

3 Historic Environment

3 Historic Environment

HE: Introduction

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

3.2 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 environment is also of immense importance for leisure, tourism and the economy.

3.3 The Minister is committed to the concept of sustainable development - of not sacrificing what future generations will value for the sake of short-term and often illusory gains. This commitment has particular relevance to the preservation of the historic environment which, by its nature, is irreplaceable. Yet the historic environment of Jersey is all-pervasive and it cannot in practice be preserved unchanged. We must ensure that the means are available to identify what is of value in the historic environment; to define its capacity for change; and, when proposals for change come forward, to assess its impact on the historic environment and give it full weight, alongside other considerations.

3.4 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. The key to maintaining the historic environment is to ensure most historic buildings are in good economic and sustainable use in, for example, commercial or residential occupation. Our heritage is a valuable material resource and can contribute to the prosperity of the economy provided that it is properly maintained: the avoidable loss of fabric through neglect is a waste of economic as well as environmental resources. In return, economic prosperity can secure the continued vitality and the continued use and maintenance of the historic environment, provided that there is a sufficiently realistic and imaginative approach to alteration and change of use to reflect the needs of a rapidly changing world. Conservation can itself play a key part in promoting economic prosperity by ensuring that an area offers attractive living and working conditions which will encourage inward investment - environmental quality is increasingly a key factor in many commercial decisions.

3.5 There should be a general presumption in favour of the preservation of the character and integrity of protected areas, buildings and places, except where a convincing case can be made for alteration or, in exceptional cases, demolition. While the protection of a building or place 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, place or its setting or any features of particular architectural, archaeological or historic interest which it possesses. The key to this is to ensure the heritage asset is properly assessed and understood before proposals for change are drawn up. Conservation of the historic environment reflects the great importance to society of protecting the historic environment from unnecessary demolition and from unsuitable and insensitive alteration, and should be the prime consideration for all those considering works to protected buildings and places.

3.6 The responsibility of stewardship is shared by everyone - not only by government, but also by business, developers, voluntary bodies, churches, and by individual people as owners, users and visitors to the historic environment.

Identifying the historic environment

3.7 The Minister for Planning and Environment has obligations under the Planning and Building (Jersey) Law 2002; 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) 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

3.8 These obligations are, to a large extent, met by the designation of the Island's heritage assets. Buildings and places of special interest are identified, designated and protected as Listed buildings and places on the basis of the special interest of their architectural, archaeological or historical value. Area-based protection of the historic environment is also applied through the identification, designation and protection of Conservation Areas and Areas of Archaeological Potential (AAP).

3.9 Identification and designation of a heritage asset, as a Listed building or place (or its identification as a potential Listed building or place), or the designation of an area as a Conservation Area or an Area of Archaeological Potential is intended to identify its contribution to the heritage and amenity of Jersey. The law and the Island Plan policy framework ensure that the impact of development on these heritage assets is a material consideration in the planning process.

Protecting the historic environment

3.10 Once protection is conferred upon an historic 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.

3.11 Controls apply to all external works to Listed buildings, and also to internal works that would affect their 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. Where repainting of a Listed building would affect the building's character or painting areas not previously painted, consent is also required .

3.12 The character of those parts of the Island to be considered for designation as Conservation Areas will be vulnerable to change through minor permitted development, such as the replacement of doors and windows and of roof coverings. For this reason, normal permitted development rights are likely to be reduced or removed in Conservation Areas in order to control any permitted development which would otherwise be detrimental to their special character and qualities. ⁽¹⁾

3.13 It is important that proposals for change which affect protected buildings, places and areas contain sufficient levels of information and detail to ensure that the likely impact of the proposals can be properly considered, understood and evaluated. The Minister for Planning and Environment may direct the applicant to supply further information, as empowered to do so under the Planning and Building (Jersey) Law 2002, and, if necessary, will refuse permission for proposals which are inadequately documented.

