

Shetland Islands Council

Shetland Amenity Trust



Advice Note 9  
Archaeology  
Major Developments

## OBJECTIVE

To provide guidance for major developers on the handling of archaeological matters within the planning process.



Shetland's Development Plan Policies seek to ensure that development proposals do not destroy or have an adverse effect on Scheduled Ancient Monuments and their setting, and other sites and areas of significant archaeological interest. Shetland enjoys a rich heritage of ancient monuments and archaeological sites that form a vital part of the unique character of the islands. Their variety of function, shape and appearance are visible reminders of the past and represent the social, economic and cultural history of Shetland. They are also capable of bringing economic benefits from tourism and with appropriate interpretation provide an invaluable educational resource that once lost can never be replaced.

Currently in Shetland there are over 8000 recorded archaeological sites, including 353 Scheduled Ancient Monuments of national importance. Whilst much of these recorded resources are protected by legislation or through government policy, Shetland Development Plan Policies also seeks to ensure that these and any unknown archaeological interests are protected for the benefit of future generations.

This guidance note has been prepared jointly by the Shetland Regional Archaeologist (Shetland Amenity Trust) and Shetland Islands Council Planning Service.

Our ultimate objective is to secure the best possible treatment of our archaeological heritage while at the same time accommodating the need for development.





## SHETLAND'S ARCHAEOLOGY

Shetland is a real treasure trove for archaeology. For many years this has been a well kept secret, but gradually Shetland is becoming known for the quality and quantity of archaeological remains here. People have lived in the islands for over 6000 years and the remains of this have survived very well. Examples include sites like Old Scatness, Jarlshof and Mousa as well as the extensive Bronze Age farms on the West Side, and Vikings in Unst. Their survival is partly because people in Shetland built in stone rather than wood and partly because the land has not been extensively used for intensive arable farming.



Our past has an influence on our present and future: our Scandinavian links, our indigenous industries (eg fishing and knitwear), our dialect and even the way we think. Today our past is important in developing tourism, crafts and in finding ways of keeping our rural communities viable. If we lose our past the whole community suffers. Vandalism, anti-social behaviour and depression can all arise from feeling rootless, cut off from your identity.

**So what difference does one site make?** Every site is part of the picture of the past. It is the richness and variability of Shetland's archaeology that completes the picture. Each site is a unique time capsule. It is not possible to excavate them all today, nor is it desirable either. Techniques are always improving and we must leave a legacy to the future in both excavated and intact sites.



## PLANNING APPLICATIONS

The desirability of preserving an ancient monument and/or its setting is a material consideration in determining a planning application whether that monument is scheduled or unscheduled. However, the needs of archaeology and development can be reconciled and potential conflict very much reduced, if developers discuss their preliminary plans for development with both the Planning Service and the Shetland Regional Archaeologist at an early stage. Once detailed plans have been prepared, finance lined up and an application for planning permission registered, flexibility becomes much more difficult and expensive to achieve.

Prospective developers of major developments within Shetland should, in all cases, include as part of their research into the development potential of a site (which they undertake prior to submitting a planning application), an initial assessment of whether the site is known, or likely to contain, archaeological remains.



## FIRST STEP: EARLY CONSULTATION

Shetland's Archaeology service, based in Shetland Amenity Trust, want to help you to find the perfect balance between your development aspirations and the need to protect the past. This does not mean that there is a presumption against development as not all sites are of equal significance. If your proposal is within an area of archaeological potential there are a number of different solutions that might be appropriate.

Shetland's Archaeological Service also holds a record of Shetland's Sites, known as the SMR (Sites and Monuments Record). In addition they have 20 years archaeological experience in Shetland and will normally be able to identify where there are likely to be additional sites.

**Pre-Application Advice:** As with all development, the Planning Service encourages you to come and speak to a member of the planning team about your proposals. In addition, making direct contact with the Shetland Regional Archaeologist at an early stage in the development of your proposals will highlight whether there are any archaeological issues that need to be addressed. By taking advice early in the development process, major conflict may be avoided by being able to relocate the development to avoid adverse impact. Once the planning process has commenced, it is not always possible to change the position of your development within the scope of the existing planning application



Early consultations will provide developers with advance warning of the archaeological sensitivity of the site and the likely evaluations and archaeological assessments that may be required.

