

# Penrith Neighbourhood Plan

## Post Hearing Notes

Prepared by

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

Independent Examiner

10 February 2021

## Introduction

1. I held a hearing, via video conferencing, as part of my examination of the Penrith Neighbourhood Plan on Tuesday 9<sup>th</sup> February 2021. This lasted from 9.00 until approximately 15.00. Representatives of Eden District Council, Penrith Town Council and its advisors and Lowther Estates and their planning agent took part. I am very grateful for the participation and the courtesy shown by all participants. It was a very valuable exercise from my point of view and helped clarify a number of issues.
2. I have asked Eden District Council to make a recording of the session, which had been streamed live, available on its website.
3. During the hearing, there were a small number of matters where I invited the parties to look at providing me with further information or seek to clarify various matters. These are set down below.

## Results of community consultations

4. During the discussions on Topic A regarding the responses that were received from the public during the early consultation exercises, Ros Richardson from the Town Council told me that they were on the neighbourhood plan website – I have seen the document with the individual comments set out called Consultation Responses – is there a document that sets out, in numerical terms the answers given to each question in the surveys and the total number of responses? I am trying to gauge the level of community support which justifies the priorities set out in the plan.

## Maps

5. I had previously raised the issue of the legibility of the open space maps and their scale in terms of locating and also defining the extent of the designations. Again, Ros Richardson said that these concerns could now be addressed with upgraded mapping software. As discussed in the hearing, I would be grateful if these maps could be prepared and sent to me. I would ask that the plans show 3 categories of open space
  - Proposed local green space sites
  - Sites which are already designated as COM2 sites by the Eden Local Plan
  - The additional sites, proposed for designation as COM2 sites, by the neighbourhood plan.
6. We discussed the criteria used by the Steering Group for differentiating between the LGS sites and the COM 2 sites, but on reflection, it would assist me in preparing my report, if these criteria could be clarified in writing in a short note.

## Beacon Hill

7. Some time was spent discussing whether Beacon Hill met all of the criteria required to be satisfied for designation as local green space (LGS) as set out in paragraph 100 of the NPPF. I am assured that this area is in close proximity to the Penrith built up area and is an area which is considered demonstrably special by the community and it does hold significance, in terms of its landscape value, its use for community events, its recreational value and indeed its ecological value – I discovered that it is home to red squirrels. It is an asset that is on the doorstep of the town and is local in character. The key consideration is whether, at 40 ha, it is “an extensive tract of land”. If I conclude that it is, then I would not be able to conclude that it meets all the Secretary of States’ policy on LGS – which is one of the basic conditions.
8. There was a frank and open discussion regarding what the Town Council was seeking to prevent by way of inappropriate development and equally the owners were candid that they did not have major development aspirations but did point to the potential for small scale tourist development such as forest lodges/ pods or glamping facilities, which it was stated would be policy compliant were the land not designated local green space, which may be prejudiced by a LGS designation. There was also a concern that such a designation could be material to any future felling licenses.
9. It would appear that the Town Council were reassured regarding the intentions of the Estate in that regard, especially in view of the restrictions imposed by the steep gradient and in fact there was discussions on possibly extending public access and introducing other public facilities such as forest gyms which were mentioned by David Gill.
10. During the hearing I offered a possible alternative solution, that rather than stretching the definition of LGS in order to secure the protection of the wooded slopes of Beacon Hill, which the community clearly aspired to, one possible option would be to look as to whether a separate policy could achieve both the aspirations of the Town Council - to protect the forest area so close to the town from inappropriate development yet which would not frustrate the legitimate commercial aspirations of the landowner.
11. I am therefore offering the two parties plus representatives of Eden District Council, the opportunity to explore the possible drafting of such a policy, which then could be suggested to me, as a possible recommendation, that I could make in my report.
12. Clearly if either party does not wish to engage in that discussion or if it is impossible to reach a jointly agreed position, then I need to be advised and I will continue with the examination of this issue, based on the respective positions as set out already and make appropriate recommendations.
13. I do understand that if the Town Council is to support a jointly proposed policy then it will be a matter that will need to be subject to appropriate Town Council approval, but it is a matter that merits taking such time as is necessary to secure a position that achieves both parties’ aspirations.

## Policy 13: Town Centre Improvements

14. During our brief discussion on this policy, during the afternoon session, Michael Wellock, the Town Council's planning adviser, agreed that the submitted policy or its supporting text, required greater clarity as to what sort of development would be expected to make contributions to town centre improvements either by way of financial contribution or by onsite delivery. He offered to provide me with a written note expanding on how the Town Council envisaged the policy operating, which could then assist developers/ retailers and decision makers in understanding what the policy is seeking to achieve. I would welcome such an elaboration and also would ask for the Town Council to demonstrate how such contributions would be meeting the 3 tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

## Habitat Regulation Assessment

15. In my Initial Comments document, I asked Eden District Council to send me a copy of its screening decision in respect of the Habitats Regulations and also confirm that it is happy with the Town Council's screening under the SEA Regulations. It merely responded by saying that it is in agreement with the Town Council's conclusions. I do not think that is sufficient.

16. I would refer the District Council to the provisions of Regulation 105 and 106 of the Conservation of Habitats and Species Regulations 2017 and as it is the District Council which as the Competent Authority must make the determination, whether an assessment under Regulation 105 is required. I set out the relevant extract from the PPG which deals with the screening process. *"All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration – typically referred to as the 'Habitats Regulations Assessment screening' – should take into account the potential effects both of the plan/project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.*

17. In my view it is necessary for the District Council to prepare a screening report and I can send examples of other screening reports which offer a template, if required.

## **Concluding Remarks**

18. I have therefore decided that I will hold the current examination in abeyance until I receive the relevant information. I would specifically ask that Rachael Armstrong at Eden District Council, liaises with Lowther Estates and the Town Council on the Beacon Hill discussions.

19. At the hearing I was suggesting a timescale for these discussions and the provision of the additional information but upon reflection I do not consider that an arbitrary time limit will necessarily help, especially in terms of preparing the maps, carrying out the HRA screening and allowing genuine discussions to take place on a possible Beacon Hill.

20. Clearly the sooner the information is provided, then the sooner that the examination can be concluded.

21. Finally, I would ask that a copy of this note be sent to Andy Murphy at Stansgate Planning and also that it be placed on the respective websites.

John Slater BA(Hons), DMS, MRTPI.

John Slater Planning Ltd

10 February 2021