

# STATES OF JERSEY



## **SITES OF SPECIAL INTEREST: REMOVAL FROM LIST (P.96/2010) – COMMENTS**

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**Presented to the States on 13th September 2010  
by the Minister for Planning and Environment**

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**STATES GREFFE**

## COMMENTS

### **Executive summary**

The Island has to have in place a process and policy framework to identify and protect its special buildings and places that are of heritage value: law and international convention require this. This is already well established, through the Planning and Building (Jersey) Law 2002 and the Island Plan 2002.

The process by which special buildings and places are identified and protected is being reviewed to make it simpler, easier to understand and, most importantly, to ensure that only those buildings that warrant protection are Listed. The new system will also provide a clearer indication of the heritage value of special buildings and places through the introduction of a grading system.

The existing planning application process enables the Minister for Planning and Environment to consider and weigh the relative merits of development proposals against their impacts upon Sites of Special Interest (SSIs). Where the Minister considers it appropriate and justifiable, planning permission can be granted which might adversely affect the special interest of an SSI. There are many examples where change is allowed to take place to historic buildings and places in Jersey to enable them to continue to be used and to remain relevant and viable for use today and in the future, whilst seeking to ensure that their special interest is preserved and maintained for future generations.

Where the special interest of a Site of Special Interest is adversely affected by the implementation of an approved development scheme to such an extent that its heritage value is effectively lost, the Law enables the Minister to remove that building or place from the List.

It is considered to be inappropriate and unnecessary to amend the Law further, as the objectives of the proposition are already provided for by the existing legislation and the planning application process.

### **Introduction**

There is no requirement to amend the Planning and Building (Jersey) Law 2002 to enable the Minister for Planning and Environment to weigh the special interest of SSIs against other considerations, such as the social and economic value of development proposals, as the Law already provides for this through the planning application process.

These comments seek to outline how this process works and to set out why it is important to place buildings and sites on the List of SSIs in the first place, in support of the assertion that there is no requirement to change the Law.

These comments are specifically related to the Listing of buildings and places that are of historic, archaeological, architectural and/or artistic interest as the assumption is made that the proposition is directed towards the historic environment rather than the natural environment. It is also relevant to note, however, that the Minister may List sites because of their zoological, ecological, botanical, geological or scientific interest, where the same principles, outlined below, apply.

## Why identify buildings and places of special interest?

There are a number of reasons why it is important to identify buildings and places that are of special interest to the Island.

- Firstly, the Minister for Planning and Environment has obligations under the Law and international conventions to identify and protect the historic environment.

Specifically, the purpose of the Planning and Building (Jersey) Law to 2002 is: *‘to conserve, protect and improve Jersey’s natural beauty, natural resources and general amenities, its character, and its physical and natural environments’*, and as such a particular intention of the Law is: *‘to protect sites, buildings, structures, trees and places that have a special importance or value to Jersey.’*

The provisions of the Convention for the Protection of the Architectural Heritage of Europe (Granada, October 1985); and the European Convention on the Protection of the Archaeological Heritage (revised) (Valletta, January 1992) extend to Jersey and came into force locally in 1988 and 2000 respectively. These treaties impose obligations on the Island specifically to –

- identify and protect buildings and places of cultural significance (arising from their architectural, archaeological, historical or other relevant interests);
- maintain an inventory of these heritage assets;
- develop public awareness and understanding of the architectural and archaeological heritage.

These particular obligations are partly met by the Listing of buildings and places of heritage value as Sites of Special Interest. This is enabled by Article 51 of the Planning and Building (Jersey) Law 2002.

Under the provisions of law and international convention, therefore, if a building or place warrants inclusion on the List of SSIs, it should be placed and should remain on that List until such time that its particular interest is lost: failure to do this and to breach international obligations may have unwanted political, constitutional and reputational implications.

- Secondly, it is important to acknowledge and recognise that the Island’s heritage assets have an inherent value in themselves.

The physical survivals of our past are to be valued and protected for their own sake, as a central part of our cultural heritage and our sense of Island identity. They are an irreplaceable record which contributes, through formal education and in many other ways, to our understanding of both the present and the past. Their presence adds to the quality of our lives, by enhancing the familiar and cherished local scene and sustaining the sense of local distinctiveness which is so important an aspect of the character and appearance of our Island.

The historic built environment of the Island is a finite resource and an irreplaceable asset. Once lost, these protected buildings and sites cannot be replaced; and they can be robbed of their particular interest as surely by unsuitable alteration as by outright demolition or excavation.

The historic environment is also of great importance for leisure, recreation and tourism.

- And finally, the States has recognised the value of identifying, protecting and enhancing the Island's heritage assets as part of its own strategic objectives. Priorities 13, 15 and 16 of the States Strategic Plan seek to protect and enhance the natural and built environment; our unique culture and identity; and the Island's heritage.

