



Orkney Islands Council

Supplementary Guidance: Historic Environment and Cultural Heritage Participation Statement and Consultation Report

7 February 2017

1. Introduction

Orkney Islands Council published a draft consultation paper titled Supplementary Guidance Historic Environment and Cultural Heritage on 20 October 2016.

Statutory consultees, Key Agencies, and Interested Parties were invited to comment on this draft of the document over a 6 week period from 20 October to 1 December 2016.

2. Consultation Methods

A. Public advertisement

- An official notice was placed in the Orcadian on 20 October 2016 detailing the consultation, the consultation dates, the location of copies of the Draft Development Brief and how members of the public could comment.
- A Press Release was issued on 18 October to the press and all OIC staff members.

B. Public display of documents

- Documents were made available at the OIC Customer Services in Kirkwall, the Kirkwall Library and Mobile Library Van, Stromness Warehouse Building, and on the Orkney Islands Council website.

C. Letters to key agencies

- Letters were sent to all Statutory Consultees, Key Agencies, Community Councils and Elected Members on 20 October 2016.

D. Events

- A drop-in event for Elected Members was held in Committee Room 1 at 09:30 on 10 November 2016.
- A presentation was given to invited stakeholders on 11 November 2016 at 14:00 and 17:30 at the St Magnus Centre, Palace Road, Kirkwall, at which the document was explained and copies were available.

3. Consultation Results

Key issues raised include:

- Numerous suggestions for minor amendments to emphasise, clarify or expand on points made.
- Typographic and formatting errors.
- Corrections to minor errors regarding revised consent determination processes.
- The document was felt to be too long, as parts of the content could be presented elsewhere.
- Suggestions for expanding the terminology section.
- The wording of the policy provisions for legally protected sites was felt to need additional qualification.
- The wording of the policy provisions for assessing the significance of heritage assets was felt to need additional qualification.
- One respondent felt that the document should not fully comply with Historic Environment Scotland's policy on setting.

Key changes to the document include:

- Minor amendments to respond to suggestions, and to correct errors highlighted.
- Amendments to the wording of the policy provisions in Parts A and B, in order to clarify their intent.
- The appendices were split off into a separate document, known as Historic Environment (Topics and Themes) Planning Policy Advice.
- Extensive restructuring: a number of changes were made which reduced the length of the document, including:
 - The terminology section was moved to a new Glossary at the end of the document.
 - The list of website links in Part A was removed.
 - The descriptions of legally protected sites were moved to a new Notes section towards the end of the document.
 - The Further Information section was removed.

Proposals which have not been taken on board include:

- Amending the description of setting in a way which would deviate from Historic Environment Scotland's policy.
- Some minor amendments which were not necessary in the context of other parts of the document.

4. Conclusion

Full details for the reasoning behind these proposals are included in the Consultation Report at Appendix 1.

Orkney Islands Council

Draft Supplementary Guidance – Historic Environment and Cultural Heritage Consultation Report

Consultation Period: 20 October – 1 December 2016.

	<u>Unique Reference</u>	<u>Respondent Type</u>	<u>Issue</u>	<u>Comments</u>	<u>Response from Planning Authority</u>	<u>Action</u>
1.	00563	Interested Group		Key considerations and B.10 – I disagree that the extent of the remains is a factor –size/spread isn't necessarily relevant. I strongly recommend using the significance criteria lists in the HES Annexes, because these apply to what we're looking for in evaluating significance of undesignated assets too, and a lot of these factors are missing here.	Text amended to remove reference to extent of remains. See separate comment on HES Annexes.	
2.	00563	Interested Group		B.11 Simplify	Text amended.	
3.	00563	Interested Group		B.13 re ClfA - An individual professional may be a Mlfa and won't be in an RO, also missing out experienced practitioners who aren't in ClfA maybe say 'would normally be affiliated to ClfA or acknowledge their standards and guidelines in their practice', then you cover everything.	Comment noted; these paragraphs have been removed and will be made available elsewhere in an amended form to reflect these comments.	
4.	00563	Interested Group		B.15 It's not appropriate to encourage public access to any commercial work/survey work B.15 Have you asked Orkney Archive if they want to be a repository? Submission to OASIS automatically generates entry to SMR, NMRS and DES	Comment noted; these paragraphs have been removed and will be made available elsewhere in an amended form to reflect these comments.	
5.	00563	Interested Group		Architectural significance: again, why are you ignoring HES factors and creating new ones. How can a building be designed to fulfil its later functions when these aren't known at time of design-only intended function is? Why will any building built pre 1945 have architectural significance? Why not say may have?	Text amended to clarify these points; see separate comment on HES Annexes.	
6.	00563	Interested Group		Artistic value – including GDL in here means you miss a lot of criteria that may be appropriate –see HES Annex 5.	Highlighting the artistic significance of designed landscapes is not intended to imply that they do not have other values, such as those listed in HES Policy Statement Annex 5.	
7.	00563	Interested Group		I think by adding new criteria where there's good national standard criteria in other guidance means that you are extending the work to be done, also potentially opening up planning lawyer issues when terminology is a mismatch with established terminology in national guidance and in legislation. And as you know I think the document is too complicated, wordy and unwieldy, especially if its aimed at the non-professional.	Comment noted; the document has been reduced in length substantially in response to consultation responses. Note that the criteria set out in this SG have a different purpose to the criteria set out in the HES Policy Statement Annexes, and complement them rather than replace them.	

