



ORKNEY
ISLANDS COUNCIL

Trees and Woodland



Planning Policy Advice
June 2017

(Original Approval April 2014)

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 01865873535.

www.orkney.gov.uk

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Introduction

1.1 BACKGROUND

Trees and woodland are relatively rare in Orkney, providing a valuable landscape, ecological and amenity resource. In addition they offer a valued contribution to the setting of Orkney's towns and villages.

Scottish Planning Policy requires development plans to include policies to protect trees, groups of trees and areas of woodland where they have high nature conservation value or contribute to the biodiversity, character or amenity of a particular locality.

1.2 PLANNING POLICY

This guidance accompanies **Policy 9 (F - Trees and Woodlands)** of the Orkney Local Development Plan (the Plan) which seeks to protect Orkney's trees and woodlands while facilitating positive development where appropriate.

POLICY 9: Natural Heritage and Landscape F- TREES AND WOODLAND

i. Development that would result in the loss of, or damage to, one or more trees protected by a Tree Preservation Order; or lead to the loss of, or damage to, individual trees or woodlands of significant ecological, landscape, shelter or recreational value will not be permitted unless:

- a) it would achieve significant and clearly defined benefits that outweigh any potential loss;
- b) an evaluation, to the appropriate British Standard (or a suitable standard to be agreed with the Planning Authority) of the ecological, landscape, shelter and recreational value of the tree(s) has been undertaken and it is concluded that the loss would be acceptable; and
- c) an additional or equivalent number of new trees are planted on, or near the site to an agreed standard and specification (species and maturity).

ii. Works to trees must not result in any unnecessary fragmentation of a green network.

In addition, it is important to ensure that your proposal meets with all of the other relevant policies in the Plan.

1.3 HOW TO USE THIS GUIDANCE

Applicants are encouraged to refer to this guidance at the earliest opportunity as it contains important information on how to manage the conservation of trees and woodland when considering a development.

In addition, this guidance outlines best practice to ensure that valued trees are safeguarded appropriately. Further information is provided on protected trees, highlighting the importance of effective maintenance, avoiding unnecessary felling or/ and uncontrolled 'lopping'.

This guidance is divided into 8 sections for ease of reference.

Section 2 – Value of trees and woodland

Section 3 – Relevant regulations and guidance

Section 4 – Protected Trees and Trees on Development Sites

Section 5 – Applying for Permission

Section 6 – Replacement Planting and Landscape Plans

Section 7 – Carrying Out Approved Works

Section 8 – Appendices and Further Information



Trees in the grounds of the Earl's Palace, Kirkwall

Value of Trees and Woodland



2.1 ENVIRONMENTAL BENEFITS PROVIDED BY TREES AND WOODLANDS

There is an increasing need to focus attention on trees and woodland and the role they play in maintaining and enhancing environmental benefits. They make a vital contribution to the landscape character and quality of both rural and urban environments, bringing colour and adding value and interest to greenspaces. The retention and preservation of trees close to, or within, new developments provides an immediate sense of maturity and shelter; softening built lines and helping development to integrate more effectively with its surroundings. Furthermore, trees are simply

enjoyed by people for their amenity value in gardens, parks and streets.

Whilst trees and woodland have their own intrinsic biodiversity value, they also support a wide range of other organisms including fungi, vascular plants, invertebrates, birds and small mammals and, over time, a species rich woodland ecosystem can develop. It is important to note that the Nature Conservation (Scotland) Act 2004 places a duty on all public bodies to further the conservation of biodiversity. In Orkney, the limited number of trees and mature woodlands emphasises the importance of their preservation for their biodiversity value alone.

In addition to their landscape and biodiversity value, trees and woodlands offer multiple benefits in terms of addressing the causes and effects of the “greenhouse effect”. Increasing levels of certain gases within the atmosphere, in particular carbon dioxide (CO₂), are reducing the rate of radiative heat loss and allowing temperatures around the world to rise. This phenomenon is expected to lead to a pattern of changing climates on a global scale. Trees perform a key service in combatting the greenhouse effect, by removing carbon from atmospheric CO₂ through photosynthesis, and storing it as cellulose while releasing oxygen back to the air.

The predicted changes to our climate include more frequent extreme weather events such as periods of heavy, prolonged rainfall and prevailing winds. During summer, average temperatures may also increase. Trees have an important role to play in natural flood

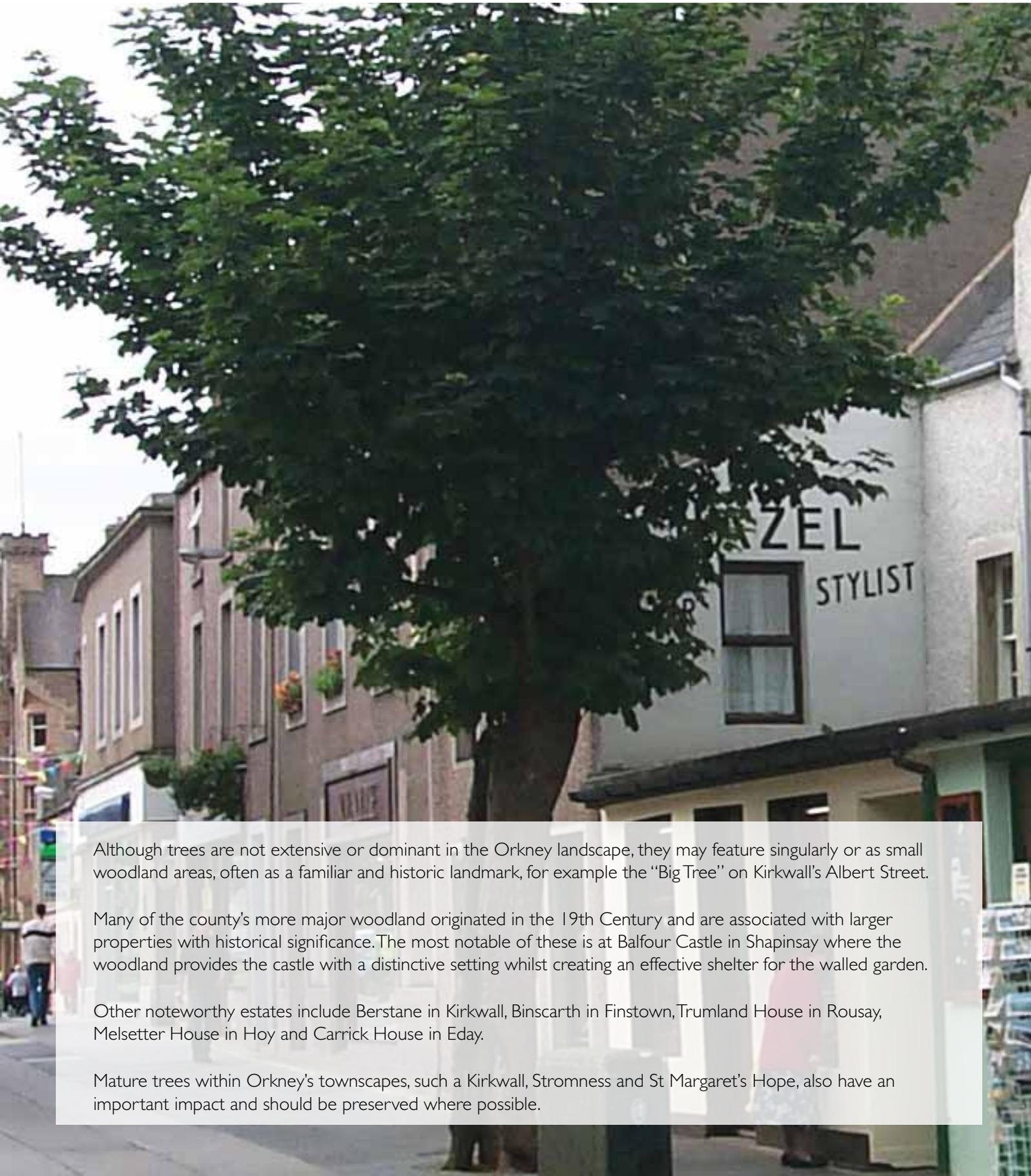
management by helping regulate water storage within the soil. In addition, their roots bind soils together, helping prevent erosion, especially during times of peak water flow.

