

# PART 1

# THE POLICIES



## 2. DEVELOPMENT CONTROL



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## 2.1 ASSESSMENT OF DEVELOPMENT

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>All objectives.</i>	<i>All policies and proposals.</i>

### Local Plan Policy

<p><b>POLICY LP/DC1</b></p> <p><b>CRITERIA FOR DEVELOPMENT</b></p> <p>In considering (a) all planning applications for development proposals and change of use; and (b) all prior notifications for agriculture, forestry or utilities development, the Council will seek to ensure that:</p> <p>a) <b>THE AMENITY OF THE AREA IS PROTECTED</b> - development must not result in an unacceptable level of disturbance, or have an unacceptably adverse impact on the amenities enjoyed by adjacent and/or nearby residents or land users as a result of one or any combination of the following effects: noise; vibration; smell; fumes; smoke; soot; ash; dust; grit; height; mass; privacy; proximity; excessive traffic congestion; or any other form of disturbance;</p> <p>b) <b>THE DEVELOPMENT IS APPROPRIATELY LOCATED, SITED AND DESIGNED AND CAN BE INTEGRATED IN THE LANDSCAPE</b> - the development must be appropriately sited and designed in its own right and in relation to its setting, having regard to the following: the natural characteristics of the site; site placement and orientation; size, scale and massing; density, layout and appearance; use of materials and colours;</p> <p>c) <b>ADEQUATE VEHICLE ACCESS AND PARKING IS PROVIDED</b> - the road network should be able to cope with any extra traffic generated and any new development should not have a detrimental effect on road safety or capacity through impairing the free flow of traffic or road safety, intensification of use of an existing junction, insufficient on-site vehicle parking facilities or direct access onto an “A” class or Principal road (unless a speed limit is in force). Where appropriate, adequate provision should also be made for delivery vehicles and parking for disabled and other vulnerable groups;</p> <p>d) <b>UNACCEPTABLE DAMAGE TO THE ENVIRONMENT DOES NOT RESULT</b> - development should not have an unacceptably adverse impact upon land or buildings designated for their natural heritage or historical environment interest, or their setting; result in the loss of land of recreational or amenity value; result in an adverse effect on the water environment; or affect a site of general importance for wildlife conservation, scientific interest, archaeological significance or tourism value;</p> <p>e) <b>CONFLICT WITH ADJOINING USES IS AVOIDED</b> - the development will not conflict with an allocated or approved land-use proposal in the surrounding area, or be prejudicial to the comprehensive development of a large area of which the proposed development forms a part; and,</p> <p>f) <b>UNDUE BURDENS ARE NOT PLACED ON INFRASTRUCTURE</b> - the proposed development site is capable of accessing utilities such as electricity, water and sewage disposal facilities, and will not place undue burdens upon their capacity.</p>
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## **Background and Issues**

2.1.1 National planning guidance requires Local Plans to set out detailed policies for the development and use of land in order to guide day-to-day planning decisions.

2.1.2 The purpose of this general development policy is to provide a basic framework of guidance in the assessment of all planning applications and prior notifications. It aims to ensure that all development is of satisfactory quality, efficient in its use of resources, and is well integrated into its surroundings in physical and visual terms.

## **Implementation and Monitoring**

2.1.3 The Council will consider, as a minimum, all the criteria in the above policy when determining all planning applications and prior notifications.

## 2.2 LOCATION, SITING AND DESIGN

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>All objectives.</i>	<i>All policies and proposals</i>

### Local Plan Policy

<p><b>POLICY LP/DC2</b></p> <p><b>LOCATION, SITING AND DESIGN</b></p> <p><b>All new development will be expected to have particular regard to the character, nature and vernacular heritage of the surrounding area and must be well integrated into the landscape by virtue of its location, design, siting and use of building materials. Development which appears intrusive visually, incongruous, or exposed, by virtue of its location, scale, proportions, materials, colour or design, or harms the characteristic appearance of the landscape will not normally be permitted. Development at inappropriate locations including those which dominate the landscape or contribute to ribbon development will be resisted.</b></p> <p><b>In all instances regard must be had to the guidelines contained in design guidance produced by the Council or other relevant national design guidance and good practice.</b></p>
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### Background and Issues

2.2.1 National planning policy emphasises that architectural design, siting and setting of development in its surroundings are valid concerns of the planning system. Good design should be the aim of everyone involved in the planning and development process.

2.2.2 The most obvious impact of development on the environment is on its appearance. It is therefore very important that the best possible design for development in relation to its surrounding area is achieved. Poor siting and design compromises the quality of the environment, causing irreparable damage and resulting in developments that dominate the landscape and exacerbate ribbon development on the periphery of towns.

