

## R1E OPEN SPACE IN NEW HOUSING DEVELOPMENTS

### Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
135	O	001	R	1E	McCarthy and Stone (Developments) Ltd	The Planning Bureau Ltd	WMBC 135 R1E
253	O	012	R	1E	MSF Motor Group Limited	CgMs Ltd	WMBC 253 R/EV
464	O	002	R	1E	Bispham Hall Brick and Terra Cotta Works	Steven Abbott Associates	WMBC 464
465	O	002	R	1E	Bett Homes North West Ltd	Hepher Dixon	WMBC 465 GB/R
466	O	002	R	1E	Jeffreys Miller Limited	Steven Abbott Associates	WMBC 466
572	O	017	R	1E	Peter Sargeant FRTPI		WIGAN MBC 572/A
583	O	013	R	1E	Peel Investments (North) Ltd	Halliwell Landau	WMBC 583 WR

### Draft Deposit Objections Unconditionally Withdrawn

Ref No	a	b	c	d	Name	Agent	Response Ref.
682	O	006	R	1E	Ruth Critchley – English Nature		

### Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	O	080	R	1E	Wigan Borough Action Group		WMBC 747 WM1A / R1A

### Supporters of Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
682	S	027	R	1E	David Jeffreys – English Nature		
727	S	030	R	1E	Greater Manchester Ecology Unit		
B33	S	003	R	1E	Environment Agency		

### Note

This policy is subject to DINC17.

### Main Issues

Whether this policy is appropriate, having regard to:

- the certainty of the policy requirement;
- the assessment of needs and opportunities for open space, sport and recreation;
- the extent of existing provision in the locality;
- the weight to be given to nature conservation interests.

## **Inspector's Considerations and Conclusions**

### *The certainty of the policy requirement*

8.107 RDD policy R1E presents the requirements of the LPA in respect of open space in new housing developments. Clause (a) of policy R1E provides that where a scheme consists of between 1 and 99 dwellings, developers must make a financial contribution to the capital and commuted maintenance costs of off-site amenity open space and play space, commensurate with the number of units in the scheme, in lieu of on-site provision, unless otherwise agreed or required by the LPA. Clause (b) provides that where a scheme exceeds 99 dwellings the developer must provide a total amount of public open space equivalent to a minimum of 25 square m per dwelling and a financial contribution in lieu of play equipment provision and to cover the commuted maintenance costs. An objector argues that the policy is both arbitrary and uncertain in outcome. It does, however, provide necessary flexibility to cope with the circumstance where amenity and play space is not required by a particular scheme or where on-site provision is appropriate even on a scheme of less than 99 dwellings. Both the reasoned justification to policy R1E and policy G1B draw attention to the role of planning obligations in securing the provision of open space in new housing developments. The terms of Circular 05/2005 are sufficient to ensure that what is required of a development is necessary, relevant to planning and directly related to the proposed development.

8.108 An objector argues that the continued maintenance of the open space could be secured by a developer and need not involve a commuted sum paid to the LPA. The wording of clause (a) allows for this by the phrase 'unless otherwise agreed or required by the Council'. The same objector argues that a developer should be allowed to choose whether to provide the play equipment referred to in clause (b) or pay a sum to the LPA as this part of the policy requires. I agree that, in the interests of consistency, clause (b) should benefit from the same flexibility as is provided by clause (a). Reference should, therefore, be made within it to the scope for an alternative agreement to be reached with the LPA in a particular case.

8.109 The LPA proposes via DINC17 that, in respect of the continued maintenance of open space in housing developments, the Council will, as an alternative to securing a contribution to cover this, seek an obligation from the developer which would secure this continued maintenance by other means. This DINC is limited only to maintenance of public open space and does not deal with the provision of play equipment. I conclude that, so long as clause (b) is modified as I indicate above, DINC17 is not necessary.

### *The assessment of needs and opportunities for open space, sport and recreation*

8.110 Objectors argue that, in the absence of a robust assessment of the existing and future needs of communities for open space, sport and recreation facilities, it is not possible for policy R1E to be clear about the open space standards which are to be applied and the level of any financial contribution or open space provision by developers.