2.2 HISTORICAL RELEVANCE

There is evidence to suggest that much of Orkney was previously covered by woodlands. Early clearance of native woodlands, followed by poor climatic conditions and intensive grazing, has led to the scarce distribution of trees throughout the county. The term ‘native’ is usually used to describe the species that developed after the last Ice Age (some 10,000 years ago) without the interference of human beings. For Orkney, these species are generally agreed to be Downy Birch, Hazel, Rowan, Aspen, Willows, Roses, Honeysuckle and Juniper.



Aspen growing on the cliffs at Waulkmill Bay, Orphir



Although trees are not extensive or dominant in the Orkney landscape, they may feature singularly or as small woodland areas, often as a familiar and historic landmark, for example the “Big Tree” on Kirkwall’s Albert Street.

Many of the county’s more major woodland originated in the 19th Century and are associated with larger properties with historical significance. The most notable of these is at Balfour Castle in Shapinsay where the woodland provides the castle with a distinctive setting whilst creating an effective shelter for the walled garden.

Other noteworthy estates include Berstane in Kirkwall, Binscarth in Finstown, Trumland House in Rousay, Melsetter House in Hoy and Carrick House in Eday.

Mature trees within Orkney’s townscapes, such as Kirkwall, Stromness and St Margaret’s Hope, also have an important impact and should be preserved where possible.

The “Big Tree” on Albert Street in Kirkwall. Photo taken in July 2001.



Tree Lined pathway at Balfour Castle

Statutory and Non Statutory Regulations

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3.1 TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

The Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, specifically charges local Planning Authorities with the following duties:

Section 159: “to ensure, wherever it is appropriate, that in granting Planning Permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees”

Section 160: “if it appears to a Planning Authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order”.

3.2 SCOTTISH PLANNING POLICY

Scottish Planning Policy (SPP) provides guidance on how land use planning can promote the conservation and enhancement of Scotland’s natural heritage through the Scottish Government’s policies.

SPP states that irreplaceable, high nature value resources such as ancient and semi-natural woodland should be protected and enhanced as should other native and long established woodlands.

SPP indicates that other woodlands, hedgerows and veteran trees may, as well as having a high biodiversity value, make a significant contribution to landscape character and quality, so should be protected from the adverse effects of development.

3.3 ORKNEY LOCAL DEVELOPMENT PLAN

The Orkney Local Development Plan refers to the protection of trees and woodland under **Policy 9(F)** when considering planning applications, which specifies that development that would result in the loss of, or serious damage to, one or more trees protected by a Tree Preservation Order; or lead to the loss of, or serious damage to, individual trees or woodlands of significant ecological, recreational, shelter or landscape value, will not be permitted unless it meets the criteria outlined within the policy.

3.4 ENVIRONMENTAL LEGISLATION

Certain forestry and woodland management-related operations can impact upon the water environment; these include drainage and related engineering works, as well as the storage and use of fertilisers. Inappropriate forestry planting can also lead to diffuse pollution, the introduction of invasive non-native species or changes to the structure of the water course where trees are planted too close to the banks.†

The Water Framework Directive (WFD) covers the protection of the water environment as detailed in the River Basin Management Plan (RBMP) for the Scotland River Basin District and the associated Orkney and Shetland Area Management Plan. In Scotland protection is achieved through the Water Environment (Controlled Activities) (Scotland) Regulations (CAR).

The overall aim of RBMP and the CAR regulations is to ensure all water bodies reach good ecological status by 2015 (or beyond if extended deadlines have been justified) and that there is no deterioration in ecological status. Further information in this respect is referenced in Section 8 of this document.



Gyre, Orphir

4

Protected Trees

There are 2 ways in which a tree is legally protected:

4.1 TREE PRESERVATION ORDERS

Tree Preservation Orders (TPOs) are made by a Planning Authority under the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 1975-84. They are an effective means of protecting individual trees, groups of trees or woodlands, where the removal of or damage to those trees could have a negative impact on the public amenity of an area. They form a legal constraint permanently attached to the title of the land where the trees are located.

Prior to commencement of works to a tree (pruning or felling), please contact Orkney Islands Council to check if it is legally protected by a TPO.



4.2 TREES IN A CONSERVATION AREA

Trees within a conservation area are protected as they provide an important contribution to the character and amenity of these areas. The Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 provides guidance for trees within Conservation Areas which are not already protected by a TPO. This states that Conservation Areas are areas of special architectural or historical interest with a character or appearance which is desirable to preserve or enhance. Trees within the Conservation Area boundaries often significantly enhance these areas.

In Orkney, there are 4 urban conservation areas; Kirkwall, Stromness, St Margaret's Hope and Balfour Village and 2 rural conservation areas at Brodgar and Eynhallow. Maps outlining the conservation area boundaries are shown in Appendix 1.

Contact should be made with Development Management at least 6 weeks prior to commencement of works to notify of such a proposal and to seek the necessary consent. There is no specific application form to be completed but the Planning Authority would welcome standard information, similar to that requested for an application to carry out works on a tree protected by a TPO as outlined under 5.1.



During this the 6 week period, The Planning Authority will consider the proposal and if deemed appropriate, they may decide to place a TPO on the tree(s). Alternatively, the Planning authority may not feel a TPO is necessary and inform the applicant to proceed with the works.

Exemptions to the requirements to give prior notice to the Planning Authority are set out in the Scottish Government's Planning Circular 1 2011: Tree Preservation Orders. See Section 8 for a link to this guidance for further detail.

Before any works can be carried out on a protected tree it is important that you contact Orkney Islands Council to seek guidance and the necessary consent. Failure to seek permission for works on a protected tree may lead to a fine of up to £20,000.