2.2.3 The purpose of this policy is to uphold a high quality of design in new development throughout Orkney. The standards of layout, design and materials used in new developments, including re-developments and alterations, have a significant impact on the amenity and character of the surrounding area, whether in the towns and villages or in the countryside.

### Implementation and Monitoring

2.2.4 It is important that all development proposals are specified to the highest standards of layout, design and materials. The Development and Protective Services Department will promote better design of all development in the County through the assessment of applications received against any design guidance produced by the Council or any other relevant national design guidance or good practice.

2.2.5 Monitoring of this policy will be carried out through analysis of the number of planning applications recommended for refusal on siting and design grounds.

## 2.3 ENERGY

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>To assist in the promotion of warm, dry, energy efficient housing.</i>	<i>Policy SP/DS5 - Assessment of Strategic Proposals</i>

### Local Plan Policy

<p><b>POLICY LP/DC3</b></p> <p><b>ENERGY CONSERVATION AND EFFICIENCY</b></p> <p><b>The Council will continue to promote and encourage energy efficiency when assessing development proposals. The siting and design of buildings should have regard to form, orientation and layout in order to maximise the benefits of passive solar heating and natural light.</b></p> <p><b>All planning applications must be accompanied by a statement indicating the energy conservation measures to be incorporated in the design and layout of the development in light of any constraints on the development site.</b></p>
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### Background and Issues

2.3.1 National planning policy emphasises that development plans provide an important means of integrating energy considerations into the planning process.

2.3.2 The purpose of this policy is to ensure that new developments are as efficient in their energy use as possible. There is an increasing awareness of the need to conserve energy and make the most efficient use possible of energy consumed. Buildings are sources of high-energy consumption but often low in energy efficiency. It is important to ensure that any new developments are built with energy efficiency and conservation in mind. It is possible to design buildings, which, through sensible orientation, design and insulation, are more energy efficient than those developed in the past.

### Implementation and Monitoring

2.3.3 Applications for new developments will be encouraged to adopt good practice in energy conservation. Developers are encouraged to seek assistance from the Orkney Energy Advice Centre.

2.3.4 The number of new buildings being advised by the Energy Advice Centre or incorporating energy conservation measures will be a measure of the success of this policy.

## 2.4 LANDSCAPING

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>All objectives.</i>	<i>All policies and proposals</i>

### Local Plan Policy

<p><b>POLICY LP/DC4</b></p> <p><b>LANDSCAPING ASSOCIATED WITH NEW DEVELOPMENT</b></p> <p>Where appropriate, development proposals will be required to make satisfactory provision for landscaping in order to assimilate the development into its local landscape context. Development proposals should:</p> <ol style="list-style-type: none"> <li>a) include soft and hard landscaping proposals as an integral part of the development;</li> <li>b) be of a scale and type appropriate to the development itself and to the character of the surrounding area, and relate to the development and its landscape setting;</li> <li>c) respect and, where appropriate, retain and protect existing landscape features;</li> <li>d) ensure that a programme for the planting of the agreed landscaping proposal, is approved by the Planning Authority and thereafter adhered to;</li> <li>e) ensure that suitable arrangements are made for the long term management and maintenance of the agreed landscape proposals to the satisfaction of the Planning Authority;</li> <li>f) retain existing stone dykes wherever possible, and continue the use of stone dykes as a boundary treatment where evidence of existing stone dykes exists within the development site; and,</li> <li>g) retain tree belts/shrubbery wherever possible.</li> </ol>
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### Background and Issues

2.4.1 National planning policy requires developers to aim for a high quality of landscaping and design in all new developments. The negative impact of development on its surrounding environment can often be significantly reduced through appropriate landscaping.

2.4.2 Every development stands in a setting or context within the existing landscape and the shape of the spaces surrounding the development gives a sense of place. The purpose of this policy is to ensure that all developments are accompanied by appropriate landscaping to minimise their visual intrusion, and help them integrate with and where possible enhance their surroundings. Consideration of the impact of the whole development, rather than just the footprint of any building works, is required from the developer and the relationship between the development and its setting is critical to the success of its design.

### Implementation and Monitoring

2.4.3 All planning applications should be accompanied by an appropriate landscaping scheme. The nature of that scheme will vary depending on the nature of the development. For single house developments within a self build scheme, details of boundary treatments and access may be all that is required, while extensive soft and hard landscaping proposals backed by landscape assessments and statements of the design logic of the scheme would be appropriate for major development proposals. A higher requirement will be placed on commercial developments with respect to their landscaping proposals than to domestic properties where landscaping will develop through the development of gardens.

