable, so also conflicting with Core Strategy Policy RA3, OSS3, see para 12 and 13.
- l) The site was outside the development boundary, see para 9.
- m) None of the extremely limited exception for such development listed in Policy RA3 applied, see para 9.
- n) As there were no affordable homes as defined by the then NPPF Annex 2, the rural exemption site policy did not apply, see para 9.
- o) Whilst the proposed development would not constitute affordable housing, taking account of the Government's aim in the Framework to "boost significantly the supply of housing" (para 47), the provision of additional market units would nevertheless be a benefit of the scheme. However, Planning and Compulsory Purchase Act 2004 s 38(6) is clear that I must determine the appeal in accordance with the development plan unless material considerations indicate otherwise. In relation to all four main issues above [sustainable location, character and appearance, highway safety and biodiversity], the scheme is contrary to development plan policy, see para 29 and 30.

p) There were other issues raised but as my findings were made on the main issues, the decision does not turn on these other matters, see para 34.’

26 The majority of these planning objections are invariably present in the fields outside the development boundary to a lesser or greater extent. That is because of the general character of the area. The list clearly shows why the fields of Burwash do not present opportunities for new estates.

Examining the individual sites

Group 1 Sites considered in the SHLAA

27 Below is the list for Burwash in the SHLAA 2013 Review Part 2 page 38-39. Examination of the sites is in the same order as in the SHLAA list.

Burwash

ID	Site Name	Compliance with Core Strategy Policy	Total Residential Units	SHLAA Conclusions
BU6	Laundry, Shrub Lane, Burwash	<p>Currently vacant and being marketed for B8 use. Proximity to residential curtilages would suggest harm to local amenities (contrary to Policy EC3). Therefore whilst Policy EC3 generally seeks to secure existing premises in employment use, there is a case to be made to allow this site to change to residential use. Potentially suitable for 6 dwellings in Mews/Courtyard layout.</p> <p>Potential contamination issues to be resolved. EHO advise "additional risk assessment would probably be needed by the developer, possibly requiring further ground exploration and sampling especially if the ground needs to be disturbed – new foundations/floors/service pipes etc. With any remediation found to be necessary approval could be given provided conditions were attached."</p> <p>S106/CIL contributions required for improved footway provision up Shrub Lane to Village Centre, for enhanced bus service; and for allotments and sports pitches in Burwash (in accordance with policies TR3 and IM2).</p>	6 possibly achievable (smaller units in mews/courtyard layout)	Suitable and developable, subject to more detailed investigations (green site).
BU12a	Shamrock Field, Land north west 40-49 Shrub Lane, Burwash	<p>South side of field (BU12a) could be potentially suitable (just under one hectare), subject to following conditions/mitigation measures</p> <p>1) extensive new broad-leaved woodland (mix native species) planting across northern and eastern one hectare of the site (BU12r). This will have the following purposes:</p> <p>1.1 A Community resource, linked to woodland management agreement/commitments and access agreements/through route to Glengorse via neighbouring Shrub Wood (supporting policies CO3 and EN5).</p> <p>1.2 A new defined strongly landscaped 'village edge' screening the site permanently in AONB landscape (to promote compliance with EN1).</p> <p>1.3 An ecological value as an extension of Shrub Lane ancient (and BAP habitat) woodland.</p> <p>This should also include pond/woodland glade (which may have a multiple purpose as sustainable drainage) with seating (supporting policies CO3, EN5, EN7). Upon the woodland reaching maturity, conditions should ensure the removal of existing boundary conifers.</p> <p>Development suitability is also subject to demonstration of suitable access, which should preferably be via far SW corner of site onto Shrub Lane. Developers contributions will also be required for enhance footway provision SW on Shrub Lane towards the bus service and village centre (To comply with TR2 and TR3) and allotments and sports pitches to meet need in Burwash (in accordance with Policy IM2).</p> <p>Development suitability will be considered subject to the above conditions. In the event of the development not being able to deliver the above community, landscape and biodiversity benefits, the planning authority will work with the local Parish to look at alternative sites within the village.</p>	Estimated up to 30 on southern area (BU12a) of just under 0.8 hectare	Suitable and developable subject to more detailed investigations, including of some key factors (amber site).
BU12r	Shamrock Field, Land north west 40-49 Shrub Lane, Burwash	See text accompanying BU12a above	See text accompanying BU12a above	Not suitable for residential (red site)
BU3	Land at 101 Shrub Lane, Burwash	<p>Suitable in many ways as an opportunity to make better use of a large plot for larger number of properties and increase residential density on site that is already within the development boundary.</p> <p>Broadly compliant with Core Strategy policy. Site is within the development boundary (Policy OSS3), makes effective use of land within the main built up confines (OSS4). However lack of footways and rural character is a concern. In any event, owners agreement has not been forthcoming, so not a 'reasonable prospect' of coming forward and therefore not developable. Therefore in accordance with national planning guidance (NPPF para 47) it cannot form a component of the District housing supply. However it is worth noting this site as an example of the sort of 'large site windfall' that may in reality come forward over the 15 year plan period.</p> <p>Despite above constraints it seems likely that at least 6 would be achievable in the event of the site coming forward.</p>	N/a	Suitable but not developable (red site). Possible large site windfall.
BU5	Land at Court Barn Farm, Burwash	No - rural character and setting, landscape visual impact to south, School Hill is narrow country lane which lacks footways. Conflicts with policies, including OSS4, OSS5, RA1, RA2, EN1 and EN3.	N/a	Not suitable (red site)
BU8	Land adj to The Brambles, Burwash	No, landscape exposed to long views from multiple directions within AONB (contrary to EN1). Ribbon development in area of rural character (contrary to policies, including RA1, RA2, OSS1, OSS3, OSS4, OSS5). Fast busy section of A265 with lack of footways, effectively limits pedestrian/cycle access (contrary to TR2 and TR3).	N/a	Not suitable (red site)

