

Watercress Field, off Strand Meadow, Burwash

RR/2021/409/P

Burwash: Save our Fields' objection



Watercress Field (it is the field in the foreground to the line of trees)

The repeat nature of this application

- 1 On 23 February 2021, Rother District Council's planning committee rejected the reserved matters application for this site, RR/2020/1822/P. The applicant was Park Lane Homes (SE) Ltd. The sole director of that company is Russell Beswick and he is the developer of the site. The next day, the developer lodged an identical application saying that the application was being re-submitted 'to provide a further opportunity to negotiate with the Council with a view to the appeal being withdrawn subject to satisfactory planning permission being granted'. Our group tried to persuade the Council that the application was an abuse because the purpose was to improve his negotiating position and the decision about the scheme had already been made. We also said the real reason for the re-submission was to extend the time limits for the outline planning permission and the applicant's remedy was to appeal the decision and not repeat it. The time limit was due to expire on 7 March 2021.
- 2 The developer said he is appealing as well, so he wants two simultaneous ways of changing the correct decision of Rother District Council.
- 3 It is ironic that it is claimed that the applicant wishes to negotiate with Rother District Council when on 23 February 2021 neither the developer nor his agent were prepared to address the planning committee or answer questions when the rejected application was being considered. However, they insisted that their long statements in support of the application were read.
- 4 No doubt fearing that a repeat application might cause problems, the developer then made some very minor changes to the plans.

The very minor changes

- 5 As far as can be ascertained, the amendments are as follows:
 - a) The heights of buildings have been reduced. The group asked for the architectural drawings in order to check by how much. On 26 April 2021, the developer refused this request. On

the section drawings provided, which only deal with the four plots below, the differences are:

	Height 2020 plans	Height 2021 plans	Difference
Plot 4	69.50 metres 228.02 feet	68.90 metres 226.05 feet	0.60 metres 1.97 feet
Plot 11	74.65 metres 244.91 feet	74.12 metres 243.18 feet	0.53 metres 1.73 feet
Plot 17	77.57 metres 254.49 feet	77.16 metres 253.15 feet	0.41 metres 1.34 feet
Plot 26	82.50 metres 270.67 feet	81.97 metres 268.93 feet	0.53 metres 1.74 feet

- i) The FFL (finished floor level) for each of the properties remains the same.
 - ii) Appendix 2 of the Planning Design and Access Statement Update, which was put on the Portal on 27 April 2021, seeks to compare the differences between the 2021 plans and the 2019 appeal plans and not those between the 2020 application and the 2021 application. The proper comparison is between the plans recently rejected by Rother District Council and the plans before them in this application.
 - iii) The comparisons are made between heights for a site before and after it was reconfigured. The inevitable result is that the comparison is largely artificial.
 - iv) However, Appendix 2 is able to state that for two of the houses the height has been increased.
 - v) Using the elevation drawings, the same differences can be detected. None of them have any significant reduction. The difference for the heights for Plot 30 appears to be about 0.2 metres, and this is the one that is the highest in the field.
 - vi) It can be seen that the differences are insignificant.
- c) Appendix 1 of the Planning Design and Access statement produces a schedule of the differences between the ‘build development’ of the 2019 appeal plans and this application.
- i) The differences that matter are those between the last application and this application.
 - ii) However, the differences relied on are the width down from 135.7 metres to 135.03 metres and the percentage build form facing the north-western boundary is down from 72.18% to 71.78%. The mass of housing is the best way to assess impact on the AONB and, if the figures are right, the 0.3%

difference of the percentage build form clearly illustrates how little has changed.

- iii) The new figure does not include houses 22-25. This decision is on the assumption that the only view that will be had is at right angles to the development. This is a false assumption.
 - d) The landscape plan shows that the bins and bike store for plots 26-29 have been moved from the west side of the road to outside the properties. A speed bump has been inserted. The site road has been shortened. It is said that these changes are to meet concerns of the Highways Department.
 - e) There are some extra data and estimates in the flood reports but the drainage scheme has not been amended.
 - f) An updated design statement is promised but that is not on the Portal. If it is written in the same way as the last one it will provide no assistance.
- 6 The only proper approach to the changes is to consider them as inconsequential.

Introduction to the objection

- 7 The inconsequential changes mean that there is no need to alter the bulk of our 2020 submission. Therefore this submission is the same as the last one except for paras 1-7 and the additional paragraphs which are numbered with a letter, such as 22a. A few of the 2020 paragraphs have been slightly amended.
- 8 Anyone looking at Watercress Field can see it is not suitable for housing. The slope, the beauty, the number of springs and the name, Watercress Field, show its unsuitability. Initially there was outline planning consent for 17 homes in 2011. In 2017, the developer saw its unsuitability as a way to make money. He put forward plans to build 30 homes and promised that 40% of the homes would be 'affordable'. Rother District Council seized the chance to increase the number of homes built in the district and the number of affordable homes. The Council agreed to the outline planning permission.
- 9 There were three problems with this. First, the developer never intended to build the affordable homes. Second, the site had not been properly assessed by anyone except the developer, particularly for its inherent building problems and the Area of Outstanding Natural Beauty (AONB) issue. Third, the site had never been, was not and never will be suitable for a housing estate. The fact that up to 30 homes were approved does not solve the problem of how to fit 30 houses onto the site without adversely impacting on the AONB and breaching other planning rules.
- 10 In March 2018, Russell Beswick, the developer, signed a Section 106 agreement to provide 40% affordable homes. Almost immediately he received a 'site inspection report'. Russell Beswick has always refused to reveal this report. The latest refusal was on 26 April 2021, see www.burwashsaveourfields.org.uk/exhibits 37. Sure enough, a planning application was put together for 30 homes with a claim that there should be no affordable homes because that would not enable him to make the 20% profit in accordance with the viability system. In June 2018, his planning statement for the application was signed.
- 11 So the saga continued. Rother District Council planners continued to back the developer. In January 2019, councillors listened to the arguments and turned the scheme down unanimously. The developer appealed. In July 2019, the Planning Inspector dismissed the appeal primarily for AONB and design reasons. He felt those issues were so strong that he did not need to rule on the other issues.

- 12 In January 2020, the developer had arranged a ‘public consultation’ exercise in Burwash for new designs. Neither he nor any member of the developer’s company nor any member of the agent company attended. There was just an architect and his assistant who were unable to answer most of the questions asked. They only knew about the design. The developer’s deception continued and his team spread the fiction in his documents that the design was now acceptable so there could be no objection to the scheme. Why it was thought that argument could be accepted is hard to imagine.
- 13 The response from the village was completely hostile to the principle of development at the site. For more detail, see para 84.
- 14 Despite this, in November 2020, the developer’s agent continued with the suggestion that the only issue was design, while the local community continued to assert the obvious and long-standing objections to the scheme. Most of those objections relate to the current application.
- 15 Burwash: Save our Fields agrees with them and objects to the application for the following reasons:
- very significant damage to the AONB, see para 23,
 - the scheme is not viable, see para 31,
 - there is poor design, see para 52,
 - the site is no longer sustainable, which is linked to the lack of foot access to the village centre, see para 37,
 - the developer is unable to comply with his Section 106 obligation about the footpath to the village, see paras 17, 31 and 37,
 - the developer is unable to comply with his Section 106 obligation about affordable homes, see paras 31 and 68,
 - the form and scale of the development are unsuitable, see para 46.

