

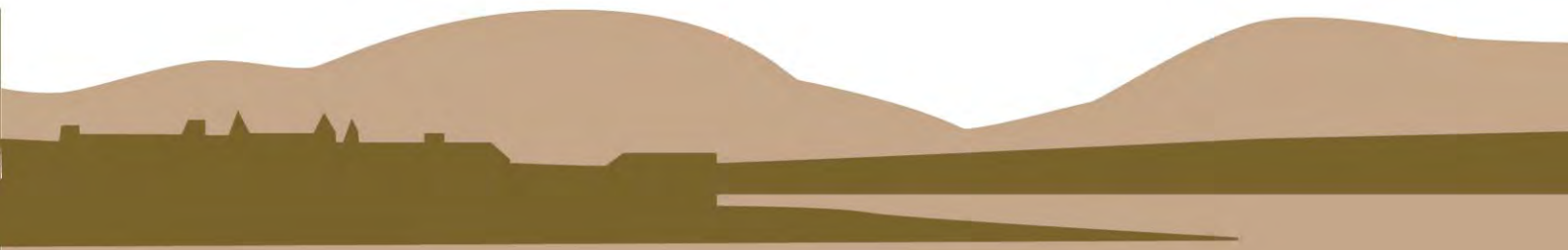
Supplementary Guidance: Historic Environment and Cultural Heritage



ORKNEY
ISLANDS COUNCIL



MARCH 2017



Planning in Orkney

Status of this Supplementary Guidance

The main planning document in Orkney is the **Orkney Local Development Plan** (the Plan), which provides the policy framework and land allocations for dealing with planning applications efficiently and with certainty. All decisions on planning applications require that an appropriate balance is struck between the relevant development plan policies and other material considerations.

Supplementary Guidance is produced for given policy areas and subjects where a specific requirement is highlighted within the plan. It is the purpose of Supplementary Guidance to provide further information, policy and advice on complex planning matters and seeks to expand upon the core policies or land allocations in the plan. Supplementary Guidance is always subject to full public consultation and is submitted to the Scottish Government prior to adoption. Once adopted, Supplementary Guidance has statutory weight in the determination of planning applications and forms part of the plan.

Planning Policy Advice (PPA) is prepared to provide further information and advice on policies and issues where a specific requirement to produce Supplementary Guidance has not been set out within the plan. Many Development Briefs for land allocations are set at this level, along with the majority of advice and information that is prepared for members of the public and Development Management. PPA is always subject to full public consultation and council approval prior to adoption and publication. Once adopted, PPA is a material planning consideration although it does not bear the same weight as the plan itself.

Development Management Guidance (DMG) is produced to provide advice on technical issues and the interpretation of given policies where a need arises. It is the intention of DMG to ensure a consistency of approach and to highlight the original intention/spirit of a policy where there is any ambiguity. DMG is also produced for less-complex land allocations to ensure a co-ordinated approach to development can be achieved - Conservation Area Appraisals and Conservation Statements are also set at this level within Orkney. Whilst DMG is not subject to public consultation, it is approved by Council prior to adoption and publication. As such, DMG is a material consideration in the determination of planning applications, which is considered to be the standing advice of the Local Planning Authority.

Contacting the Council

Should you wish to discuss any aspect of this Supplementary Guidance, an Officer from Development Management will be available from 09:00 to 17:00, Monday to Friday to meet at the OIC Customer Services in Kirkwall or via telephone 01856873535.

www.orkney.gov.uk

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1. Introduction

- 1.01 From the Neolithic village at Skara Brae to the wrecks of the German High Seas fleet in Scapa Flow, Orkney is internationally renowned for its historic buildings and archaeological remains. These are not only central to Orkney’s cultural identity, but are the backdrop to the everyday life of the county: heritage tourism is a significant contributor to the local economy; the historic towns of Kirkwall and Stromness are the main centres of population and employment; historic lighthouses, ports and causeways keep the community connected; and religious buildings such as St Magnus Cathedral are the county’s spiritual heart. It is therefore vital for Orkney’s economy and society that its historic sites (known collectively as the “historic environment”) are protected wherever possible.
- 1.02 In addition, other cultural heritage sites such as artworks and graveyards are important sites for contemplation, commemoration and inspiration, and complement historic sites in demonstrating the community’s emotional engagement with Orkney’s built environment.

How to use this guidance

- 1.03 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.
- 1.04 This document consists of:
- A general introduction.
 - 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.
 - Notes providing additional detail where relevant.
 - A glossary of key terms.
- 1.05 Throughout the document general guidance and information is combined with specific **Key Considerations**.

Table 1: Key statistics about Orkney’s historic environment (accurate when published)

Number of Scheduled Ancient Monuments.	372.
Number of listed buildings.	626 (of which 25 A-listed).
Number of conservation areas.	6.
Number of Gardens and Designed Landscapes.	3.
Number of records in National Monuments Record of Scotland (NMRS):	8892.
Number of Buildings at Risk.	89 (of which 4 A-listed).
Proportion of dwellings which are traditionally built (pre 1919).	37% (highest in Scotland).

- 1.06 Development proposals in Orkney often interact with the historic environment, either directly (through the alteration, extension or demolition of standing buildings and structures or by building over archaeological remains) or by changing the way a site relates to its surroundings (its setting). These proposals can have a positive effect, such as the sensitive restoration of a historic building, but can sometimes have a negative effect by damaging historic material or disrupting its relationship with the landscape.
- 1.07 Because of the importance of the historic environment to Orkney the Council assesses development proposals through the planning process to ensure that they would preserve or enhance the significance of any sites they may affect, whilst also supporting the social and economic development of the community. This policy sets out the proportionate, evidence-based means by which this will happen.
- 1.08 **N.B.** The word ‘substantial’ is used throughout this document, primarily in relation to adverse impacts or effects on heritage assets. In this document it is used in place of the word ‘significant’, which is typically used in a planning context, and with the same meaning; this is to avoid any confusion with the word ‘significance’, which is an established term used to denote the particular qualities of cultural heritage assets (see Glossary).

The aim of this document

- 1.09 The aim of this document is to bring together information on how Orkney Islands Council will administer the Historic Environment and Cultural Heritage policy (Policy 8) of the Orkney Local Development Plan. It includes details of:
- Relevant legislation.
 - Legally protected sites, and specific policies relating to them.
 - The consent process for developments which may affect the historic environment.
 - Notes providing further information on certain points of the text.
 - A glossary of key terms.
- 1.10 The intention when producing this document was to make it easy to understand, simple to use and comprehensive in its scope. It gathers together a variety of information which makes it a valuable reference guide as well as a policy document. In addition, further information is available in Historic Environment (Topics and Themes) Planning Policy Advice: a separate document which accompanies this policy.
- 1.11 The policy is structured around five key types of significance relevant to sites in Orkney (archaeological, architectural, artistic, commemorative and historic). Each type of significance is discussed in detail with reference to its assessment, preservation and mitigation measures. Sites which meet any of the tests for significance set out in Part B are known as heritage assets, and are the subject of this policy. Note that not all heritage assets are legally protected as such, and sites can have very high significance without being designated e.g. as a listed building or scheduled monument.