8.111 The LPA acknowledges that there is a need to carry out an assessment of needs. This is referred to in policy C1B and the LPA has commenced work on this. The assessment has not been completed. To await its conclusions would delay preparation of the UDP. The policy does, however, make reference to a spatial standard of a minimum of 25 sq m of space per dwelling in schemes which exceed 99 dwellings. As regards financial contributions, both policy R1E and G1B draw attention to the role of planning obligations in securing the provision of open space in new housing developments. The terms of Circular 05/2005 are sufficient to ensure that what is required of a developer (in terms of both land and financial contribution) is necessary, relevant to planning and directly related to the proposed development.

8.112 This latter aspect of circular advice introduces the necessary flexibility to allow prospective developers to argue that a particular approach to the provision of open space, which is favoured by the LPA, is not appropriate and should be modified in a particular case. The reference to payment by developers in advance of the issue of a planning permission, which was an aspect of the reasoned justification at FDD stage, was deleted in the RDD.

*The extent of existing provision in the locality*

8.113 Objectors argue that it would be wrong for the LPA to require the provision of open space or a financial contribution in circumstances where it was not required by a particular scheme (e.g. within a very small site or a sheltered housing development) or where an adequate scale of open space facilities already exists in the vicinity of a site. The plan is to be read as a whole. Policy G1B relates, among other things, to the provision of open space required by development. It provides that, in determining applications for planning permission, the LPA will take into consideration the nature, scale and location of the proposed development. Contributions will be sought where the need arises directly from the development. The related reasoned justification makes the necessary reference to the tests presented in the now superseded Circular 1/97 (now Circular 05/2005). The scope, therefore, exists for a prospective developer to argue that, due to the nature of the development, or its scale or its location in relation to existing facilities, it is not appropriate in a particular case to make a financial contribution or to make a particular sort of recreational land provision.

*The weight to be given to nature conservation interests*

8.114 The reasoned justification to policy R1E, at RDD stage, informs that as part of the open space provision the LPA will expect developers to have due regard for the potential of nature conservation enhancement and progress towards targets set in the Greater Manchester Biodiversity Action Plan. An objector argues that developers should be expected to conform to these targets. PPG9 (paragraph 27) advises, however, that LPAs should not refuse planning permission if development can be subject to conditions which would prevent damaging impacts on wildlife habitats or important physical features, or if other material factors are sufficient to override nature conservation considerations. The

wording of the RDD allows the scope for the necessary balancing exercise to be undertaken. For this reason it is to be preferred to that advocated by the objector.

### **Recommendation**

**I recommend:**

**(REC 8.10) that the RDD be modified by the insertion, at the end of clause (b) of policy R1E, of the words ‘unless otherwise agreed or required by the Council.’**

**(REC 8.11) that no other modification be made to the RDD in response to these objections.**

## R1F SITES FOR GYPSIES AND SHOWMEN'S PERMANENT QUARTERS

### Objections to Draft Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
595	O	001	R	1F	Messrs Holden, Silcock and Silcock	Ian Baseley Associates	WMBC 595 R1F

### Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
747	O	125	R	1F	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	126	R	1F	Wigan Borough Action Group		WIGAN MBC 747/A
747	O	127	R	1F	Wigan Borough Action Group		WIGAN MBC 747/A

### Main Issues

Whether this policy is appropriate, having regard to:

- the structure of the policy;
- the title of the policy;
- the scope of the criteria.

### Inspector's Considerations and Conclusions

#### *The structure of the policy*

8.115 RDD policy R1F provides that proposals for sites to meet the needs of gypsies and travelling show people will be considered against stated criteria. An objector argues that show people and gypsies are distinct groups with different needs in terms of land use. He advocates that these should be reflected in separate policies. Both groups do, however, have in common the need for secure permanent bases from which they can pursue their peripatetic lifestyles, and at which they can live for significant parts of the year, store equipment and undertake activities associated with their businesses. These characteristics have the potential to impose impacts on the character and appearance of localities, the amenities of adjacent occupiers and the safe and free flow of traffic. Because these are significant interests of acknowledged importance I conclude that, in the interests of consistency, it is right to consider proposals related to both groups within the framework of the same policy.

