

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY SENATOR B.E. SHENTON
ANSWER TO BE TABLED ON TUESDAY 23rd MARCH 2010**

Question

“Will the Minister explain whether, where a building is defined as being of “local interest” only, the whole building is protected; whether the owner is informed the property is so listed (as would be the case for a building of special interest) and why are applications on such property, particularly the rear, subject to rigorous office involvement as if they were of “special” interest- in which case such buildings should be designated as sites of special interest – (SSIs) - under the Planning and Building Law?”

Answer

This question comprises three parts each of which is dealt with in turn:

- i) The extent of protection afforded to historic buildings is set out in published supplementary planning guidance. Advice Note 6: *Managing change in historic buildings* (June 2008), provides the following advice (emphasis added);

‘Once protection is conferred upon a building or site, consent is normally required for demolition, in whole or in part, and for any works of alteration, extension or excavation which would affect its character as a building or site of architectural, archaeological, historic or other interest. It is a criminal offence to carry out such works without consent where it is required.

Controls apply to all external works to protected buildings, and also to internal works where the building is a Site of Special Interest (SSI) that would affect its special interest. Consent is not normally required for minor repairs using the same material, but, where repairs are extensive or involve different materials or include alterations which would affect the character of the building, consent is required. Whether repairs actually constitute alterations which require consent is a matter of fact and degree which must be determined in each case: further advice on this is provided in the appendices to this document. Where painting or repainting of a protected building would affect the building’s character, consent is required. Further detailed guidance on alterations to protected buildings, is given in below.

It should be noted that controls apply to the whole of a protected site, not just the front elevation or the main building. Also in Jersey, churches are not exempt from control as they are in England. It is also relevant to note that approval under the Building Byelaws is distinct from planning permission and building owners should ensure that they have all necessary permissions to undertake work to a protected building or site.

- ii) The process of Listing (in the case of Sites of Special Interest) and Registration (in the case of Buildings of Local Interest and Archaeological Sites) was described in response given by the Minister for Planning and Environment to a written question from Senator JL Perchard on 02 February 2010 (1240/5(5084)).

As previously stated, the process involves the following (emphasis added):

‘The process of Listing or Registration involves the service of a Notice of the Minister’s Intent to List or Register a building or place. This can be served on the owner or, where the owner is not known, on site. The Notice will be accompanied by a schedule, plan and photographs setting out why the building or place is considered to be special or important.

The service of a Notice of the Minister’s intent to List or Register a building or place provides the owner, and any other interested party, with an opportunity to submit written representations directly to the Minister about the proposals to include it in the List or on the Register. Any such representations should relate to the

special interest of the site and the Minister has to take any such representations into account. He does this at a Public Hearing, where owners and other interested parties are provided with an opportunity to speak in support of their representation before the Minister makes his decision whether or not to add the building or place to the List or the Register. Once the Minister has made a decision, the owner is notified in writing, and the List and/or Register, is updated.'

iii) The Minister for Planning and Environment has published details about the basis upon which he determines whether a building or place ought to be designated as a Site of Special Interest or a Building of Local Interest in supplementary planning guidance. Practice Note 9: *The identification and designation of buildings and places of architectural, archaeological, historical or other interest* (November 2008), provides details of the criteria used.

The basis of designation of Sites of Special Interest (SSI) and Buildings of Local Interest (BLI) can be summarised as follows:

- The essential criterion for the designation of an historic building as a Site of Special Interest is that its special interest extends substantially to its authentic fabric, plan form, interior features, or historical associations of the interior: in other words, it is not substantially confined to the exterior of the building and the contribution which it makes to the character or appearance of its townscape or landscape setting;
- Buildings of Local Interest are those which substantially retain their historic form and detail, or sufficient for that form and detail to be readily recovered from surviving evidence, and so make a significant and positive contribution to the architectural and historical identity, character and amenity of Jersey

Planning applications for works affecting all historic buildings – whether SSI or BLI - are considered consistently according to general principles related to managing change in the historic environment, as set out in Advice Note 6: *Managing change in historic buildings* (June 2008).

The States 2002 Island Plan also provides the policy context for the determination of planning applications affecting historic buildings where there is a policy presumption in favour of preserving the architectural and historic integrity of all historic buildings, as set out in 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.

This accords with the purposes of the Planning and Building Law and the obligations of the Minister under the Convention on the Protection of the Archaeological Heritage (revised) (Valetta, January 1992).

Where planning applications are refused for works to historic buildings on grounds relating to the protection of heritage value, they remain open to the possibility of appeal, as with all other planning applications.