

# **Burwash Neighbourhood Development Plan 2020-2028**

**A report to Rother District Council on the  
Burwash Neighbourhood Development Plan**

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## **Executive Summary**

- 1 I was appointed by Rother District Council in February 2021 to carry out the independent examination of the Burwash Neighbourhood Development Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood area on 12 February 2021.
- 3 The Plan includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on safeguarding its local character within the wider High Weald Area of Outstanding Natural Beauty. It proposes detailed design guidance.
- 4 The Plan has been underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Burwash Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood area.

**Andrew Ashcroft**  
**Independent Examiner**  
**13 May 2021**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Burwash Neighbourhood Development Plan 2020-2028 (the 'Plan').
- 1.2 The Plan has been submitted to Rother District Council (RDC) by Burwash Parish Council (BPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its updates in 2018 and 2019. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted plan has been designed to be distinctive to its landscape setting. It has a clear focus on maintaining the integrity of the neighbourhood area and ensuring good design standards.
- 1.6 Within the context set out above this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the Plan area and will sit as part of the wider development plan.

## **2 The Role of the Independent Examiner**

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by RDC, with the consent of BPC, to conduct the examination of the Plan and to prepare this report. I am independent of both RDC and BPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

### *Examination Outcomes*

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
  - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
  - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Sections 7 and 8 of this report.

### *Other examination matters*

- 2.6 In examining the Plan I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
  - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report. I am satisfied that the submitted Plan complies with the three requirements.



### 3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan;
- the Basic Conditions Statement;
- the Consultation Statement;
- the Background Evidence documents;
- the Strategic Environment Assessment;
- the Parish Council's responses to my Clarification Note;
- the District Council's response to my Clarification Note;
- the representations made to the Plan;
- the saved elements of the Rother District Local Plan 2006;
- the Rother District Local Plan Core Strategy 2011 to 2028 (adopted in September 2014);
- the Rother Development and Sites Allocations Local Plan (adopted in December 2019);
- the report on the examination of the Rother Development and Site Allocations Local Plan;
- the National Planning Policy Framework (February 2019);
- Planning Practice Guidance (March 2014 and subsequent updates); and
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 12 February 2021. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. The visit is covered in more detail in paragraphs 5.9 to 5.16 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. This decision was assisted by the level of detail available to me on the Plan, including the various representations and the responses to the clarification note. I advised RDC of this decision once I had received the responses to the clarification note.

3.4 This report replaces the original report of 19 April 2021. It clarifies details on planning applications which have been determined on the allocated housing site off Strand Meadow in the Rother Local Plan 2006. It also comments on the relationship between the application history on this site, the delivery of strategic housing growth in Burwash village and the outcome of the examination of the neighbourhood plan.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. The Statement sets out the mechanisms used to engage all concerned in the plan-making process. It also provides specific details about the consultation process that took place on the pre-submission version of the Plan (May to July 2019). It captures the key issues in a proportionate way and is then underpinned by more detailed appendices. It is a good example of a Consultation Statement.
- 4.3 The Statement sets out details of the comprehensive range of consultation events that were carried out in relation to the initial stages of the Plan. They included:
- the consultation questionnaire sent out to all households (October/November 2016);
  - the use of publicity stands at the Summer and Christmas Fairs (2017 and 2018);
  - the use of stalls at the Annual Assembly (2017, 2018 and 2019);
  - the transport and traffic survey (Dec 2017 and Summer 2018);
  - the Call for Sites (February 2018 and on-going);
  - the Vision and Objectives consultations (February/March 2018);
  - the Housing Needs Questionnaire (April 2018);
  - the Air Pollution surveys (from June 2018 and ongoing);
  - the Dark Skies monitoring (early Spring 2018);
  - the Biodiversity survey of the Parish by the Sussex Biodiversity Records Centre (November 2018);
  - the site promoters/landowner presentations (April 2018);
  - the survey of local businesses (April/June 2018); and
  - the community consultation on the Call for Sites (July 2018).
- 4.4 The Statement also provides details of the way in which the Parish Council engaged with statutory bodies. It is clear that the process has been proportionate and robust.
- 4.5 The Statement provides specific details on the comments received during the consultation process associated with the pre-submission version of the Plan (Sections 2 and 3). It identifies the principal changes that worked their way through into the submission version (Section 4). This process helps to describe the evolution of the Plan.

- 4.6 It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.
- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. RDC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

#### *Representations Received*

- 4.8 Consultation on the submitted plan was undertaken by RDC that ended on 6 November 2020. This exercise generated comments from a range of organisations as follows:
- High Weald AONB
  - Environment Agency
  - National Grid
  - Rother District Council
  - South East Water
  - East Sussex County Council
  - Historic England
  - Southern Water
  - Natural England
  - The Nutrition Centre
  - Simon Bowyer (Plan2Develop)
  - Park Lane Homes (South East) Limited
  - Heathfield and Waldron Parish Council
  - Wild about Burwash
- 4.9 Representations were also received from 28 local residents.
- 4.10 I have taken account of the various representations in examining the Plan. Where it is appropriate to do so I make specific reference to the individual representations in Section 7 of this report.

## 5 The Neighbourhood Area and the Development Plan Context

### *The Neighbourhood Area*

- 5.1 The neighbourhood area consists of the parish of Burwash. Its population in 2011 was 2713 persons living in 1178 houses. It was designated as a neighbourhood area on 7 June 2016. It is an irregular area located between Heathfield to the west and Etchingham to the east. The neighbourhood area is predominantly a rural parish and much of its area is in agricultural use. The entire Parish is within the High Weald Area of Outstanding Natural Beauty (AONB). The A265 runs through the neighbourhood area in a south-west to north-east direction.
- 5.2 The parish comprises three separate villages – Burwash itself, Burwash Weald and Burwash Common. In turn they sit astride the A265. The three villages are ridgetop settlements with steep river valley sides affording spectacular views across the Weald in general and towards the coast to the south.
- 5.3 The remainder of the neighbourhood area consists of a very attractive agricultural hinterland.

### *Development Plan Context*

- 5.4 The development plan for Rother District consists of two principal documents - the Core Strategy (adopted in September 2014) and the Development and Site Allocations Local Plan (adopted in December 2019). The saved elements of the Rother Local Plan 2006 are also relevant. Together these Plans set out the basis for future development in the District up to 2028.
- 5.5 The saved elements of the Rother District Local Plan 2006 have significance for the development boundary of Burwash Village in general, and the development of land off Strand Meadow in particular. Saved Policy DS3 of that Plan is relevant insofar as the majority of the Strand Meadow site (that which has been the subject of a number of planning applications) lies within the defined development boundary. The only area that is excluded is that part of the site comprising proposed use for recreational purposes including allotments. Policy VL1 of the saved Local Plan allocates land south west of Strand Meadow for housing and recreational purposes.
- 5.6 The Core Strategy sets out the overall approach towards development in the District. Policy OSS1 (Overall Spatial Development Strategy) focuses new development in Bexhill. It also supports development in both Battle and Rye and limited growth in villages. Policy RA1 (Villages) comments about the strategic requirement for the overall development of 1670 homes in such locations. Within this context Burwash village is identified as one of a series of Local Service Villages. It has a specific requirement to provide a net total of 50 new dwellings in the Plan period. The Core Strategy identifies that 22 of the 50 dwellings were committed in April 2013 and a need to identify a net total of at least 35 dwellings on large sites. The following other policies in the Core Strategy are particularly relevant to the Burwash Plan:

Policy OSS2	Use of development boundaries
Policy OSS3	Location of development
Policy RA2	General strategy for the countryside
Policy RA3	Development in the Countryside
Policy EN2	Stewardship of the Historic Built Environment

- 5.7 The Development and Site Allocations Local Plan (DaSALP) allocates sites for a range of uses in certain parts of the District and includes more detailed development management policies. This Plan does not include any allocations in the designated neighbourhood area. The following policies in the Plan are particularly relevant to the Burwash Plan:

Policy DHG9	Extensions, Alterations and Outbuildings
Policy DEN1	Maintaining Landscape Character
Policy DEN2	The High Weald AONB
Policy DEN4	Biodiversity and Green Space

- 5.8 The Basic Conditions Statement usefully highlights the key policies in the development plan and how they relate to policies in the submitted Plan. This is good practice. It provides confidence to all concerned that the submitted Plan sits within its local planning policy context. The submitted neighbourhood plan has been prepared within its wider development plan context. In doing so it has relied on up-to-date information and research that has underpinned previous and existing planning policy documents in the District. This is good practice and reflects key elements in Planning Practice Guidance on this matter. I comment later in this report about the way in which the submitted Plan has addressed the strategic housing requirements in the parish.

