

**Westmorland and Furness Council**  
**Town and Country Planning, England**  
**(Published pursuant to Section 38A(9) of the Planning and**  
**Compulsory Purchase Act 2004 and Regulation 18 of the**  
**Neighbourhood Planning (General) Regulations 2012 (as**  
**amended))**

**Penrith Neighbourhood Development Plan**  
**Decision Statement**

1. In line with Regulation 18(2) of the Neighbourhood Planning (General) Regulations 2012 (as amended) Westmorland and Furness Council (the 'Council') have produced this 'Decision Statement' in relation to the Penrith Neighbourhood Development Plan (the 'Plan').

**Background**

2. On 6 September 2016, Eden District Council (EDC) (the local planning authority for the area until April 1<sup>st</sup> 2023) formally designated the area of Penrith Parish as the Penrith Town Council (PTC) Neighbourhood Area.
3. PTC consulted on the draft Plan between February 2019 and March 2020. The draft Plan was submitted to EDC in August 2020.
4. Following the submission of the Draft Plan to EDC, in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) the Plan was publicised and representations were invited. The publicity period ran for a period of six weeks between 23 September 2020 and 4 November 2020.
5. EDC appointed an independent Examiner, John Slater BA (Hons), DMS, MRTPI to examine whether the Plan met the 'basic conditions' as set out in Schedule 4B to the Town and Country Planning Act 1990, and whether the Plan should proceed to a referendum.
6. The Independent Examiner held a virtual Public Hearing in order to hear oral evidence on certain matters put forward in the Plan. The Hearing took place on Microsoft Teams and involved representatives from, and acting on behalf of, PTC, EDC and Lowther Estate Trust. The matters addressed focused solely on those matters raised in the Examiner's Initial Observations received on 8 January 2021.
7. Following the virtual Public Hearing, the Examiner received correspondence from local groups, friends of the Beacon and Keep Penrith Special relating to Beacon Hill. On 14 December 2021 the Examiner issued a note 'Consultation on proposed policy on Beacon Hill', within which he proposed a new, bespoke Policy in respect of Beacon Hill (not a modification of a proposed policy), in an attempt to resolve issues concerning the future of Beacon Hill. As this policy had not previously been the subject of a public consultation, either at

Regulation 14 or Regulation 16 stage, the Examiner required that the Policy be subject to a four-week public consultation, commencing after the Christmas holiday period, between 7 January and 4 February 2022. All redacted responses were placed on the Council's website. Non-redacted responses were forwarded to the Examiner.

8. The Examiner's Final Report was received by EDC on 29 March 2022 and recommended a number of modifications to the Plan including the deletion of four policies (Policies 1, 8, 9 and 12). These were made by the Examiner to ensure the Plan complies with the basic conditions and other relevant statutory provisions, and so that the draft Plan, as modified, can be submitted for referendum. It concludes by stating:

*"I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made."*
9. Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended), requires the local planning authority to outline what action needs to be taken in response to the recommendations of an Examiner made in a report under paragraph 10 of Schedule 4a to the Town and Country Planning Act 1990 (as applied by Section 38A of the Planning and Compulsory Purchase Act 2004).
10. The deletion of policies 1 and 12, the removal of Beacon Hill as Local Green Space from Policy 8 and the series of recommended amendments to the remaining policies were not generally of concern to PTC. However, the Town Council was particularly concerned about the proposed deletion of policies 8 and 9 in their entirety with these considered fundamental to the purpose of the Plan. Whilst EDC Officers had no fundamental issues with the Examiner's report, attempts were made to work proactively with PTC to explore their concerns with a view to establishing if they could be addressed.
11. To clarify issues raised by the Examiner, EDC sought expert Opinion from senior Counsel. Counsel Opinion concurred with the view of EDC's Planning Policy Officers in that the Examiner did not generally comment on the individual Local Green Space sites (under Policy 8) and that if the 35 sites are rationally considered to be demonstrably special (and meet the other two tests for Local Green Space), they could be included in Policy 8. Additional public consultation therefore took place between 30 January and 28 February 2023. Policy 9 had also been recommended for deletion being so intrinsically linked to Policy 8.