Trees on Development Sites

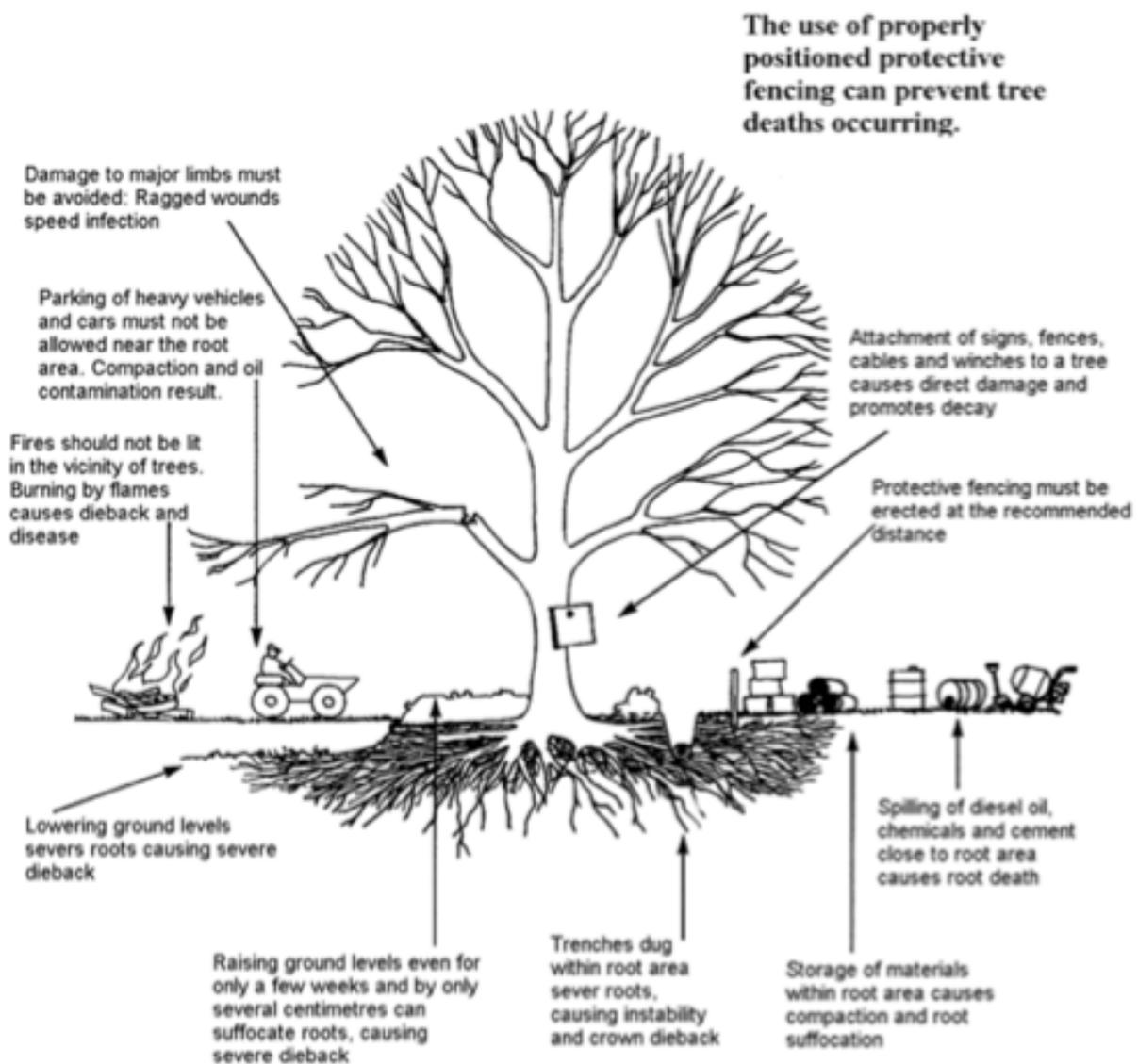
In addition to legal protection, the Planning Authority seeks to preserve trees within or near development sites.

4.3 PROTECTING TREES ON DEVELOPMENT SITES

When preparing a development proposal, the main aim should be to retain existing trees, avoiding non-essential felling or pruning. Retained trees require protection during construction on site; trees can be particularly vulnerable due to direct or indirect damage incurred. Damage to their branches, trunks or roots can cause lasting damage. Less obvious action such as compaction of the ground (eg by large machinery or materials) or roots being smothered by additional soil, can also have a lasting effect on the health of a tree.

Depending on the species of tree, damage caused may not always be immediately apparent meaning that professional advice prior to any works is imperative. The image below illustrates the negative effect works on a development site can have on a tree. The preparation of a Tree Protection Plan (see Section 5) can help alleviate such problems and preserve the life of the tree(s) on a development site.

Common causes of Tree Death





Applying for permission



Where it is acknowledged that permission is required prior to works on a tree, the applicant will have to prepare/collate the relevant information required by the Planning Authority in order to consider the application. The level of detail required to accompany an application can vary depending on the circumstances, so it is advisable to discuss with Development Management prior to submitting an application.

Below is a summary of the information and documentation you may be asked to provide, along with your application. The documents noted are described in further detail under 5.3.

To collate the required information, it is recommended that you seek guidance from a suitably qualified arborist.

5.1 PERMISSION FOR WORKS ON A PROTECTED TREE

If you are applying to fell or carry out pruning works on a protected tree, the Planning Authority would expect you to include the following information with your application:

- ✓ Description of proposed works and reasons why these works are required
- ✓ Tree Survey
- ✓ Site Plan
- ✓ Annotated photos of the trees showing the proposed works

Please refer to guidelines for consent regarding trees in Conservation Areas under Section 4.2.

5.2 PROTECTION OF TREES AND WOODLAND WITHIN OR ADJACENT TO A PROPOSED DEVELOPMENT

If there are trees within or near your proposed development site, the Planning Authority require the following to accompany your application:

- ✓ Description of proposed works and reasons why these works are required
- ✓ Tree Survey with Site Plan
- ✓ Tree Constraints Plan including Root Protection Area Calculation
- ✓ Proposed Site Layout Plan
- ✓ Tree Protection Plan

5.3 GLOSSARY OF REQUIRED DOCUMENTATION

Tree Survey and Site Plan

In all cases, whether it's permission to carry out works on a protected tree, or if your development is adjacent to trees or woodland, it is necessary to establish the condition and position of the tree(s).

In order to do this, a **Tree Survey** should initially be prepared.

On a scaled **Site Plan**, you should reference the trees by number and using the reference, provide the following information for each tree:

- Species
- Stem Diameter (cm)
- Branch spread
- Crown height
- Age class
- Structural condition
- Visible defects
- Management recommendations
- Tree constraints

To assess the condition of the tree(s), the Planning Authority consults guidance provided by the British Standard 5837:2012. Below is a summary of this guidance which an applicant would be expected to refer to, while conducting a Tree Survey. Please refer to the British Standard:2012 to read this guidance in full.

BS5837:2012 – ‘Trees in relation to construction – recommendations’

In this document, the quality and value of each tree is categorised as follows:

Category U: Unsuitable for retention

Trees in such condition that they cannot be realistically be retained as living trees in the context of the current land use for longer than 10 years.

Category A: Trees of High Quality

Trees with an estimated remaining life expectancy of at least 40 years.

Category B: Trees of Moderate Quality

Trees with an estimated remaining life expectancy of at least 20 years

Category C: Trees of Low Quality

Trees with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter of below 150 mm

Tree Constraints Plan and Root Protection Area

The *Tree Constraints Plan* should be prepared to show how the existing trees, suitable for retention, will be effectively maintained in the proposed site layout.

This plan should show the position of the trees and the Root Protection Area (RPA) to be left undisturbed and protected. Please seek professional guidance when calculating the RPA.

In addition, the crown spread of the trees and the extent of shading on the ground should be noted. Occasionally, trees that are larger in size and are particularly unstable can impose safety issues so it may be necessary to assess their movement in strong winds and general dominance in the proposed development.

Proposed Site Layout Plan

As well as the foundations and construction of a development, developing the access routes and laying services may disturb the roots of a tree. With this in mind, all aspects of the development, above and below the ground have to be carefully considered and planned for from the outset with the aid of a Site Layout Plan.

This document should note:

- ✓ Development Area (location of proposed buildings)
- ✓ Tree Positions
- ✓ Proposed access routes within Development (roads, pathways etc)
- ✓ Proposed service routes (placing of cables and pipework)

Tree Protection Plan

The appropriate measures intended to protect retained trees during constructions should be detailed in the Tree Protection Plan. This should include the position and specification of protective barriers, which should be located outside the RPA as identified in the Tree Constraints Plan.



