

Briefing note

Management of change in conservation areas

Draft Planning and Building (General Development) (Amendment No. 8)
(Jersey) Order 202-

Consultation feedback and response

August 2024

Summary and response to key issues

Issue	Response
<p>Concern that the extent of regulation within conservation areas should be limited only to works that are visible from a road or the foreshore.</p> <p>control should apply across the entirety of the conservation area; or</p> <p>control should apply to areas that are visible from 'the public realm' i.e. including other places (that aren't a road or foreshore) such as a park; semi-public spaces (e.g. St Andrew's Court in Charing Cross) or a viewpoint (e.g. Mont Orgueil)</p>	<p>The introduction of conservation areas will, by necessity, introduce additional levels of regulation upon those who own or occupy property within them. It is considered important and appropriate, however, that any additional regulation is proportionate and related to the policy objective of any regulation.</p> <p>In the case of conservation areas, the principal policy objective is to protect and improve the character or appearance of the area and it is considered that, in this respect, it is appropriate to limit additional regulation to those areas of a conservation area that are visible from a road or the foreshore only: it is from these areas that the character and appearance of a place is generally and publicly perceived and experienced.</p> <p>This is also considered to be consistent with Government's priorities including enabling sustainable development in Jersey.</p> <p>In terms of detailed points:</p> <p>the GDO currently contains provisions to regulate some categories of development where works are undertaken anywhere in a conservation area. These provisions are proposed to be reduced on the basis of the above and to limit regulation proportionately such that further regulation will apply where it is visible from a road or the foreshore for the reasons set out above.</p> <p>whilst an issue in other places, such as London where it is more common for areas which as perceived to be part of the public realm are actually privately-owned¹, it is considered that the basis for regulation in conservation areas that is limited to roads and the</p>

¹ <https://www.theguardian.com/cities/2015/aug/04/pops-privately-owned-public-space-cities-direct-action>

Issue	Response
	<p>foreshore is appropriate in Jersey, where quasi-public spaces are rare.</p> <p>The regulation of activities in conservation areas that might be visible from publicly accessible viewpoints – such as forts and castles – is not considered to be necessary and that an appropriate level of regulation can be provided where it is visible from a road or foreshore. This will also have regard, as a matter of course, to local topography, where views from some elevated roads may be quite extensive (also see point below)</p> <p>No change</p>
<p>Limiting the extent of regulation to an area that is 'visible from a road or the foreshore' will introduce ambiguity about when planning permission is required.</p>	<p>This is noted and accepted.</p> <p>To ensure that ambiguity is removed as to when planning permission will be required for works in a conservation area, conservation area appraisals will include the definition of an area where works will be subject to additional regulation based on an assessment of visibility from roads and the foreshore.</p> <p>No change</p>
<p>The proposed control of the installation of lighting does not amount to development and, therefore, cannot be regulated.</p> <p>If it is to be regulated, it is a disproportionate level of control, and should be qualified in some way.</p>	<p>The installation of apparatus to provide external illumination is considered to amount to development. Illumination is already the subject of regulation under existing legal framework (e.g. external illumination of advertisements).</p> <p>The proposal to regulate this type of activity will be qualified in the revised Order based on the number of apparatus; their size; and light output (i.e. permission will only be required where there is more than one light per elevation; where the lighting apparatus is more than 30 cm in any dimension; and where the light output is more than 500 lumens)</p> <p>Proposed change</p>
<p>Concern that the introduction of regulation of infrastructure works in conservation areas will unnecessarily interfere with routine and emergency works; and has the potential to undermine the regulation of road maintenance required by other regulatory regimes.</p>	<p>The regulation of planned works to infrastructure in conservation areas is considered to be important, which can have a significant effect on the character and appearance of a place and is considered to be legitimate to embrace within the new regulatory regime.</p> <p>The development of a management plan, as an integral part of a conservation area appraisal, provides an opportunity to engage with and to discuss with infrastructure providers how planned or routine management can be dealt with most efficiently and effectively, relative to the objectives of</p>

