

**PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)**

**Appeal under Article 108 against a decision made under Article 51 to  
include a building on the List of Sites of Special Interest**

**REPORT TO THE MINISTER FOR THE ENVIRONMENT**

made under Article 115(5)  
by D A Hainsworth LL.B(Hons) FRSA Solicitor  
the inspector nominated under Article 113(2) from the list of persons appointed  
under Article 107

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**Appellant:**

Mrs Bridgit Simpson

**Historic site reference:**

GR0160

**Listed Building Grade:**

Grade 4

**Building type:**

Residential (rural house)

**Building name and address:**

Hillside Cottage, Le Vier Mont, Grouville

**Inspector's site visit date:**

11 January 2016

**Hearing date:**

14 January 2016

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**Introduction, background and procedural matters**

1. This is an appeal against the decision of the Chief Executive Officer for the Department of the Environment made on 26 June 2015 to add the building, Hillside Cottage, Le Vier Mont, Grouville, to the List of Sites of Special Interest maintained under Article 51. The decision was taken after considering advice provided by Jersey Heritage, who took into account the views and advice offered by the Listing Advisory Group.
2. The Department's statement of case includes information about the process that took place in 2013 and 2014 concerning a proposal to list this building. This appeal, however, only relates to the decision made by the Chief Officer

on 26 June 2015 under the amended Article 51 that came into force earlier that year. In the preparation of my report, I have therefore disregarded the process that took place before and have considered the matter entirely afresh.

3. I understand from this information, however, that there was Ministerial involvement and that Ministerial decisions were made when the proposal to list this building was dealt with in 2013 and 2014. Consideration should therefore be given to putting into place any procedures that may be needed to ensure that the decision-maker is able to apply their judgement fully and properly when my report is considered.
4. Article 51(2) states that the List shall include each building that the Chief Officer is satisfied has public importance by reason of the special archaeological, architectural, artistic, historical, scientific or traditional interest that attaches to the building. The judgement of the Court of Appeal in *The Minister for Planning and Environment v Seymour Villas Limited* [2013] JCA 237 established that the sole matter to be taken into account when a decision is taken under Article 51(2) is whether or not the building in question has public importance by reason of its special interest and that, if it does, there is an obligation to list it.
5. A document entitled "Criteria for the listing and grading of heritage assets", which was adopted in April 2011, sets out the framework that the Chief Officer uses when making a decision whether to list a building. The document states that the "ultimate aim is to conserve a carefully defined range of the extensive heritage on the Island".
6. The criteria state "Listings will cover five broad areas". Detailed criteria are set out for each of these areas, together with a list of issues that will be taken into account. The areas include interests listed in Article 51(2), with the addition of age. The criteria indicate that age is "a major factor in the evaluation process", since "the older a building is and the fewer of its type survive the more likely it is to present a special interest". Age in itself though is not one of the special interests referred to in Article 51(2).
7. The criteria include a non-statutory grading system (Grades 1 to 4) to help determine the significance of a heritage asset. The Chief Officer has allocated Grade 4 to Hillside Cottage. Grade 4 buildings are described in the criteria as "Buildings ... of special public and heritage interest to Jersey, being good example[s] of a particular historical period, architectural style or building type; but defined particularly for the exterior characteristics and contribution to townscape, landscape or group value".
8. The Chief Officer's listing particulars for Hillside Cottage contain the following details:
  - **"Statement of significance:** 1840s rural cottage, which retains its 19th century historic character with some original external features surviving, and makes a positive contribution to the rural streetscape."
  - **"Historic interest:** Hillside Cottage was built sometime between 1839-1849. The Jersey Public Registry records that the plot of land was purchased by Elie Marie in January 1839. The house is shown on the Godfray Map in 1849. The property is of historical interest as a 1840s rural property, of a

more unusual single-storey form; its 5-bay arrangement illustrating the more formal symmetrical style of architecture which was fashionable at the time of construction. The addition of the rear outshot is a typical style of extension added to Jersey houses in the 19th century. Previously called Providence Villa (in 1884 contract) and Hill View (in 1946 contract)."