BU10	Land at the east side of Burwash	Not suitable. Rural setting, character of area, landscape setting and lack of footways all weigh against development. Southern sections generally have most landscape constraints, although relate better to village centre. Issues with policies, including EN1, TR3, RA1, RA2, OSS1, OSS3, OSS4, OSS5. Exception site possibility currently being investigated for which potential is limited to frontage sections.	N/a	Not suitable (red site)
BU11	Land South West of Strand Meadow	2006 Local Plan Allocation (VL1) for Proposed Landscaping, proposed amenity land & proposed footpath Link. Linked residential area of allocation now has outline permission (hence not in this table). Steep gradient restricts development potential. Maybe suitable for allotments. Retain previous allocation principles. Supports Core Strategy Policy CO3.	N/a	Not suitable (red site)
Estimated Total (New Sites): 35				

BU6 Laundry site

- 31 This site was the only green site in the SHLAA and housing was built there. As there were only four units, there were too few units to count towards the quota.

BU12a (part nearest the road) and BU12r (the part furthest from the road) Shamrock Field (aka Shrub Wood meadow)

- 32 This was an amber site for BU12a and a red site for BU12r. It was clearly considered to have problems, see as stated in the SHLAA entry for BU12a, the amber site.

‘South side of field (BU12a) **could be** potentially suitable (just under one hectare), subject to following conditions/mitigation measures:

1) extensive new broad-leaved woodland (mix native species) planting across northern and eastern one hectare of the site (BU12r). This will have the following purposes:

1.1 A Community resource, linked to woodland management agreement/commitments and access agreements/through route to Glengorse via neighbouring Shrub Wood (supporting policies CO3 and EN5).

1.2 A new defined strongly landscaped ‘village edge’ screening the site permanently in AONB landscape (to promote compliance with EN1).

1.3 An ecological value as an extension of Shrub Lane ancient (and BAP habitat) woodland. This should also include pond/woodland glade (which may have a multiple purpose as sustainable drainage) with seating (supporting policies CO3, EN5, EN7). Upon the woodland reaching maturity, conditions should ensure the removal of existing boundary conifers.

Development suitability is also subject to demonstration of suitable access, which should preferably be via far SW corner of site onto Shrub Lane. Developers contributions will also be required for enhance footway provision SW on Shrub Lane towards the bus service and village centre (to comply with TR2 and TR3) and allotments and sports pitches to meet need in Burwash (in accordance with Policy IM2).