The two elephants in the room

Elephant One The affordable homes

- 16 The applicant has signed a Section 106 agreement to provide 40% affordable homes, see Part 3 para 1. The applicant in his viability statement says the site is not viable. This application does not address this issue. On the applicant’s case, he is putting forward a development which is not viable. This application does not ask for and is not permitted to ask for an amendment to the Section 106 in a reserved matters application. This elephant is dealt with in more detail at para 68.

For the Section 106, see [www.burwashsaveourfields.org.uk/exhibits 22 Section 106](http://www.burwashsaveourfields.org.uk/exhibits%20Section%20106).

Elephant Two The alpine footpath to nowhere

- 17 In Condition 16 of the grant of planning permission that the reserved matters relate to, 2011/582/P, it states that the applicant must ‘ensure footpath integration with the village centre and its services’. The provision of this footpath was confirmed in the Section 106. The applicant’s agent claims he only has to take the footpath to the ‘recreation ground’. This is false, as the footpath has to connect with the village centre. This latest application does not address this issue. On the applicant’s case, he is putting forward a development which will never be able to satisfy Condition 16. As stated before, this application does not ask and is not

permitted to ask for an amendment to Condition 16 as this is a reserved matters application. This elephant is dealt with in more detail at para 37.

For the Section 106, see www.burwashsaveourfields.org.uk/exhibits 22 Section 106.

Considering the elephants in the room

18 The applicant is unable to satisfy two of the conditions now or in the future. The question arises as to why the latest application and the last one have been lodged. It is believed the hope is that the obstacles to this planning application can be removed in stages:

- create the illusion that only design is for determination and say that that problem has been solved,
- ask Rother District Council to say nine of the conditions have been met, which is what is happening in this application,
- if granted, say the scheme is not viable, and say the Council should remove the affordable provisions of the Section 106,
- if granted, apply to say the whole scheme is now ready for building save the footpath condition and the left-over conditions. Ask that the footpath condition be removed as it is not the fault of the developer that the condition cannot be satisfied,
- sit back and reap the profits.

19 Rother District Council should not be treated with this contemptible approach. In 2006, had there been no footpath link in the application, the Planning Inspector would have been unlikely to have selected the site for the Local Plan's housing allocation. The same must have applied to the outline planning permission in 2011. Also in 2011, the applicant made the promise of affordable housing the basis of the application. Without them, the application would have failed. Similarly in 2017, without the footpath and the affordable homes the application would have failed.

20 The applicant should not be able to achieve planning permission by this approach when he would have been unsuccessful with an open and honest approach.

Understanding the planning application

21 The developer presents this application as reserved matters to a grant of outline planning permission. For the earlier application he had falsely stated the only matter in issue was the design. To understand the issues, particularly the footpath and affordability issue, it is necessary to understand the background.

- a) **2 July 1985** RR/85.1339 Richard Kirkham, the owner of Watercress Field, who is still seeking to develop the field, asked for 'residential development' at Strand Meadow.
- b) Rother District Council in its submission 'underlined the importance of the setting of the village and the Area of Outstanding Natural Beauty'.
- c) **5 September 1985** Rother District Council refused the application on several grounds including:
 - i) the site lay within the AONB and the proposal would be detrimental to the character and appearance of the area,
 - ii) Strand Meadow is of inadequate width to serve the proposed development.
- d) **On an unknown date**, the developer appealed.

- e) **1 December 1986** T/APP/Ui430/A/85/041450/PS The appeal was dismissed. The grounds included:
- i) the AONB, see para 15 of the decision notice. The visual impact on part of the AONB, para 11,
 - ii) the detrimental visual impact on the surrounding landscape, see para 15,
 - iii) the widening of the carriageway in Strand Meadow would be insufficient to overcome the problems of the [17] houses, see para 12,
 - iv) the quality of the landscape, see para 15,
 - v) the setting of the village, see para 15,
 - vi) the significant increase in traffic [generated would create] danger and inconvenience for the residents in the existing houses.

For the Planning Inspector's decision, see www.burwashsaveourfields.org.uk/exhibits 1 1986 Inspector's decision.

- f) **July 2006** The Rother District Local Plan is published, which allocated the site in question for no more than 17 dwellings of which 40% were to be affordable. Conditions included 'a footpath to link the development to the existing recreation ground and Ham Lane'. This policy was VL1.

For Policy VL1, see www.burwashsaveourfields.org.uk/exhibits 2 2006 Policy VL1.

- g) **20 October 2011** RR/2011/2205/P and RR/2011/2206/P Richard Kirkham and Russell Beswick's future agent applied for planning permission, RR/2011/2205/P. The two also applied for planning permission for recreational land and the creation of footpath link(s), RR/2011/2206/P. The agent and the Council treated the applications together. However, the decision notices were quite separate. The basis of the application was 'the acute need for affordable homes', see Design and Access statement page 10. There were to be 17 homes with 40% being affordable. The case officer reported to the planning committee that it was not possible to assess landscape effects without levels and sections, see the agenda para 6.3.2.

For the 2011 Design and Access statement, see

www.burwashsaveourfields.org.uk/exhibits 6 2011 Design and Access statement.

For the agenda, see www.burwashsaveourfields.org.uk/exhibits 3 2011 Planning application Agenda.

- h) The odd feature of this application was that the decision notice for the outline planning permission is dated 19 July 2017, which was after the next application had been lodged. The decision notice for the footpath and recreation ground application is dated 20 July 2017.

For the decision notices, see www.burwashsaveourfields.org.uk/exhibits 4 and 5 2011 application Decision notices 1 and 2.

- i) **3 March 2017** RR/2017/582/P Park Lane Homes (SE) Ltd applied for outline planning permission for this site. There were to be up to 30 homes with 40% affordable. The impact on the AONB was not properly assessed. Neither were the traffic problems in Strand Meadow and Shrub Lane properly considered. The Council granted permission for up to 30 homes and road access through Strand Meadow. It is this application that the current reserved matters relate to.

For the decision notice, see www.burwashsaveourfields.org.uk/exhibits 7 2017 Decision notice.

- j) **7 March 2018** Richard and Carol Kirkham, the owners of Watercress Field, Russell and Sharon Beswick, of Park Lane Homes (SE) Ltd, the developer, an officer of Rother District Council and an officer of East Sussex County Council signed the Section 106 for Watercress Field. There were multiple obligations for the developer and owners, including providing the full proportion of affordable homes, providing the ‘footpath in accordance with the Specification’, and highways obligations.

For the Section 106, see www.burwashsaveourfields.org.uk/exhibits 22 Section 106.

- k) **28 June 2018** RR/2018/1787/P A detailed planning application was lodged. The application sought to remove the affordable homes obligation. There were repeated amendments to the scheme. The planning committee refused the application by 12-0.

For the decision notice, see www.burwashsaveourfields.org.uk/exhibits 9 2018 application Decision notice.

- l) **1 March 2019** APP/U1430/W/19/3223824 The applicant lodged an appeal against the refusal. On 15 July 2019, the appeal was refused on multiple grounds.

For the dismissal notice, see www.burwashsaveourfields.org.uk/exhibits 8 2018 application Appeal Decision.

- m) **26 November 2019** The developer’s agent and the new architect met the councillors of Burwash Parish Council. Some plans were shown to the councillors mixed in with a large amount of self-congratulation. The public could not ask any questions until after the plans were partly revealed. Burwash: Save our Fields also asked to see the developer, at a time just before the Parish Council meeting. This was agreed. Shortly after the agreement the architect cancelled the meeting.