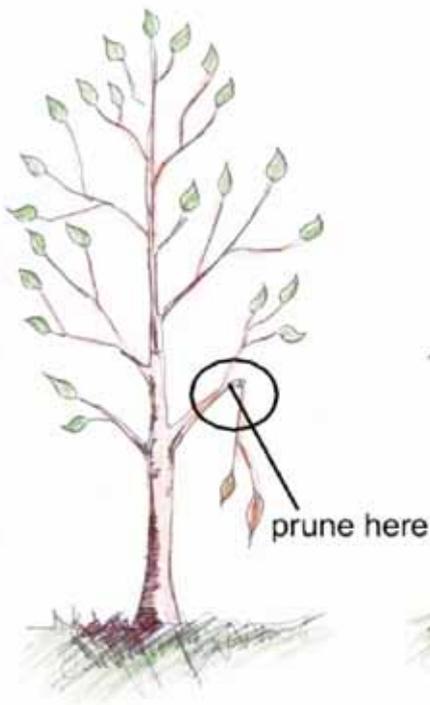
An inappropriate way to store materials on a development site

Annotated Photos

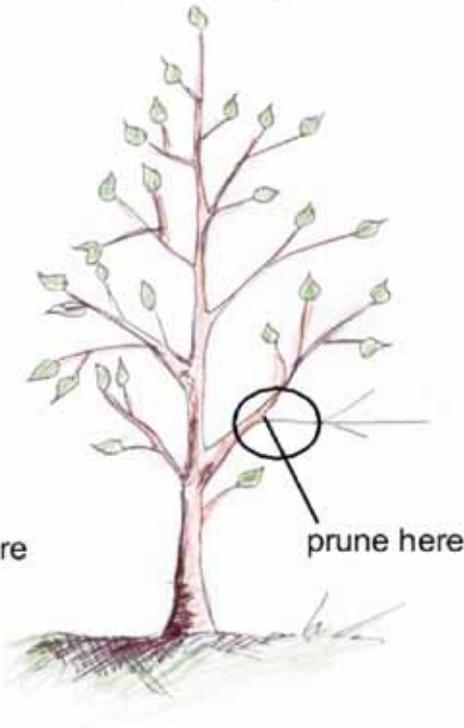
Photos showing the trees and the method of the proposed pruning is useful to the Planning Authority so the officer can be confident that the work being done will be to the highest standard, minimising any negative effect on the health of the tree.

The diagram below illustrates what the Planning Authority would expect to see shown on a photo.

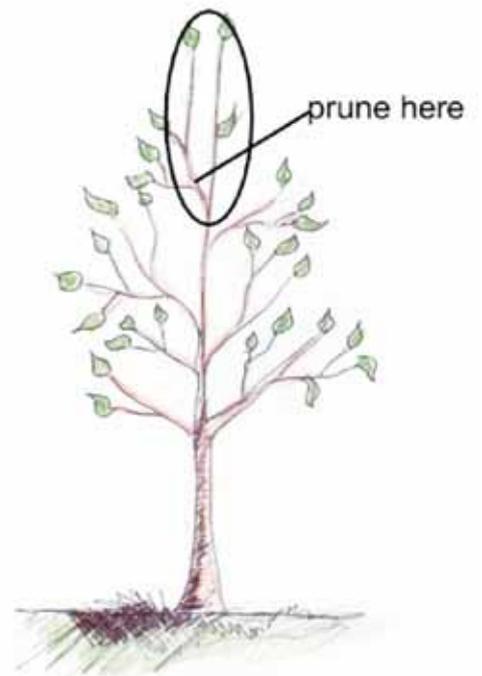
Broken Limbs



Dead Limbs



Two Leaders



The photo should indicate the precise part of the tree you intend to prune. As much detail as possible would be welcomed.

Every proposal is different so it is important to contact Development Management to discuss the level of information required, prior to submitting your application.

Replacement Planting, Landscape Plans and Woodland Management Plans



Where trees have to be felled the Planning Authority may request that replacement trees are planted on or near the site. However, it must be appreciated that planting new trees or woodlands does not always compensate for the loss of valued, mature trees and cannot therefore be used as the sole justification to fell trees or woodlands where it is possible for them to be accommodated on site without compromising the development proposal.

Where compensatory planting is made a condition of an approved planning application, it is important, to seek professional advice on the species and location of replacement trees. Species approved should be suitable in terms of scale for the development and if deemed appropriate, in keeping with those that have been lost. The opportunity to plant replacement trees should be viewed as a chance to improve the environment.

Where appropriate, the planting of native trees is encouraged. The Forestry Commission have produced guidance “The Right Tree the Right Place” that is

a useful reference when considering replacement planting. Please see the Further Information under Section 8 of this document for details on how to access this leaflet.

A **Landscape Plan** may be requested by the Planning Authority showing how new trees will help integrate the new development into the existing green network, avoiding any negative impact in its surroundings. The responsibility of future maintenance of new trees and woodlands should be considered when the locations are agreed.

In some cases, you may be requested to prepare a **Management Plan** for woodland areas in order to ensure that they are healthy and sustainable resources. The purpose and therefore the context of a management plan can vary meaning that professional advice should be sought should one be required. Different management strategies would apply dependant on the desired long-term outcome for the woodland, for example for wildlife, landscaping, or shelter.



7

Carrying Out Approved Works

7.1 WHEN TO PRUNE A TREE

Carefully choosing when to carry out approved works on a tree is crucial to preserve the health of the tree. In general, mid-summer or winter is an appropriate time to prune a tree, but a suitably qualified arborist will be able to advise you further; to minimise any detrimental effect on its health.

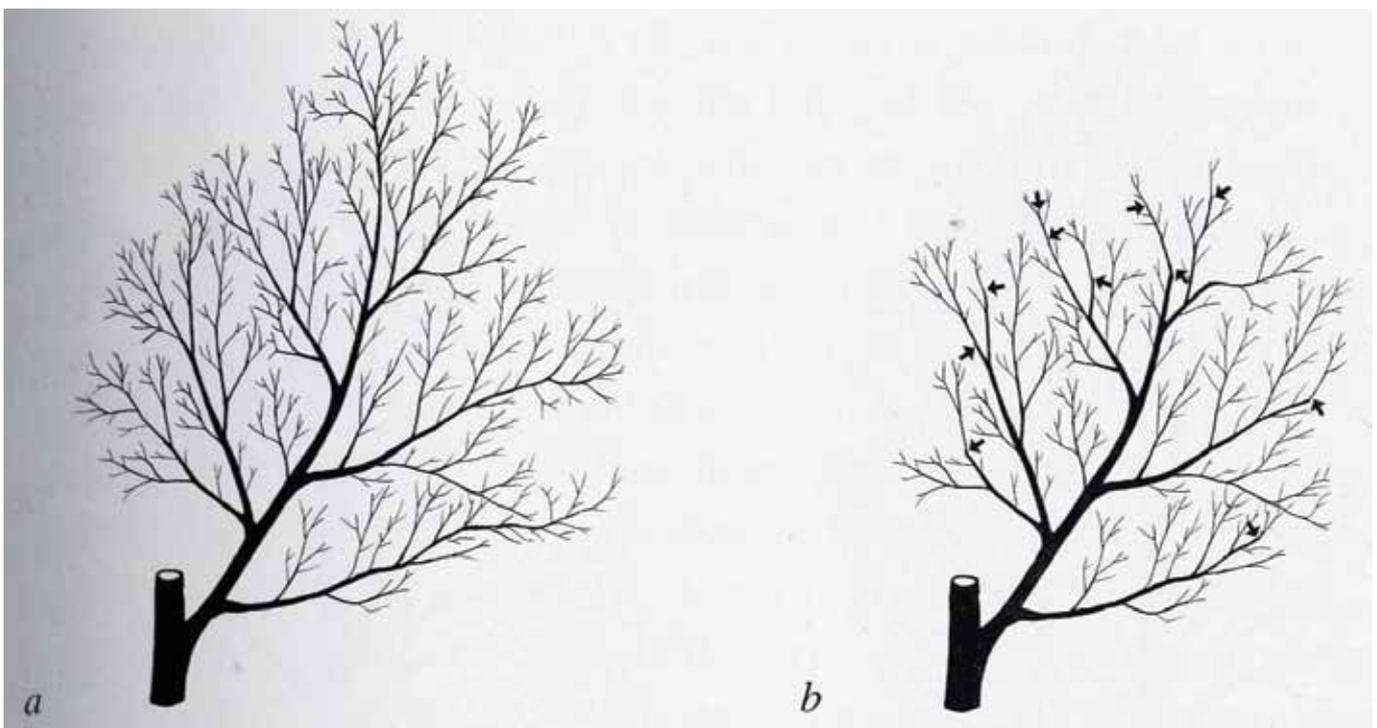
Furthermore, the effect on the wildlife in and around the tree(s) should also be considered. For example, works carried out during late summer or winter will avoid disturbing nesting birds. Bats and their Roosts are protected and if they are present, a survey may be required to support your proposals. See more information on legislation on Protected Species under Section 8 of this document.

