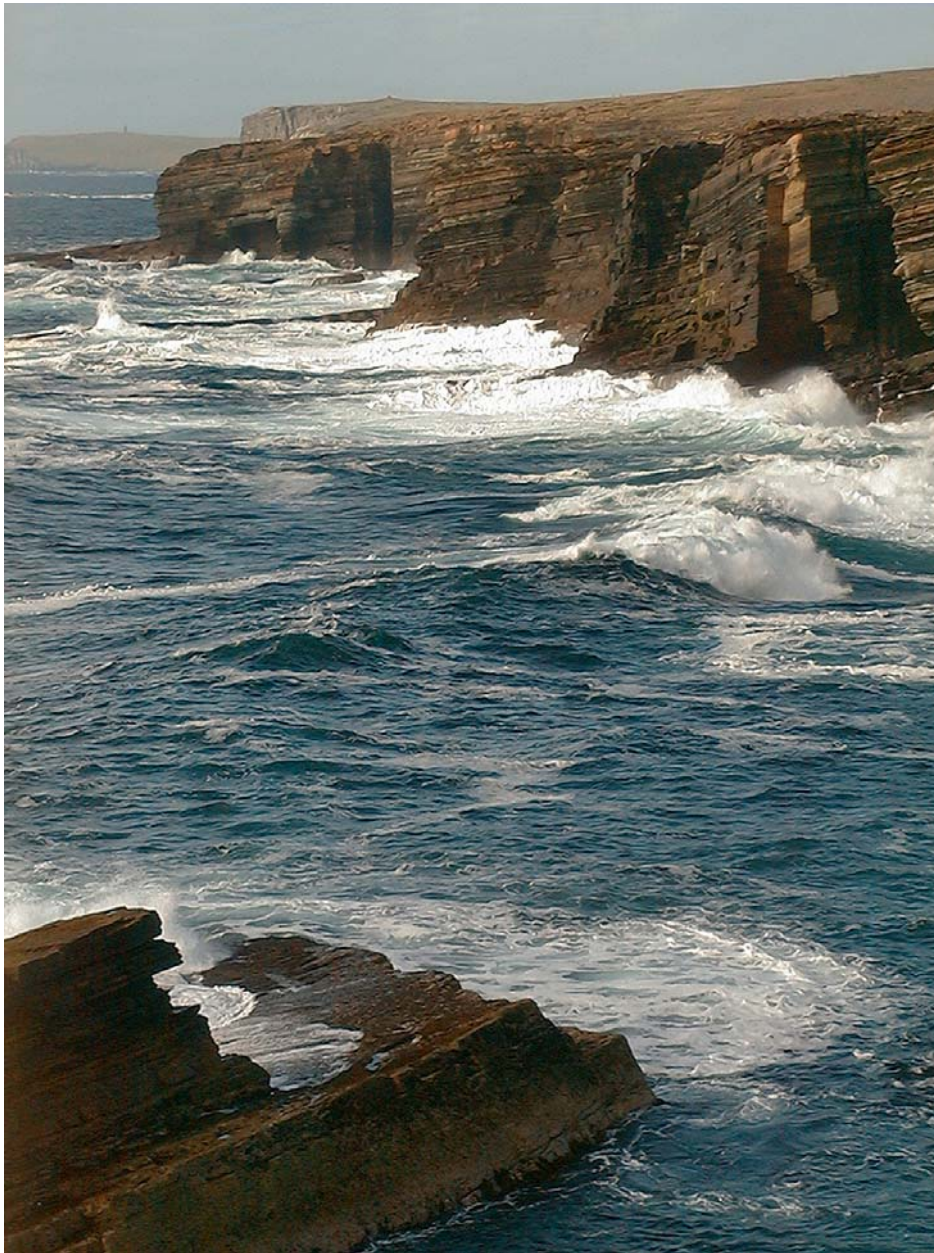


5. NATURAL HERITAGE



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5.1 NATURE CONSERVATION SITES

Structure Plan Context

Key Objective	Relevant Policy or Proposal
To protect and where possible enhance areas of nature conservation interest.	Policy SP/N1 - Designated Sites (Nature Conservation)