#### *Unaccompanied Visit*

- 5.9 I visited the neighbourhood area on 12 February 2021. The weather was cold, dry and windy. I maintained the Covid-related regulations that were in place at that time. In particular I had no contact with another person (or vice versa).
- 5.10 I drove into the neighbourhood area from the A21/A265 from the north and the east. This gave me an initial impression of its setting and the character in general, and within the wider context of the High Weald AONB in particular.
- 5.11 On arrival in Burwash I parked in Shrub Lane. Given the compact nature of the village I was able to carry out the majority of the visit on foot. I looked initially at affordable housing units in Morris Close. Thereafter I walked to the proposed vehicular entrance to the Park Lane Homes site off Strand Meadow. I saw the topography of the site and its relationship with the existing homes in this part of the village. I then walked back to the Fire Station by way of the footpaths and then into the village centre. In doing so I saw the row of semi-detached cottages at the junction of High Street and Shrub Lane and the very effective way in which they made use of the gradients in this part of the village.

- 5.12 The village centre provided much variety and interest. I looked at the Church and its very well-maintained grounds. I saw the way in which they made good use of the gradient to the south and the seamless way in which they merged with the adjoining houses. I also saw the distant views over the valley to the south and to the distant ridgeline. I then looked at the war memorial and the Kipling statue.
- 5.13 In the High Street I saw a fascinating range of historic, vernacular buildings. My understanding and interpretation of the various buildings was much assisted by the very informative information board in the bus shelter. In addition to the various physical elements of the parish I was also able to see elements of its social and community life. The evidence of the Burwash Parish 'Thank You Bunting' Knitting Project was both colourful and interesting. I was also able to see the way in which the various retail and commercial facilities in the High Street were continuing to operate in the Covid lockdown and social distancing arrangements. I also saw the way in which the trees in the High Street were pollarded and the memorial plaque for George Peirce and his role in the reconstruction of the High Street.
- 5.14 I continued walking to the western edge of the village. I saw the attractive and well-maintained Village Hall and the vacant Oakley's Garage. I then walked back to Shrub Lane. In doing so I saw the 100 poppies bench designed by Mary Clarke.
- 5.15 I then drove to Burwash Weald and Burwash Common via School Hill and Batemans Lane. This provided me with an opportunity to see the significance of Batemans itself and the importance of the River Dudwell within the wider landscape and its associated topography. I saw the different characters of Burwash Weald and Burwash Common and the way in which they straddled the A265. In Burwash Common I looked at St Philips Church and its impressive lych gate. I looked at the Burwash Common Pavilion and the recreation area. I also walked along Vicarage Road and saw the way in which its character was quieter and more intimate than that of the A265.
- 5.16 I finished my visit by driving towards Stonegate and then back to Etchingham. This highlighted the relationship between the parish and its wider landscape setting of the High Weald AONB.

## 6 The Neighbourhood Plan and the Basic Conditions

6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is an informative document. It is also proportionate to the Plan itself.

6.2 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan in the area;
- be compatible with European Union (EU) obligations and European Convention on Human Rights (ECHR); and
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7).

6.3 I assess the Plan against the basic conditions under the following headings.

### *National Planning Policies and Guidance*

6.4 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in February 2019. This approach is reflected in the submitted Basic Conditions Statement.

6.5 The NPPF sets out a range of core land-use planning issues to underpin both plan-making and decision-taking. The following are of particular relevance to the Burwash Neighbourhood Plan:

- a plan led system– in this case the relationship between the neighbourhood plan, the adopted Rother Core Strategy and the adopted DaSALP;
- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- taking account of the different roles and characters of different areas;
- highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
- conserving heritage assets in a manner appropriate to their significance.

6.6 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF

indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.7 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 6.8 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a vision for the future of the neighbourhood area within the context of its role in the settlement hierarchy. In particular it includes a series of policies on the scale and nature of new development and to protect its landscape setting within the High Weald AONB. The Basic Conditions Statement maps the policies in the Plan against the appropriate sections of the NPPF.
- 6.9 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance in March 2014. Paragraph ID:41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.10 As submitted the Plan does not fully accord with this range of practical issues. The majority of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.11 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies for employment development (Policies IN03/04). In the social role, it includes policies on housing mix and tenure (Policy HO01) and open spaces (Policies GP06/07). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on the AONB (Policy GP01), the natural environment (Policy EN02) and on dark skies (Policy EN04). The Parish Council has undertaken its own assessment of this matter in the submitted Basic Conditions Statement.

*General conformity with the strategic policies in the development plan*

- 6.12 I have already commented in detail on the development plan context in Rother District in paragraphs 5.4 to 5.8 of this report.



- 6.13 I consider that the submitted Plan delivers a local dimension to this strategic context. The Basic Conditions Statement helpfully relates the Plan's policies to policies in the development plan. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan subject to the recommended modifications in this report. I make specific comments on the way in which the submitted Plan has addressed housing growth issues in Section 7 of this report.

*European Legislation – Strategic Environmental Assessment*

- 6.14 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.
- 6.15 In order to comply with this requirement RDC prepared a Strategic Environmental Assessment (SEA) for the Plan (May 2019). Paragraph 4.1.0 of the SEA comments that the Plan was initially exploring the allocation of 52 units (based on updated commitments) and as such, it was determined by RDC that an SEA would be required. As the Plan has developed, it supports this requirement but does not seek to allocate the sites for residential development. It will however through its location in the AONB, nature and subject still have an impact on the environment and this is assessed through the SEA.
- 6.16 The report is thorough and detailed. It assesses the Plan's policies against relevant elements of the Sustainability Appraisal. Paragraphs 4.1.2-4.1.4 comment that:

*'The combined effect of the policies in the Plan will mainly relate to the wider landscape and heritage, and will result in efficient use of land and natural resources. The Infrastructure: Leisure, Economy & Tourism policies of the Plan will have the greatest effect on heritage assets and the High Weald AONB. They will provide additional protection to assets/businesses that have been identified as important to the community and the existing villages. In the majority of instances, direct impacts are not expected but there will be indirect impacts, although this does not lessen the effect. The greatest impacts tend to be largely focused on accessibility and actions that may cause a difference in forms of travel. However, the benefits to the community on retaining existing business outweigh this impact on a sustainability value. The combined impact of the infrastructure policies will have a positive effect on provision of services, increasing accessibility and other specific parts of the environment. Although the overall impacts on the environment are largely positive, there will be no worsening of existing issues connected with the environment and for a significant number will result in positive impacts to the environment from the adoption and implementation of all the policies contained within the plan'.*

*European Legislation - Habitat Regulations*

- 6.17 AECOM was appointed by Rother District Council to assist in undertaking a Habitats Regulations Assessment (HRA) of its Development and Site Allocations Plan. The commission also covered the neighbourhood plans (including the Burwash Plan) that

were being prepared in the district at that time and which will allocate sites to meet the balance of the Core Strategy's development requirements.

