

REPORT TO MINISTER FOR PLANNING AND ENVIRONMENT

By Graham Self MA MSc FRTP I

Appeal by Mr Alan Muir against the Listing of a Building

Reference Number: JN0091

Site at: Clos du Douet, La Grande Route de St Jean

Introduction

1. This appeal is being determined by written representations. I carried out a site inspection on 27 January 2017.
2. The appeal, which is dated 18 December 2016, is against a listing notice dated 28 November 2016. The notice stated that the site had been added to the List of Sites of Special Interest as a Listed Building or Place by reason of the special interest that attaches to it. The special interest was noted as architectural and historical. "The Site" was identified as: "The building and/or place known as Le Douet, La Grande Route de St Jean, St John" as shown on an attached plan and described in an attached schedule. Although not stated in the listing notice, an associated document headed "Decision Summary" stated that the listing was Grade 3.
3. This report provides a brief description of the appeal site, summarises the gist of the representations, and sets out my assessment, conclusions and recommendation. The appeal statements and other relevant documents are available for you to examine if necessary. The case file contains photographs which give a good range of views and show the main features mentioned in the written submissions.

Identity of Appellant

4. The "appellant name" specified in the form lodging the appeal was "Residents and owners of 1-5 Clos du Douet, c/o Alan Muir, 1 Clos du Douet". An agent was also specified (Ms Sarah Veal of 2, Clos du Douet). A statement of case has been submitted by "the residents of 1-5 Clos du Douet". This statement refers to "appellants" (plural) and "their" notice of appeal. A statement submitted in response to the planning authority's statement also refers to "the appeal made by the residents of 1-5 Clos du Douet."
5. There is no provision under Article 108 for appeals to be made jointly by a number of people (the legislation only enables "a person" to appeal). However, this appeal appears to have been accepted and processed, so I think it would now be unreasonable to turn it away as invalid. I therefore propose to treat the appeal as if it had been made by Mr Alan Muir.¹

Appeal Site

6. The site subject to the disputed listing relates to a group of buildings and adjacent land including a driveway, as shown by the red line in the site plan

¹ Although I do not have information about the appeal fee, it also seems likely that only one appeal fee was paid.

attached to the listing notice and schedule. The building known as 1-5 Clos du Douet is on the north side of the site. The red line boundary runs along the rear (north) wall of the building, so the land immediately to the rear of the dwellings, including two attached conservatories, is excluded from the listing.

7. This appeal only concerns part of the whole Le Douet site. The "main house", known as Le Douet, some adjacent outbuildings, a former lavoir, and the driveway are not part of this appeal - the listing of the farmhouse and other outbuildings is not disputed. A cottage (Number 6) at the east end of the building containing numbers 1-5 and a block of garages at the west end are also not part of the appeal as they are excluded from the listing.
8. The building at 1-5 Clos du Douet was evidently built in about 1828. It is described in the submitted statements as a "barn conversion" and now contains five dwellings. The walls are of random granite construction with quoined surrounds to windows and doors. The roof is slate-tiled, except for some "Velux"-type roof windows. The doors and window frames are PVC. The guttering and downpipes are plastic. Most of the lintels are granite but some lintels over openings in the front (south) elevation appear to be concrete.
9. At the rear each dwelling has a small enclosed garden. Modern conservatories are attached to two of the dwellings. Some lower parts of the rear elevation have rendered and white-painted areas where the ground level appears to have been lowered in the past.

Case for Appellant

10. The appeal is on five main grounds. In summary, these are as follows.
11. First, the listing of the whole of Le Douet was apparently made because of the whole site's architectural and historic interest; but the barn conversion (the appeal building) does not have such architectural and historic interest as to meet the statutory criteria for listing, as adopted in 2011. Changes were made to the building when it was converted in the 1980s. It cannot be said that the barn conversion retains its original form or that the changes which have taken place are now part of its interest. The changes include:
 - Window and door openings have been moved, altered or created.
 - Windows and doors are modern PVC type.
 - Guttering and downpipes are plastic.
 - The ground to the north of the barn conversion has been lowered and the north elevation has been partly rendered and painted.
 - Two dwellings have been altered by the addition of a conservatory on the north side.
 - The building has been altered by the addition of garages to the west and a sixth dwelling to the east.
 - Three dwellings in the block have been altered by the addition of velux windows in the roof.
12. The building no longer makes a valuable contribution to the historical interest of the site. The setting has been changed. It is not clear why the age of the building is relevant but in any case the building does not survive in its original form. Because of the modern alterations, the building should not be regarded as having any special interest for its architectural design or style or craftsmanship or

use of materials; and having no special interest of its own, its contribution to a larger group is not relevant.

13. Second, the listing is unnecessary given the protection afforded by other planning controls. Changes such as demolition or rendering would require planning permission anyway. Supplementary Planning Guidance states that planning permission is required for replacement windows and doors in buildings which date before 1920. Conveyancing deeds also impose restrictive covenants.
14. Third, the description in the listing schedule is inaccurate. For example, the building does not have a continuous slate roof as described, because of the presence of roof windows; and the presence of concrete lintels and plastic rainwater fittings is not mentioned.
15. Fourth, the meaning of "not of interest" (as applied to the interior and the gardens) is unclear, and there appears to be no statutory basis for declaring that part of the barn conversion is not of interest. Such a declaration could be amended in the future without any right of appeal.
16. Fifth, the level of protection which would arise from listing is disproportionate. It is unfair and unreasonable to take away rights under the General Development Order permitting, for example, the addition of a conservatory or conversion of a roof space. The listing would lower the value of the dwellings and increase costs such as insurance.

