

EV4 CONSERVATION

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Responses Ref.
458	O	001	EV	4	Susan Spibey		WMBC 458 EV4
572	O	060	EV	4	Peter Sargeant FRTPI		WIGAN MBC 572/A

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Responses Ref.
572	O	024	EV	4	Peter Sargeant FRTPI		

Main Issues

Whether this policy is appropriate, having regard to:

- the role of the UDP in relation to conservation area designation;
- the comprehension of the policy;
- grammatical aspects.

Inspector's Considerations and Conclusions

The role of the UDP in relation to conservation area designation

9.121 Policy EV4 presents the measures by which the LPA will conserve the historic environment. Objectors argue that the UDP should provide for the review and extension of existing conservation area designations, in particular that at Golbourne, and for priority to be given to enhancement schemes for the existing conservation areas and the designation of additional ones, in particular at Lowton Lane Head. PPG15 (paragraph 2.9) advises that development plans should set out the LPA's broad criteria for the designation of new conservation areas and for the review of existing conservation area boundaries. Where possible it should indicate which particular areas are in mind for both. The process of assessment of conservation areas, the detailed definition or revision of their boundaries and the formulation of proposals for individual conservation areas should, however, be pursued separately from the local plan (and hence UDP) process itself. The LPA has not, within the UDP, presented criteria for the designation of new conservation areas or the revision of existing boundaries. In order to conform to the provisions of PPG15 it should do so.

9.122 The objector seeks the incorporation within the UDP of a schedule of existing conservation areas. These are, however, shown on the UDP proposals map. In my view this is the best way to ensure that the policies which relate to them are taken into account at development control stage.

The comprehension of the policy

9.123 Clause ‘D’ of the policy, at FDD stage, referred to encouraging the occupation of old buildings and permitting new uses which are compatible with the character of the building and its setting. An objector contends that the meaning of this clause would be enhanced by a reference, instead, to new uses which are compatible with their character and settings. This is achieved by the changes at RDD stage.

Grammatical aspects

9.124 An objector argues that in clause ‘A’ of the policy the words ‘Listed Buildings’ should be followed by a comma. In my view no such punctuation is required. He also contends that, in that clause the word ‘nor’ should be replaced with ‘or’. I agree that this would be grammatically correct.

Recommendation

I recommend:

(REC 9.35) that the RDD be modified by the deletion, in clause ‘A’ of policy EV4, of the word ‘nor’ and its replacement with ‘or’.

(REC 9.36) that the RDD be modified by the presentation within policy EV4 of the LPA’s broad criteria for the designation of new conservation areas and for the review of existing conservation area boundaries.

(REC 9.37) that no other modification be made to the RDD in response to these objections.

EV4A DEVELOPMENT AND DESIGN IN CONSERVATION AREAS

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Responses Ref.
572	O	025	EV	4A	Peter Sargeant FRTPI		WIGAN MBC 572/A
572	O	061	EV	4A	Peter Sargeant FRTPI		WIGAN MBC 572/A

Draft Deposit Objections Conditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Responses Ref.
223	O	001	EV	4A	Outdoor Advertising Association		WMBC 223 and 734

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Responses Ref.
424	O	020	EV	4A	Government Office for the North West		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Responses Ref.
572	O	097	EV	4A	Peter Sargeant FRTPI		WIGAN MBC 572/A
734	O	001	EV	4A	British Sign and Graphics Association	Chris Thomas Ltd	WMBC 223 and 734 EV4C

Supporters of Revised Deposit

Ref No	a	B	c	d	Name	Agent	Responses Ref.
747	S	009	EV	4A	Wigan Borough Action Group		

Revised Deposit Objections Conditionally Withdrawn

Ref No	a	B	c	d	Name	Agent	Responses Ref.
223	S	002	EV	4A	Outdoor Advertising Association	Chris Thomas Ltd	WMBC 223 and 734 EV4A

Main Issues

Whether this policy is appropriate, having regard to:

- the role of the UDP in relation to conservation areas;
- the control of advertisement signs within conservation areas;
- the comprehension of the policy wording.