- **"External Description:** 5 bay cottage, single-storey with attic; and later single-storey outshot to rear. Rubble stone walls with rendered finishes. The roof has modern concrete tiles, with a rendered brick chimney to each gable, and 2 small dormers with 6 pane (3/3) sash windows. The principal (south) elevation is rendered with scored ashlar effect and vermiculated keystones. It retains its original 12 pane (6/6) timber sash windows. The replacement front door is not of interest. The west gable has a later 4 pane sash window to the ground floor and double casement to attic. The rear (north) elevation has a central catslide dormer, with single-storey service range outshot constructed of brick - a typical style of extension added to rural Jersey houses. There is a small front garden, with steps down to street level, a rubble granite boundary wall with brick gate piers. The cottage sits prominently on Le Vier Mont with a traditional south-facing aspect, adding an interesting historic element to the rural streetscape."
- **"Internal Description:** The interior is not of interest."

### **The case for the Chief Officer (supported by Jersey Heritage)**

9. The Chief Officer maintains that Hillside Cottage is of special historical and architectural interest, which warrants its listing because of its public importance as an 1840s rural cottage that retains its 19<sup>th</sup>-century historic character with some original features surviving and makes a positive contribution to the rural streetscape. He states that the adopted criteria have been used to assess the merits of the building and that the listing particulars (set out in paragraph 8 above) show that its inclusion in the list is justified. In particular, he states that the following parts of the criteria have been met – (A) Historic interest – the opening paragraph and the sections relating to Vernacular and Setting; (B) Age – the opening paragraph, section 2 and the last two paragraphs; and (C) Architectural interest – paragraph 1 relating to Exterior.
10. The Chief Officer states that single-storey buildings are not rare, but that they are unusual; at one time they would have been commonplace but now they are much less common. He accepts that there are other examples of early mid-19<sup>th</sup> century single-storey cottages, and earlier examples, and that some of them are of higher quality than Hillside Cottage, but maintains that a building does not have to be the most representative or a significant example of a particular historical type to be of special interest. He indicates that single-storey houses account for less than 10% of the total of listed historic houses and those potentially to be listed, and that there are others that are not listed or proposed to be listed. The building, however, has not been listed simply because it is an unusual single-storey cottage, but because of a range of factors. Some selectivity may be appropriate where a building is listed primarily in order for examples of such a type to be preserved, but selectivity is not an overriding or predominant factor.

11. The Chief Officer states that there is no dispute that the building was erected before 1850. In accordance with the criteria, it is therefore likely to be listed if it survives in its original form and is of a definite character. He maintains that he did not ascribe too much weight to the age of the building; age was simply one factor taken into consideration and balanced with all other material factors; the very fact that the building is of a style of architecture fashionable in the mid-19<sup>th</sup> century and characteristic of that period is of interest.
12. Additionally, the Chief Officer maintains that the building is of interest to the rural streetscape of Le Vier Mont. He states that it presents an interesting mid-19<sup>th</sup> century character and that it is prominent in the streetscape, with a traditional south-facing aspect that adds an interesting historic element.
13. As to matters that have been considered in more detail in the appellant's evidence, the Chief Officer makes the following observations: -
  - It is quite possible that the house was rendered when first built, but it is accepted that the evidence points to the current render finish being applied at a later date.
  - It is also accepted that the rendering and faux ashlar ruling are not of the highest standard.
  - It is accepted that the fascia and guttering may relate to a later phase.
  - It is agreed that the outshot is most likely a later extension, although its style and brickwork construction is consistent with a traditional extension of the period, which is not in itself detrimental to the character of the building.
  - It is agreed that the west gable windows are of a later style.
  - It is agreed that the original roof material may have been slate or possibly pantiles and that the concrete tiles now used are inappropriate, with the cement verge inexpertly dressed to the gutter.
  - It is agreed that the dormers have been re-clad, but they may still be close to their original appearance.
  - It is agreed that the front door is a replacement of no interest.
14. The Chief Officer identifies the key questions as being whether the building survives in its original form and is of a definite character. He maintains that this is the case, since the building retains its 5-bay form and has not been subject to any major extensions or alterations, with the exception of the rear outshot which has a traditional style and scale typical of the later 19<sup>th</sup> century.