Issue	Response
	<p>mitigating harm and improving character and appearance.</p> <p>The requirement for planning permission to undertake works affecting the public highway does not remove or prejudice the management and permitting of works under any other forms of regulation, including the Road Works and Events (Jersey) Law 2016.</p> <p>In order to ensure that the introduction of additional regulation in conservation areas will not prejudice the ability to undertake emergency works, it is proposed to add an explicit clause to exempt emergency works from control.</p> <p>Proposed change</p>
<p>Conservation areas should not only be about additional regulation; there should also be a grant regime supporting improvement.</p>	<p>This consultation is about additional regulation only.</p> <p>The point is, however, noted and the legal framework that has been established enables the Minister to make funds available to protect and improve the character or appearance of conservation areas.</p> <p>The Minister supports the principle of establishing a grant regime and will endeavour to achieve this where resources allow.</p> <p>No change</p>

Detailed feedback and response

Name	Comment	Response
National Trust for Jersey	<p>Thank you for inviting feedback on the proposals for conservation areas.</p> <p>We are absolutely delighted that after a period of 30 years that our Island is finally going to adopt conservation areas as a meaningful and appropriate way of protecting the character and sense of place to be found in a number of our historic rural settlements and urban areas.</p>	Noted and welcomed
	<p>Such areas need to be defined by appropriate boundaries but the Trust is at a complete loss as to the perceived necessity of including a caveat relating to visibility from a road or the foreshore namely: planning permission would be required if the building is in a CA, and the work is visible from a road or the foreshore</p>	<p>The introduction of conservation areas will, by necessity, introduce additional levels of regulation upon those who own or occupy property within them. It is considered important and appropriate, however, that any additional regulation is proportionate and related to the policy objective of any regulation.</p> <p>In the case of conservation areas, the principal policy objective is to protect and improve the character or appearance of the area and it is considered that, in this respect, it is appropriate to limit additional regulation to those areas of a conservation area that are visible from a road or the foreshore only: it is from these areas that the character and appearance of a place is generally and publicly perceived and experienced.</p> <p>This is also considered to be consistent with Government's priorities including enabling sustainable development in Jersey.</p> <p>No change</p>
	<p>If we are serious about creating conservation areas which are fit for purpose and truly seek to protect character and sense of place then this needs to be applied to the area as whole regardless of whether it is publicly visible from a road or the foreshore.</p> <p>Also it needs to be applied in an equitable manner for everyone who lives in the conservation area, otherwise one owner could be blighted by</p>	<p>See above.</p> <p>The definition of a conservation area boundary, and the removal of some permitted development rights, will always affect people differently depending on the location of their property relative to the definition of boundaries: this will apply to the definition of the conservation area boundary as well as the definition of a zone where greater regulation will apply. What is important is that the definition of any area is clear and justifiable.</p>