Development suitability will be considered subject to the above conditions. **In the event of the development not being able to deliver the above community, landscape and biodiversity benefits, the planning authority will work with the local Parish to look at alternative sites within the village.**’

- 33 Important parts have been bolded.
- 34 In 2016, the owners applied for outline planning permission for both SHLAA BU12a and BU12r. There were over 340 objectors. In 2017, Rother District Council refused the application. The applicant appealed. In November 2018, the developer withdrew the appeal saying as stated before:

‘Protected Landscape Policy

Since the determination of the original application and the lodging of the appeal, our research has shown that appeals involving landscape are increasingly being dismissed. This has not been helped by the continuation of the ambiguity in guidance for protected landscape in the revised NPPF.’

- 35 It is understood that around this time the developer’s contracts with two householders whose houses would have to be demolished for the site to have access to Shrub Lane lapsed. It is understood that they have not been renewed so it is believed that the owner and the developer have no road access to the site.

BU3 Land at 101 Shrub Lane

- 36 This was a red site because of no owner's agreement. It is understood that this is still the position. Even if there were a change of mind, it would seem unlikely that the site would provide six units, notwithstanding Rother District Council's belief. However, if housing were applied for, it would likely be housing which avoids any requirement to provide affordable homes.

BU5 Land at Court Barn Farm

- 37 This was a red site. It was rejected for the following reasons: 'No - rural character and setting, landscape visual impact to south. School Hill is narrow country lane which lacks footways. Conflicts with policies, including OSS4, OSS5, RA1, RA2, EN1 and EN3.' In any event the site could not provide six or more units.
- 38 Nothing has changed since then.

BU8 Land adjacent to Brambles (The Glebe field)



- 39 This was another red site. The SHLAA reasons given were: 'No, landscape exposed to long views from multiple directions within AONB (contrary to EN1). Ribbon development in area of rural character (contrary to policies, including RA1, RA2, OSS1, OSS3, OSS4, OSS5). Fast busy section of A265 with lack of footways, effectively limits pedestrian/cycle access (contrary to TR2 and TR3).'
- 40 In 2020, the owner approached Rother District Council for pre-planning advice about the site. Rother District Council referred the owner to Burwash Parish Council, who began a consultation exercise. Their provisional assessment was that the site was unsuitable but the council was unable to complete the exercise because of the pandemic. Its provisional assessment contained many of the objections listed below.
- 41 Burwash: Save our Fields consulted with the community online and then evaluated the site. The group drafted a 16-page report which can be found at www.burwashsaveourfields.org.uk. The report, dated 16 May 2020, concluded: 'the site was unsuitable for the proposed housing development because:
- a) The field is one of the most beautiful fields in the Parish. The damage to the AONB would be very significant.
 - b) There would be great damage to the beauty of the views from the public footpath which runs from the church to The Glebe and beyond. The proposed tree plantation would provide little mitigation to the problem. It might make matters worse.
 - c) Rother District Council's planning officers have always rejected this site.
 - d) The SHLAA assessment was correct and there has been no effective challenge to the SHLAA's finding.

- e) The access road would create a danger to those leaving the site and those travelling on the A265.
- f) The lack of a footpath on both sides of the A265 at the proposed exit would create dangers to both pedestrians and road users.
- g) The site is outside the development boundary, which was correctly drawn. The development boundary has the support of the planning officers at Rother District Council, the councillors of Burwash Parish Council and, as can be seen from local surveys and public meetings, the local community.
- h) The development would be an extensive piece of ribbon development.
- i) The development is close to the Glebe, one of the few Grade II* listed buildings in the District. The relevant test is whether the development would damage a listed building. The answer is clearly that it would, and very considerably so. The surroundings of a heritage asset are very important to its value.
- j) The field is a significant heritage site. Rother District Council is required to ‘take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal,’ see NPPF 2019 para 190. This consideration is likely to mean that development is unsuitable simply because of the damage to this heritage site. In any event, housing would not be appropriate because the heritage issue has not been properly investigated.
- k) The SHLAA assessor found that the landscape was exposed to long views from multiple directions within the AONB (contrary to policy EN1 of Rother District Council’s Core Strategy). This important factor has not been properly addressed by proposers of the scheme. It remains a significant objection.
- l) The development would have a devastating impact for the residents of Brambles and Young’s Garden, both of which overlook the field. In planning terms, both sets of residents’ loss of outlook (which is not a planning objection), the objection becomes ‘the detriment of their residential amenity’. For the residents of Brambles, the planning objection is also a loss of privacy. For the residents of Young’s Garden, the objection is also the negative impact the development would have on their B&B business.