6.18 The HRA report (September 2018) is both thorough and comprehensive. By definition it was broader than a traditional HRA for an individual neighbourhood plan. It takes appropriate account of the significance of the following protected sites:

- the Pevensey Levels SAC;
- the Pevensey Levels Ramsar site;
- the Dungeness, Romney Marsh and Rye Bay SPA (including the marine SPA extension);
- the Dungeness, Romney Marsh and Rye Bay Ramsar;
- the Dungeness SAC; and
- the Hastings Cliffs SAC (within Hastings District).

It provides assurance to all concerned that the submitted Plan takes appropriate account of important ecological and biodiversity matters.

6.19 It concludes that the wider package of plans is not likely to have significant environmental effects on European nature conservation sites or undermine their conservation objectives alone or in combination taking account of the precautionary principle. As such Appropriate Assessment is not required.

6.20 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.

6.21 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. In addition, there has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On the basis of all the evidence available to me, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

### *Summary*

6.22 On the basis of my assessment of the Plan in this section of my report I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

## 7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. In particular, it makes a series of recommended modifications to ensure that they have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the Plan area. The wider community and the Parish Council have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (Section 41-004-20190509) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. Where necessary I have identified the inter-relationships between the policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

### *The initial section of the Plan (Sections 1-3)*

- 7.8 These initial parts of the Plan set the scene for the range of policies. They do so in a proportionate way. The Plan is presented in a professional way. It makes very effective use of well-selected photographs and maps. A very clear distinction is made between its policies and the supporting text. It also highlights the links between the Plan's objectives and its resultant policies.
- 7.9 The Foreword and the Executive Summary provide an excellent scene setter for the wider Plan.
- 7.10 The Overview (Section 1) addresses the background to neighbourhood planning. It comments about how the Plan has been prepared and the need for it to comply with the basic conditions. It includes a map of the designated neighbourhood area. It provides a very succinct summary of the role of a neighbourhood plan and how the Plan itself has been prepared within its wider strategic context. The element on the preparation of the Plan neatly overlaps with the Consultation Statement. Other elements of this part of the Plan provide a helpful summary of the neighbourhood area.
- 7.11 The front cover identifies the Plan period. However, it is not otherwise addressed in the Plan itself. I recommend a modification to remedy this procedural matter.

*At the end of paragraph 35 add: 'The neighbourhood area is shown on the map on page 10 of this Plan. The Plan period is 2020 to 2028'*

- 7.12 Section 2 sets out a comprehensive vision and related objectives for the Plan. In all cases they are distinctive to the neighbourhood area. It is clear that the policies flow from the evidence base and the supporting text. It is also clear that the Vision and the Objectives are both distinctive and appropriate to the neighbourhood area.
- 7.13 Section 3 comments about the way in which the Plan has sought to address key issues arising from the planning policy context within which it has been prepared. In particular it assesses the development opportunities which exist in the parish and provides specific commentary on the following matters:
- the RDC district-wide Strategic Housing Land Availability Assessment (2013);
  - an analysis of planning applications in the parish;
  - the call for sites exercise;
  - the evaluation of the sites;
  - the Housing Needs Survey; and
  - the community support for development.
- 7.14 The submitted Plan is accompanied by a series of background and evidence documents. In their different ways they provide the evidence which underpins the resulting policies.
- 7.15 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.
- 7.16 A key element of the Plan's preparation and the comments received on the submitted Plan has been on its approach towards the delivery of new housing in Burwash village to meet the strategic target set out in the Core Strategy. This matter overlaps directly and indirectly with several of the policies in the Plan. On this basis I address it in general terms before the specific policies in the Plan.

#### Housing Delivery

- 7.17 Section 3 of the Plan sets out the way in which BPC has addressed the matter of identifying sites to deliver the strategic housing target for Burwash as identified in the Core Strategy (and as detailed in paragraph 5.6 of this report). In particular it comments about:
- the RDC SHLAA 2013;
  - the separate assessment by the Parish Council of the identified sites in the SHLAA in the parish;
  - the consideration of other potential options;
  - the analysis of planning permissions in the parish;
  - the analysis of the Denton Homes scheme (off Shrub Lane);
  - the planning applications for the Strand Meadow site;

- the Call for Sites process as part of the preparation of the neighbourhood plan; and
- the findings of the Housing Needs Survey.

- 7.18 A key element of the mathematical delivery of new houses in the neighbourhood area has been the determination of the planning applications on the Strand Meadow site as being promoted by Park Lane Homes. Outline planning permission for residential development on the site was granted in March 2018 (RR/2017/582/P). Thereafter a full application was refused permission (RR/2018/1787/P). A subsequent appeal was dismissed. This history is important for two related reasons. The first is that the site is allocated for residential and recreational use in the saved policies of the Rother District Local Plan. The second is that the anticipated delivery of 30 dwellings on this site is committed and therefore excluded from the residual requirement for 22 dwellings to be identified on large sites in Burwash village.
- 7.19 This part of the Plan comes to two overarching conclusions. The first is that ‘everyone involved in researching and contributing to this Plan understands the huge tension between our need for additional housing and the need to protect the AONB. The steepness of the land surrounding each of our ridgetop villages, sloping into the Rother and Dudwell valleys provides irreplaceable natural habitats and long-distance views of unparalleled beauty’ (Section 3 - paragraph 54 of the Plan). The second is that ‘there are no development sites, which meet RDCs requirement of six or more homes within the existing development boundary, which will be supported by RDC and the community. For this reason, we are not allocating any sites for development within this Plan’ (Section 3 - paragraph 64 of the Plan). This approach has generated representations/objections to the Plan from both RDC and the development industry.
- 7.20 This outcome reflects the evolution of the neighbourhood plan itself. During its preparation BPC opted to change from a plan which allocated sites to one which did not allocate sites. That decision overlapped with the advanced stages of submission and examination of the DaSALP. As such no Burwash housing allocations were considered within the District Council’s now adopted DaSALP. In this context the neighbourhood area is one which is affected by the provisions of Policy OVE1 of the DaSALP which provides an interim policy approach whilst neighbourhood plans are prepared to address shortfalls in the delivery of strategic growth in certain settlements. Plainly the relationship between the Core Strategy, the DaSALP and the neighbourhood plan has not proceeded as planned. This has created a degree of uncertainty for all concerned in the delivery of the local element of the strategic housing requirement for Burwash village.
- 7.21 In this strategic context it would have been helpful if the neighbourhood Plan had identified a site or sites to meet the residual strategic requirement for new development in Burwash village. Nevertheless, BPC has explained in the Plan the way in which it has grappled with the various potential development options on the one hand whilst seeking to respect the character and appearance of the AONB in general and the three settlements in particular on the other hand.

7.22 During the examination process the matter of housing delivery became more complicated. In February 2021 RDC refused a reserved matters application for the Park Lane Homes site off Strand Meadow (RR/2020/1822/P). Park Lane Homes submitted a further reserved matters application (RR/2021/409/P) shortly afterwards. Park Lane Homes has now submitted an appeal against RDC's decision on RR/2020/1822/P.

7.23 In these wider circumstances I have considered two potential outcomes for the examination of the Plan as follows:

*Outcome 1* – To recommend modifications to the Plan in general, and to its approach to housing development in particular so that it will be in general conformity with the development plan and support the delivery of the residual strategic housing requirement in the neighbourhood area and specifically in Burwash village.

*Outcome 2* – To recommend that the Plan does not meet the basic conditions as it fails to respond positively to meeting the residual element of the strategic housing for Burwash village in the Core Strategy and as such is not in general conformity with the development plan. In these circumstances the Plan should not proceed to referendum. This approach would correspond to that suggested by several representations from the development industry.