#### *The title of the policy*

8.116 At FDD stage the title of policy R1F was presented as 'Caravan Sites for Gypsies and Travelling Showpeople'. An objector argues that the term 'Sites for Showmen's Permanent Quarters' better reflects the composite nature of this land use. The LPA concurs and, at RDD stage, uses this term in the policy title. A further objector seeks the removal of showmen's permanent quarters from within the policy. Such accommodation is, however, a significant land use and provision must be made for it.

*The scope of the criteria*

8.117 An objector argues that the criteria presented in the policy are unworkable and more onerous than Circular 22/91 intends. Criterion (a) requires that a proposal must not have an unacceptably adverse impact on the appearance of the area, on amenity, privacy or the view from nearby land and property. This is consistent with the advice of Circular 22/91 (paragraph 7) that the choice of sites should have regard to environmental considerations and avoid visual encroachment into the open countryside. The objector expresses concern that any proposal for showmen's permanent quarters could be considered to have an unacceptably adverse impact. LPAs, when determining planning applications, are required by s38(6) of the P&CPA 2004 to base their decision on the development plan and any other material considerations. The provisions of Circular 22/91 are such considerations. The balancing of competing factors is an inescapable aspect of all planning decisions.

8.118 This same objector argues that suitably worded conditions can be applied to a planning permission as an alternative to including criterion (a) within the policy. This criterion does, however, deal with interests of acknowledged importance which are expressed in the Government's planning policy guidance. Even if they did not appear in the policy they would, having regard to the provisions of s38(6), be taken into account in a decision. Their presentation in policy R1F serves a useful purpose in that they will guide site selection with a view to avoiding conflict at planning application stage.

8.119 Criterion (b) requires that a site should be within a reasonable distance of shops, schools, medical facilities and public transport. This is consistent with the advice of Circular 22/91 (paragraph 7). The additional reference to public transport is a recognition of the emphasis to be given to the promotion of sustainable patterns of settlement which has emerged in Government guidance since the publication of that Circular.

8.120 An objector, on the basis of the FDD version of the policy, advocates that the term 'reasonable distance' within criterion (b) be replaced by 'reasonably convenient distance'. The LPA concurs and incorporates this wording at RDD stage. A typographical error must be remedied, however, by replacing the word 'reasonable' with 'reasonably'. An objector, at RDD stage, seeks the removal of the word 'convenient' but does not present any reason for this.

8.121 Criterion (c) requires that the development can be accommodated in site planning terms and that there is a demonstrable need for the facility that is not met by other sites in the locality. This criterion reflects the advice of Circular 22/91 (paragraph 7) that sites should be flat and have good vehicular access. It also renders superfluous the objector's contention that the policy itself should make reference to particular space standards. These may change through time and the more general reference in the policy will allow the application of whatever are the latest standards at the time of a planning application. The objector argues that this criterion should be split into two single ones. The policy is

clearly intended to be applied on the basis that all the criteria must be satisfied. There is, therefore, no benefit to be gained from their separate presentation.

8.122 Criterion (d) requires that business activities to be carried out on the site must be consistent with the other policies of the plan. The objector argues that there are usually special circumstances surrounding applications for showmen's permanent quarters. For this reason each application should be determined on its individual merits. Section 38(6) does, however, require that decisions are made not only on the basis of the provisions of the development plan but also having regard to other material considerations. The companion document to PPS1 (The Planning System: General Principles), in paragraph 11, advises that, in principle, any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration is material in any given case will depend on the circumstances. The other policies of the plan would, therefore, be relevant to any planning decision on a site for showmen's permanent quarters. The reference made to criterion (d) is a helpful reminder of this.