HE: Objectives and indicators

Objective HE 1

Historic environment objectives

1. To protect, maintain, enhance and promote the historic environment;
2. To safeguard the Island's archaeological heritage

¹ It is proposed to amend the General Development Order to remove or reduce permitted development rights in Conservation Areas.

Indicators HE 1

Historic environment indicators

1. Number of Listed buildings and places
2. Number of Conservation Areas or Areas of Archaeological Potential
3. Number of Listed buildings demolished
4. Number of planning/Listed building or place applications affecting heritage assets
5. Number of planning/Listed building or place applications affecting heritage assets determined against Historic Environment Team advice

HE: Policies and proposals

Listed buildings and places

3.14 It is important that changes to protected buildings and places of architectural and historic interest respect their integrity and character and do not detract from the essence of why they were Listed in the first place, in accord with Policy SP 4 'Protecting the natural and historic environment'. The general principles and best practice that should be adopted and applied to the management of change in historic buildings are set out in the supplementary planning guidance [Managing Change in Historic Buildings](#) (June 2008). The issues that are generally relevant to the consideration of all applications affecting Listed buildings and places are;

- the importance of the building or place; its intrinsic architectural, archaeological, historic or other interest and rarity;
- the particular physical features of the building or place (which may include its design, plan, materials or location) which justify its protection;
- the building or place's setting and its contribution to the local scene, which may be very important, e.g. where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings nearby;
- the extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment (including other protected buildings or sites).

3.15 Alterations to Listed buildings and places will be expected to be of an appropriate design, using traditional materials and skilled work and craft. Any replacement of the fabric of protected buildings should be kept to a minimum in order to maintain the integrity and character of the structure. Proposals for change should also be in scale with the building or place and respect its character.

3.16 Extensions to Listed buildings should be subservient to the existing building and not conflict with the form, profile or detail of the original building or detract from its character. There is also a need to preserve or enhance the spaces about buildings and extensions should be sympathetic to their potential impact upon the setting and space around protected buildings. When considering planning applications in the vicinity of Listed buildings, places or areas, the need to conserve the character and setting will be a material consideration.

3.17 In cases where there is any approved alteration or loss of historic built fabric to Listed buildings, there will be a requirement for recording to be undertaken, as appropriate.

Policy HE 1

Protecting Listed buildings and places

There will be a presumption in favour of the preservation of the architectural and historic character and integrity of Listed buildings and places, and their settings. Proposals which do not preserve or enhance the special or particular interest of a Listed building or place and their settings will not be approved.

Permission will not be granted for:

1. the total or partial demolition of a Listed building;
2. the removal of historic fabric, which might include roofing materials, elevational treatments (such as render or stucco) and their replacement with modern alternatives;
3. the addition of external items, such as satellite dishes, antennae, signs, solar panels and roof lights, which would adversely affect the special interest or character of a Listed building or place, and its setting;
4. extensions, alterations and changes which would adversely affect the architectural or historic interest or character of a Listed building or place, and its setting.

In those exceptional cases where there is a loss of the historic fabric of a Listed building or place, the Minister will ensure that the recording of that fabric to be lost is undertaken, as appropriate.

Applications for proposals affecting Listed buildings and places which do not provide sufficient information and detail to enable the likely impact of proposals to be considered, understood and evaluated, will be refused.

3.18 It should be noted that controls apply to the whole of a protected site, not just the front elevation or the main building. Listed buildings and places do not enjoy the same permitted development rights of other properties, as a consequence

of the need for the greater regulation of change to historic fabric. To ensure that the owners of these properties are not treated unfairly and required to pay fees for works which would otherwise be deemed to be exempt from planning control, the Minister for Planning and Environment will amend the planning fee schedule, which is regulated by Order. Also in Jersey, churches and other places of worship are not exempt from control as they are in England.