Local Plan Policy

<p>POLICY LP/N1</p> <p>DESIGNATED SITES</p> <p>a) <u>International Sites</u> (SPAs, SACs and Ramsar)</p> <p>Development likely to have a significant effect on a site designated or proposed to be designated as a Special Protection Area, Special Area of Conservation or RAMSAR site and not directly connected with, or necessary to the conservation management of that site must be subject to an appropriate assessment as required by the Conservation (Natural Habitats etc.) Regulations 1994, in order to assess the implications for the site's conservation objectives. The development will only be permitted in circumstances where the assessment indicates that:</p> <ol style="list-style-type: none"> i. it would not adversely affect the objectives of the designation or the integrity of the site; or, ii. there is no reasonable alternative solution; and, iii. there are imperative reasons of over-riding public interest, including those of a social or economic nature. <p>Except for development involving public health or safety, the European Commission must be consulted for development on all sites where a priority habitat or species (as defined by Article 1 of the Habitats Directive) would be affected.</p> <p>Where the Council proposes to give consent for development which would adversely affect the integrity of such a site the Scottish Executive must be notified.</p> <p>b) <u>National Sites</u></p> <p>Development likely to have a significant effect on a Site of Special Scientific Interest or designated nature reserve, will only be permitted:</p> <ol style="list-style-type: none"> i. if there is no impact on the special interest of the site and it can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features: or, ii. where there is no reasonable alternative or less ecologically damaging location and the reasons for the development clearly outweigh the value of the site by virtue of social or economic benefits of national importance. <p>c) <u>Local Sites</u></p> <p>Development which would have a significant adverse effect on the nature conservation interest of existing or proposed Local Nature Conservation Sites will only be permitted if the importance of the development outweighs the local value of the site, and measures are incorporated to minimise impact and conserve the site's interest. The Council will pursue the designation of Local Nature Reserves at East Hill, Shapinsay; Dyke O' Sean, Brodgar; and Widedford Burn, St Ola and will, where appropriate, consider the designation of other sites during the plan period.</p>
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Background and Issues

5.1.1 National planning policy requires that the protection and enhancement of the natural heritage be adequately provided for in the Local Plan, with particular emphasis being placed on international and national designations. A key objective of the Structure Plan is to protect, maintain and enhance the natural heritage of Orkney, through the protection of designated sites. Orkney is very rich in wildlife resources, a fact that is reflected in the land area which is considered to be of international or national importance to wildlife.

5.1.2 This policy aims to secure the conservation of Orkney's natural heritage through the protection of habitats at all levels from injurious development. Through this policy, development is prohibited from affecting those areas which represent the best of the County's natural heritage assets unless there is no realistic alternative. Orkney has both national and international obligations with regards to nature conservation. The sound stewardship of wildlife and natural features is not a task for government alone, but also depends on the decisions made by planning authorities, landowners and others who influence the development and use of land. The key to conservation of wildlife and the maintenance of biodiversity is seen to be the protection of the habitat on which it depends. While certain species may have been given statutory protection the thrust of government policy has been towards the protection of habitat, through the framework of Sites of Special Scientific Interest.

5.1.3 Sites which are currently designated because of their nature conservation importance are identified on the Proposals Maps. International sites are those with protection under European law - Special Protection Areas (SPAs) designated under the EC Wild Birds Directive and Special Areas of Conservation (SACs) designated under the EC Habitats Directive; together with Ramsar sites, designated under the Ramsar Convention on Wetlands of International Importance. SPAs and SACs taken together are commonly known as Natura 2000 sites. There are currently 13 SPAs, 6 "candidate" Special Areas of Conservation (cSAC) and 1 Ramsar site in Orkney. A further candidate Ramsar site has also been identified.

5.1.4 National sites include Sites of Special Scientific Interest (SSSI). There are 36 designated SSSIs in Orkney with a total land area of 23,644ha, representing 2.42% of the land area of the County. These range from the very small such as Denwick SSSI at 0.5 ha to extensive sites such as Hoy SSSI at 9,500ha. The majority of areas designated as SSSI are also SPA or SAC.