If you think wildlife may be affected by your proposal and you are unsure how to proceed, please contact the Planning Authority in the first instance.

7.2 WHO SHOULD CARRY OUT THE WORKS?

Tree surgery and felling should only be done by an appropriately qualified arborist; who is experienced and understands the correct and safe way to fell or prune a tree. If in doubt, you may wish to obtain a reference or evidence of relevant qualification such as a British Standard certificate. Careless/unskilled work on a tree may be detrimental to the health of the tree in the long term

It shouldn't be obvious that a tree has been pruned, if it has been done well. Below is a diagram showing how this is possible:



In the above illustration, image 'a' shows the tree before it has been pruned image 'b' shows the tree afterwards with arrows indicating where the cuts have been made.

'Lopping' of trees is something you should avoid and a reputable contractor would advise against this. The photo below shows a tree that has been elopped. As a result of these actions, the tree is now more susceptible to long term problems such as rot (where it has been cut).



For more information on how to carry out required works on a tree or for general care and maintenance information, please refer 'Caring for Mature Trees in Orkney' referenced in Section 8 - Further Information.

Felling Licenses

A Felling License may be required if you intend to fell more than 5 cubic metres of timber outwith a garden, public park, orchard or graveyard in any calendar quarter.

Where specific tree removal is approved under detailed planning permission, this supersedes the requirement for a Felling License.

For more information on whether you require, or how to obtain, a Felling License, please contact the Forestry Commission Scotland. If you wish to fell trees that are not protected you may still require a Felling License. This is a legal requirement and is covered by the Forestry Commission Act 1967. Felling trees without a license can lead to court action being taken against the Landowner.

Appendices



Appendix I - Conservation Area boundaries.

Further information

Scottish Government Publications

Scottish Government (2010) Scottish Planning Policy www.scotland.gov.uk/Publications/2010/02/03132605/0

Control of Woodland Removal [www.forestry.gov.uk/pdf/fcfc125.pdf/\\$FILE/fcfc125.pdf](http://www.forestry.gov.uk/pdf/fcfc125.pdf/$FILE/fcfc125.pdf)

Planning Advice Note 60 www.scotland.gov.uk/Publications/2000/08/pan60-root/pan60

BS5837:2012 (Trees in Relation to design, demolition and construction)

Planning Circular 1 2011: Tree Preservation Orders:
<http://www.scotland.gov.uk/Publications/2011/01/28152314/9>

Forestry Commission Scotland Publications

The Right Tree in the Right Place

[http://www.forestry.gov.uk/pdf/fcfc129.pdf/\\$FILE/fcfc129.pdf](http://www.forestry.gov.uk/pdf/fcfc129.pdf/$FILE/fcfc129.pdf)

Scottish Natural Heritage

Caring for Mature Trees on in Orkney (produced by the Orkney Woodland Group)

Protecting Trees on Development Sites (produced by the Orkney Woodland Group)

- Contact the SNH Office, Junction Rd, Kirkwall for copies of these leaflet

Species Protection Under the Habitats Regulations 1994 – referenced under

<http://www.snh.gov.uk/protecting-scotlands-nature/protected-species/legal-framework/habitats-directive/regulations/>

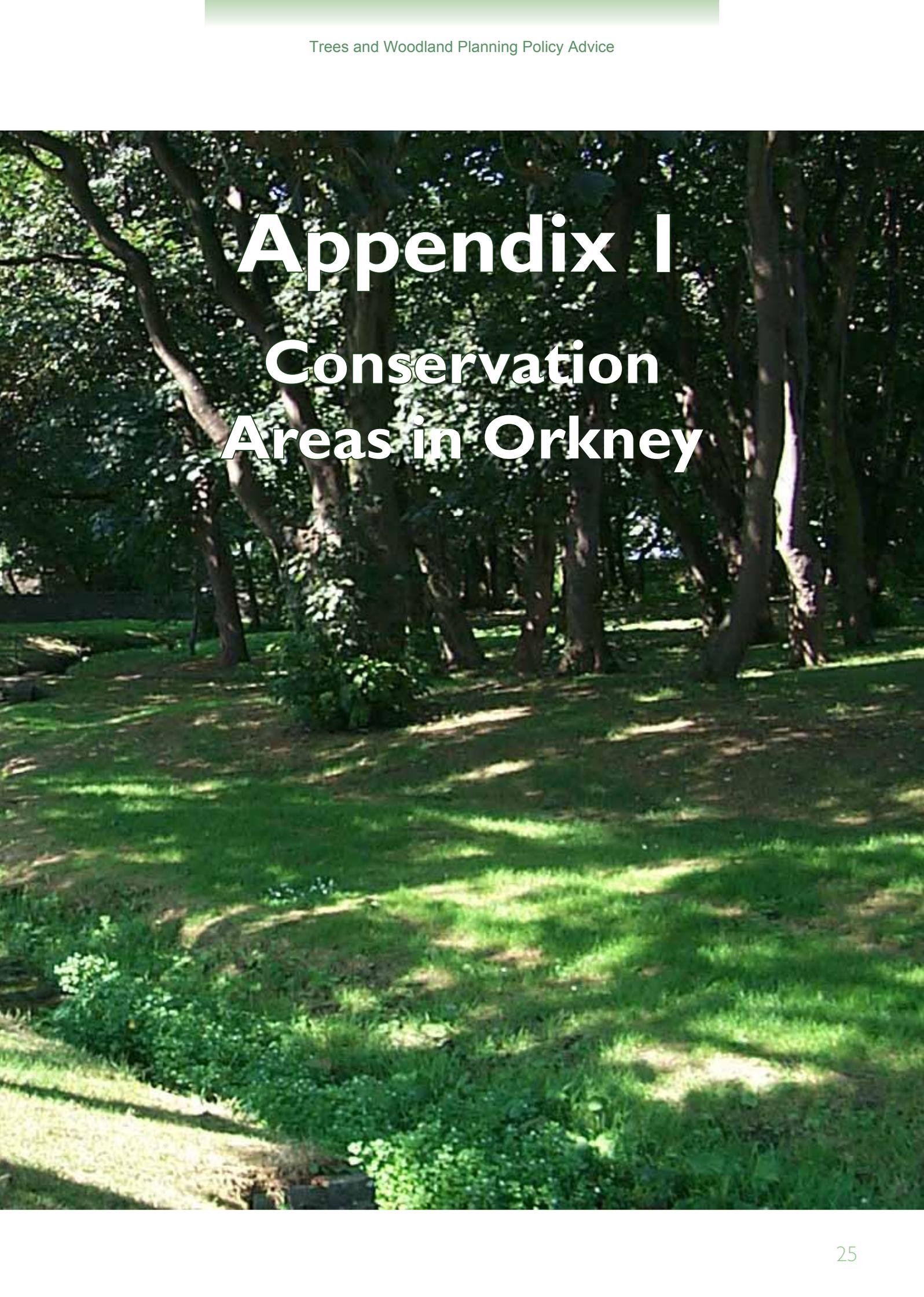
Scottish Environment Protection Agency (SEPA)

