

Upper Eden Development Plan Examination Proposal

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1. The preparation of the Plan and the legislative background

The Upper Eden Neighbourhood Development Plan (UENDP) is one of the first plans prepared by local communities under the regime established by the current government in the National Planning Policy Framework (NPPF) and the Localism Act. I have seen evidence and examined the steps taken to reach this stage of the process for such plans and I am satisfied that on consultation, public meetings, and availability of various Plan drafts at key locations all the steps and stages recommended by the national legislation have been undertaken. I note also that Eden District Council has certified that the Upper Eden communities with Brough Parish Council as the relevant body are to be regarded as a Neighbourhood Area that has the right to draw up and submit a plan to the Council. All of these matters are covered in sections 1 to 7 of the Plan and I understand that there is a desire to redraft and strengthen these sections in order to set out more clearly the new process that had led to this Plan being prepared. I agree to that being done.

2. Analysis

In order to examine and reach conclusions on the Examination Proposal of the UENDP I have considered the following documents:

- Basic conditions statement (prepared by the Plan proposers)
- Town and Country Planning Act 1990 (as amended)
- National Planning Policy Framework (NPPF) (2011)
- The Localism Act (2012)
- The Neighbourhood Planning Regulations (2012)
- The outcome of the earlier consultation rounds
- Eden District Council Core Strategy
- The detailed consultation responses to the Examination Proposal

I have also spent 2 days unaccompanied visiting the Upper Eden area.

3. The Upper Eden Area

Overall the Upper Eden area contains very high quality landscapes both within and outside the North Pennines Area of Outstanding Natural Beauty. It is in large measure a very sparsely populated area especially to the east and south of the A685.

In many respects it exhibits a quality resonant of a National Park. Hill farming is significant in the upland areas to the East and South. There is a range of settlements from the modest hamlet to the main service centre in Kirkby Stephen. Many settlements are very attractive and occupy quality landscapes and locations. Another aspect of the area both in settlements and in the open countryside is the presence of unused and at times dilapidated buildings which should offer opportunities for refurbishment and re-use. Deprivation is an issue

to be tackled in the rural areas of Upper Eden as well as in some urban centres.

Kirkby Stephen provides a focus for the area with a wide range of shops and services as well as a supermarket on the edge of town. There are very few chain stores and for comparison shopping Penrith, Kendal and Carlisle are the main retail areas near to the Upper Eden Area and all are outside the Plan area.

The Local Service Centres vary both in size and in the range of limited services that they offer. Primary schools, pubs, bus services post offices and the occasional village store render these six villages as locations which provide a reason for local people to utilise these centres, which range in size from Brough with 680 residents to Nateby with 110.

Outside of the parishes which contain the service centres there is a further 10 which are generally sparsely populated. The sparseness of the population is demonstrated by the fact that the Upper Eden Plan area covers 20% of the area of Eden District but only houses some 10% of the District's population. Eden as a whole is the most sparsely populated district in England.

This low level of population outside Kirkby Stephen presents a number of issues to be resolved if the settlements, farms and local businesses are to be sustainable into the future. The Upper Eden Area is at one extreme of the range of settlements and parishes found across England. These characteristics of the area mean that it is likely to require both careful management and a set of policies that reflect its special nature. Indeed, without a set of policies which temper and modify the impact of strategic national and local policies it is possible that the area will fail to participate in an appropriate social and economic fashion in the future.

4. The Plan

In considering the Examination Proposal and its draft policies a key element is to have regard to the principle of 'general conformity' with local strategic policies and plans and to have regard to national policies and guidance. These are important principles and there is no relevant case law at this point given the early stages of neighbourhood planning nationally. It is clear to me that the reasoning behind the use of the concept of general conformity is to allow a degree of flexibility in drawing up neighbourhood plans and proposals. Without such a concept drawing up a neighbourhood plan to reflect local priorities and conditions would be a futile exercise.

It is clear from the vast majority of consultation responses that there is widespread support for the Plan and it is agreed that it is appropriate for all 17 parishes involved to have a Plan which reflects their priorities in seeking to retain and perhaps develop their sustainability.

It is significant that key environmental agencies: Natural England who are satisfied that the Habitats Regulation Assessment (HRA) concludes that the Plan policies are unlikely to have an adverse impact on European sites; the North Pennines AONB, and the Environment Agency support the Plan without caveats. Eden District Council raises a number of issues in the observations

made and there are a few responses from individuals. United Utilities state their position on capacity issues and the need for capital investment in some areas if the Plan proposals go ahead. That will clearly need to be a matter of discussion with United Utilities as planning applications come forward.

Affordable housing for locals is a recurrent theme both in consultation and in the Eden Core Strategy and existing policy is that the Council is looking to achieve a 30% minimum share of affordable housing on developments of 4 or more units (CS10).