5.1.5 In excess of 230 further sites have been identified as being of local importance to wildlife or to exhibit features of local natural heritage interest. These are also shown on the Proposals Maps. While national and international sites represent the "best" of Orkney's environmental capital, these tertiary sites contribute to the diversity of sites which makes Orkney so important for nature conservation.

5.1.6 Natural wildlife heritage is not confined to the primary statutorily designated sites but is found throughout the countryside. Statutory and non-statutory sites, together with countryside features which provide wildlife corridors, links or stepping stones from one habitat to another, all help to form a network necessary to ensure the maintenance of the current range and diversity of our flora, fauna, geological and landform features and the survival of important species. The most threatened of the natural heritage sites are those with no statutory protection. Special care is required to ensure that the network of tertiary sites which service the sites of primary importance and are vital in maintaining the biodiversity of the Islands are not subject to further erosion through ill advised land use changes.

5.1.7 Three organisations own or lease land, which is specifically managed for wildlife - the Royal Society for the Protection of Birds, Scottish Wildlife Trust and Orkney Islands Council. In excess of 300,000ha of Orkney is actively managed as nature reserves.

Definitions

5.1.8 For a proposal to be considered directly connected with or necessary to the conservation management of the site, it must be in accordance with the conservation objectives of the site for European interests. On a multi-interest site, a proposal which may benefit one interest may be

contrary to the conservation objectives for another interest, and should therefore be subject to a full appraisal.

5.1.9 Examples of over-riding public interest might include the following:

- a regional economic development opportunity which generates in excess of 50 full-time equivalent jobs;
- works required for public safety, or for the safety of aircraft, road traffic or shipping; or,
- works necessary in the interests of national security.

Implementation and Monitoring

5.1.10 The policy will be implemented by the screening of all applications to determine whether they affect, or are likely to affect, any of the designated sites. Developers will be asked to show that there is no significant impact through the production of an environmental statement or impact assessment. Scottish Natural Heritage and special interest groups including the Royal Society for the Protection of Birds will also be asked for their views on development proposals.

5.1.11 The Council maintains a record of all sites referred to above, representing the position at the time of approval of the Local Plan. However, designations are prone to change over time as new sites are discovered and existing sites reviewed. Advice should therefore be sought from either the Council or Scottish Natural Heritage to obtain the current situation at any given time.

5.1.12 The Orkney Biodiversity Records Centre established in 1998 provides a unique, one-stop-shop for information on species and habitats in Orkney. Holding over 160,000 records, the Records Centre provides an invaluable source of information for planning staff in assessing whether any habitats or species are likely to be affected by development proposals. Developers are also urged to make use of the centre.

5.1.13 Effective mechanisms control activities within designated sites but their wildlife interest can often be damaged by operations outwith their boundary. It is important that planning decisions take account of possible effects on designated natural heritage sites even though these may be some distance from the development site. It should be noted that the Council has a duty to assess the implications of development proposals outwith the boundaries of sites designated or proposed under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) for their implications on the integrity of the sites. Development proposals outwith Natura 2000 sites may therefore be subject to this policy.

5.1.14 Monitoring of this policy will be through the recording of incidence where applications approved affect designated sites. Quantitative indicators will be used to assess changes in the quality of sites over time where these are currently recorded. The number of new Local Nature Reserves established will also be used to measure whether the policy has been successful.

5.2 SPECIES AND HABITATS

Structure Plan Context

Key Objective	Relevant Policy or Proposal
To protect and where possible enhance areas of nature conservation interest.	Policy SP/N2 - Protection of Habitats and Species Policy SP/N3 - Local Biodiversity Action Plan Policy SP/N4 - Protection of Nature Conservation Interest