8.	00563	Interested Group		I do however praise its intentions and a lot of content I've read so far – I'm aware that what I've said above seems negative, but that's because I'm only commenting on the things I think need to be commented on.	Comment noted.	
9.	00563	Interested Group		Additional comments: The document is very long – could a streamlined version be produced.	The document has been reduced in length substantially in response to consultation responses.	
10.	00563	Interested Group		The methodology set out could be challenged.	The methodology set out are based closely on existing national policy and guidance; whilst any planning policy may be challenged, these criteria are designed to be robust under such scrutiny.	
11.	00563	Interested Group		In Part A, don't provide such a long list of links; abbreviate it and give general caveats.	This section has been removed, and the content will be made available elsewhere.	
12.	00563	Interested Group		Clarify the meaning of 'substantial', specifically with regard to the meaning of 'significant' in EIA terms, and the various levels of impact identified by EIAs.	Paragraph added.	
13.	00563	Interested Group		Give further explanation of the approach to enabling development.	This Policy forms part of the Orkney Local Development Plan, which has been subject to Examination by the Scottish Government; OIC is no longer able to amend this text. The policy provisions set out provide an effective means of assessing the impact of enabling development.	
14.	00563	Interested Group		Ensure other key terms in the policy are defined, such as the 'integrity' of the setting.	Paragraph added.	
15.	00563	Interested Group		The implication of the policy wording is that CHIA is only required in sensitive areas.	This Policy forms part of the Orkney Local Development Plan, which has been subject to Examination by the Scottish Government; OIC is no longer able to amend this text. CHIAs are explained in greater detail in Part C.	
16.	00563	Interested Group		1.23: clarify the use of the term 'significance' against usage elsewhere e.G. EIA.	The terminology paragraphs have been amended. The usage of 'significance' in this document is described in detail in Part B.	
17.	00563	Interested Group		On the consent process diagram, revise the wording of point E, specifically "loss of significance"	Text amended.	
18.	00563	Interested Group		Ensure the term 'heritage asset' is clearly defined, with reference to legislation.	References to national policy have been added in the Notes section.	
19.	00563	Interested Group		Do you need all the site type list (forthcoming)– if attached to planning guidance then doesn't it get some form of official legal status for consideration in the process?	Detailed information on site types will be produced at a later date, and all necessary processes for its production will be followed.	
20.	00563	Interested Group		A.27: Revise the wording around categories of listing to emphasise that B/C listed buildings can have high significance. Also 'importance' is relative and have used 'regional significance' rather than 'regional importance'.	Text amended to reflect these points.	
21.	00563	Interested Group		Conservation areas & GDLs: Clarify wording around minor impacts and settings. The guidance seems to state that only development that preserves or enhances will be permitted/considered (for all types	Text amended.	

				of asset), when planning process does allow a certain level of adverse effect.		
22.	00563	Interested Group		Scheduled monuments: clarify wording re minor impacts.	Text amended.	
23.	00563	Interested Group		A38: text has accidentally been duplicated.	Duplicate text deleted.	
24.	00563	Interested Group		Battlefields: clarify wording re minor impacts.	Text amended.	
25.	00563	Interested Group		Protected Places: clarify situation re uncertainty over their location, and difference between these and controlled sites.	Text amended to emphasise this point.	
26.	00563	Interested Group		A.43 "Protected Places" should read "controlled sites".	Text amended.	
27.	00563	Interested Group		Part B: refer to annexes of HES Policy Statement.	The criteria set out in this Part are fully compatible with the HES Policy Statement Annex criteria (e.G. Annex 1 for scheduled monuments), and the significance types set out at B.3 are closely based on those in the 1979 Act. The approach in this Part is different from that of these Annexes, as here the approach is to identify specific characteristics of all development, whereas the HES Annexes set out a number of different systems of identifying all characteristics of selected types of heritage asset. This reflects the different aims of the two documents: this document aims to create a simple system for assessing impacts on all heritage assets, whereas the HES Annexes are selection criteria for legally protected sites.	
28.	00559	Interested Person		It was requested that we clarify the difference between having a nice view for amenity reasons (which is not considered material in the planning process), and views which form part of the setting of a heritage asset (which are material in the planning process).	Paragraph added to clarify this point.	
29.	00094	Interested Person		1.10 - This might be the place to note that these sites do not have to be scheduled or protected at a National level.	Note added to text.	
30.	00094	Interested Person		Page 9, B.I - Could read 'where there is the potential to impact upon the World Heritage site or its setting'.	This Policy forms part of the Orkney Local Development Plan, which has been subject to Examination by the Scottish Government; OIC is no longer able to amend this text.	
31.	00094	Interested Person		A.1 - This is the key paragraph because it flags up that assets which do NOT have legal protection may also be significant. I think it would be worth strengthening this paragraph.	Text amended.	
32.	00094	Interested Person		A.6 - It would be relevant to note here that none of these sites are designed as planning tools alone. While Canmore and Pastmap are good portals to get a general idea of the heritage assets within an area, neither are designed to be used as the sole planning tool for a development.	This section has been removed, and the content will be made available elsewhere.	

