

WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY SENATOR B.E. SHENTON
ANSWER TO BE TABLED ON TUESDAY 11th MAY 2010

Question

“Will the Minister identify how many properties are listed in the schedule of buildings as being of ‘local interest’ and how many owners, if any, have been informed that their property has been listed without the process outlined within the Planning and Building (Jersey) Law 2002 being followed?

Will the Minister advise whether any applicants for the development of those buildings of ‘local interest’ designated without warning, have been informed of their status prior to an application being submitted on such a property and therefore have not been given the opportunity to make representations against such a listing?

Would the Minister advise whether such applications are dealt with by officers as if they were already formally, rather than provisionally, listed and without regard to the requirements of the Planning and Building (Jersey) Law 2002?”

Answer

I will respond to the Senator’s question, which essentially comprises four parts, as follows.

- (a) ***Will the Minister identify how many properties are listed in the schedule of buildings as being of ‘local interest’?***

None. Buildings of Local Interest (BLIs) are not ‘listed’: it is only buildings and places of ‘special interest’ that are Listed, by virtue of their inclusion in the List of Sites of Special Interest under the auspices of Article 51(2)(b) of the Planning and Building (Jersey) Law 2002.

Buildings of Local Interest are included in the Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey (they are thus described as being ‘Registered’) under the auspices of Article 6 of the Planning and Building (Jersey) Law 2002. Article 6 enables the Minister to publish guidelines and polices in respect of the development of any area of land and specified sites and he does so by identifying those buildings and places that the Minister is satisfied has public importance by reason of their particular archaeological, architectural and historical importance.

There are presently approximately over 4,300 Registered or Listed properties in Jersey, the breakdown of which is as follows:-

Sites of Special Interest (SSI)	257	(6%)
Proposed Sites of Special Interest (pSSI)	697	(16%)
Buildings of Local Interest (BLI)	3,349	(77%)
Archaeological Sites (AS)	52	(1%)

90 Areas of Archaeological Potential (AAP) have also been identified and designated, which is an area-based protection regime for archaeology.

- (b) ***How many owners, if any, have been informed that their property has been listed without the process outlined within the Planning and Building (Jersey) Law 2002 being followed?***

None: Article 52 of the Planning and Building (Jersey) Law 2002 prescribes the process which the Minister must follow to add a building or place to the List of Sites of Special Interest. This process was set out in

response to a question from Senator JL Perchard (1240/5(5084)) tabled on 02 February 2010 and re-iterated in answer to a question from Senator BE Shenton (1240/5(5181) tabled on 23 March 2010.

For a building or place to be added to the List of SSIs this process must be followed and is in every case, therefore, every owner of a property that has been listed will have been accordingly served notice of the Minister's intent to List the property, either directly or on site, in accord with the process prescribed by law.

The process to register a Building of Local Interest is not prescribed by law.

- (c) ***Will the Minister advise whether any applicants for the development of those buildings of 'local interest' designated without warning, have been informed of their status prior to an application being submitted on such a property and therefore have not been given the opportunity to make representations against such a listing?***

As stated above, in answer to part (a), Buildings of Local Interest are so Registered by the Minister under Article 6 of the Planning and Building (Jersey) Law. Article 6 is a generic provision relating to the Minister's powers to issue guidance and does not prescribe the process by which any such guidance must be issued. As a consequence, as stated above at (b), the process for the Registration of BLIs is not prescribed by law.

It is recognised, however, that there is considerable value in ensuring that the owners of Buildings of Local Interest are aware of their building's status and the reason for its registration and protection. It is also recognised that it is only equitable that the owners of such buildings are given an opportunity to comment on any proposal to Register their property, and/or to change the status of their property.

The designation of 'Building of Local Interest' was introduced by the then Planning and Environment Committee as part of the *Interim policies for the conservation of historic buildings* in July 1998. The introduction of this new system was based on a review of the status and value of all of the Island's historic buildings and sites. Between 2000 and 2005, all of the owners of those buildings and sites designated as a Building of Local Interest were notified of their status. Since that time, where there has been any change in the ownership of any such properties so designated, the status of these buildings and places is identified as part of the legal search service provided by the Planning and Building Services Department, where a legal search is requested by conveyancers.

More recently, the Minister for Planning and Environment has sought to ensure that, whilst not required to do so by law, the process of Registration of a Building of Local Interest reflects that for the Listing of a Site of Special Interest. This requires (as set in previous responses to questions already tabled at least twice this year) the Minister to serve notice of his intent to designate a building or place on the owners of a property, or on site, and provides them with a minimum of 28 days in which to submit representations to him in respect of his intention. Furthermore, whilst not required to do so by law, the Minister has also sought to enable any such representations submitted to be heard in public at one of his Public Meetings, where he might receive the representations in person, and provide any interested party with an ability to address him in relation to any concerns about the potential Listing or Registration of a property.

The Minister's proposals for the review of the historic environment protection regime seeks to simplify the system by introducing one system of designation – a Listed building or place – under the auspices of the existing law, which would provide for Notice of Intent to be served on owners, with a right of representation and, where a party still remains aggrieved, a right of appeal to the Royal Court.

It is also relevant to note that the List of Sites of Special Interest and the Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey are public documents and are available online at the States of Jersey website.

- (d) ***Would the Minister advise whether such applications are dealt with by officers as if they were already formally, rather than provisionally, listed and without regard to the requirements of the Planning and Building (Jersey) Law 2002?***

In the determination of applications for planning permission, Article 19 of the Planning and Building (Jersey) Law 2002 requires the Minister to have regard to all material considerations. The status of a building, be it Listed as a Site of Special Interest; provisionally Listed as a Site of Special Interest; or Registered as a Building of Local Interest, is material to the Minister's decision in that any such status serves to highlight that the building or place has some heritage value.

Furthermore, Article 19(2) states that the Minister should, in the determination of any application, have regard to the Island Plan. As set out in answer to the earlier question from Senator BE Shenton (1240/5 (5181) tabled on 23 March 2010, the States 2002 Island Plan provides the policy context for the determination of planning applications affecting historic buildings, where there is a presumption in favour of preserving the architectural and historic of all historic buildings, as set out in Policies G11-G13.