8.123 The reasoned justification to policy R1F informs that there are 3 established sites for travelling showpeople in the Borough. The objector argues that their locations should be clearly stated. Circular 22/91 (paragraph 6) advises that, in preparing their development plans, LPAs should identify existing sites which have planning permission for development to meet the needs of travelling showpeople, whether these are occupied or not. I conclude that, to conform to this advice, the reasoned justification should identify the existing sites. The LPA expresses concern that these may change during the life of the UDP and that this information might become out of date. The Circular refers to existing sites. So long as the reference in the plan was qualified by the base date of the information that would accord with its advice.

8.124 The objector argues that the reasoned justification should make reference to an outstanding need for further showmen's permanent quarters within the Borough. This has been established by a planning appeal decision (ref: APP/V4250/A/01/1068556) of 10/01/02. The LPA's rebuttal proof acknowledges that a need exists but argues that it may soon be satisfied by a future decision on a current planning application. Circular 22/91 (paragraph 6) advises that, in preparing their development plans, LPAs should consider the needs of travelling showpeople. If these exist, then it is right that reference should be made to them in the plan. Depending on the outcome of the current planning application the LPA should confirm in the reasoned justification its assessment of whether there is an outstanding need for further accommodation.

## **Recommendation**

### **I recommend:**

**(REC 8.12) that the RDD be modified by the insertion within the reasoned justification to policy R1F of a reference to whether there is an outstanding need, within the Borough, for additional accommodation for showmen's permanent quarters.**

**(REC 8.13) that the RDD be modified by the replacement of the word ‘reasonable’ in criterion (b) of policy R1F with ‘reasonably’.**

**(REC 8.14) that the RDD be modified by the insertion within the final paragraph of the reasoned justification to policy R1F of a reference to the location of the established sites for travelling showpeople in the Borough.**

**(REC 8.15) that no other modification be made to the RDD in response to these objections.**

## **R1G CONVERSION TO DWELLINGS**

### **Objections to Draft Deposit**

<b>Ref No</b>	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>Name</b>	<b>Agent</b>	<b>Response Ref.</b>
291	O	003	R	1G	Lancashire Wildlife Trust		WMBC 291

### **Main Issue**

Whether this policy is appropriate, having regard to the protection of nature conservation interests.

### **Inspector's Considerations and Conclusions**

8.125 Policy R1G provides that the LPA will permit proposals for the conversion of buildings for residential use provided the proposal conforms to specified criteria. An objector argues that the policy contains insufficient safeguards for protected species. The plan is to be read as a whole in conformity with the advice of PPG12 that development plans should be succinct. Nature conservation interests are protected by policies EV2, EV2A, EV2B, EV2C and EV2D. These provide that planning permission will not be granted for schemes which would have an adverse effect on nature conservation interests.

### **Recommendation**

**I recommend:**

**(REC 8.16) that no modification be made to the RDD in response to this objection.**

## R1H AFFORDABLE HOUSING

### Objections to Revised Deposit

Ref No	a	b	c	d	Name	Agent	Response Ref.
572	O	093	R	1H	Peter Sargeant FRTPI		WIGAN MBC 572/A
581	O	010	R	1H	Wrightington, Wigan and Leigh NHS Trust	Michael Courcier and Partners Ltd	WMBC 581/A
582	O	012	R	1H	Taylor Woodrow Developments Limited	Michael Courcier and Partners Ltd	WMBC 582/A
583	O	042	R	1H	Peel Investments (North) Ltd	Halliwell Landau	WMBC 583 WR
722	O	009	R	1H	Bellway Homes (Manchester Division)		WMBC 722/A
747	O	124	R	1H	Wigan Borough Action Group		WIGAN MBC 747/A

### Main Issues

Whether this policy is appropriate, having regard to:

- the framework of national planning policy guidance;
- the grammatical construction of the policy.

### Inspector's Considerations and Conclusions

#### *The framework of national planning policy guidance*

8.126 RDD policy R1H provides that the Council will require developers to provide an element of affordable housing on suitable housing sites of 25 dwellings or more or over 1ha in size where there is a demonstrable lack of affordable housing. Alternatively, it may be acceptable for the element of affordable housing to be located on another site in the locality or for the developer to refurbish unfit housing or bring housing which has been vacant for more than six months back into use or make a financial contribution towards such refurbishment where it would result in the production of affordable housing.