Name	Comment	Response
	<p>unsuitable and unrestricted development from his/her neighbour whilst burdened with restriction because their property is visible from the road. Historic courtyards and roofscapes also add much to the character of a place and are worthy of appropriate protection.</p>	<p>Development activity at properties which lie within the conservation area but outside the zone where additional regulation will still require planning permission. where work would not otherwise be permitted development. This will ensure any impact upon neighbouring properties is appropriately regulated.</p> <p>Topography and gradient may render parts of CAs more visible from a public road, where the road sits above the CA, but the policy intent is that those changes that are publicly visible are appropriately regulated.</p> <p>No change</p>
	<p>Jersey has regrettably been slow in adopting the principle of conservation areas resulting in diminished character and sense of place particularly in St Helier.</p> <p>We now have the opportunity to address this by delivering conservation areas which are fit for purpose, equitable and meaningful. The Trust would therefore urge the removal of the caveat and also recommend the introduction of conservation area grants similar to the Heritage Townscape Heritage Initiative in the UK. In this way we will be able to ensure that our proposed conservation areas are protected and in due course enhanced to benefit both our Island's economy, built heritage and sense of identity.</p>	<p>The principle of introducing conservation areas to Jersey was endorsed by the States in 1987; but the time taken to give effect to its implementation is acknowledged.</p> <p>This consultation is about additional regulation only.</p> <p>The point about the introduction of a grant regime is, however, noted and the legal framework that has been established enables the Minister to make funds available to protect and improve the character or appearance of conservation areas.</p> <p>The Minister supports the principle of establishing a grant regime and will endeavour to achieve this where resources allow.</p> <p>No change</p>
Société Jersiaise	<p>We have no comment to make on the detailed provisions within Schedule 1 of the GDO.</p> <p>Our sole concern relates to the controlling phrase which determines when a planning application will be required for specified works. This is indicated in column 4 in the Table of Proposed Changes to the General Development Order. This phrase states:</p> <p>"planning permission would be required if the building is in a CA, and</p>	<p>Noted</p> <p>The introduction of conservation areas will, by necessity, introduce additional levels of regulation upon those who own or occupy property within them. It is considered important and appropriate, however, that any additional regulation is proportionate and related to the policy objective of any regulation.</p> <p>In the case of conservation areas, the principal policy objective is to protect and</p>

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	<p>the work is visible from a road or the foreshore”.</p> <p>In the interpretation section of the GDO, the meaning of the word ‘road’ is set out as follows:</p> <p>“road” means a road, bridge, viaduct or subway which is repairable at the expense of the States or any parish, and includes the carriageway, footpath and any other part of such a road, bridge, viaduct or subway;</p> <p>We are concerned that the approach adopted is too restrictive. We believe that there may be circumstances where viewpoints into or within conservation areas from locations and open spaces widely used by members of the public will fall outside the scope of this key phrase.</p> <p>This appears to be at odds with the very useful and widely understood concept of the public realm, which embraces spaces and locations which the public routinely enjoys. We believe that this broader thinking should also be applied to conservation areas, thereby harmonising the approach on these two interrelated aspects of environmental management.</p> <p>In support if this suggestion we note, for example, that the following policy in the ‘London Plan – Expanding London’s Public Realm, 2020’ takes a broader view.</p> <p>“Policy D8 Public Realm in the new London Plan recognises that the public realm is made up of a wide range of spaces and places. In addition to our streets, squares and parks, some internal or elevated spaces can also be considered to be part of the public realm, such as shopping malls, museums or station concourses, as well as sky gardens or viewing platforms. Such forms of public realm can be</p>	<p>improve the character or appearance of the area and it is considered that, in this respect, it is appropriate to limit additional regulation to those areas of a conservation area that are visible from a road or the foreshore only: it is from these areas that the character and appearance of a place is generally and publicly perceived and experienced.</p> <p>This is also considered to be consistent with Government’s priorities including enabling sustainable development in Jersey.</p> <p>In terms of detailed points: whilst an issue in other places, such as London where it is more common for areas which as perceived to be part of the public realm are actually privately-owned², it is considered that the basis for regulation in conservation areas that is limited to roads and the foreshore is appropriate in Jersey, where quasi-public spaces are rare.</p> <p>The regulation of activities in conservation areas that might be visible from publicly accessible viewpoints – such as forts and castles – is not considered to be necessary and that an appropriate level of regulation can be provided where it is visible from a road or foreshore.</p> <p>In the specific examples cited, the yard is visible from a road, making works within this potentially liable to additional control.</p> <p>Harbours are visible from public roads and of course the foreshore.</p> <p>Churchyards are generally associated with Listed buildings and places where existing extant GDO controls would apply.</p> <p>Parks are also generally visible from a road and may include footpaths.</p> <p>Defining the area of a CA that will be subject to additional regulation will also have regard, as a matter of course, to local topography, where views from some elevated roads may be quite extensive.</p> <p>No change</p>

