

Planning Panel
Sir Charles Frossard House
La Charroterie
S. Peter Port
Guernsey GY1 1FH

Appeal Decision Notice

Hearing held on 13th April 2016 in the Cambridge Room, Beau Séjour Leisure Centre
St. Peter Port including a visit to the Appeal site in the course of the Hearing

Members: Mrs. L Wride (Presiding), Mr. P Russell, Mr. D Harry

Appeal Site: La Vieille Sous l'Eglise, New Place Lane/Rue de l'Eglise, St. Saviour

Planning Reference: E000500B000 / PB1645

Appeal Case Reference: PAP/002/2016

- The Appeal is made by Mr. M E Best against the decision of the Environment Department (now Development and Land Planning Authority) made on 13th January 2015 under section 33 of the Land Planning and Development (Guernsey) Law, 2005 (the 2005 Law) to enter La Vieille Sous l'Eglise into the Protected Buildings List.
- The Appeal is made under the provisions of section 18 of the Land Planning and Development (Special Controls) Ordinance, 2007 (the Special Controls Ordinance) on the grounds that the protected building has no special interest and that the entry is, in any material respect, factually incorrect
- Mr. Best, the appellant, represented himself
- The Environment Department/Authority was represented by Mr. A White, Principal Conservation Officer and Mrs. E Jordan, Conservation and Design Officer

Decision

1. The appeals on both grounds are allowed in part. The entry in the Protected Buildings List is retained but in an amended form.

Procedural Matters

2. The Tribunal concluded the main discussion and site visit on 13th April 2016. However, the Hearing was left open to clarify several matters which arose when the property was visited after the main discussion. It was closed in writing on 10th May 2016, following receipt of the Environment Department's response and the appellant's comments.
3. At the site visit, the Tribunal and the Environment Department had the opportunity to look at an extensive photographic record of renovation works carried out at La Vieille Sous L'Eglise during the 1970s, which included a number of photographs not submitted with the appeal papers. It would appear from the record that these photographs were also made available to the surveyor who inspected the property in June 2014, prior to La Vieille being added to the Protected Buildings List.
4. Although the appeal site address on the Protected Building Entry is given as New Place Lane, the site plan image shows the main road frontage as being Rue de l'Eglise, the highway from where vehicular access is taken via the adjacent property. The Tribunal has referred both street names in the address, whilst noting that the Cadastre Number E00500B000 could be used to identify the property if the postal address is in doubt.
5. In response to a request by the Tribunal, the Environment Department provided a plan showing the location, angle and arc of view of photographs provided as part of the written submissions, together with a site plan annotated to show the extent of protection in more detail, distinguishing between the building, areas of paving and lengths of roadside and garden walls.

The Legal Framework

6. Section 33(1) of the 2005 Law requires the Environment Department to prepare, maintain and keep under review a list (known as the Protected Buildings List) of buildings with special historic, architectural, traditional or other interest, the preservation of whose character as such is, in its opinion, a matter of public importance.
7. In considering whether or not to list any building, section 33(2) of the 2005 Law states that the Environment Department may take into account (a) any way in which the exterior of the building contributes to the historic, architectural, traditional or other interest of any group of buildings of which it forms part and (b) the desirability of preserving any feature of the building (whether internal or external) consisting of a man-made object or structure fixed to the building, or forming part of the land in the vicinity of the building.
8. Section 2(2) of the Special Controls Ordinance clarifies that any man-made object or structure fixed to a protected building forms part of that building. Section 2(3) of the Ordinance states that the area to be regarded as part of the protected building may include any land in the vicinity of the protected building which appears to the Environment Department to be necessary for the preservation of (a) any man-made

object or structure forming part of the land, or (b) any object not forming part of the building which is of special historic, architectural traditional or other interest and is associated with the building.