- n) **8 January 2020** An architect and his assistant attend a ‘public consultation’. Neither the developer nor his agent attended. Only a site plan, some computer drawings and a leaflet containing misinformation were available. The forms that were filled in by the attendees almost universally condemned the scheme. For more detail, see para 84.

For a report about the consultation, see www.burwashsaveourfields.org.uk/exhibits 11 2020 January exercise.

- o) **12 October 2020** RR/2020/1822/P The reserved matters application was lodged.
- p) **23 February 2021** The reserved matters application was refused by the planning committee.
- q) **24 February 2021** RR/2021/409/P A new identical planning application was submitted.
- r) **24 February 2021** The repeat application was validated.
- s) **7 March 2021** The time limit for the outline planning application.
- t) **31 March 2021** First time the community knew of the application.
- u) **12 April 2021** Plans with minor amendments placed on website.

The Planning Inspector’s findings

- 22 The critical matter for this application is to consider the findings of the planning committee on 23 February 2021 and the Planning Inspector who conducted the appeal in 2019. It is also important to judge how the applicant has and has not addressed those findings.

Inspector's findings (the para numbers relate to the report)	How it has been addressed	Comments
<p>Poor design The design concept results in a hard semi-urban appearance, not sympathetic with the distinctive features and architecture of Burwash. Paras 6 and 8</p>	<p>A new architect was appointed.</p>	<p>The design is an improvement but the previous design was so dreadful it would be hard not to have made an improvement. Because of the site constraints, the design is still not acceptable.</p>
<p>No design review Para 10</p>	<p>A peer review was produced.</p>	<p>The peer review document is riddled with errors and appears to have been written by someone who is part of the West Sussex architectural fraternity. For more detail, see para 66.</p>
<p>Working up a design with the local community Para 10</p>	<p>Not addressed.</p>	<p>The developer has treated the local community with mixed indifference and contempt.</p>
<p>No formal Landscape and Visual Impact statement Para 11</p>	<p>Landscape and Visual Appraisal provided.</p>	<p>The report pays lip service to the problems and then signs the scheme off. It ignores the primary finding of the Planning Inspector, which is that the 30 houses cannot be accommodated on the site without having a significantly damaging impact on the AONB.</p>
<p>Scale and appearance of the proposed buildings which would cause significant harm. Paras 13, 24 and 33</p>	<p>Hiring a new architect.</p>	<p>However, the new plans cannot overcome the problems of the scale of 30 houses.</p>
<p>Form and appearance The allocation does not justify the form and</p>	<p>The design has been tinkered with.</p>	<p>The developer can do nothing about the impact</p>

appearance of the proposal, which are [his] principal concerns. Paras 23 and 32		of 30 houses on this sensitive site.
AONB 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. Paras 15, 26, 32 and 33	The scheme has been tinkered with by a new architect.	This is the key finding. The architect is unable to deal with the impact so many houses would have on the AONB and the views from the nearby footpaths.
Affordable homes The Planning Inspector noted the concerns, but because of the weight of factors indicating a dismissal was required, he found it not necessary to address this issue.		The application ignores this.

The reasons for Rother District Council's 2021 refusal of the initially identical application

22a On 23 February 2021, the planning committee of Rother District Council rejected the October 2020 scheme on the following grounds:

- a) **Design**¹ 'The proposed development by reason of its close-knit layout and the height, scale and mass of dwelling houses has taken the wrong design cues reflecting a High Street, Burwash vernacular rather than that of an edge of village location. This design approach is inappropriate in this edge of village location and fails to respect its rural location.

[Vernacular means architecture concerned with domestic and functional rather than public or monumental buildings.]
- b) **Earth movement** The development will result in a significant degree of earth movement and excavations, which would result in unnatural landforms.
- c) **Design and impact on the AONB** These issues [above] combine to create a hard urban edge to the village that would be an intrusion into the landscape and would fail to respect its rural location, neither conserving nor enhancing the landscape character and scenic beauty of the High Weald Area of Outstanding Natural Beauty (AONB). As such the proposal would be contrary to Policies RA1, EN3, OSS4 and EN1 of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and paragraphs 127 and 172 of the NPPF.
- d) **Design, impact on the AONB and parking** The proposed parking along the western boundary of the site by reason of its almost continuous layout, close proximity to the

¹ The bold headings have been inserted to assist the reader.

boundary and degree of build-up using retaining structures in order to achieve adequate levels would result in a poor street scene and unnatural landforms and would create a visually poor edge to the development. This would not conserve or enhance the surrounding landscape character and scenic beauty of the High Weald AONB. As such the proposal conflicts with Policies RA1, EN3, OSS4 and EN1 of the Rother Local Plan Core Strategy, Policies DEN1 and DEN2 of the Rother Development and Site Allocations Local Plan and paragraphs 127 and 172 of the NPPF.’

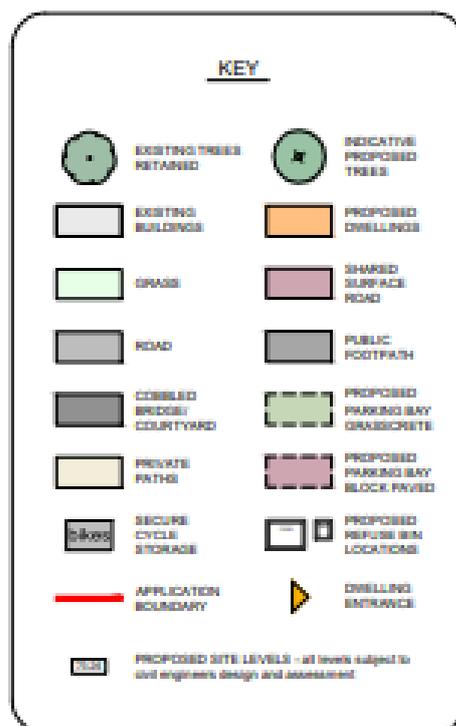
22b The attempts to address these findings are few and insignificant.

Area of Outstanding Natural Beauty (AONB)

- 23 The whole site is in the High Weald AONB. The Planning Inspector in July 2019 found that a planning proposal for 30 homes on this site was:
- a) an ‘overly large development [which was] harmful and locally [a] prominent suburban intrusion into the landscape of the AONB’, see para 9 of the decision notice,
 - b) such that ‘the scheme would significantly harm the character and appearance of the area and the landscape of the AONB’, para 15.

For the Planning Inspector’s decision notice, see www.burwashsaveourfields.org.uk/exhibits 8 2018 application Appeal Decision.

- 24 The exceptionally historic and beautiful village of Burwash needs its setting in the AONB. The village should not be disfigured by a suburban housing estate in this ancient field.
- 25 As stated, the developer has tried to overcome this objection by pretending that the different design will overcome the Planning Inspector’s objection. His different design cannot overcome the AONB objection.
- 25a The site plan below for the 2021 application is virtually identical to the 2020 site plan. For the full plan, see www.burwashsaveourfields.org.uk/exhibits 23 Site map.





26 As already stated, the problem is that the site cannot accommodate 30 houses on this sloping field without damaging the AONB. The new architect that Park Lane Homes (SE) Ltd employed has moved the houses down the hill slightly and made them two rather than three storeys high. He has also moved the top house, No 30, further up the field. He has created a terrace of five houses at nearly right angles to the other houses. The difference in height between the 2018 plans and the 2020 plans is about a metre for the second half of the development, which is a piffling difference. The difference between the 2020 and 2021 heights is about half a metre.