Information on RBMP and CAR is available from the SEPA website at

www.sepa.org.uk/water/water_regulation.aspx and

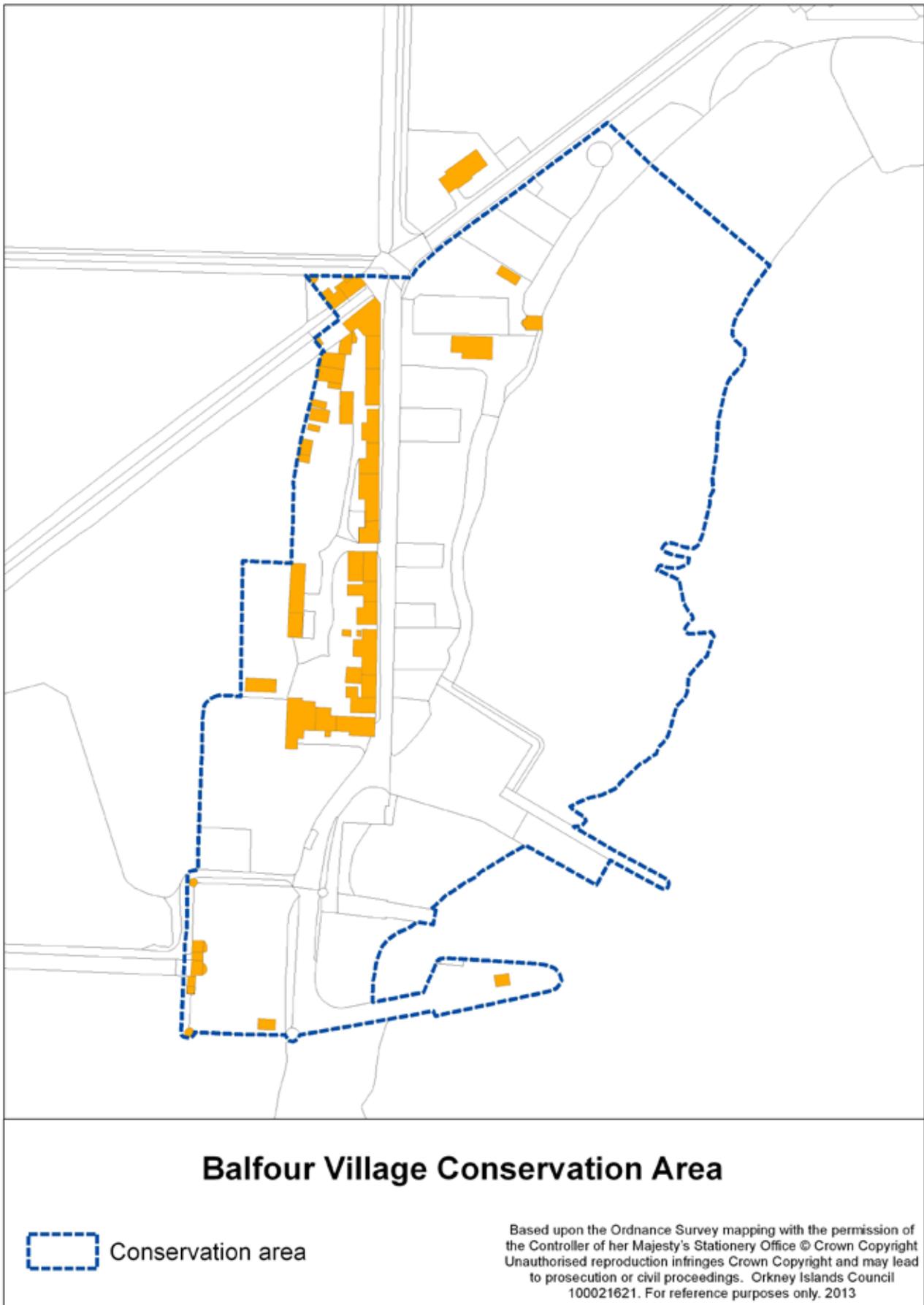
www.sepa.org.uk/water/river_basin_planning.aspx