Within the overall level of support and the unanimity of the 17 parishes it is a matter of assessing and examining the 7 draft policies in the Plan and test them, inter alia, against the principle of general conformity and with regard to national policies and guidance.

UENDP1 Affordable rural exception housing for local people

This draft policy highlights a fundamental test of the extent to which policies in a neighbourhood plan can move away from national policy as set out in NPPF 55 where the presumption is to avoid developments in the open countryside. That national policy does however acknowledge the need in certain special circumstances to allow exception sites to be developed. In my view the Upper Eden area is of a nature that it requires a policy sensitive to local needs and opportunities. The recent shortfall in house-building in the area underlines the need to secure some change to existing policy stances in an attempt to deliver sustainable communities in the area. The lack of affordable housing for locals is a key issue as evidenced in the Eden Core Strategy (5.5 and policy CS3) and a major contributor to deprivation.

The draft policy restricts the occupation of developed exception sites to local people which is right and includes some criteria on visual and landscape amenity that must be met.

Turning to consistency with NPPF55 and the issue of general conformity with current Eden District policy where development of exception sites is restricted to those within sight of 3 existing dwellings, it is clear that this draft policy stretches the bounds of general conformity but in my view not beyond what is reasonable. The Housing Need 2009/2010 surveys, the almost unanimous view of the priority to be given to affordable housing especially for local people and the extreme nature of the Upper Eden with its sparseness of population all provide a sound basis on which to promote the thrust of this draft policy.

Eden District Council suggests adding, for the avoidance of doubt, that it should be made clear that the policy operates in all rural locations and that no size restriction applies and I agree with that suggestion and the draft policy will then read:

“Rural exceptions sites for single plot affordable housing will be permitted to meet a local need where this need is evidenced and where the development does not have an unacceptable impact on the visual and landscape amenity of the area. This may be acceptable in the case of either new build dwellings or conversion of traditional buildings. In each case ancillary works such as access, outbuildings, curtilage boundaries also should not have an

*unacceptable impact on the visual and landscape amenity of the area. These developments will need to consider how the balance of benefits such as any social, economic, environmental or community benefits for the intended occupier or wider local community justifies the proposal. **This policy operates in all rural areas and no size restriction applies***

Affordable housing for local people will be secured as such for its longevity through a Section 106 Agreement.”

UENDP2 Housing on Farms

This draft policy seeks to relax some of the constraints that surround the re-use of existing structures or building new houses on farms and rural businesses. The justification for this draft policy is argued with some force in the Plan and I find that acceptable. I do not see any great divergence from national and local policies. This more a case of enabling appropriate development, which should be of benefit to the sustainability both of farms and rural businesses.

It is good to see reference to the re-use of exiting traditional buildings in this draft policy. In my view these should be, wherever possible, primary candidates for development before considering allowing new build.

There will need to be careful monitoring, first to ensure that a watertight set of conditions including the section 106 are put in place in particular to ensure that the residual use of a property if the original justification can no longer be met is for affordable housing. Second there is always the possibility that a section 106 agreement can be challenged in court particularly where heirs and successors to the original signatories are involved. Eden District Council will need to be ready to take Enforcement Action in appropriate cases.

UENDP3 Housing for older people

This draft policy seeks to address an acknowledged need of appropriate housing for older people. I am not convinced, however, that prioritising such housing in certain locations should be at the risk of forfeiting more general affordable housing. The suggestion that developments of 4 houses in the local service centres should address the need for housing for older people in advance of more general affordable housing is in my view a considerable challenge. I have not seen evidence to suggest that there is a greater need for housing for older people than for providing more general affordable housing.

In the two largest service centre areas, Kirkby Stephen and to a certain extent Brough which often accommodate larger housing developments the draft policy approach should work but much less so in smaller settlements where the need for more general affordable housing and NPPF 173 comes more strongly into play.

The application of this draft policy to single plot developments provides in my view a justification which lies within the principle of general conformity for such developments in an area such as Upper Eden. If that same set of criteria were to be applied to smaller service centres and villages then there would in my view be both a more workable but crucially a more acceptable approach within the flexibility of strategic polices locally and nationally.

I suggest a redraft of the policy:

“Within Kirkby Stephen and Brough housing developments of four units or more should address the local need for older persons’ housing. This can occur through the provision of bungalows or other suitable housing types restricted to occupancy for those local households where one person is over the state retirement age. Where the viability of the proposal permits and in accordance with NPPF 173, the Council may seek affordable housing in addition to housing for older people.

Elsewhere in local service centres, other villages and single plot proposals for a household the delivery of general affordable housing will remain the priority. In specific cases where at least one person is over the state retirement age (or requires specialist housing by virtue of personal incapacity or impairment) will be assessed and supported where the following are met:

- a) meeting the needs of an identified older local person in housing need*
- b) releasing an unsuitable dwelling into the market or, for transfer to a family member;*
- c) does not have an unacceptable impact on the visual or landscape amenity of the area.*

The new dwelling will be subject to a s106 Legal Agreement ensuring that it remains available for local households where one member is over the state retirement age or as an affordable dwelling for local people in perpetuity.”