2.4.4 Depending on the scale of development, issues such as the creation or maintenance of habitat, shelter, screening, recreational and amenity open space, footpath and cycle routes, reduction of public nuisance, security and “sense of place”, should be addressed. For the avoidance of doubt, the Planning Authority will generally support and encourage the planting and retention of native plant species.

2.4.5 Monitoring of this policy will be undertaken by a quantitative assessment of the number of applications that include appropriate landscaping proposals and a qualitative assessment of their impact on the local landscape.

## 2.5 DEVELOPMENT BRIEFS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>Policy SP/DS5 - Assessment of Strategic Proposals</i>

### Local Plan Policy

<p><b>POLICY LP/DC5</b></p> <p><b>DEVELOPMENT BRIEFS</b></p> <p>Development Briefs will be required for major housing and other development sites considered to be of strategic importance. The development brief will assist the phased development of large sites, and will address the following requirements:</p> <ul style="list-style-type: none"> <li>a) an indicative layout showing the proposed position and orientation of buildings within the site and topography (where relevant, this should indicate details of any changes in the level of the existing ground);</li> <li>b) building density, type, massing and design;</li> <li>c) any phasing proposed for the development;</li> <li>d) an indicative road, foot-way and cycle network layout;</li> <li>e) means of accommodating the parking standard requirements;</li> <li>f) indication of site access points and associated works required to accommodate traffic generated by the development and ensure road safety;</li> <li>g) identification of the works required to achieve satisfactory water supply, sewerage and drainage incorporating the principles of sustainable urban drainage, where appropriate, and accommodate electricity sub-stations where necessary;</li> <li>h) lighting;</li> <li>i) a programme of intended landscaping and boundary treatment works;</li> <li>j) energy conservation measures;</li> <li>k) sustainable building practices;</li> <li>l) sketch elevations of buildings, indicating external finishes;</li> <li>m) where appropriate, archaeological assessment; and,</li> <li>n) for housing sites, the proportion of affordable housing, open space and play area provision.</li> </ul> <p>Potential developers should prepare development briefs for discussion with, and consideration by, the Department of Development and Protective Services in advance of submitting any applications for planning permission.</p>
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### Background and Issues

2.5.1 National planning policy emphasises the role of supplementary guidance such as development briefs in the planning process e.g. providing a level of detail which cannot be included in a Local Plan. Development briefs can also be effective in promoting specific opportunities for development.

2.5.2 The Local Plan provides for a range of development opportunities throughout the County. Irrespective of where the development is proposed, it is important that careful consideration is given to design and layout elements, to ensure that the completed development relates well to the surrounding area.

2.5.3 The purpose of this policy is to allow for the development of major new development sites in a co-ordinated and phased manner. Specifying the key development issues to be addressed for particular sites removes doubt both on the developers part and also provides planning staff with clear guidance on the issues that should be considered.

2.5.4 It is important that major new development sites are brought forward in a co-ordinated manner, with the necessary infrastructure available, and integration into the existing environment considered from the outset. Many of the larger housing sites will take many years to develop and it is also important that these sites are programmed in a phased manner.

### **Implementation and Monitoring**

2.5.5 Implementation of this policy will be done through the preparation of development briefs for the required sites. For certain large developments or sites within environmentally sensitive locations, development will only be allowed to proceed in accordance with a development brief. In consultation with Scottish Water, the Housing Association, and the Roads Authority, the Planning Authority will identify a list of strategic sites for the preparation of development briefs, to be prepared by the planning authority in consultation with the relevant agencies and local community.

2.5.6 Monitoring of this policy can be carried out through reviewing the numbers of development briefs that have been prepared against the total number required.