9. Part 1 section 1 of the Special Controls Ordinance sets out information which must be included in the list of protected buildings. It also refers to information which may be included in the list, but which is not mandatory. Notification and publicity requirements following the inclusion of a building in the Protected Buildings List are set out in section 4 of the Special Controls Ordinance.
10. The Environment Department's publication Conservation Advice Note CN6: *Criteria for the selection of buildings for the Protected Buildings List* (March 2014) gives further information about the criteria for listing set out in the 2005 Law (sections 33 and 34) as well as explaining in detail the criteria for listing based on a building's historic, architectural, traditional and any other interest, including archaeological interest, group value, features and setting.

Review of the List of Protected Buildings

11. In early 2012, the Environment Department embarked on a review of the then existing list of protected buildings to determine whether any buildings should be removed from the list and any added. The methods and processes used in undertaking this review are set out in *Conservation Advice Note 4: Community Guide to the review of the Protected Buildings List* (July 2013).
12. The appeal site was surveyed on 19th June 2014 as part of this review of the Protected Buildings List. A recommendation to add La Vieille to the Protected Buildings List was supported by the Protected Buildings Panel on 12th January 2016 and subsequently approved under delegated powers. The building was entered on the list on 18th January 2016; the owner was notified on 22nd January 2016 and the La Gazette Officielle Notice published on 29th January 2016, in accordance with statutory requirements.

The entry in the Protected Buildings List

13. The entry in the Protected Buildings List is dated 18th January 2015. The location of the protected building is stated as New Place Lane. The extent of protection is given as the whole of the exterior of the building, plus the roadside and garden wall as set out on the site plan image. The interior of the building is expressly excluded.
14. The protected area as depicted on the small-scale site plan is shaded and/or outlined in red. The plan shows a shaded area roughly rectangular in shape, with a small "finger" extending a short distance towards the south. From the south-west corner of the shaded area, a red outline follows the western boundary of the appeal site along its frontage to a footpath/green lane. The red line then follows part of the highway frontage to the south, then turns in a northerly direction, running in a straight line to rejoin the main shaded area at its south-east corner (rather than following the ownership boundary on the eastern side of the plot).

15. Although only the external walls of the building are listed, the shaded protected area does not follow the U-shaped footprint of the building. It includes parts of the site not specifically referred to in the *Extent of Listing* paragraph, such as the central paved courtyard between the two “wings” of the building and a paved pathway leading to the building’s front/south entrance (the “finger” of shading referred to earlier).
16. In addition, it became evident on our visit that the red line along the eastern side of La Vieille’s front garden does not relate accurately to features on site, such as the high wall which, whilst starting the corner of the building as shown on the plan, subsequently veers off at an angle, and the low retaining wall which aligns with the red line on the site plan for part of its length, but does not start at the corner of the building or finish at the highway frontage as shown on the site plan.
17. Although not mentioned in his written submissions, Mr. Best commented on the discrepancies highlighted above during the course of the Hearing discussion (when he said that he could not recognise his own house from the site plan image) and at the site visit (when he stated that he had constructed the low retaining wall in the front garden to help deal with drainage issues).
18. It was clearly evident from Mr. Best’s photographic record of renovation works at the property that all historic roof structures at La Vieille were removed during the 1970s; a new concrete ring beam was installed at that time to stabilise the external walls, and a new roof constructed in place of the original timbers. The replacement roof is noted in the building survey carried out before the property was listed.
19. The site plan shows the space between the building’s protected external walls shaded red. As the interior of the building is expressly excluded from protection, this area of shading can therefore only relate to the roof structure which spans the external walls. When questioned at the Hearing, Mr. White confirmed that the replacement roof is included in the area of protection.
20. Given the discrepancies and inaccuracy of the site plan, the Tribunal has considered very carefully whether the entry in the Protected Buildings List is sufficient to satisfy the legal requirement to identify the extent of the area to be regarded as part of the protected building¹. On balance, we consider the site plan poor but just adequate to meet this legal requirement. The entry is therefore legally valid in this respect.
21. However, we have also considered whether the entry in the Protected Buildings List is factually correct in this material respect, having regard to the Tribunal’s concerns, which were flagged up to the parties during the event and were echoed by the appellant at the Hearing.