This draft policy is I believe more acceptable with the NPPF provisions than the original. It preserves the sentiment of the draft policy and acknowledges the need for more attention to be given in certain developments to housing for older people,

Adopting this policy will require a redraft of paragraphs 11.1 to 11.4 of the Plan this redraft is below:

“11 UENDP3 – Housing for Older People

Reasoned Justification

11.1 Steps need to be taken to facilitate the delivery of housing for certain older people. The Upper Eden area has a high proportion of older people and owner occupiers. As an appealing area between two National Parks it has attracted in-migration of households often through down-sizing from more expensive areas in the south of England. When those households need more specialist housing there is at times a lack of choice and there is the possibility of older people occupying unsuitable properties. Currently there is 1% of the total stock in specialist housing for local people and this is set to rise to 2% in planned new provision.

Intention

11.2 The policy seeks to balance the need for more general affordable housing which is the priority for the Upper Eden area with housing for older people in housing need. In Kirkby Stephen and Brough where often larger new

housing developments occur there is scope to provide both more general affordable housing and units for older people. The Eden Council policy (CS10) is to deliver 30% of affordable housing on sites of 4 or more dwellings. In those circumstances on larger sites in particular it should be possible within the viability provisions of NPPF173 to meet both needs if appropriate on sites in Kirkby Stephen and Brough. There will need to be negotiations with developers as part of the planning process.

11.3 Elsewhere in other local service centre, villages and exception sites the delivery of affordable housing will be the priority but that can be tempered by an older person's household in need,

11.4 To qualify for consideration older persons housing should be restricted in price to no more than the mean local housing price and be available only to those local households that are unsuitably housed and whose household income is no more than the mean local household income. These restrictions will be covered by a section 106 agreement."

UENDP4 Housing Densities

This draft policy is both appropriate and in line with local policy.

UENDP5 Fibre to the premises

A key to securing sustainability and unlocking further the potential of the Upper Eden Valley is to ensure that it is well connected in telecommunications. This draft policy is aimed at ensuring that all new developments should demonstrate how they will link to fibre or internet connectivity. The 'Eden Declaration' exemplifies the acknowledged need and desire to improve connectivity across rural Cumbria and the very recent signing of the Cumbria Superfast Broadband contract all lend weight to the thrust of this policy. There will need to be consideration given to ensuring that requirements to deliver connectivity from new developments fall within what is reasonable under NPPF173 as far as viability and deliverability are concerned and that is acknowledged in the draft policy.

I believe that this draft policy both meets a clear need and is in general conformity with local policies and national priorities.

UENDP6 Monitoring and Development Rates

This is an appropriate draft policy and is in general conformity with Eden District policies on housing.

UENDP7 LSC De-designation policy

A useful policy to deal with future changes in local service centres which potentially lose that status. It allows for a transitional period and sets out an approach which encompasses: local occupancy, affordable housing and taking into account impact on landscape and the village. This is a pragmatic policy and is entirely appropriate.

Standard Conditions

Both the local occupancy conditions and the older persons housing condition are appropriate and in line with local policies.

5. A Referendum

In my view the Upper Eden Neighbourhood Development Plan is a well argued and carefully compiled document which reflects the somewhat unique conditions and particular characteristics of the Upper Eden Valley that require a refined set of policies to guide the processing of planning applications.

It is ready to go to referendum subject to the amendments I have made to UENDP 1 and 3. The area for the referendum should be the 17 parishes covered by the Plan.

6. Summary of main findings

The Upper Eden Valley is an area full of high quality landscapes attractive villages and some local service centres and most notably the key service centre of Kirkby Stephen which can meet most daily needs for shopping and services. The area does contain, however, evidence of some decay with a number of abandoned older traditional buildings and the remoteness of some of the area requires a particular set of planning policies to ensure that it does not lose the opportunity to be sustainable. This Plan identifies and addresses those issues to good effect. Each draft policy has good justification both in the Plan and in the Basic Conditions Statement.

I do not believe that precedents will be set for other local neighbourhood plans given the nature of the Upper Eden Valley that renders its needs quite apart from most other areas. It would be for other areas to argue their cases on their merits and their local circumstances.

The emphasis on affordable housing is both welcome and much needed. The unlocking of the potential of farms and rural communities through draft policies 1, 2, 3 and 5 is a key ingredient to making the most of the area without losing its character or attractiveness.

On general conformity to local policies and with regard to national policies and guidance the Plan's draft policies in my view meet those tests. Subject to some amendments to UENDP1 and 3 set out in this report I have no hesitation in recommending that the Plan goes to a referendum of the population of the 17 parishes.

John Glester

Examiner

December 2012