Legislative background

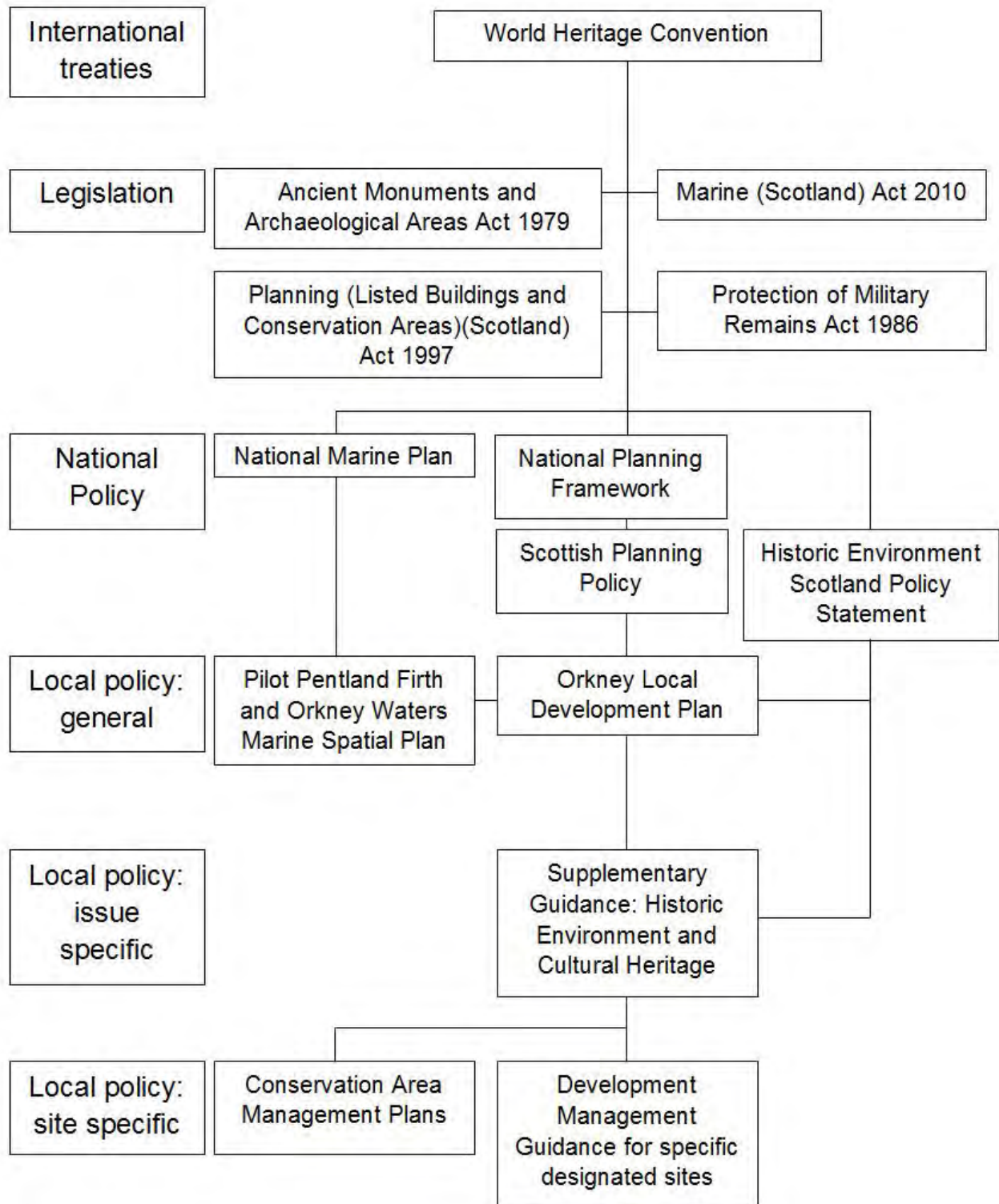
- 1.12 The historic environment is protected by international charters, Acts of the UK and Scottish Parliaments and national and local planning policy. National planning policy is contained within National Planning Frameworks, Scottish Planning Policy, the National Marine Plan, Historic Environment Scotland's Policy Statement, the Managing Change in the Historic Environment guidance notes, and Planning Advice Notes. Much of the statutory legislation focuses on creating designations for certain kinds of historic sites:
- The Ancient Monuments and Archaeological Areas Act 1979 describes the designation and management of Scheduled Ancient Monuments. It was amended in 2011 to include the Inventory of Gardens and Designed Landscapes and the Inventory of Historic Battlefields.
 - The Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 describes the designation and management of listed buildings and conservation areas.
 - The Protection of Military Remains Act 1986 describes the designation and management of protected places and controlled sites.

- The Marine (Scotland) Act 2010 describes the designation and management of Historic Marine Protected Areas.

These designations are described further in Part A. Note that these designations only affect a small minority of heritage assets, and that sites may have significance to a greater or lesser extent without meeting the assessment criteria for designation.



Table 2: Policy hierarchy



Policy 8: Historic Environment and Cultural Heritage

A. All Development

Development which preserves or enhances the archaeological, architectural, artistic, commemorative or historic significance of cultural heritage assets, including their settings, will be supported. Development which would have an adverse impact on this significance will only be permitted where it can be demonstrated that:

- i. All reasonable measures will be taken to mitigate any loss of this significance.
- ii. Any lost significance which cannot be mitigated is outweighed by the social, economic, environmental or safety benefits of the development.

B. Specific Policy Considerations

i. Heart of Neolithic Orkney World Heritage Site

Development within the Inner Sensitive Zones will only be permitted where it is demonstrated that the development would not have a significant negative impact on the Outstanding Universal Value of the World Heritage Site or its setting.

Development will not be permitted where it breaks the skyline at the sensitive ridgelines of the World Heritage Site when viewed from any of its component parts, or where it will be sited in any location where there is the potential to impact upon the World Heritage Site, unless it is demonstrated that the development will not have a significant negative impact on either the Outstanding Universal Value or the setting of the World Heritage Site.

ii. Listed Buildings

Change to a listed building must be managed to protect its special interest while enabling it to remain in active use. Special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest.

Enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. Any development must be the minimum necessary to achieve these aims and the resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

iii. Demolition

- a. A listed building, or any structure or object in the curtilage of a listed building, may only be demolished where evidence is provided to demonstrate that every effort has been made to retain it and:
 - i. It is not of special architectural or historic interest.
 - ii. It is incapable of repair.
 - iii. It can be clearly demonstrated that the proposed development is essential to delivering significant benefits to economic growth or the wider community

proportionate to the significance of the building to be lost.

- iv. Its repair is not economically viable and it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

b. The demolition of an unlisted building or structure in a Conservation Area will only be permitted where:

- i. It does not make a positive contribution to the special character of the conservation area, and where the application is supported by acceptable proposals for the redevelopment of the cleared site.
- ii. Its retention, restoration or reuse has been fully considered but its structural condition rules out retention at reasonable cost, or its form or location makes its re-use/retention extremely difficult.
- iii. The comparative socio-economic merits of the new build proposal for the site outweigh the benefits of retaining the building.

iv. Scheduled Monuments

Where there is potential for a proposed development to have an adverse effect on the integrity of the setting of a scheduled monument, planning permission will only be granted where:

- there are exceptional circumstances;
- there is no practical alternative site; and
- there are imperative reasons of over-riding public need.

v. Inventory Gardens and Designed Landscapes

Development which preserves or enhances the character and features of inventory gardens and designed landscapes and their setting will be supported. Development that would have a significant negative impact upon the character of these areas will not be permitted. The conservation, maintenance and restoration, including the restoration of layout and features, will be supported where this is appropriate and based on historical research.

vi. Investigation and Recording

- a. Where there is the potential for historic environment assets to exist in particularly sensitive areas, such as the Inner Sensitive Zone of the World Heritage Site or the historic core of Kirkwall, applicants may be required to undertake 'Cultural Heritage Impact Assessments' to ensure that there will be no unacceptable effects on any known or potential historic environment assets.
- b. Where development is permitted in areas known or suspected to contain archaeological deposits, planning conditions will be attached to ensure the effective assessment, analysis, archiving and publication of any archaeological remains to an agreed timeframe.

- c. Where a historic environment asset, or a significant element thereof, will be lost as a result of a development, it may be necessary to record the site to an agreed level prior to the commencement of development/demolition.

Consent processes

Development affecting heritage assets may require one or more types of consent:

Determined by Orkney Islands Council

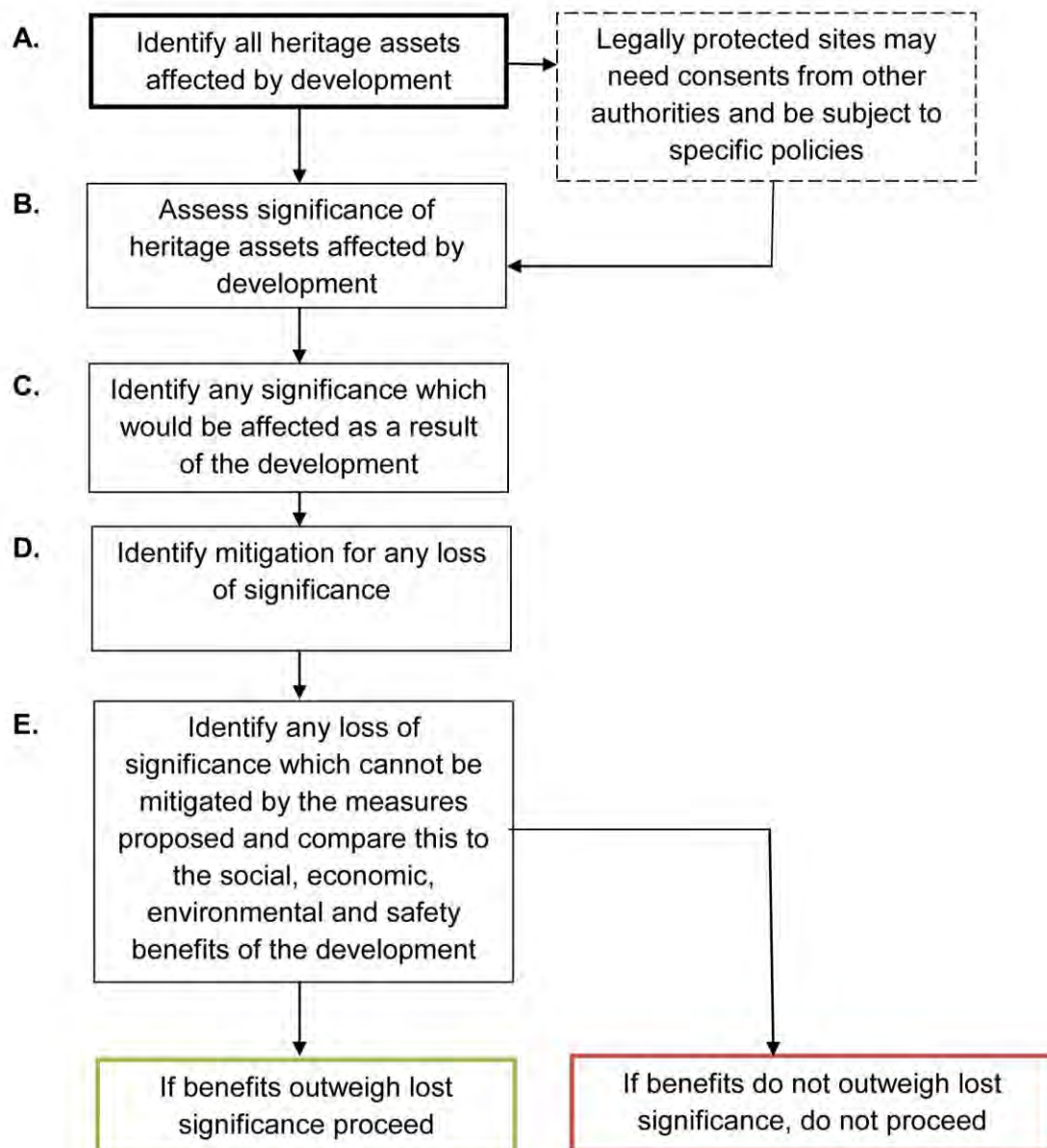
- 1.13 **Planning permission:** Assessed according to the policies of the Orkney Local Development Plan, national policy, local planning policy (such as this document) and other material considerations. Permitted development rights are restricted in conservation areas and in the curtilage of listed buildings (meaning that minor works may require planning permission). Historic Environment Scotland is consulted on planning applications affecting category A listed buildings, listed building consent applications affecting category A or B listed buildings, and planning applications affecting scheduled monuments, sites on the Inventories of Battlefields or Gardens and Designed Landscapes, and World Heritage Sites (including their settings)
- 1.14 **Listed building consent:** Required for any works affecting the special architectural or historic interest of a listed building, or any structure within its curtilage. Historic Environment Scotland is consulted on all applications affecting category A or B listed buildings, on the demolition of any listed building, and on applications by the planning authority.
- 1.15 **Conservation area consent:** May be required for demolition of structures within a conservation area. Historic Environment Scotland is consulted on all applications.
- 1.16 **Works licence:** Required for development and other operations within the Orkney harbour area.
- 1.17 **Advertisement consent:** An advertisement is defined as any word, letter, sign, placard or device used to advertise or make an announcement or direction, and can be illuminated or non-illuminated. That can include shop and other business signs, and roadside or other freestanding signs. Some advertisements are permitted development, which is called deemed consent, and can be displayed without requiring permission from the Council. Other advertisements require advertisement consent. The limits on deemed consent are more limited in conservation areas.

Determined by other organisations

- 1.18 **Scheduled Monument Consent:** determined by Historic Environment Scotland. Required for most works within the scheduled area of a scheduled monument.
- 1.19 **Marine licence:** determined by Marine Scotland. Required for most works or development at sea (below the high water mark).

- 1.20 A licence is required from the Ministry of Defence to access controlled sites and to enter or disturb material from controlled sites or protected places.
- 1.21 Where Orkney Islands Council is the consenting body the assessment of the potential impact of a development proposal, and any decision to request further information or mitigation measures, will usually be made by the Development Management team, in consultation with the Development and Marine Planning team. Details of the consent procedures vary depending on the type of consent required, and on the scale and nature of the development, but in all cases the same assessment process (set out in Parts A to E of this document) will be followed. Due to the complex and varied nature of Orkney's heritage assets decisions will be made on a case-by-case basis according to the process set out in this guidance.
- 1.22 The flowchart below sets out the various stages of this consent process. Each stage is explained in detail by a chapter of this guidance with the same name.

Table 3: Consent Process Diagram



A. Identify all heritage assets affected by the development

A.01 An assessment of which heritage assets may be affected by a proposal (positively or negatively) is undertaken. This takes into account all types of heritage asset, including sites without legal protection, and includes sites whose settings may be affected. Note that sites do not need to have a high level of significance to be considered heritage assets.

A.02 Key Considerations:

- Proposals for development must identify all heritage assets affected by the proposal.
- Proposals should include a clear statement which identifies all sites which have any archaeological, architectural, artistic, commemorative or historic significance and would be affected by the proposal. This statement should also identify which of these sites, if any, are subject to statutory cultural heritage designations or are known to contain human remains.

A.03 Orkney is exceptionally rich in heritage assets. The county is internationally famous for its shipwrecks, prehistoric archaeology, military remains, and traditional buildings. These exist in a busy landscape of agriculture, renewable energy development, and a growing demand for rural housing. There is therefore a wide variety of site types which could be affected by development. In order to comply with the requirements of this policy, minimise adverse impacts on the significance of these sites, and minimise cost and inconvenience, it is recommended that potential developers familiarise themselves with the types of sites which may be affected by the proposed development and the relevant issues typically associated with them. In the case of large-scale or complex applications, it may be necessary to appoint suitably-qualified professionals to undertake studies on the developer's behalf.

A.04 Development can affect heritage assets in a number of different ways. It may have a direct physical impact on a site, for example through alteration or demolition; it may affect the setting of a heritage asset; or it may have indirect effects, for example by increasing erosion or visitor numbers. Potential effects are described in Part C.

A.05 It can be helpful, especially when proposals involve the erection of very large structures such as wind turbines or telecommunications masts, to undertake an exercise known as viewshed analysis. This uses a digital model of the landscape to predict where a proposed development would be visible. It is particularly useful for identifying sites whose setting may be affected by development.

A.06 Orkney Islands Council has a general duty to protect the historic environment through the planning process. In addition, certain sites have legal protection for their particular significance: this may have implications for proposed development. These types of protections are explained further below.

Ways to Locate Heritage Assets

- A.07 There are many sources of information on heritage assets which should be consulted when identifying or researching heritage assets. The Orkney Archive and the Orkney Sites and Monuments Record are both excellent sources of information. There are also extensive online resources provided by Historic Environment Scotland and others. In addition, site surveys are an important way of identifying heritage assets, especially for large landscapes which have not previously been surveyed. Further information is available on the OIC website.

Protection of Military Remains Act 1986:

- A.08 Information on heritage assets designated as protected places or controlled sites under the Protection of Military Remains Act 1986 can be found in the latest version of the Act's Designation of Vessels and Controlled Sites Order (currently the 2012 version, available from www.legislation.gov.uk).
- A.09 This describes areas included as controlled sites (currently around the remains of HMS Vanguard, HMS Royal Oak and HMS Hampshire), and lists vessels designated as protected places by name (but not location). It is recommended to cross-reference this list with other sources to establish their locations. In addition, all crashed military aircraft are automatically designated as protected places: information on these can be found via the OIC website.

Heritage assets with legal protection

- A.10 Some heritage assets have legal protection, which will need to be taken fully into account when planning development proposals. The effect of legal protection varies, but is usually to require additional processes to be undertaken when applying for development consent, or to ensure that a site's significance is taken into account during the existing development consent process.
- A.11 Whilst protected sites are generally of higher significance than non-protected sites, this cannot be assumed for a number of reasons: some types of heritage asset cannot be protected for technical reasons separate from their significance; some heritage assets have only recently been discovered, and their extent and significance may not yet be fully understood; or an inspection by the appropriate authority to consider a site for protection may not have been undertaken due to resource constraints.
- A.12 In some cases the protection is treated as a consideration in the determination of planning permission; in others a specific type of consent will need to be granted by Orkney Islands Council for the development to proceed. Some types of protection require consent from organisations other than Orkney Islands Council, such as Historic Environment Scotland, Marine Scotland or the Ministry of Defence (see Part 1 for details).
- A.13 A summary of types of protection is set out in the table below. In addition, for each type of protection the specific policy requirements are set out below. Note that

these policy requirements are in addition to the other policy requirements set out in this guidance, and mainly concern additional processes required or specific policy presumptions.

- A.14 If the potential to affect a protected site has been identified it is strongly recommended to contact Orkney Islands Council's Development Management team at the earliest opportunity to discuss the implications.
- A.15 N.B. Further information on the legal protections listed below can be found in the 'Notes' section of this document.



Types of legal protection for heritage assets:

Designation.	Terrestrial/Marine.	Statutory.	Consents Required.	Consenting Authority.
World Heritage Sites.	Terrestrial and Marine.	N	A consideration when applying for planning permission or other consents.	Orkney Island Council (OIC).
Scheduled Ancient Monuments.	Terrestrial and Marine.	Y	Scheduled Monument Consent required for works within scheduled area; a consideration when applying for planning permission or other consents.	Historic Environment Scotland (HES)/OIC (HES consulted).
Listed Buildings.	Terrestrial.	Y	Listed building consent required for most works in listed buildings; a consideration when applying for planning permission or other consents.	OIC (HES consulted for category A/B).
Conservation Areas.	Terrestrial.	Y	Planning permission required for most works; Conservation Area Consent required for demolition.	OIC.
Gardens and Designed Landscapes.	Terrestrial.	Y	A consideration when applying for planning permission or other consents	OIC (HES consulted).
Historic Marine Protected Areas.	Marine.	Y	A consideration when applying for all type of consent.	Marine Scotland/OIC.
Protected Places.	Terrestrial and Marine.	Y	Consent required to disturb/remove remains or enter wreckage.	Ministry of Defence.
Controlled Sites.	Marine.	Y	Consent required to access site, disturb/remove remains or enter wreckage.	Ministry of Defence.
Battlefields.	Terrestrial.	Y	A consideration when applying for planning permission or other consents.	OIC (HES consulted).
Human Remains.	Terrestrial and Marine.	Y	Consent from relatives and a Court warrant may be required for disinterment.	Sheriff Court/Court of Session.