Some of these grounds on their own make this development one that would have to be refused if there were a planning application. When the grounds are added together, a refusal is unarguable.’

- 42 Neither the owner nor his agent chose to comment on these findings when they were sent the report for them to comment on it.

BU10 Land to the South-East of Shrub Lane

- 43 This is another red site. Rother District Council in the SHLAA assessment rejected this site for the following reasons: ‘Not suitable. Rural setting, character of area, landscape setting and lack of footways all weigh against development. Southern sections generally have most landscape constraints, although relate better to village centre. Issues with policies, including EN1, TR3, RA1, RA2, OSS1, OSS3, OSS4, OSS5. Exception site possibility currently being investigated for which potential is limited to frontage sections.’

- 44 The whole site would be visible from multiple viewpoints and the site would have no prospect of successful planning application for the SHLAA reasons.
- 45 The suggestion of part of the frontage being used as an exception site was taken up. Ten shared-ownership houses were built and called Morris Close. As the site was an exception site the numbers do not count.

BU11 and BU2 Watercress Fields (aka Strand Meadow)

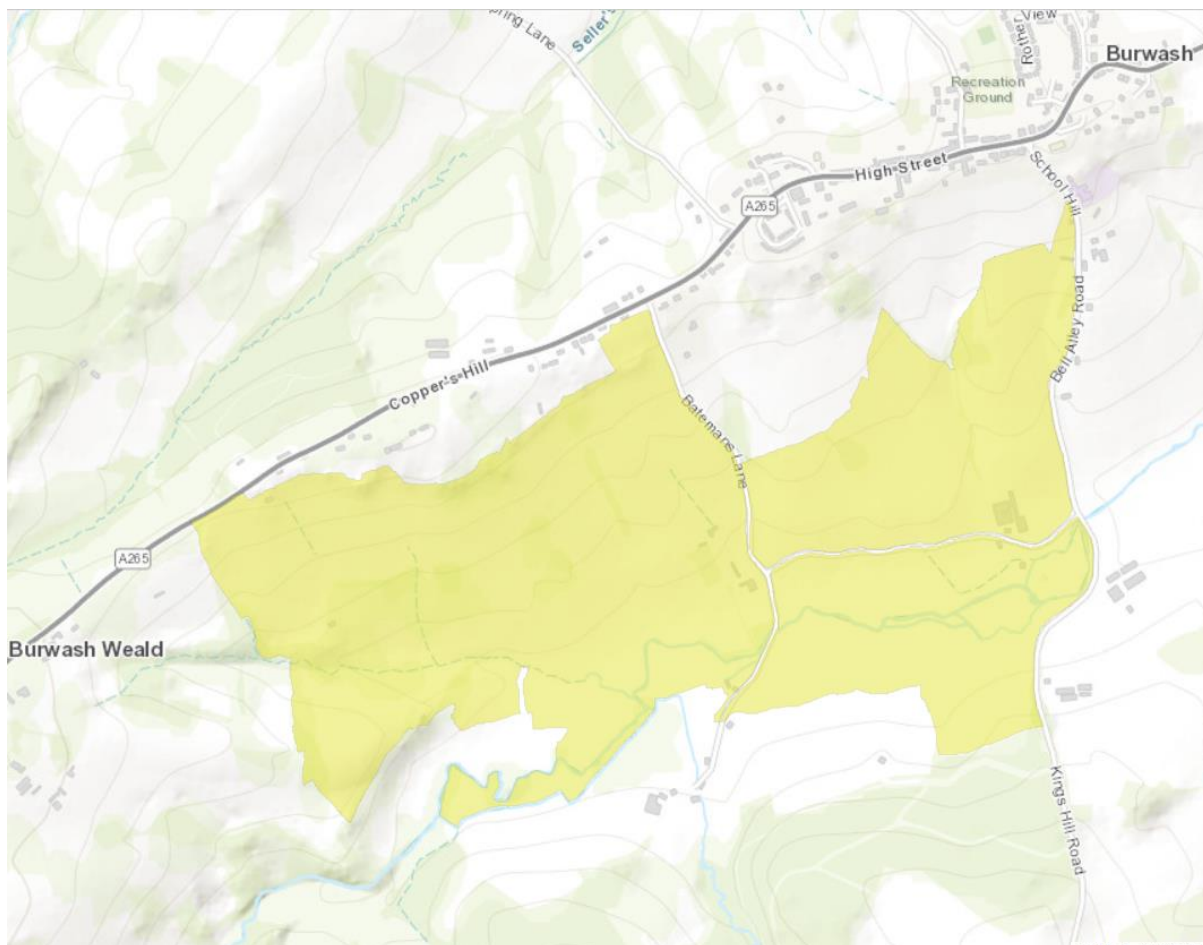
- 46 The SHLAA exercise did not deal with BU2 because outline planning permission was given for that area. BU11 was a red site, because of the steep slope and Policy CO3. There have been a significant number of planning applications. The history is as follows:
- 47 On 2 July 1985, Mr R C Kirkham made an application to Rother District Council for planning permission for 'residential development of 2 acres of land at Strand Meadow in Burwash'.
- 48 On 5 September 1985, Rother District Council refused the application on a number of grounds including:
- a) The development was not in accordance with the County Structure Plan.
 - b) There was an intention by the District Planning Authority that the land should remain the same.
 - c) The development would be contrary to the approved policy in the 1981 Village policy.
 - d) The site lay within a designated Area of Outstanding Natural Beauty and the proposal would be detrimental to the character and appearance of the area and contrary to the provisions of the County Structure plan.
 - e) Strand Meadow is of inadequate width to serve the proposed development.
- 49 The decision was appealed and an inquiry was held on 2 and 3 October 1986. On 1 December 1986, the Inspector gave his reasons for refusing the development. He noted that the East Sussex Structure Plan had superseded the County Development Plan relied on by Rother District Council. He also noted the failure of the local authority to provide adequate housing. The Inspector's reasons were:
- a) The visual impact on part of the AONB.
 - b) The widening of the carriageway in Strand Meadow would be insufficient to overcome the problems of the [17] extra houses.
 - c) The quality of the landscape.
 - d) The setting of the village.
 - e) The AONB.
 - f) The detrimental visual impact on the surrounding landscape.
 - g) The significant increase in traffic [generated would create] danger and inconvenience for the residents in the existing houses.
50. In 2006, Rother District Local plan allocated 17 housing units to this site.