Proposal 7

Listed buildings and permitted development

The Minister for Planning and Environment will amend the Planning and Building (Fees) (Jersey) Order 2008 to ensure that planning applications in respect of Listed buildings or places will be exempt from planning fees to the extent that such fees would not have been payable were the building or place not listed

3.19 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 Listed building or place.

Protection of historic windows and doors

3.20 Historic windows, doors and other external features are important because they form an integral part of the fabric of old buildings and add to their special character. A change to the style or appearance of one of these features can disrupt the overall appearance and harmony of a building. The impact of change can be dramatic and of detriment not only to the individual historic building but also to the character of a street or lane which can, cumulatively, serve to undermine the character, identity and distinctiveness of the Island.

3.21 The characteristics of historic windows and doors derive from a whole range of inter-related shapes, details, colours and materials and, therefore, it is often the fine detail that is important, and not just a broadly similar effect. It is important that the historic character and integrity of historic buildings are maintained throughout, and the approach to the repair and replacement of windows and external doors should extend to the whole of the property and not just the main or public façade. The protection of historic buildings extends at the very least to the whole of the building's exterior and not, as has been suggested in the past, only to those parts visible from public vantage points or to the front elevation.

3.22 It is only in relatively recent times that the regulation of the installation of modern, unsympathetic windows and doors to historic buildings has been introduced in response to the damage being done to the character and appearance of many of the Island's older buildings, streets and rural lanes. Unfortunately, many properties have already lost their historic windows and doors. Owners and

occupiers of adjacent properties wishing to replace their own historic windows and doors often consider the need to have regard to issues of materials and detailed design as inconsistent and unfair. To ensure that the character of historic buildings and the character of a street or lane is not further eroded it is, however, important that each case is considered on its individual merits.

3.23 In recognition of the importance of windows and doors in historic buildings, there is a requirement for planning permission to be sought for their replacement in all Listed buildings. It is proposed that, in Conservation Areas, permission will be required for the replacement of pre-1920 windows and doors⁽²⁾.

Policy HE 2

Protection of historic windows and doors

All existing historic windows and doors in historic buildings should be repaired, wherever possible, using materials and details to match the existing.

The replacement of historic windows and doors in Listed buildings and in those historic buildings in Conservation Areas, where consent is required for such work, will not be approved, unless there is clear justification to show that repair is not possible.

Where repair is impracticable or where previous replacements are being replaced again, replacements that do not carefully replicate or restore the historic windows or doors in terms of materials, method of opening, proportions, dimensions, visual weight, decorative details and finish, will not be approved.

Historic character

Identification of historic character

3.24 The introduction of some form of area-based protection for parts of the Island's historic built environment is a long-standing proposal: the potential introduction of Conservation Areas featured in both the 1987 and 2002 Island Plans. The law now enables some form of area-based protection regime to be implemented to afford an opportunity to protect the character of defined and special areas.

3.25 Area protection arises from the need to manage change which could undermine the special character and contribution that many humble and unsophisticated historic buildings and structures, as a group or a collective entity, make to the Island's built-up areas and particularly to the character of different

² It is proposed to amend the General Development Order to remove or reduce permitted development rights in Conservation Areas

parts of St Helier. Conservation Area designation will provide a way for the greater townscape and character of the historic environment to be considered and taken into account in the development process.

3.26 The designation of Conservation Areas will be based on areas of special architectural or historic interest, the character or appearance of which it is desirable to conserve or enhance. The criteria used to identify and determine the boundaries of Conservation Areas will be set out in supplementary planning guidance.

3.27 Work has already been undertaken to identify potential Conservation Areas in St Helier (Proposal 9 'St Helier Conservation Areas'). The Minister for Planning and Environment will seek to develop proposals for Conservation Area designation in St Helier, in consultation with relevant stakeholders. An appraisal of the character of each Conservation Area will be undertaken to ensure that its special interest is clearly identified for the community, land owners and developers. This will assist and inform decisions made in the planning process, and will form part of supplementary planning guidance.