## 2.6 IMPACT ASSESSMENTS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>Policy SP/DS6 - Impact Assessments</i>

### Local Plan Policy

<p><b>POLICY LP/DC6</b></p> <p><b>DEVELOPMENT IMPACT ASSESSMENTS</b></p> <p>In line with the requirements of the Environmental Impact Assessment (Scotland) Regulations 1999 planning applications for development proposals and changes of use which fall within Schedule 1 or Schedule 2 of the Regulations will be required to submit an Environmental Impact Assessment (EIA). For development proposals not contained within these schedules, the Council may require submission of comprehensive impact assessments of the following where appropriate:</p> <ol style="list-style-type: none"> <li>a) <b>Air Quality Assessment</b> - in assessing the impact of development on air quality, the Council will have regard to the objectives of the Air Quality Strategy for Orkney, and the results of air quality reviews, assessments and action plans;</li> <li>b) <b>Landscape Character Assessment</b> - development proposals should follow the guidance provided by the Orkney Landscape Character Assessment as to how types of development might best be fitted into the landscape;</li> <li>c) <b>Landscape and Visual Impact Assessments</b> - where the landscape and visual impacts of a proposed development are considered by the Council to be significant, submission of a Landscape and Visual Impact Assessment will be required;</li> <li>d) <b>Transport Assessments</b> - where the transport impacts of a proposed development are considered by the Council to be significant, submission of a Transport Assessment will be required, including, where appropriate, a Green Transport Plan;</li> <li>e) <b>Retailing Impact Assessments</b> - retailing proposals in excess of 750m<sup>2</sup> gross floorspace must be supported by a Retail Impact Assessment;</li> <li>f) <b>Archaeological Assessment</b> - where development is permitted in areas known or suspected to contain significant archaeological deposits, appropriate expert assessment of any archaeological remains must be undertaken;</li> <li>g) <b>Flood Risk Assessments</b> - in areas where flooding is known or suspected, the Council will take cognisance of SEPA's recommendations on relevant applications and will require developers to submit Flood Risk Assessments where appropriate.</li> <li>h) <b>Ecological Assessment</b> – where an application is received for development in an area known or suspected to contain or support habitats or species of international, national or local importance (including Biodiversity Action Plan species and habitats), an appropriate expert assessment of the impact of the development upon these assets must be undertaken; and</li> <li>i) <b>Geological/Geomorphological Assessment</b> – where an application is received for development in an area known or suspected to contain sensitive geological or geomorphological (physical form) features, an appropriate expert assessment of the impact of the development upon these assets must be undertaken.</li> </ol>
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## **Background and Issues**

2.6.1 Protecting and enhancing the quality of the environment is a key objective of the planning system. The impact on the environment from development proposals varies according to the type of development, and in many instances it may be appropriate to seek further information on a potential impact.

2.6.2 Much can be done to assess the full implications of a development proposal. The potential impact of varying types of proposed developments can be assessed by undertaking more detailed and specific impact assessments. The best known of these is the environmental impact assessment (EIA) which identifies the environmental effects of development proposals. For the development of certain types of project, there is a statutory requirement to undertake an EIA and produce an Environmental Statement contained within Environmental Impact Assessment (Scotland) Regulations 1999. Other impact assessments may be required for developments considered by the Council to be major, and may cover issues such as retailing and transport.

## **Implementation and Monitoring**

2.6.3 For applications where significant impacts are anticipated, more detailed assessments will be required as information supplementary to the planning application.

2.6.4 The policy will be monitored by analysing the number of applications where EIAs were required as part of the planning application, and a qualitative assessment of the impact of the development in light of the findings of that EIA once completed.

## 2.7 ADVERTISEMENTS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>None applicable.</i>

### Local Plan Policy

<p><b>POLICY LP/DC7</b></p> <p><b>ADVERTISEMENTS &amp; ADVANCE INFORMATION SIGNS</b></p> <p>Proposals for the erection of advertisement signs, free standing advertisements or directional signs (requiring advertisement consent) in the countryside for business premises or tourist facilities that are located outwith towns and villages will be considered under the following criteria:</p> <ol style="list-style-type: none"> <li>a) advertisements must relate to the location at which they are displayed and be in keeping with the character of the building to which they are attached and/ or the area in which they are located;</li> <li>b) excessive or badly arranged advertisements which cause unsightly clutter will not be permitted;</li> <li>c) advertisements which could be detrimental to road safety will not be permitted,</li> <li>d) proposals for directional and free standing signs must meet the following criteria:               <ol style="list-style-type: none"> <li>i. the application must prove the necessity for the sign in the proposed location, and will be refused permission if the sign is not located in the vicinity of the nearest main road, or would have a detrimental effect on road safety;</li> <li>ii. the business premises must not be visible from the main through routes;</li> <li>iii. each proposed sign must be high quality in design and must not detract from the amenity of the area; and, in the National Scenic Area, Areas of Great Landscape Value, Areas of Particularly Attractive Countryside, and within the World Heritage Site zone of visual influence, special consideration must be given to each individual application.</li> <li>iv. each sign must be non-illuminated;</li> <li>v. a communal sign must be used where possible; and,</li> <li>vi. in the case of a tourist facility, it shall meet the definition for a Scottish Tourist Board “tourist attraction”.</li> </ol> </li> </ol> <p>Within conservation areas there will be a preference for the enhancement of original painted lettering and enamelled advertisement signs.</p>
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### Background and Issues

2.7.1 The Council as planning authority has powers to control the appearance and location of advertisements through the 1984 Control of Advertisements Regulations. Advertisements, which include freestanding billboards, advance signs, shop fascia and projecting signs are potentially intrusive elements, resulting in a loss of character and amenity. Their erection may compromise the amenity of the natural and built environment in terms of their size, appearance and number, and controls aim to minimise these impacts. Not all advertisements require advertisement consent. For example, signs erected on owner-occupied land do not

necessarily require consent, provided that they are within prescribed size limits. On roadside verges the Roads Authority has control, and in this situation, businesses that are a tourist attraction may be allowed a Scottish Tourist Board directional sign, provided that they meet certain specified criteria. For signs in the countryside that require advertisement consent, the policy above will apply.