Specific policies for legally protected sites

World Heritage Sites:

Heart of Neolithic Orkney World Heritage Site

A.16 Key Considerations:

- Development within the Inner Sensitive Zones will only be permitted where it is demonstrated that the development would not have a substantial adverse effect on the Outstanding Universal Value of the World Heritage Site or its setting.
- Development will not be permitted where it breaks the skyline at the sensitive ridgelines of the World Heritage Site when viewed from any of its component parts, or where it will be sited in any location where there is the potential to impact upon the World Heritage Site, unless it is demonstrated that the development will not have a substantial adverse effect on either the Outstanding Universal Value or the setting of the World Heritage Site.

A.17 Detailed policy provisions for the Heart of Neolithic Orkney World Heritage Site can be found in Historic Environment (Topics and Themes) Planning Policy Advice.

Listed buildings:

A.18 Key Considerations:

- Change to a listed building must be managed to protect its special interest while enabling it to remain in, or be brought back into, active use. Special regard must be given to the importance of preserving and enhancing the building, its setting and any features of architectural or historic significance.
- A listed building, or any structure or object in the curtilage of a listed building, may only be demolished where evidence is provided to demonstrate that every effort has been made to retain it and:
 - It is not of sufficient architectural or historic interest to meet the criteria for designation as a listed building, or
 - It is incapable of repair, as demonstrated by a detailed survey by an appropriately qualified and experienced professional which highlights the issues which cannot be resolved, or
 - It can be clearly demonstrated that the proposed development is essential to delivering significant benefits to economic growth or the wider community proportionate to the significance of the building to be lost, or
 - Its repair is not economically viable and it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period, which will normally be considered to be not less than six months.
- Enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. Any development must be the minimum necessary to achieve these aims and the resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

- A.19 Applications for listed building consent should include all information necessary to describe every detail of the proposals, including exact finishes, materials and detail drawings. This should include at least the following information:
- A site plan relating the building(s) to a significant road or landmarks at a scale of at least 1:2500.
 - Accurate scale drawings of the building (or area affected) as it exists including, where appropriate, relevant elevations, plans and sections.
 - Accurate, fully annotated, drawings of what changes are planned, at a minimum scale of 1:50 or greater where appropriate, clearly indicating in red any area for down-taking or demolition.
 - Full working details for doors, windows and any other relevant features.
 - Informative specifications including relevant dimensions, finishes and colour samples, which may be supplied in the form of codes or descriptive notes, possibly supplemented with samples.
 - Up-to-date photographs (where relevant) including aerial photographs where appropriate.
- A.20 Development Management Guidance may be produced by the planning authority for individual listed buildings. This guidance will set out definitions of the building's special architectural and historic interest, the extent of its curtilage, and its setting.

Conservation areas:

A.21 Key Considerations:

- Development within a conservation area must preserve or enhance its character or appearance, in accordance with the relevant Conservation Area Management Plan and informed by the relevant Conservation Area Appraisal.
- All development should not have a substantial adverse effect on the settings of conservation areas.
- The demolition of an unlisted building or structure in a Conservation Area will only be permitted where:
 - It does not make a positive contribution to the special character of the conservation area, and where the application is supported by acceptable proposals for the redevelopment of the cleared site, or
 - Its retention, restoration or reuse has been fully considered but its structural condition rules out retention at reasonable cost, or its form or location makes its re-use/retention extremely difficult, or
 - The comparative socio-economic merits of the redevelopment proposal for the site outweigh the benefits of retaining the building.

- A.22 To reflect the facts that conservation areas vary significantly, and that their effective management requires detailed policy provision, it is standard practice for the planning authority to create policy documents known as Conservation Area Management Plans. These may cover one or more conservation areas, and set out in detail the planning requirements for that area in order to preserve or enhance its character or appearance. Conservation Area Management Plans are informed by

research documents called Conservation Area Appraisals, which are updated periodically.

- A.23 The Council will fulfil its statutory duty to designate conservation areas according to the criteria in Historic Environment (Topics and Themes) Planning Policy Advice.

Gardens and Designed Landscapes:

A.24 Key Consideration:

- Development should not have a substantial adverse effect on the importance of sites as described in the Inventory of Gardens and Designed Landscapes.

- A.25 Development Management Guidance may be produced by the planning authority for individual sites on the Inventory of Gardens and Designed Landscapes. This guidance will set out how the importance of the site described in the Inventory should be preserved and enhanced through development affecting the landscape components listed.

Scheduled Monuments:

A.26 Key Considerations:

- Where there is potential for a proposed development to have a substantial adverse effect on the integrity of a scheduled monument or its setting, development consent will only be granted where:
 - There are exceptional circumstances, and
 - There is no practical alternative site, and
 - There are imperative reasons of over-riding public need.

- A.27 Development Management Guidance may be produced by the planning authority for individual scheduled monuments. This guidance will set out a definition of its setting, and any requirements for development which may affect the monument.

Historic Marine Protected Areas:

A.28 Key Consideration:

- Development should wherever possible further the preservation objectives of any Historic Marine Protected Area, and must only hinder these preservation objectives in exceptional circumstances for imperative reasons of over-riding public need.

Battlefields:

A.29 Key Consideration:

- All development within the boundary of any site in Orkney added to the Inventory of Battlefields must demonstrate that it takes appropriate measures to preserve any archaeological and physical remains relating to the battle, and does not have a substantial adverse effect on the setting of the battlefield.

Protected Places:

A.30 Key Consideration:

- Development must preserve any remains which form part of a protected place designated under the Protection of Military Remains Act 1986, and must demonstrate that it would not lead to accelerated decay or loss of those remains through changes to landscaping, changes to currents, increased public access or any other means, unless there are exceptional circumstances of over-riding public need.
- Where the presence of human remains is suspected, it must be demonstrated that these have been considered appropriately in the development proposals. There will be a presumption against disinterring human remains unless there is a demonstrated need, and appropriate arrangements are in place for their reburial.
- There will be a presumption against development within the debris field of any protected place.
- Where the existence of a protected place is suspected in a location which may be affected by proposed development, it must be demonstrated that all reasonable measures have been taken to confirm the location (if present) of that protected place.

A.31 Development Management Guidance may be produced by the planning authority for individual protected places. This guidance will set out the location, extent and nature of remains, an analysis of the factors causing their decay or loss, and any requirements for development necessary to prevent accelerating this decay or loss.

Controlled Sites:

A.32 Key Considerations:

- Development must preserve any remains which form part of a controlled site designated under the Protection of Military Remains Act 1986, and must demonstrate that it would not lead to accelerated decay or loss of those remains through changes to landscaping, changes to currents, increased public access or any other means, unless there are exceptional circumstances of over-riding public need.
- Where the presence of human remains is suspected, it must be demonstrated that these have been considered appropriately in the development proposals. There will be a presumption against disinterring human remains unless there is a demonstrated need, and appropriate arrangements are in place for their reburial.

A.33 Development Management Guidance may be produced by the planning authority for individual controlled sites. This guidance will set out the location, extent and nature of remains, an analysis of the factors causing their decay or loss, and any requirements for development necessary to prevent accelerating this decay or loss.

Sites containing human remains:

A.34 Key Considerations:

- Where the presence of human remains is suspected, it must be demonstrated that

these have been considered appropriately in the development proposals. There will be a presumption against disinterring human remains unless there is a demonstrated need, and appropriate arrangements are in place for their reburial.

- Development should not have a substantial adverse effect on the setting of any formal place of burial.

A.35 Development Management Guidance may be produced by the planning authority for individual formal places of burial. This guidance will set out the location, extent and nature of remains, and a definition of their setting.



Archaeological finds (Treasure Trove):

A.36 The discovery of historic artefacts is regulated by the Treasure Trove system. Under Scottish law all portable antiquities of archaeological, historical or cultural significance are subject to claim by the Crown through the Treasure Trove system and must be reported. Finders, landowners or archaeologists have no legal claim to ownership of their discoveries. Any discovery must be reported to the Treasure Trove unit based at the National Museums of Scotland. The find will then be assessed, and may be allocated to an appropriate institution such as a local museum. The finder will receive a payment or, if the item is not allocated to a museum, it will be returned to the finder. A detailed explanation of the system is given in 'Treasure Trove in Scotland: A Code of Practice' (2008).