51. In 2011, planning permission was granted for 17 housing units and the owner when there was little examination of the site. The developer allowed the planning permission to lapse.

52. In 2017, Richard Kirkham and Russell Beswick applied for outline planning permission for 30 units. There was little examination of the proposal this time too. Affordable housing was promised at 40%. The planning officer's report said, 'the footpath is subject to the Local Inspector's comments and local opinion, all of which agreed that the footpath link and the community land were essential.'
53. On 7 March 2018, Rother District Council, the owners of the site and the developer signed a section 106 agreement, which included provisions for the affordable homes and a footpath link to the village.
54. On 28 June 2018, a detailed planning application was made with no affordable homes, amid claims that the developer was unaware of the true costs of the development before. The community when expressing their opinion rejected the claims. The footpath link was impossible to achieve as the developer and owner did not own the necessary land. There were over 430 objectors. The planning committee rejected the scheme 12-0. The section 106 agreement is still in place and incapable of being met by the developer and owners, who all signed it.
55. On 1 March 2019, the developer appealed. On 25 July 2019, the appeal was rejected for the following reasons:
 - a) The site has a visual connection to the wider rural landscape, particularly in views from Ham Lane and the public footpath that crosses the field to the north-west, see para 4.
 - b) The scheme would significantly harm the character and appearance of the area and the landscape of the AONB, which it would fail to conserve or enhance. It would therefore be at odds with Policies RA1, EN3, OSS4 and EN1 of the Rother District Council Local Plan Core Strategy 2014 (CS). These policies seek to secure development that respects, and does not detract from, the character of the area and conserves landscape character. There is nothing to suggest these policies are inconsistent with the National Planning Policy Framework (NPPF), see para 15.
 - c) NPPF para 172 states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs and that the scale and extent of development in these areas should be limited. The scheme would fail to conserve or enhance the AONB landscape, this impact is not outweighed by other material considerations, including the proposal's benefits, see para 26.
 - d) The new development should not follow the lead of the three-storey housing in Strand Meadow, as this would compound the existing impact upon the landscape and settlement edge, see para 6.
 - e) There was some force to the argument that the scheme [does not] reflect and respond positively to the rural vernacular and would sit uncomfortably in the landscape, see para 7-9.
 - f) The designs were unsuitable and did not comply with Objective S3 of the High Weald Management Plan namely 'To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design', see para 7.
 - g) Although the planning officers recommended the scheme for approval, it is unclear whether they took specialist landscape advice in forming this view. In this respect the Inspector was mindful that the High Weald Planning Unit objected to the proposal, see para 10.