7.24 I have considered this matter very carefully. Based on all the available evidence I recommend an approach based on Outcome 1. I have reached this conclusion for three related reasons. The first is that the Plan does not seek to challenge the strategic need for new development in Burwash village in its view that it has been unable to identify sites to accommodate that growth. The second is that the Plan does not include any policies which would directly prevent the delivery of the residual amount of strategic growth in the event that an appropriate site could be identified.

7.25 The third reason is that the wider development plan provides a default mechanism for the scenario which has arisen. Section 8 of the DaSALP updates the delivery of strategic housing in the District beyond the position as identified at the time of the adoption of the Core Strategy. It reaffirms the Core Strategy target for the delivery of 5700 net additional homes in the period to 2028. The third part of Policy OVE1 of the DaSALP comments that:

*'Until such time as a Neighbourhood Plan for the relevant settlement with an outstanding Core Strategy housing requirement is in force, planning applications will be favourably considered for development proposals in those settlements where:*

- (i) they contribute to meeting the housing target for that settlement and accord with the relevant spatial strategy; and*
- (ii) the site and development proposals are otherwise suitable having regard to other relevant policies of the Core Strategy, including the considerations in OSS2 and OSS3, and of this Plan'*

7.26 This approach is reinforced in RDC's representation to the Plan in which it commented:



*'Given Burwash's positive acknowledgement of its housing target and that the outstanding quantum of development affected is 22 dwellings which is de-minimus in the context of the overall target in adopted Core Strategy and RDC would not wish this void to impact on a successful examination of the Burwash Neighbourhood Plan. Policy OVE1 in the adopted DaSALP ensures that appropriate sites can come forward in Burwash. In any event, to support the new Local Plan (2019-2039) Rother has recently launched through its HELAA a 'call for sites' (October 2020) which will consider housing potential across the District'*

- 7.27 This representation pre-dates the Council's separate refusal of the reserved matters application for land off Strand Meadow (RR/2020/1822/P). Nevertheless, that decision reflects the difficulties that have been encountered in identifying and delivering sites for new development in the parish in general, and in Burwash village in particular. In addition, whilst the impact of that decision locally is significant it does not have statistical or strategic implications on the delivery of housing in the wider District. Irrespective of the outcome of the most recent planning application on the Strand Meadow site or the eventual appeal decision on the 2020 proposal, the 22-dwelling residual strategic housing requirement excludes the 30 dwellings that the Strand Meadow site would otherwise deliver.
- 7.28 In a broader sense the first outcome would:
- reflect the broader work which the community has undertaken on the Plan;
  - safeguard the other policies in the plan which meet the basic conditions (subject to recommended modifications);
  - provide a set of policies at a neighbourhood level to consolidate the other policies in the development plan; and
  - provide a more bespoke set of policies to assist in future work to identify residential sites to meet the strategic housing requirements in the Core Strategy (or a future iteration of that Plan) for the neighbourhood area.
- 7.29 In particular the first outcome would take account of the approach which was put in place in the DaSALP to reflect the circumstances which prevailed at that time. Policy OVE1 provides a strategic context for settlements where allocations were not identified in that Plan and where their emerging neighbourhood plans were expected to deliver the residual element of their respective housing requirements as identified in the Core Strategy. The policy ensures that in the interim period whilst neighbourhood plans are being prepared development proposals in those settlements would be favourably considered where they contribute to meeting the housing target for that settlement, accord with the relevant spatial strategy and otherwise meet design and other planning considerations. This approach reflected the importance of ensuring strategic housing delivery in the District and took account of the findings of the Planning Inspector's report on that Plan (Issue 5).
- 7.30 The identification of sites to meet the residual housing requirement in the neighbourhood area in general and in Burwash village in particular has not taken place as part of the development of the Burwash neighbourhood plan. In these circumstances the neighbourhood plan has not directly applied itself to meeting the

strategic delivery of new housing in the District in general, and in Burwash village in particular as this matter is no longer within the scope of the plan. As such it would be contrary to the wider approach of the Core Strategy and the DaSALP for the potential making of the neighbourhood plan to avoid the ongoing implications of Policy OVE1 of the DaSALP.

- 7.31 The second outcome would be a matter-of-fact response to a specific, albeit very important, aspect of the Plan. In particular it would offer no benefits beyond those in outcome 1 in housing delivery as the default position in the neighbourhood area would also be Policy OVE1 of the DaSALP in that scenario.
- 7.32 In these circumstances I recommend the following package of modifications to the Plan:
- the relocation of the majority of Section 3 into an appendix of the Plan (by way of background commentary on the work undertaken during Plan preparation and the content of the Plan itself)
  - the inclusion of a revised Section 3 in the Plan;
  - the incorporation within the revised Section 3 of an explicit reference to the effect of Policy OVE1 of the DaSALP to ensure its ongoing application in Burwash; and
  - consequential changes to the Executive Summary of the Plan.

*Relocate Section 3 to a separate appendix and with the following modifications:*

*‘Replace ‘Section 3’ in its title with ‘Appendix [insert number]’*

*Insert as a new paragraph after the heading: ‘This appendix sets out the work which the Parish Council has undertaken during the preparation of the Plan to identify sites to meet the strategic housing requirement for Burwash village as identified in the Core Strategy. It is provided by way of a context to Section 3 of the Plan itself which identifies the way in which the Parish Council has addressed this important matter in a policy sense’*

*Introduce a new section 3 of the Plan as follows:*

*‘Section 3: The delivery of the strategic housing requirement for Burwash Village*

*The Plan has sought to identify and secure the delivery of the residual element of the 52 dwellings identified for Burwash village in Figure 17 of the DaSALP. The work undertaken by the Parish Council to identify appropriate sites in the neighbourhood area in general, and in and around Burwash village in particular, is detailed in Appendix [insert number] of this Plan.*

*The matter became more challenging with RDC’s refusal of the reserved matters planning application on the site of Strand Meadow (RR/2020/1822/P). The earlier outline planning permission indicated the delivery of 30 dwellings. A further application (RR/2021/409/P) was submitted shortly after this decision.*



*This planning application history, together with the wider work on assessing potential sites, highlights the challenges in identifying appropriate and deliverable sites in the neighbourhood area. In these circumstances the Parish Council has decided not to allocate sites for development in this Plan. This decision is based on its detailed assessment of the various development site opportunities and the environmental designation in the parish. Nevertheless, the Parish Council recognises that the strategic housing need remains and that it will need to respond to proposals which may come forward to accommodate that need.*

*In this context the neighbourhood plan acknowledges that, in these circumstances, Policy OVE1 of the DaSALP will be a key factor in the determination of planning application in the parish which seek to address this strategic requirement for new housing. In particular Policies OSS2 and OSS3 of the Rother Core Strategy would have particular significance. For clarity Policy OVE1 of the DaSALP is reproduced below:*

*Policy OVE1: Housing supply and delivery pending plans*

*Housing sites sufficient to meet the Core Strategy requirement of at least 5,700 net additional homes over the period to 2028 will be met by allocations and other provisions in this Plan and Neighbourhood Plans.*

*No phasing restrictions will be imposed on development allocations, other than for site-specific, normally infrastructure, reasons.*

*Until such time as a Neighbourhood Plan for the relevant settlement with an outstanding Core Strategy housing requirement is in force, planning applications will be favourably considered for development proposals in those settlements where:*

- i. they contribute to meeting the housing target for that settlement and accord with the relevant spatial strategy; and*
- ii. the site and development proposals are otherwise suitable having regard to other relevant policies of the Core Strategy, including the considerations in OSS2 and OSS3, and of this Plan'*

*In the Executive Summary replace sections 6 to 16 with:*

*'6. BPC has undertaken a significant amount of work on identifying appropriate and deliverable housing sites in the parish in general and within and on the edge of Burwash Village in particular. This work is summarised in Appendix [insert number]. Taking account of a series of environmental and topographical issues the Parish Council has decided not to allocate sites in the Plan.*

*7. Nevertheless, the Parish Council recognises that the strategic housing need remains and the parish will need to respond to proposals which may come forward to accommodate that need. In this context the neighbourhood plan acknowledges that in these circumstances that Policy OVE1 of the DaSALP will be a key factor in the determination of planning applications in the parish which seek to address this strategic requirement for new housing. In particular Policies OSS2 and OSS3 of the Rother Core Strategy would have particular importance.*

*8. The Parish Council remains committed to playing its part in delivering the strategic housing requirement for the parish as identified in the Core Strategy. It is also committed to exploring other similar proposals to the highly successful Morris Close development in order to provide affordable housing for the community. It will also look into the merits of setting up a vehicle such as a Community Land Trust to assist in the delivery of new homes'*

Burwash Village Settlement boundary

7.33 Park Lane Homes make separate comments about the unwillingness of BPC to allocate the site with outline planning permission for the development of 30 dwellings off Strand Meadow within the Plan.