3.28 Elsewhere in the Island, the contribution of the historic environment to the determination of a place's character is important in settlements around parish churches; at the Island's harbours and in some scattered agricultural hamlets, where there is potential for the further designation of Conservation Areas. Future designations may include, for example, Gorey Harbour, St Aubin's Village and Grouville Church: each area will, however, be considered on its own merits and be brought forward for designation following consultation with stakeholders.

Proposal 8

Conservation Area designation

The Minister will consider the identification and designation of Conservation Areas throughout the Island during the Plan period, relative to their assessment against published criteria, and will adopt these through the publication of supplementary planning guidance, following consultation with stakeholders.

Protection of historic character

3.29 The designation of part of the Island as a Conservation Area will not prevent development, redevelopment or improvement. There is, however, a clear requirement for such activity to conserve or enhance the character of the area and, consequently, there will be a need to pay special attention to the impact of new development proposals upon the character and appearance of buildings and places in Conservation Areas.

3.30 In considering any applications in or affecting a Conservation Area, the primary consideration will be the need to conserve or enhance the area's character and appearance. Very careful consideration will need to be given to the quality of design of each development proposal to ensure that it conserves or enhances the site's or building's setting. New development, including building alterations, will be considered for the appropriateness of its scale, form, materials and detailed design to the character of the particular area and in this respect, the elevational treatment of all facets of any development, and its roofscape, is as important as the main façade and street frontage of a building.

3.31 Development proposed in a Conservation Area should retain all features which contribute to its character. This includes buildings which, although not Listed, are of townscape interest; boundary walls and railings; trees and other landscape features; traditional and natural paving materials and street furniture; and the historic pattern of streets and spaces.

3.32 The land uses and activities which occupy the buildings and spaces in a Conservation Area may be integral to its designation and they could be adversely affected by an unsuitable change of use of land or buildings. In particular, development proposals will be assessed to avoid the introduction of traffic whose volume or type would harm the character of a Conservation Area by reason of noise, disruption, congestion, severance of pedestrian movement or other adverse effects.

3.33 Proposals for development adjacent to Conservation Areas should be designed to be in harmony with the size, form and materials found within the Conservation Area and care should be taken that the view into and out of the area remains unspoiled.

3.34 The character of Conservation Areas will be vulnerable to change through minor permitted development activity, such as the replacement of doors and windows and of roof coverings. For this reason, normal permitted development rights are likely to be reduced or removed in Conservation Areas in order to control any permitted development which would otherwise be detrimental to their special character and qualities. Consideration is also being given to bringing the felling and management of trees under planning control in Conservation Areas to ensure that the specific contribution made to the character of an area by landscaping is not undermined⁽³⁾.

3 it is proposed to amend the General Development Order to reduce or remove permitted development rights in Conservation Areas.

Policy HE 3

Preservation or enhancement of Conservation Areas

Development within or affecting the setting of a Conservation Area should seek to preserve or enhance all features which contribute positively to the area's character or appearance. Special regard will be paid to the impact of proposed development on the character or appearance of Conservation Areas, and development proposals that will have an adverse impact on that character or appearance will not be permitted.

Development proposals in Conservation Areas will only be permitted if the following criteria are met:

1. development should be of a standard of design which respects the appearance and character of the Conservation Area in terms of its scale, height, mass, vertical and horizontal emphasis, proportions, layout, siting, landscaping and other matters of design such as roofscape, architectural style and detailing; and
2. development should take account of and satisfactorily relate to context and adjoining buildings; preserve or enhance the street scene; and should not detract from important existing spaces and views; and
3. building materials and means of enclosure should be appropriate to the locality and context and sympathetic to those of existing and nearby buildings in terms of type, texture, colour and size; and
4. development should have a satisfactory means of access which does not detract from the character of the area, does not generate excessive traffic and, where appropriate, should provide for adequate parking in a way which is sympathetic to the Conservation Area; and
5. development should retain important landscape and biodiversity features and, where possible, include measures to enhance these features; and
6. development should retain important architectural and historical features, such as traditional street furniture and paving, and should include measures to enhance them, where possible and appropriate to do so; and
7. development should avoid the loss of open areas and natural and built features (such as trees, hedges, fences, walls and paving materials) if they are important to the character of the Conservation Area; and
8. the development should not spoil or destroy views and vistas into, within and out of the Conservation Area if they are important to the character of the area.