	Height 2018 plans	Height 2020 plans	Height 2021 plans	Difference between 2020 and 2021
Plot 4	72.45 metres 237.70 feet	69.50 metres 228.02 feet	68.90 metres 226.05 feet	0.60 metres 1.97 feet
Plot 11	75.9 metres 249.02	74.65 metres 244.91 feet	74.12 metres 243.18 feet	0.53 metres 1.73 feet
Plot 17	79.10 metres 259.51 feet	77.57 metres 254.49 feet	77.16 metres 253.15 feet	0.41 metres 1.34 feet
Plot 26	83.80 metres 274.93	82.50 metres 270.67 feet	81.97 metres 268.93 feet	0.53 metres 1.74 feet

In calculating the heights, the architect has ignored the chimney pots, so the houses are slightly higher than he claims on his drawing.

For the site section plan, see www.burwashsaveourfields.org.uk/exhibits 24 Site section plan.

- 27 In presenting the estimated heights, the architect has only chosen to estimate the height in the section drawings for Plots 4, 11, 17 and 26 in each of the three versions. If, in the latest version, he had chosen to include the group of houses that are nearly at right angles to the slope, the two houses furthest up the slope, numbers 24 and 25, would have a height greater than in the previous version. The increased height is claimed to be 0.23 metre (0.75 feet) and 0.98 metre (3.22 feet). Without the architectural drawings these figures cannot be checked. On 23 November 2020, Burwash: Save our Fields asked for the section drawings for plots 25 and 30 to see whether the section drawings were unrepresentative. Laurence Hulkes from the developers responded by telling the group, ‘We can confirm all other drawings are available on the [Rother] Council’s website.’ That is a pretty good insight into the developer’s contempt for communities. A similar request was made on 26 April 2021 and received a similar contemptuous message.

For the full 2020 e-mail, see www.burwashsaveourfields.org.uk/exhibits 16 E-mail to the developer dated 3 December 2020.

- 27a The 2021 very slight reduction in height solves none of the problems.
- 28 The Planning Inspector noted at para 11 of his decision notice that the trees which the developer considered would shield the development were deciduous, so offering little protection to the AONB in winter. The inevitable conclusion made by the Planning Inspector that 30 houses will significantly harm the AONB applies to the present application as much as it applied to the last one.
- 29 The AONB issue is sidestepped by the developer. Protecting the AONB in line with the Planning Inspector’s decision is vital.
- 30 The High Weald unit says the site cannot take this number of houses without causing unacceptable harm to the character of the AONB, see page 2.

For the report, see www.burwashsaveourfields.org.uk/exhibits 19 High Weald Unit 2020 objection.

The scheme is not viable

31 The developer has known for a long time that the site has significant problems, such as the slope, the name, Watercress Field (a reminder of the ground water and the springs), and the need for piling. He obtained outline planning permission with a false promise of 40% affordable homes. It is important to remember that there have been at least two viability exercises.

32 The first viability exercise is mentioned in the planning officer's report for the 2018 application at para 6.2.2. The officer said the increase in the number of houses from 17 to 30 units arises because of the developer's payment for the ransom strip at the entrance to the site which has rendered the application for 17 houses 'unviable'. Details of this assessment, which must have come from the developer, have never been made public.

For the officer's report, see www.burwashsaveourfields.org.uk/exhibits 10 2018 Officer's report.

33 In March 2018, the developer signed, with others from his side, a Section 106 contract promising those affordable homes. The developer then claimed he could not afford to build the affordable homes and asked for the contract to be amended. Rother District Council refused to do that. That decision was right and the Council should stand firm. The Planning Inspector made a particular note that the scheme was unviable and considered the developer's approach to be hypothetical.

For the Section 106 agreement, see www.burwashsaveourfields.org.uk/exhibits 22 Section 106.

33a The District Valuer who considered the issues said in his report for Rother District Council that:

- a) 'the identified abnormalities [which the applicant relied on] would have been known to the agent when the previous quantum of affordable housing was agreed and I question why these have only been highlighted now,' see para 6.2 of his report,
- b) 'the applicant has assessed the required profit level for the affordable units at 20% when an appropriate level would be 6%', see para 6.9 of his report,
- c) 'the scheme is more viable than the applicant's appraisal suggests', see para 9.1 of his report.

34 It is understood that the reason for the developer asking for detailed planning permission was that that procedure enabled him to apply for the Section 106 affordable home commitment to be removed. The attempt failed. A reserved matters application does not enable the developer to have the Section 106 commitment removed, therefore he should be judged as accepting that the site is not viable.

35 Unfortunately, the Section 106 was poorly drafted. It does not prevent the site being built on without affordable homes. It only prevents the houses being occupied without compliance with the Section 106 agreement. If the developer considered making mischief with that loophole, the Supreme Court judgment in *Alexander Devine v Housing Solutions Ltd* 2020 UKSC 45 6 November 2020 clearly shows the punitive way courts and tribunals would treat such behaviour.

For the law report, see www.burwashsaveourfields.org.uk/exhibits 12 *Alexander Devine v Housing Solutions Ltd* 2020 UKSC 45.

- 35a On 23 February 2021, a planning officer addressed the planning committee on the basis that the applicant was going to provide the affordable homes. This ignored his viability report and the statements by the applicant's agent in his Planning, Design and Access statement which made it clear that the applicant was not intending to build the affordable homes. This was confirmed when Burwash Parish Council wrote on 8 January 2021 to Mr Pickup, the planning consultant for the applicant. Mr Pickup replied on 11 January 2021, saying: 'In the event that this application is granted, before the consent can be implemented the requirements of the planning obligation which includes provisions for affordable housing will need to be discharged. This is not a matter for the determination of this reserved matters application.'
- 36 The developer makes no mention of this problem. Rother District Council should see through the presumed plan, which is to remove the conditions, and later say that the site is not viable so the affordable homes condition needs to be removed.

The alpine footpath to nowhere

- 37 In their October 2011 application, the owners and the applicants in outline planning permission promised 'to incorporate a footpath link extending west towards the existing footpath at Ham Lane'. In the 2018 Section 106, the developer also agreed to provide the 'specified' footpath. In these latest plans the footpath just goes to a tall, thick hedge at the edge of a sports ground. Just before the path reaches the hedge, there is a steep slope on both paths which makes the footpath impassable for those with mobility issues. The managers of the playing field have always declined to permit a footpath link across their land. In their objection to this application, the Burwash Playing Field Association Trustee and Management committee gave their reasons as follows:
- 38 Their reasons included:
- 'the safety of playing field users,
 - it would limit some sport users' ability to use the playing field, e.g. cricketers might not be able to use the playing field,
 - site security,
 - Health and Safety obligations,
 - concern there would be easier access encouraging criminal activity,
 - increased insurance costs,
 - litter problems,
 - the likely light pollution with the introduction of lighting at the instigation of the police. Burwash is a Dark Skies Area.'

For the full objection, see www.burwashsaveourfields.org.uk/exhibits 14 Burwash Playing Field Association objection.