2.7.2 The purpose of this policy is to control development of advertisements, allowing for the display of information, without loss of character, amenity or safety. The tourist trade's dependence on ensuring visitor access by road results in the need for greater use of signposts. Potential conflict between protection of amenity and promotion does however exist and the number of signs erected should be kept to a minimum, with communal signs used where possible. A standard approach to size and quality of design should also be used to minimise their visual intrusion within the landscape.

### **Implementation and Monitoring**

2.7.3 Planning applications for advertisements and advance information signs not meeting the criteria of the policy will be refused. Particular attention will be paid to those proposed in conservation areas and tourism signs.

2.7.4 In monitoring the policy, a survey should be undertaken to establish the location of the signs, the number being permitted and the overall quality of design. Enforcement action should be taken for any signs adding to road traffic problems or creating a hazard.

## 2.8 LIGHTING AND STREET FURNITURE

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>None applicable.</i>

### Local Plan Policy

<p><b>POLICY LP/DC8</b></p> <p><b>LIGHTING AND STREET FURNITURE</b></p> <p>a) <b><u>Lighting</u></b></p> <p>The Council will ensure that all new developments have an appropriate design and amount of lighting, which is sensitive to the surrounding area, especially in conservation areas. Lighting schemes for new developments will be assessed against the criteria defined by the Institute of Lighting Engineers for zones of varying environmental sensitivity.</p> <p>b) <b><u>Street Furniture and Paving</u></b></p> <p>The Council will support the introduction of street furniture within the town centre areas of Kirkwall and Stromness that is of a high quality design, unified in theme, and is in keeping with the character of the conservation areas. Traditional paving materials and landscape features that contribute to the appearance of the town centres will be retained, and, where possible, enhanced.</p> <p>Street furniture within developments outwith these areas will be designed to respect the design of the built fabric, its setting and the character of the wider area.</p> <p>c) <b><u>Enhancement of Streetscape</u></b></p> <p>A programme to identify and enhance streetscape features will be identified through the Town Centre Management Partnerships and developments affecting important elements of the streetscape will only be permitted if the elements are retained and, where possible, enhanced.</p>
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### Background and Issues

2.8.1 Street lighting is an essential part of the design of developments, providing security and safety for residents. This should be achieved without unnecessary light pollution, which can range from a pervasive sky glow within urban or developed areas which obscures the brightest objects in the night sky, to the glare from unnecessarily bright security lights. Street lighting should also take into account the wider streetscape, particularly where this contains designated conservation areas and listed buildings. Orkney Islands Council fully supports the dark skies initiative.

2.8.2 In assessing proposals for new lighting schemes, the environmental impacts will be assessed against the criteria defined by the Institute of Lighting Engineers which establishes a number of zones of varying environmental sensitivity:

Zone E1 – ‘Intrinsically dark areas’ to include the uninhabited isles, Hoy (excluding the area designated as Developed Coast around Lyness), areas defined as Isolated Coast, all Natura 2000 sites, SSSIs, nature reserves and sites of local nature conservation interest;

Zone E2 – ‘Low district brightness areas’ to include all areas of the north isles, linked and unlinked south isles not included in Zone E1 (except those parts of Hoy and Flotta

defined as developed coast), all areas of East and West Mainland (excluding rural settlements, villages and towns) not included in Zone E1;

Zone E3 – ‘Medium brightness areas’ to include defined villages and rural settlements, those parts of Hoy and Flotta defined as developed coast; and,

Zone E4 – ‘High brightness areas’ to include areas within Kirkwall and Stromness town boundaries.

The Council’s Dark Skies Policy should also be referred to in the design and installation of any street lighting scheme.

2.8.3 Unsympathetic changes to historic streets and spaces have eroded local character and materials, destroyed the traditional street patterns and resulted in unnecessary street clutter. The policy encourages the use of traditional paving and the siting of high quality street furniture in Kirkwall and Stromness to enhance the urban environment. Street furniture includes bollards, columns, traffic signs, planters, seats, litter bins, statutory undertakers apparatus and other permanent structures in the footway/shared surface i.e. telephone kiosks, post boxes etc.