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	<p>particularly relevant in areas of higher density".</p> <p>We are concerned that semi-public spaces such as St Andrews Court , Charing Cross, St Helier (which is private but open to public access 7 days a week) would fall outside the definition of 'road' as defined in the current GDO, as could the following types of location:</p> <ul style="list-style-type: none"> • harbours, quays, piers, jetties • churchyards • the areas of public parks beyond the pathways themselves • heritage and other sites and buildings to which the public are expressly invited, such as fortifications, museums etc, many of which provide unique viewpoints over neighbouring historic areas, e.g. Fort Regent (States owned) and South Hill (Parish owned), Gorey Castle etc. <p>These examples are illustrative, and there may be other types of viewpoint that we have not identified here.</p>	
MS Planning	<p>First, I think it would be worth defining an 'impact zone' beyond the CA boundary and fix this at day 1. This zone can be, say, 50m or defined with reference to infrastructure and topography, and if works are visible from within this zone, then they need permission.</p> <p>The whole "are you going to see it...?" approach with roads and the foreshore is troubling, and will cause each proposal to have to be assessed from a multitude of obscure viewpoints which may only be apparent on a seasonal basis (e.g. in the winter, when leaves are off trees) or the whole planning committee site visit might have to wait until a neap tide with the members tracking out to a distant point in Grouville Bay, to see if some incidental form of development can be seen at</p>	<p>This is noted and accepted.</p> <p>To ensure that ambiguity is removed as to when planning permission will be required for works in a conservation area, conservation area appraisals will include the definition of an area where works will be subject to additional regulation based on an assessment of visibility from roads and the foreshore.</p> <p>No change</p>

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	the low-tide line. A fixed zone is significantly preferable than a flexible zone, which is like to cause a multitude of issues.	
	The introduction of Class O is a significant concern. I don't think that the installation of domestic lighting is within the definition of "development" in the Planning Law, therefore it cannot be "permitted development" and has no place in the GDO.	The installation of apparatus to provide external illumination is considered to amount to development. Illumination is already the subject of regulation under existing legal framework (e.g. external illumination of advertisements). No change
	Of course, this raises the issue of the GDO trying to be everything to all people, and the strange context in Jersey where the need for Listed Building Consent seems to be just dealt with under the umbrella of planning permission - the current inclusion of painting a building in the GDO is the most obvious anomaly	The context may only appear 'strange' if viewed from the perspective of a different regulatory regime which operates outside of the island. It might be argued that the requirement for a separate form of 'planning permission' i.e. listed building consent, is the anomalous position when viewed from a Jersey perspective
	Article 56A(3) seems to enable the Minister to make a specific Order to cover such matters, and this would seem to be preferable to editing the GDO.	The amendment to the GDO is the appropriate Order to amend rather than the creation of more secondary legislation to cover such matters. No change
	The concept of needing planning permission to put up an outside light (irrespective of whatever 'exemptions' the Minister might then confirm) is not comfortable, and in my reading, beyond the definition of development	The installation of apparatus to provide external illumination is considered to amount to development. Illumination is already the subject of regulation under existing legal framework (e.g. external illumination of advertisements). No change
	Further, it would seem to be the issue of light-spill that is actually the matter warranting consideration, rather than the actual fittings themselves. So, if the Minister is intent on pursuing this point, then is it not the nature of the light bulb and its lux levels, and perhaps hours of use, that might need to be controlled?	The proposal to regulate this type of activity will be qualified in the revised Order based on the number of apparatus; their size; and light output. Proposed change