## The Council's Decision and Reasons

12. The decision was made by Westmorland and Furness Director of Thriving Places in consultation with the Cabinet member for Sustainable Communities and Localities. The Council has considered each of the Examiner's recommendations and the reasons given for them as set out in the Examiner's Report as required by Regulation 12 of Schedule 4B of the Town and Country Planning Act 1990. The Council endorses the Examiner's recommended modifications and the reasons given for them except in respect of Policies 8 and 9. These two policies are to be retained, with modifications made to Policy 8 to delete reference to site BE14: Beacon Hill). The Council is satisfied that the Plan, as modified meets the legal requirements and basic conditions as set out in legislation.
13. Following the additional public consultation that took place between 30 January and 28 February 2023 in respect of Policy 8 it became apparent that all sites (with the exception of BE14: Beacon Hill) met each of the three Local Green Space criteria set out in the NPPF. The Policy therefore met the 'Basic Conditions' rendering it capable of being retained within the Neighbourhood Development Plan.
14. In respect of Policy 9, it is apparent that the sites identified complement the list of sites identified under Policy COM2 of the adopted Eden Local Plan and that the Policy also meets the requirements of Paragraph 99 of the National Planning Policy Framework which seeks to safeguard 'existing open space, sports and recreational buildings and land, including playing fields, from development'. The Policy therefore meets the basic conditions and is able to be retained, unaltered.
15. As the Council's decision is contrary to the Examiner's recommendation, the Plan will need to be the subject of a further round of consultation based on the amended wording, before returning for consideration at Council, and before potentially being the subject of referendum.
16. The Decision Statement and the Examiner's Report, including the proposed modifications, can be viewed on the Westmorland and Furness Council website: <https://www.eden.gov.uk/penrithneighbourhoodplan>
17. The documents are also available for inspection at: the following locations during normal opening hours: Penrith Town Hall and Penrith Library.
18. A written notice of this decision statement will also be sent to Penrith Town Council and any person who asked to be notified of the decision. As this differs from the recommendation of the Examiner (in respect of Policies 8 and 9), it is proposed to notify the following people or groups of the Council's decision (and the reason for it) and invite representations for a period of 6 weeks, namely:
  - The qualifying body;
  - Anyone whose representation was submitted to the Examiner; and

- Any consultation body that was previously consulted.
19. In addition, it is proposed that the representations received during the above consultation be reported back to Council for their consideration, before potentially moving to referendum.
  20. Subject to a positive vote at referendum (more than 50% of the votes cast are in favour of the Plan), the Plan will be 'made' (adopted) by the Council. It is not for the council to decide for or against adoption of the Neighbourhood Plan.
  21. For more information please contact the Planning Policy Team on 0300 373 3300 or email: [Neighbourhood.Planning@westmorlandandfurness.gov.uk](mailto:Neighbourhood.Planning@westmorlandandfurness.gov.uk)

## Schedule of Modifications

The changes below are expressed either in the conventional form of strikethrough for deletions and underlining for additions of text, or by specifying the change in words in *italics*.

The page numbers and policy numbering below refer to the submission neighbourhood plan, and do not take account of the deletion or addition of text.

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 1 Sustainable Development in Penrith	34/35	<p><del>1. Development proposals should be designed to incorporate sustainable development principles and measures. These measures should build in resilience and achieve development that is adaptable to meet the challenges of future climate and socio-economic change. Development proposals should demonstrate, where practicable, that they meet all of the following criteria.</del></p> <p><u>2 The inclusion of design features and measures that encourage active and healthy lifestyles, for example, good links to the walking, cycling and public transport network and incorporation of cycle storage, access to private or shared garden space and public recreation space.</u></p> <p><del>3. Measures to prevent flooding and water course pollution and measures to minimise water consumption, including the incorporation of sustainable urban drainage</del></p>	<p>The policy only offers a partial view of what the NPPF identifies as the key elements of sustainable development. For example, it does not cover the economic thread of sustainable development, such as supporting growth, innovation and improved productivity. Similarly, the policy does not address the need to provide a “sufficient number or range of homes to meet the needs of the present and future generations.”</p> <p>This policy, offers only a restrictive picture of what constitutes sustainable development and by concentrating only with these particular policies, the decision-maker is not being asked to consider other elements that are equally as important components of sustainable development.</p>	That policy 1: Sustainable Development in Penrith be <b>deleted in full.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 1 Sustainable Development in Penrith	34/35	<p><del>systems, rainwater harvesting and water efficient fittings.</del></p> <p>4. <del>Design that includes measures to minimise energy use and consumption, seeks to include the highest available standards of energy efficiency, and provides, where appropriate, on-site production of energy using renewable sources, such as photovoltaics, ground/air source heat pumps and small wind turbines.</del></p> <p>5. <del>Utilising recycled building materials, wherever possible ( eg masonry, roofing materials, aggregate etc.).</del></p> <p>6. <del>Maximise opportunities for active means of transport, (walking, cycling and public transport) and to promote use of low carbon vehicles by providing charging points.</del></p> <p>7. <del>Use of sustainable, renewable, healthy products ( eg by avoiding toxic or carcinogenic materials) that embody low energy output, and are, wherever possible, sourced locally.</del></p> <p>8. <del>Protection of greenspaces, creation of new greenspaces and, where applicable, the development achieves net gains in biodiversity.</del></p>	<p>It is quite usual for the neighbourhood plan policy to provide an additional local dimension to a local plan policy. Indeed, it is a requirement that a neighbourhood plan should support the strategic policies in the local plan.</p> <p>I am also conscious that the Secretary of State, in paragraph 16f) of the NPPF, states that plans should “avoid unnecessary duplication of policies that apply to particular area”.</p> <p>I have carefully reviewed each of the elements contained within the policy and my conclusion is that the local plan is actually providing the same or greater levels of detail as to what is expected from a development, compared to the “criteria” which is set out in the Policy1. In particular, I am satisfied that the Eden Local Plan in Policies DEV3, DEV4, DEV5, ENV4 and ENV5, which already apply to development taking place within Penrith, provide clear guidance to decision-maker as to how a planning application is to be considered, apart from two elements.</p>	That policy 1: Sustainable Development in Penrith be <b>deleted in full.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 1 Sustainable Development in Penrith	34/35	<p><del>9. Inclusion of adequate infrastructure to service the development and to ensure the development is sustainable — economically, socially and environmentally.</del></p> <p><del>10. Protection and enhancement of the local identity, character and distinctiveness of the town by way of sympathetic use of building styles, layouts, materials and landscaping.</del></p>	<p>1 The requirement for schemes to demonstrate that the design includes measures to minimise energy use and consumption. However, the Secretary of State in a Written Ministerial Statement to the House of Commons, dated 25th March 2015, states that neighbourhood plans should not set “any additional local technical standards or requirements relating to the construction, internal layout and performance of new dwellings.” This remains the current policy advice from the Secretary of State, as the statement, unlike others, has not been revoked and is also still referred to in the advice in the Planning Practice Guidance which was issued in 2019. Reference was made to recent statements made in the Government’s response to the Future Homes Standard consultation, but that relates to matters primarily covered by the Building Regulations. I therefore believe that the inclusion of the criteria raising expectations regarding energy use and consumption, within a neighbourhood plan, would not be in accordance with the Secretary of State</p>	<p>That policy 1: Sustainable Development in Penrith be <b>deleted in full.</b></p>

