
STATES OF JERSEY



REVIEW OF THE HERITAGE PROTECTION REGIME: WHITE PAPER JANUARY 2010

**Presented to the States on 12th February 2010
by the Minister for Planning and Environment**

STATES GREFFE

Planning and Environment Department

White Paper

Review of the heritage protection regime

January 2010

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Contents

1. Purpose	<i>Page 3</i>
2. Introduction	<i>3</i>
3. Current historic environment designations	<i>3</i>
Sites of Special Interest	
Buildings of Local Interest	
Archaeological Sites	
Areas of Archaeological Potential	
4. Proposed review	<i>5</i>
Single tier of designation	
Area-based protection	
Re-survey of Jersey's heritage assets	
Historic Environment Record	
5. Implementing change	<i>8</i>
Changes to the historic environment protection regime	
Site-specific protection	
Area-based protection	
6. Process of designation	<i>10</i>
Listed building or place	
Area-based protection	
7. Timescale	<i>12</i>
8. Consultation response	<i>13</i>

1. Purpose

- 1.1 This document sets out the Minister for Planning and Environment's proposals to change the existing heritage protection regime. These changes are intended to streamline and simplify the system and the Minister wishes to secure the views and comment of people who are interested in and affected by the protection of the historic environment.
- 1.2 Please complete the questionnaire at the end of this White Paper and/or submit any other comments that you might wish to make about these proposals to the Planning and Environment Department.

2 Introduction

- 2.1 The Island's historic environment is important to Islanders: in a recent survey, 78% of respondents suggested that landmark historical buildings gave Jersey its identity and 82% considered historical buildings to define the Island's heritage.¹
- 2.2 The Minister for Planning and Environment has a duty to identify and protect those buildings and places in the Island that are important to its identity, culture and heritage². The protection of Jersey's historic environment is, compared to other places, a relatively recent phenomenon, and the system that has been developed to achieve this has evolved over time to meet changing needs³.
- 2.3 Whilst the current system of heritage protection has served the Island well in establishing different forms of protection for the historic environment, it is timely to review it to ensure that it remains up-to-date and fit-for-purpose. Such a review also provides an opportunity to simplify the system; to make clear what is protected and why; and to ensure that the process of protection is open, clear, fair and robust.

3 Current historic environment designations

- 3.1 The current system of heritage protection relies upon a number of different designations to identify and protect the Island's historic environment, including both site-specific designations as well as designations for areas of potential archaeological interest, as follows:

Sites of Special Interest (SSI)

- 3.1.1 These are defined as buildings and places of 'public importance', having 'special archaeological, architectural, artistic, historical,

¹ Survey on Heritage in Jersey (July 2009) Statistics Unit

² Purposes of the Planning and Building (Jersey) Law 2002 and the Conventions for the Protection of the Architectural Heritage of Europe and the Convention on the Protection of the Archaeological Heritage of Europe (usually referred to as the Valletta and Granada Conventions)

³ See Supplementary Planning Guidance Note 9 (November 2008) *The identification and designation of buildings and places of architectural, archaeological, historical or other interest*

scientific or traditional interest' or a combination of these. These feature on the List of Sites of Special Interest which is established under law⁴.

Buildings of Local Interest (BLI)

- 3.1.2 Buildings of Local Interest are those which substantially retain their historic form and detail, or sufficient for that form and detail to be readily recovered from surviving evidence. They make a significant and positive contribution to the architectural and historical identity, character and amenity of Jersey. The identification and designation of these buildings is contained on the Register of Buildings of Architectural, Archaeological and Historical Importance.

Archaeological Sites (AS)

- 3.1.3 These are sites of archaeological interest where there exists specific information about the nature and location of archaeological artefacts and remains.

Areas of Archaeological Potential (AAP)

- 3.1.4 This designation protects those areas of land where there is likely to be archaeologically sensitive material but where this has yet to be conclusively determined, through finds or other evidence. They are, therefore, often associated with known sites of archaeological interest (designated as SSI or AS) or based on old map evidence and place names that suggest potential archaeological interest.