The First Appeal on the Ground - The protected building has no special interest

22. The main thrust of the appellant’s case on this ground of appeal has two strands. Firstly, there is no documentary evidence of a building on this site prior to an entry in

¹ See Section 1(3)(d) of the Land Planning and Development (Special Controls) Ordinance 2007

the Livre du Perchage of Le Suart and its dependencies (dated by the late Mr. J H Lenfestey to c.1580). Secondly, there is no evidence to support the statement made by local historian Mr. J McCormack that La Vieille dates to around 1400, a statement which underpins the Environment Department's case for protection.

23. In considering this ground of appeal, the Tribunal has taken as its starting point the historic interest criteria set out in CN6: *Criteria for the selection of buildings for the Protected Buildings List*. This states that buildings dating from before the 19th century and which survive in anything like their original form will be of sufficient interest to consider adding them to the Protected Buildings List.
24. Based the appellant's findings alone, the earliest documented evidence of the building's existence justifies considering La Vieille for protection. Moreover, the fact that this is the earliest documented evidence of its date of construction does not preclude the possibility that the building may be older. We have therefore looked at other clues as to the phases and dates of construction at La Vieille, together with the degree of authenticity of such features.
25. Round chimneys are only found on 14th and early 15th century buildings in Guernsey. As Mr. Best is aware, in Mr. McCormack's book *The Guernsey House* (1981) there is a photograph dating from 1909 showing an authentic round chimney on the eastern gable end of the hall house, which lies at the heart of La Vieille. Although this feature has since been replaced by a later version of the design, the original round chimney provides a significant clue as to the date of one of the oldest parts of the building. This clue is reinforced by the medieval quoin stones at the western gable end and general proportions of this part of the house, which are consistent with other buildings in Guernsey dating from 1400 to 1450.
26. The east wing appears to have been built in two phases; the earlier separate "chamber block" with valet's quarters on the upper floor accessed by external steps (partially rebuilt by Mr. Best) was subsequently joined to the main hall house by an intervening "back kitchen" extension. At our visit, we noted the design of the fireplace in this back kitchen, which is typical of buildings dating from around 1600.
27. From the 17th century onwards, bread ovens were integrated into the design of fireplaces, with the door opening piercing the back wall of the gable and the oven itself built outside or in an adjacent barn. At our visit, Mr. Best drew our attention to the opening of a bread oven at the back of the fireplace on the ground floor of the west wing. The oven itself was probably removed when the back kitchen was extended later in the 17th century or early 18th century.
28. On our visit, we observed other features datable to the Elizabethan and Jacobean period, which suggest that La Vieille underwent significant changes during those times. These features include the numerous pigeonnières; the square-headed doorway on the front/south elevation and various windows with uprights stones in their jambs. However, unlike many other buildings in Guernsey, the original hall house was not re-fronted during this period. This enhances the rarity value of its historic and traditional interest.

29. La Vieille was condemned as unfit for habitation in the early part of the 20th century and appears to have remained relatively untouched and unchanged until purchased by Mr. Best and his wife in the 1970s, at which point extensive renovation works began. As noted earlier, these works included replacing the entire roof over the hall house and both wings. In addition, window frames/glazing were inserted into the original openings which, by and large, seem to have been retained in their original form.
30. Around this time, Mr. Best laid new paving on the garden side of the house and re-bedded the original paving slabs in the courtyard between the two wings. He also constructed the path leading to the front/south door, introducing new steps to accommodate the change in level across the sloping front garden, and built a low retaining wall along the east side of the garden. These date of these works were not disputed by the Environment Department.
31. In the light of these findings, Mr. White confirmed that the Environment Department would have no objection to the removal of the low eastern garden retaining wall and the paved path to the front door from the area of protection referred to in the Protected Buildings List entry. He maintained that although re-laid, the reuse of historic fabric to surface the courtyard justified protecting this area. However, the historic paving in the yard is not specifically referred to in the *Extent of Listing* paragraph.
32. Before leaving La Vieille, the Tribunal walked around the periphery of the site to look at the walls fronting the highway to the south and the Green Lane/footpath to the west. The size of some of the granite blocks indicates that, in part at least, these walls contain historic fabric. Perhaps of equal, if not greater importance, is their contribution to the setting of the building and how it fits into the landscape when seen from various vantage points.
33. The Tribunal notes Mr. Best's view that his property is simply an old house, and nothing grand or special. However, it is the very fact that the exterior walls of this vernacular building has survived relatively intact for so long, notwithstanding the extensive works carried out in the 1970s, that enhances its special historic and traditional interest in our eyes.