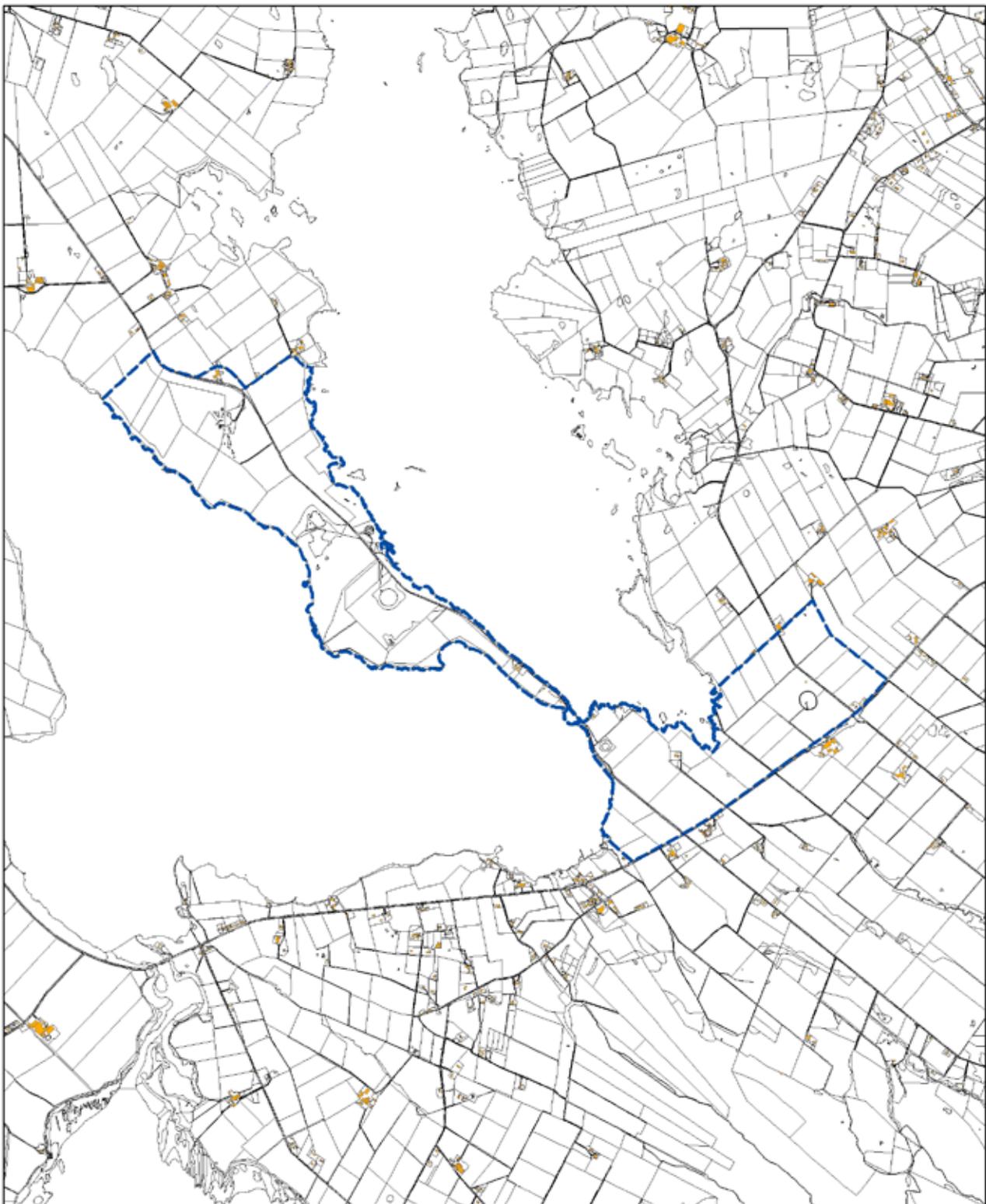




Appendix I

Conservation Areas in Orkney

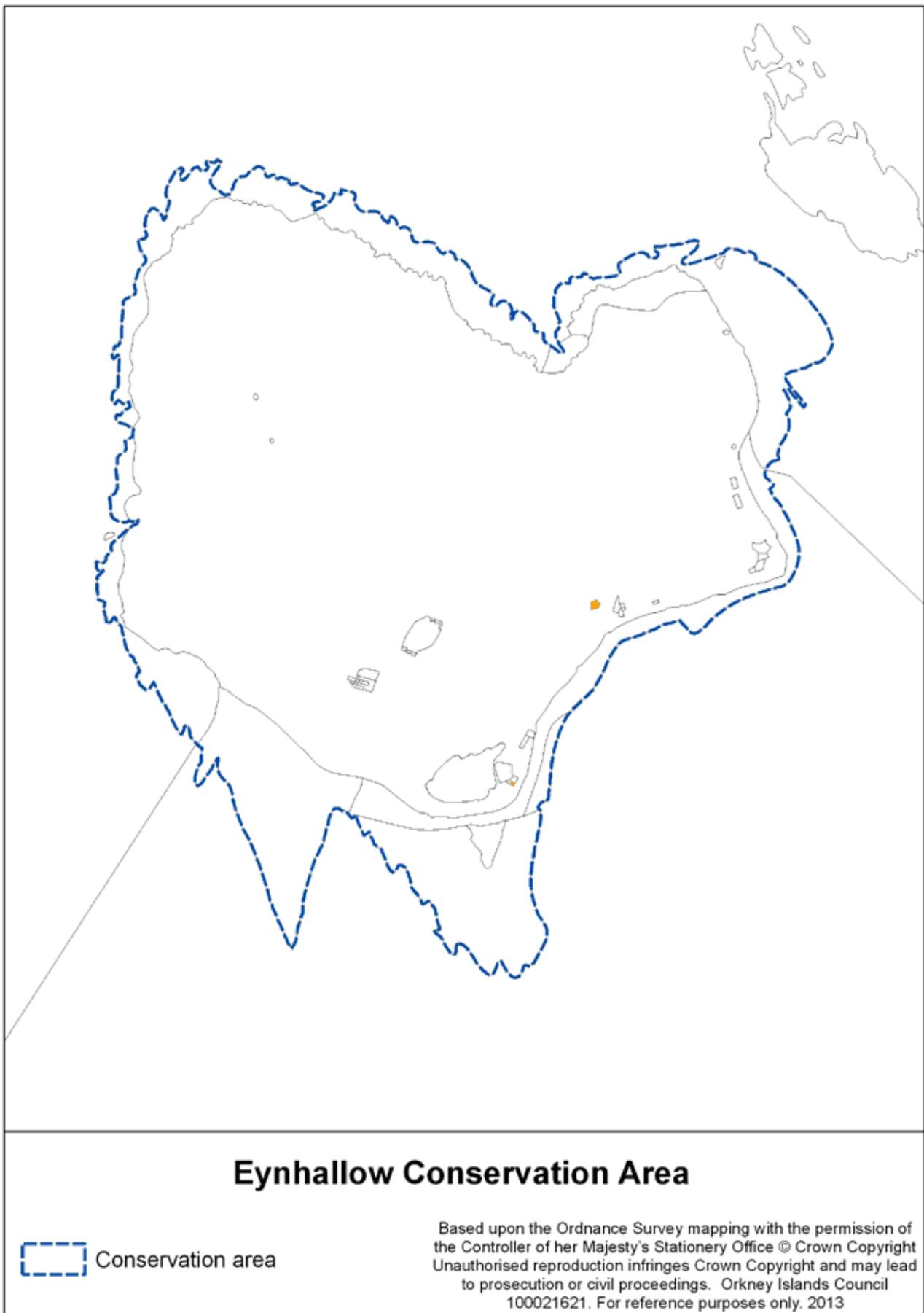


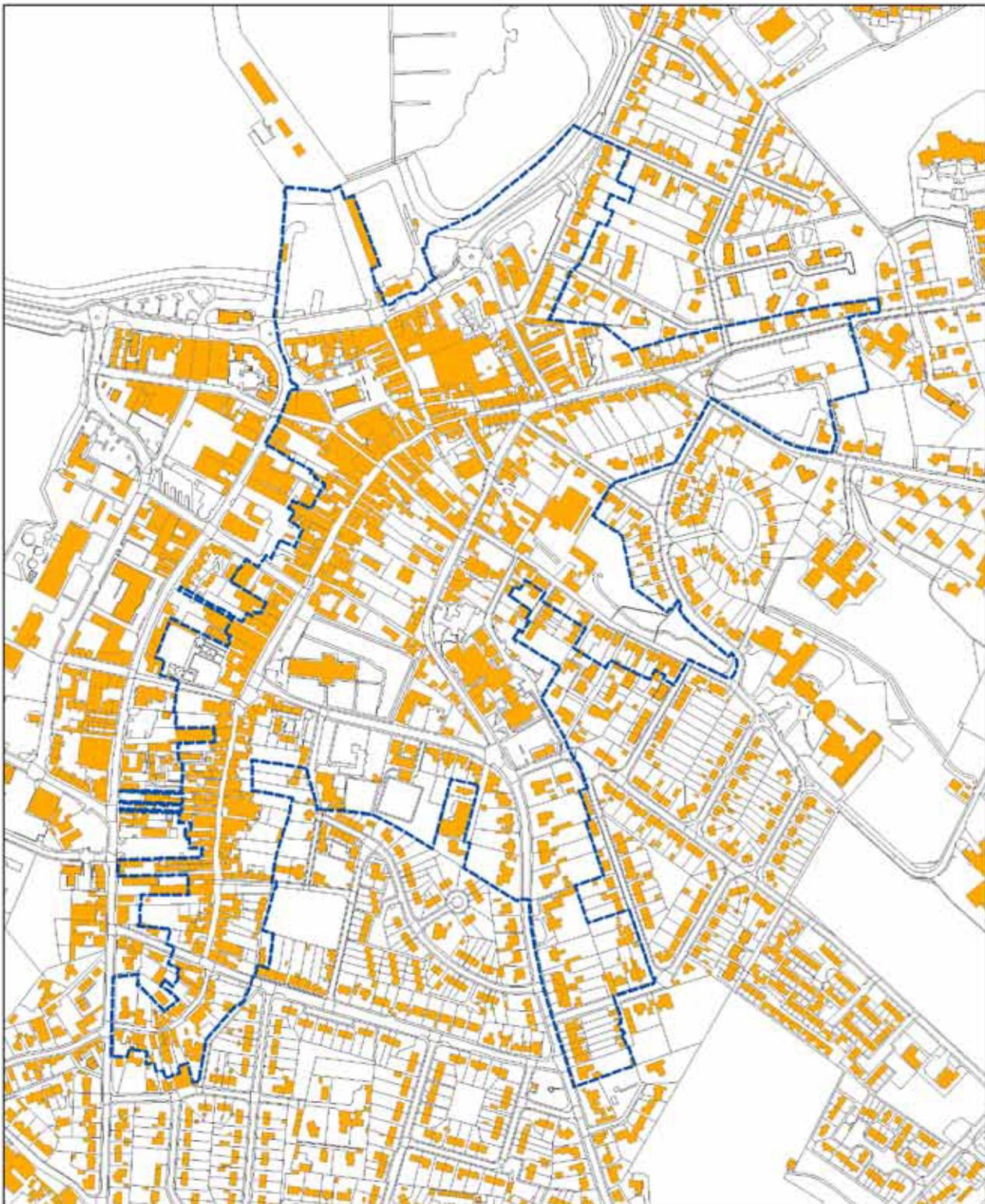


Brodgar Rural Conservation Area

 Conservation area

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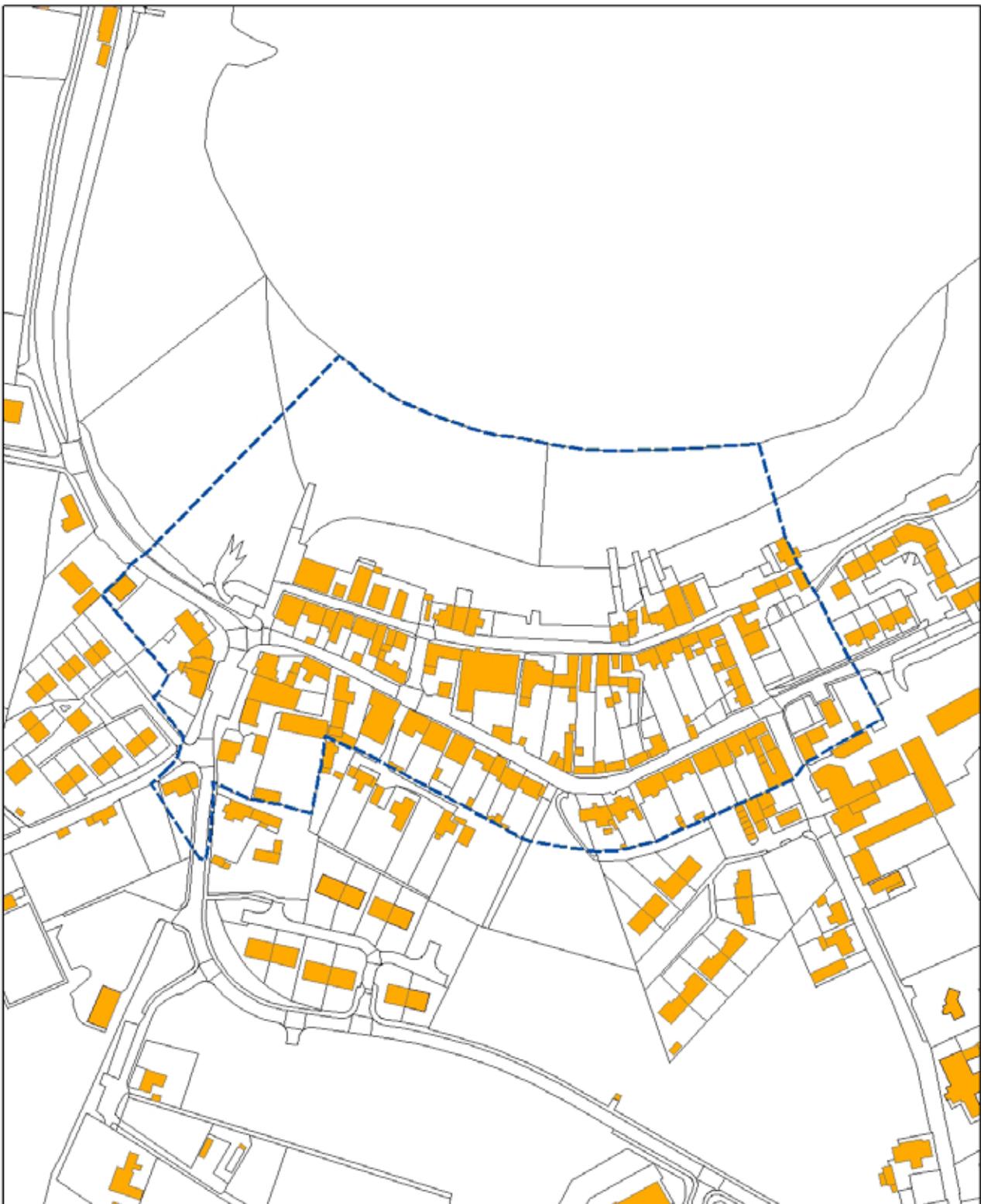




Kirkwall Conservation Area