- 39 No one from the developer's side has formally approached the Playing Field Association for permission for the footpath to enter or traverse the playing field land. One informal approach was made to one member of the committee in August 2018. Since then, no approach to the association about permission has been made.
- 40 Condition 1 of the reserved matters refers to the 'access' to the site. Access must include the footpath. Condition 16 (not subject to this application) requires the developer to provide 'a footpath **link**, in accordance with the approved details'. It appears that the 'approved details'

relate to the previous commitments given for a footpath to Ham Lane and the village. More critical is the word 'link'. Taking the footpath to a tall and thick hedge and no further cannot be described as a 'link'. 'Link' must mean link with the village. The word is conclusively defined by the accompanying reason to Condition 16.

Reason: To ensure improved footpath integration with the village centre and its services in accordance with Policy VL1 of the Rother District Local Plan (2006) and Policy TR2 Policy.

- 41 For the decision notice, see www.burwashsaveourfields.org.uk/exhibits 7 2017 Decision notice.

To understand the reference, Policy VL1 was the July 2006 Rother District Local Plan. It allocated the site in question for no more than 17 dwellings of which 40% were to be affordable. Conditions included 'a footpath to link the development to the existing recreation ground and Ham Lane'.

For the VL1 Policy, see www.burwashsaveourfields.org.uk/exhibits 2 2006 VL1 Policy.

TR2 of the Rother District Local Plan Core Strategy is below.

'Integrated Transport

Improvements in the provision and use [of] sustainable transport will be achieved through:

(i)-(iii) not listed,

(iv) improvements to the pedestrian environment and wider public realm to encourage **integration between different** modes of transport, employment areas and **settlement centres**,

(v)-(vi) not listed.'

- 42 There can be no doubt of the interpretation. The footpath link is important and was one of the reasons why the site was given outline planning permission. It would have made the development less car-based. In any event, with the Section 106 agreement in place, the development cannot lawfully proceed.

- 43 The developer makes no mention of this problem in the application. However, on 16 November 2020, Mike Pickup, the agent, wrote to Burwash Parish Council and asserted at the top of page 2, 'the reserved matters proposal includes a footpath route in accordance with the requirements of the planning obligation'.

On 4 December 2020, the same agent wrote again to Burwash Parish Council for their meeting on 8 December 2020 when the 2020 application was considered. He asserted at para 1:

'The proposed footpath link

1.1 Planning condition 16 of the outline consent requires details of the proposed footpath link ... the specific details required by condition 16 have not been submitted at this stage and do not, therefore, form part of the current reserved matters application.

The footpath link is required to be available for public use "from the Residential Site to the Recreation Ground Site" and is to be managed and maintained by an appointed management company. There is no planning obligation or other limitation requiring the Applicant to provide a footpath link beyond the site boundary and across the public recreation ground.'

- 44 This is false for the following reasons:

- a) Condition 1 deals with access and the footpath is part of the access to and from the site, so the footpath is in issue. It is common for one issue to be in more than one condition,

- b) Condition 16 requires the footpath link to connect with the village services,
- c) the condition was for public use ‘from the Residential Site to the Recreation Ground Site’. The applicant fails to provide this because his version goes to a tall thick hedge and does not connect with the recreation ground, as the hedge cannot be destroyed to link with a neighbouring property without consent of the other party.

For the e-mail, see www.burwashsaveourfields.org.uk/exhibits 15 Developer’s e-mail 4-12-20.

Like the affordable homes issue, the footpath to nowhere makes the developer’s approach, in the words of the Planning Inspector at para 24 of his decision notice, also ‘hypothetical’.

For the Planning Inspector’s report, see www.burwashsaveourfields.org.uk/exhibits 8 2018 application Appeal decision.

- 45 The footpath issue is illustrative of the deceptive nature of this application and how it is in disarray.

Form and scale

- 46 The original application was for 17 homes. This site became known as BU2. The 17 housing units were based on 30 housing units per hectare. That made about 17 units. The developer has increased this to 30. This increase of the units and the increase in density would inevitably cause significantly greater damage to the AONB. In 2017, the planning officer cannot have considered properly whether 30 homes could be accommodated on the site.
- 47 In July 2017, the planning committee waived the outline planning application through without the help on this issue that they were entitled to receive from the developer. When the detailed planning application was lodged, the site was properly examined. The planning officers continued to support the developer while the councillors looked at all the factors and rejected the application 12-0. Unfortunately, the reasons given by the councillors were not properly reflected in the decision notice.
- 48 However, the Planning Inspector conducting the appeal considered that there was a marked difference between a scheme of 17 homes and the proposed 30 homes and as a result [the original consent] does not justify the form and the appearance of the [developer’s] proposal. He also said the scale of the buildings would harm the landscape, see Appendix 1 para 23.

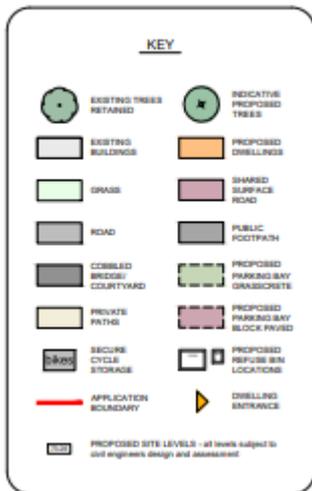
For the Planning Inspector’s report, see www.burwashsaveourfields.org.uk/exhibits 8 2018 Application Appeal decision.

- 49 This assessment is as true today as it was then. Cramming all these houses onto the site may be seen as an opportunity to maximise the profits. In reality, the 30 homes and the resulting density were the factors that created the most problems.
- 50 The High Weald unit in their current objection state that the application implies that outline permission has been granted for 30 dwellings. They point out that Condition 6 says that the number of dwellings ‘should not exceed 30’ and that this does not mean that it has been accepted that 30 dwellings can be accommodated on this site, see <http://www.burwashsaveourfields.org.uk/exhibits> 19 High Weald Unit 2020 objection. It is up to the developer to show it is. He failed to do that in the 2018 detailed planning application and he failed again at the appeal.
- 51 The approach taken by the developer is that 30 housing units are agreed.

Poor design

- 52 In the developer's Planning, Design and Access statement at para 5.5, he says the issue is whether the new scheme has met the Planning Inspector's concerns. The Planning Inspector determined the appeal following Rother District Council's refusal of the last application. The developer ignores the main issues while over many pages just congratulates the drafters of the scheme. The Planning Inspector in fact rejected the scheme on character, appearance, AONB and scale as well as design. Although the design has improved, it is not yet acceptable.
- 53 The basic objection to the design is that it breaches the High Weald AONB Management Plan 2019-2024 Objective S3, '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. The scale and layout are important because they and 'appearance' are part of the requirements on Condition 1 that the developer seeks to discharge. Condition 1 and Objective S3 should be read together.
- 53a The slightly amended 2021 site plan follows.





For a larger scale plan see para 25 or see www.burwashsaveourfields.org.uk/exhibits 23 Site map.

- 54 The above plan shows graphically the problem with trying to fit 30 homes into such a tight space.
- 55 Planning rules and design guides apply to all sides of proposed buildings. The uniformity and suburban feel can be judged by looking at the rear elevations of the buildings.





- 56 For plots 1-29, the top half looks like a pretend olde worlde bijou look. The bottom half has the suburban launderette look. For plot 30, the design is a jumble. The design is wholly inappropriate for an East Sussex village.
- 56a The problem of reducing the pitch of the roof can be graphically seen in the unsightly roof in plots 1-4.
- 57 The High Weald unit in their objection letter to the earlier and failed proposal, dated 9 August 2018, helpfully point out that ‘Design standards should also not be compromised due to viability and the topographical difficulties of the site. Objective S2 of the Management Plan is to protect the historic pattern of settlement and Objective S3 is “To enhance the architectural quality of the High Weald”.’