- 3.2 There are presently 4,355 buildings, structures and sites in Jersey which enjoy some form of protection because of their heritage value and are designated as follows:-

Table 1: Existing historic environment designations

Designation	Number	Percentage
Sites of Special Interest	257	(6%)
Proposed Sites of Special Interest	697	(16%)
Buildings of Local Interest	3,349	(77%)
Archaeological Sites	52	(1%)

- 3.3 In addition to protected buildings and sites there are 92 Areas of Archaeological Potential.
- 3.4 The control of development and protection of the historic environment varies according to each type of designation afforded to the building, structure or site as does the actual process of designation.
- 3.5 The level and quality of information held about different types of protected building or place also varies hugely depending upon when it

⁴ Articles 50-56 Planning and Building (Jersey) Law 2002

was last surveyed and the criteria used to determine whether it was of heritage significance at the time. Because of this, not much of the information held about each building or place is publicly accessible presently which does little to promote awareness of the value of our historic environment or an understanding as to why it is and should be protected.

- 3.6 For ease of reference all the designations above will be referred to as Listed buildings or places from here on in this document.

4 Proposed review

- 4.1 A revised system of heritage protection is proposed based on just one type of protected building and site designation: a 'Listed building'⁵. This statutory designation would apply to buildings, structures and archaeological sites. The process for adding buildings or places to the List is well established (it is envisaged that the process for designating a Listed buildings would match the existing process for designating a Site of Special Interest (SSI)) and is set out in law⁶.
- 4.2 In addition, it is proposed that areas of special character will be protected by introducing and designating Conservation Areas.
- 4.3 To complement the review of the Island's historic environment protection regime, a full review of the Island's existing protected buildings and sites will be undertaken from 2010 to ensure that there is a comprehensive and consistent basis for the protection of the historic environment.
- 4.4 This will establish a new Historic Environment Record (HER) which will clearly record why a building, structure or place is protected and its location. It is proposed to make all this information publicly accessible online.
- 4.5 Further details on each of these aspects of proposed change is set out below.

4.6 Single tier of designation

- 4.6.1 It is proposed that each historic building, structure or site in the Island will become a 'Listed' building or place. Implementation of this proposal would replace Sites of Special Interest, Building of Local Interest (BLI) and Archaeological Site (AS) designations from the historic environment protection regime.
- 4.6.2 It is proposed that each Listed building or place be allocated a non-statutory grade: for example, Grade 1 will be allocated to those

⁵ It is proposed to introduce and use this terminology as part of the review of the historic environment protection regime to identify buildings and places that are protected for their heritage value. It is also proposed to amend the Planning and Building (Jersey) Law 2002 to give the term of 'Listed building' legal status

⁶ Articles 50-56 Planning and Building (Jersey) Law 2002

buildings or places with Island or international significance and Grade 4 will be allocated to those buildings or places with local townscape significance.

- 4.6.3 The purpose of allocating each building or place a non-statutory grade is to help determine the significance of the heritage asset to the Island. It will also help to inform the extent to which proposed changes to the site will be controlled and help inform decisions about its future development.

Table 2: Proposed Listed building or place non-statutory grading system

Listed building or place (Grade)	Description
Listed building or place (Grade 1)	Buildings, structures or sites of the particular and definable public and heritage importance including the best examples of a particular period, style or type including outstanding sites of more than Island wide importance.
Listed building or place (Grade 2)	Buildings, structures or sites of public and heritage importance within Jersey, including major examples of a particular period, style or type including rare survivals.
Listed building or place (Grade 3)	Buildings, structures or sites of public and heritage importance having particular elements worthy of listing and/or those which by virtue of their contribution as part of a group or set piece merit inclusion.
Listed building or place (Grade 4)	Buildings defined particularly for their local interest, exterior character and townscape value.