Local Plan Policy

<p>POLICY LP/N2</p> <p>PROTECTION OF SPECIES, HABITATS AND FEATURES OF NATURE CONSERVATION INTEREST</p> <p>a) <u>Species and Habitats</u></p> <p>Planning permission will not be granted for any development that would have a significant adverse effect on any species of animal (or their actively used breeding, feeding and roosting habitats), plant, land and water supporting such species, or habitat protected under;</p> <p>i. Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 as amended;</p> <p>ii. Annexes I, II and IV of the European Community Habitats Directive;</p> <p>iii. Annex 1 of the European Community Wild Birds Directive;</p> <p>iv. any species or habitat listed within Annexes 2 and 3 of “Action for Scotland’s Biodiversity”; or,</p> <p>v. any species or habitat identified as a priority in the Local Biodiversity Action Plan, unless the public benefits of the development at a local level outweigh the value of the species or habitat being protected.</p> <p>b) <u>Replacement Features</u></p> <p>If a proposed development is permitted which may be liable to harm features of nature conservation, interest or impact on a species protected under British or European law, or are listed as a priority in the Local Biodiversity Action Plan, and the creation of a replacement habitat of equal habitat value is practicable, a condition will be imposed or a planning obligation will be sought to secure it.</p> <p>c) <u>Undiscovered Features</u></p> <p>If important new features of nature conservation interest are discovered, planning permission will not be granted for development unless it safeguards the features, or the importance of the development outweighs the value of the features.</p>
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Background and Issues

5.2.1 National planning policy requires that Local Plans make provision for the conservation of biodiversity and the protection and enhancement of the natural heritage outwith designated areas. Features of natural heritage interest are not solely confined to designated sites, and the Structure Plan recognises the need to maintain and enhance the status of key habitats and species, such as those identified in the Local Biodiversity Action Plan.

5.2.2 The policy aims to ensure that species with protected status under British or European Law are not caused harm from developments which may affect their feeding, resting or breeding sites, even if these are not in themselves considered to be habitats worthy of protection.

5.2.3 The Conservation (Natural Habitats, &c.) Regulations 1994 enact the provisions of EC Council Directive on the Conservation of Natural Habitats and of Wild Flora and Fauna (The Habitats) Directive. Schedules 2, 3 and 4 identify those species considered to be of European importance. Of relevance in Orkney are Otters (*Lutra lutra*), all species of Dolphins, Whales and Porpoises (*Cetacea*), Common Seals (*Phoca vitulina*), Grey Seals (*Halichoerus grypus*), Mountain Hare (*Lepus timidus*) and all species of Bat (*Vespertilionidae*). A wide range of wild animals and plants are also protected under the Wildlife and Countryside Act 1981.

5.2.4 While it has been possible for Scottish Natural Heritage to identify key sites for these species and are currently taking these forward as SACs, it is still important to ensure that these species are given the greatest range of protection possible, especially when the range of the species can be extensive (such as for otters or seals).

5.2.5 The UK Biodiversity Action Plan lists species and habitats found in the UK of conservation concern. "Action for Scotland's Biodiversity" (Scottish Biodiversity Group, 2000) takes a strategic overview of those species and habitats found in Scotland identified for priority treatment by the UK government. It lists the 41 habitats and 226 species for which action plans have been published and identifies the lead partner in Action Plan Implementation. The Local Biodiversity Action Plan augments this list with identified local priorities and proposes species of local conservation concern which do not feature in the UK Biodiversity Action Plan. All of these species and habitats are considered to be of nature conservation interest for the purposes of this plan.

Implementation and Monitoring

5.2.6 In implementing the policy the Council will take into account the likelihood of any development proposal affecting a protected species. Developers will be asked to show that there is no significant impact through the production of an environmental statement or impact assessment. Scottish Natural Heritage and special interest groups including the Royal Society for the Protection of Birds will also be asked for their views on such proposals.

5.2.7 The Orkney Biodiversity Records Centre established in 1998 provides a unique, one-stop-shop for information on species and habitats in Orkney. Holding over 160,000 records, the Records Centre provides an invaluable source of information for planning staff in assessing whether any habitats or species are likely to be affected by development proposals. Developers are also urged to make use of the centre.

5.2.8 Where an application for planning permission is thought likely to decrease the value of a site of natural heritage importance, the developer will be required, through condition and/or agreement, to ensure that landscaping proposed for the development provides for the creation or enhancement of habitat features. Building and other work will be conditioned to ensure potential damage to any existing habitat is minimised. The preparation of management plans will be required to show the long-term aims of the proposal and how it is to be achieved.