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Policy 1 Sustainable Development in Penrith	34/35		<p>advice and as such would not meet the basic condition.</p> <p>2 This relates to the use of “use of .... healthy products (e.g. by avoiding toxic or carcinogenic materials) that employ low energy output and are, wherever possible, sourced locally”. The sources of materials within a development is not a matter that is within the control of the planning system and certainly would not be subject of planning control.</p> <p>Whilst I understand that the Town Council wishes to make a strong statement regarding its expectations for development within the town, I am satisfied that the strategic policies within the local plan, which apply to the town, actually provide the same or greater level of detail as to how planning applications are to be considered in terms of the delivery of sustainable development.</p>	That policy 1: Sustainable Development in Penrith be <b>deleted in full.</b>



Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 2: Environmentally Sustainable Design	37	<p>Development should be designed in such a way that it promotes high quality, environmentally sustainable design. Proposals should, therefore, be informed by, and respect, the town's wider character and the local site context. High quality, contemporary design will be encouraged, which may promote local distinctiveness or, where appropriate, reflect a different aesthetic which expresses 21st Century responses, including design to reduce the impact of climate change. Planning applications will be assessed against the following:</p> <ol style="list-style-type: none"> <li>1. Design and Access Statements, where they are required to accompany a planning application, should set out how the proposal achieves high quality design and sustainable development.</li> <li>2. For planning applications classed as major development (see the Glossary in the PNDP) the Renewable Energy Statement <del>shall</del> <u>will be encouraged to set out</u> how the proposal meets zero or low carbon targets and includes climate change resilience measures. <del>As a minimum, for</del> <u>For commercial building schemes which meet</u></li> </ol>	<p>The overall thrust of this policy will ensure that the plan delivers sustainable development. The Eden Local Plan already dictates under what circumstances a Renewable Energy Strategy will be required and how it should show the predicted energy demands of the proposed development and the degree to which the development meets current energy-efficient standards. This policy goes further and requires a statement to show how the development will meet zero or low carbon targets. I do not consider that imposing these extra requirements through a neighbourhood plan, in respect of residential schemes, would be in accordance with the requirements set out in the aforementioned Written Ministerial Statement. Such requirements are not affected, in the case of commercial schemes.</p>	<p>That Policy 2: Environmentally Sustainable Design be <b>amended accordingly.</b></p>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 2: Environmentally Sustainable Design	37	<p>Building Research Establishment Environmental Assessment Method (BREEAM – Good or Excellent Standard) <del>should be achieved</del> <u>will be supported.</u></p> <p>3. If the proposals are an innovative sustainable design solution such proposals will be encouraged to ensure that buildings remain at the forefront of contemporary, sustainable building design and will be assessed for the way in which they include measures for:</p> <p><u>i. Adopting water recycling methods at source;</u></p> <p><u>ii. Using sustainable building materials;</u></p> <p><u>iii. Recycling of grey and rainwater;</u></p> <p><u>iv. Adopting high standards for thermal insulation and using features such as building orientation and natural ventilation to maximise passive solar gain and to aid natural heating and cooling of buildings and</u></p> <p><u>v. Inclusion of design features that encourage more sustainable lifestyles eg electric vehicle charging points, convenient storage of waste for recycling etc.</u></p>	<p>I fear that by imposing this requirement at a local level could result in employment generating development choosing not to locate to Penrith, which could undermine the strategic employment policies in the Eden Local Plan as it could be more expensive to be building in Penrith compared to other areas of Eden District or the wider North West.</p> <p>I am recommending that the emphasis of the policy should be changed, so that the meeting of the higher standards will be encouraged, but that the requirements of the Local Plan policy should remain the determining test.</p> <p>The final element of Policy 2 is a policy that encourages development to be at the forefront of contemporary, sustainable building design. I consider that this part of the policy is consistent with the Secretary of State’s aspirations as set out in paragraph 134b) of the NPPF.