## SUBMISSION OF PLANNING APPLICATIONS

Where early discussions indicate that important archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to



arrange for archaeological assessment and evaluation to be carried out before any decision on the planning application is taken. The Council would expect developers to provide the results of such assessments and evaluations as part of their application submission, particularly for sites where there is a good reason to believe there are remains of archaeological importance.



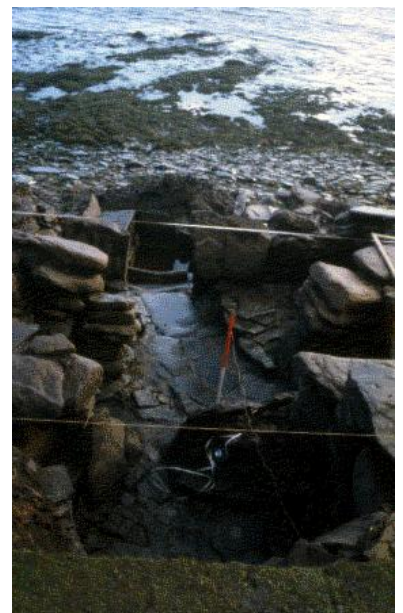
If developers are not prepared to do so voluntarily, the Council may have to consider whether it would be appropriate to direct the applicant to supply further information under the provisions of Regulation 4 of the Town and Country Planning (Applications) Regulations 1988 or, if necessary, consider refusing permission for proposals which are inadequately documented.

In some instances a formal Environmental Assessment may be necessary. The Environmental Impact Assessment (Scotland) Regulations (1999) identifies development within Schedule 2 which may require an Environmental Impact Assessment if the development is located within or adjacent to a sensitive area, which includes Scheduled Monuments. Informal advice in this regard can be sought from the Council's Planning Service or a formal opinion secured by submitting a request for a screening opinion under the 1999 Regulations.

## **CONSULTATIONS DURING THE PLANNING PROCESS**

The Regional Archaeologist will routinely assess your development proposals once an application has been submitted for Planning Permission.

Where a development proposal is likely to affect the site or setting of a scheduled monument, the planning authority is also required to consult with Historic Scotland. Scheduled sites are protected by Historic Scotland on behalf of Scottish Ministers. These sites and their settings are deemed to be nationally important and therefore it is unlikely that you would get planning permission to remove or adversely affect a Scheduled Monument. The General Development Procedure (Scotland) Order 1992 requires planning authorities to consult Historic Scotland on all development which may affect the site of a scheduled monument or its setting and must take account of their consultation response in coming to a decision.



If your work will affect a Scheduled site or its setting you must also apply for "Scheduled Monument Consent". The Amenity Trust Archaeology Service can advise you about Scheduled Monuments but Historic Scotland might take a

different view. If your site is on or near a Scheduled Monument it is advisable to seek early guidance from Historic Scotland.

## PLANNING DECISIONS



There will always be a range of options for the determination of planning applications affecting archaeological remains and their settings. Nationally important archaeological remains, whether scheduled or not, may require preservation in situ. The case for the preservation of archaeological remains will always be assessed on the individual merits of each case and there will be occasions where remains of lesser importance can be recorded by prior excavation and photographic survey.

Where it is evident that a particular development proposal is likely to affect archaeological remains, you may be asked to provide more detailed information, however, existing information provided by the Regional Archaeologist about a site is often sufficient to allow the Planning Authority to make a decision on a planning application. It is recognised that the extent to which remains can or should be preserved will depend upon a number of factors, including the intrinsic importance of the remains.

The Planning Authority must satisfy itself before granting planning permission that the developer has made appropriate and satisfactory provision for the excavation and recording of any remains. Such excavation and recording must be carried out before development commences and working to a project brief prepared by the Planning Authority in consultation with the Regional Archaeologist. 14 days notice of the commencement of the works will also require to be given both to the Planning Authority and the Shetland Amenity Trust Archaeological Service in order that, where appropriate, representatives are on site to observe the works in progress.

The Council will always seek to ensure that potential conflicts are resolved and agreements with developers concluded before planning permission is granted.

### S.75 Agreements

Depending on the size of the development proposal and the extent of the works required, agreement for these works may be achieved through a voluntary S.75 Agreement reached between the developer, the archaeologist and the Council. Such an agreement also provides for the subsequent publication of the results of the excavation.

