

SECTION 11 - Chapter C3 The Built and Historic Environment

Chapter C3 - Policy BH.1 and Paragraphs C3.6-C3.12

686/C156	Bath Preservation Trust	C3.6/B
686/B103	Bath Preservation Trust	C3.7
686/C155	Bath Preservation Trust	C3.8/A
3295/B4	G L Hearn Planning	C3.10
686/B104	Bath Preservation Trust	C3.11
878/B30	The Bath Society	C3.12
564/B19	London Road Area Residents Association	BH.1
3205/B1	Edward Nash Partnership	BH.1

Supporting Statements

120/C247	Ms Helen Woodley	C3.6/A
120/C248	Ms Helen Woodley	C3.6/B
120/C249	Ms Helen Woodley	C3.7/A
120/C250	Ms Helen Woodley	C3.8/A
2050/C15	Greenway - The Residents Forum from Lyncombe Vale to Beechen Cliff	C3.8/A
120/C251	Ms Helen Woodley	C3.9/A
120/C252	Ms Helen Woodley	C3.10/A
120/C245	Ms Helen Woodley	C3.11/A
120/C246	Ms Helen Woodley	C3.11/B
3173/B1	Bloomfield Road Residents Association	BH.1

Issues

- i) Whether the World Heritage Site (WHS) and boundary is adequately explained and correctly described.
- ii) Whether the reference to EIA is reasonable.
- iii) Whether it is clear how Policy BH.1 will be applied to development proposals.

Inspector's Reasoning

Issue i)

- 11.1 Paragraphs 3.5 to 3.12 set out the reasons for Bath's status as a WHS and its consequences. There is much detail in the text, but I accept that it is necessary to set a clear context for the built and historic environment chapter and to take account of the City's special status as a WHS. In general, I consider that further description here or elsewhere in the plan should be avoided so as not to make a lengthy document even longer. But some further clarification would be useful.
- 11.2 The reference to the three inscription criteria which Bath satisfies are important in explaining the reasons for its status, but I consider that these should be separated from the 2 criteria that all sites have to meet of authenticity and legislative protection. I see no need for these to be set out in full since they are common to all WHS. After the 3 inscription criteria it would be helpful to have a cross reference to section 2 of the

Management Plan which describes which particular qualities of Bath meet the different criteria.

- 11.3 I do not consider that paragraph 3.11 widens the reasons for the designation of Bath as a WHS. The Council is setting out what it sees as necessary to maintain the qualities which make Bath a WHS. The text logically makes a connection between the social, economic and cultural life of the City and sustaining its future.
- 11.4 I have some sympathy with the view that the boundary of the WHS on Inset Map 31 is unclear and difficult to follow. This is primarily the result of the multiplicity of overlapping boundaries and notations on that map. This confusion will be reduced when the Proposals Map for the adopted plan is printed taking into account the changes made between the DDLP and the RDDLP and the consequences of my recommendations elsewhere in this report. A written description of the boundary would serve little purpose, but the plan does not explain why the boundary is where it is.
- 11.5 The Council has explained that the boundary of the WHS is the administrative area of the former Council of the City of Bath. I understand from section 2.2 of the Management Plan that no formal boundary was agreed when Bath was designated a WHS. The Local Plan thus has an important function in defining a boundary. A short explanation of the position and status of the boundary should be added to paragraph 3.12.

Issue ii)

- 11.6 Paragraph 3.10 states that significant development proposals which may adversely affect the WHS or its setting are likely to require an environmental assessment, which I take to mean an Environmental Impact Assessment (EIA). Whether or not a planning application is an EIA application requiring an Environmental Statement (ES) is set out in regulations. In some cases, determining whether an ES is required involves a judgment as to whether a proposal would have significant environmental effects. In my view, the WHS would be material in making that judgement. PPG15 indicates that significant development proposals affecting a WHS will generally require formal environmental assessment. I therefore consider that paragraph C3.10 reasonably highlights the need for an ES. Unfortunately, the paragraph refers to an out of date circular. It should refer to Circular 02/99 Environmental Impact Assessment.

Issue iii)

- 11.7 Policy BH.1 does not contain any factors or criteria to be taken into account in determining whether a development would have an adverse impact on the WHS of Bath or its setting. Whilst intended as an overarching policy, which is supported by detailed policies, such as those relating to the conservation area, I consider that given the size and complexity of the WHS some focus in the policy is needed if it is to serve any practical purpose. If the policy were to refer to "harm to the qualities

which justified its designation as a WHS" there would be a clear link to the 3 inscription criteria and the qualities described under those criteria in the Management Plan. I recommend accordingly.