Demolition in Conservation Areas

3.35 The partial or wholesale loss of buildings and structures can seriously undermine and damage the character of a place. In Conservation Areas, therefore, detailed consideration will be given to an assessment of proposals to demolish buildings and structures.

3.36 If approval is given for the demolition of a building or structure in a Conservation Area, there will be a need to ensure that unsightly gaps and dereliction are not created by requiring that either development of a high quality will replace it or the site is improved to create an attractive open space of amenity value.

3.37 The potential impact of demolition in a Conservation Area for protected species and their habitats should be considered in accord with Policy NE 2 'Species protection'.

Policy HE 4

Demolition in Conservation Areas

The demolition of a building or structure in a Conservation Area will not be permitted unless it can be demonstrated that;

1. it is not of intrinsic architectural, historic or townscape importance and its removal or replacement would enhance the appearance or character of the area; or
2. its removal would allow the redevelopment or rehabilitation of an adjacent larger site which is under-used, neglected or derelict, providing this redevelopment would enhance the character and appearance of the Conservation Area;
3. it is incapable of reasonable beneficial use; or
4. it is proved to be wholly beyond viable repair.

Any consent for demolition of a building in a Conservation Area will be conditional on it not being demolished until either:

5. detailed planning permission for the redevelopment of the site has been obtained and an agreed contract for the carrying out of works of redevelopment is in place, or
6. a landscaping and improvement scheme is submitted and an agreement is entered into to maintain the scheme, if the site is to be kept in open space use.

Whenever appropriate, proposals which would entail the loss of historic fabric from a Listed building will be conditional upon a programme of recording being agreed and implemented in accord with Policy HE 1 'Protecting Listed buildings and places'.

Archaeology

3.38 Archaeological remains are irreplaceable. They are evidence of the past development of our Island's civilisation and, for prehistoric periods, the only evidence.

3.39 Archaeological remains should be seen as a finite and non-renewable resource, in many cases highly fragile and vulnerable to damage and destruction. Appropriate protection and management is, therefore, essential to ensure that they survive in good condition. In particular, care must be taken to ensure that archaeological remains are not needlessly or thoughtlessly destroyed. They can contain irreplaceable information about our past and the potential for an increase in future knowledge. They are part of our sense of identity and are valuable both for their own sake and for their role in education, leisure and tourism.

3.40 The European Convention on the Protection of the Archaeological Heritage (the Valetta Convention 1992 (revised)) was extended to Jersey in September 2000. Its principal purpose is to protect the archaeological heritage as a source of European collective memory and as an instrument for historical and scientific study. The basis of its operation is the maintenance of an inventory of archaeological heritage and the designation of protected monuments and areas. Other articles of the Convention place obligations upon the Island relating to the need to ensure that planning policies provide for the protection, conservation and enhancement of archaeological sites (Article 5).

Archaeology and the planning process

3.41 Identifying and defining archaeological remains, sites and areas through the planning system can ensure that the case for the preservation of archaeology is fully considered when proposals for development or other work might damage the asset. The key to informed and reasonable planning decisions is for consideration to be given to the question of whether archaeological remains exist on a site before formal planning applications are made. This is applicable to archaeology above and below the ground and water of the Island's landmass, offshore reefs and territorial waters, and within the fabric of its buildings.

3.42 Where important archaeological remains and their settings, whether formally protected or not, are affected by proposed development there should be a presumption in favour of their physical preservation. Cases involving archaeological remains of lesser importance will not always be so clear-cut and the Minister for

Planning and Environment will need to weigh the relative importance of archaeology against other factors including the need for and the wider community benefits of the proposed development. Positive planning and management can help to bring about sensible solutions to the treatment of sites with archaeological remains and reduce the areas of potential conflict between development and preservation.