#### **Implementation and Monitoring**

2.8.4 A programme to improve street furniture will be included as an integral part of the projects to be proposed by the Town Centre Management Partnerships. Advice will be provided by the Council to developers on appropriate designs of lighting and street furniture, where appropriate.

2.8.5 The urban environment will continually be monitored for potential improvements which could be carried out to the streetscape. The success of the policy will be assessed on the quality of the resulting environment.

## 2.9 MOBILITY IMPAIRED ACCESS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>None applicable.</i>

### Local Plan Policy

<p><b>POLICY LP/DC9</b></p> <p><b>TRANSPORT AND ACCESS FOR THE MOBILITY IMPAIRED</b></p> <p><b>The Council will assess all submitted planning applications for potential implications related to use by the disabled, whether with sensory, mobility or mental disability. All developments demonstrating a need for access, such as public buildings and retail outlets, will provide adequate access of a design which does not affect the character or setting of the building, and/or the character or setting of any designated conservation area.</b></p> <p><b>In all cases developers will be encouraged to provide barrier free environments.</b></p> <p><b>The Council will also encourage and support initiatives that promote transport opportunities for the mobility impaired, and recommend that developers consult with the Orkney Disability Forum at an early stage in the planning process. Adequate parking provision should be made for the disabled and other vulnerable groups, and developers will be expected to comply with all relevant legislation and standards relating to the provision of access for the disabled.</b></p>
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### Background and Issues

2.9.1 The Disability Discrimination Act 1995 aims to provide disabled people with an equal opportunity to access goods and services based on the principle that disabled people should be treated no less favourably than other people. Developments should therefore ensure equal access opportunities to public buildings and shops in line with this legislation, and should reduce the number of barriers faced by users of those developments. This should also include for members of the wider community with access impairments, such as the elderly and those with pushchairs.

2.9.2 Problems may arise when trying to provide improved access to listed buildings, and in developing such schemes, a key principle should be to minimise intrusive alterations both internally and externally. Flexibility and pragmatism will often result in improved access without adversely affecting the building's architectural quality. Reference should be made to section 4 of Appendix 1 of the Memorandum of Guidance on Listed buildings and Conservation Areas (Historic Scotland 1998).

### Implementation and Monitoring

2.9.3 The issue of access, including the provision of suitable parking facilities for the mobility impaired, will be a key consideration in assessing planning applications for development requiring public access. Particular attention should be paid to layout and design elements that promote equal access to all members of society.

2.9.4 Access to public transport should also be addressed when specifications for new ferries and buses are being drawn up. All public transport introduced since 1999 requires full accessibility by disabled people, including those travelling in wheelchairs. Access in and around streets can also be difficult, and increased provision of dropped kerbs and appropriately located street furniture can assist.

2.9.5 Monitoring the number of public buildings with access for the mobility impaired, numbers of ferries and buses with adequate access, and the number of improvements made to street crossings to allow easier usage can be used to judge the success of the policy. The number of key developments incorporating access for the mobility impaired as part of their plan will signify the success of the policy.

## 2.10 CONTAMINATED LAND

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>Policy SP/DS5 - Assessment of Strategic Proposals</i>

### Local Plan Policy

<p><b>POLICY LP/DC10</b></p> <p><b>CONTAMINATED LAND</b></p> <p><b>Development on or adjacent to land that is known to be, or may be, contaminated, will only be granted where:</b></p> <p>a) the applicant has demonstrated that the potential for contamination has been properly assessed; and,</p> <p>b) the development will incorporate any necessary remedial measures, preferably dealing with the contamination through in-situ remedial measures.</p> <p><b>Where necessary, the Council will require appropriate remedial measures to be undertaken to overcome any identified problems, prior to the commencement of the development.</b></p>
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### Background and Issues

2.10.1 In preparing Local Plans, national planning advice requires planning authorities to encourage and promote the re-use of brownfield land, including contaminated sites. The Structure Plan in promoting sustainable development encourages strategic proposals to promote the full and effective use of previously developed sites, so reducing the need for greenfield sites.

2.10.2 The purpose of this policy is to support new development on contaminated land, thereby effectively reducing the number of such sites within Orkney, whilst ensuring public health and safety is not compromised.

2.10.3 A new contaminated land regime, introduced in July 2000, requires the Council to identify contaminated sites in its area, so giving an accurate information base. However, using the definition of "contamination" in the legislation, only the most seriously contaminated land will be identified. This will therefore only capture sites causing serious risk to either human health or the environment, and it is unlikely that many sites in Orkney will meet this definition. Certain areas such as military sites will however need careful investigations.

### Implementation and Monitoring

2.10.4 Before a planning application is made for a site with suspected contamination, discussion between the Planning Authority, the developer, the Council's Environmental Health division, SEPA, and any other interested party is encouraged to identify the likely scale of the contamination, and the most appropriate remediation measures.