For the High Weald Unit 2018 objection, see www.burwashsaveourfields.org.uk/exhibits 18 High Weald Unit 2018 objection.

- 58 Ian Franks Dip Arch RIBA Dip UD ARB, a senior and well-respected architect who lives in Burwash, objected to the application (date submitted 13 December 2020) on the following basis:

‘I have worked on many large-scale projects and I have looked very carefully at the application. It is clear to me that the site is overdeveloped in relation to its potential. It is a steep site and this limits the development potential of the site. To have 30 residential units with nearly all having stepped access goes against current policy in terms of accessibility for all ages – from mothers and babies to the elderly and mobility impaired. Even if permitted under the building regulations it is pushing the site too hard. The layout of the proposal is contrived with certain blocks being turned to fit more units on the site. The architecture has improved since the last application but the concept of houses with linear shared car parking is not appropriate in this rural location where self-contained parking attached to a unit is what would be expected along with space for cycles and adequate electric charging points. This is not a good response to the “genius loci” of this site and I believe that the design does not work and needs a total rethink with a significant reduction in the number of units and with full accessibility for all.’

For the full objection, see www.burwashsaveourfields.org.uk/exhibits 20 Ian Franks’ objection.

- 59 The large number of steps to the entrances to the houses mean they are unusable for the elderly, those with mobility issues and those with buggies. The Planning Inspector noted this in his appeal decision at para 17:

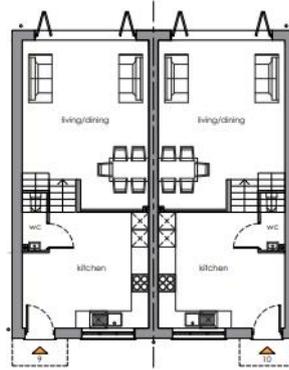
‘Some of the properties, such as Plots 19-22, would have a front door around two metres above the ground level, with access required via twelve steps. There would be additional flights of steps to access the rear garden. This would present an accessibility challenge for those with mobility difficulties but also for small children, those needing to use a pram or residents wishing to simply move household items into the house and garden.’

- 60 In the next paragraph he says such steps are probably unavoidable. This leads back to the main point, which is the problem of this site for housing.
- 61 Step problems have generated increasing awareness recently. In the 2018 failed application, one of Rother District Council’s reasons for refusal was the plan’s ‘poor pedestrian access arrangements (both site wide and within the individual plots), which are primarily stepped and do not provide access for all’. This recognition is most welcome and this principle should be reapplied to the current application.

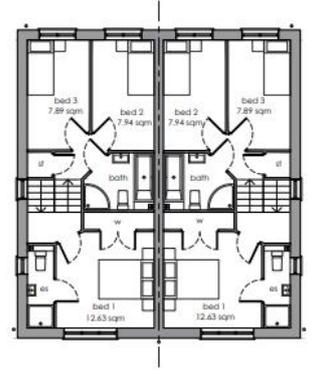
For the decision notice, see www.burwashsaveourfields.org.uk/exhibits 7 2018 application, Decision notice.



STREET
scene



GROUND
floor plan



FIRST
floor plan

62 The designs for units 9-10, above, are typical of the scheme. Units 1-20 are very similar. Units 1-2 are even worse. The street scene shows the double set of steps to both house doors. The ground floor plan shows the five steps that divide each of the ground floors. The first-floor plan shows the five steps which divide up the first floor. This remains housing which would be very problematic for those with mobility issues, those with young children and the elderly.

63 One minor difference between the original reserved matters plans and the repeat application is that the pitch of the roofs has been reduced slightly, see para 5 of this submission. This makes the design of the houses even more unattractive.

Design The High Weald unit

64 In the High Weald unit's objection to the 2018 application, the High Weald unit noted the following factors.

- a) **'Geology, landform, water systems and climate:** The topography of this site is very challenging for built development. It is a steep sided valley with a spring/springs issuing from near the southern boundary, cutting down through the site to the north-western boundary where it flows north-east into Shrub Wood, an ancient woodland and then into the River Rother.
- b) Design standards should also not be compromised due to viability and the topographical difficulties of the site.'

65 These points were well made.

For the 2018 objection, see www.burwashsaveourfields.org.uk/exhibits 18 High Weald Unit 2018 objection.

Design The claimed peer review

66 Accompanying the application is a document claiming to be an independent 'peer review' by Neil Holland. The claim and the reality are stark, as the table below shows.

The claim	The reality	Comment
The review is independent.	Neil Holland and the architect appear to have had a long association together.	This means the so-called peer review can never be independent.

The author is an architect	The signs point to him being a retired architect.	The difference is significant.
The development is at the lower part of the site to minimise the impact, see para 3.8. Similar statements are at para 1.4 and 4.1.	The development occupies the whole of the permitted site. If Neil Holland has included the recreational ground, he is making an entirely false point.	This means that the author is prepared to make false points to bolster the chances of the developer, who is almost certainly paying for the so-called review.
There is an agreed percentage of affordable homes, see para 1.4	There are no affordable homes.	The statement indicates that Neil Holland knows little or nothing about the scheme but is prepared to add in factors to make the scheme attractive.
The proposed footpath is a link to the centre of the village, obviating the need for unnecessary car journeys, see para 4.5.	There is no footpath linking the development to the village centre.	Ditto

Neil Holland's drawing	The architect's drawing
	
Neil Holland has extended the width of the houses 21-25 and reduced the slope to make them more appealing. This false representation is the frontispiece on the Design and Access statement and the so-called peer review.	The scale drawing of the same houses drawn by the architect. Although these plans have been slightly altered, the peer review is written for the last application, but still relied on.
He has also added wisteria on a north-east wall and what looks like roses to make the scene cosier. Wisteria will not grow there and roses will struggle there..	The developer's drawing

<p>The slope, which Neil Holland says at para 2.5 is steeply sloping, has been removed in the idealised picture drawn by him.</p> <p>A garden has been created opposite the houses when none exists. The street furniture bears no relation to the furniture depicted by the architect.</p>	<p>This is all part of Neil Holland’s policy to falsely make the development more appealing.</p>

67 This review must have been sent to the architect, the developer and his agent, who must have seen the falsehoods and all of them must have turned a blind eye to the factual errors. Interestingly, they are all to the advantage of the developer. The peer review’s opinions are worthless and the way they have been presented damages this application and the 2020 application.

Affordable homes

68 In the 2006 Local Plan, the top five issues identified in the Management Plan for the settlement component included: ‘The need to address the declining affordability of housing and the provision of workspace for rural businesses as part of the sustainable development of settlements, in order to maintain rural function.’ As already stated, the first viability exercise was when viability was used as an excuse to increase the housing on the site from 17 units to 30. It was noted by the High Weald unit that in the failed 2018 application, it had been submitted as a full planning application rather than reserved matters, primarily because the developer wishes to remove the requirement for affordable housing on viability grounds. The unit further noted that ‘whilst it is understood that viability would be challenging given the topography, this suggests that the site is not suitable for housing development, not that the provision of much needed affordable housing should be compromised to use this site.’

69 That remains true for this application.

For the High Weald unit 2018 objection, see www.burwashsaveourfields.org.uk/exhibits 18 High Weald unit 2018 objection.