B. Assess significance of heritage assets affected by the development

B.01 The heritage assets identified in Part A are then assessed to establish their significance. This assessment identifies the different ways in which a site may be important, and looks at each of these in turn to build up a detailed description of the significance of the heritage asset. Whilst this assessment should be undertaken in connection with all development proposals affecting heritage assets, it should be proportionate, which means in many cases it will be a quick and simple exercise.

B.02 Key Considerations:

- Proposals for development must provide a satisfactory assessment of the significance of any heritage assets which are affected by the development.
- Proposals should include a clear statement which assesses the archaeological, architectural, artistic, commemorative and historic significance of each heritage asset affected by the development. This statement need not be lengthy, but should detail the research methods which have been used to assess this significance, including any survey work which has been undertaken.

B.03 A heritage asset may be important for many reasons, such as its ability to inform us about prehistoric peoples, its importance to the local community, or its role as a landmark. Each site will have a different combination of these types of significance, which may vary considerably.

B.04 There is no set list of the different types of significance a heritage asset may have, but for convenience the five main types of significance relevant to sites in Orkney have been summarised, and form the core of this policy:

- Archaeological significance.
- Architectural significance.
- Artistic significance.
- Commemorative significance.
- Historic significance.

B.05 Every heritage asset in the county has at least one of these kinds of significance to a greater or lesser degree, and is likely to have multiple different types of significance which each need to be understood to ensure that potential benefits of development can be maximised. Significance need not be substantial to be protected under this policy: small features of local interest contribute greatly to a site's character and to an area's distinctiveness and sense of place, and may be important features to the special interest of a conservation area or a Garden and Designed Landscape. Examples of these features and sites include the Big Tree in Albert Street, Kirkwall, places connected to the Ba', traditional signage, sites with traditional use such as show parks, and features illustrating previous uses of a site such as stained glass panels.

B.06 N.B. The aim of this assessment is to understand specifically what the significance of a heritage asset is, not just to summarise it in general terms, for example “The mill has high historic significance because its workings are all intact, in working order and are mostly original to its construction, with only limited like-for-like repairs, and the mill lade is well preserved and still serves the mill” rather than “The mill has high historic significance”. This detailed assessment is required to inform the later stages of the determination process.

- B.07** The setting of heritage assets can make a substantial contribution to the significance of a site. For example, the relationship between a building and landscape features can help to illustrate its function, or the location of buildings could be important for the layout of a designed landscape. Setting is therefore an integral consideration in the assessment of significance. Further information is provided in Historic Environment (Topics and Themes) Planning Policy Advice; also see “Managing Change in the Historic Environment: Setting” (Historic Environment Scotland, June 2016) for more information.
- B.08** The assessment of significance may involve further research where a site is not fully understood. As with other types of research required for the planning process (e.g. other surveys, traffic studies) the applicant will generally be responsible for commissioning these studies, as they are required to assess the potential impact of their development proposals. Any such work should be undertaken by appropriately qualified and experienced professionals (see the Council website for more details).
- B.09** 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.

Types of significance

Archaeological significance:

- B.10** Archaeological significance is the value of a site in providing evidence about the past through its material remains.
- B.11** This includes, for example, the value of a historic building to provide evidence of traditional construction techniques, the value of buried artefacts to provide evidence of the cultures that produced them, and the value of human remains to provide evidence of historic ways of life. The archaeological significance of a site is often not immediately apparent, and usually requires specific survey work to establish fully.

B.12 Key Considerations:

- Any site that contains, or is likely to contain, material which provides evidence about any period prior to the end of 1945 will be assessed for archaeological significance. In exceptional circumstances remains relating to later periods will also be considered.

- The extent of archaeological significance of a heritage asset will depend on the state of preservation of the remains, and the degree to which they can add to existing knowledge.

B.13 The main factors which determine the archaeological significance of a site are:

- **The state of preservation of the remains** – remains which have been preserved well are likely to be able to tell us much more than those which have been damaged or decayed.
- **The degree to which the remains can add to existing knowledge** – remains which are from a period or of a type which has been little studied will generally have a higher archaeological significance than those which have been studied extensively.

B.14 Note that no period of Orkney's past is inherently more or less likely to have archaeological significance. For example, remains which relate to the personal experience of military personnel during the First and Second World Wars can provide evidence on aspects of ordinary people's experience of the conflicts which were previously unknown.

B.15 The process of assessing the archaeological significance of a heritage asset generally involves undertaking a series of studies which investigate and document the site, which may then form part of a Statement of Significance, or in the case of a conservation area a Conservation Area Appraisal. These usually start with a Desk Based Assessment, which gathers together and reviews all the existing written records of a site. This will identify areas and aspects of the site which require further investigation, and recommend which studies to undertake to achieve this. These studies are explained in greater detail in Historic Environment (Topics and Themes) Planning Policy Advice.

Architectural significance:

B.16 Architectural significance is the value of a structure's design and form in making it fit for purpose and/or giving it aesthetic qualities. It is also known as architectural interest.

B.17 It includes, for example, the way in which the layout of a building helps it meet the needs of its users, the way in which the materials and construction techniques used give a building a distinctive appearance, and the use of symmetry and proportion in a building's design.

B.18 Architectural significance includes both deliberate effects of a design which were intended by its designers, and unintended effects which are the result of chance, nature or the passage of time which also contribute to the building's appearance or function. These might include aspects such as the patina of age on stonework, or a building's value as a landmark where this is a result of changes to its surroundings after it was constructed.

B.19 Most historic buildings have some architectural significance. This can be seen most clearly on grander buildings such as St Magnus Cathedral or Kirkwall Town Hall, but is also present in vernacular architecture, where designers have often shown a high level of skill in creating buildings well suited to the particular way of life of the occupants with a limited range of materials and construction methods. After the end of the Second World War, however, the standardisation of building designs and techniques, and the use of prefabricated housing have become widespread, with limited exceptions. Buildings constructed after 1945 in Orkney are therefore not generally considered through this policy.

B.20 Key Considerations:

- Any site which contains structures built before the end of 1945 will be assessed for architectural significance. In exceptional circumstances later buildings with a high design value will also be considered.
- The extent of architectural significance of a heritage asset will depend on how the structures are designed to fulfil their function(s), and on their aesthetic qualities.

B.21 The main factors which determine the architectural significance of a site are:

- **How well the structure is designed to fulfil its function(s)** - Buildings which have been well designed to meet the specific needs of their users, for example through well-planned layouts or innovative features, generally have a higher architectural significance than mass-produced buildings to standardised designs.
- **Their aesthetic qualities** - This includes all aspects of a building's appearance, including its proportions, symmetry, form, ornamentation, materials and how it has changed since its construction. This includes in part its artistic features (see 'artistic significance' below), but also covers every other aspect of its appearance. Structures which have a distinctive or locally characteristic appearance, well-balanced proportions or high-quality detailing generally have a higher architectural significance than other buildings.

B.22 The process of assessing the architectural significance of a heritage asset generally involves an appraisal of the site which may then form part of a Statement of Significance, or in the case of a conservation area a Conservation Area Appraisal. These are documents which bring together assessments of all the different significances a site has, and are produced either as stand-alone documents or in conjunction with other plans or strategies.

Artistic significance:

B.23 Artistic significance is the value a site has as a work of art. This could be in terms of the features within the site, such as individual works of art, or the site as a whole, such as large designed landscapes in which the layout and design of all the structures and planting has been co-ordinated.

- B.24 Examples of sites with artistic significance could include structures with ornamental features, objects such as sculptures placed in the landscape, and designed landscapes such as parks or gardens.

B.25 Key Considerations:

- Any site which contains structures, objects or landscapes consciously designed for artistic effect will be assessed for artistic significance.
- The extent of artistic significance of a heritage asset will usually depend on the acknowledged skill of the designer, the degree to which artistic motivations have determined the site's design, and the quality of the execution of the design.

- B.26 The main factors which determine the artistic significance of a site are:

- **The acknowledged skill of the designer** – this could be evidenced directly through the quality of the design or assessed with reference to the designer's reputation as evidenced through publications and exhibitions.
- **The degree to which artistic motivations have determined the site's design** – a site in which every element has been co-ordinated to a single artistic scheme is likely to have greater artistic significance than a site in which there are one or two artistic features which are not co-ordinated with each other.
- **The quality of the execution of the design** – this is the skill of the craftspeople or builders who made the artistic features. A feature which has artistic detail created to a high standard is likely to contribute more to the site's artistic significance than an otherwise identical feature which has been made to a low standard.

- B.27 The process of assessing the artistic significance of a heritage asset generally involves an appraisal of the site which may then form part of a Statement of Significance, or in the case of a conservation area a Conservation Area Appraisal. These are documents which bring together assessments of all the different significances a site has, and are produced either as stand-alone documents or in conjunction with other plans or strategies.

Commemorative significance:

- B.28 Commemorative significance is the value of a site as a focal point for communally remembering a person or event. It generally refers to a formal memorial, but in some cases a site can have commemorative significance because it is used informally to remember a person or event by a large number of people.
- B.29 Examples of sites with commemorative significance may include war memorials, graves and graveyards, memorial gardens and buildings, the homes of noteworthy people and the sites of important events.