2.10.5 All development proposals should be supported by appropriate survey information detailing the extent and nature of the contamination, the resultant implications for development, and possible remedial measures. Where initial investigations reveal significant levels of contaminants, a site specific risk assessment will be required from the developer. In the consideration of any planning application, the Planning Authority, using specialist advice where necessary, will assess if the developer has adequately identified the sources of contamination,

and proposed a suitable restoration scheme, with remedial works being carried out on-site where possible.

2.10.6 The policy will be monitored through recording the extent of contaminated land made available for a new use.

## 2.11 MINERAL APPLICATIONS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>To provide a planning framework for the extraction of minerals.</i>	<i>Policy SP/E8 - Minerals</i>

### Local Plan Policy

<p><b>POLICY LP/DC11</b></p> <p><b>MINERAL PLANNING APPLICATIONS</b></p> <p>The Council will require all planning applications for mineral development to be supported by the following detailed information concerning the proposals:</p> <p>a) details of the site, geology and mineral interest, characteristics and extent of the mineral reserve;</p> <p>b) details of the method of working including: total volume to be worked; rate of extraction and timescale for working the reserve; depth; direction of phasing and infilling; arrangements for soil stripping, storage and restoration; layout of the site including access, siting and design of any buildings on the site; hours of operation; traffic generation including volume, frequency and routing;</p> <p>c) economic justification for the proposal including the need for the mineral at local, county or national level; proposed markets and end uses; consideration of alternative or other sources of supply where appropriate; employment and other economic implications of the proposals;</p> <p>d) measures to protect local amenity including screening and landscaping; minimisation of pollution and environmental disturbance such as noise, dust, blasting, vibration, smoke and fumes; protection of groundwater and surface water; and,</p> <p>e) details of site reclamation, after-use and after-care.</p> <p>In addition, where necessary, the Council will require the submission of an Environmental Statement as required under The Environmental Impact Assessment (Scotland) Regulations 1999.</p> <p>In instances where an Environmental Impact Assessment is not required, the Council may require operators to submit an environmental analysis of the effects of the proposed working covering one or more of the following: possible impacts on people; flora and fauna; soil, air and water; landscape; cultural heritage; and agricultural interests.</p>
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### Background and Issues

2.11.1 To assist in the determination of mineral planning applications, adequate supporting information should be provided by all applicants. The level of supporting information should be such that all the impacts of, and need for, the proposal can be clearly evaluated.

2.11.2 The purpose of this policy is to consider all the possible implications of all mineral development, particularly those affecting the environment. Applicants are therefore required to provide full details of their proposals so that the full implications of the planning application can be identified and examined. Applicants are encouraged to enter pre-application discussions with the Council as Planning Authority to enable the early identification of potential constraints and solutions.

2.11.3 Restoration of redundant mineral sites must be considered at application stage to ensure appropriate afteruse is considered. Such end uses include waste disposal, nature conservation and recreation.

#### **Implementation and Monitoring**

2.11.4 Applicants should be aware that they should consult with SEPA to ensure that any application for planning permission for a mineral operation takes into consideration any requirements that SEPA as the regulatory authority will have under the Environmental Protection Act 1990 and the Prescribed Processes and Substances Regulations 1991.

2.11.5 Under the terms of the Environmental Impact Assessment (Scotland) Regulations 1999, the Council can request an Environmental Statement for certain developments, including those for “extractive industries”, where developments would create “significant” environmental effects. If a formal assessment is not considered necessary, the Council may still require operators to submit supporting environmental information. The range of information required is identified in the policy and will be a matter for pre-application discussions between the developer and the planning authority.

2.11.6 The policy will be monitored by recording the number of mineral planning applications which have not been registered because of a lack of supporting information.

## 2.12 SAFEGUARDED AREAS

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>None applicable.</i>

### Local Plan Policy

<p><b>POLICY LP/DC12</b></p> <p><b>SAFEGUARDED AREAS</b></p> <p><b>Development proposals that fall within the consultation distances associated with notifiable installations, pipelines or hazards will be referred to the appropriate agency for consultation, and will only be permitted if they do not result in an unacceptable risk.</b></p> <p><b>Planning permission will only be granted for development involving hazardous substances where there is no unacceptable risk to public health and safety and the development is located where there is no unacceptable risk to residential and other sensitive areas.</b></p>
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### Background and Issues

2.12.1 National planning advice requires planning authorities and environmental protection bodies to collaborate in the task of protecting the environment. This policy aims to ensure that the public and environment are protected from new or existing development, which would cause a nuisance, hazard or pollutant to them.