Case for Planning Authority

17. The planning authority consider that the site at Le Douet is worthy of listing relative to the Minister's criteria, because of its special architectural and historic interest, considering the individual elements of the farm group both individually and collectively.
18. The buildings at Le Douet have varying levels of architectural quality but this does not undermine their value as part of a group. The historic Jersey farmstead is a very significant aspect of the Island's identity and it is appropriate to treat the range of buildings as a heritage asset. This approach has been applied throughout Jersey. Explicit consideration was given to the changes made to the barn conversion, but the building retains sufficient special architectural interest to warrant inclusion in the listing.
19. The purpose of the listing schedule is to describe the site with sufficient particularity to enable it to be easily identified. Each and every feature does not have to be described in detail. The combination of the description, plan and photographs which form the listing schedule adequately fulfils this function. Changes were made to the listing schedule to reflect engagement with the owners.
20. The listing does not amount to a disproportionate intervention with people's rights or with the management of future change. Whether or not such intervention may occur is not at the time of listing, but at the time when any subsequent regulation may apply. A balance must be struck between the protection of property rights and the requirements of the general interest.
21. The argument that listing is unnecessary because normal planning controls and legal covenants are sufficient is flawed. Any covenant would only serve a private interest.

Assessment and Conclusions

22. The assessment of heritage value used to decide whether buildings in Jersey should be listed is based on criteria adopted and published in 2011. The criteria of relevance in this case are: historical interest; the age of the building; and its architectural interest. It is necessary to consider two aspects. One is the group value of the buildings at Clos du Douet. The other is the value of the building now containing the dwellings at numbers 1-5. The published criteria applying to "historical interest" state that for such interest to be "special", a building must (among other things) illustrate significant aspects of Jersey's social, economic, or cultural history. Group value may be important where a group of buildings has a collective value greater than the sum of the parts.
23. Following its conversion, the building at numbers 1-5 has obviously lost its original agricultural appearance and setting. Some window and door openings are not in the same positions as original openings, and details such as some lintels have been altered or replaced. The PVC window frames and doors are clearly modern, as are the plastic gutters and downpipes. Nevertheless the general form of the building at numbers 1-5 has remained broadly intact. Its history, with apparent associations with the cider-making, cannot be appreciated from the building's appearance, but is a factor of cultural heritage interest which applies both to the building at numbers 1-5 and the group at Le Douet as a whole.
24. Age is relevant because in general, the older a building the rarer it will be as a representative of its type and period. The 2011 criteria state that buildings erected between 1700 and 1850 which 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". The 1828 date falls within that period. Despite the alterations mentioned above, this building has retained its original form and it has a distinctive character, both individually and as part of the wider group.
25. In my judgment the building also has a degree of architectural interest meeting the planning authority's criteria. The alterations to the outside of the building, including the addition of conservatories, the areas of render at the rear and the insertion of roof windows have reduced its nineteenth century character but have not removed it. The garages to the west and the unlisted cottage at number 6 to the east are subordinate in scale and do not obscure or take away the architectural and historic character of the appeal building.
26. Part of the appellant's case is that potential future alterations could be adequately controlled without it being listed, so listing would be unnecessary and excessive. As is pointed out for the planning authority, the courts have confirmed that there are in effect two separate procedures which raise different considerations: one is identifying whether a building merits listing; the other is deciding whether any specific development should or should not be permitted. The argument about whether preventing any specific development proposal would be unreasonable or excessive only becomes relevant to the second procedure. It seems to me that a similar principle applies to the appellant's comments about the description of the interior of the building and the rear gardens as "not of interest". The acceptability of a future proposal for altering or adding to the building could only be judged if and when it is proposed, taking into account that parts of the site are not of any significant heritage interest.
27. There is a public interest in protecting Jersey's historical and architectural heritage. This has to be balanced against private interests including owners' desires to enlarge or alter their home, and other factors such as insurance costs.

The existence of restrictive covenants is not a compelling argument in support of the appeal, since covenants are private legal agreements which cannot be enforced by the planning authority.

28. I agree with the appellant that there might be some difficulty of applying listed building controls to any future proposal for development at the rear of the building, where the red line on the plan marking the edge of the listing site passes through those dwellings which have conservatory extensions. That is a matter which would have to be worked out if and when any such proposal were to arise.
29. I note that at one stage following an Island-wide survey in 2011-13 there was a proposal to list the building as grade 2. Jersey Heritage, on behalf of the Minister for Planning and Environment, later revised this to grade 3 after a second inspection in 2015, having taken account of representations by owners and of the alterations to the building. The end cottage at number 6 (which appears to have been substantially rebuilt) and the rear gardens were also excluded. The available evidence about this process indicates that a proper procedure was followed and that objections were considered.
30. In summary, I find that the planning authority had sound reasons for the decision to list the building as Grade 3. I conclude that the appeal should not succeed.

Recommendation

31. I recommend that the appeal be dismissed and that the grade 3 listing be re-confirmed.

G F Self

Inspector

14 February 2017