Conclusion on the First Ground of Appeal

34. Given the relatively recent date of the existing roof, the Tribunal sees no reason why this part of the building should be protected. We are satisfied that the additional controls enshrined in the Land Planning and Development (Exemptions) Ordinance, 2007 for buildings substantially completed before 1900 should be able to safeguard the appearance of this part of the building through the normal development control process.
35. We also note and concur with the Environment Department's view expressed at the site visit that the paved path to the front/south door and the low retaining wall on the east side of the garden have no special interest and should be removed from the protected area. In these respects therefore, the appeal is allowed and the area of

protection is reduced accordingly, as shown on the amended entry appended to this decision.

36. However, for the reasons given, the Tribunal concludes that the external walls of the building and the remaining garden and roadside walls do have special interest which is worthy of the additional level of protection afforded by adding La Vieille to the List of Protected Buildings. In terms of these specific parts of the building and site features, the appeal therefore fails and the entry in the list is maintained.
37. The Tribunal notes the Environment Department's view that the paved courtyard is also worthy of protection given its historic interest, having regard to the reuse of authentic paving material and the historic building's setting it provides. However, amending the entry to increase the area of protection through this appeal decision would be unfair to Mr. Best. It would go against the interests of natural justice as Mr. Best would have no further right of appeal (other than recourse to the Royal Court).
38. It is therefore up to the Environment Department to consider whether, following this decision, the Protected Building entry should be amended further to include the paved courtyard area and any other feature of special interest inadvertently left out of the original area of protection or excluded on the site plan. Should the Environment Department choose this course of action, care should (in our judgement) be taken to ensure that there are no discrepancies between the extent of protection as set out in writing and as shown on the site plan, which should be large enough and clear enough to identify the protected areas without any room for doubt. Naturally, Mr. Best would be able to appeal against any such amendment, should he wish to do so.
39. Last but not least, the Tribunal acknowledges that a Summary of Significance is not required under the provisions of section 1(5) of the Special Provisions Ordinance. However, it is the only means by which an owner - or indeed any member of the public - can understand the special interest of a building which justifies a high level of protection under the 2005 Law.
40. In amending the Protected Buildings entry, the Tribunal has therefore referred back to the building survey, the Environment Department's statement, its observations on site and the discussion at the Hearing to prepare a written Summary of Significance based on these findings in order to remedy our concern in this respect. In future, when adding a building to the List of Protected Buildings, we strongly urge the Environment Department to include such a summary to explain its special interest and the reason(s) why it has been added to the list.

The Second Ground of Appeal - The entry in the Protected Buildings List is factually incorrect in a material respect

41. The main thrust of the appellant's written arguments on this ground of appeal relate not to the entry on the Protected Buildings List but to certain words and phrases used in the building survey which was undertaken before the building was listed. These are dealt with briefly under "Other Matters" below.

42. At the Hearing, the Tribunal invited Mr. Best to look again at the Protected Buildings List entry for La Vieille and comment on any matters which he considered to be factually incorrect. In response, the appellant reiterated concerns raised by the Tribunal at the outset of the Hearing and referred to earlier in this decision: the lack of clarity on the site plan and the discrepancies between the area of protection as specified in writing, as shown on the plan, and as set out to in the Environment Department's statement.

