

Penrith Neighbourhood Development Plan 2019 – 2032 Consultation on Proposed Policy on Beacon Hill

Prepared by

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

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1. As you will be aware, I am carrying out the examination of the Penrith Neighbourhood Plan.
2. Following the hearing which took place on 9th February 2021, I had hoped that it would have been possible to arrive at a mutually acceptable policy for Beacon Hill, that met the aspirations of both the Town Council and the landowners. That has proved impossible to achieve and I have been presented with two alternative policy suggestions. I invited comments from the two parties on the alternative drafts and representations from the Friends of Penrith Beacon and also the Keep Penrith Special Group.
3. I have carefully considered all the comments made, which have been placed on the respective websites, and I have been, over the last few weeks, been drafting my report and formulating my recommendations.
4. In respect of Beacon Hill, I have decided that there should be a bespoke policy for the woodland area which is clearly valued by the local community. I am conscious that by recommending the introduction of this new policy, which is not a modification of a proposed policy, it has not been the subject of public consultation, either at Regulation 14 or Regulation 16 stage and I am reluctant to make such a recommendation without putting the draft wording into the public domain and inviting representations on it.
5. I am therefore taking the somewhat unusual step of requesting that the District Council, on my behalf, conducts a bespoke consultation on the wording of that policy. I am also publishing an extract from my draft report, which explains my rationale for proposing the proposed policy, in the form I am suggesting.
6. I am asking that the policy should be subject to a four-week consultation which will commence after the Christmas holiday period. If any party wishes to submit any comments, they should be sent to neighbourhood.planning@eden.gov.uk. At the end of the consultation all comments should be placed on the District Council's and the Town Council's website, as well as being forwarded to me. I am not seeking any submissions commenting on other parties' representations, once the consultation closes.
7. I will then consider all the comments made during this consultation, before making my final recommendation in my examination report.

Independent Examiner's Proposed Policy on Beacon Hill

"Beacon Hill is a valued and prominent local landmark forming an elevated, wooded backdrop to the north-east of Penrith.

Proposals for development on Beacon Hill will be expected to conserve and enhance the diverse values (biodiversity value, recreational, heritage and cultural value, woodland character,

important views (to and from the Beacon) and contribution of the area to a wider landscape character and sense of place.

Small scale tourism development will be supported, comprising the siting of no more than 20 caravans, or accommodation pods, or chalets including warden's accommodation - which must be temporary structures covered by the Caravan Sites and Control of Development Act 1960 and not permanent buildings, subject to those facilities meeting the three criteria set out in Eden Local Plan, Policy EC4 and only if accompanied by proposals to provide wider public access to Beacon Hill and which enhances its informal recreation facilities, including:

- the construction of narrow well screened permeable footpaths, including a permeable path suitable for disabled access to the top of the Beacon from the south eastern end of the site adjacent to the Roundthorn Hotel;
- the erection of interpretation boards to provide information for walkers and other users;
- the erection of a suitable open sided structure suitably screened that could be used as a forest school area by local schools and community groups;
- the development of a forest art or sculpture trail;
- the construction of narrow well screened permeable tracks suitable for cycling that are separate from footpaths; and
- the construction of a small suitably screened off road parking area at the southern end of the site”

Extract from the Independent Examiner's Draft Report

95. *“Under this heading, I now wish to discuss the position with regard to Beacon Fell which was proposed to be designated as local green space by the submitted neighbourhood plan. That designation been the subject of an objection made at Regulation 16 stage, on behalf of the landowner, the Lowther Trust. The policy sought to designate the part of forest, which forms the backdrop to Penrith, as local green space. The landowners argued that the policy would be more restrictive than would be otherwise agreed by Eden Local Plan Local Plan Policy EC4, in that it would frustrate the landowner's aspirations to undertake small-scale tourism development. They also pointed out that the proposed designation did not meet one of the required criteria for the designation for local green space, as set out in the NPPF, in that, at 40 ha., the woodland constituted an extensive tract of land. I agree that the designation of the whole woodland, on the south western face of the hillside, which essentially forms the eastern flank of the town, is well within the scope of being an extensive tract of land. I would not have been able to recommend it met the Secretary of State criteria for being a local green space. However, I do recognise that it is valued and important resource to the town of Penrith.*”

96. *During the hearing itself, I sensed that there could be scope for an accommodation of the Town Council's desire to protect the forest area, particularly for its landscape value. I heard that currently its recreational value is limited due to their only being restricted public access via a permissive path into the forest. It appeared, during the debate, that there was scope for meaningful discussions to take place between the two parties which could allow some of the Councils aspirations for greater access and enhanced recreational uses, whilst allowing some limited tourism related uses.*
97. *I therefore suggested that rather than pursue the local green space designation which was doomed to fail, there was scope for further discussions on the possibility to allow development of a bespoke policy for Beacon Hill , which could protect the special character of the forest which is clearly valued by the residents but which would not prevent development, which currently meets policy requirements.*
98. *Following the issuing of my Post Hearing Note, I learnt that discussions had taken place between the landowners and Penrith Town Council, but rather than the topic being approached in a collaborative basis to achieve mutually acceptable outcomes, it is clear that the respective positions had become entrenched.*
99. *The Lowther Trust put forward a proposal which would have retained the western part of the proposed local green space, which would still have an area of 33.06 ha and the separate identification of an eastern part based on an arbitrary line through the woodland, showing a protected open space area with an area of 9.59 ha. The landowners suggested a new policy, which included reference to the provision for small-scale tourism development, as defined by Eden Local Plan Policy EC4. They argue that the national planning policy framework for managing development in areas designated as local green space is that the development should be consistent with policies for managing development in the Green Belt. That raised the question, in my mind, as to whether the landowners wish to site tourist pods and lodges, falls within the scope of paragraph 149 b) of the Framework which refers to the "provision of appropriate facilities for... outdoor recreation", and whether the siting of these units would preserve the openness of the land.*
100. *The landowners argue that their proposals will be in accordance with Local Plan Policy EC4 which refers to temporary accommodation (caravans, camping and chalet sites), where it meets the three criteria, including that the development is capable being of removed, without damage or material changes to the land on which it was sited and the units are screened by existing topography and vegetation. Therefore, the question of policy compliance with Policy EC4 depends on whether those pods are to be treated as temporary structures rather than as permanent buildings.*
101. *In my experience it is normal practice that these types of structure, which can be delivered on a lorry and assembled on site, are accepted as a change of use of*