B.30 Key Consideration:

- Any site with features which are known to have been formally dedicated as a memorial to a person or event will be assessed for commemorative significance. In

addition, any site with features which are widely understood to be closely associated with a person or event may also be considered to have commemorative significance.

- B.31 Assessing commemorative significance can be difficult, and a variety of factors should be considered. For formal memorials, the extent of the commemorative function should be considered (such as the detail of any inscriptions, and the form or symbolism of any memorials). Historical research may be required to establish the full circumstances of the memorial's creation and its symbolism. For informal commemorative sites consultation with the local community may be required to establish the extent and origin of the commemorative function. A structured consultation exercise may prove useful. These assessments may then form part of a Statement of Significance, or in the case of a conservation area a Conservation Area Appraisal. These are documents which bring together assessments of all the different significances a site has, and are produced either as stand-alone documents or in conjunction with other plans or strategies.

Historic significance:

- B.32 Historic significance is the value of a site to illustrate past events, practices or beliefs, or its associations to them. It is also known as historic interest.
- B.33 Examples of sites with historic significance could include ruined castles which illustrate medieval fortification technology, social hierarchies and lifestyles, and a stately home which has been kept as it was when a historically significant occupant lived there.
- B.34 The authenticity of the relevant features is an essential requirement for their historic significance. Authenticity refers not only to preserving the original material, but to preserving it in as unaltered a state as possible. It can also refer to authenticity of design, so faithful reconstructions of missing features can still have some authenticity even though they are not the original fabric.
- B.35 The meaning of "past events, practices or beliefs" in this context is intended to be wide-ranging and inclusive. Past events may include trends or repeated activities as well as individual occurrences. Past practices may include social customs, technology or lifestyles, such as previous functions of the site or activities which took place there. Past beliefs may include attitudes of individuals or larger groups, such as cultural norms, as well as specific beliefs.
- B.36 Whilst sites of any period may illustrate past events, practices or beliefs, those from after the end of the Second World War are significantly better documented than those of earlier periods, and are generally less distinctive to Orkney. Therefore features which relate to periods after 1945 will not normally be considered to have historic significance through this policy.

B.37 Key Considerations:

- Any site which has authentic features of structures, of objects or of landscapes which illustrate, or are closely associated with, past events, practices or beliefs dating from prior to the end of 1945 will be assessed for historic significance.
- In exceptional circumstances features which illustrate or are associated with later events, practices or beliefs of high historical importance may be considered.
- The extent of the historic significance of a heritage asset will depend on the degree to which the features illustrate or are associated with the past events, practices or beliefs, the historical importance of those events, practices or beliefs, and the authenticity of the features.

B.38 The main factors which determine the historic significance of a site are:

- **The degree to which the features illustrate or are associated with the past events, practices or beliefs** – the more effectively a feature illustrates the past events, practices or beliefs, or the more closely it is associated with them, the higher its historic significance is likely to be.
- **The historical importance of the events, practices or beliefs in question** – features which illustrate or are associated with events, practices or beliefs which are considered internationally or nationally significant, or of very high importance to Orkney, will generally have a higher historic significance than features illustrating or associated with events, practices or beliefs which are considered of limited or purely local importance.
- **The authenticity of the features** – features which survive in situ in a good state of preservation will generally have a higher historic significance than those which are damaged, altered, moved or reconstructed.

B.39 The process of assessing the historic significance of a heritage asset generally involves an appraisal of the site supported by historical research. This assessment may then form part of a Statement of Significance, or in the case of a conservation area a Conservation Area Appraisal. These are documents which bring together assessments of all the different significances a site has, and are produced either as stand-alone documents or in conjunction with other plans or strategies.



C. Identify any significance which would be affected as a result of the development

- C.01 After the significance has been established of those heritage assets which may be affected by the proposed development, an assessment is made of how the proposal would affect this significance over its lifetime.
- C.02 This could be in a number of ways, for example by affecting important visual relationships between heritage assets across a landscape, by excavating archaeological remains, or by altering a historic building. The impacts of the construction and decommissioning of a proposal will also be considered.
- C.03 The assessment of how development proposals will affect heritage assets is often undertaken through an exercise known as a cultural heritage impact assessment (CHIA). This follows on from the assessments at Part B, and is a practical assessment of the magnitude and nature of the impact of proposed change on the significance of heritage assets. Its purpose is to gain an independent and unbiased understanding of the effect of development on heritage assets, with a view to mitigating any negative effects; it is effectively a means of bringing together into one document an assessment of the impact of all the various aspects of proposals against all the heritage assets affected, using the principles detailed in this policy.
- C.04 Depending on the situation a CHIA may be undertaken by a range of heritage professionals, including archaeologists and conservation architects. Further information on finding historic environment professionals can be found on the Council website.

C.05 Key Considerations:

- Proposals for development must describe how the significance of any heritage assets would be affected by the proposals.
- Proposals should include a clear statement which details the effects of the proposed development on the archaeological, architectural, artistic, commemorative or historic significance of each of the heritage assets identified. This should be accompanied by annotated drawings and any other documentation where relevant.

Archaeological significance:

Positive effects

- C.06 Whilst archaeological significance cannot actually be increased (because the remains of the past are a finite resource) the understanding of that significance can be enhanced by development, for example through archaeological studies, and conservation measures can be introduced to protect the remains.

Negative effects

- C.07 Removing, altering or disturbing remains of the past can remove part or all of their archaeological significance. Destroying the remains takes away all their archaeological significance; altering or removing remains reduces their reliability as a source of information, either in themselves or in relation to their context. This includes the construction and decommissioning phases of a development, where fragile remains may be at greater risk from damage e.g. from crushing by heavy construction machinery.

Architectural significance:

Positive effects

- C.08 The architectural significance of a heritage asset can be enhanced in a number of ways. The removal of unsympathetic features (e.g. poorly designed extensions or additions) improves the architectural significance of a structure, as does the restoration of missing features (where this is supported by evidence of the original design). Changes to the setting of a site may improve its architectural significance, for example by restoring connections between the structure and key landscape features. The creation of well-designed new development on the site may enhance its architectural significance by, for example, restoring the symmetry of a building where this has been lost, or simply due to its high design quality.

Negative effects

- C.09 Change to structures or their settings which is not managed appropriately can result in substantial harm to their architectural significance. This includes the removal or alteration of significant features, the addition of unsympathetic new features and adverse impacts to setting. For example, replacing traditional timber sash and case windows with uPVC units, adding a poorly-designed extension to a principal elevation of a building, or new development blocking key views of a structure are all likely to have an adverse effect on the site's architectural significance.

Artistic significance:

Positive effects

- C.10 The artistic significance of a site may be able to be enhanced in a number of ways. Change which restores an artistic design which is no longer complete, such as replacing missing ornamental details on a building or clearing an overgrown designed landscape of self-seeded weeds, will generally improve the site's artistic significance. Changes to a site's setting may also enhance artistic significance, for example by screening certain views or opening up others. In some cases artistic significance can also be improved by adding new artistic features to a site which are of a high quality and respond creatively to the site's existing artistic design.

Negative effects

- C.11 Changes to a site which can have an adverse impact on its artistic significance include the unsympathetic alteration or removal of features, the addition of new unsympathetic features and adverse impacts to its setting. These might include the demolition of artistically significant structures, the creation of new structures which are unsympathetically designed, or the disruption of key views to or from the site.

Commemorative significance:

Positive effects

- C.12 The commemorative significance of a heritage asset can be enhanced by improving existing commemorative features, such as plaques, statues, structures or landscapes, creating new commemorative features, and improving the setting of the site, for example by improving significant views.

Negative effects

- C.13 Commemorative significance can be adversely affected by the removal or alteration of commemorative features, for example the demolition of memorials, or through adverse impacts to setting, such as obscuring significant views to or from the site.

Historic significance:

Positive effects

- C.14 The historic significance of a site can be enhanced by conserving the historic features, improving the on-site interpretation of those features and improving the setting of the site as it relates to its historic significance. These could be achieved, for example, by conserving structural features of a building which relate to its former use, by creating a programme of signage around a site explaining its history, or restoring key views which illustrate a site's function.

Negative effects

- C.15 Historic significance can be adversely affected by the removal or alteration of features, such as the removal of cattle stalls from a byre, or by the creation of new development within or outwith a site which has an adverse effect on its ability to illustrate past events, practices or beliefs, or its associations with them, such as the visual relationships between heritage assets being obscured.





D. Identify mitigation for any loss of significance

D.01 Where adverse impacts to the significance of heritage assets have been identified at Part C, appropriate measures to mitigate this loss of significance should be developed. These should always be proportionate to and specific to the significance of the heritage asset, as set out at Part B. Typical mitigation measures for impacts to different types of significance are detailed below, along with general explanations of the principal types of mitigation.