Inspector's Considerations and Conclusions

The role of the UDP in relation to conservation areas

9.125 Policy EV4A provides that, in addition to other development and design policies which apply throughout the Borough, specified considerations will be applied within conservation areas and their settings. An objector argues that the UDP should designate conservation areas in particular locations. PPG15 (paragraph 2.9) confirms that, while development plans should set out the broad criteria for the designation of new conservation areas and the review of existing conservation area boundaries and, where possible, which areas are in mind for both, the definition of conservation areas should be pursued separately from the local plan (and hence UDP) process. It is, therefore, not the role of the UDP to designate specific locations as conservation areas.

The control of advertisement signs within conservation areas

9.126 Clause (e) of the FDD version of policy EV4A provided that the use of specified types of sign would not be permitted within conservation areas. In response to objections the LPA has completely recast this element of the policy in positive terms to provide that signs should preserve or enhance the character or appearance of conservation areas and their settings. They will be permitted provided they meet stated criteria.

9.127 An objector, at RDD stage, argues that clause (e) is based on an assumption that certain types of sign will be unacceptable in conservation areas. Criterion (i) is, however, limited to requiring that fascia signs should be in keeping with the character of the shop front, fascia details and materials, the building as a whole and the area. The only wording that can be construed as identifying unacceptable signs is that which relates to those which are illuminated. These should be externally illuminated using unobtrusive discreet light fittings or take the form of individually illuminated and affixed letters.

9.128 PPG15 (paragraphs 4.31 to 4.37) advises that, in conservation areas, it is reasonable to expect that the LPA's duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area will result, in practice, in applying more exacting standards than in other areas. In my view the requirement that fascia signs should be in keeping with the character of the area, and that illumination is to be restricted in specified ways is, in the context of this advice, entirely reasonable.

9.129 Criterion (ii) requires that the cumulative impact of advertisements should not detract from the character or appearance of the building or locality. This again is consistent with the duty imposed on LPAs by s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that, in the exercise of its planning functions, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. For the same reason the requirement that advertisement structures should not be superimposed on other advertisement structures is justified by the need to avoid bulky and chaotic additions to buildings in such sensitive

areas. The requirement that projecting or hanging signs should be of small size, thin section and, if illuminated, should be discreetly illuminated and located at fascia level is justified by the need to avoid visual intrusion within areas where visual coherence is a valued aspect. The RDD text of criterion (e) is, therefore, expressed in terms which guide the potential developer and decision maker to what is appropriate in conservation areas rather than on a prior assumption about what is not.

9.130 An objector regards the advice of the reasoned justification that signs should not cover up high quality materials as unjustified. PPG15 (paragraph 4.4) advises, however, that building materials may be a significant factor which help define the character of a conservation area. The reasoned justification does not have the status of policy. It is qualified by the requirement that such materials, if they are to be taken into consideration, should be integral to the building. For this reason I consider that this element of the reasoned justification is helpful advice to prospective developers rather than an unreasonable imposition.

9.131 The reasoned justification advises that standardised solutions are unlikely to be acceptable. An objector regards this as unreasonably onerous. It is, however, simply a helpful reminder that in conservation areas (which are of course designated because of their exceptional qualities) it is not always the case that design solutions which work elsewhere will be appropriate.

The comprehension of the policy wording

9.132 Clause (a) of the policy provides that the LPA will ensure that any proposal for development within a conservation area will preserve or enhance, and will not harm, the character or appearance of that area. An objector argues that this sentence should be extended to the effect that this is in accordance with its statutory responsibility. Since all of the duties and powers of the LPA derive, ultimately, from statute, such wording would be superfluous. The same objector argues that the UDP should contain a schedule of existing conservation areas. I deal with this matter in the section of this report which relates to policy EV4.

9.133 An objector argues that criterion (h) is poorly expressed. I agree that a re-wording is needed to secure the necessary comprehension. A further objector seeks punctuation and other grammatical changes to clauses (e) (i), (ii) and (iii). The text is, however, perfectly comprehensible without them. The words 'the area' in the second sentence of the final paragraph of the reasoned justification should be replaced with 'such areas' to maintain consistency with preceding text.

Recommendation

I recommend:

(REC 9.38) that the RDD be modified by the deletion of criterion (h) of policy EV4A and its replacement as follows. ‘The rendering or cladding of stone and brick buildings will not be permitted.’

(REC 9.39) that the RDD be modified by the replacement of the words ‘the area’ with ‘such areas’ in the second sentence of the final paragraph of the reasoned justification to policy EV4A.

(REC 9.40) that no other modification be made to the RDD in response to these objections.