</p>	<p>That Policy 2: Environmentally Sustainable Design be <b>amended accordingly.</b></p>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 3: Energy and Reducing Carbon Emissions	39	Developers of major <u>Commercial</u> proposals above a threshold of 1,000 square metres or 40 dwellings shall provide at least 15% of the development's total predicted energy requirements from on-site renewable energy generation and storage, unless this can be demonstrated to be neither practicable nor viable.	<p>This policy is proposing more stringent policy requirements on developers than is required by Policy ENV5 of the Eden Local Plan, which does not set a threshold for the percentage of total energy predicted requirements. The setting of these standards within the neighbourhood plan, would be contrary to the Secretary of State's policy as set out in the previously mentioned Written Ministerial Statement.</p> <p>I am satisfied that the policy's caveats, regarding practicality and viability, will allow economic development not to be discouraged from investing in Penrith.</p>	That Policy 3: Energy and Reducing Carbon Emissions, be <b>amended accordingly</b>
Policy 4: Accessibility and Social Inclusion	40	To ensure that all development proposals meet the needs of all groups and sections of the community <del>they</del> <u>those that are within or are adjacent to the urban area</u> should be in a location that can be reasonably accessed by walking, cycling, those with mobility aids, public transport and motor vehicles. To increase accessibility, proposals should incorporate measures and features to ensure that any routes ( eg footpaths, streets, roads etc.) through, to and from a site are welcoming, overlooked and safe.	The policy is intended to apply to all development taking place within the plan area. There could be some schemes, such as those taking place within the wider rural areas, where it will be unreasonable for the policy's accessibility requirements to be insisted upon. I would therefore recommend that the provisions of the first element of the policy should be limited to the urban area.	That Policy 4: Accessibility and Social Inclusion be <b>amended accordingly.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 4: Accessibility and Social Inclusion	40	<p>To improve social inclusion proposals should also:</p> <ol style="list-style-type: none"> <li>1. Provide high quality, well located, accessible, functional, centralised public open spaces, play areas and public spaces that allow people of all ages and backgrounds to meet and lead healthy and active lifestyles, where feasible and appropriate.</li> <li>2. Incorporate design features that will allow buildings and spaces the flexibility to adapt and change so they can meet the needs of a changing population eg by incorporating design features such as those in the Lifetime Homes Standard that allow flexibility and adaptability to create better living environments for everyone.</li> </ol>		That Policy 4: Accessibility and Social Inclusion be <b>amended accordingly.</b>
Policy 5: Conservation Areas in Penrith A. Penrith Conservation Area	42	<p>Development within or affecting the setting of the Penrith Conservation Area should be designed to take account of the conservation or enhancement of the following:</p> <ol style="list-style-type: none"> <li>1. Historic street patterns and layouts including former market places, lanes and yards and the Conservation Area's high degree of permeability.</li> </ol>	The reference to key views and vistas from the green above Scaws Drive and from Beacon Fell towards the Lakeland Fells would be more appropriately located within the Penrith New Street Conservation Area section of this policy.	That Policy 5: Conservation Areas in Penrith. A: Penrith Conservation Area be <b>amended accordingly.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 5: Conservation Areas in Penrith A. Penrith Conservation Area	42	<p>2. The fine grain of built development and the well-defined building hierarchy with buildings generally two storeys in height and not exceeding four storeys unless of exceptional design and having no other significant adverse impact.</p> <p>3. Vernacular buildings and styles.</p> <p>4. Retention, re-use and use of local materials, for example red sandstone, Westmorland/Burlington slate and timber in buildings and red sandstone for boundary walls, or sympathetic alternatives that would encourage high quality, innovative design.</p> <p>5. Irregular roofscapes and the predominance of vertical fenestration including number and size of window openings, materials, sub-division of windows ( eg mullions), decoration, shutters, window colour and glazing.</p> <p>6. The retention, renovation and re-introduction of traditional shopfronts in line with the planning policies in this plan and the Eden District Shopfronts Supplementary Planning Document.</p>		That Policy 5: Conservation Areas in Penrith. A: Penrith Conservation Area be <b>amended accordingly.</b>