Recommendations:

R11.1 Modify paragraph 3.6 by:

deleting the phrase added in the RDDLP "plus a further two criteria that all sites have to fulfil";

deleting the 2 mandatory criteria;

adding at the end: "The City also meets the two further criteria required of all WHS, namely, authenticity and legislative protection."

R11.2 Modify paragraph C3.10 by deleting the reference to DOE Circular 7/94 and substituting "Circular 02/99 Environmental Impact Assessment".

R11.3 Modify paragraph 3.12 by explaining the position of the boundary and the importance of the Local Plan in defining a boundary for the WHS.

R11.4 Modify Policy BH.1 by deleting the text and substituting: "Development which would harm the qualities which justified the designation of Bath as a WHS will not be permitted."

Chapter C3 - Policy BH.2 and Paragraphs C3.14-C3.18

686/C157	Bath Preservation Trust	C3.17/A
2127/B3	Bath Pride	C3.18
2334/B2	Mr M Robertson	C3.18
686/B106	Bath Preservation Trust	BH.2

Supporting Statements

120/C231	Ms Helen Woodley	C3.17/A
120/C232	Ms Helen Woodley	C3.17/B

Issues

- i) Does the plan adequately describe the features of a listed building which are important?
- ii) Should the policy make more reference to the "setting" of the building?

Inspector's Reasoning

Issue i)

11.8 Objection is made to the phrases in the text which refer to the presumption in favour of retaining *all original and later* features and to the

importance of original plan forms. For some listed buildings, their special character is derived from gradual change over time, for others it may be the integrity of the original architectural composition. The brief text in the plan cannot explain the appropriate approach in all cases. The key test, which is made clear in the plan, is whether proposed works would preserve the building's special architectural or historic interest. Paragraph C3.17 is helpful in listing some of the features which might need to be retained, but the phrase *all original and later* adds nothing of value and should be deleted.

11.9 PPG15, Annex C, paragraph 58 states that the original plan form of a listed building should be left unaltered "as far as possible". I consider the reference to the importance of the original plan form in C3.18 is clearly expressed. If the original form has already been lost, it would be less likely to be compromised by new additions.

11.10 Objections are recorded against this policy relating to the exercise of greater control over the design of shopfronts and street furniture. These are not objections to Policy BH.2. I do not consider them further.

Issue ii)

11.11 Policy BH.2 applies to development affecting a listed building or its setting and the following criteria apply to both. Additional references to setting would add nothing to the meaning or scope of the policy.

Recommendation:

R11.5 Modify paragraph C3.17 by deleting "all original and later".

Chapter C3 - Policy BH.3

686/D193	Bath Preservation Trust	PIC/C/33 (BH.3)
686/D194	Bath Preservation Trust	PIC/C/33 (BH.3)
721/B37	Government Office for the South West	BH.3
721/C68	Government Office for the South West	BH.3-REG24(9)

Supporting Statements

120/D357	Mrs H Woodley	PIC/C/33 (BH.3)
120/D358	Mrs H Woodley	PIC/C/33 (BH.3)
120/C233	Ms Helen Woodley	BH.3/A

Issue

- i) Whether the policy should be retained and whether the policy criteria are reasonable and clear.

Inspector's Reasoning

11.12 Given the large number of listed buildings in the District and the pressures for new development, especially in Bath, it is inevitable that the question of the demolition of a listed building, in whole or in part, will arise during the lifetime of the plan. The policy does not suggest a lenient approach to demolition, especially given the change in the RDDLP which makes clear that such demolitions will be allowed only in exceptional circumstances.

11.13 The criteria in the policy follow closely the advice in PPG15, paragraphs 3.17 and 3.18. These include reference to "substantial benefits to the community" which forms the 3rd criterion in the policy. Inevitably, the weighing of any such benefits will involve considerable judgement and cannot be wholly objective, but that is the case with the application of many planning policies. I consider that the policy sets out 3 stringent tests which have to be met before consent is given for the demolition of a listed building which would ensure that this was done only in exceptional circumstances. No modification is required.

Recommendation: no change.

Chapter C3 - Policy BH.4 and Paragraph C3.25

334/B5	Ms P Davis	BH.4
686/D195	Bath Preservation Trust	PIC/C/34 (BH.4)
723/B25	Bath Chamber of Commerce	BH.4

Supporting Statements

S120/C230	Ms Helen Woodley	C3.25/A
S120/C234	Ms Helen Woodley	BH.4/A

Issues

- i) Whether the policy will operate to the disadvantage of continued commercial use.
- ii) Whether criterion (ii) should refer to both fabric and character.

