

Beacon Hill Policies

Keep Penrith Special's campaign team strongly supports Penrith Town Council's policy to protect Beacon Hill from inappropriate development.

However, we do have changes to suggest to the specific wording of this policy, which reflect our comments to Penrith Town Council about the policy when it was being drafted because we consider they would make the policy more robust.

As for Lowther Estate Trust's policy, we feel that it does not appear to have made any significant concession to take Penrith Town Council's policy or other comments into account.

Issues with Lowther Estate Trust's Policy

Lowther Estate Trust's proposed policy is not written like a planning policy and it is unclear whether all the text is intended to form the policy itself. Most importantly, it is unclear what it would achieve as it merely uses two of the criteria taken from the NPPF for Local Green Space to describe why the site has been identified for designation. It does not provide any clear criteria that would serve to determine whether any given planning application was suitable for development on the site beyond some minimal and very general references to existing Local Plan policy.

The whole purpose of this exercise is to address the fact that LGS is not an appropriate designation for this area, therefore to create a policy/designation for the site that is based on criteria for LGS and does little more than repeating policy already in place is inappropriate and would be ineffective.

Lowther Estate Trust also appears to propose how the policy's map should look but again, they refer to the larger area as being 'Local Green Space'. Whether or not the site is split, the terminology used to describe the designation should not be LGS.

Responses to Lowther's Representations

Lowther Estate Trust make nine challenges to Penrith Town Council's policy in its representations. This is our response to each of these:

Rep 1: Penrith Town Council's proposed policy does not preclude small-scale tourist development, rather it requires any development to meet certain criteria. Presumably Lowther Estate Trust's owners do not believe they could deliver a development without harming the factors mentioned in the first two paragraphs of the policy, in which case it is questionable whether such a proposal would meet other existing policies. Furthermore, it is not the role of the NP or the planning system to ensure that individual landowners can meet all their economic aspirations regardless of the harm to the environment or other factors such as recreational value.

Rep 2: Small-scale tourist development is not 'specifically prohibited' by Penrith Town Council's proposed policy. Not all tourist development involves providing overnight accommodation. Nevertheless, we reiterate our previous comment that bullet points 1-6 in Penrith Town Council's policy should be removed altogether or moved from the policy and placed instead in the supporting text to give a flavour of the type of development that might be acceptable, but recognising that ultimately any development must meet the first two paragraphs regardless of whether it reflects anything mentioned in this list.

Rep 3: It is strange that Lowther Estate Trust has challenged Penrith Town Council's policy on the grounds that 'It is a Local Green Space policy by another name' given that Lowther Estate Trust's suggested policy is the one that is based on LGS criteria and it is Lowther Estate Trust who is suggesting calling NP14A 'Local Green Space'. Penrith Town Council's policy does not refer to LGS and does not use LGS criteria taken from the NPPF. Instead, it offers criteria that relate directly to the specific values and benefits of the site in order to protect these from harm through inappropriate development, which is the very purpose of the policy, so it is not surprising that this is the approach they would take. This is a normal approach to policy construction in Local Plan and Neighbourhood Plan policies seeking to protect areas of open space of various types (public and private open spaces, green wedges/green gaps, green corridors, spaces that are important for amenity, etc) and indeed, this approach was used prior to the first publication of the NPPF and is unrelated to LGS designations. Overall, the claim that Penrith Town Council's proposed policy should be dismissed on grounds that it is 'a Local Green Space policy under another name' is inaccurate, unfounded and unfair.

Rep 4: There is no dispute over the fact that it is an extensive tract of land (and this challenge seems to be a rewording of Paragraph: 015 Reference ID: 37-015-20140306 of the NPPG, which relates to LGS, which this site is not proposed to be). The Examiner advised that as it is an extensive tract of land it could not be designated as Local Green Space. He did not advise that that meant it could or should not be protected at all and indeed, he recognised its special value to the community, hence the process to develop a policy to protect it instead. Based on the text in their proposed policy, Lowther Estate Trust admits that the area is in close proximity to Penrith and is 'demonstrably special to Penrith holding a particular local significance because of its beauty, historic significance, recreational value, tranquillity and richness of its wildlife'. Even Lowther Estate Trust's proposed split results in one area that is still more than 30ha. – this, too, is an extensive tract of land.

Rep 5: Policy 8 serves a different purpose ie it relates to Local Green Space designations and must reflect the NPPF accordingly, and so it is right that it differs from this proposed policy.

The term 'conserve and enhance' is often used in heritage policies in order to reflect the wording of relevant NPPF policies and relevant legislation, however, it is also commonly used in other policies including those relating to landscape, biodiversity and access to open space. See, for instance, NPPG Natural Environment section Paragraphs: 009 Reference ID: 8-009-20190721, 010 Reference ID: 8-010-20190721 and 036 Reference ID: 8-036-20190721 and also paragraphs 8c, 20d, 100, 174, 179, of the NPPF – these references either use the terminology 'conserve and enhance', 'conservation and enhancement' or 'protect and enhance'. Eden District's own Local Plan uses 'protection and enhancement' in the title of policies ENV1 and ENV2, both of which relate to the natural environment and there are multiple other references elsewhere in the plan eg paragraphs 3.19.1, 4.23.1, 4.24.2, 4.24.3, 4.25.1. Policy ENV4 uses 'managed and enhanced' and the variants 'protect(ion) and enhance(ment)'.

The suggestion that this criterion is only applicable for use in purely heritage policies or within Conservation Areas is therefore entirely unfounded.