3.43 If physical preservation *in situ* is not feasible, a carefully specified archaeological excavation for the purposes of 'preservation by record', may be an acceptable alternative: this should be regarded as a second best option. The science of archaeology is developing rapidly. Excavation means the total destruction of evidence (apart from removable artefacts) from which future techniques could almost certainly extract more information than is currently possible. Excavation is also expensive and time-consuming, and discoveries may have to be evaluated in a hurry against an inadequate research framework. The preservation *in situ* of important archaeological remains is, therefore, nearly always to be preferred.

Protecting archaeology

3.44 The desirability of preserving archaeological remains, based on the presumption in favour of their preservation *in situ*, and their setting, where appropriate, is a material consideration in the determination of planning applications. But the conservation of our historic environment is not about preventing change, but managing change through decisions that are informed by understanding the cultural values that would be affected. The Minister for Planning and Environment recognises 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.

3.45 The case for the preservation of archaeological remains will be assessed on the individual merits of each case, taking into account planning policies for the preservation of archaeological resources, together with all other relevant material considerations, including the intrinsic importance of the remains and weighing these against the need for and community benefit of the proposed development.

3.46 The Minister for Planning and Environment will require an archaeological evaluation to be carried out, to be paid for and provided by the developer, for development proposals which may affect archaeological remains: this information will be required as an integral part of the planning application in order to understand the archaeology and the potential impact of the development proposals upon it. The nature of archaeological evaluation may vary depending upon the archaeological sensitivity and importance of the site and the extent of existing information. Any archaeological evaluation must provide sufficient information to enable the Minister for Planning and Environment to make an informed planning decision having regard to the value of the archaeological remains and the likely impact of the proposed development.

3.47 Where the physical preservation of archaeological remains *in situ* is not justified, appropriate and satisfactory provision for the excavation and recording of the remains will be required.

3.48 Conditions to protect archaeological remains during construction, to ensure that reasonable access is given to hold a "watching brief" during the construction period, or to carry out archaeological investigation and recording in the course of the permitted operations on site may also be required in respect of development proposals affecting sites of archaeological interest.

3.49 The full cost of engaging appropriate professional archaeological resources to undertake any evaluation, excavation, investigation and recording, where development proposals affect archaeological resources, will be borne by the developer. Similarly, the publication of findings and the treatment and deposition of finds will be matters to be funded by the developer, and the Minister will seek to employ planning conditions and/or planning obligation agreements to ensure that appropriate provision is made for such.

Policy HE 5

Preservation of archaeological resources

The Minister for Planning and Environment will require an archaeological evaluation to be carried out, to be provided and paid for by the developer, for works which may affect archaeological resources: this information will be required as an integral part of an application. The form of the evaluation will be dependent upon the nature of the archaeological resource and the development proposal and may involve more than one phase of evaluation and investigation depending upon the outcome of initial investigations and the significance and nature of the archaeology.

Planning applications for development proposals which do not provide sufficient information to enable the value of archaeological remains and the likely impact of the proposed development to be determined, will be refused.

There will be a presumption in favour of the physical preservation *in situ* of archaeological resources and their settings.

Development which would involve significant alteration or cause damage, or which would have a significant impact on archaeological resources and the setting of visible archaeological resources, will only be permitted where the Minister for Planning and Environment is satisfied that the intrinsic importance of the resource is outweighed by other material considerations, including the need for and community benefit of the development.

Where it is determined that the physical preservation of archaeological resources *in situ* is not justified, the Minister will ensure, through the use of planning obligation agreements and/or planning conditions, that appropriate provision for; the excavation and recording of the resources; the publication of the findings; and in some cases, the treatment and deposition of finds, is made and funded by the developer.