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		<p>7. Key views and vistas within and of the Conservation Area, including:</p> <ul style="list-style-type: none"> <li>i. View of Beacon Hill from Penrith Castle;</li> <li>ii. <del>View of the Lakeland Fells from green above Scaws Drive and from Beacon Edge.</del></li> </ul> <p>8. Hard and soft landscaping in local materials with native species planting.</p>		
<p>Policy 5: Conservation Areas in Penrith B: Penrith New Streets</p>	<p>43</p>	<p>Development within or affecting the setting of the Penrith New Streets Conservation Area should be designed to take account of the conservation or enhancement of the following:</p> <ul style="list-style-type: none"> <li>1. Retain the layout of tightly knit terraces and larger semi-detached and detached villas.</li> <li>2. Use suitable materials such as red sandstone and Westmorland/Burlington slate roofs or sympathetic alternatives that would introduce and encourage high quality, innovative design.</li> <li>3. Retention of vernacular architectural detailing such as arched doorways, bay windows, stone mullions, large stone chimney stacks and decorative eaves, and sandstone boundary walls within a high-quality design proposal.</li> </ul>	<p>The reference to key views and vistas from the green above Scaws Drive and from Beacon Fell towards the Lakeland Fells would be more appropriately located within the Penrith New Street Conservation Area section of this policy.</p>	<p>That Policy 5: Conservation Areas in Penrith. B: Penrith New Streets be <b>amended accordingly.</b></p>

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		<p>4. Retention of mature gardens and open spaces that are integral to the Conservation Area and its setting.</p> <p><u>5. Key views and vistas within and of the Conservation Area, including the view of the Lakeland Fells from the green above Scaws Drive and from Beacon Edge.</u></p>		
Policy 6: High Quality New Homes	46	<p>To ensure new housing development is of high-quality design that reinforces local identity and reflects local distinctiveness it should have regard to and will be assessed against the following:</p> <p>1. Use of sympathetic layouts and building forms when considered in relation to the surrounding context and use of traditional local materials and non-traditional, innovative materials, where the latter are sympathetic to the character of adjacent buildings and the immediate surrounding area.</p> <p><del>2. Visual and landscape character impact.</del>  <u>The extent to which the proposal conserves and enhances the visual and landscape character of the immediate vicinity of the site</u></p>	<p>The title of the policy should refer to “High Quality New Homes”.</p> <p>A number of the criteria do not provide guidance as to whether proposal should be supported. In order to give guidance for a decision maker, I will propose setting out specific criteria against which a planning application will be judged. This includes a requirement that proposals should not have a detrimental impact on the visual and landscape character of the locality. The development should also be located so as to be capable, where possible, for residents to be able to access local facilities and services by a range of transport modes, as required by Policy 4. In the light of the NPPF, it is only possible to refuse planning permission if there will be a severe</p>	That Policy 6: High Quality New Home, be <b>amended accordingly.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
		<p><del>3. Access to local facilities and services. Whether the location of the development allows access to local facilities and services by means other than the private car</del></p> <p>4. Impact on existing communities in terms of residential amenity and impact on local infrastructure.</p> <p>5. <del>Traffic generation and its impact. whether the traffic generation resulting from the development will have an unacceptable impact on highway safety or will have a severe residual cumulative impact on the road network</del></p> <p>6. Provision of appropriate social <u>and green</u> infrastructure to meet the needs arising from the development, including accessible, usable open greenspace and landscaping of native species, including food plants and fruit trees.</p> <p>7. Provision of features to encourage wildlife movement, migration, nesting ( eg bird boxes, bat roosts, hedgehog holes), roosting and foraging.</p> <p>8. Outside the town centre as defined in the ELP 2014-2032 the provision of off-street car parking provision to meet the standards defined in Part 1 of the Cumbria Design Guide produced by Cumbria County Council as set out below, including garages capable</p>	<p>residual cumulative impact on the road network.</p> <p>Reference to social infrastructure should differentiate between social and green infrastructure which could cover green space and landscaping.</p>	