33.	00094	Interested Person		A.15 - It used to be the case that the Orkney SMR (now technically called an HER elsewhere I think) had records of sites that did not appear in Canmore etc. Is that still the case – if so it would be worth noting here.	Comment noted; this section has been removed, and the content will be made available by other means.	
34.	00094	Interested Person		A.16 - It would be worth noting here the new Northern Isles Landscape Character assessment that is about to be drawn up. Citing this now means that your guidelines do not go out of date within a few months of production.	Comment noted; this section has been removed, and the content will be made available elsewhere.	
35.	00094	Interested Person		B4. - This is a key paragraph too.	Comment noted.	
36.	00094	Interested Person		2.2 - Again just worth noting that Pastmap is not designed to be used as a planning tool .	Comment noted; this section has been removed and the information will be made available elsewhere.	
37.	00094	Interested Person		Appendix 1 - Is it worth making the point that because setting is about the surrounds of a site it is a consideration not just for development on that site but also, potentially, for development anywhere within the 'setting' even where the development does not actually involve material alteration to the site in question. IE development of a site that is not a historic asset will be affected if it falls within the setting of something that is. This is one of the weaknesses of just using Pastmap as a planning tool because developers might be led to the false conclusion that their work does not involve a specific asset when in fact it is within the setting of something that is.	Comment noted.	
38.	00094	Interested Person		A thorough document and I have little to note. 1.1 Enhancing historic cultural heritage is a tricky business and very controversial, it might be better not being referred to as an aim so early on.	Reference in 1.1 removed.	
39.	00094	Interested Person		I think it might be worth explaining briefly here what a scheduled ancient monument is, or cross referencing to 1.11 – as this is the first point we meet them. And it is important to make the point that there are many many more sites and monuments that are not scheduled but are of intrinsic cultural value to Orkney. This can arise because there are classes of monument that have not been recognised – such as the ancient harbours like Wheel ie's Taing in Papay, because the scheduling process has taken place a while ago, because sites that are of County value are not always recognised at a National level, or because some types of site do not get scheduled – like artefact scatters. It is important not to give the impression that only scheduled monuments are worthy of protection. Ness of Brodgar, for example, is not scheduled. You could cross reference to A.21, - the most important thing is to make this point early on so that it becomes accepted wisdom in the minds of those who are using the guidelines.	Note added to emphasise this point.	

40.	00071	Transport Scotland		Transport Scotland has no comments on the Supplementary Guidance documents.	Noted.	
41.	00064	SNH		We recommend that in the 'Further Information' section reference could be made to the following resources below: – Orkney Landscape Character Assessment, http://www.Snh.Gov.Uk/publications-data-and-research/publications/search-the-catalogue/publication-detail/?id=299 This document in defining landscape character takes cognisance of the cultural and historic landscape, in particular landscape features, landmarks and landscape patterns and landcover includingcrofting settlements and historic boundaries. In addition landscape character it is an important component of and can contribute to setting of an historic attribute.	Comment noted; this section has been removed and the information will be made available elsewhere.	
42.	00064	SNH		In Appendix 2 we note that the National Scenic Area is referred to. We recommend that it may be useful to include a reference to SNH's The Special Qualities of National scenic Areas (2010) http://www.Snh.Gov.Uk/docs/B699719.Pdf as a further important source of information. Another source of information is the Historic Land use Assessment http://hlapmap.Org.Uk/ – it uses simple annotated maps to show how the landscape has changed over time, giving the user a tool to decipher the broad elements of the historic environment.	Comment noted; a reference to these will be included in the links/further information provided elsewhere.	
43.	00064	SNH		Within Appendix 3: Works to traditional buildings. We recommend that reference could be made to bats. Although there are not many bats in Orkney, they are sometimes found in old buildings. We recommend that text is included such as: "Bats may be present in traditional buildings and could be affected by internal and external works. All bat species are protected by law as European Protected Species. Further details about the legal protection afforded to bats can be found in the Supplementary Guidance: Natural Environment."	Text amended.	
44.	00061	Scottish Water		Scottish Water does not have any specific feedback to add in relation to the SG Historic Environment and Cultural Heritage consultation.	Comment noted.	
45.	00062	SEPA		Thank you for consulting us on the draft Supplementary Guidance Historic Environment and Cultural Heritage, dated October 2016. As this relates largely to an area outwith our remit, other than to welcome the reference in Section E.5 to "Benefits to the environment, including amenity and the natural environment e.G. Improving habitats for wildlife, improving the quality of townscapes, reducing pollution or flood risk.", we have no comments to make on the draft.	Comment noted with thanks.	
46.	00500	Interested Person		A4 – The reference to turbines is mentioned above, but in a similar vein it could be useful to broaden the relevant examples to include telecommunications masts and similar, which are also tall, thin and often positioned in locations with extensive viewsheds.	Text amended.	

47.	00500	Interested Person		A15 - The Orkney Sites and Monuments Record also holds various collections of aerial pictures as a resource. I have used them on several occasions, although in the particular circumstances of the projects I was working on, their investigation did not add anything useful. However their potential value perhaps deserves mention – maybe a question to pursue with other commentators??	Comment noted; this section has been removed, and the content will be made available by other means.	
48.	00500	Interested Person		<p>A19 – On-site surveys. This is presumably aimed at proposals which involve areas of ground which might contain archaeological features. As an archaeological consultant, I can't imagine being able to produce a reliable assessment for planning consideration without having a direct encounter with the development footprint – a walkover visit with appropriate recording (text, photos etc) is essential if the findings are to have any value. Desk-based/archive investigation does not provide the necessary confidence levels or robust enough evidence on its own. The appropriate degree of on-site investigation obviously depends on several factors, but I would be concerned if the guidance suggested that direct familiarity was not required.</p> <p>Extrapolating into other heritage-planning scenarios, I still cannot really see how direct encounters can be avoided. Whoever is assessing whatever – even on a small scale such as for the sake of argument replacing traditional windows in a listed building – needs to produce direct evidence such as a batch of photos of the current situation before they can say anything useful.</p> <p>So I think this para can go either of two ways [i] clarify if it is aimed at proposals which involve large areas of ground where archaeological validation is needed, or [ii] if it should be widened to include all scenarios for whatever heritage assets, with the intention of providing an appropriate degree of direct evidencing which is demonstrable to its planning audience.</p>	Comment noted; this section has been removed, and the content will be made available by other means.	
49.	00500	Interested Person		A27 – slightly confusing about who holds the jackets for Categories B and C. Do HES really require to be consulted on Cat B? In practice, they may well like an opportunity to express an opinion, but their literature only refers to Cat A consultation. Probably worth being explicit that OIC have the primary responsibilities for Cats B and C.	This is clarified in Part 1.	
50.	00500	Interested Person		A29 – [i] Development Management Guidance – this reads as if it might be expected that the intending developer produces such a plan. Maybe clarify by stating who may have already created these plans and where they can be found.	Text amended.	
51.	00500	Interested Person		A29 – [ii] references to setting for individual LBs. I would strongly argue that most planning documents – particularly those produced by HES and others which follow behind them – create more smoke than light in how they describe the significance of setting in planning and development scenarios. The detail of my soapbox rant can stay dry at this point in the sequence, but surely the real emphasis here should be to avoid or reduce any significantly adverse impacts on the asset's setting as much as possible. Opportunities to conserve or enhance setting may arise, but these are usually bonus opportunities and/or balancing mitigations tabled as secondary strategies, not primary objectives.	Comment noted.	