EV4B LISTED BUILDINGS

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
218	O	002	EV	4B	Dorbcrest Homes Ltd	Steven Abbott Associates	WMBC 218/A
437	O	003	EV	4B	NWTB	Paul Butler Associates	WMBC 437
572	O	062	EV	4B	Peter Sargeant FRTPI		WIGAN MBC 572/A

Main Issues

Whether this policy is appropriate, having regard to:

- the scope of the LPA's powers and duties;
- the relationship with other UDP policies;
- the role of listed buildings as a resource for tourism uses;
- the relationship of the UDP to other relevant documents.

Inspector's Considerations and Conclusions

The scope of the LPA's powers and duties

9.134 Policy EV4B provides that the LPA will encourage the protection and, where appropriate, the enhancement of buildings of special architectural or historic interest and their settings. Clause (a) of this policy provides that the LPA will not permit the demolition of listed buildings or significant parts of them. An objector argues that demolition is sometimes necessary and that the policy should reflect this. PPG15 (paragraphs 3.16 to 3.19) does envisage that there may, very occasionally, be cases where demolition is unavoidable. I conclude that clause (a) of policy EV4B should be modified to reflect the scope of relevant policy guidance.

9.135 An objector contends that in clause (a) the word 'permit' should be replaced by 'countenance' because some proposals relating to listed buildings are beyond the powers of the LPA to control. The policies of the UDP are, in their totality, confined to those matters which lie within the proper remit of the Borough Council as Local Planning Authority. The word 'permit' is therefore the correct one.

The relationship with other UDP policies

9.136 The reasoned justification to policy EV4B informs that it may be necessary to relax the strict interpretation of other policies of the plan, for example green belt policy, in order to ensure the survival of particularly important buildings or to ensure that extensions are in scale or character with a listed building. An objector argues that wording to this effect should be incorporated within the policy so that it can be afforded full weight in the decision process in relation to proposals relating to Winstanley Hall, a range of grade II* and II Listed Buildings in the green belt.

9.137 Securing the survival of listed buildings is an interest of acknowledged importance. So too are the purposes for which green belts are designated. Development to support the survival of a listed building is not within the categories of appropriate development in the green belt as set out in PPG2. That guidance does, however, provide that inappropriate development may be justified by very special circumstances. These will exist only if the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

9.138 The framework of Government guidance therefore provides the scope for a potential developer to argue, in a particular case, that development, including enabling development to secure the survival of a listed building, is a sufficiently important consideration as to outweigh the harm by reason of inappropriateness and any other harm and amount to very special circumstances to justify inappropriate development in the green belt.

9.139 PPG2 makes clear that such an exercise should be undertaken at planning application stage. There is no indication in either PPG2, PPG15 or PPG12 that this balancing exercise should be undertaken in advance at development plan stage, or that a prior commitment should be given to compromising the objectives of any particular policy. The UDP is to be read as a whole. The reasoned justification to policy EV4B recognises the need for compromise between policy objectives. Because the extent to which that is done depends on the circumstances of a particular planning application the reference to it is appropriately made within the reasoned justification rather than in the policy wording itself.

9.140 The objector seeks the incorporation within policy EV4B of a reference to the English Heritage document 'Enabling Development and the Conservation of Heritage Assets'. That document, itself, confirms that it is intended to amplify, reinforce and be read in conjunction with PPG15. Because the latter document is a material consideration which must be taken into account, where relevant, in decisions on planning applications, regard will be had to the related document in any case. There is, therefore, no need for a specific reference to it within the RDD. The related document does, in any case, express a firm presumption against enabling development. It argues that planning permission should be granted for this only if the asset to be protected is not materially harmed and the applicant convincingly demonstrates that, on balance, the benefits clearly outweigh any disbenefits to the historic asset. This is a matter that can be determined only in the light of the particular proposal, not at development plan stage.

9.141 The objector argues that the reasoned justification should make reference to the need to apply technical standards, such as lighting/highways etc pragmatically and sympathetically when dealing with listed buildings and their settings. Such standards are formulated for practical reasons and have implications for public safety. It would be wrong to express support for their relaxation other than in the context of a specific proposal when the outcome of such relaxation could be appraised.