Policy	Page No	Proposed Modification	Examiners Justification	Decision
		of meeting the needs of contemporary vehicles. 1 bedroom 1 space / garage 2 bedrooms 2 spaces 3 bedrooms 2.5 spaces 4 bedrooms 3 spaces		
Policy 7: Housing Type and Mix	47	New housing development should provide a range of types and sizes of dwellings that meet identified local needs in accordance with ELP 20142032 Policy HS4. <u>In the case of Penrith, the specific components of local housing needs are as follows</u> In Penrith, as confirmed by the 2018 Housing Need Survey, the priority should be for the provision of homes to meet the needs of young renters with/without children, first time buyers, empty nesters and the ageing population. The provision of serviced plots, either individually or in groups, for custom and self-build affordable housing will also be supported on sites of 10 or more homes, or where the site has an area of 0.5 hectares or more.	The first part of the policy is essentially a requirement to comply with an existing local plan policy, which will already be covering the plan area. As such it is unnecessary. I will clarify the wording so that it is clear that the local need set out in accordance with Local Plan Policy HS4, is as per the remainder of the policy.	That Policy 7: Housing Type and Mix be <b>amended accordingly.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
		Based on the 2018 Housing Need Survey and in consultation with the local community, developers should include bungalows within the mix of homes on individual sites. Extra care housing to meet the needs of the ageing population will also be supported.		
Policy 8: Identifying and protecting Local Green Space Policy 9: Protecting and enhancing Sport, Leisure and Reactional Facilities	50	<p><b>Policy 8:</b> The following areas (<b>Map A – Policies Map, page 134</b>) will be designated as local green spaces and will be protected from inappropriate development.</p> <p>C2 Land between rugby pitches and houses on Carleton Road</p> <p>PE6 Land and wood above Scaws Drive</p> <p>PE8 Land between Brentfield Way and Meadowcroft</p> <p>PE9 Folly Lane Allotments</p> <p>PE12 St Andrew’s Churchyard</p> <p><del>PN14 Beacon Hill</del></p> <p>PN17 Open area at top of Croft Terrace against Beacon Edge</p> <p>PN18 Field on Beacon Edge</p> <p>PN24 Fell Lane Pinfold</p> <p>PN27 Cockell House Gardens / Drovers Lane</p> <p>PN28 Cockell House Gardens / Macadam Gardens</p>	The neighbourhood plan is proposing that a number of these areas of public open space already identified under Local Plan Policy COM2 should now be designated as local green space, which is the highest level of protection of green spaces available. That is entirely appropriate. Some of the existing site COM2 sites are retained as such, but in addition, the neighbourhood plan includes a number of new sites which are to be designated as public open space, so as to be protected by Local Plan Policy COM2. In addition, the plan is proposing to include new areas, which are not currently protected by the public open space, as local green spaces.	That following a re-consultation specifically in respect on Policy 8 (deleting site PN14: Beacon Hill) and the reconsideration in full of the individual sites specified in both policies 8 and 9, that <b>Policy 8: Identifying and protecting Local Green Space be amended accordingly deleting site</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
		PN29 Voreda Park Central Space PN30 Head of Macadam Way PN31 Pembroke Place PN32 Land in Voreda Park PN33 Plimsoll Close PN34 Cambridge Drive PN36 St Catherine’s Churchyard PN37 Christchurch Churchyard PN39 Salkeld Road Allotments PN40 Coronation Gardens PN42 Bowscar PN43 Friends Meeting House Allotment Gardens PW45 Nichol Hill Nature Reserve PW46 Thacka Beck Nature Reserve PW487 Brunswick Square Gardens PW49 James Street Allotments PW50 Castletown/Musgrave St/Brackenber Allotments PP66 Thacka Glen PW52 Recreation area between Musgrave Street Allotments and Newton Road PS53 Weatheriggs Country Park PP67 Pategill Back Field PP70 Open space to south of Eden Housing Association (EHA) PP71 Open space to the north of EHA PP72 Open space to the north of Greengarth	<p>The COM2 sites are to be protected through Policy 9 of the neighbourhood plan. The interrelationship between the two policies means that it is sensible to refer to them both together.</p> <p>The criteria used by the Town Council to determine which sites are to be protected and by which route, were discussed during the hearing and I subsequently asked the Town Council to confirm what criteria was used.</p> <p>I was informed local green spaces were those spaces identified as being <i>“informal areas used by residents for unstructured play, gathering together and in some places are spaces which are maintained and planted by residents and community groups”</i>. The criteria for being identified as COM2 sites include <i>“more formal sports, leisure and recreation facilities with play equipment, including school playing fields.”</i></p> <p>It appears to me that the Town Council has chosen to identify what are to be local green space, not based on the</p>	<p><b>PN14 Beacon Hill and Policy 9: Protecting and enhancing Sport, Leisure and Reactional Facilities, be retained in full</b></p>

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		<p>Development of the designated Local Green Spaces must be consistent with national planning policy for Green Belts.</p> <p><b>Policy 9:</b> The following sport and recreation facilities, also identified on the <b>Policies Map, Map A, page 134</b>, will be protected in accordance with Eden Local Plan 2014-2032 Policy COM2 Protection of Open Space, Sport, Leisure and Recreation Facilities:</p> <p>C1 Carleton Heights play area  C2 Part of C2 Penrith RUFC (the rugby pitches are already designated as public open space in the Local Plan although the field between the pitches and the houses on Carleton Road is not)  C4 Hunter Hall School Playing Field  C5 Frenchfield Sports Centre incorporating Penrith Football Club  PE7 Scaws play area  PE10 Friars Bowling Club  PE11 Beaconside School Playing Fields  PN16 Milton Street Play Area  PN19 Penrith Golf Course  PN21 Fairhill playing field  PN22 St. Catherine’s School Field  PN41 Bowscar play area</p>	<p>relative importance of the spaces to the local community, but rather the selection has been based on whether the spaces are used for passive or for active leisure pursuits such as sports ground or play areas.</p> <p>The Secretary of State in the NPPF sets out a hierarchy, whereby the greatest level of protection is afforded to those green spaces that are designated as local green spaces, compared to those other facilities, which are covered by paragraph 99 of the Framework.</p> <p>I heard repeatedly, during the hearing, that the choice of the local green spaces was determined by the local knowledge of the town councillors based on responses from the local residents, but I am not convinced that the choices have been informed by a clear understanding of the different criteria set out in the framework for identifying local green spaces as opposed to other open spaces.</p>	