8.127 An objector considers that the policy wording is too vague and another argues that the LPA should define what is affordable housing in terms of the relationship between local income levels and house prices or rents. Circular 06/98: 'Planning and Affordable Housing' in relation to the preparation of local plans (and hence part II elements of UDPs) advises that where LPAs are able to demonstrate a lack of affordable housing to meet local housing needs, based on up-to-date surveys and other data, they should take specified action.

8.128 They should include in the plan a policy seeking an element of affordable housing on suitable sites. That policy should define what the LPA regards as affordable. Such definitions should be framed to endure for the life of the plan, for instance by reference to the level of local incomes and their relationship to house prices or rents, rather than to a

particular price or rent. The plan should indicate how many affordable homes need to be provided. It should set indicative targets for specific suitable sites. It should indicate the intention of the LPA to negotiate with developers for the inclusion of an element of affordable housing on such sites. The LPA should consider whether the threshold of 25 or more dwellings or 1ha (as presented in paragraph 10 (i) (a) of the Circular and repeated in policy R1H) is appropriate and whether a lower one should be applied.

8.129 RDD policy R1H is limited to requiring the provision of an element of affordable housing on suitable sites of 25 dwellings or more or over 1ha in size. This is qualified by the proviso that there must be a demonstrable lack of affordable dwellings. The reasoned justification to policy R1H informs that the LPA is in the process of carrying out a comprehensive survey of housing needs to inform its wider housing strategy. The LPA's evidence for this inquiry confirms that this survey was completed in late 2003. The LPA confirms in the reasoned justification that, when the results of that survey have been assimilated and the needs for affordable housing have been considered, it will bring forward supplementary planning guidance to apply policy R1H to particular areas. It is clear from its evidence that the LPA has not reached that stage yet. It is, therefore, unable to define affordable housing or to demonstrate a need for the additional provision of this. This is a fundamental inhibition to applying policy R1H to the control of development.

8.130 An objector seeks the deletion of policy R1H because it is not supported by reasoned conclusions based on a housing needs survey. Until such time as a lack of affordable housing has been demonstrated it will not be possible for the LPA to apply the terms of policy R1H. The wording of the policy recognises this by making its provisions dependent on the qualification that a lack of affordable housing has been demonstrated. The use of this wording means that policy R1H is of no effect until that has been done. Retaining it in the plan, however, does allow it to be activated when the LPA reaches the stage where it can define affordable housing in local terms and demonstrate a lack of it.

8.131 An objector argues that the policy should specify a threshold for its application which is based on the overall capacity of a site. Some flexibility to depart from the threshold presented in Circular 06/98 (paragraph 10 (i) (a)) is provided by paragraph 10 (i) (c) if LPAs can demonstrate exceptional local constraints. The LPA has not completed its analysis of its housing needs survey. There is, therefore, no basis on which I can recommend a different threshold from that presented in policy R1H.

8.132 Circular 06/98 is clear that the intentions of an LPA in relation to affordable housing should be presented in a policy of a development plan rather than in supplementary planning guidance. Given the benefits that will arise for the Borough of having an up-to-date development plan I consider that it would be counter-productive to recommend that the adoption of the UDP be delayed until it can incorporate a modified version of policy R1H based on the necessary review of need for affordable housing. I conclude that, in the particular circumstances of Wigan, the proposed combination of policy R1H and the proposed supplementary planning guidance is the best that can be achieved until such time as these two elements can form the basis of a revised policy at the next review of the development plan.

*The grammatical construction of the policy*

8.133 An objector refers to the omission of a comma from the policy wording but does not indicate where this should be inserted. Although the individual sentences are lengthy, the absence of a comma does not result in any ambiguity. There is, therefore, no need for the policy wording to be restructured.

**Recommendation**

**I recommend:**

**(REC 8.17) that no modification be made to the RDD in response to these objections.**