The role of listed buildings as a resource for tourism uses

9.142 An objector argues that policy EV4B should be extended to recognise the role of listed buildings in the promotion of tourism. The UDP is to be read as a whole. Policies EM2 and EM2A relate to tourism development. The extent to which a particular listed building can support such a role depends on its characteristics. This is a matter to be appraised at planning application stage rather than anticipated at development plan stage.

The relationship of the UDP to other relevant documents

9.143 An objector argues that the UDP should incorporate an up-to-date schedule of listed buildings. This is available as a public document. Its incorporation into the UDP would run counter to the advice of PPG12 that development plans should be succinct.

Recommendation

I recommend:

(REC 9.41) that the RDD be modified by the addition of wording to policy EV4B(a) to set out, in conformity with the advice of PPG15, the circumstances in which listed buildings or a significant part of them may be demolished.

(REC 9.42) that no other modification be made to the RDD in response to these objections.

EV4C BUILDINGS AND STRUCTURES OF LOCAL ARCHITECTURAL OR HISTORIC INTEREST

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
572	O	063	EV	4C	Peter Sargeant FRTPI		WIGAN MBC 572/A
581	O	005	EV	4C	Wrightington, Wigan and Leigh NHS Trust	Michael Courcier and Partners Ltd	WMBC 581/A
583	O	018	EV	4C	Peel Investments (North) Ltd	Miss Alex McGibbon	WMBC 583 WR

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
096	O	021	EV	4C	Lane Head South Residential Group		WMBC 096 Lane Head South
464	O	009	EV	4C	Bispham Hall Brick and Terra Cotta Works	Steven Abbott Associates	WMBC 464
572	O	098	EV	4C	Peter Sargeant FRTPI		WIGAN MBC 572/A
581	O	012	EV	4C	Wrightington, Wigan and Leigh NHS Trust	Michael Courcier and Partners Ltd	WMBC 581/A
582	O	011	EV	4C	Taylor Woodrow Developments Limited	Michael Courcier and Partners Ltd	WMBC 582
583	O	043	EV	4C	Peel Investments (North) Ltd	Halliwell Landau	WMBC 583 WR
747	O	038	EV	4C	Wigan Borough Action Group		WIGAN MBC 747/A
765	O	001	EV	4C	Liz Gray		WMBC EV4C
779	O	001	EV	4C	Gary Stephen Nicholson		WMBC EV4C
780	O	001	EV	4C	Mrs Fay Hurst		WMBC EV4C
781	O	001	EV	4C	Harry Barton		WMBC EV4C
782	O	001	EV	4C	Mrs Margaret Abbott		WMBC EV4C
783	O	001	EV	4C	Joan Barton		WMBC EV4C
784	O	001	EV	4C	Mr Peter Guy		WMBC EV4C
785	O	001	EV	4C	David Wilson		WMBC EV4C
786	O	001	EV	4C	Irene Lindsay Nicholson		WMBC EV4C
787	O	001	EV	4C	Eric J Fearnley		WMBC EV4C
791	O	001	EV	4C	Mr Andrew Wood		WMBC EV4C
792	O	001	EV	4C	Mrs Jackie Harrison		WMBC EV4C
793	O	001	EV	4C	Mrs K Bunzek		WMBC EV4C
794	O	001	EV	4C	Mr & Mrs C Dunn		WMBC EV4C
799	O	001	EV	4C	Mrs J Finley		WMBC EV4C
800	O	001	EV	4C	Mr Anthony Finley		WMBC EV4C
806	O	001	EV	4C	Chris & Yvonne Blackburn		WMBC EV4C
811	O	001	EV	4C	Richard Emlyn Jones		WMBC EV4C
812	O	001	EV	4C	Wendy Lovatt Jones		WMBC EV4C
832	O	001	EV	4C	Mrs Kerry Yates		WMBC EV4C
841	O	001	EV	4C	Barbara Clark		WMBC EV4C
842	O	001	EV	4C	Lily Kenyon		WMBC EV4C
880	O	001	EV	4C	Mr S R and Mrs R J Doherty		WMBC EV4C

881	O	001	EV	4C	Philip Winterbottom		WMBC EV4C
882	O	001	EV	4C	Tracy Horne		WMBC EV4C

Supporters of Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	S	017	EV	4C	Wigan Borough Action Group		

Revised Deposit Objections Conditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
465	O	008	EV	4C	Bett Homes (North West) Limited	Hepher Dixon	WMBC EV4C

Main Issues

Whether this policy is appropriate, having regard to:

- the necessity for the UDP to contain a full list of buildings and structures of local architectural or historic interest;
- the relevance of other material considerations;
- the merits of identifying buildings and structures at Astley Works, Tyldersley, as of local archaeological interest;
- the role of Building Preservation Notices;
- grammatical matters.