70 As stated earlier, the applicant has signed a Section 106 agreement to provide 40% affordable homes, see Part 3 para 1. In the viability report, it is said the site is not viable. This application does not address this issue and on the applicant's case, he is putting forward a development which is not viable. This application does not ask for and is not permitted to ask for an amendment to the Section 106 in a reserved matters application. This elephant is dealt with in more detail at para 61.

For the Section 106, see <https://www.burwashsaveourfields.org.uk/exhibits> 22 Section 106.

The ecology

71 The developer has refused all requests for our ecologist to visit the site. The last but one refusal was on 24 November 2020, when the developer's agent replied to the request (in blue, and his reply in red), 'Permission for an ecologist to visit the site.' 'No, as we have previously advised in our email to you dated 17 February 2020 the reports that have been submitted with the Reserved Matters application have been produced by qualified professionals who are experts in their individual fields.'

For the full e-mail, see www.burwashsaveourfields.org.uk/exhibits 16 E-mail to the developer dated 3 December 2020.

71a On 26 April 2021, Laurence Hulkes for the developer again refused to allow access to the field for an independent ecologist, three members of our group and a photographer.

72 In the 2018 application, the County Ecologist found eight significant failings in the developer's ecologist's report and three areas of concern. The High Weald Joint Advisory Committee planning officer in her submission objected to the scheme because: 'The development has potential ecological impacts on the site and adjacent woodland which are not addressed in the application material contrary to their policies.' The developer used the same ecologist in 2020. That ecologist seeks to keep parts of his report secret so that they cannot be shown to our ecologist or checked by the group. Inevitably, there would be failures in the ecologist's approach to and the assessment of this site.

73 It is absurd to suggest that where there is an ecologist who makes mistakes, always in favour of the developer, it is acceptable to say that no other expert should be permitted to visit the site. If the developer's ecologist was good at his or her job, he or she would welcome another ecologist confirming his findings.

74 It is far too early to sign off the ecology condition.

Ecology The High Weald unit

75 In the High Weald unit's 2018 objection the following points were made.

- a) 'The development has potential ecological impacts on the site and adjacent ancient woodland which are not addressed in the application material contrary to Objectives G1, W2 and FH3 of the Management Plan.
- b) **Woodland:** The main area of ancient woodland is Shrub Wood to the north-east, but there are also smaller areas of woodland and shaws within the fields to the **north and west.**
- c) **Field and Heath:** the application site comprises three Medieval (AD 1066 - AD 1499) assart fields with historic field boundaries.
- d) The attempts to address the ecological problems with the site that the Ash Partnership [the developer's ecologist] lists in the first para 6.3 (which should read 5.3) have no plan envisaged for them to be maintained.

- e) Objective 6 of the Core Strategy will not be complied with because the intensity of the housing development is likely to put pressure on the threatened habitats.
- f) The intensity of housing development proposed on this site is likely to put pressure on these habitats from informal use by residents and changes to the flows in the watercourse as a result of drainage proposals and adjacent hard surfaces. This would be contrary to Objective G1 of the Management Plan, which is “To restore the natural function of river catchments”, and FH3, which is “To enhance the ecological function of field and heath as part of the complex mosaic of High Weald habitats”.
- g) There is an ecological implication for the Acid/Neutral Flushes and the stream which then runs into ancient woodland (Shrub Wood). Ancient Woodland is an irreplaceable habitat and an important component of the AONB and damage to it would be contrary to Objective W2 “To enhance the ecological functioning of woodland at a landscape scale”. The ecological report does not consider the impact on Shrub Wood.’

76 All these matters needed to be addressed. They have not been addressed satisfactorily.

77 The High Weald unit’s 2020 objection made the following points.

- a) ‘Insufficient details are provided of the amount of soil that would need to be excavated and how this would be treated, contrary to Objective G2 of the Management Plan.
- b) The ecological assessment report submitted with the application has a number of deficiencies which are detailed in an Appendix to this letter.
- c) A Landscape and Ecological Management Plan has not been included and is essential to secure the ongoing benefits of the site and to meet Objective FH3 of the Management Plan.
- d) This is a steep site and the creation of building platforms and the road will require a significant amount of soil removal. There are no details provided of the amount of excavation required, where the soil will be stored during construction, or where it will be placed at the end of the build if it is not to be removed from site. These are important issues for this site and should form part of the submission to demonstrate that excavation has been minimised and good practice followed (see DEFRA’s ‘Construction Code of Practice for the Sustainable Use of Soils on Construction Sites’). The application is therefore contrary to Objective G2 of the High Weald AONB Management Plan “To protect and enhance soils, sandstone outcrops, and other important landform and geological features”.’

78 Burwash: Save our Fields adopts these submissions.

For the High Weald unit’s 2018 and 2020 objections and the 2020 Appendix, see www.burwashsaveourfields.org.uk/exhibits 18 and 19 High Weald Unit 2018 and 2020 objection.

The important historic setting of this site

79 The field is very close to the exceptionally historically important village of Burwash with its medieval High Street. The High Weald unit in their 2018 objection stated their position:

‘Heritage issues

- a) **Settlement:** Burwash is a medieval village with most of the historic development along the ridgetop route, now the A265. More modern development north of the ridge is located off Shrub Lane in Strand Meadow and Rother View.

- b) **Routeways:** Historic public rights of way cross land to the north and west of the site, connecting into the wider countryside and back into the centre of Burwash. Shrub Lane is also a historic route.
- c) The poor design of the houses and layout is uncharacteristic of the historic settlement of Burwash and would be detrimental to the character of the area and the AONB, contrary to Objectives S2 and S3 of the Management Plan.’

For the objection, see www.burwashsaveourfields.org.uk/exhibits 18 High Weald unit 2018 objection.

80 These points put the landscape context of the site well.

The housing quota

81 The developer relies on Rother District Council’s need to build houses. The Court of Appeal on 28 January 2021, in *Monkhill Ltd v Secretary of State* 2021 EWCA Civ 74 at paras 29-34 and 37, decided that where there is a need to ‘protect areas or assets of particular importance’ which includes Areas of Outstanding Natural Beauty, it is not possible to lean towards granting permission for houses because an area has not built its quota of houses.

For an explanation why finding suitable land for housing in Burwash is so difficult, see www.burwashsaveourfields.org.uk/exhibits 13 Burwash and its housing allocation.

81a On 19 April 2021, Andrew Ashcroft, the appointed independent examiner, recommended to Rother District Council that they approve the draft Burwash Neighbourhood Plan subject to some modification and that the plan should proceed to a referendum. Andrew Ashcroft visited Burwash and looked at the Watercress Field site. The plan recommended a nil housing quota for the parish, which was accepted. Burwash Parish Council has accepted the modifications proposed. This means that after a successful vote at a referendum, the plan will become one of the planning documents for the area. Now the plan has reached this advanced stage, the details can be used in a proportionate way by Rother District Council and others. Rother District Council is invited to take the plan into account when making their decision.

Traffic

82 In Shrub Lane there is anger at the plans to make the traffic flow and the parking at Strand Meadow even more chaotic. Generally, there is an understanding that Shrub Lane cannot safely take any more traffic and another large development is misconceived. Traffic issues figure prominently in the community’s objections to this and the last application.