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		<p>PP68 Pategill play area and recreation ground</p> <p>PS54 The Crescent playing fields</p> <p>PS55 In part PS55 Ullswater CC playing fields (the area to the south of the cricket ground is already designated as public open space in the Local Plan although the field between the cricket ground and Bridge Lane is not)</p> <p>PS56 Penrith Cricket Ground</p> <p>PS57 Playing field at southern gateway to town between A66 and Clifford Road</p> <p>PS58 Clifford Road play area</p> <p>PS59 North Lakes School Playing Field</p> <p>PS60 Land between Wetheriggs Lane and Astro Turf</p> <p>PS62 Queen Elizabeth Grammar School Playing Field</p> <p>PS64 Castle Park</p> <p>PW51 Castletown recreation area</p> <p>Penrith Leisure Centre</p> <p>Proposals for a new youth facility providing indoor and outdoor space will be supported where they would not lead to significant adverse impacts on the amenity of adjacent users and occupiers</p>	<p>I am not necessarily convinced that the town's residents would have placed greater importance on the protection of some sites, which are offered a higher level of protection via Policy 8, compared to some other sites which are protected as COM2 sites set out in Policy 9. I am sure that some of the Policy 9 sites would be considered to be demonstrably special to the local community, holding local significance because of their recreational value or other reasons. I am not satisfied that the Town Council has demonstrated that the town's community, places greater value on the protection of the areas of undeveloped informal open space around the Macadam Way housing estate, than it will say place protecting the grounds of Penrith Cricket club or indeed Castle Park, both of which are identified within Policy 9.</p> <p>I am reinforced in my view that there has been a lack of understanding of the relative importance in two categories, based on the revised</p>	

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			<p>mapping which I was sent, following the request I made in my Post Hearing Note.</p> <p>My conclusion is that the identification of the local green spaces based on the Town Council's criteria has not had proper regard to the Secretary of State criteria and I conclude that both Policy 8 and 9 does not meet the basic conditions of having regard to Secretary of State policy and advice.</p> <p>Regarding Beacon Fell which was proposed to be designated as local green space by the submitted neighbourhood plan.</p> <p>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.</p> <p>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,</p>	

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			<p>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.</p> <p>Unfortunately, the respective positions of the land owner and the Town Council had become entrenched. I introduced a bespoke policy for Beacon Fell which was the subject of a further round of consultation but this did not attract public support. There were only around 18 responses, out of over 600 replies which offered support to the bespoke policy and the reasoning set out in my draft report.</p> <p>It is clear that the over whelming desire of the residents is to seek to prevent any development on the Beacon taking place. The Neighbourhood Plan seeks to do that through the designation as Local Green Space, which would mean that development is managed in a way consistent with Green Belt policy.</p>	

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			<p>The Beacon Fell area would still fail the third test, as set out in Paragraph 102 c) as it is, in my opinion, <b>an extensive tract of land</b>, and therefore does not meet the basic condition of having regard to Secretary of State policy and advice, regarding local green space designation.</p> <p>I am therefore recommending that the two policies, Policies 8 and 9 be deleted, as I do not believe, as currently proposed, they are compatible with the Secretary of State's policy and advice regarding local green space. The Town Council, as part of any future review of the neighbourhood plan, can revisit the question of which areas are to be designated as local green space, based on the relative importance to the community of the facilities, rather than differentiating them based on whether they are used as active or passive open spaces.</p>	



Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 10: Protecting and enhancing Health and Community Facilities	54	<p>There will be a presumption in favour of the protection of existing community facilities. The change of use of existing community facilities, will only be supported for other health, education or community uses such as community halls, local clubhouses, health centres, schools, public houses and children’s day nurseries.</p> <p>When a non-community use ( eg housing) is proposed to replace, either by conversion or redevelopment, one of the facilities, such development will only be supported when it can be demonstrated that: a) There is no longer a need for the facility or suitable and accessible alternatives exist.  b) That it is no longer economically viable to provide the facility.  c) That the site has been unsuccessfully marketed for sale in its current use.</p> <p>Proposals for new community facilities and improved access to existing community facilities on the Pategill, Raiselands, Scaws and Wetheriggs estates will be supported.</p>	No Comments	That Policy 10: Protecting and enhancing Health and Community Facilities be <b>retained in full.</b>

Policy	Page No	Proposed Modification	Examiners Justification	Decision
Policy 11: Walking and Cycling		<p>The provision and enhancement of walking and cycling links within the town especially between existing and new residential areas and key destinations, such as the town centre, employment sites, schools and other community facilities will be supported. Where appropriate, new development should include walking and cycling infrastructure that is of high-quality design and accessible to all.</p> <p>To ensure new development meets this policy, assessment will be made against the following:</p> <ol style="list-style-type: none"> <li>1. Where necessary and feasible, provision of links to existing open spaces, green infrastructure and watercourses (rivers, becks and streams) and water features ( eg ponds).</li> <li>2. Connections to the existing network of walking and cycle path routes, where this is feasible, including ease and directness of any new connections created to the existing footpath and cycle path network (<b>Map B, page 137</b>).</li> </ol>	No Comments	That Policy 11: Walking and Cycling should be <b>retained in full</b> .