### **The case for the appellant**

15. The appellant contends that the building is not of sufficient interest to justify listing when the law and the criteria are applied as they should be. She maintains, in particular, that it is not a good enough example of its type or architectural style; that it does not exemplify its historical period sufficiently; and that it does not make a sufficiently substantial contribution to the setting of the area.

16. She states that the fact that the building may have some historical or architectural interest is not enough to satisfy the threshold for listing; there must be something more, since it is only by reason of the "special" interest that the Chief Officer can determine that the building is of public importance and should be listed. She asserts, therefore, that the architectural or historical interest attributable to the building must by definition be better, greater or otherwise different from what is usual; the style of the building is not rare; there are similar and better examples; and alterations have substantially changed the building's original appearance so as to make it an unsatisfactory example of its kind for listing.
17. The appellant identifies the significant alterations made to the original building that have in her opinion detracted from its interest, as follows: -
  - The walls have been rendered. The rendering and faux ashlar ruling do not match the accuracy of similar works elsewhere in Jersey. They are probably late 19<sup>th</sup> century or early 20<sup>th</sup> century alterations and they have been inexpertly carried out.
  - The roofing materials have been changed and the roof is now clad with concrete tiles of a mid-20<sup>th</sup> century type. They are out of keeping. The characteristic Jersey verge of cement render above the tiling line has been inexpertly dressed to the gutter.
  - External shutters were probably fitted originally, but removed when the walls were rendered.
  - The front door has been replaced and its replacement is not of interest.
  - The dormers have been altered. The caps and cheeks have been re-clad inexpertly with lead sheeting.
  - The brick-built rear outshot is an extension and was probably erected in the late 19<sup>th</sup> century. It is typical of others that were added to buildings at this time and is of no interest.
  - The windows in the west gable are unsympathetic late 19<sup>th</sup> century or 20<sup>th</sup> century alterations.
18. The appellant considers that the Chief Officer has attached too much weight to the age of the building. She accepts that the date when the building was erected is within a period of historic interest defined in the criteria, but states that this is not enough to make the building special, when it does not have sufficient character, has no significant connection with social, economic, cultural or military history and has no association with any important people.
19. As to its setting, the appellant states that the building is located amongst a cluster of properties at one end of Le Vier Mont. She indicates that this is a semi-rural location, combining fields and suburban development, where there is a mixture of single and two-storey dwellings of various ages, form, style and character and no uniform streetscape. The building's setting, she states, is not prominent, owing to the curve in the road and the high stone wall opposite the building; its south-facing aspect is traditional in this part of the island; however, it is commonplace and not of special interest.

## **Representations made by other persons**

20. No other representations have been drawn to my attention.

## **Inspector's assessments and conclusions**

21. I have assessed the building against the particular parts of the criteria that the Chief Officer maintains have been met (see final sentence of paragraph 9 above).

### *The Historic interest criteria*

22. The parts relating to “**(A) Historic interest**” are as follows: -

“**(A) Historic Interest** - To be of special historic interest a building must illustrate significant aspects of Jersey's social, economic, cultural or military history and / or have close historical associations with important people or events in the Island's history. Where the interest relates primarily to a person or event, the fabric should also have some special interest in its own right. A singular occurrence or minimal numbers of a building, structure or site will not in itself justify listing.

1. **Vernacular** - examples of local vernacular buildings and places that meet the [*sic*] some of the other criteria above will normally be Listed because together they uniquely illustrate the importance of Island traditions in type, material and form and use.

2. **Setting** - the context in which a structure sits can be a critical factor in its evaluation. A structure, whose setting has changed adversely, removing the original contextual character, has a weakened case for inclusion.”

### *Assessment of the building against the Historic interest criteria*

23. Historic interest of the kind referred to in the opening paragraph (A) is in this case limited to the building being an example of an 1840s rural cottage of a form and style that was fashionable at the time. As such, the terms of section 1. Vernacular indicate that consideration should be given to listing it.

24. As to section 2. Setting, the building was in a rural setting when it was built. It is now in a substantially built-up frontage that has a suburban appearance. It is not predominant in this frontage and, whilst it presents a pleasing south-facing frontage to the road, the aspect that it would have had over the fields to the south when it was built has been lost, because of the construction of the long, high wall on the opposite side of the road.