land, rather than constituting operational development. They are not usually treated as permanent structures, such as the building of new holiday cottages as set out in an earlier section of Policy EC4. They tend to be covered by the provisions of the Caravan Sites and Control of Development Act 1960 and any services required to comply with a site license are normally classed as permitted development under Part 5 of Schedule 2 of the General Permitted Development order 2015.

- 102. The Town Council's version of the proposed policy would only allow the provision of footpaths, interpretation boards, the construction of an open sided structure - capable for being used, for example, by a Forest School, a forest art or sculpture trail, cycle paths and a small parking area. It goes on to say explicitly that the policy should prevent "development proposals that would provide accommodation for overnight stays (e.g. chalets, pods or camping)". However, that would mean that the policy would not be in accordance with the strategic local plan policy, Policy EC4 which explicitly allows such facilities subject to the policy's three criteria and which would bring additional economic benefits to the town by providing additional tourist accommodation, close to the town's facilities and services. To explicitly rule out such uses would bring into question whether the policy would meet the basic condition of being in general conformity with strategic planning policy and indeed whether it would be likely to lead to less development being permitted than that allowed by the local plan.*
- 103. My conclusion on this matter, is that the retention of the remaining 33 ha of the woodland as local green space would still fail the NPPF test, as it would still be an extensive tract of land, and therefore should not be designated as a local green space. I also feel that the dividing line between the proposed protected open space and the local green space, is, as is accepted by all parties, somewhat arbitrary, but I do know that it is limited to the area where the landowner has commercial aspirations. In my opinion I believe that the policy should cover the whole of Beacon Hill.*
- 104. During the post hearing period, I had invited comments from the interested parties on the alternative policies being put forward for my consideration and I received comments from the landowners, the Town Council, Keep Penrith Special and the Friends of Penrith Beacon. I have carefully considered all the responses and indeed, I noted the nuanced differences between the positions taken by the 2 local organisations and the Town Council.*
- 105. In my Further Comments of the Independent Examiner, I asked specific questions of the Town Council and the landowners. I asked the Town Council what it believes would be the material harm to the Beacon of allowing small tourist related accommodation. It referred to what it described as the loss of openness, and the impact on landscape, wildlife, noise, traffic and the introduction of activities of a domestic nature eg. hot tubs, barbeques, washing lines and play equipment as well as light pollution.*

106. *I sought further information from the landowners as to what their commercial aspirations were for the Beacon. They provided me with a masterplan showing the siting of about 40 lodges (“caravans clad to assimilate with the existing surroundings”) to be developed in two phases of 20 units, served off an existing access from Stagstones Road, which will be set in a communal woodland setting without individual curtilages or gardens. The proposal would extend the existing permissive footpath to a new public car park to be provided off Stagstones Road.*
107. *The proposal for 40 units would be double the threshold set in the supporting text of the Local Plan which clarifies that what constitutes “small scale” (para 4.19.2) as a maximum of 20 units.*
108. *The Town Council’s aspirations for enhanced public access and recreational facilities which are aimed essentially towards local residents are unlikely to be realised, without the landowner’s cooperation, which is unlikely to be forthcoming if the neighbourhood plan policy explicitly frustrated its commercial aspirations for some limited development. In my view a policy that encourages the provision of the type of facilities sought by Penrith Town Council are more likely to be deliverable, if they take place alongside the small-scale tourist development, which would comply with strategic policy. Together the two elements could enhance the recreational value the whole of The Beacon, for the benefit of the town’s residents and visitors, alongside new facilities capable of being economically valuable to the local economy.*
109. *I am not necessarily satisfied that the area edged in red for Beacon Hill East, as proposed by the landowners, is the best or most appropriate area for the location of this small-scale development. I have not been provided with evidence of why it is the optimum location, or whether it is the least sensitive areas for this development. Furthermore, the masterplan area is deemed by the landowners to be suitable for 40 units, but my intention is that my recommended new policy should restrict the amount of tourist accommodation, to the 20 units which is allowed under the local plan’s definition of “small scale”.*
110. *I therefore do not intend to identify a particular area of the Beacon where the tourism accommodation should be sited. Rather, the choice of the site must be justified at planning application stage, particularly in terms of how the meets the proposed policy criteria, for example in terms of the biodiversity or landscape sensitivities of that part of the woodland.*

John Slater BA (Hons), DMS, MRTPI

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Independent Examiner to the Penrith Neighbourhood Development Plan.

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