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	Trying to 'legislate' for this in the GDO or elsewhere, would seem to be an impossible task, and one which the public might not presently appreciate is an intention of this piece of work.	
I&E (Drainage)	<ol style="list-style-type: none"> 1) In general we accept the principle that Planning Permission will be required for any new infrastructure (below or above ground) in a Conservation Area. 2) I don't think that we can reasonably accept that Planning Permission will be required for any new infrastructure that is within sight of a public or parish road, or of any roads administered by a Government Department (i.e. Ports, Education) or the foreshore (further to 1) 3) We cannot accept the principle of Planning Permission being required for emergency maintenance or repair 4) We cannot accept the principle of Planning Permission being required for the maintenance of existing public drainage infrastructure 5) We cannot accept the principle of Planning Permission being required for replacement of existing infrastructure that is generally "as existing" – i.e pipe diameter and gradient (we'd review the best pipe material available with regard to replacement) 6) We cannot accept that that Planning Permission will be required for any new infrastructure, or maintenance / replacement of existing infrastructure that is within sight of a public or parish road, or of any roads administered by a Government Department (i.e. Ports, Education) or the foreshore (further to 1) 	<p>The regulation of planned works to infrastructure in conservation areas is considered to be important, which can have a significant effect on the character and appearance of a place and is considered to be legitimate to embrace within the new regulatory regime.</p> <p>The development of a management plan, as an integral part of a conservation area appraisal, provides an opportunity to engage with and to discuss with infrastructure providers how planned or routine management can be dealt with most efficiently and effectively, relative to the objective of mitigating harm and improving character and appearance.</p> <p>In order to ensure that the introduction of additional regulation in conservation areas will not prejudice the ability to undertake emergency works, it is proposed to add an explicit clause to exempt emergency works from control.</p> <p>Proposed change</p>

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I&E (Highway asset management)	<p>The Road Works and Events (Jersey) Law allows the department to restrict which organisations can carry out works within the public highway.</p> <ul style="list-style-type: none"> • Only the highway maintainer, and utility companies (statutory undertakers) are permitted to undertake works on the main roads. Private individuals and developers wishing to undertake works, Non-Statutory Undertakers (NSU), need to obtain a specific NSU Licence permission prior to undertaking works on the public highway. • Utility Companies and NSU may only use a one of 5 paving contractors to undertake works on the public highway. - All works must be undertaken with a road space permit, which is obtained via the TrafficWorx systems. • All works are then guaranteed for a minimum of 3 years and a maximum of 5 years under the Road Works and Event (Jersey) Law • All reinstatements must be in accordance with Specification and Standard Details for Highway Reinstatements. <p>The TrafficWorx permitting system and Specification and Standard Details for Highway Reinstatements have higher levels of protection for specific roads. There are existing very high levels of protection are required when undertaking works to granite paving due to its heritage and aesthetic value, and embodied carbon. This ensures granite is not damaged and reused wherever possible.</p> <p>The department also needs to ensure it is compliant with the Management in Construction (Jersey) Regulations 2016. This includes appointing competent designers and contractors and ensuring that the highway can be safely</p>	<p>The robust and established processes, operated under the auspices of the Road Works and Events (Jersey) Law, for the management of road works are acknowledged.</p> <p>The proposed removal of permitted development rights for works that affect road surfaces in conservation areas is not intended to, and will not, affect the established process of regulating the management and specification of road works.</p> <p>Planning permission is granted for the development and use of land, and development activities can be appropriately regulated through the planning process. This does not preclude the need secure other forms of regulatory permission to enact the planning permission granted, where there may be design implications e.g. building permission.</p>

Name	Comment	Response
	<p>maintained and operated. Breach of these regulations is a criminal offence. Under these regulations all designers and contractors require to demonstrate they have adequate qualifications and experience to undertake tasks. This can include individuals needing to be chartered members of an appropriate engineering institution. The safety of road users is paramount to any decision-making process. The hierarchy of safety priorities pedestrians, cyclists, and bus users, particularly children or those with limited mobility. These robust systems ensure works are undertaken to the Highway Authorities specification.</p> <p>To ensure the safety of the public, and compliance with the Management in Construction (Jersey) Regulation 2016, it is of paramount importance that any decisions impacting the public highway are assessed by a competent person within the Government of Jersey Highway Maintenance team.</p> <p>The planning team do not have the competence or experience to assess Highway Engineering matters. Planning consent is regularly given to developers whose proposals are unsatisfactory and could put the public at risk. This causes a significant challenge for the Government of Jersey's Highway Development Control team to ensure developers use experienced Highway Engineers for the design of their schemes and to ensure that their schemes are built to the required standard. Potentially, the planning team could inadvertently take on the role of designer, leaving the team exposed to a criminal prosecution. Experienced highway engineers remain the appropriate persons with the relevant competencies to make decisions with regard to safety, serviceability, and sustainability of the</p>	