Inspector's Reasoning

Issue i)

11.14 The policy wording and the supporting text reflect guidance in PPG15 which states in paragraph 3.10 that the best use for a building will often be the use for which it was designed. The policy does not, explicitly, favour any particular use over another. But I recognise the objectors' concerns that within what is now the established commercial/office part of the city centre, where the original use of listed buildings was predominantly residential, the policy would favour residential use and lead to loss of city centre commercial accommodation. This process is

something which Policy ET.1A was introduced into the RDDLP to specifically resist "because residential values continue to create pressures for the change of use of the existing stock of offices". The Council does not appear to have recognised this policy conflict within the plan and I do not understand the Council's view that the policy can operate flexibly. There may be several ways to address this problem, but I consider that if the wording of Policy BH.4 is retained then criterion i) should not apply where Policy ET.2(2) (the recommended modification for the protection of office uses in Bath City Centre) is also applicable. I recommend accordingly.

Issue ii)

11.15 Assessing the effect upon the character of the building and its architectural or historic interest would include consideration of the impact on the fabric of the building. There is no need to specifically highlight fabric in the policy.

Recommendation:

R11.6 Modify Policy BH.4 by inserting after "originally designed" "(except where policy ET.2(2) – as recommended in this report - also applies)".

Chapter C3 - Policy BH.5, Quick Guide 17 and Paragraphs C3.29-C3.30

686/C158	Bath Preservation Trust	C3.30/A
878/B31	The Bath Society	C3.29
120/B48	Ms Helen Woodley	BH.5
564/B18	London Road Area Residents Association	BH.5
3206/B1	London & Argyll Developments Ltd	BH.5
120/C235	Ms Helen Woodley	C3.29/B

Supporting Statements

3257/C231	Somer Valley Friends of the Earth	C3.29/A
3257/C232	Somer Valley Friends of the Earth	C3.29/B
120/C194	Ms Helen Woodley	C3.30/A
120/C195	Ms Helen Woodley	Quick Guide 17/A
3257/C233	Somer Valley Friends of the Earth	Quick Guide 17/A
376/B11	Mr I Wallis	BH.5
581/B24	Batheaston Society	BH.5
120/C191	Ms Helen Woodley	BH.5/A
3257/C234	Somer Valley Friends of the Earth	BH.5/A
3257/C235	Somer Valley Friends of the Earth	BH.5/B
120/C193	Ms Helen Woodley	BH.5/C

Issues

- i) Whether the criteria for the identification of locally important buildings are suitably worded.

- ii) Whether the policy should allow demolition in exceptional circumstances.

Inspector's Reasoning

Issue i)

- 11.16 I consider that "historic associations" in paragraph 3.30 encompasses the matters referred to in the objector's suggested text. I see no merit in substituting alternative text.
- 11.17 Some objectors highlight the merits of particular types of building for inclusion in the local list. This is a matter for the Council, but I consider that the selection criteria would not exclude consideration of the merits of any of the suggested building types.
- 11.18 Elsewhere in this report I have recommended against the use of Quick Guides which disrupt the flow of the plan and do not have a clear status. In the case of QG17 I recommend that the criteria are set out in the text after paragraph C3.30.

Issue ii)

- 11.19 The wording of the policy contains a contradiction which I presume is a drafting error. The policy indicates that development which *adversely* affects a building on the local list *will* be permitted subject to 2 criteria which prevent any development to the building which would adversely affect it. I presume that the first part of the policy should not include "adversely".
- 11.20 The policy does not refer to demolition. Inclusion on the list of locally listed buildings does not confer any special protection from demolition. Any reference to demolition in the policy would imply a degree of control which the Council would often be unable to exercise. Demolition within conservation areas is covered by Policy BH.7. Accordingly, I consider that no reference needs to be made to demolition in exceptional circumstances.
- 11.21 Objectors seek reference to Grant Aid, VAT relief and a graffiti removal service, but these are not suitable matters for inclusion in a local plan. The promotion of buildings as potential tourist attractions or for employment use is dealt with elsewhere in the plan.

Recommendations:

R11.7 Modify policy BH.5 by deleting "adversely" in the first line.

R11.8 Delete QG17 and insert the selection criteria under paragraph C3.30.

Chapter C3 - Policy BH.6 and Paragraphs C3.34 and C3.39

88/B47	William & Pauline Houghton	C3.34
686/B108	Bath Preservation Trust	C3.39
233/B4	Compton Dando Parish Council	BH.6
421/B4	Mrs E Bagshaw	BH.6
564/B17	London Road Area Residents Association	BH.6
878/B32	The Bath Society	BH.6
2310/B2	Beechcroft Developments	BH.6
2310/B14	Beechcroft Developments	BH.6
3007/B2	Grant Thornton	BH.6
3207/B4	Cindabi (International) Ltd	BH.6
3278/B12	Persimmon Homes (Wessex) Ltd	BH.6

Supporting Statements

376/B12	Mr I Wallis	BH.6
3173/B4	Bloomfield Road Residents Association	BH.6
3251/B2	Prospect Land Ltd	BH.6
120/C176	Ms Helen Woodley	BH.6/A
3257/C236	Somer Valley Friends of the Earth	BH.6/A
120/C177	Ms Helen Woodley	BH.6/B
3257/C237	Somer Valley Friends of the Earth	BH.6/B

Issues

- i) Whether full applications in conservation areas should always be required.
- ii) Whether the policy is too prescriptive and restrictive.
- iii) Whether the policy should highlight particular eyesores in conservation areas.
- iv) Whether additional conservation areas should be designated or adjustments made to existing boundaries.