## PLANNING CONDITIONS



In the absence of such an agreement and where lesser remains are involved, and the extent of the works required can more easily be controlled, the Council will require to impose conditions on your decision notice. The Council will still need to satisfy itself that the developer has made appropriate and satisfactory arrangements for the excavation and recording of the archaeological remains and where applicable publication of the results.

In order to secure the provision of these works it will be necessary for a suspensive (or "negative") condition to be imposed which effectively prohibits the carrying out of development until such time as works or other action (eg excavation) have been carried out by an appropriate third party.

In order to further protect any potential remains, a condition will also be imposed ensuring reasonable access is given to a nominated archaeologist, either to hold a "watching brief" during the construction period or specifically to carry out archaeological investigation and recording in the course of the permitted operations on site. The Shetland Regional Archaeologist acts as the Council's representative on site to observe works in progress.

## UNDERTAKING PRESERVATION WORKS

The Regional Archaeologist will advise the Council during the consultation process of the most cost effective way for you to protect the archaeology and these details will be passed to you by the Case Officer. You may need to engage an archaeologist to carry out the work and the Shetland Amenity Trust Archaeological Service may be able to help you find an appropriate professional/organisation and provide advice on the most appropriate ways of complying with the requirements of any conditions.



## DISCOVERY OF ARCHAEOLOGICAL REMAINS DURING DEVELOPMENT

It is always hoped that consultation prior and during the planning process will minimise occasions when the presence of archaeological remains becomes apparent once development has commenced. In such circumstances the Regional Archaeologist should be informed immediately and will be able to offer practical advice. Where fresh archaeological discoveries are deemed by the Scottish Ministers to be of national importance, they have the power (through



Historic Scotland) to schedule the remains, and this can be achieved in a few days, although is done only in the most exceptional circumstances. In that event developers would need to seek separate scheduled monument consent before the continuance of any further works.

Developers should be aware of the legal requirement to report the discovery of human remains to the police and archaeological artefacts to the local museum. Both of these are best undertaken by reporting to the Regional Archaeologist who will carry out the reporting and will be able to advise the police on whether the remains are archaeological or relate to a crime scene. Human remains and, where possible, artefacts, should be left in situ and not lifted or taken off the site until the archaeologist is summoned and has examined them.



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## Contact Addresses:

### Shetland Regional Archaeologist

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Tel: 01595 694688  
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[www.shetland-heritage.co.uk/amenitytrust](http://www.shetland-heritage.co.uk/amenitytrust)

### Historic Scotland

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Tel: 0131 668 8600  
[www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)

### Shetland Islands Council

#### Planning Service

8 North Ness Business Park,  
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## **RELEVANT LEGISLATION AND POLICY GUIDANCE**

**NPPG 5** : Archaeology and Planning

**PAN42** : Archaeology (The Planning Process and Scheduled Monument Procedures)

### **Shetland Islands Council Development Plan Policies**

#### **Policy SPBE1 (as it relates to archaeology)**

There will be a presumption against any development proposal that would destroy or have any adverse effect on the following built heritage resources of Shetland:

- Scheduled Ancient Monuments and their setting
- Archaeological sites and their setting; and
- Other sites and areas of significant archaeological, architectural or historic interest.

#### **Policy SPBE2**

Where preservation in situ of scheduled and other nationally, regionally and locally important archaeological remains has been proven to be impossible and where no alternative site is available, then sites will require to be recorded, surveyed and/or excavated prior to development. The Council will take advice from the Shetland Archaeologist and/or other appropriate bodies regarding the most appropriate course of action. In such cases the financing of the work will normally fall on the developer, in accordance with national policy.

#### **Policy LPNE10 (as it relates to archaeology)**

The Council will assess applications for planning permission for their impact on the environment. When assessing development proposals, the following general considerations will be taken into account, namely:

- (a) likely impacts, including cumulative impacts, on amenity and the environment as a whole;
- (c) landscape character and visual amenity
- (d) archaeology
- (f) current Government guidance

In particular the Council will refuse development proposals that would have a significant adverse effect on the integrity or character, as appropriate, of the following designated sites:

- (j) Scheduled Ancient Monuments