52.	00500	Interested Person		A32 - references to setting for Conservation Areas. Same issue as my A29 point that the real emphasis lies with avoiding significant adverse impacts.	Comment noted.	
53.	00500	Interested Person		A34 - [i] Development Management Guidance – this might read as if it might be expected that the developer produces such a plan. Maybe clarify by stating who may have already created these plans and where they can be found. (same point as my A29 [i] above, although the text here is more clear cut)	Text amended.	
54.	00500	Interested Person		A34 - [ii] reference “must preserve or enhance the importance of sites” in the GDL Inventory – again the emphasis should be on not significantly damaging the importance of these sites.	Text amended.	
55.	00500	Interested Person		A36 – [i] Development Management Guidance – again this reads as if it might be expected that the intending developer produces such a plan. Maybe clarify by stating who may have already created these plans and where they can be found. Alternatively a simple text change might be enough “Development Management Guidance may have been produced, as appropriate, for some individual scheduled monuments.” Same comment again for A41, A43 and A45.	Text amended.	
56.	00500	Interested Person		A36 – [ii] “Where there is potential for a proposed development to have an adverse effect on the integrity of a scheduled monument or its setting” I can run with the threshold of an adverse effect on the integrity of a SAM, but a looser threshold is needed on its setting, which should require a significantly adverse effect to breach the threshold. Recent experience of windfarm proposals down in Englandshire uncovered several examples which were stopped in their tracks or rejected because Historic England lodged claims about adverse setting impact without having to demonstrate that they were significantly adverse. Some of these objections were in real terms totally absurd, but the political climate down there means that such stances are tacitly encouraged. If Orkney wants the full flexibility to decide individual scenarios on their real circumstances, don’t trap OIC behind imprisoning rhetoric – if a consultee wishes to lodge a potentially deal-busting objection, it has to be capable of withstanding proper scrutiny, not used as a default blocking strategy.	Text amended.	
57.	00500	Interested Person		A37 - [i] Key Consideration and A38 para are text duplicates	Duplicate text deleted.	
58.	00500	Interested Person		A37 - [ii] Key Consideration (and A38 para) and A39 Key Consideration: does the phrase “within the lifetime of the Local Development Plan” achieve anything? The protections exist, whatever is happening with the latest LDP version.	Text amended.	
59.	00500	Interested Person		A39 Key consideration [ii] – amend text to read “...And does not have a significantly adverse effect on the setting of the battlefield.” for same reasons as my response to A36.	Text amended.	
60.	00500	Interested Person		B3 – list of five significances. This is dynamic and productive thinking which probably gets to the real purpose of what development planning should be capable of delivering – developments which are appropriate to the local context. I agree with each theme, but am	The socio-economic value of developments is taken into account at Part E and by other policies of the Local Development Plan.	

				puzzled why there is not a sixth to complete the set about tourism/community use/public amenity. Orkney is full of heritage assets and locations which have such values – why not acknowledge them here?		
61.	00500	Interested Person		B5 - HES issued a new version of 'Managing Change in the Historic Environment: Setting' in June 2016.	Text amended.	
62.	00500	Interested Person		B12 - Statement of Significance and Conservation Area Appraisal. The sentence "This will identify areas and aspects of the site which require further investigation, and recommend which studies to undertake to achieve this." may cause concern if it implies the intending developer needs to commission a full site examination and appraisal. It needs a parameter that their scope relates to the anticipated impacts of the development, particularly if these impacts are spatially peripheral and leave the core unaffected. Comprehensive new primary research and study from scratch is a Jolly Good Thing, but not necessarily an upfront responsibility of an intending developer unless their proposals involve removing or comprehensively wrecking an asset. Even if an asset is to be completely demolished, how much of a pre-consent investigative responsibility does the system actually want to place on the shoulders of - for instance - someone wanting to do a one-for-one replacement house build on a derelict croft site?	Comment noted.	
63.	00500	Interested Person		B13 to B16. - Surely these paras relate to formal post-consent stipulations as mentioned within paras D8 and D9? Everything here reads as if it's defining procedures and obligations for deploying watching briefs during consented groundworks or any specified investigations which have been formally stipulated as a pre-construction task. Suggest these are removed completely; if they are relevant to this guidance, it would need a new appendix about what happens after a proposal is consented.	Comment noted; these paragraphs have been removed and will be made available elsewhere.	
64.	00500	Interested Person		B17 – this is OK as it stands, but a bit stark. The issue is about researching and presenting the evidence to a level where it can contribute to a fully-informed planning verdict. Who does that is a secondary consideration, although as I stated earlier the unbiased independence of the presented evidence is also a significant attribute. Maybe open this para with a phrase such as "Many archaeological scenarios will require the involvement of suitably qualified and experienced archaeologists to produce an independent and robust assessment of archaeological significance." I'm also slightly puzzled by the reference to "Historic Environment and Cultural Heritage: Useful Supporting Information". Is this a separate document, or a reference to Section 2 of the guidance? If the latter, that section does not really tell the reader how to find such suitable archaeologists; Julie Gibson would be able to supply a non-prescriptive list of possible candidates, ditto organisations such as Highland Council Archaeological Unit, Archaeology Scotland etc.	Comment noted; these paragraphs have been removed and will be made available elsewhere.	
65.	00500			B22 – suggest modifying opening sentence to "Any site which contains structures built before the end of 1945 will be deemed to have some potential for architectural significance." Again to avoid creating unnecessary traps or pointless investigations.	Text amended.	

