

Changes to the Heritage Protection System

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Owners and occupiers of historic properties in Jersey are currently receiving correspondence from the Planning and Environment Department in relation to a major surveying exercise to be carried out by Jersey Heritage on behalf of the Department during 2011 and into 2012. This exercise forms part of an important overhaul of the heritage protection system.

The **Planning and Building (Jersey) Law 2002** (“the 2002 Law”), requires the Planning and Environment Minister to maintain a list of each building or place that the Minister is satisfied has public importance by reason of:

- (a) Its special zoological, ecological, botanical or geological interest; or
- (b) The special archaeological, architectural, artistic, historical, scientific or traditional interest that attaches to the

building or place.

Buildings and places on this list (this article focuses specifically on buildings) are known as Sites of Special Interest or SSIs. However, the policy of the Minister, and of the committees which preceded him, has been to maintain a register (the Register of Buildings and Sites of Architectural Archaeological and Historical Importance) which is wider in scope. The register contains not only SSIs but also buildings and places considered to be worthy of a degree of protection on account of their architectural, archaeological or historical importance whilst not meeting the criteria for designation as an SSI. Buildings meriting inclusion in the register but not listed as SSIs are designated Buildings of Local Interest or BLIs.

Both SSIs and BLIs are subject to an enhanced planning regime. In brief essence, under current planning law and policy, changes to either the exterior or the interior of an SSI building affecting its

special interest require planning permission, whereas work to the exterior of a BLI affecting its character require planning permission. Of course, permission is also required in the case of works which would require permission were the building not an SSI or BLI.

Under the new listing system, buildings which are considered to merit protection will be listed under the 2002 Law and referred to as a listed building or place. It will be assigned a non-statutory grade, from 1 to 4 (grade 1 signifying the highest level of protection), with the equivalent of a BLI being a grade 4 listed building or place and being subject to the same level of enhanced planning protection as at present.

The Planning and Environment Minister has asked Jersey Heritage to carry out a complete resurvey of all buildings and sites which have previously been designated as an SSI or BLI, with a view to assessing whether they merit designation as a listed building or place. However, most buildings and places reviewed since 2005 will not be resurveyed but will, where necessary, be formally redesignated and assigned a non-statutory grade. In the case of buildings and places already designated as Sites of Special Interest since 2005, there is no requirement to formally redesignate these sites and they will be assigned a non-statutory grade.

The resurveying process is expected to take up all of 2011 and the first part of 2012. Owners of properties will be informed of the Minister's proposed

designation and grading of their properties and, according to the Department's correspondence, will have the opportunity to submit their views and participate in the decision-making process. Indeed, the 2002 Law expressly requires the Minister to give at least 28 days' notice to a property owner of intended listing of that owner's property, entitles the owner to make written representations to the Minister, and requires the Minister to take into account any such representations to the extent that they relate to the special interest of the property in question. Additionally, the 2002 Law confers a right of appeal to the Royal Court against the Minister's listing of a property. This right of appeal will not, however, extend to challenging the Minister's decision as to which grade to assign to a particular property, given the non-statutory nature of these grades.

There is a clear logic to this reform of the heritage protection system, which will have the benefit of bringing all protected buildings and sites within the ambit of the SSI provisions of the 2002 Law (including the right of appeal referred to above), unlike the current mixed system of statutory SSIs and non-statutory BLIs, whilst at the same time providing a graded system of protection allowing the degree of protection afforded to a building or site to be aligned with its perceived heritage importance.

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