Inspector's Considerations and Conclusions

The necessity for the UDP to contain a full list of buildings and structures of local architectural or historic interest

9.144 RDD policy EV4C provides that the LPA will encourage the protection and enhancement of buildings and structures of local architectural or historic interest and their settings. Development schemes, including alterations, changes of use and advertisements, will be expected to respect their character and retain or restore their original or historic features, materials and form.

9.145 Objectors at FDD stage argue that the UDP should contain a schedule of currently identified buildings of local interest. This was inserted at RDD stage. The reasoned justification to RDD policy EV4C informs that the major examples of buildings or structures of local architectural or historic interest are listed in Appendix 10. Further extensions of this list will be published as supplementary planning guidance and incorporated into the UDP when this is reviewed. Objectors argue that a full list of relevant buildings should be presented in the UDP so that this can be subject to scrutiny via the inquiry process. They contend that the LPA should not rely on supplementary planning guidance to secure that the list is kept up to date. They suggest particular candidates for inclusion.

9.146 Even if a further review of possible candidates for inclusion in Appendix 10 was undertaken prior to the adoption of the replacement UDP, it could never be regarded as definitive because new candidates could be identified at any time. The stated intention of the LPA to augment Appendix 10 with supplementary planning guidance which would list any further such buildings and structures that are identified, would secure that the provisions of policy EV4C are applied to them in the appropriate circumstances. Having regard to the advice of PPG12 (paragraphs 3.15 and 3.16) the supplementary planning guidance would, if it was to be afforded substantial weight in decisions, be prepared in consultation with the general public, businesses and other interested parties. Their views would be taken into account before it was finalised. It would, therefore, be subject to public scrutiny. For these reasons I conclude that the progress of the replacement UDP to adoption should not be delayed by further survey work to identify potential buildings and structures to which the terms of policy EV4C should be applied. It is necessary, however, for the reasoned justification to draw attention to the different weight to be given to the provisions of the adopted development plan and to supplementary planning guidance.

9.147 An objector refers to the Town and Country Planning (Demolition – Description of Buildings) Direction 1995 which provides that certain demolition does not constitute development under the 1990 Act, irrespective of whether it is construed as a building operation. The effect of the Direction is to permit demolition of nearly any building except a dwelling house, listed building or building within a conservation area. The objector argues that the UDP should confirm that the effect of this Direction is to severely curtail the operation of policy EV4C in respect of demolition. The final paragraph of the reasoned justification to this policy does, however, confirm that the LPA is limited to exercising its normal development control powers to preserve and enhance buildings. These will include the implications of the above Direction.

9.148 Objectors argue that the policy should allow for the demolition of buildings and structures of local architectural or historic interest if this is needed for the overall benefit of a particular scheme. These are not listed buildings and reference to them within policy EV4C and Appendix 10 does not provide any special powers to control demolition. The LPA is limited to exercising its normal development control powers in relation to them. The limited weight to be attached to the retention of such buildings, when compared with listed buildings, would make it easier for a potential developer to argue, in a particular case, that the overall benefits of a redevelopment scheme outweigh the objectives of the policy. The provisions of s38(6) of the P&CPA 2004 provide for such material considerations to be taken into account in the planning process.

The relevance of other material considerations

9.149 An objector expresses concern that, by expecting development schemes to retain buildings and structures of local architectural or historic interest, or restore their original features, policy EV4C could render development proposals unviable. This consideration is said to be of particular relevance to the potential redevelopment of land at the Bispham Hall Brick and Terracotta Works at Billinge.

9.150 Appendix 2 of the UDP presents a list of major existing developed sites in the green belt. In respect of this particular site it notes that any scheme should preserve buildings and structures on the site which are of local and historic interest. An objector notes that none of the buildings on the site are listed buildings or lie within a conservation area or are on a local list of buildings. The site owners have not been consulted on such a procedure and a comprehensive survey has not been undertaken by the Conservation Officer.