 Conservation area

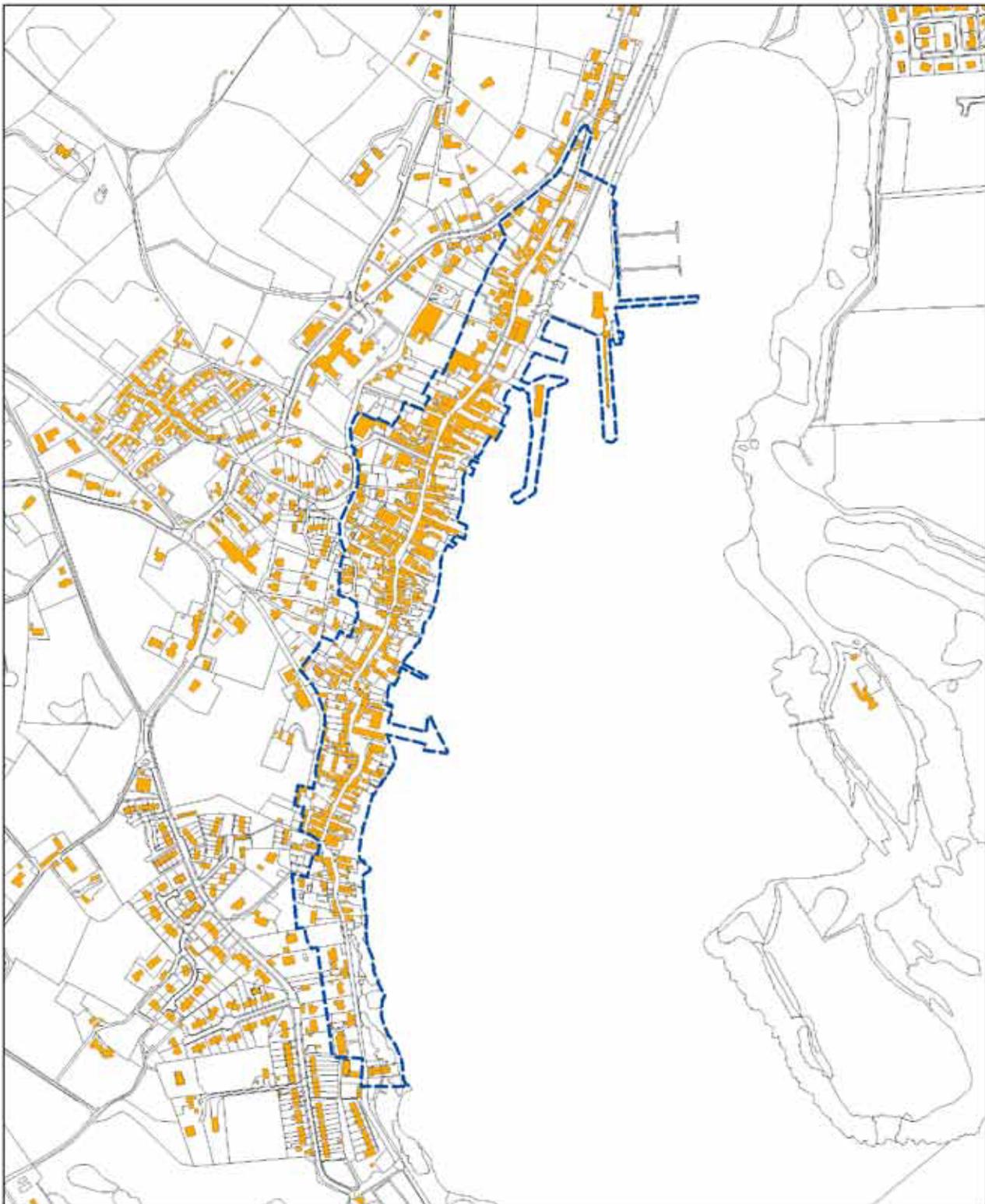
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St Margaret's Hope Conservation Area

 Conservation area

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Stromness Conservation Area

 Conservation area

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