4.7 Area-based protection

- 4.7.1 The proposed designation of Conservation Areas in the Island has been a longstanding one, first mooted in the 1987 Island Plan.
- 4.7.2 The introduction of Conservation Areas can help to ensure that areas of special historic character – as opposed to individual sites and buildings - are recognised and conserved. This review of the historic environment protection regime presents an opportunity to, at last, bring forward this long-proposed tool to help protect those parts of the Island that have a distinctive townscape value derived from the character and identity imbued by the collective value of the buildings and the spaces and features between the buildings in these areas..
- 4.7.3 The regulatory regime that will apply in Conservation Areas, which will determine what changes will require the Minister’s permission before they can be undertaken, remains to be determined. This requires a change in legislation⁷ and will be the subject of full and separate consultation.

⁷ Amendment of the Planning and Building (Jersey)(General Development) Order is required

4.7.4 The proposed introduction of specific Conservation Areas will also be the subject of full and separate public consultation to ensure that the boundaries of each particular area are carefully designated in consultation with the local community.

4.8 Re-survey of Jersey's heritage assets

4.8.1 A full re-survey of the Island's existing protected buildings and sites will be undertaken from 2010 to ensure that each of them is assessed against an agreed quality standard and criteria for listing. If individually worthy of protection each can be correctly graded.

4.8.2 The re-survey will be carried out by independent inspectors working with Jersey Heritage and the Minister's Advisory Group⁸. This will provide a comprehensive, up-to-date and robust assessment which will ensure a consistent quality level for the protection of Jersey's heritage assets. It is hoped this will rebuild faith and confidence in the Island's heritage protection system with building and site owners and others with a keen interest in Jersey's historic environment.

4.9 Historic Environment Record

4.10 It is proposed that a new comprehensive and publicly accessible Heritage Environment Record (HER) will be created. This is essentially a database which will provide the name of each Listed building or place with its address, a photograph, map and description of its heritage interest together with reasons why the building or place is listed.

4.11 This database will provide a basic but consistent and robust level of information about Jersey's historic environment which can be supplemented with additional details about each particular building or place over time. It is proposed that the HER will be publicly accessible online.

⁸ Currently known as the Ministerial Registration and Listing Advisory Group (MRLAG), it comprises a collective body of knowledge provided by people with particular expertise in Jersey's historic environment, architecture and archaeology.

5 Implementing change

- 5.1 If these proposals to review the historic environment protection regime are adopted there will be some changes to the level of control over development activity for some protected buildings and sites, and for some areas of the Island that are designated as Conservation Areas.
- 5.2 There will also be a single, consistent and fair process for the designation of Listed buildings and places. In addition, proposals for the designation of Conservation Areas will be subject to further specific consultation. These changes are outlined in further detail below;

5.3 Changes to the historic environment protection regime

Site-specific protection

- 5.4 If you already own or live in a building which is designated as a Site of Special Interest there will be no change to the regulatory planning regime for your property as a result of these proposals if your building or place remains Listed.
- 5.5 If you own or live in a proposed Site of Special Interest (pSSI) or a Building of Local Interest (BLI) there may be no immediate or future change but this will, however, depend on the non-statutory grade that is assigned to your property and whether your building or place remains on the List.
- 5.6 Whether you own a SSI (paragraph 5.4) or a pSSI or BLI (paragraph 5.5) your building or place will be reviewed as part of the Island-wide resurvey. This will then lead to a formal designation process.
- 5.7 If your building or place is a pSSI or BLI and remains on the List it will become a proposed Listed building and, as now, just the outside of your property will remain protected initially. You will be given an indication of the potential grade at this time.
- 5.8 To manage the transition into the new system, if adopted, it is proposed to allocate a new grade to all protected buildings and places based on their current protected status. Accordingly:-
- all existing Sites of Special Interest will become Grade 1 or 2 Listed buildings,
 - proposed Sites of Special Interest will become proposed Listed buildings (Grade 3) and
 - all existing Buildings of Local Interest will become proposed Listed buildings (Grade 4).
- 5.9 As part of the Island-wide re-survey your property will be reviewed. It's heritage quality may be of such value that it is proposed for formal designation as a Grade 1, 2 or 3 Listed building. In these cases the

inside of the building would be protected, once it becomes formally Listed, and works to the interior of the property, that would affect its special interest, would require permission.