7.34 I sought clarification from BPC about its approach to this matter. It commented that:

*'Our approach to this (Plan) has been to carry out extensive consultation and to produce a plan which truly reflects the community's views in accordance with the core principle of the Localism Act. The development at Strand Meadow was considered carefully by the Steering Group and we decided not to include this site on the basis of the very contentious scheme proposed by Park Lane Homes because its inclusion would have been completely at odds with the views of this community. This would have seriously put at risk our ability to obtain a positive outcome to the referendum'.*

7.35 Whilst I understand the approach that BPC has taken on this matter under normal circumstances there would have been clear merit in allocating the site for residential development in the Plan. It would have acknowledged the grant of outline planning permission and the expectation that reserved matters or full applications would follow and would be positively determined. However, this has not been the case here – two planning applications have been refused. I comment on this issue in greater detail in paragraphs 7.46 to 7.53 of this report. Nevertheless, in general terms the approach taken by BPC reflects the planning history of the site and, in any event, the majority of the proposed Strand Meadow site is already within the Burwash Village settlement boundary.

Policy GP01 Area of Outstanding Natural Beauty

7.36 This policy celebrates the location of the neighbourhood area within the High Weald AONB. The topography of the High Weald defines the character of the parish. Paragraph 172 of the National Policy Planning Framework (NPPF) 2019 comments that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty.

7.37 The policy approaches the matter in two related ways. The first comments generally about the responsibilities associated with AONB designation. The second sets out a series of criteria with which development proposals should comply. Given the inclusion of the second part of the policy and as the whole of the parish is within the High Weald AONB I am satisfied that the policy is appropriate for the Plan rather than relying on national and local planning policies.

7.38 Nevertheless I recommend a series of recommended modifications to ensure that the policy has the clarity required by the NPPF. In turn they address the following matters:

- the tone of the policy;
- the extent to which the criteria in the second part of the policy may not necessarily apply to every planning application; and
- that the approach in the second criterion should only apply to watercourses which are directly affected by the proposed development.

7.39 Policy GP02 comments separately about views within the AONB. I have recommended that its approach is incorporated into this policy. I also recommend that the supporting text for Policy GP02 is repositioned to the end of the text for Policy GP01. Paragraph 7.40 of this report provides the necessary details.

**Replace ‘Development will only be permitted’ with ‘Development will be supported’**

**Replace ‘In particular, development shall:’ with ‘As appropriate to its scale, nature and location proposals for new development should’**

**In a) delete ‘Need to’**

**In b replace ‘all’ with ‘affected’**

**Add a new criterion to read: ‘g) protect the setting of the parish including views into and out of the historic built and landscape setting of the AONB from any area to which the public has access’**

*Incorporate the supporting text from Policy GP02 at the end of the text for this policy.*

Policy GP02 Views into and from the AONB

7.40 This policy identifies a series of important views in the parish. It comments that developers will be required to provide evidence of the impact of their developments from any area to which the public has the right of access. It also comments that developments will generally only be supported if they conserve and protect the setting of the parish within the AONB.

7.41 I sought clarification from BPC on the extent to which it had identified specific views. In its response BPC commented that:

*‘(it) considered the production of a map to highlight the many views but given the sheer number both into, out of and across the Parish it was felt that this would be very difficult to annotate onto a map to produce a meaningful and understandable result. We therefore settled upon wording the policy to cover any view from areas to which the public has access’*

7.42 It is clear that the views in general in the AONB, and from the ridgetop settlements across lower ground in particular, are important elements of the character of the parish.

However, as no specific views are identified I recommend that the policy is deleted and that its approach is incorporated as an additional criterion in Policy GP01. This approach was acknowledged by BPC in its response to the clarification note.

### **Delete the policy**

**Incorporate the approach as an additional criterion within Policy GP01 (see paragraph 7.37 above).**

*Reposition the supporting text to the end of the text for Policy GP01.*

### **Policy GP03 Heritage**

- 7.43 This policy reflects the rich built heritage of the parish. It seeks to protect listed buildings, sites of high archaeological significance, non-designated heritage assets and the conservation area together with other key buildings or structures. It also addresses other aspects which contribute to the distinctiveness of the parish such as the brick pavements and lime trees in the High Street.
- 7.44 The policy has three related parts as follows:
- a general approach towards the protection of built heritage assets;
  - resisting proposals which would have an unacceptable impact; and
  - an approach towards non-designated heritage assets.
- 7.45 The second part of the policy is well-intended. However, it does not provide any clarity for the decision-maker on what types of development would or would not be acceptable. In addition, it does not take account of the degrees of harm identified in paragraphs 189 to 202 of the NPPF. In these circumstances I recommend its deletion. As such any such proposals would be considered against national and local policies.
- 7.46 The third part of the policy is similarly well-intended. However, it largely repeats paragraph 197 of the NPPF. In addition, the Plan does not define any non-designated heritage assets. In these circumstances I recommend its deletion. In these circumstances any such proposals would be considered against national and local policies.
- 7.47 I have considered the appropriateness of retaining the first part of the policy given the recommended deletion of the second and third parts. On balance I am satisfied that it should remain. In its own right it meets the basic conditions with a degree of modification to the wording used. In addition, it reinforces the importance of the built historic environment of the parish.

**In the first part of the policy replace ‘will be expected to’ with ‘should’**

**Delete the second and third parts of the policy.**

### **Policy GP04 Development boundaries**

- 7.48 This policy comments that development proposals outside the three development boundaries will not be supported unless they are needed to meet essential operating

requirements of utility infrastructure providers. The proposed development boundaries are carried forward from the 2006 Local Plan. This approach reflects the approach taken in the submitted Plan which does not allocate land for residential development.

- 7.49 I sought advice from the Parish Council about its decision not to extend the development boundary of Burwash village to accommodate the full extent of the outline planning permission on land off Strand Meadow. A small part of the site with outline planning permission (on its western boundary) lies outside the 2006 development boundary. It commented:

*‘The Parish Council feels the existing settlement boundaries still provide the correct balance of built form and countryside gaps between settlements essential to protect the AONB. Expansion of these boundaries would in particular encourage ridge top development eroding the views of the countryside and potentially linking together our three distinct village settlements. The development at Strand Meadow was considered carefully by the Steering Group and we decided not to include this site on the basis of the very contentious scheme proposed by Park Lane Homes because its inclusion would have been completely at odds with the views of this community’*

- 7.50 I have considered this matter very carefully. In general terms there would be clear merit in the development boundary of Burwash village fully and properly reflecting the development management decisions of RDC. In a broader context it would be unreasonable for any resulting new development on such sites to be classified as being in the open countryside for planning policy and land charges purposes. Similarly, whilst BPC suggest that the inclusion of the site within the development boundary would be at odds with the views of the community those views have already been considered in the round by RDC in its determination of the outline planning application. However, in this specific case, two reserved matters applications have been refused planning permission by RDC. The most recent refusal was in February 2021. On balance given the uncertainty which surrounds this matter I am satisfied that the approach taken in the Plan is appropriate. This is a matter which could be addressed in any review of a ‘made’ neighbourhood plan based on the determination of current and any future planning applications and/or appeals on the site.
- 7.51 The policy itself comments that development proposals outside the defined development boundaries will not be supported unless they are needed to meet essential operational requirements of utility infrastructure requirements. However, this approach is both prescriptive and more onerous than that in national and local planning policies and Policy RA3 of the Core Strategy in particular. In addition, the approach taken is inherently negative as it focuses on development outside the development boundaries rather than on potential development within the three identified development boundaries (and which are the areas towards which the wider development plan directs new development).
- 7.52 I recommend that the policy is modified so that it takes a more balanced approach towards development which may be supported in the countryside. This would ensure that it has regard to national policy and is in general conformity with the strategic policies in the development plan. I also recommend that the policy includes an element

about development within the three development boundaries. This would correspond with the pattern of day-to-day planning applications that are received in the neighbourhood area for minor and/or domestic development proposals. In a broader sense it would bring forward the positive approach for neighbourhood plans expected by the NPPF.