2.12.2 The Council is required to consult a number of statutory agencies such as the Health and Safety Executive (HSE) or the Civil Aviation Authority (CAA), where development proposals fall within the consultation zones of notifiable installations, or operations, such as pipelines, hazards and airports.

2.12.3 The Town and Country Planning (Aerodromes, Scotland) Direction 1982 makes it a statutory obligation to consult the CAA about certain planning applications that fall within designated safeguarded zones. Two sites, Kirkwall Airport and Kirkwall DVOR are safeguarded as civil aviation authority aerodromes and technical sites.

2.12.4 Certain industries and processes involve the manufacture, use and storage of products which may be dangerous. "Hazardous Substances Consent" is required for the presence of a defined hazardous substance such as liquid oxygen. This procedure is separate from the normal planning process, although both procedures are operated by the Council as Planning Authority. The Hazardous Substances (Scotland) Regulations 1993 specify the substances and the quantities to be controlled, and the procedures for obtaining consent.

2.12.5 The Health and Safety Executive advises the Council of the consultation distances necessary around notifiable installations, and the Council will consult HSE on any applications that are submitted within these consultation zones.

<b>Notifiable Installations</b>	<b>Consultation Distance</b>
a) <u>Chemical or other modified storage</u>	
Talisman, Flotta Terminal, Flotta	600m from the site boundary
John Scott & Miller, Hatston, Kirkwall	100m measured from the site boundary
J&W Tait, Sparrowhawk Rd, Hatston, Kirkwall	
b) <u>Pipelines</u>	
Flotta Pipeline	100m from pipeline
c) <u>Explosives</u>	
Walliwall Quarry, St Ola	450m
Cursiter Quarry, Finstown	550m
ro/ro terminals at Backaland, Eday; Egilsay; Flotta; Houton; Kirkwall; Lyness; Rousay; Shapinsay; Stromness; Stronsay; Tingwall; Sanday and Westray	Various Distances
Piers at Gibraltar, Flotta; East Pier, Kirkwall; North Ronaldsay; Papa Westray; Kettletoft Pier, Sanday; Scapa Pier; and Gill Pier, Westray	Various Distances

2.12.6 Two sites in Orkney are subject to the 'Control of Major Accident Regulations 1999/The Planning (Control of Major Accident Hazards)(Scotland) Regulations 2000'. These regulations impose duties at two tiers, according to the type and quantity of hazardous substances kept or used on site, including a requirement for local authorities to prepare off-site emergency plans. Under these regulations the Flotta Terminal is classified as a "top tier" site, and Highland Park Distillery is classified as a "lower tier" site.

#### **Implementation and Monitoring**

2.12.7 Consultation with the appropriate agencies will be undertaken by the planning authority in relation to development proposals, which fall within any consultation zones.

2.12.8 The Council as Planning Authority will rely on advice from the Health and Safety Executive in relation to risk and hazard, and if necessary, will call for an independent assessment by a specialist consultant.

## 2.13 ENFORCEMENT

### Structure Plan Context

<i>Key Objective</i>	<i>Relevant Policy or Proposal</i>
<i>None applicable.</i>	<i>None applicable.</i>

### Local Plan Policy

<b>POLICY LP/DC13</b>
<b>ENFORCEMENT</b>
<b>Development which has breached planning controls may be subject to enforcement proceedings requiring the breach to be removed or rectified where it is considered expedient to do so.</b>

### Background and Issues

2.13.1 Carrying out development without first gaining the required planning permission, or failing to comply with any condition or limitation attached to any planning permission, constitutes a breach of planning control. The Council has discretionary powers to take action against such breaches, having regard to the provisions of the development plan and any other material consideration.

2.13.2 The planning system operates to regulate development and use of land in the public interest, and must be consistent and transparent. The key objectives of planning enforcement are therefore:

- to remedy undesirable effects of unauthorised development; and,
- to bring unauthorised activity under control.

2.13.3 National planning advice states that it is essential that planning authorities strive to secure these objectives, so retaining the credibility of the planning system. The integrity of the development control process depends on the Council's readiness to take enforcement action when necessary.

2.13.4 The purpose of this policy is to raise awareness about enforcement as a key component of the planning framework, indicate the Council's commitment to enforcement, and reinforce enforcement as a mechanism for implementing planning policy.

### Implementation and Monitoring

2.13.5 The Council will produce an Enforcement Charter to establish the protocol for investigating alleged breaches and conducting enforcement procedures. It will investigate all alleged breaches of planning conditions, and where appropriate will pursue enforcement action. The form of action taken will be in proportion to the seriousness of the breach.

2.13.6 Monitoring unauthorised development will take place in the course of routine duties by Planning staff.