66.	00500	Interested Person		B24 – second bullet on aesthetic qualities, final sentence “.....than buildings which are built to standard designs, have exaggerated or unbalanced proportions or are poorly detailed.” So WW2 batteries and similar structures don’t matter?? They may not be pretty, but they definitely have aesthetic attributes.	Text removed to clarify intention.	
67.	00500	Interested Person		B27 – as my response to B17, this is too blunt without some caveats. Again it’s the quality of the presented evidence which is critical, not who does it. There is also the policy statement earlier “ That any requirements for information through this policy are proportionate, fair and justified ...”. The danger of overloading the applicant with investigative costs before consent may or may not be given is a factor which underpins the context and direction of objectives such as this. If “good” proposals do not progress to the decision stage because front-end costs are too high without any guarantee of consent, everyone loses. B33 – same comment as given for B27.	Comment noted; this paragraph describes established terminology and processes, and does not oblige developers to undertake the studies described.	
68.	00500	Interested Person		B35 – local graveyards should be added to this list. They can become flashpoints for community reactions to development proposals.	This list already includes graves; graveyards have been added.	
69.	00500	Interested Person		B37 – local community group representatives should be in the mix of suggestions. Parish councils, clubs, societies, project and initiative leaders etc can all contribute potential feedback on commemorative significance, and given that this suggested pool of types of commentator is necessarily fluid and probably specific to each locale, it may be that community group representatives are the only people who can in some cases deliver such assessments. Plus there is a possible benefit that by involving such people early on, it can anticipate the potential for local flashpoints. If the community is going to start a riot against a development proposal, the sooner this becomes apparent the better.	Comment noted; this paragraph has been removed and the information will be made available elsewhere.	
70.	00500	Interested Person		B41 – agree with the intention, but its scope needs better definition to avoid dragging in irrelevancies. The usage has to be tangible or identifiable in a way which can be clearly linked to some process, activity, custom or whatever which has a significance. General or non-specific activities which have a low threshold of significance – even with long periods of use – are not necessarily of concern eg peat banks, quarries, fish traps, field walls, drainage systems, sheep fanks, earth banks etc. They need to be identified as present, but can usually be dismissed without specialist validation. B45 – again the sentiments expressed in my comments to B17, B27, and B33	Heritage assets with very low significance should still be recognised by this assessment; their significance will be recognised throughout this process, including at Part E.	
71.	00500	Interested Person		C4 – Compared to my comments about B17, B27, and B33 and B45, I think this para has the right emphasis. If and when a CHIA is required, it needs the right people to be able to deliver a good one. It also specifies what types of evidence are need and opens up the idea that a range of professionals could provide this, not just a single group. It could however usefully restate that a CHIA needs to take an	Comment noted; text amended to reflect these comments.	

				independent unbiased standpoint, warts and all.		
72.	00500	Interested Person		D6 - Amendment of proposals. As my comment 1.3 above, this is a valuable para which deserves greater prominence with an earlier position to give greater emphasis, and some expansion of content to show its usefulness for all parties.	Comment noted; in the interests of brevity this text has been retained.	
73.	00500	Interested Person		E5 - Environmental benefits. Is this an appropriate place to recognise buildings proposals which give environmental gains such as solar panel installation or greater energy efficiency through replacing inefficient fixtures?	This forms part of the intended scope of this paragraph.	
74.	00500	Interested Person		Section 2 - Further information. I think this should open with specific first-stop contacts such as: - the OIC Development Management contact - the OIC Regional Archaeologist - the OIC Listed Buildings officer - any other appropriate OIC contacts who can be highlighted for eg Conservation areas, WHS liaison etc. And - whoever HES can put forward as their first point of contact/signpost service etc. The remainder of the list then sits nicely behind.	Comment noted; this section has been removed and the information will be made available elsewhere.	
75.	00500	Interested Person		3] Comments on Appendix 1: Setting guidance X1.2 - HES have issued a new version of 'Managing Change in the Historic Environment: Setting' since June 2016.	Text amended.	
76.	00500	Interested Person		X1.6 – I totally disagree with pretty well everything in this paragraph. HES may for whatever reason (lack of real world awareness, fear of losing strategic control of stopping proposals, failure to understand the dynamics of planning balancing, lack of wider expertise outside their core remit, etc) be determined to try to impose this artificial mindset that setting is impervious to any consideration of its accessibility or whether and how often it is visited, but that does not mean that OIC should necessarily follow behind with the same blinkers. Setting provides two groups of attributes, which can be termed greater understanding for the asset and experiential for the asset and/or location. Greater understanding can be pursued through analysis and study; in most cases the relevant factors are resilient to development proposal changes to the landscape. Whatever evidence the landscape may contain is still present and recognisable, whether or not a new group of wind turbines (to take my central experience) gets placed within it. HES have a track record of a default position that these types of change are intrinsically adverse impacts, which does not bear close real-world scrutiny. Developments which separate a site from its setting, such as a visually impenetrable barrier would be major concerns, but most settings in most contexts are a lot more resilient to change than the HES rhetoric suggests. (Continued).	Final sentence has been removed for clarity.	