7.53 In this context I also recommend that the policy includes elements to address the need for the delivery of affordable housing and the need to safeguard the historic landscape environment. This overlaps with my recommended modifications to Policies HO01 and EN05 later in this report.

7.54 I also recommend consequential modifications to the supporting text.

**Replace the policy with:**

**‘Development proposals within the development boundaries of Burwash Village, Burwash Weald and Burwash Common will be supported subject to the following criteria:**

- **they respond positively to the form and character of the settlement concerned;**
- **they take account of the topographical setting of the relevant settlement;**
- **they respond positively to the historic landscape environment of the wider neighbourhood area and the relevant settlement in particular;**
- **they meet the requirements for the delivery of affordable housing as set out in Policy DHG1 of the DaSALP;**
- **they bring forward high quality design which takes account of other buildings in the immediate locality of the site concerned;**
- **they would not result in an unacceptable impact on the amenities of existing houses within the immediate locality of the site; and**
- **they included well-designed off street parking spaces and can otherwise be satisfactorily incorporated into the local highway network.**

**Development proposals outside the development boundaries of Burwash Village, Burwash Weald and Burwash Common will be assessed against the approach set out in Policy DIM2 of the DaSALP’**

*Replace the second paragraph of the supporting text with three paragraphs as follows:*

*‘The parish has three well-defined development boundaries. They were originally defined in the 2006 Local Plan. As the Plan does not allocate sites for development the boundaries have been retained. This matter will be reviewed in the event that development proposals are permitted adjacent to the existing development boundaries or once the emerging Local Plan is adopted. The first part of Policy GP04 sets out a series of criteria with which development proposals within the defined boundaries should comply. This part of the policy will be applied in a proportionate way to take account of the scale and nature of the proposal concerned.*

*The policy also takes account of the need in the DaSALP for the delivery of affordable housing. The Burwash Housing Needs Survey has identified the need for two- and*



*three-bedroom homes for social renting to enable local families to remain within the community and single level access or accessible one- and two-bedroom homes for sale and rent to meet the needs of the elderly and people with disabilities, enabling them to remain independent and within the community for as long as possible.*

*The character of the historic environment of the parish could be undermined and compromised by the cumulative negative impact of new development. English Heritage Conservation Principles 2008 (Historic England) defines harm as ‘change for the worse, here primarily referring to the effect of inappropriate interventions on the heritage values of a place’. Land owners should also seek guidance from the Historic Landscape Characterisation report produced by Historic England’*

#### Policy GP05 Design Standards

- 7.55 This policy sets out design standards for new development. It identifies ten design criteria which seek to reflect the distinctive nature of the neighbourhood area in general, and its built environment in particular.
- 7.56 The policy makes a positive approach to this important matter. The implementation of the policy will do much to encourage high quality development in the parish.
- 7.57 I recommend a series of modifications to ensure that the policy has the clarity required by the NPPF. In particular they clarify that the policy will be applied in a proportionate way. This approach acknowledges that many proposals in the plan period will be of a minor/domestic nature which will not trigger all of the criteria in the policy. The recommended modifications ensure that all AONB related matters are addressed in the supporting text. Otherwise, the policy meets the basic conditions.

**In the opening part of the policy replace ‘All proposals for development must’ with ‘As appropriate to their scale, nature and location development proposals should’**

**In c. add ‘of buildings in the immediate locality’ after ‘palette’**

**Delete i and j**

**In the final part of the policy replace ‘Applications...the above’ with ‘Development proposals which would detract from the local vernacular, distinctiveness and qualities of the three rural settlements or which do not comply with any of the criteria in the first part of this policy which are relevant to the site concerned’**

*Replace the supporting text with: ‘The Plan is keen to ensure that new design takes proper and full account of the character and appearance of the parish. Policy GP05 addresses this important issue. It has been designed so that it can be applied in a proportionate way to the development concerned. The whole of the neighbourhood area is within the High Weald AONB. In this context development proposals should take account of the national duty to conserve and enhance its natural beauty. In this*

*context development proposals should also respond positively to the High Weald AONB Design Guide'*

#### Policy GP06 Existing open spaces

- 7.58 This policy identifies four open spaces in the parish which are considered to be important for wider community use. They are Swan Meadow, Burwash Common Playing Fields, Down Meadow and Hornbeam. The supporting text describes their various uses in a helpful level of detail.
- 7.59 I recommend that the policy is modified so that it has the clarity required by the NPPF. As submitted, it loosely comments about any potential 'impact' of development on the four open spaces. This would not allow RDC to implement the policy in a consistent fashion.
- 7.60 In its response to the clarification note the BPC agreed that it would be appropriate to show the four open spaces on the policies map. I recommend accordingly.

#### **Replace the policy with:**

**'The Plan identifies the following open spaces as shown on (insert plan/figure number):**

**[List the four open spaces as bullet points]**

**Development proposals which would detract from the attractiveness or the community's use of the identified open spaces will not be supported'**

*Show the four open spaces on the Policies Map*

#### Policy GP07 New open space

- 7.61 This policy comments that larger developments of ten or more homes should be designed to provide new open space reflecting and extending the existing provision of accessible green spaces within the Parish and providing wildlife corridors and stepping stones between semi-natural habitats in the wider area.
- 7.62 The policy is well-intentioned. However, I recommend that it is deleted from the Plan for two reasons. The first is that the Plan has chosen not to allocate sites for development. The second is that in the event that they come forward they can be assessed against other policies in the wider development plan.

#### **Delete the policy**

#### Policy GP08 Sustainable development

- 7.63 This policy requires that new development should seek to achieve high standards of sustainability and, in particular, demonstrate in its proposals how design, construction and operation will relate to a series of criteria. The policy makes a positive approach to this important matter. The implementation of the policy will do much to encourage high quality development in the parish.



- 7.64 I recommend a series of modifications to ensure that the policy has the clarity required by the NPPF. In particular they clarify that the policy will be applied in a proportionate way. This approach acknowledges that many proposals in the plan period will be of a minor/domestic nature which will not trigger all of the criteria in the policy. In particular I recommend the deletion of the final paragraph of the policy as it is largely a repetition of the initial part of the policy or other policies in the development plan. I also recommend a technical modification to the supporting text given the passage of time which has taken place since the Plan was finalised and submitted to RDC.