Landscape and visual appraisal report

83 The Landscape and visual appraisal report and the amended report are defective because they ignore the primary finding of the Planning Inspector which was that ‘the development would be a harmful and locally prominent suburban intrusion into the landscape of the AONB’, see para 9 of the report. The same is true for the current proposals. The report considered that ‘the existing landscape value of the site and the surrounding area is high to medium’. There are significant errors in it, such as the weight given to the footpath link to the recreation ground (para 3.1.4 in the 2020 report and para 3.1.5 in the 2021 report) when no such link exists. The author finally and unconvincingly arrives at the conclusion required by the developer, who is paying for the report.

The inadequate consultation

84 The developer’s Community Involvement statement says: ‘the design team have sought extensive involvement from the community regarding this scheme’. This is the opposite of the

truth. There was no community involvement in the latest plans. All the house designs have been changed since the December 2019/January 2020 designs were seen.

- 85 When the December 2019/January 2020 plans were the subject of a village event on 8 January 2020, the developer and his agent declined to attend and only the architect was left to show those present some inaccurate artist's impressions, an inaccurate leaflet and a site plan. He showed no architectural housing plans or any other material.
- 86 The consultation exercise has been deceptive, reluctant and ill-informed. Interestingly, virtually everyone who filled in a form during that exercise was hostile to the proposal. The Parish Council figures were: 2 people were for the scheme (one was an investor living outside Sussex and the other was also from outside the village); 63 people did not support the scheme.
- 87 The Parish Council drafted a summary of the event, in which it listed the responses. Those who attended mentioned the topics listed below.

Issue	Percent/No of people
No affordable/social housing	69% 45 people
Site not suitable	52% 34 people
Access concerns (including steepness of the proposed footpath and difficulties for elderly, disabled and families with young children)	46% 30 people
Concerns about traffic issues	45% 29 people
Too many units	43% 28 people
Parking concerns	32% 21 people
Concerns about the pressures on the local infrastructure (incl. school and surgery) .	29% 19 people
The design had improved (with reservations)	28% 18 people
The designs did not comply with the High Weald unit guide	25% 16 people
Impact on AONB	15% 10 people

- 88 This record is in marked contrast to the record of the responses listed at Appendix C of the developer's Statement of Community Involvement, below.

Ref	Comment/Objection	Qty	Percentage	Rank
1	Improved Design	17	29.31%	9
2	Design Not Improved	21	36.21%	5
3	Affordable Housing	39	67.24%	2
4	Ecology	5	8.62%	11
5	Over Development	25	43.10%	3
6	Light Pollution	2	3.45%	12
7	Access/Parking	44	75.86%	1
8	Footpath Link	14	24.14%	10
9	Infrastructure	20	34.48%	=6
10	Drainage	23	39.66%	4
11	Topography	19	32.76%	8
12	Wrong Location	20	34.48%	=6

Interestingly, the ‘improved design’ is placed at the top although it was ranked only 9th. The fact the second column was a list of reasons people objected to the scheme is mostly missing.

For the Parish Council report of the event, see www.burwashsaveourfields.org.uk/exhibits 17 Parish Council Summary of the 8 January 2020 event.

For an assessment of the event, see www.burwashsaveourfields.org.uk/exhibits 11 2020 January event.

For the Statement of Community involvement, see www.burwashsaveourfields.org.uk/exhibits 25 Statement of Community Involvement.

- 89 In the failed detailed planning application of 2018, the developer sought no consultation with the Parish Council or the wider community. Also in 2018, after the 21-day consultation period was over, Burwash: Save our Fields asked to meet the developer and his agent. A meeting took place. The developer and his agent complained about the questions asked and that the meeting was recorded, even though they both had consented to that at the beginning. Since then they have refused to meet with the group and blocked almost all the group’s attempts at obtaining proper information about the applications.

Archaeology report

- 90 In marked contrast to the rest of the application, the Archaeology evaluation report, dated August 2018, is a well-structured, detailed, balanced and useful report. The work is of a high standard. However, without the major conditions being able to be signed off it would be premature to sign this one off as new events may need a re-evaluation and split decisions are invariably inappropriate.

The objectors

- 91 The last similar planning application in 2018 had over 460 different objectors (the appeal and the application). No one supported the scheme. The scale of opposition to that application is a relevant factor when linked to the developer’s refusal properly to engage with the local community and his inability to deal with the community’s specific objections.
- 92 For the last application it was difficult to let the community know about the scheme. Lockdown meant there could be no meetings and for most of the consultation period no leafleting by members. Despite this, there are over 390 objections to the scheme. There were 20 more objectors from Burwash than there were to the 2018 application. Last time there were no portal supporters for the 2018 application and the 2019 appeal. The last time there was one person

whose support was given with conditions that the site would be sensitive to the surroundings and the sewage issue was resolved. Jane Lewis of St Leonards also believed the scheme ‘would be brilliant for people in Burwash’. As she declined to give her address, it is assumed she is the Jane Lewis who works for Park Lane Homes (SE) Ltd which is based in St Leonards. The group disqualified her support until it was shown she was not an employee of Park Lane Homes (SE) Ltd. Park Lane Homes (SE) Ltd has never sought to challenge this assertion.

Applying the issues to the application

- 93 To apply the issues to the application, it is logical to divide up the 2021 application. However, before that exercise is undertaken, it should be noted that the decision letter, dated 7 March 2018, with the conditions in issue, states that the applicant is reminded of the desirability of entering into pre-application discussion with the local planning authority in relation to any reserved matter applications. In the forms to both applications, the applicant says he has not sought pre-application advice. This means the applicant cannot complain if permission is refused for matters which could have been resolved during pre-application advice (subject to Covid restrictions).

For the decision notice, see www.burwashsaveourfields.org.uk/exhibits 7 2017 Decision notice.

The proper approach

- 94 Although the Planning, Design and Access statements are far from clear, the developer is seeking Condition 1 approval, which is about the access, appearance, hard and soft landscaping, layout and scale of the site. This needs to be divided up.

Access

- 95 This does not include permission to connect with Strand Meadow as this has already been granted. It does include the access that the individual houses have to the service road. Perhaps more importantly, it includes the access provided by the footpath to the village. The developer has not provided the access to the village that he has undertaken to provide in the Section 106 agreement. This alone means the application should be refused.

Appearance

- 96 ‘Appearance’ means the design and, more importantly, the impact on the AONB. Although the design has been improved, the 2018 designs had no architect involvement and were truly dreadful, so it would be hard to design something that was not an improvement. For the reasons already given, there is a clear adverse impact on the AONB. This alone means the application should be refused.

The layout and scale

- 97 GOV.UK defines scale in reserved applications as ‘the height, width and length of each building proposed within the development in relation to its surroundings’. Surroundings include the AONB and the scale, height etc. must also be seen as factors to be judged on its impact on the AONB and neighbouring properties, like Rother View to the south.
- 98 GOV.UK defines layout as ‘the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development’. The open spaces within and outside the development include the development’s impact on the AONB.

Conclusion

- 98a The Planning Inspector and Rother District Council were right to reject the 2018 scheme. Rother District Council was right to reject the 2020 reserved matters application. Sam Batchelor, a senior planning officer, advised the planning committee that if they were minded to refuse the reserved matters application it was better they reject the whole application. That is the decision that the planning rules require and which the local community shows it wishes in its objections.

Robert Banks

5 May 2021

Burwash: Save Our Fields

website: www.burwashsaveourfields.org.uk

email: contact@burwashsaveourfields.org.uk

Facebook: [burwashsaveourfields](https://www.facebook.com/burwashsaveourfields)