### **What does the Listing of a building or place mean?**

The inclusion of a built heritage asset on the List is intended to identify its contribution to the heritage and amenity of Jersey, and to ensure that its special interest is considered in the planning process.

The Listing of a building or place does not, however, render that site immune from change. It is recognised the historic built environment of Jersey is all-pervasive, and it cannot in practice be preserved unchanged.

While the protection of a building or site should not be seen as a bar to all future change, the starting point for the exercise of control is the requirement to have regard to the desirability of preserving the building, site or its setting or any features of particular architectural, archaeological or historic interest which it possesses, in accordance with the purposes of the Law and the obligations of international conventions.

Once a building or place is added to the List of Sites of Special Interest there is, therefore, a presumption in favour of the preservation of the character and integrity of protected buildings and sites. This is provided by the policy regime set out in the Island Plan 2002 at Policy G13 –

#### **POLICY G13 – BUILDINGS AND PLACES OF ARCHITECTURAL AND HISTORIC INTEREST**

*There will be a presumption in favour of the preservation of the architectural and historic character and integrity of registered buildings and places. Applications for the alteration or change of use of a registered building must contain sufficient information against which the impact on the fabric and appearance of the building can be assessed.*

*Permission will not normally be granted for the:*

- (i) total or partial demolition of a registered building;*
- (ii) extension or other external alteration works which would adversely affect the architectural or historic interest, character or setting of a registered building or place;*
- (iii) addition of external items, including satellite dishes, antennae, signs, solar panels, rooflights and PVCu or aluminium doors or windows, which would adversely affect the special interest or character of the building; and*

- (iv) *removal of natural roofing materials and render or stucco and their replacement with modern alternative materials.*

*In addition, where the registered building is designated as a Site of Special Interest, permission will not be granted for alterations which would have an adverse impact on the internal structure, historic interiors and fittings.*

*Permission may be granted for partial demolition, but only for the removal of inappropriate additions to the building, where their removal would not harm, or would improve the historic character and appearance of the building or its setting.*

Though choices sometimes have to be made, conservation and sustainable economic growth are complementary objectives and should not generally be seen as in opposition to one another. Most historic buildings can still be put to good economic use in, for example, commercial or residential occupation. They are a valuable material resource and can contribute to the prosperity of the economy, provided that they are properly maintained. In return, economic prosperity can secure the continued vitality, and the continued use and maintenance of historic buildings, provided that there is a sufficiently realistic and imaginative approach to their alteration and change of use, to reflect the needs of a rapidly changing world.

### **Managing change**

Any proposals to change a Listed building or place need to be properly assessed through the process of a planning or Site of Special Interest application, where all the material considerations of any development proposal – including its social and economic value – can be properly weighed and considered, relative to the special interest of the SSI. What is more, the application process is a public one, where development proposals, and their impact upon Sites of Special Interest, are open to public scrutiny and comment, thus providing the Minister with more information on which to base a decision as to the value of the site's special interest relative to that of the development proposal.

Where the Minister is of the view that a convincing case can be made for alteration or demolition of a Listed building or place and where the value of a development proposal outweighs the value of preserving or retaining an SSI unchanged, he or she can award permission for the development of that site, even where it has an adverse impact upon the special interest of that site. This is enabled by Article 19(3) of the Planning and Building (Jersey) Law 2002 which states that: *'the Minister may grant planning permission that is inconsistent with the Island Plan but shall not do so unless the Minister is satisfied that there is sufficient justification for so doing'*.

There are many examples where change is allowed to take place to historic buildings and places in Jersey to enable them to continue to be used and to remain relevant and viable for use today and in the future, whilst seeking to ensure that their special interest is preserved and maintained.

If and when planning permission, which might harm or result in the loss of the special interest of a Listed building or place, is implemented, it is then appropriate for the Minister, under the provisions of Article 51(5), to decide whether to remove a building or place from the List where its special interest has ceased to exist or is compromised to such an extent that it is no longer worthy of protection.

## **Conclusion**

The framework and process to identify and protect Jersey's historic environment is already well-established to meet the requirements of law and international convention and to recognise the value and inherent worth of the Island's heritage assets.

The planning application process, as it presently exists under the existing provisions of the Planning and Building (Jersey) Law 2002, enables the Minister for Planning and Environment to consider and weigh the relative merits of development proposals and their impacts upon Sites of Special Interest and, where they consider it appropriate and justifiable, to award planning permission which might adversely affect the special interest of an SSI.

Where the special interest of a Site of Special Interest is adversely affected by the implementation of an approved development scheme, the Law enables the Minister to remove that building or place from the List.

On this basis, it is considered to be inappropriate and unnecessary to amend the Law further as the objectives of the proposition are already provided for by the existing legislation and the planning application process and I would respectfully request that Members reject the proposition.