Inspector's Reasoning

11.22 An objector highlights the opportunities for improvements to the streetscape of Twerton High Street, but these comments do not amount to an objection to the policy and no change to the plan is proposed.

Issue i)

11.23 PPG15, paragraph 4.18 states that local planning authorities will "often need to ask for full details." The plan reflects this advice. Whilst I consider that a full application will normally be required for new development in a conservation area, there may be circumstances where this is not necessary and it would be inappropriate to rule out this option.

Issue ii)

11.24 The aim of the policy is clearly stated in the first sentence, namely to allow development only where it preserves or enhances the character or

appearance of the conservation area. This formulation is consistent with national advice and statutory requirements. The matters listed in the policy are matters to which particular attention will be given. This means that they do not all have to met.

11.25 Text is added to criterion i) of the policy in the RDDLP to make clear that it applies only to buildings and features of the conservation area which contribute to the character or appearance of the area. This gives that criterion a positive focus and ensures that there is no policy objection to the redevelopment of unattractive buildings or spaces. The removal of unsightly features is a specific consideration highlighted in vi). In my view, the list of matters to be given attention are those necessary to inform good design within an historic environment and should not discourage new development. The policy is thus not too prescriptive or onerous.

11.26 I accept that the matters are described in a broad-brush way and provide only a context rather than detailed advice. This is appropriate given the scale and variety of conservation areas within the District. The streets, building, layout and materials which make a conservation area special and the features which detract from a conservation area should be matters addressed in conservation area appraisals. Conservation area appraisals are referred to in paragraph C3.53, but this text is not related to any particular policy. I consider that conservation area appraisals should be referred to in the supporting text to Policy BH.6 as providing further information on what is special about particular conservation areas and what features are unattractive. It would also be helpful to have a cross reference to where existing and proposed appraisals are listed.

Issue iii)

11.27 Criterion iv) of Policy BH.6 states that particular attention will be paid to the removal of unsightly and inappropriate features in conservation areas when considering applications. Matters such as overhead lines, street furniture, and utility works highlighted by the objector are too detailed for inclusion in the policy. Where such features significantly detract from a particular conservation area they should be highlighted in the conservation area appraisal and the Council should consider what action to take to enhance the area, but this process is outside the scope of the plan.

Issue iv)

11.28 The designation of new conservation areas and amendments to the boundaries of existing conservation areas are subject to separate statutory procedures and cannot be achieved by changes to the Local Plan. The Proposals Map should show only those conservation areas that already exist. I have therefore not considered the merits of the locations highlighted by objectors.

Recommendation:

R11.9 Modify paragraph C3.40 by highlighting that conservation area appraisals will assist in the application of the policy because they identify what makes an area special and what detracts from it. Insert a cross reference to where existing and proposed appraisals are listed in the plan.

Chapter C3 - Policy BH.7 and Paragraph C3.41

2334/B5	Mr M Robertson	BH.7
2965/B12	Morley Fund Management Limited	BH.7

Supporting Statements

3257/C238	Somer Valley Friends of the Earth	C3.41/A
120/C174	Ms Helen Woodley	BH.7/A
3257/C239	Somer Valley Friends of the Earth	BH.7/A

Issue

- i) Whether the policy should refer to economic viability or the achievement of other planning objectives.

Inspector's Reasoning

11.29 Paragraph C3.41 makes clear that the Council will consider whether the building is structurally and "economically" beyond restoration. In my view this is also the combined effect of criteria i) and ii) in the policy. Accordingly, I consider that it is unnecessary for the phrase "not capable of economic retention or repair" to appear in the policy.

11.30 The policy requires all 3 criteria to be met. In my view, the policy should allow consideration of the benefits to the conservation area to be taken into account even if the non listed building to be demolished is in economic repair/use. This would allow buildings which make only a slight contribution to the conservation area to be replaced by high quality new development. This could be achieved by inserting an additional stand-alone criterion. But the policy should not try and encompass consideration of other planning objectives. These could be material, and might well accord with other policies of the plan, but such considerations would then need to be weighed against any conflict with this policy.

Recommendation:

R11.10 Modify Policy BH.7 by inserting at the end: "or iv) the proposed development would make a significantly greater contribution to the conservation area than the building to be lost."