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		<p>3. The design of the foot and cycle paths within the development site should be legible and permeable (structured to provide routes to distinctive places and allow easy navigation around the site).</p> <p>4. Design that ensures access for all users</p> <p>5. Where necessary, inclusion of signage that is of high-quality design, appropriate to the local context and avoids clutter;</p> <p>6. Routes of all kinds should be designed in such a way so as to be as safe as practicable, appropriately lit and to minimise opportunities for crime; and</p> <p>7. Include native tree and plant landscaping that is easily maintained and suitable to the route and its local context.</p>		

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Policy 12: Traffic Management	58	<p><del>The following measures to improve traffic flows and ease congestion will be supported:</del></p> <ol style="list-style-type: none"> <li><del>1. A new route to divert through traffic around the town, introduce traffic calming to improve safety, access for emergency vehicles and maintain traffic flows.</del></li> <li><del>2. Measures to mitigate the impacts of traffic generated from new development.</del></li> <li><del>3. Measures to improve road safety.</del></li> </ol>	<p>This is a policy which cannot be used with confidence by decision maker. It is too vague and non-specific. Neighbourhood plan policy is required by law, to be a policy which relates to the use and development of land and which can be used to determine a planning application. Issues relating to traffic flows and existing congestion are matters which are covered by highway legislation and which are the responsibility of the Highway Authority rather than the Local Planning Authority.</p> <p>The policy regarding support for a new route, without any idea of a route would be unworkable as a tool of development management. I recommend that the policy be deleted as a planning policy but find the policy regarding support for a new route, without any idea of a route would be unworkable as a tool of development management. I recommend that the policy be deleted as a planning policy but the intention can be included with the neighbourhood plan, for example as a community aspiration.</p>	<p>That Policy 12: Traffic Management should be <b>deleted in full</b>, but the intention regarding the provision of a new route can be included with the neighbourhood plan, for example as a community aspiration.</p>

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Policy 13: Penrith Town Centre Improvements	60	<p>Development to improve the appearance of the town centre will be supported. Where appropriate, <u>the following three tests are met, namely that the contribution is necessary to make the development acceptable in planning terms, is directly related to the development and is reasonably related in scale and kind to that development</u> new development should seek to include or make contributions to the following:</p> <ol style="list-style-type: none"> <li>1. Improve the key gateways (entry points such as Castlegate, Bridge Lane and Ullswater Road) to the town centre and the main routes through the town.</li> <li>2. To incorporate native species of street trees and other planting at key gateways and through routes.</li> <li>3. Measures to improve the environment for walking and cycling, including possible pedestrianisation of areas in the town centre.</li> <li>4. High quality public realm, including public art, that meets the needs of all town centre users and that includes street furniture that is consistent in design and style with that in</li> </ol>	<p>I have no concerns regarding the aspirations of policy. However, any proposals seeking a planning obligation to either provide the services directly or to seek contribution to their provision, will be required, by law, to meet the three tests that are in Regulation 122 of the Community Infrastructure Levy Regulations 2010 namely, that the obligation: -</p> <ul style="list-style-type: none"> <li>– is necessary to make the development acceptable in planning terms and</li> <li>– is directly related to the development</li> <li>– and is fairly reasonable related in scale and kind to that development</li> </ul> <p>The requirement is caveated by the use of “where appropriate” but I consider to be more explicit to include reference to the three tests, so that the decision maker knows that contributions can only be sought when these tests are satisfied.</p>	That Policy 13: Penrith Town Centre Improvements be <b>amended accordingly</b> .

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		<p>the Town Council style guide (see Supporting Town Council Actions), can be easily maintained and avoids clutter by way of over-provision and poor siting of street furniture.</p> <p>5. Provide suitable signage directing users to key locations and buildings.</p>		
Policy 14: Shopfront Design	64	<p>To maintain the quality, character and distinctiveness of Penrith town centre new shopfronts and alterations to existing shopfronts should take account of the following:</p> <ol style="list-style-type: none"> <li>1. The scale and architectural style of the existing building and any existing shopfront. The overall aim should be to seek where possible, the retention and repair of existing traditional and historic features that contribute to the interest of the building and the street frontage.</li> <li>2. The size, detailing and materials of signage should respect the character and the area within which it is located.</li> <li>3. Security grilles and shutters should be installed on internal aspects only.</li> <li>4. Where in use, blinds, blind boxes and awnings should respect the scale and character of the building and the area within which it is located.</li> </ol>	No Comment	That Policy 14: Shopfront Design be <b>retained in full.</b>