77.	00500	Interested Person		<p>(X1.6 continued)</p> <p>The experiential attributes can be wide-ranging – eg the ethos of “sense of place”, aesthetics, grand views etc, - but by definition efforts to retain these attributes rely on people going to those locations to experience them. If people don’t go there, why should planning place any great emphasis on preventing change?</p> <p>The final sentence in X1.6 is thoroughly bizarre as an attempted explanation - “ ... managing the historic environment involves making decisions which have implications far into the future, when visitor numbers cannot be predicted.” If this is a substantive point, an evidence-based planning balance can’t indulge itself in hypotheticals, it needs actuals and therefore some tangible indications that increased visitor use is likely at that location. The logical extension of keeping everything unspecified is a BANANA policy of “Build Absolutely Nothing Anywhere Near Anything”. HES may strategically want to reserve all their options, but OIC as custodians of the balancing equations should be more open-minded and determined to avoid any blind alleys set by external commentators.</p> <p>It is also an inconsistent stance against other protocols. Would OIC recognise any planning concerns for a tract of land which does not contain rare species but is broadly the type of habitat which might hypothetically become colonised at some vague point in the future? If an analysis is made of how much of Orkney’s terrain is capable of becoming settled by - for instance - otters or eagles or red-throated divers but is not used by those species, there would be very little left.</p>	Final sentence has been removed for clarity.	
78.	00500	Interested Person		<p>(X1.6 continued)</p> <p>When preparing reports for windfarm proposals, I include settings assessments which follow the specified HES methodology to give the type of analysis they want for each affected asset and location. I then continue with a methodology which assesses actual/probable visitor usage through a series of practical indicators, and present this second set of results alongside. HES frequently snort tetchily that I dare to provide analyses outside their prescribed bubble and almost always throw in a heavy recommendation that OIC should exclude any consideration of this second set of results during their deliberations. However feedback from OIC councillors and staff is that they find the second set of results provides very useful and relevant additional insights. Again the underlying point is that the end goal is drawing out the best possible information to underpin fully informed planning decisions; concentrating on defining the process of deriving that information and attempting to constrain its scope on ideological grounds reduces the quality of the information available. My additional methodology may or may not be perfect and its results may or may not be watertight, but audiences within OIC value their inclusion.</p> <p>So in terms of what to do with para X1.6, a sentence which states that HES regard setting as impervious to its accessibility or whether and how often it is visited is legitimate, because it identifies one expectation of an assessment from a key consultee. Being realistic, I don’t expect OIC guidance to explicitly contradict HES in print, but a second sentence to the effect that OIC would support further strands of investigation where available to indicate whether sites and their</p>	Final sentence has been removed for clarity.	

				settings are visited or used would keep possibilities open.		
79.	00500	Interested Person		<p>X1.7 – I can sympathise with what I think this example is trying to illustrate, and there is clearly a powerful relationship between wreck and monument. But how does it operate? The submerged wreck cannot see the monument, and there is no wreck marker visible from the monument. If the intention is to preserve the cliff/sea-scape from visual distraction, then the text could be more explicit about its intent and/or what threats to this relationship might occur. There is a possibly comparable example in the HES 'Managing Change in the Historic Environment: Setting' document about Neist Point lighthouse on Skye, particularly with the claim that "... Views towards the lighthouse from shipping channels also form part of the setting." While this initially seems plausible, it has possible BANANA-ish implications when scrutinised closely.</p>	This paragraph is intended to illustrate that the nature of setting varies between heritage assets. Note that just because a visual relationship exists does not mean that development will necessarily be affected.	
80.	00500	Interested Person		<p>4] Comments on Appendix 3: Works to traditional buildings I enjoyed reading this. It is well compiled and interesting. Although I cannot offer particular comment on its content, scope or comprehensiveness, and my knowledge of other similar documents is minimal, it did strike me as a useful stand-alone document with a strong local relevance. If not already done, could it be spun-off in such a format? One detail in X3.31 about the desirable use of Welsh slate reminded me of a casual conversation earlier this year with a self-employed contractor from Kirkwall who has given up trying to source Welsh slate – apparently too expensive and inconsistent supply and quality – and now brings in Spanish slate which he reckons is better quality, more reliable and visually compatible. I have no opinion on this, just passing on the comment in case it's helpful.</p>	This will be published within a separate document for easier access as suggested.	
81.	00500	Interested Person		<p>5] Comments on Appendix 4: Designation criteria for conservation areas Again the detail of Conservation Area management is outside my envelope of direct experience, so I can't offer much detailed comment. However I have a long-standing puzzlement about the legacy designations of Eynhallow and Brodgar as conservation areas. If those designations are still unrevoked, has this appendix and content been checked for compatibility with their situations? As a more general comment, the text frequently mentions the relationships between conservation areas and their landscapes, suggesting that the relationship with the surrounding area and countryside is important. However given that Orkney's conventional CAs are mostly contained within other parts of their towns/villages, townscape would seem a better word to bring a focus onto the nearby buildings and structures where the closest relationships would actually lie.</p>	Brodgar and Eynhallow are conservation areas; this appendix has been written with areas across Orkney in mind, both rural and urban. Comment on use of 'landscape' noted; in this case it would provide greater clarity to retain the current wording.	
82.	00500	Interested Person		I am responding professionally as an archaeological consultant who has been involved with several windfarm projects in Orkney and elsewhere which use larger turbines (65m or more to tip height). This has given me extensive experience of working with the various national, regional and local policy and guidance documents, as well	Comment noted.	