5.2.9 Monitoring of this policy will be through recording the number of applications approved which may affect protected species and assessing those which, despite affecting sites of natural heritage importance, have made provision for habitat creation or enhancement. Quantitative indicators will be used to assess changes in the population levels of species over time where these are currently recorded.

5.3 LANDSCAPE

Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
To protect and where possible enhance landscape character.	Policy SP/N5 - Landscape Character Assessment Policy SP/N6 - Designated Sites - Landscape Protection

Local Plan Policy

<p>POLICY LP/N3</p> <p>LANDSCAPE</p> <p>All development proposals should take adequate and proper account of the Orkney Landscape Character Assessment on how various types of development or land use change might best be accommodated within particular landscape types.</p> <p>In addition, within designated sites the following will apply:</p> <p>a) <u>Hoy and West Mainland National Scenic Area</u></p> <p>Development or land-use change that may have a significant adverse effect, either directly or indirectly will only be permitted where the quality or character of the landscape will not be adversely affected; or, where any significant adverse effects on the National Scenic Area are clearly outweighed by social or economic benefits of national importance. All development proposals will be referred to Scottish Natural Heritage for consultation.</p> <p>b) <u>Sites of Local Landscape Character</u></p> <p>In considering development proposals within areas which are designated for their local scenic or landscape character, the Council will seek to safeguard landscape character and quality of the area concerned. The following sites of local scenic character have been identified on the Proposals Maps:</p> <p>i. Areas of Great Landscape Value - Hoy Sea Cliffs; Yesnaby Sea Cliffs; West Westray; and,</p> <p>ii. The following sites which represent the most characteristic sites of local landscape character have been identified on the Proposal Map – Areas of Attractive Settled Landscape – Scapa Beach; Northside, Birsay; Waulkmill Bay, Kirbister Loch and Swanbister Bay, Orphir; The Bay of Firth, Firth; Woodwick, Evie; Westside, Rousay; Skaill, Sandwick; Windwick and Herston, South Ronaldsay; Hunda, Burray; Rackwick, Hoy; North Ronaldsay; Papa Westray; and, Calfsound, and Calf of Eday.</p>

Background and Issues

5.3.1 National planning policy requires that Local Plans include policies for the protection and, where appropriate, the enhancement of nationally designated areas; and for any other areas identified as being of regional or local importance for their natural heritage. These designated areas all represent landscapes which could in themselves be considered tourism assets and which should be conserved for the benefit of this industry. The purpose of the policy is to provide adequate protection for national and locally important scenic areas in Orkney.

5.3.2 The quality of Orkney's landscape has been recognised by the designation of parts of Hoy and the West Mainland as a National Scenic Area (NSA), one of only 40 in Scotland.

NSAs are nationally important areas of outstanding natural beauty within which stricter control of development is enforced. An appreciation of the wider significance of landscape in Orkney is possible through the Orkney Landscape Character Assessment, which was produced in 1998. The study identifies 23 different landscape types in Orkney, assesses the sensitivity of each landscape character zone to landscape change and provides guidelines for their future planning and management.

5.3.3 Areas of Great Landscape Value (AGLVs) are identified by local authorities in development plans with a view to safeguarding areas of regional or local importance from inappropriate developments. In Orkney, three AGLVs, Hoy Sea Cliffs, Yesnaby Sea Cliffs and West Westray have been designated.

5.3.4 A further local designation defined by the Council is that of 'Sites of Local Landscape Character', which represent the most characteristic landscapes in Orkney. Examples include Waulkmill Bay in Orphir, and the Bay of Firth. These have been identified with reference to the Orkney Landscape Character Assessments as being sensitive to 'intrusive development, which would detract from landscape character and quality'. Additional areas have been defined following consultation with community councils and with the landscape profession in Orkney. They are all areas where inappropriately designed or sited developments could seriously affect the existing character and amenity of the area, and erode the local distinctiveness of the County.