D.02 Key Considerations:

- Proposals for development must describe how any adverse effects to significance will be mitigated.
- Proposals should include a clear statement which describes the mitigation proposed for each of the adverse effects to significance identified. This should be accompanied by a record of any discussions with the planning authority, annotated drawings and any other documentation where relevant.

General principles of mitigation

Preservation in situ:

D.03 Preservation in situ is the term used to describe keeping something in its original place rather than moving it or just keeping a record of it. It will always be the preferred form of mitigation.

D.04 Mitigation to preserve significance in situ will generally require amendments to proposals. For example, these amendments may include retaining historic features of a building, a proposal preserving the prominence of a heritage asset in the landscape, or ensuring that the construction of a proposal does not cause excessive ground disturbance to archaeological remains.

Preservation by record:

D.05 Preservation by record is the term used to describe preserving a detailed record of something, usually when it has been moved or removed.

D.06 Where significance is being preserved in situ, preservation by record provides valuable additional information to inform future understanding of the site. Where preservation in situ is not proposed, for example on the grounds of public safety, preservation by record acts as an alternative form of mitigation. Examples of preservation by record include detailed building recording surveys, and archaeological excavations. Further detail of studies which can be used to preserve by record can be found in Historic Environment (Topics and Themes) Planning Policy Advice.

Amendment of proposals:

- D.07 Development proposals may need to be amended to reduce or avoid adverse effects to significance. This may include, for example, altering the location or layout of structures, amending the design of buildings or changes to construction methods. This will typically be informed by detailed discussions with the planning authority.

Salvage:

- D.08 Where physical material contributes to a heritage asset's significance its salvage and re-use may mitigate, in part or in whole, the adverse impact to that significance from its removal. Forms of salvage may include, for example, donating items of high significance to a museum collection, reusing stone to build dykes on the site, and reusing stone roofing materials on other sites.

Conditions attached to consents:

- D.09 In some cases, mitigation measures may be applied as conditions of consents, rather than as part of the submitted application. This will generally occur when this is more practical than re-submitting or amending an application, and will follow discussions with the applicant. All conditions will be precise, enforceable, relevant, necessary and reasonable. Common conditions include those relating to the manner in which works are being carried out, the need for archaeological investigation or recording prior to works, and salvage requirements.

Mitigating impacts on significance

Archaeological significance:

- D.10 For the mitigation of adverse impacts to archaeological significance measures to preserve remains in situ will always be preferred. This includes sites where the remains have been preserved by record, as there is the potential that future investigative techniques may be able to reveal more information than is currently possible. Where proposals to not preserve remains in situ have been justified, detailed preservation of the archaeological significance by record will be expected. This will generally be accompanied by details of how archaeologically significant remains will be salvaged from the site in an appropriate manner.

Architectural significance:

- D.11 The main means of mitigating adverse impacts to architectural significance is through amending the proposals in line with the following conservation principles:
1. The proper maintenance and repair of structures should be the highest priority for works. Other works should only be considered where proper maintenance and repair would not achieve the required outcomes.
 2. Works should aim to preserve or enhance a structure's architectural significance, informed by evidence of the building's original and subsequent designs. The removal of later alterations which detract from the structure's significance is encouraged,

along with the reinstatement of lost features based on sound evidence. Any removal of architecturally significant fabric should be minimised.

3. Any alterations to a structure should be as reversible as possible, and plan for future change.

4. Any alterations to a structure should be easily distinguishable from the existing fabric, and not substantially alter the character or appearance of the building.

5. Where works are required to correct a technical fault in the original design of the structure (e.g. poor rainwater run-off) the contemporary solution should be as discreet and in keeping with the original design as possible. Whilst concerted efforts should be made to keep buildings working properly, solutions must be proportionate to the problems faced.

D.12 The majority of architecturally significant buildings in Orkney are traditionally constructed; detailed guidance on the treatment of these buildings is included in Historic Environment (Topics and Themes) Planning Policy Advice. For other types of buildings a case-by-case approach should be followed using the principles above. Guidance may also be provided in other documents such as Conservation Area Management Plans or site-specific Development Management Guidance.

D.13 Salvage of building materials may also be a way to partially mitigate a loss of architectural significance, where they are of good quality and/or are locally distinctive (e.g. stone, slate).

Artistic significance:

D.14 The preferred means of mitigating adverse impacts to artistic significance is to amend the development proposals to allow that significance to be preserved in situ. Other means of mitigation which may be appropriate include the salvage and appropriate reuse of artistic features, the creation of new sympathetically-designed artistic features, or the preservation by record of the artistic design and features. For example, if artworks cannot be retained in situ, then moving them or replacing them with others would probably be appropriate.

Commemorative significance:

D.15 The preferred means of mitigating adverse impacts to commemorative significance is to amend the development proposals to allow that significance to be preserved in situ. Other options include relocating the commemorative features, preferably within the site, or providing alternative commemorative features to maintain the site's overall commemorative significance. For example, if retaining commemorative plaques in situ is not possible, moving them or replacing them at another location may be appropriate.

Historic significance:

- D.16 The preferred means of mitigating adverse impacts to historic significance is to amend the development proposals to allow that significance to be preserved in situ. Other options include salvaging historic features and re-using them appropriately elsewhere, preservation by record, and enhanced on-site interpretation of the historic features. For example, if historic mill workings cannot be retained in situ, then recording them carefully, installing interpretation plaques where they were located, or in exceptional circumstances reconstructing them in a museum would all help to mitigate the loss of significance.



E. Identify any loss of significance which cannot be mitigated by the measures proposed, and compare this to the benefits of the development

- E.01 Once appropriate possible mitigation measures have been identified at Part D, a decision is made on whether to grant consent or refuse the application, in line with Development Management procedures and all the relevant policies of the Orkney Local Development Plan and associated planning policy.
- E.02 A key part of this process is an assessment of the social, economic, environmental and safety benefits of the proposed development, which are compared to any remaining unmitigated adverse impacts to the significance of heritage assets.

Types of benefits of a development

Social benefits:

- E.03 Social or cultural benefits to the community or individuals, including positive effects identified at Part C. e.g. creating a community facility, benefits to human health, securing public access to a heritage asset.

Economic benefits:

- E.04 Benefits to the wider economy from the development, including enhancing the ability of the heritage asset(s) to contribute to wider economic growth e.g. restoring vacant space to use, generating permanent employment, enhancing infrastructure.

Environmental benefits:

- E.05 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.

Safety benefits:

- E.06 Reducing risks of damage to people or property e.g. stabilising structural damage to buildings, improving road safety.
- E.07 Where action which is urgently required to improve public safety or prevent damage to the environment is likely to have an adverse impact on the significance of a heritage asset (e.g. the disposal of unexploded ordnance, the demolition of unsafe buildings) appropriate mitigation measures will still be expected (e.g. salvage, preservation by record).

Notes

1.01 For more information on Orkney's historic environment see the links on the Orkney Islands Council website.

1.03 This document is available as a single PDF file, suitable for printing, or as an interactive web page with searchable maps, accessed via the Orkney Islands Council website.

Table 1: Up to date statistics can be found at the Historic Environment Scotland website (www.historicenvironment.scot).

1.09 The document Historic Environment (Topics and Themes) Planning Policy Advice is available from the Orkney Islands Council website.

1.11 For further information on Scottish Government policies visit www.gov.scot. For further information on Historic Environment Scotland's policy and guidance visit www.historicenvironment.scot. For copies of UK and Scottish Government legislation visit www.legislation.gov.uk.

Table 2: The World Heritage Convention is available at <http://whc.unesco.org/>.

Policy 8: Note that this policy is provided here for reference only and should be read in its original context in the Orkney Local Development Plan.

1.12 For more information on the consent processes administered by Orkney Islands Council contact Development Management at planning@orkney.gov.uk or 01856 873535 extension 2504.

1.17 For more information on scheduled monument consent contact the Heritage Directorate at Historic Environment Scotland at HMEquiries@hes.scot or 0131 668 8716.

1.18 For more information on marine licensing contact Marine Scotland Licensing Operations Team at ms.marinelicensing@gov.scot or 01224 295579.

1.19 For more information on licences for protected places and controlled sites contact Joint Casualty and Compassionate Centre (JCCC), Ministry of Defence at dbs-jccgroupmailbox@mod.uk or 01452 712612 extensions 7330/6303.

A.02 Guidance on creating this statement is available on the Orkney Islands Council website.

A.12 Note that other types of consent may be required for reasons other than protecting the historic environment and cultural heritage; see the Orkney Local Development Plan for details.