				<p>as insights into how the various agencies within the planning process tend to regard or interpret the contained statements and objectives. These comments on the draft OIC Historic Environment and Cultural Heritage SG are therefore written from the perspective of an end-user. Behind that, I am also responding at a personal level as an enthusiast for and regular visitor to Orkney, who basically wants to see one of my favourite places get the right balance between the needs of and opportunities for its communities to thrive, alongside respecting the obligations which accompany its heritage assets. All views, ideas and opinions in this response are purely my own thoughts, and are not made on behalf of anyone else. Also, while I can frame much of my response against the context of windfarm proposals – the reference to turbines in para A4 suggests this was also in the mind of the authors – I do not have such direct experience in other historic environment planning scenarios, so cannot offer similar depth of comment on those themes.</p>		
83.	00500	Interested Person		<p>1] General comments 1.1 - I noted the objective outlined in para 1.3 "This guidance document has been written to contain all of the key information needed to understand the planning process as it relates to the historic environment and cultural heritage sites. Every effort has been made to make it clear to read and easy to refer to." From my experience of explaining these issues to intending developers and other audiences with interests in the planning process, I fully support the idea of preparing a document like this to de-mystify processes which many people find confusing and where they often cannot understand what the underlying logic is trying to achieve. Given that this is a draft, I think the objective has been largely achieved – the language is concise, the progression easy to follow, and many of the explanations are useful additions to the blandness or verbosity of other relevant documents. The account of who does what in terms of organisational responsibilities, and the list of five types of significance in para B3 and their subsequent descriptions are useful and bring in many themes which should resonate with wider readers than just professional users. However, I'm not sure it yet meets the objective outlined in the second bullet of para 1.4 – "A series of chapters (A to E) which give a step-by-step explanation of the consent process – note that these chapter titles correspond to the Consent Process Flowchart." The structure to achieve this is largely in place, but needs more explanations in the narrative for what the whole process is trying to achieve. There is also some apparent confusion between what is needed for planning consideration at the pre-consent stage, and what may emerge from the consent (further targeted investigation needed before approval, stipulations which may accompany consent etc).</p>	Comment noted; see amendments to paragraph 1.7.	
84.	00500	Interested Person		<p>1.2 - At the risk of sounding all pink and fluffy, I think the ideas in paras 1.6 and 1.7 could be opened up to explain more specifically what OIC wants to achieve in its planning considerations. Something perhaps along the lines of "OIC always looks to achieving the best balance in its planning decisions, weighing up the needs of and opportunities for its communities to thrive against whatever impacts development</p>	Comment noted; in the interests of brevity a short addition has been made to paragraph 1.7, as the suggested points are made elsewhere in the guidance.	

				<p>proposals might cause on Orkney's its heritage assets. This balancing can only be achieved through as accurate as possible process of identifying the likely adverse impacts and quantifying their circumstances and degree to a stage where they can be posted against the anticipated benefit. This should reveal where the balance for that particular proposal lies, and therefore whether the proposal should receive consent, needs further investigation and/or to be revised, or should be rejected.</p> <p>All the approaches and requirements outlined in this Supplementary Guidance become ingredients in the accurate balancing to ensure best-informed decisions can be taken for the particular circumstances of each individual planning application. The process is flexible according to the type of application and the nature of the heritage assets which could be involved, so some approaches and requirements may not be applicable or useful in every case, and this Supplementary Guidance is designed to help remove those which are not needed while highlighting those which should be investigated to provide the balance and/or which might become pivotal determinants.</p> <p>(continued)</p>		
85.	00500	Interested Person		<p>(Continued)</p> <p>Consultation with the appropriate OIC staff is recommended at an early stage to ensure a potential application is fully focussed on providing whatever blend of evidence is needed for a best informed and appropriate planning decision. The evidence-gathering may need to include commissioning additional research from external specialists where complex issues are involved and/or where an independent unbiased assessment is required."</p> <p>My wording may not be exactly what is wanted, but the messages in those paragraphs should be useful – I have often had to laboriously explain them to potential developers until they begin to understand what the real objectives are for a planning submission, alongside my role and those of other specialists involved.</p> <p>I would also promote para B7 "Orkney Islands Council appreciates that the costs of carrying out studies or amending proposals may be unwelcome in some circumstances, but also understands the central importance of the historic environment to Orkney, and that it is a finite resource. The Council is therefore committed to ensuring that any requirements for information through this policy are proportionate, fair and justified by the need to protect the value of our historic environment and cultural heritage." as relevant at this point. It's a good para with a key message, but currently sits too far down the narrative to achieve proper attention.</p> <p>One scenario I have come across a few times is a locally-based intending developer who genuinely wants to do the right thing and has a genuine heritage interest and appreciation. The problem then becomes one of them wondering what value an external specialist adds to the mix if they're paying extra for something they can do pretty well by themselves. The key is that the external specialist provides an independent assessment from a neutral standpoint. The guidance could very usefully flag up that securing an unbiased perspective in complex or sensitive proposals can become the</p> <p>onlyx#çû _p,zi@Úãx#ç û_</p>	<p>Comment noted; in the interests of brevity a short addition has been made to paragraph 1.7, as the suggested points are made elsewhere in the guidance.</p>	

86.	00500	Interested Person		1.3 - Many development ideas have some intrinsic flexibility in their designs which can be tweaked to reduce adverse impacts. In the example of windfarms, different individual turbine positions or collective formations can be tried, while even at the level of alterations to historic buildings there will be some permutations of shape/colours/materials etc which could be tested to find the best fit. This tweaking process is often described as mitigation, but not included in the definition given in 1.27 and only surfaces much later and relatively inconspicuously in para D6. It is however a very useful exercise which should be encouraged, possibly in discussion with the planning agencies, who might be able to suggest "better" permutations. Also by having this dialogue, it may help create acceptance that the "best" permutation is being presented, therefore that there is a specific balance between the proposed development and its impacts, and specific reasons why that point has been reached. If a developer modifies initial proposals to provide a "better" fit, this deserves some acknowledgement.	This paragraph has been amended.	
87.	00500	Interested Person		2] Section comments in text sequence "1.31" – new para to define curtilage as a term, given it is used several times through the guidance, has a legal significance, and can overlap people's understanding of what setting means in some situations.	Paragraph added.	
88.	00047	Historic Environment Scotland		A.26: Listed Buildings – We suggest that the word significance might be amended to the word character because special interest is clearly a definition of significance, but character is the word used in the legislation to encompass special architectural or historic interest – "but listed building consent is required from the planning authority for works which affect the building's special architectural or historic interest (i.E. Character)".	Text amended as suggested.	
89.	00047	Historic Environment Scotland		A.30: Conservation Areas – Line 12 of this section should probably read 'demolish structures within conservation areas'.	Text amended.	
90.	00047	Historic Environment Scotland		A.33: Gardens and Designed Landscapes – you may wish to include references to non-Inventory GDLs here. We also have a Managing Change guidance note on GDLs which may be a useful reference in this section.	As this section deals only with legally protected sites, it would not be appropriate to include other designed landscapes here. A reference to the Managing Change note has been included, and further local guidance may be produced in future to discuss non-Inventory designed landscapes as required.	
91.	00047	Historic Environment Scotland		A.35: Scheduled Monuments – this section should be amended to reflect that Section 42 consent is also required for some forms of geophysical survey as well as metal detecting.	Text amended.	
92.	00047	Historic Environment Scotland		A.39: Battlefields – you could include a reference to our recently revised Managing Change guidance note on battlefields. We consider the example at the top of page 27 (above B.5) to be a very useful addition to the document which will be helpful to users of the document.	Reference included.	