Implementation and Monitoring

5.3.5 Sites of importance for landscape character should be safeguarded from inappropriate development wherever possible and applications for planning permission within such areas will need to exhibit greater consideration of siting and design issues than in other areas.

5.3.6 All planning applications and agricultural prior notifications falling within these areas will be scrutinised for their landscape impact. Landscape enhancements will be sought through the imposition of conditions and by planning agreements.

5.3.7 The Council will, through its Town and Country Improvements Programme, target these areas for landscape restoration works and will attempt to persuade other agencies to do the same either unilaterally or through partnership working arrangements.

5.3.8 The effectiveness of this policy in conserving the character of the designated areas will be monitored through the use of Landscape Impact Assessments. Assessment of these areas will be undertaken at the beginning of the plan period and compared to similar assessments undertaken at three-year intervals to determine whether new development is causing a change in the character of these areas or is meshing seamlessly with what has gone before.

5.4 COUNTRYSIDE AROUND TOWN

Structure Plan Context

Key Objective	Relevant Policy or Proposal
To protect and where possible enhance landscape character.	Policy SP/O4 - Countryside Around Towns

Local Plan Policy

<p>POLICY LP/N4</p> <p>COUNTRYSIDE AROUND TOWN</p> <p>Within areas defined as ‘Countryside Around Town’ around Kirkwall and Stromness, development will only be permitted where it enhances the landscape setting of towns, the distinctions between urban and rural area, and comprises either of the following:</p> <p>a) in terms of new development, only those involving informal rural recreation, those with demonstrable specific location requirement e.g. agricultural uses; or those which establish an enhanced landscape framework for the towns; and,</p> <p>b) in terms of existing development those involving rehabilitation, conversion, limited extension or an appropriate change of use.</p> <p>The extent of the ‘Countryside around Town’ designation is identified in the Proposals Maps.</p>

Background and Issues

5.4.1 National planning policy requires Local Plans to include policies for the conservation and/or enhancement of landscape character, and the Structure Plan establishes the principle of a “countryside protection zone” around Kirkwall and Stromness.

5.4.2 The setting of both Kirkwall and Stromness are sensitive to developments on their periphery, which constitutes urban sprawl, and to the introduction of obtrusive features on the skyline. Previous planning policies have not always been successful in protecting these sensitive boundaries. Recent developments on the edge of towns, particularly housing development, have resulted in the blurring of the clear distinction between towns and their agricultural hinterland, to such a degree that it is not always possible to clearly delineate town boundaries. The maintenance of this clear distinction is important, and urban sprawl, ribbon development, and skyline developments should be avoided. The use of the ‘Countryside Around Town’ designation coupled with settlement boundaries will ensure development within these areas is strictly controlled and a clear distinction between built-up areas and the countryside is maintained.

Implementation and Monitoring

5.4.3 All planning applications and Agricultural Prior Notifications within these areas will be scrutinised for their impact on the setting of towns. The Orkney Landscape Character Assessment identified a need to establish a landscape framework around Kirkwall and Stromness and the Council, together with Scottish Natural Heritage, will investigate to undertake this. The policy does not inhibit development requiring a peripheral location

5.4.4 The success of the policy in conserving the character of the Countryside Protection Zone will be monitored through the use of Landscape Impact Assessments. An evaluation of these areas will be conducted at the beginning of the plan period and compared to similar assessments undertaken at three-year intervals to determine whether new development is causing a change in the character of these areas.

5.5 TREES AND WOODLANDS

Structure Plan Context

Key Objective	Relevant Policy or Proposal
To protect and where possible enhance landscape character.	None applicable.