5.10 Some buildings and sites will be proposed for formal designation as Grade 4 Listed buildings. It is envisaged that this will apply to existing Buildings of Local Interest outside future Conservation Areas. In the case of a Grade 4 Listed building the Minister would not wish to extend any control to works to the interior of the property.

5.11 If you own an Archaeological Site (AS) this will be designated as a Listed place. and it may be subject to greater regulatory control in relation to any excavation on the site

5.11 If these proposals are agreed and adopted there would be no change to the regulatory regime applicable to your property without you having been contacted and provided with an opportunity to comment on the proposal to List your building. This will be done by writing to you (where ownership details are known to us) or by the posting of a Site Notice on or near the building or place. There are more details about these processes at section 6.

5.12 Further details of the changes proposed are set out in Table 3 below.

Table 3: Proposed changes to the historic environment protection regime

Current designation	Current control over work	New designation (following re-survey and formal designation to List)	Proposed control over work
Site of Special Interest	Any work to the interior and exterior of the building that would affect its special interest requires permission	Listed building or place (Grade 1-3)	No change

Proposed Site of Special Interest	Development of the exterior of the building that would affect its special interest requires permission	Listed building or place (Grade 1-3) OR Listed building or place (Grade 4)	Work to the interior and exterior of the building or place that would affect its special interest requires permission OR No change: development of the exterior of the building that would affect its special interest requires permission
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Building of Local Interest	Development of the exterior of the building that would affect its character requires permission	Listed building or place (Grade 1-3) OR Listed building or place (Grade 4)	Work to the interior and exterior of the building that would affect its special interest requires permission OR No change: development of the exterior of the building that would affect its special interest requires permission
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Archaeological Site	Development that would affect its archaeological interest requires permission	Listed building or place (Grade 1-3)	Any work to the site that would affect its special interest requires permission, including any excavation
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Area-based protection

- 5.12 In many instances, particularly in St Helier and in other urban areas, such as Gorey and St Aubin, buildings that are presently individually designated may lose their site-specific designation, as Buildings of Local Interest or, in some cases, proposed Sites of Special Interest, as they become part of a Conservation Area. In these instances, just the exterior of the building will be protected, to conserve and enhance its townscape value.
- 5.13 The regulatory regime that will apply in Conservation Areas, which will determine what changes will require the Minister's permission before they can be undertaken, remains to be determined. This requires a change in legislation⁹ and will be the subject of full and separate consultation.

6 Process of designation

Listed building or place

- 6.1 The process of designating a Listed building or place will be defined by law and it is intended that it will be the same as that which presently exists for the listing of Sites of Special Interest.¹⁰ A building or place would only become Listed once this process has been formally

⁹ Amendment of the Planning and Building (Jersey)(General Development) Order is required

¹⁰ Article 52 of the Planning and Building (Jersey) Law 2002

completed (unless it has already been formally added to the List of Sites of Special Interest).¹¹

- 6.2 Should the new historic environment protection regime, as set out above, be adopted by the Minister any building or place that is not designated as a Site of Special Interest at the time that the new system is implemented will become a proposed Listed building or place: existing Site of Special Interest will become Listed buildings or places. In association with the full review and re-survey of the Island's existing protected buildings, structures and sites all sites will be subjected to the formal process to add or remove them to the List. If listed each will have a non-statutory grade.
- 6.3 The process of Listing involves the service of a Notice of the Minister's Intent to List a building or place. This provides the owner of the building or place an opportunity to submit written representations directly to the Minister about the proposals to include it in the List. These representations should relate to the special interest of the site. The Minister has to take any such representations into account. He usually does this at a Public Hearing, where owners and other interested parties are provided with an opportunity to speak in support of their representation before the Minister makes his decision whether or not to add the building or place to the List.
- 6.4 In the event of the Minister deciding to add a building or place to the List, an aggrieved person will be able to appeal to the Royal Court¹². The Court will be able to confirm the inclusion of the building or place on the List or it may order the Minister to remove it from the List.
- 6.5 The List will be open to public inspection and will be available online, and will be an integral part of the Historic Environment Record (see section 4.9).