### *The Age criteria*

25. The parts relating to “**(B) Age**” are as follows: -

“**(B) Age** - the older a building is and the fewer of its type that survive the more likely it is to present a special interest. Age is a major factor in the evaluation process and period definitions are given to aid the assessment but are not intended to be watersheds. ...

2. Buildings and structures erected between 1700 to 1850 survive in their original form and which are of a definite character either individually or as part of a group are likely to be Listed. ...

It is important to recognise that most historic buildings are the product of incremental change through many generations: the key is to assess whether that change has been detrimental or is now part of its interest.

In assessing a building the extent the original intrinsic interest of the building has been compromised by damaging change will be important as will be the quality and sensitivity to the historic context of later additions”.

*Assessment of the building against the Age criteria*

26. The building was erected in the 1840s and it survives in its original form to the extent that it is still a single-storey 5-bay cottage, with an attic, 12-pane (6/6) timber sash windows at the front and a central catslide dormer at the rear. It is not rare in these respects, however.
27. The original building has been changed substantially since it was erected, as indicated in the cases presented by both the parties and summarised in detail in paragraphs 13 and 17 above. In my opinion, none of these changes is of significant interest and most of them have damaged the character and interest of the original building.

*The Architectural interest criteria*

28. The part relating to “**(C) Architectural interest**” is as follows: -

**“(C) Architectural interest**

1. Exterior: Where buildings are of special interest for their architectural design or style, artistic decoration, craftsmanship, composition, or use of materials and details, whether it be in the vernacular tradition, or as a result of conscious design. Such architectural interest may be enhanced by the contribution of the building to a larger group, or to a townscape or rural setting, or its role as a landmark.”

*Assessment of the building against the Architectural interest criteria*

29. Parts of the exterior of the building are of architectural interest because of their surviving original form, as described in paragraph 26 above. However, in my view there is nothing in the details of the design and construction of the original building to indicate that it has any particular architectural interest, beyond its having a form and style that was fashionable at the time when it was built.
30. The building's architectural interest is not enhanced by any contribution it makes to a larger group or as a landmark, nor to a significant extent by the contribution it makes to its setting.

*Other issues related to the listing criteria and their assessment*

31. There is another important section in the document setting out the criteria. Under the heading “**Principles for Listing Buildings**”, it states: -

“Authenticity and integrity will also be a factor. This can be defined as a building’s closeness to the original built form and fabric. This will add value and be reflected in the statement of significance. On a small Island where land is at a premium the extent to which buildings survive in their original form is limited. Incremental change through many generations can be very positive. In making a judgement as to the historic merit and character of buildings it is essential to assess whether that change has been detrimental or is now part of its interest.”

32. For the reasons explained above, this building as it exists is substantially changed from its original built form and fabric. The changes have not been positive and they are not part of the building’s interest. The building is not a rare example and there are better examples of this type of building elsewhere on the Island.
33. The grading criteria are also important (see paragraph 7 above). To be allocated Grade 4, the building should be a “good example of a particular historical period, architectural style or building type; but defined particularly for the exterior characteristics and contribution to townscape, landscape or group value”. For the reasons explained above, the building does not attain this standard: it is not a good example.

#### *Overall conclusion*

34. A decision to list a building should only be made in my opinion where the building demonstrably has public importance by reason of the special interest that attaches to it. The assessments I have carried out indicate to me that the decision to list this building was the result of a process that attributed too much weight to the few positive aspects of the building and underestimated the importance of its negative features. Insufficient attention was attached, in my opinion, to the essential balancing exercise that is required before a decision is made to list a building in a case such as this one.
35. As stated in paragraph 5 above, the “ultimate aim [of the listing criteria] is to conserve a carefully defined range of the extensive heritage on the Island”. In my view, the building does not make a sufficient contribution to this objective to justify its listing.

#### **Inspector’s recommendation**

36. I recommend that, in exercise of the powers contained in Article 116(2)(a) and (d) of the Planning and Building (Jersey) Law 2002 (as amended), the appeal should be allowed in full and the decision of the Chief Executive Officer for the Department of the Environment made on 26 June 2015 to add the building, Hillside Cottage, Le Vier Mont, Grouville, to the List of Sites of Special Interest maintained under Article 51 should be reversed.

Dated 9 February 2016

*D.A.Hainsworth*

Inspector