Presumably Lowther Estate Trust's owners do not believe they could deliver a development while also conserving/protecting and enhancing the area, in which case, given all the above local and national policy references, it is questionable whether such a proposal would meet other existing policies.

An amendment to Penrith Town Council's proposed policy to refer to 'protect and enhance' instead of 'conserve and enhance' would be acceptable.

Rep 6: Penrith Town Council's proposed policy is not an LGS policy, so it is unclear how or why Lowther Estate Trust's challenge about LGS policy being consistent with policy for Green Belt is relevant. In any event, the NPPG clarifies that the reference at paragraph 103 of the NPPF to LGS policy being consistent with Green Belt policy simply means that LGSs will have a level of protection consistent with that for the green belt. Paragraphs 145 and 146 of the NPPF make no references to 'not inappropriate' development and in fact, the NPPF makes clear that in Green Belt 'local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity' and 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt' and the exceptions listed do not include new tourism development. Paragraph 150 does refer to 'not inappropriate' development, but this is only when they preserve its openness and do not conflict with the purposes of green belt designation and again, the types of development listed would exclude new tourism development. As such the challenge is not only irrelevant but inaccurate.

Rep 7: No specific comments to make but refer to suggestion to remove bullet points 1-6 in Penrith Town Council's policy and/or place them instead in the supporting text so that they are not part of the policy.

Rep 8: It is not common practice for Local Plan or NP policies to reflect specific aspirations (commercial or otherwise) of individual landowners, unless the policy allocates/identifies a site for development or a specific use but even then, the purpose of this is not to benefit the landowner but to be specific about the delivery of the policy aims i.e. the delivery of the development/use in a way that meets local needs and reflects local circumstances and context. The fact that this may reflect the landowner's commercial aspirations is merely a consequence of the fact they happen to own the land that the Council has identified as suitable for development, not a deliberate act to benefit the landowner. Refer also to suggestion to remove bullet points 1-6 and/or place them instead in the supporting text so that they are not part of the policy.

Rep 9: There is no requirement for Neighbourhood Plan policies to list the relevant Eden Local Plan policies to which it relates. Penrith Town Council's proposed policy is accompanied by supporting/background text and the list of relevant Eden Local Plan policies is included at the end as per the layout of the draft NP to date.

Comments on Penrith Town Council's Proposed Policy

We welcome the changes made by Penrith Town Council to its proposed policy in light of our suggestions during its drafting. However, we would stand by our outstanding comments which were as follows:

Bullet points 1-6 should be removed either altogether, or placed instead within the supporting/background text. Citing specific types of development (and locations) in the policy and indicating that they may be acceptable could make it difficult to defend any future proposal for these development types. We suggest this unnecessary risk is minimised by instead placing the list within the Background Justification text to provide a general flavour/idea of types of development considered likely to fit the policy without the added formality and 'weight' of being referenced in the policy itself. Equally, it avoids the situation whereby development that would meet the criteria of conserving/protecting the area's special values, benefits and features could be looked upon unfavourably because it does not fit the list.

In the last paragraph of the policy, the word 'involved' should be changed to 'necessary for appropriate'. Thus, it would read: 'Forestry operations necessary for appropriate maintenance and management of the woodland will be supported.' This will avoid the creation of a loophole, as being 'involved' in the maintenance and management of the woodland could apply to many proposals that would not actually be necessary for the maintenance and management of it.

While supporting the policy in principle, we consider these changes would make the policy more robust.

As mentioned above, we would also support the amendment of 'conserve and enhance' to read 'protect and enhance', if this was considered more in line with the NPPF, NPPG or Local Plan policies. However, as noted, it is clear from these documents that use in the planning system of the terms 'conserve and enhance' or 'conservation and enhancement' is not limited to heritage policies as claimed by Lowther Estate Trust, so while we would support an amendment, we do not consider it necessary for the policy to be 'sound' or consistent with the Local Plan/the NPPF.

Wider Concerns

We are deeply concerned that the policy being created would cover only a section of Beacon Hill, not the greater area to the north whose terrain would be more vulnerable to development. We have concerns that any development here would be the thin end of the wedge for development spilling out into the surrounding fields, and crucially into those on the Eden Valley side. Development here would mean the loss of nearly everything this policy is trying to protect: the cultural and iconic significance, the views to and from the Beacon, flora and fauna, woodland character, and so on. In order to protect Beacon Hill in the best possible way to serve Penrith's current and future residents and visitors, the policy should cover a wider area.

We feel the site is unsuited to a chalet-type holiday resort for all the reasons above and crucially, the lack of access. Visitors would have to enter the site via the streets of Penrith, a fast road with blind summits or a narrow country lane. Though perhaps the intention is to build roads through farmland to the north. If so, that would mean development, new roads and traffic encroaching on a beautiful, rural area overlooking the Eden Valley and the Pennines.

However, we must stress that if it is a choice between the area currently proposed to be protected being protected with this policy and none of it being protected, then we strongly support the currently proposed area being protected.

In Conclusion

Overall, Keep Penrith Special strongly supports, in principle, Penrith Town Council's proposed policy and considers it to be consistent with local and national policy. However, we consider that the outstanding changes we have suggested should be made in order to ensure the policy achieves its intended purpose and is robust and effective.

We consider that Lowther Estate Trust's proposed policy will not serve the intended purpose and would require substantial revision in order to do so.

Ultimately, regardless of the area covered, we would therefore strongly support the inclusion of Penrith Town Council's policy in the PNP with the changes we have suggested.