- h) The development would be particularly prominent in views from the public footpaths to the south, west and north of the appeal site, which are elevated above the ghyll. The boundary landscaping would provide some screening and softening, but it is largely deciduous and thin in places and therefore the development would be readily apparent, particularly when the trees were not in leaf. Utilising dark and vernacular style materials, such as tile hanging, would reduce the prominence of the buildings to an extent (although white boarding would stand out in the landscape) but not to a point where it would offset the limitations here identified, see para 11.
 - i) There were positive aspects of the layout but they were outweighed by the significant harm that would occur from the unsympathetic scale and appearance of the proposed buildings, see para 13.
 - j) Because of the above findings it has not been necessary for me to address other matters, see para 27.
56. Following adverse comments from Rother District Council and others about the failure of the developer to consult the community, in November 2019, the developer approached Burwash Parish Council about a new scheme. The architect agreed to meet Burwash: Save our Fields on the same day as seeing the Parish Council and then cancelled the meeting. On 8 January 2020, there was a public consultation. The developer declined to attend and the architect was unable to answer a very large proportion of the questions posed. The leaflet was inaccurate and there was no computer display of the design.
57. Burwash: Save our Fields pointed out that the whole emphasis of the consultation was on the design, which was an improvement on the previous one but still inappropriate. The group further pointed out that all the other problems remained outstanding and if Rother District Council and the Inspector, if one were appointed, approached the application in the same way, the application would be rejected, causing bitterness within the local community and a waste of money for Rother District Council and the developer.
58. The community were told that an application would be lodged in late January 2020. No application has been lodged. It may be that none will be lodged in foreseeable future.
59. Although there is little or no prospect of 30 housing units built here, because outline planning has been granted the 30 units count towards the total leaving 25 housing units to be found, see Tim Hickling's letter 21 February 2020, Appendix A.

National Trust land

60. None of Burwash can be built on the southerly slope because the land is too steep for housing and housing would have a devastating impact on one of the most important sections of the High Weald Area of Outstanding Natural Beauty. However, most of it is owned by the National Trust, see the area in yellow below.
61. The National Trust land has been declared inalienable (along with 95% of its land) under National Trust Act 1907 s 21 and National Trust Act 1938 s 8. It cannot be built on without a very rare parliamentary procedure being used. In any event, the National Trust is bound by the donor, Mrs Kipling, not to develop the land in her bequest.
62. The area follows



Other sites in Burwash parish

Judins flats

63. This was rejected for the reasons stated in para 20.

Land to the North of Burwash

64. As can be seen in the above National Trust map, the area is exceptionally steep. It is also a very important part of the AONB. No one has ever considered building there. It is just wholly unsuitable.

Conclusions

65. Sites for housing are controlled by planning. Planning law cannot be overcome by insistent demands for housing. Burwash cannot provide the housing allocation due to the planning law rightly put in place by the national government and Rother District Council. I hope this paper is helpful.

Robert Banks

10 July 2020