**In the opening part of the policy replace ‘All new development’ with ‘As appropriate to their scale, nature and location development proposals’**

**In d replace ‘sustainable urban drainage’ with ‘sustainable drainage systems’**

**Delete the final paragraph of the policy.**

*In the supporting text delete ‘over the past 12 months. This.... BNDP’*

Policy HO01 Housing tenure and mix

- 7.65 This policy comments that planning applications within the development boundaries of the parish will generally be supported where they meet local housing needs and provide a range of property types and a minimum of 40% affordable housing. It builds on the findings of the Burwash Housing Needs Survey. That study showed that the largest local housing needs are for two specific housing types. The first is for two- and three-bedroom homes for social renting to enable local families to remain within the community. The second is for single level access or accessible one- and two-bedroom homes for sale and rent to meet the needs of the elderly and people with disabilities (enabling them to remain independent and within the community for as long as possible).
- 7.66 This policy seeks to build on Policy DHG1 of the DaSALP. However, it does so without including any detailed size thresholds and any associated evidence on the potential impact on development viability. I have considered all the information available to me including the BPC’s responses to the clarification note. In all the circumstances I recommend that the policy and the supporting text is deleted. However, I have captured the general approach into the wider package of recommended modifications to Policy GP04. This will ensure that the matter is retained within the Plan.

**Delete the policy**

*Delete the supporting text*

Policy HO02 Rural Exception sites

- 7.67 This policy recognises that rural exception sites can play a valuable role in developing much needed affordable housing on small developments in locations which would not normally be granted planning permission. The Plan comments that the Morris Close

development in Burwash village is a useful example of how rural exception sites can help to bring forward small developments of affordable housing. This scheme provided ten affordable housing units all of which were taken up by people with a strong local connection.

- 7.68 However in a wider context the policy adds no local value to Policy DHG2 of the DaSALP and the supporting text is out of date. BPC acknowledges these matters in its response to the clarification note. It does however comment that the policy makes an important statement of intent. Whilst I understand the way in which BPC has approached this matter, national policy is clear that neighbourhood plans do not need to repeat local policies. In these circumstances I recommend that both the policy and the supporting text are deleted.

### **Delete the policy**

#### *Delete the supporting text*

#### Policy EN01 Land management

- 7.69 This policy comments that development proposals will be expected to retain or enrich well-established features of the environment, ecosystem and biodiversity, including mature trees, ancient woodland, species-rich hedgerows, watercourses and other ecological networks together with the habitats alongside them including ponds, green and wildlife corridors.
- 7.70 The supporting text acknowledges that extensive areas of land within the parish are under management by the Forestry Commission, National Trust or operating land stewardship schemes with Department of the Environment, Food and Rural Affairs and Natural England. The Plan encourages land owners to seek guidance through the historic Landscape Characterisation report produced by Historic England. The policy looks to build on the general approach on land stewardship in Policy EN1 of the Core Strategy.
- 7.71 RDC comments that the policy's intentions are not clear and that it does not bring local value to existing development plan policies. On balance I have concluded that with modifications the policy brings distinctive local value. In particular its supporting text identifies particular land management regimes in the parish. I recommend modifications to the wording used in the first part of the policy so that it has the clarity required by the NPPF. In the second paragraph I recommend that the policy refers solely to the impact of development rather than to the construction phase of any work. In the event that any concerns exist about the construction phase they can be specifically addressed as part of the determination of the planning application concerned.

### **In the first paragraph replace 'will be expected to' with 'should'**

### **Replace 'to existing.... development' with 'on ecosystems or biodiversity'**

## Policy EN02 Natural environment protection

- 7.72 The policy comments that development should conserve and enhance the well-established features of the natural environment, ecosystem and biodiversity within the parish and should seek to achieve a net gain for biodiversity. The policy builds on a report produced by the Sussex Biodiversity Record Centre in November 2018. That work shows that the parish contains two Sites of Special Scientific Interest (SSSIs). These are statutory sites of national importance. There are also seven Local Wildlife Sites (LWS) and one Local Geological Site (LGS).
- 7.73 In general terms I am satisfied that the policy is distinctive to the parish. It is underpinned by the detailed biodiversity report.
- 7.74 I recommend that the order of the policy is modified so that there is a functional relationship between the initial part of the policy and the schedule of features as listed in sections a) and b). I also recommend that the element of the policy in relation to the need for an ecological impact assessment is refined so that it has a closer relationship with the development concerned. As submitted the policy would apply to all development proposals in the Plan period, many of which will be of a minor or domestic nature, and which will be unlikely to have any significant impact on the natural environment.

### **Replace ‘Development shall’ with ‘Development proposals should’**

**Reposition the second sentence of the policy to the end of the policy (and as a separate paragraph. In doing so replace ‘All developments’ with ‘As appropriate to their scale, nature and location development proposals’**

## Policy EN03 Green infrastructure: footpaths and bridleways

- 7.75 This policy comments that, where applicable, new development must ensure the continued upkeep and enhancement of existing public footpaths and bridleways without detriment to biodiversity. As the Plan identifies ‘the Parish is fortunate to have an extensive network of footpaths and bridleways. These provide access across the landscape to other areas, opportunities for exercise, horse-riding, dog-walking, enjoyment of the beautiful views deep within the remote countryside and are a great tourist attraction. Walking routes include stretches of many of the country lanes, which, with their notable verges and prolific, often rare species of wild flowers, form important pollinating corridors’
- 7.76 I sought the views of BPC on the approach included in the policy – as submitted it has a focus on the maintenance of footpaths rather than their protection from development. BPC acknowledged the issue in its response. As such I recommend a modification to the policy so that its focus shifts to one whereby development should avoid any unacceptable impact on footpaths and/or incorporate them sensitively into new proposals. In doing so I recommend that the final part of the submitted policy is incorporated into the modified policy. I also recommend that the supporting text is expanded to provide a context to the policy.

**Replace the policy with:**

**‘Development proposals should avoid any unacceptable impact on footpaths and bridleways and/or incorporate them sensitively into their layouts.**

**As appropriate to the site concerned development proposals should safeguard existing pedestrian links to other settlements and facilities in the parish’**

*At the end of the supporting text add:*

*‘Policy EN03 ensures that new developments should retain the integrity of the existing footpath network and, where necessary, incorporate them into the layout of new developments’*

Policy EN04 Dark skies

- 7.77 The policy comments that new development proposals should be appropriate to the dark skies status of the three villages and limit the impact of light pollution from artificial light on local amenity, the intrinsically dark landscapes within the parish and nature conservation.
- 7.78 The three villages of Burwash, Burwash Weald and Burwash Common, like other rural villages in the area, maintain a tradition of being unlit. The preservation of the dark sky is extremely important to residents of the Parish. The Plan comments that the Parish is profoundly dark compared to much of the south-east of England.
- 7.79 The Plan itself and the representation from ‘Wild about Burwash’ highlights the work which is taking place with the High Weald AONB Unit and several other local parishes to monitor light pollution in the region with the aim of creating a High Weald Dark Skies Reserve. This provides an interesting context to the policy.
- 7.80 As submitted the policy ascribes a status to the dark skies of the parish which does not exist. The work taking place highlights that potential and there is no dispute that the parish enjoys dark skies. In this context I recommend that the second part of the policy is deleted. It has a technical detail which is not underpinned by any formal status as a dark skies’ environment. This is a matter which could be addressed in any future review of the Plan once the technical work had been completed. I also recommend a modification to the first part of the policy so that it has general format rather than suggesting that the dark skies have any formal status.

**In the first part of the policy replace ‘New development...status of the three villages’ with ‘New development proposals should respect the dark skies environment of the three villages’**

**Delete the second part of the policy.**

Policy EN05 Historic landscape environment

- 7.81 The policy addresses the historic landscape environment. It indicates that proposals which create any harm to historic landscape assets should demonstrate that the harm is outweighed by the public benefits of the development itself.

- 7.82 I sought BPC's comments on the added value of the policy beyond national policy. BPC acknowledged that the policy largely repeated national policy. It suggested that the matter could be incorporated into Policy GP01. Having considered this matter I am satisfied that it would represent an appropriate way to address the matter and would meet the basic conditions.