- A.16 Created by the UNESCO World Heritage Convention 1972. World Heritage Sites are designated by a committee of UNESCO for their outstanding universal value, as assessed against a range of criteria, both cultural and natural. No additional consents are required for development, although all World Heritage Sites also form part of statutory designations such as scheduled ancient monuments, listed buildings or conservation areas. The Heart of Neolithic Orkney World Heritage Site consists of six archaeological sites in the care of Scottish Ministers, including Skara Brae, which borders the plan area. The setting of the World Heritage Site is a material consideration in the planning process, and planning policy provisions are set out below. Further background information on the World Heritage Site and its planning considerations, including maps showing Inner Sensitive Zones and sensitive ridgelines is included in Historic Environment (Topics and Themes) Planning Policy Advice. Historic Environment Scotland has produced a guidance document ('Managing Change in the Historic Environment: World Heritage').
- A.18 Currently governed by the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended). Listed buildings can be any structure in a planning authority area (above mean low water springs), but are generally those structures which are in use or capable of re-use. Listed building consent is required from the planning authority for works which affect the building's special architectural or historic interest (i.e. character). It is a criminal offence to demolish, alter materially or extend a listed building without listed building consent. This also applies to structures or fixed objects in the building's curtilage, where they meet all the following criteria:
- They were constructed prior to 1948.
 - They were in the same ownership as the main subject of listing at the time of designation.
 - They clearly relate to the main subject of listing in terms of their original function.
 - They are still related to the main subject of listing on the ground.

Listed buildings are arranged into three non-statutory categories for convenience: category A buildings are deemed to be of national or international importance, and Historic Environment Scotland must be consulted on any works affecting these or their settings; category B buildings are deemed to be of regional importance, and HES must be consulted for listed building consent applications; and category C buildings are deemed to be of local importance. HES must be consulted on all applications for listed building consent made by Orkney Islands Council, and on all applications to demolish listed buildings. Note that the category of a listed building does not affect its legal status: all listed buildings receive equal legal protection, which applies equally to the interior and exterior of the building and its curtilage. Likewise, listed buildings of any category could have high significance of one or more types e.g. a C-listed war memorial could have high commemorative significance. Planning authorities have powers to enforce maintenance of listed buildings: see "Intervention by Planning Authorities" by Historic Environment Scotland. Where consent to demolish listed buildings has been granted, Historic Environment

Scotland must be notified in order to allow for building recording to take place: details of these arrangements can be found in “Historic Environment Circular 1” by Historic Environment Scotland.

- A.21** Currently governed by the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (as amended). Conservation areas are areas of special architectural or historic interest (i.e. significance) identified by the planning authority; the Council has a statutory duty to identify areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and to designate such areas as conservation areas. These may be any area, but tend to be the centres of historic settlements. A greater number of development types require consent: certain permitted development rights do not apply in conservation areas, meaning that planning permission may be required from the planning authority for a range of minor works to properties. In addition conservation area consent is required from the planning authority to demolish structures within conservation areas. Historic Environment Scotland is consulted on all applications for conservation area consent. Where consent to demolish buildings in a conservation area has been granted, Historic Environment Scotland must be notified in order to allow for building recording to take place: details of these arrangements can be found in “Historic Environment Circular 1” by Historic Environment Scotland.
- A.24** An Inventory of nationally important gardens and designed landscapes has been maintained by Historic Environment Scotland and its predecessor organisations since 1987, and has been statutory since 2011. These are defined as ‘grounds that are consciously laid out for artistic effect’, and typically surround large historic country houses. No additional consents are required for development, although inclusion on the Inventory is a material consideration in the planning process, and Historic Environment Scotland will be consulted on any applications for planning permission which affect a site on the Inventory or its setting. Historic Environment Scotland has produced a guidance document ‘Managing Change in the Historic Environment: Gardens and Designed Landscapes’.
- A.26** Currently governed by the Ancient Monuments and Archaeological Areas Act 1979 (as amended). Scheduled monuments may be designated at any site of historic or archaeological importance on land or in territorial waters, but are generally archaeological sites which no longer have a practical use. Scheduled Monument Consent is required from Historic Environment Scotland for any works that would demolish, destroy, damage, remove, repair, alter or add to the monument, or to carry out any flooding or tipping on the monument. Consent is also required to use a metal detector and for some forms of geophysical survey (known as Section 42 consent). Historic Environment Scotland has produced a guidance document ‘Managing Change in the Historic Environment: Works on Scheduled Monuments’.
- A.28** Created by the Marine (Scotland) Act 2010 to replace the provisions of the Protection of Wrecks Act 1973. Generally only for territorial waters adjacent to Scotland, but areas above mean high water springs can be included in certain circumstances. HMPAs can include a wide variety of site types beyond wrecked

vessels, in order to protect marine cultural heritage of national importance. Access to HMPAs is generally not restricted, unless the area is subject to a Marine Conservation Order, but the area is protected from development which would be contrary to its preservation objectives. There is no specific consent process for HMPAs; rather they are taken into account during applications for marine licensing (Marine Scotland) or works licences (Orkney Islands Council).

- A.29 A non-statutory Inventory of nationally important battlefields has been maintained by Historic Scotland and Historic Environment Scotland since 2009, and has been statutory since 2011. These are defined as an area of land over which a battle was fought, or over which significant activities relating to a battle occurred. No additional consents are required for development, although inclusion on the Inventory is a material consideration in the planning process, and Historic Environment Scotland will be consulted on any applications for planning permission which affect a site on the Inventory or its setting. Historic Environment Scotland has produced a guidance document 'Managing Change in the Historic Environment: Historic Battlefields'.
- A.30 Created by the Protection of Military Remains Act 1986 (as amended). Protected places are the sites of all military aircraft which have crashed in service, and certain military vessels currently named in the Protection of Military Remains Act 1986 (Designation of Vessels and Controlled Sites) Order 2012. Note that these vessels are listed in the Order by name rather than location; be aware that the locations of some of these vessels and aircraft are not known precisely, so surveys may be required to confirm the presence and location of remains. Access around the site (outwith the remains) is not restricted, but entry into any enclosed space is restricted. A licence from the Joint Casualty and Compassionate Centre (JCCC) at the Ministry of Defence (MoD) is required to disturb or remove any remains. Further information is available in the document 'Crashed military aircraft of historical interest: Licensing of excavations in the UK' (JCCC, 2011).
- A.32 Created by the Protection of Military Remains Act 1986 (as amended). Controlled sites are areas around wrecked military vessels currently specified in the Protection of Military Remains Act 1986 (Designation of Vessels and Controlled Sites) Order 2012. A licence is required from the Ministry of Defence to access the seabed within the specified area, and to disturb the remains in any way. Licensing arrangements are as for Protected Places.
- A.34 The discovery of human remains must always be notified to the police, even if they are clearly historic. The remains and their surroundings must not be disturbed in any way, as to deliberately violate a burial is a criminal act under Scots law. A detailed explanation of the legal situation is given in 'The Treatment of Human Remains in Archaeology' (Historic Scotland, 2006).
- B.02 Guidance on creating this statement is available on the Orkney Islands Council website.

- B.04 See Ancient Monuments and Archaeological Areas Act 1979 section 61(12)(b) and the Historic Environment Scotland Policy Statement.
- C.03 Guidance on producing a Cultural Heritage Impact Assessment is available at the Historic Environment Scotland website. Specific guidance for Cultural Heritage Impact Assessments affecting World Heritage Sites has been produced by ICOMOS.
- C.05 Guidance on creating this statement is available on the Orkney Islands Council website.
- C.06-7 Early consultation with the Islands Archaeologist is always recommended where there are potential impacts to archaeological remains. The Islands Archaeologist can be contacted via Development and Marine Planning at devplan@orkney.gov.uk or 01856 873535 extension 2531.
- D.02 Guidance on creating this statement is available on the Orkney Islands Council website.
- G.04 See Scottish Planning Policy, National Marine Plan and BS7913:2013 'Guide to the conservation of historic buildings'.



Glossary

- G.01 A small number of specialist terms are often used when discussing heritage assets. These are defined in the online glossary on the Council's website, and some definitions are reproduced below for convenience:
- G.02 **Development:** building, engineering or other operations that take place in, on, over or under the land, or any material change of use of any building or land.
- G.03 **Significance:** the archaeological, architectural, artistic, commemorative or historic value of a site. Sites with significance of these kinds are known as heritage assets. The concept of significance is used to describe how much importance a heritage asset has, and also in which way it is important.
- G.04 **Heritage Asset:** building, monument, site, place, area or landscape that has significance (see Part B for definitions of significance used by this policy).
- G.05 **Setting:** the way in which the surroundings of a heritage asset contribute to how it is experienced, understood and appreciated (see Historic Environment (Topics and Themes) Planning Policy Advice).
- G.06 **Adverse effect or impact:** the terms used to describe an effect which is harmful to the heritage asset or its setting or otherwise impedes the conservation of the site and its significance.
- G.07 **Mitigation:** the term used to describe actions taken to reduce the adverse effects of development on the significance of heritage assets (see Part D).
- G.08 **Sympathetic:** consistent with the character of a heritage asset, whether using similar materials and techniques or not.
- G.09 **Curtilage:** the area around a heritage asset which forms a coherent part of the site. For buildings this typically includes outbuildings, boundary walls and garden features. For listed buildings the curtilage has legal protection and is specifically defined (see Part B).
- G.10 **Substantial:** of considerable importance or size; within this document this is used with the same meaning as 'significant' in other planning documents (to avoid confusion with 'significance' above).
- G.11 **Integrity:** the wholeness and intactness of the heritage asset and its significance.
- G.12 **Authenticity:** the quality of being genuine or original (see Part B).