9.151 The LPA agrees that the site is not within a conservation area and contains no listed buildings. At RDD stage the Conservation Officer did undertake a survey and compiled a list of buildings and structures of local architectural or historic interest, several of which are within this site. This list was compiled under the Development Plan Regulations. The deposit of the FDD and RDD is the consultation procedure to which the objectors have responded. The list is presented as Appendix 10 of the RDD which confirms that the presence of a building on the local list does not provide any special powers to control demolition. The objector argues that buildings on the site are in varying states of repair and that some are incapable of beneficial re-use. Because the site is designated as a major existing developed site in the green belt the complete redevelopment of it is an option, but RDD policy EV4C would stand in the way of this because it expects development schemes to retain buildings or restore their original and historic features. This could render redevelopment proposals unviable.

9.152 The reasoned justification to policy EV4C already confirms that the LPA must rely on its normal development control powers in respect of buildings and structures of local interest. It, therefore, in accordance with s38(6) of the P&CPA 2004, must determine planning applications in accordance with the provisions of the development plan unless material considerations indicate otherwise. The scope, therefore exists, for the practicality of the policy objectives to be taken into account as a material consideration. This would include the effect of the retention or restoration of buildings on the achievement of a viable redevelopment scheme. This situation should, in my view, be acknowledged within the wording of the policy by the incorporation of 'wherever practicable' in the second sentence of the policy between 'expected' and 'to'. If this was done it would not be necessary to remove particular buildings from the list in RDD Appendix 10 because the merits of their retention could be determined at planning application stage on the basis of the particular circumstances of the scheme.

The merits of identifying buildings and structures at Astley Works, Tyldesley, as of local archaeological interest

9.153 The reasoned justification to policy EV4C informs that a range of buildings and structures form a significant part of the familiar and cherished scene. The major examples of these are listed in Appendix 10. Among these are the headstock structure to Gin Pit Shaft, the colliery workshop adjoining the north side of Ley Road and the workshop complex off Ley Road at Tyldesley. Objectors argue that these buildings and structures do not qualify for inclusion in Appendix 10 because they are in a semi-derelict condition, are visually intrusive and represent a physical danger. Most of the buildings were built or

significantly altered during the 20th century. They are not rare or good examples, having a low architectural quality. The objectors argue that these structures add nothing to the sum of knowledge about the mining industry. An objector fears that their retention will lead to industrial/storage uses being resumed on the site.

9.154 Buildings and structures have been selected for inclusion in Appendix 10 in accordance with stated criteria which relate to age, rarity, architectural quality, historical interest, degree of alteration and building type. So many detailed considerations are referred to within these criteria, and so many permutations are possible, that it is inevitable that there will be different views on the value of individual structures. This consideration is reinforced when one considers the nature of the criteria themselves. Factors such as contribution to townscape, whether a particular feature is or is not characteristic of the locality and relationship to communal memory further reinforce the essentially subjective nature of the selection process.

9.155 Given the support expressed by the Greater Manchester Archaeological Unit and the Council for British Archaeology for the features listed in Appendix 10, I conclude that there is no basis for their removal from what is, after all, simply a list of examples. To the extent that the development of the land for industrial/storage or any other uses requires planning permission, the amenity of adjacent residents would be protected by policy G1A.

9.156 An objector identifies particular factors which indicate that remediation of the condition of particular buildings and structures would render unviable a scheme to reuse or adapt them. For the reasons I have given in the preceding subsection of this chapter, I have concluded that the expectation of policy EV4C in relation to development schemes should be qualified by the provision that only where it is practicable should these be expected to respect the character of buildings and structures and retain or restore their original historic features. If this recommendation is accepted this would satisfy the concerns of this objector. I note that the LPA, through its evidence, now supports this approach by accepting that it would be unreasonable to require retention of a building or structure where it can be demonstrated that constraints would render a redevelopment scheme unviable.

The role of Building Preservation Notices

9.157 Because policy EV4C relates to the protection and enhancement of buildings and structures of local architectural or historic interest an objector argues that it is appropriate to refer to the role of Building Preservation Notices. Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers to district councils to serve such notices in respect of buildings which are not listed, but which they consider to be of special architectural or historic interest and in danger of demolition or alteration in such a way as to affect their character. I conclude that, because this process is an important means by which the objectives of policy EV4C are to be achieved, a reference to it should be made within the reasoned justification to that policy.