93.	00047	Historic Environment Scotland		We strongly welcome the references to our Managing Change guidance note on Setting, however, the references in the SG to our setting guidance, particularly in Section B5 and Appendix 1, should be to the recently updated version of the guidance which can be found here.	Text amended.	
94.	00047	Historic Environment Scotland		We strongly welcome the references to our Managing Change guidance note on Setting, however, the references in the SG to our setting guidance, particularly in Section B5 and Appendix 1, should be to the recently updated version of the guidance which can be found here.	Text amended.	
95.	00047	Historic Environment Scotland		Appendix 2: We would suggest that you may wish to consider a recommendation that a Cultural Heritage Impacts Assessment (CHIA) is undertaken for any development proposals affecting a World Heritage Site and a reference to our new Managing Change guidance note on World Heritage.	A reference to the Managing Change document has been included. The use of CHIAs in the Inner Sensitive Zone of the WHS has been specifically highlighted in Policy 8 of the Local Development Plan; whilst it would not necessarily be appropriate to require a CHIA for very minor works around the WHS, the policy has strong provisions to require it for works which may have a substantial impact.	
96.	00047	Historic Environment Scotland		Appendix 3: Works to traditional buildings, Section X3.31 – the wording re-use the original slate rather than use the original slate may clarify that this sentence is a recommendation to salvage and re-use the existing slate on the building where possible. Overall we consider that the draft SG is very clear and useful and will be very helpful to developers and other users.	Production of the Orkney Local List has not proved possible due to the Council's financial situation, so it has been removed from policy documents. It is anticipated that this new policy approach will maintain or enhance the policy provisions of the Orkney Local List whilst being much easier to administer.	
97.	00047	Historic Environment Scotland		We broadly welcome this guidance and the advice provided regarding the assessment of development proposals on the historic environment. We find the guidance to be clear and very comprehensive overall, however, we would reiterate our concern that Policy 8 does not include specific policy considerations for Inventory Gardens and Designed Landscapes (GDLs). While we note that GDLs are included in the SG the exclusion of this designation from the main policy gives the impression that these assets are of lesser importance than those assets which are included.	The Orkney Local Development Plan clearly states that detailed provisions for legally protected sites (including Gardens and Designed Landscapes) are contained within this Supplementary Guidance (which will be adopted contemporaneously with the Plan), and Policy 8.A provides appropriate protection for all heritage assets; not including specific policy provisions for GDLs within Policy 8 was not intended in any way to suggest lesser importance. Following the Examination of the Local Development Plan Policy 8 was amended to include specific policy provisions for Gardens and Designed Landscapes.	
98.	00047	Historic Environment Scotland		We also note that while Appendix 3 provides comprehensive information about works to traditional buildings, the SG does not include mention of Orkney's Local List. It would be interesting to learn whether this is still in place and if it has been successful in helping to protect non-designated vernacular buildings.	Production of the Orkney Local List has not proved possible due to the Council's financial situation, so it has been removed from policy documents. It is anticipated that this new policy approach will maintain or enhance the policy provisions of the Orkney Local List whilst being much easier to administer.	
99.	00047	Historic Environment Scotland		We would like to take this opportunity to note that we have recently refreshed a number of the guidance notes in our Managing Change guidance suite, including the notes on setting and battlefields and that we have a new guidance note available on gardens and designed landscapes. You may wish to consider adding a general link to the Managing Change guidance page on the HES website, which also includes a link to the Wave and Tidal Energy guidance which may prove useful to users of the SG. Our general Heritage Directorate enquiry number (0131 668 8716) and email (hmenquiries@hes.Scot) may also prove helpful in this section along with the Technical Conservation helpline.	References to the "Managing Change..." series have been added throughout the document; further information and links will be provided via the OIC website.	

100	00047	Historic Environment Scotland		The battlefields section (A.39) contains references to Historic Scotland which should be updated.	Text amended.	
101	00047	Historic Environment Scotland		1.12: Planning Permission – Historic Environment Scotland is not consulted on planning permission applications relating to category B listed buildings. Historic Environment Scotland is consulted on development which may affect a World Heritage Site. (Note: Historic Environment Scotland has decided that consultation is not required for householder developments affecting World Heritage Sites.) This section should be altered to reflect these issues.	Text has been amended to address this point.	
102	00047	Historic Environment Scotland		1.16: Scheduled Monument Consent – we would suggest that the wording here is changed from ‘designated area’ to ‘scheduled area’ as per the wording in the table on page 17.	Text amended as suggested.	
103	00047	Historic Environment Scotland		1.27: Mitigation – this section currently suggests that mitigation only relates to preservation in situ or by record. You may wish to explain that mitigation measures can also relate to reducing impacts on the setting of heritage assets by other means.	This paragraph has been amended to address this issue.	