Name	Comment	Response
	<p>public highway. The existing checks in place are;</p> <ul style="list-style-type: none"> • The highway authority is alerted via TrafficWorx when any permit request is received for works on protected routes. • Any developers require a licence under the Highway (Jersey) Law 1956 prior to a permit being issued. This specifies what work will be undertaken, where, and which contractors are to be used. As only approved contractors may work on GoJ Main Roads, contractors are highly incentivised to comply with Government of Jersey's requirements or they could be removed from the list of approved highway contractors. <p>The requirements to obtain planning consent for changes or maintenance to the public highway for heritage value could result in conditions being placed on designers by planning specialists that do not fully understand the safety implications of their decisions. Planning Application document requirements do not readily read across to Highway Engineering drawings, for example elevations are superfluous and meaningless, but I foresee unnecessary delay and problems in the screening process when the screening team struggle to match one size fits all checklists to Highway Engineering drawings. Government of Jersey could breach the Management in Construction (Jersey) Regulations 2016 should a planning professional make a design decision which is not approved or endorsed by a Highway Engineer. This could result in a criminal conviction.</p>	
I&E (Highway asset management)	<p>The requirements to obtain planning consent for changes or maintenance to the public highway for heritage value could result in conditions being placed on designers by planning specialists</p>	<p>The purposes of the Road Works and Events (Jersey) Law are considered to be relatively narrow and relate to:</p> <ul style="list-style-type: none"> • the interest of safety; • the use of the road; and

Name	Comment	Response
	<p>that do not fully understand the safety implications of their decisions.</p> <p>Planning Application document requirements do not readily read across to Highway Engineering drawings, for example elevations are superfluous and meaningless, but I foresee unnecessary delay and problems in the screening process when the screening team struggle to match one size fits all checklists to Highway Engineering drawings.</p> <p>Government of Jersey could breach the Management in Construction (Jersey) Regulations 2016 should a planning professional make a design decision which is not approved or endorsed by a Highway Engineer. This could result in a criminal conviction.</p> <p>The current system of protection heritage paving is robust and could be enhanced by including an additional consultation stage with a nominated Heritage representative. Further requirements would divert the teams' resources from making sure the public highway is safe to needing to manage planning applications. This would also create unnecessary delay and bureaucracy especially to reactive maintenance activities.</p> <p>If sufficient "reasonableness clauses" are not provided overly bureaucratic processes could result in the department breaching health & safety laws which carry a criminal conviction.</p> <p>The highways asset management team would welcome discussions with the heritage team to review the departments current procedures, or to identify if any other parts of the network require a higher level of protection by enhancing the existing highway control procedures. Any additional requirements could be added to existing policies and procedures without adding new overly</p>	<ul style="list-style-type: none"> • the need to protect the structure of the road. <p>On this basis, it is considered appropriate, relative to the policy objectives set by the States Assembly in enabling the designation of conservation areas; that a separate regulatory regime might consider and establish whether works affecting the surfaces of any roads are likely to protect or enhance the character and appearance of a conservation area. This cannot be done within the existing regime for the management of road works.</p> <p>Work would need to be undertaken to clarify the information required to be provided in support of applications for road works.</p> <p>Also, early engagement with the I&E (Highways management) team, in the preparation of the conservation area appraisal, might help to identify where works are programmed to be undertaken, within any conservation area, to enable discussion about the most appropriate design and specification of any sections of highway within the proposed conservation area.</p>

Name	Comment	Response
	bureaucratic and not fit for purpose processes.	
Member of the public	I support the proposed amendments to the Order as set out (in the consultation).	Noted and welcomed.