Grammatical Matters

9.158 An objector contends that there is a surplus word ‘the’ in the first sentence of the policy. I agree that its deletion would enhance the elegance of that sentence. The final paragraph of the reasoned justification refers to the Council both with the collective term ‘they’ and the singular term ‘it’. Because the Council is a corporate body it is, in law, an artificial person. The singular wording is correct and has been applied at RDD stage. The same objector advocates the insertion of the word ‘currently’ before ‘justifying’ in the first paragraph of the reasoned justification. This was done at RDD stage.

Recommendation

I recommend:

(REC 9.43) that the RDD be modified by the deletion of the word ‘the’ from between the words ‘of’ and ‘buildings’ in the first sentence of policy EV4C.

(REC 9.44) that the RDD be modified by the insertion of additional text as the third sentence of the first paragraph of the reasoned justification to policy EV4C as follows. ‘The relative weight to be given to the content of an adopted development plan and of supplementary planning guidance is set out in PPG12.’

(REC 9.45) that the RDD be modified by the insertion, within the reasoned justification to policy EV4C, of a reference to the role of Building Preservation Notices in achieving the objectives of that policy.

(REC 9.46) that the RDD be modified by the insertion of the words ‘wherever practicable’ in the second sentence of policy EV4C between ‘expected’ and ‘to’.

(REC 9.47) that no other modification be made to the RDD in response to these objections.

EV4D HISTORIC PARKS, GARDENS AND CEMETERIES

Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref
572	O	064	EV	4D	Peter Sargeant FRTPI		WIGAN MBC 572/A
583	O	019	EV	4D	Peel Investments (North) Ltd	Halliwell Landau	WMBC 583 WR

Main Issues

Whether this policy is appropriate, having regard to:

- the necessity for public scrutiny of the list of sites;
- grammatical aspects.

Inspector's Considerations and Conclusions

The necessity for public scrutiny of the list of sites

9.159 Policy EV4D provides that permission will not be given to any proposal which is likely to adversely affect the character or setting of any of the historic parks, gardens or cemeteries listed within it. An objector argues that only the 10 historic parks, gardens and cemeteries listed in policy EV4D should be protected by its terms because only these have been subject to public scrutiny through the development plan preparation process. He considers that it is wrong, therefore, for the policy to be applied to other historic parks and gardens which may, from time to time be identified, as its clause 11 provides.

9.160 The LPA, in its written evidence, argues that due to limited resources and the need to progress the plan to adoption it has been unable to identify all the historic parks and gardens which merit protection. It proposes to identify additional sites in supplementary planning guidance and incorporate this into the development plan at a subsequent review.

9.161 PPG12 (paragraphs 3.15 and 3.16) advises that if such supplementary planning guidance is to be given substantial weight in decision making it must derive out of and be consistent with the development plan and be prepared in the proper manner. It should be prepared in consultation with the general public, businesses and other interested parties. Their views should be taken into account before it is finalised. If such supplementary planning guidance was prepared it would provide the opportunity for public scrutiny which the objector seeks.

9.162 Policy EV4D and its reasoned justification, as written, at both FDD and RDD stages do not, however, make any reference to updating the list of historic parks and gardens via supplementary planning guidance or to the incorporation of this in the development plan at a subsequent review. I conclude that such a reference is necessary if the policy, including its clause 11, is to remain as set out in the RDD. Reference should

also be made to the relative weight to be given, in planning decisions, to the provisions of the adopted development plan and the content of supplementary planning guidance.

Grammatical aspects

9.163 An objector argues that the wording of the policy should place emphasis on the effect of a proposal on the individual character or setting of each site. In my view the wording of the policy does this because it applies to ‘any of the following’ parks, gardens or cemeteries. The same objector, at FDD stage, in relation to the first paragraph of the reasoned justification draws attention to the incongruity of a reference to ‘areas’ (plural) and the protection needed to ensure ‘its’ (singular) survival. This was remedied at RDD stage.

Recommendation

I recommend:

(REC 9.48) that the RDD be modified by the insertion of three additional sentences at the end of the first paragraph of the reasoned justification to policy EV4D as follows. ‘The Council will apply the terms of this policy to other historic parks and gardens which may from time to time be identified only after these have been listed in supplementary planning guidance which has been adopted in accordance with the advice of PPG12. This supplementary planning guidance will be incorporated in the development plan at the next review. The relative weight to be given to the content of an adopted development plan and of supplementary planning guidance is set out in PPG12.’