Chapter C3 - Policy BH.8 and Paragraph C3.45 and C3.46

686/B109	Bath Preservation Trust	C3.45
708/B29	The Widcombe Association	BH.8

Supporting Statement

S686/B110	Bath Preservation Trust	C3.46
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Issue

- i) Should reference be made to specific improvement proposals?

Inspector's Reasoning

11.31 An objector seeks reference to improvement works in particular streets, but these suggestions are too detailed for this Local Plan. Only policies and proposals in the plan which will be implemented during the lifetime of the plan and which will form the basis for making planning decisions should be included. The other objections relate to comments or questions for the Council which do not require consideration in this report.

11.32 In accordance with recommendations made elsewhere in this report, Quick Guide 18 should be deleted. The text of paragraphs C3.45 and C3.46 could be simplified. It should be sufficient to say that within conservation areas some permitted development rights are restricted, and that Article 4 Directions may also be issued by the Council to achieve additional control. I recommend accordingly.

Recommendations:

R11.11 Delete Quick Guide 18.

R11.12 Modify paragraph C3.45 by deleting the last 2 sentences.

R11.13 Modify paragraph C3.46 by deleting the last sentence.

Chapter C3 - Policies BH.9 and BH.10 and Paragraphs C3.50-C3.56

878/B33	The Bath Society	BH.9
246/B12	SUSTRANS	BH.10
1897/B1	Mr & Mrs R A Parker	BH.10
2199/B3	Mr M Fone	BH.10
2448/B2	Mr J Sewart	BH.10

Supporting Statement

686/B112	Bath Preservation Trust	C3.50
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Issues

- i) Whether sites should be deleted or added to the Parks and Gardens of Local Historic Interest Shown on the Proposals Map.
- ii) Should Policies BH.9 and BH.10 be merged into one policy.

Inspector's Reasoning

Issue i)

- 11.33 The Proposals Map shows (as PG) parks and gardens which are included on the Gazetteer of Parks and Gardens approved by the former Avon County Council in 1992. These are parks and garden of local historic interest and are separate from those on English Heritage's Register, which are separately annotated on the Proposals Map.
- 11.34 Objectors question the validity of their particular properties being included on the Proposals Map. In response, the Council confirms that they are sites included in the 1992 Gazetteer. I accept that sites should be shown on a consistent basis and that it would be inappropriate to delete 1 or 2 sites from the Proposals Map unless they were also deleted from the Gazetteer. But there is no mechanism for the inclusion of sites in the Gazetteer to be reviewed. More fundamentally, I am concerned that a Gazetteer approved in 1992 (with apparently much of the work being undertaken in the 1980s) may be out of date or may primarily be an inventory of information on historic gardens and not necessarily only include those which are substantially intact.
- 11.35 I am therefore concerned that there may not be an adequate evidence base on which to show parks and garden of local interest or on which to judge the effect of any development proposals, as required by Policy BH.10. I contrast these circumstances with those relating to the designation of SNCIs. Such designations are also made outside the local plan process, but there are published criteria for selection, the clear identification of the nature conservation interest justifying their selection, expert review and confirmation by the Council. These arrangements also enable SNCIs sites to be amended in the light of new information.
- 11.36 On the information available to me, I am not satisfied that the identification of parks and gardens of local interest on the Proposals Map can be justified. Unless the Council is able to validate the accuracy and usefulness of the information contained in the Gazetteer recorded for each site in the District and introduce a mechanism whereby sites can be deleted or information amended, then I recommend their deletion from the Proposals Map. Objectors concerns about unauthorised public access have not weighed in this assessment, since those who are thoughtless enough to trespass on private gardens are unlikely to have been influenced by a relatively obscure designation in a local plan.

11.37 If the sites are not to be shown on the Proposals Map then there would be a lack of clarity in the application of Policy BH.10 which should also be deleted. Whilst I support the principle of protecting parks and gardens of local historic interest this can only be done on the basis of adequate and verifiable evidence to support the policy.

11.38 To avoid any uncertainty following the deletion of Policy BH.10, Policy BH.9 needs to be amended to make clear that it applies only to sites on English Heritage's Register. Given the recommendations I intend to make, it is not necessary to consider the other objections to Policy BH.10.

Recommendations:

R11.14 Modify the Proposals Map by deleting all Parks and Gardens of Local Historic Interest.

R11.15 Modify the plan by deleting Policy BH.10.

R11.16 Modify Policy BH.9 by deleting the text and substituting: "Development which adversely affects sites on English Heritage's Register of Historic Parks and Gardens or their settings will not be permitted".

R11.17 Modify paragraphs C3.54-C3.56 to reflect the above modifications.