### **Delete the policy**

#### *Delete the supporting text*

Policy EN06 Integration of landscaping

- 7.83 The policy comments that, where appropriate, developers will be required to submit an integrated landscape scheme as part of their proposal which is sensitive and complementary to the existing AONB, and to the local landscape character. The policy builds on the findings of the East Sussex Landscape Assessment. It describes the types of landscape, natural, man-made and farming for Burwash which is in a largely unspoilt and tranquil rural landscape with few intrusive features. The Plan comments that it is therefore critical that the design of all new landscape features is integrated into and complements or enhances the landscape setting.
- 7.84 The policy reads as a process matter (based on the submission of a landscape scheme) rather than as a planning policy. I recommend a modification to the policy so that it sets out a policy approach towards the landscape. The Parish Council acknowledged the appropriateness of such an approach in its response to the clarification note.

### **Replace the policy with:**

**'Where appropriate, development proposals should incorporate an integrated sensitive landscape scheme which is complementary to the High Weald AONB in general, and to the landscape character in its immediate location in particular'**

Policy IN01 Pedestrian Safety

- 7.85 This is a hybrid policy. It addresses a series of related issues on pedestrian safety including mobility access, pedestrian safety and integrating new development with existing access arrangements. The supporting text emphasises the importance of these issues to local residents based primarily on the significance of the A265 which passes through the heart of the three settlements.
- 7.86 I recommend that the policy is modified so that it is applied in a proportionate way based on the scale and nature of the proposal concerned. I also recommend that its format and content are simplified and that the approach towards easy access is applied in a universal way rather than simply to those with mobility issues.

### **Replace the first part of the policy with:**

**'As appropriate to their scale, nature and location development proposals should incorporate design features to assist with pedestrian movement and**

**safety in the parish. In particular development proposals should address the following matters:’**

**At this point insert a)-c) from the submitted policy with the following grammatical modifications:**

**In a) replace ‘Incorporates’ with ‘the incorporation of’**

**In b) replace ‘Integrates’ with ‘their integration’**

**In c) replace ‘Retains or improves’ with ‘the retention or improvement’**

Policy IN02 Parking

- 7.87 This policy seeks to address the situation where several historic properties do not have off-street parking. The policy has two parts. The first applies the existing parking standards of East Sussex County Council (ESCC). The second comments that development proposals that would result in an overall net loss of existing on-street and/or off-street car parking, or which fails to provide adequately for the development itself, will generally not be supported.
- 7.88 The intention of the policy is immediately evident in Burwash village itself. This matter was reinforced in BPC’s response to the clarification note.
- 7.89 Both RDC and Park Lane Homes suggest that the policy largely repeats existing local policies. I agree that this is the case with the first part of the policy. On balance I can see the merit of the second part of the policy. As BPC comments the subject of traffic and pedestrian safety along with protection of the AONB were the key areas of concern raised by the community as the Plan was being prepared and that specific reference to the matter would bring clarity for prospective developers and provides reassurance to the community.
- 7.90 In these circumstances I recommend that the first part of the policy is replaced with a policy which ensures that sensitive parking solutions are secured within the context of ESCC parking standards. I also recommend detailed modifications to the second part of the policy.

**Replace the first part of the policy with:**

**‘Development proposals should provide well-designed off street parking arrangement in general, and within the Burwash Conservation Area in particular’**

**In the second part of the policy replace ‘fails’ with ‘fail’ and delete ‘generally’**

*At the end of the final paragraph of supporting text add:*

*‘The delivery of off-road parking as identified in the first part of Policy IN02 should take account of the East Sussex County Council standards’*

### Policy IN03 Supporting businesses

- 7.91 This policy offers support for the establishment of new businesses outside the defined development boundaries subject to a series of criteria.
- 7.92 As RDC comments in its representation it is not clear what is meant by ‘isolated’ sites and how this policy sits with the development boundary policy (GP04) where development outside development boundaries will not be supported. This creates an internal conflict within the Plan. It also infers that proposals for development of new or existing businesses which are not isolated will not be supported. This would then not offer support to otherwise acceptable proposals within one of the three village centres
- 7.93 I recommend that these matters are remedied by modifications to the policy. In summary they are as follows:
- to offer equivalent support to new business development within the development boundaries and to relate this approach to the wider policy towards the development boundaries (Policy GP04);
  - to replace the reference to isolated sites with one which refers more generally to the countryside beyond the development boundaries; and
  - to ensure that the criteria have the clarity required by the NPPF.
- 7.94 I also recommend consequential modifications to the supporting text.

#### **Replace the policy with:**

**‘Proposals for the development of new businesses within the three development boundaries will be supported where they otherwise comply with the criteria in Policy GP04 of this Plan.**

**Proposals for the development of new businesses outside the three development boundaries will be supported subject to the following criteria:**

- a. the development will sustain the local economy;**
- b. the development is in keeping with the character of the area and minimises visual impact through sensitive siting and design;**
- c. the development does not have an unacceptable impact on the amenities of neighbouring properties;**
- d. the development minimises its impact on the wider character of the High Weald AONB; and**
- e. the development can be satisfactorily accommodated in the local highway network and will promote sustainable transport’**

*As a new paragraph at the end of the supporting text add:*

*‘Policy IN03 addresses these matters in a positive way. The first part of the policy does so within the three development boundaries in the parish. The second part of the policy*



*does so for the countryside (beyond the development boundaries). This approach offers support to the development of new businesses which would support a prosperous local economy (in accordance with paragraphs 83 and 84 of the NPPF) on the one hand whilst respecting the character of the parish in general, and its location within the High Weald AONB in particular'*

#### Policy IN04 Retention of existing businesses

- 7.95 This policy has two related elements. The first offers support to the creation of new and the retention of existing retail shops, public houses and other businesses. The second resists proposals which would result in the loss of businesses unless it can be demonstrated that the property is no longer capable of being used for commercial purposes.
- 7.96 Both RDC and Mr S Bowyer (Oakley's Garage) contend that the policy is unnecessary as it repeats local planning policies. I agree that this is the case in respect of the second part of the policy. However, I have concluded that there would be benefit in retaining the first part of the policy with appropriate modification to ensure that it meets the basic conditions. In its response to the clarification note BPC reaffirmed its support for new employment development and to retain existing commercial premises. However, this needs to be expressed in its own right rather than as a preference for developments which would involve the loss of such uses. Such developments would be determined against the relevant policies in the DaSALP.
- 7.97 Given that Policy IN03 (as recommended to be modified) addresses the development of new businesses I recommend that this policy has a specific focus on proposals for the consolidation of existing premises. As such I recommend that the supporting text comments on this context.

#### **Replace the first part of the policy with:**

**'Development proposals which would sustain existing retail premises, public houses and other businesses or contribute towards their ongoing viability will be supported'**

#### **Delete the second part of the policy**

*Replace the second paragraph of the supporting text with:*

*'Development proposals which would involve the loss of existing business premises will be considered against the contents of Policies DEC3 and DCO1 of the DaSALP'*

#### Other matters - General

- 7.98 This report has recommended a series of modifications both to the policies and to the text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report.



- 7.99 It will be appropriate for RDC and BPC to have the flexibility to make any necessary consequential changes and factual updates to the general text. It will also be appropriate for the two councils to have the ability to renumber policies to take account of the recommended deletion of policies in this report. I recommend accordingly.

*Modification of general text (where necessary) to achieve consistency with the modified policies.*

*Modification of policy numbering (where necessary).*

## 8 Summary and Conclusions

### *Summary*

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2028. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Burwash Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

### *Conclusion*

- 8.3 On the basis of the findings in this report I recommend to Rother District Council that subject to the incorporation of the modifications set out in this report that the Burwash Neighbourhood Development Plan should proceed to referendum.

### *Referendum Area*

- 8.4 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as originally approved by Rother District Council on 7 June 2016.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in an efficient manner.

**Andrew Ashcroft**  
**Independent Examiner**  
**13 May 2021**