Area-based protection: Conservation Areas and Areas of Archaeological Potential

- 6.6 The process for designating Conservation Areas or Areas of Archaeological Potential is not presently defined by law. It is, however, proposed to amend the law to provide for a formal process of designation together with a formal right of appeal.
- 6.7 Whilst this is being done, the Minister will develop and adopt proposals to designate Conservation Areas and Areas of Archaeological Potential

¹¹ It is intended that the Minister's existing powers to add a building or place to the List of Sites of Special Interest on a provisional basis where that site is under an actual or apprehended threat will apply to Listed buildings and will be unaffected by these proposals.

¹² Article 118 of the Planning and Building (Jersey) Law 2002

through supplementary planning guidance.¹³ This will involve a full and comprehensive process of consultation and engagement with landowners and stakeholders in each area.

- 6.8 Proposals will be advertised widely and efforts will be made to engage with people directly affected by proposals to designate a Conservation Area or Area of Archaeological Potential. There will be time for discussion and for representations to be submitted before the Minister is asked to formally determine the designation of one of these areas.
- 6.9 The decision to designate a Conservation Area or Area of Archaeological Potential will be taken at a Public Hearing, where owners and other interested parties will have an opportunity to speak before the Minister makes his decision whether or not to designate the area.
- 6.10 Once designated, supplementary planning guidance will be published about each Conservation Area or Area of Archaeological Potential. Details about these areas will also be available online, and will be an integral part of the Historic Environment Record (see section 4.9).

7 Timescale

- 7.1 The Minister for Planning and Environment will consult on the proposed changes to the heritage protection regime for a period of six weeks at the beginning of 2010 after which he will review the comments received and publish his response to them. Where appropriate and necessary, the Minister will make amendments to the proposed review.
- 7.2 Subject to general support for the propose changes, it is the Minister's intention to introduce a new heritage protection regime in the second quarter of 2010.
- 7.3 Work to undertake the review and re-survey of all of the Island's protected buildings, site and structures will commence in 2010. It is envisaged that a small team of inspectors will be appointed during the second quarter of 2010, with a view to survey works beginning during the third quarter of 2010. This work will be managed on behalf of the Minister for Planning and Environment by Jersey Heritage.

¹³ Supplementary planning guidance can be issued by the Minister under the auspices of Article 6 of the Planning and Building (Jersey) Law 2002 and the regulation of development of these areas can be exercised under the auspices of Article 8 of the same law.

White Paper consultation response

Review of the heritage protection regime

January 2010

Consultation response

The Minister for Planning and Environment is keen to secure the views of members of the public, owners of historic buildings and sites and stakeholder groups about the proposed review of the historic environment protection regime. Your views on the proposed changes are important and are welcomed.

To enable responses to be made a series of questions on the proposed changes are set out below. Please feel free to respond to these. You may do this online at [>>>>](http://www.je.gov/) or you can detach and submit the questionnaire to the address below.

Name:	Organisation:
Address:	
Tel:	Email:

1. The existing heritage protection regime requires change?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					
2. Replacing the two tier system of Sites of Special Interest and Buildings of Local Interest with a single designation of Listed Buildings for protected buildings and sites of heritage value will improve the heritage protection regime?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					

3. A non-statutory grading system will help people to understand the value of a Listed building or place?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					
4. The introduction of Conservation Areas will improve the heritage protection regime?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					
5. A comprehensive re-survey and review of all of the Island's existing protected buildings and sites is necessary and appropriate?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					
6. The development of a publicly accessible Historic Environment Record will help us all to understand what is protected and why?	Strongly agree	Agree	Don't know	Disagree	Strongly Disagree
<i>Please give reasons for your answer</i>					

Other comments are also welcomed and can be submitted in writing or by email to the address below.

If you or your organisation would like to discuss these proposals further or would like further information, please contact Tracey Ingle, Principal Historic Environment Officer, on t.448410 and m. 07797 826703 or t.ingle@gov.je.

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Deadline for consultation responses: 12th March 2010.