Chapter C3 - Policy BH.12 and Paragraph C3.62

88/B48	William & Pauline Houghton	C3.62
2965/B13	Morley Fund Management Limited	BH.12
3189/B3	Somerset Coal Canal Society	BH.12

Supporting Statements

120/C175	Ms Helen Woodley	BH.12/A
3257/C240	Somer Valley Friends of the Earth	BH.12/A

Issues

- i) Whether the policy accords with national guidance.
- ii) Whether the Somerset Coal Canal should be designated under this policy on the Proposals Map.

Inspector's Reasoning

Issue i)

11.39 The Council made a number of amendments to the policy in the RDDLP in response to objections to the DDLP. In my view, it now more fully reflects guidance in PPG16 and no further changes are needed.

Issue ii)

11.40 The Proposals Map shows only sites which are Scheduled Ancient Monuments to which Policy BH.11 applies. Scheduling is the responsibility of the Government, not the Council.

11.41 In so far as the Coal Canal represents important archaeological remains it would be covered by Policy BH.12 and does not need to be shown on the Proposals Map to come within the remit of the policy. It would be inconsistent to identify on the Proposals Map only the Coal Canal as subject to Policy BH.12 and impractical to show all sites subject to this policy, especially as the importance of archaeological remains is not always clear until initial site evaluation.

Recommendation: no change

Chapter C3 - Policy BH.15 and Paragraphs C3.71A and C3.72

There are large numbers of representations to this policy; details are listed at Appendix 1.

Issues

- i) Whether the policy should be made more flexible.
- ii) Whether sites shown on the Proposals Map have been identified on the basis of a thorough and systematic assessment.
- iii) Whether all visually important sites to which the policy applies should be shown on the Proposals Map or in a schedule.
- iv) Whether sites should be added to or deleted from the designation.

Inspector's Reasoning

11.42 I intend to deal with the issues raised in the objections together. It is not possible to determine whether sites should be added to or deleted from the designation or to decide whether the wording of the policy is appropriate without a clear understanding of the purpose of the policy and the basis on which sites have been identified.

11.43 The qualifying criterion for designation is set out in the supporting text in paragraph C3.71A, namely an open space that contributes to the character of the settlement in terms of its visual importance and that the policy applies only to open spaces "within" the District's settlements and villages. But, in contrast, the policy refers to "development which harms the openness and character" of VIOS, which places the emphasis on the character of the space and not its contribution to the character of the settlement. The openness of a space is likely to be adversely affected by almost any built development, whereas its contribution to the character of

a settlement might not be. The reference to openness in the policy introduces a demanding test for development to meet, which is likely to preclude any change, and which curtails the opportunity to consider the merits of any proposal. Site specific designations subject to such a strict policy require clear justification.

- 11.44 It is not clear how sites have been identified for designation under the policy. There is no evidence of any systematic survey and evaluation to identify what is special about the contribution each designated site makes to the character of the area. From the Proposals Map it appears that virtually all the undeveloped green spaces within Bath are subject to this designation, as well as many in the other settlements. In Bath, the designated spaces range from the open space at the centre of the Circus and in front of the Royal Crescent to relatively small parcels of amenity land in suburban streets. The significance of designated spaces to the character of the settlement thus seems to range from the vital to the inconsequential. This apparently blanket approach undermines the credibility of the policy.
- 11.45 The policy not only applies to the spaces designated VIOS on the Proposals Map, but would also be applied to other spaces, not yet identified. The Council indicates that the policy would apply on a case-by-case basis as and when proposals were put forward on sites which the Council considered were VIOS. In my view, this approach is unacceptable. Given the strictness of the policy, it is unreasonable for landowner/developers not to know whether their open land might be subject to this policy until after an application has been submitted.
- 11.46 There are other inconsistencies. The designation applies to many playing fields outside settlements, such as along the Lansdown Road and around Clandown, in contradiction to the indication that sites subject to the policy are within the towns and villages. How such sites contribute to the character of the nearby settlements is unclear.
- 11.47 Many of the designated VIOS, both in Bath and in the smaller towns and villages, overlap with other protective policies which have a clearer focus. Many of the sites are within or adjoining conservation areas. Policy BH.6 includes open spaces which contribute to the character of the area among the matters to which particular attention will be given. The policy and statutory provisions applying in conservation areas provide a strong basis on which to resist harmful development, including the loss of important open areas. Within the conservation areas, Policy BH.15 and the VIOS designation constitute unnecessary duplication. Conservation area appraisals provide the opportunity for identifying open areas which contribute to the character of the area. In addition, many of the VIOS are playing fields protected by Policy SR.1A, or are public recreation grounds.
- 11.48 In the light of the above, I consider that many of the criticisms of this policy made by objectors are well founded. The purpose of the policy is confused, the selection of sites has been unsystematic and the need for the policy in many areas is unclear. I am not, therefore, in a position to

come to any view as to the merits of individual sites and whether they should be added to the designation or be deleted.