Local Plan Policy

<p>POLICY LP/N5</p> <p>TREES AND WOODLANDS</p> <p>a) <u>Development Affecting Trees or Woodlands</u></p> <p>Development will not be permitted if it will:</p> <ul style="list-style-type: none"> i. destroy one or more trees protected by a Tree Preservation Order, or, ii. lead to the loss of, or serious damage to, individual trees or woodlands of significant ecological, recreational, shelter or landscape value, <p>unless the removal of one or more trees would:</p> <ul style="list-style-type: none"> i. be in the interests of good arboricultural practice, or: ii. the necessity of the proposed development outweighs the amenity value of the protected tree or trees. <p>If the removal of one or more trees is permitted as part of a development, a condition may require that an equivalent number, or additional new trees be planted on, or near the site.</p> <p>b) <u>Creation of TPOs</u></p> <p>The Council will consider the use of Tree Preservation Orders to protect groups of trees or individual trees, which make a significant contribution to the character and amenity of an area. For Kirkwall and Stromness, areas of search have been defined on the Proposals Maps where consideration will be given to the creation of additional Tree Preservation Orders.</p> <p>c) <u>Trees in Conservation Areas</u></p> <p>Felling, lopping, topping or other work to trees in Conservation Areas will only be permitted in exceptional circumstances of public safety when their immediate removal is required, or the tree in question detracts from, rather than enhances the urban landscape. Applications for treeworks within the Conservation Areas which involve the felling or pollarding of a tree which is important to the character of the area will result in the tree or trees being recommended for protection by a Tree Preservation Order.</p> <p>In cases where a tree is removed within the Conservation Areas it will normally be a condition of any consents that an equivalent number, or additional new trees be planted on or near the site and satisfactorily maintained to establishment.</p> <p>d) <u>Trees adjacent to Development Sites</u></p> <p>In all cases where development is proposed adjacent to existing trees, conditions will be applied to the consent to ensure that the trees are adequately protected during the construction phase of the development.</p>

Background and Issues

5.5.1 Trees and woodland are a rare commodity in Orkney but where they exist they represent a valuable landscape, nature conservation and recreation resource, as well as contributing to the setting and attractiveness of the townscapes in particular. National planning policy requires Local Plans to include policies to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality.

5.5.2 In recent years there has been mounting concern over the diminishing number of old trees within the historic urban centres within the County, and the lack of new and replacement trees. Incremental removal of trees, especially within Kirkwall Conservation Area, coupled with a lack of young trees being planted as replacements, will result in the character of these areas being irrevocably changed unless action is taken.

5.5.3 The Council considers some trees worthy of protection from development and the policy ensures that in areas where trees are an important part of the character or amenity of the area, the number and impact of trees is maintained. Development should not adversely affect the limited extent of woodland within Orkney, and the Planning Act allows Councils to safeguard trees or woodlands by means of Tree Preservation Orders (TPOs) where this appears expedient in the interests of amenity. Currently in Orkney, trees in St Margaret's Hope and Finstown are covered by TPOs.

Implementation and Monitoring

5.5.4 It is a requirement that those wishing to carry out works to trees protected by a TPO, formally apply to the Council for permission to undertake the works. The use of TPOs will only be considered where, in the opinion of the Council, individual or groups of trees are in good condition and make a positive contribution to local amenity so making them worthy of protection.

5.5.5 Where trees are an important feature of a development site, planning applications will be accompanied by a tree survey plotting positions and crown spreads accurately and identifying the species. Plans for new development should make provision for the retention of trees and be supported by landscaping schemes, which include tree planting. Planning conditions and management agreements will be used to give protection to trees during and after site-works and to ensure their long-term management. Tree Preservation Orders will be used to secure the protection of trees which have a significant impact on the urban landscape.

5.5.6 Poor tree surgery and arboricultural practice can cause irreparable damage to trees and it is recommended that, to ensure best practice, a qualified arboriculturalist or tree surgeon is used to undertake major tree works. Root disturbance to trees retained on site can kill trees and best practice, such as protection of the trunk from accidental damage and avoidance of compaction of the root zone, should be adopted by developers when working adjacent to retained trees.

5.5.7 It should be noted that a Forestry Authority Felling Licence may be required for trees in excess of 5 tonnes (approx. 5 cubic metres in volume) where that tree or trees are not within a garden or public space, or the removal of the tree is permitted by a valid planning consent.

5.5.8 The success of preserving trees in the County will be assessed through recording the net loss or gain of trees within Conservation Areas or in areas where Tree Preservation Orders are extant as a result of development.