(REC 9.49) that no other modification be made to the RDD in response to these objections.

EV4E ARCHAEOLOGY, ANCIENT MONUMENTS AND DEVELOPMENT

Objections to Draft Deposit

Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Responses Ref.
527	O	001	EV	4E	English Heritage		

Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Responses Ref.
747	O	097	EV	4E	Wigan Borough Action Group		WIGAN MBC 747/A

Main Issue

Whether this policy is appropriate, having regard to the extent to which Ancient Monuments should be indicated on the proposals map.

Inspector's Considerations and Conclusions

9.164 RDD policy EV4E provides that the LPA will protect and enhance the character and appearance of sites, buildings and structures of archaeological interest and ancient monuments. In particular it will not allow development proposals which fail to enhance and preserve in-situ scheduled or unscheduled ancient monuments of national importance (and, in appropriate circumstances, significant unscheduled monuments of more than local importance), or those which fail to adequately protect the setting of such monuments.

9.165 The proposals map, as changed at RDD stage, shows the 12 Scheduled Ancient Monuments which lie within the Borough. An objector argues that all the Ancient Monuments which are to be protected by policy EV4E should be shown on this. PPG16 (paragraph 15) advises that the proposals map should define the areas and sites to which policies and proposals should apply. This is necessary in the interests of certainty which PPS1 (paragraph 8) emphasises is a key role of the plan-led system. Policy EV4E refers not only to Scheduled Ancient Monuments of national importance but also to unscheduled ones and also significant unscheduled monuments of more than local importance.

9.166 The reasoned justification to policy EV4E informs that the Sites and Monuments Record for the Borough provides an up to date source of information to identify the additional types of monument that exist within Wigan. It performs the function of supplementary planning guidance. I conclude that the reasoned justification should be modified to draw attention to the relative weight to be accorded, in planning decisions, to the adopted development plan, supplementary planning guidance which has been properly prepared and adopted and other relevant documents including the Sites and Monuments Record.

Recommendation

I recommend:

(REC 9.50) that the RDD be modified by the insertion of additional text within the third paragraph of the reasoned justification to policy EV4E to confirm the relative weight to be given, in accordance with the advice of PPG12, to the provisions of the adopted development plan, supplementary planning guidance which has been properly prepared and adopted and any other relevant document including the Sites and Monuments Record.

(REC 9.51) that no other modification be made to the RDD in response to this objection.

ENVIRONMENT AND DESIGN OMISSION

Objections to Draft Deposit

Ref No	a	B	c	d	Name	Agent	Response Ref.
421	O	012	OM		Mrs E M Stephenson		WMBC 421/A
572	O	078	OM		Peter Sargeant FRTPi		WMBC 572/A

Main Issues

Whether the unitary development plan as a whole is an appropriate policy document, having regard to:

- the absence of a policy dealing with the protection of common and open land;
- the absence of a policy dealing with the protection of public rights of way;
- the absence of a policy relating to noxious and invasive plants.

Inspector's Considerations and Conclusions

The absence of a policy dealing with the protection of common and open land

9.167 An objector argues that the UDP should contain a policy to protect common land and open land as shown on the access maps prepared under the terms of the Countryside and Rights of Way Act 2000. The policies of the UDP are constrained, however, to deal with the development and use of land. PPG12 (paragraph 3.5) advises that development plans should not contain policies which duplicate the provisions of other legislative regimes.

The absence of a policy dealing with the protection of public rights of way

9.168 An objector argues that the UDP should contain a policy to protect the public rights of way network. The Council's duties with regard to definitive rights of way are not a matter for this plan. They are dealt with under separate legislation from the Town & Country Planning Acts. The LPA has proposed, as a during-inquiry change, a policy (C1X) to secure the retention and enhancement of the public rights of way network where this relates to the development and use of land. I conclude that this proposed policy (which is dealt with in the section of this report which relates to policy EV3A), satisfies the concerns of this objector to the extent that this is possible within the town and country planning system.

The absence of a policy relating to noxious and invasive plants

9.169 An objector argues that the UDP should incorporate a policy to control noxious and invasive plants. The role of such a document is, however, to provide a consistent policy framework to guide decisions on the development and use of land. The problem

identified by the objector is one to be addressed by effective land management rather than development plan policies.

Recommendation

I recommend:

(REC 9.52) that no modification be made to the RDD in response to these objections.