11.49 I recognise that some of the designated sites are brought forward from the Wandsyke Local Plan, which has a policy to protect Areas of Open Amenity Value. Many of those sites had been identified in an earlier local plan and endorsed by Inspectors when considering objections to those plans. My impression from the comments of previous Inspectors quoted by the Council is that they were able to identify a specific contribution of designated sites to the settlements within which they are located. These past assessments may be helpful to the Council in clarifying the basis for the selection of sites.

11.50 If the Council wishes to retain a policy designating and protecting visually important open spaces then I consider that sites should be assessed against clear criteria and the reasons for the selection of each site should be made explicit. The policy should be amended to reflect the basis on which sites have been selected. In my view, if retained, it should focus on the retention of the positive contribution of the space to the character and visual amenity of the settlement, rather than primarily on openness.

11.51 In the event that it is not practical to undertake such an assessment for this plan, I recommend that Policy BH.15 and the designation be deleted. Given the extent of the conservation areas within settlements, the tightly defined housing development boundaries and the policies protecting playing fields, I consider that the deletion of the policy would be unlikely to undermine the protection of the environmental quality of the District. In the light of my conclusions, there is no purpose in considering further any of the detailed objections to the policy.

Recommendations:

Either:

R11.18 The Council assemble a set of defined criteria against which to evaluate undeveloped sites within built up areas and carry out an assessment of sites identified in the RDDLP as VIOS against those criteria. Sites which accord with the criteria may then be identified with explicit reasons for the inclusion of sites within the VIOS designation; and

modify the Proposals Map in accordance with that site selection process; and

modify Policy BH.15 to relate directly to the criteria for the selection of sites and the contribution the site makes to the character of the settlement.

Or:

R11.19 Delete Policy BH.15 and delete the VIOS designation from the Proposals Map.

Chapter C3 - Policy BH.16

81/B3	Rosewell Nursing Home	BH.1
2326/B2	Mr C B Bentley	BH.16
2683/B1	Diocese of Bath & Wells	BH.16
3009/B3	Polestar Properties Limited	BH.16
3047/B2	Mrs E W Styles	BH.16
3047/B5	Mrs E W Styles	BH.16
3066/B3	Mr L Knowles	BH.16
3098/B37	George Wimpey Strategic Land	BH.16

Supporting Statements

120/B123	Ms Helen Woodley	BH.16
566/B10	Clutton Parish Council	BH.16
1864/B1	Ms S Walker	BH.16
1969/B1	Mr A Price	BH.16
1970/B1	Ms S Price	BH.16

Issues

- i) Whether the policy is necessary or unduly restrictive.
- ii) Whether land should be added to or removed from the designated area on the Proposals Map.

Inspector's Reasoning

11.52 Policy BH.16 seeks to protect the “separateness” of the cluster of ex-coalmining settlements in the south of the district. The designation abuts but does not overlap with the Housing Development Boundaries of the settlements and excludes any substantial groups of existing buildings. The designation thus applies only to the countryside.

11.53 I consider that existing policies in the plan are sufficient to protect the countryside between the BH.16 settlements. Policy SC1 establishes a settlement classification which defines all of the settlements affected by BH.16 as Urban Areas/R.1 settlements, with the exception of Hallatrow which is defined as an R.2 settlement. All of the settlements directly affected by the village buffer zones are covered by policy to permit housing development only within the defined housing development boundaries. The Proposals Map defines tight boundaries around the settlements in question, which ensure that there is countryside between them. New housing and employment development in the countryside is strictly controlled. Policy NE.1 protects the character of the rural landscape.

11.54 The Council justifies the policy on 2 main grounds. Firstly, it highlights what it regards as the development pressures on the edge of these settlements, but there is nothing to suggest that development pressures in these areas are exceptional or any different to those around the other edges of these and other rural settlements. Secondly, the Council highlight the narrowness of the gaps and their sensitivity to development. I accept that several of the settlements in this part of the district are close

to each other and that the visual impact of development on the separateness and setting of the settlements might be greater here than elsewhere. But I see no reason why any such greater impact should not be properly taken into account in the context of other policies and thus weigh against such proposals. This appears to have been the case in the examples highlighted by the Council of development that has been refused or dismissed on appeal.

11.55 I do not seek to undermine the importance of maintaining the separate identity of these particular rural settlements, but I am not satisfied that Policy BE.16 is needed to achieve this goal. The justification for the policy implies a lack of confidence in the other policies of the plan to control development satisfactorily. Subject to proper evaluation of the impact of individual proposals, I see no reason why the other policies applicable to the countryside should not be able to achieve the Council's objective. Policy BH.16 is not therefore necessary and I intend to recommend its deletion. Given this conclusion I have not considered the site specific objections.

Recommendation:

R11.20 Modify the plan by deleting paragraphs C3.73 and C3.74, Policy BH.16 and the village buffers from the Proposals Map.

Chapter C3 - Paragraph C3.80

1830/B5 Highways Agency

C3.80

Issue

- i) Should the paragraph clarify the roles and responsibilities of the Council and the Highways Agency with regard to highways?

Inspector's Reasoning

11.56 The Local Plan is a planning policy document that sets out the council's strategy and development control policies for future development in the District. It is not necessary to set out the respective responsibilities of local and government bodies. Statutory processes will ensure that the relevant agencies are consulted on development proposals. The second half of the paragraph concerning the Council's actions as highway authority responsible for directional and tourist signs is not relevant to the application of the policies of the plan and should be deleted.

Recommendation:

R11.21 Modify the plan by deleting all that part of paragraph C3.80 from "All directional signs" to the end.

Chapter C3 - Policy BH.19

686/B118

Bath Preservation Trust

BH.19

Issues

- i) Should the policy say that development "may" be permitted?
- ii) Should the policy require applicants to demonstrate that the original shop front could not be retained?

Inspector's Reasoning

Issue i)

11.57 The alternative wording proposed by the objector introduces an element of uncertainty into the policy wording that is not helpful. The purpose of policies in the plan is to provide clear guidance in its implementation.

Issue ii)

11.58 There is no need for the addition of a criterion requiring applicants to demonstrate that the retention of a "shop front of value" is not possible. Policy BH.20 affords protection to traditional shop fronts and the addition of this criterion would duplicate this policy. The plan must be read as a whole.

Recommendation: no change

Chapter C3 - Policy BH.21

578/B68

Norton Radstock Town Council

BH.21

Issue

- i) Should the policy take a firmer stance against security shutters and grills, particularly in conservation areas?

Inspector's Reasoning

11.59 I consider that the policy is robust and that the criteria adequately address issues of visibility and the effect on the building and the street scene. The plan also contains policies which protect the character and appearance of conservation areas. The plan should be read and applied as a whole. I also consider that criterion iv) of the policy properly recognises the need to maintain access to upper floors and that no change to the policy or the supporting text is needed in relation to access.

Recommendation: no change.

Chapter C3 - Policy BH.22

442/B4	Campaign for Dark Skies	BH.22
578/B69	Norton Radstock Town Council	BH.22
686/B120	Bath Preservation Trust	BH.22

Supporting Statement

2050/B7	Greenway - The Residents Forum from Lyncombe Vale to Beechen Cliff	BH.22
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Issues

- i) Should the policy refer to the Council's External Lighting Guide?
- ii) Should the policy discourage unsympathetic external lighting of residential properties and emphasise the protection of residential amenity?
- iii) Should the policy specify more clearly the types of development to which it applies?
- iv) Should reference be made to highway/street lighting?

Inspector's Reasoning

Issue i)

11.60 Paragraph C3.98 refers to the Council's external lighting guide. Adding this reference to the policy would add nothing to either the weight of the guide or to the effectiveness of the policy. The existing reference to the guide is useful information for applicants that supports the implementation of the policy. The supporting text is the most appropriate place to refer to the guide.

Issue ii)

11.61 Permitted development rights for residential property owners mean that the plan can do little to control external lighting of residential properties, outside conservation areas. Paragraph C3.94 acknowledges that residential properties contribute to the problem of light pollution. Paragraph C3.98 sufficiently highlights the problem and usefully refers to the external lighting guide. It would not be appropriate for the plan to advocate changes to the permitted development rights attached to residential properties.

11.62 Criterion i) seeks to prohibit sources of light pollution in locations where it is not a problem at present. Criterion ii) protects residents in villages and urban areas from development that would lead to an increase in light pollution. Both policies favour protecting residential and visual amenity, although criterion ii) specifically identifies these aspects because it recognises that external illumination is already a part of the street scene in some settlements and it is not the intention of the criterion to protect the wider environment from the visual affects of external lighting. There

is no need to amend the policy to add a further criterion relating to residential amenity.

Issue iii)

11.63 The Policy refers to “facilities” and I consider that this is a broad and inclusive term which encompasses a wide range of developments in the countryside. The supporting text to the policy in paragraphs C3.94 to C3.98 provide an adequate explanation of the nature of the policy and how it is intended to be applied. It would be unhelpful to restrict the policy by applying it to specific types of buildings and uses.

Issue iv)

11.64 Street lighting does not require planning permission. Policies in the plan cannot control the decisions of those responsible for street lighting or the maintenance and alteration of street lighting. The plan is not the place to advocate the changes sought by the objector.

Recommendation: no change