Conclusion on the Second Ground of Appeal

43. The Tribunal does not find the appellant's original arguments relating to this ground of appeal to be compelling. Consequently, we dismiss this ground of appeal insofar as it relates to wording in the building survey report.
44. However, we conclude that the entry in the Protected Buildings List is factually incorrect in respect of the discrepancies between the extent of protection as written and as drawn. We also note that the Environment Department's intention to protect the courtyard paving is not reflected in the written *Extent of Protection*, even though it is shown as part of the protected area on the site plan.
45. These contradictions and discrepancies cause confusion when trying to identify which parts of the building/site are protected and which are not. We therefore regard them as factual inaccuracies in a material respect. In consequence, we allow the appeal on this ground, insofar as it relates to these specific inaccuracies, and have amended the entry to rectify these matters accordingly.

Other Matters

46. In the course of the Hearing, the Department confirmed that it was willing to change to certain words and phrases used in the survey report dated 19th June 2014, in response to Mr. Best's concerns. The survey is not part of the entry in the Protected Buildings List and is not usually in the public domain. Moreover, none of the points raised by Mr. Best nor the changes which the Environment Department is happy to make in response go to the heart of the reasons for adding La Vieille to the List of Protected Buildings. In consequence, whilst noting these concerns and the suggested changes, the Tribunal does not regard them as critical to its decision on either ground of appeal.
47. In assessing whether La Vieille should be protected, one of the sources of information relied upon by the Environment Department is research on Guernsey's built heritage carried out by local historian, John McCormack. The appeal papers include email exchanges between Mr. McCormack and an officer of the Environment Department seeking to clarify references to La Vieille in *Channel Island House* [2015].
48. There is some disagreement between the parties as to whether Mr. McCormack visited the appeal site since the property was acquired by the appellant. This concern and related matters were the subject of post-site visit correspondence from both parties which the Tribunal has had regard to in reaching its decision.

49. However, it is evident that La Vieille had been inspected whilst undertaking research for *The Guernsey House* [1980], before the 1970s renovation works commenced. The Tribunal observed most of the features identified by Mr. McCormack when visiting the site as part of this appeal. It is the evident survival of the building's historic interest which underpins our decision on this appeal.

Overall Conclusion

50. We conclude that the external walls of the building and some lengths of garden/roadside walls at La Vieille Sous L'Eglise have special interest sufficient to justify the added level of protection afforded by listing, whilst the roof of the building, the eastern garden wall and the path leading to the front/southern entrance do not. We have accordingly reduced the area of protection as written and as drawn in the amended Protected Building List entry.
51. For the reasons stated, we also conclude that the entry is factually incorrect in material respects. The amended entry addresses the concerns about discrepancies between the extent of protection on the original notice in writing and as drawn, without increasing the area of protection beyond that specified in the paragraph *Extent of Protection*.
52. A copy of the amended entry for La Vieille Sous L'Eglise is appended to this decision. This shall be added to the Protected Buildings List in place of the original entry for the appeal property. It is for the Environment Department to consider whether any further amendments are necessary to protect areas/features of special interest beyond the area now protected.

**Linda Wride
Presiding Member**

Date of Decision: 17th May 2016

The Land Planning and Development (Guernsey) Law 2005 (“the 2005 Law”)

ENTRY IN THE PROTECTED BUILDINGS LIST Pursuant to Section 33 of the 2005 Law

Reference Number: E00500B000 / PB1645

Date of entry in the List: 18th January 2016

Date of amended entry in the List: 17th May 2016

Name of Building: La Vieille Sous L’Eglise

Location: New Place Lane/Rue de L’Eglise, St. Saviour, Guernsey
GY7 9QT

Extent of Listing:

The exterior walls of the building, together with the roadside wall to the south, the wall fronting the footpath/green lane to the west and the wall within the garden as shown on the plan below. The interior of the building, the whole of the roof and the paved yard between the wings are excluded.

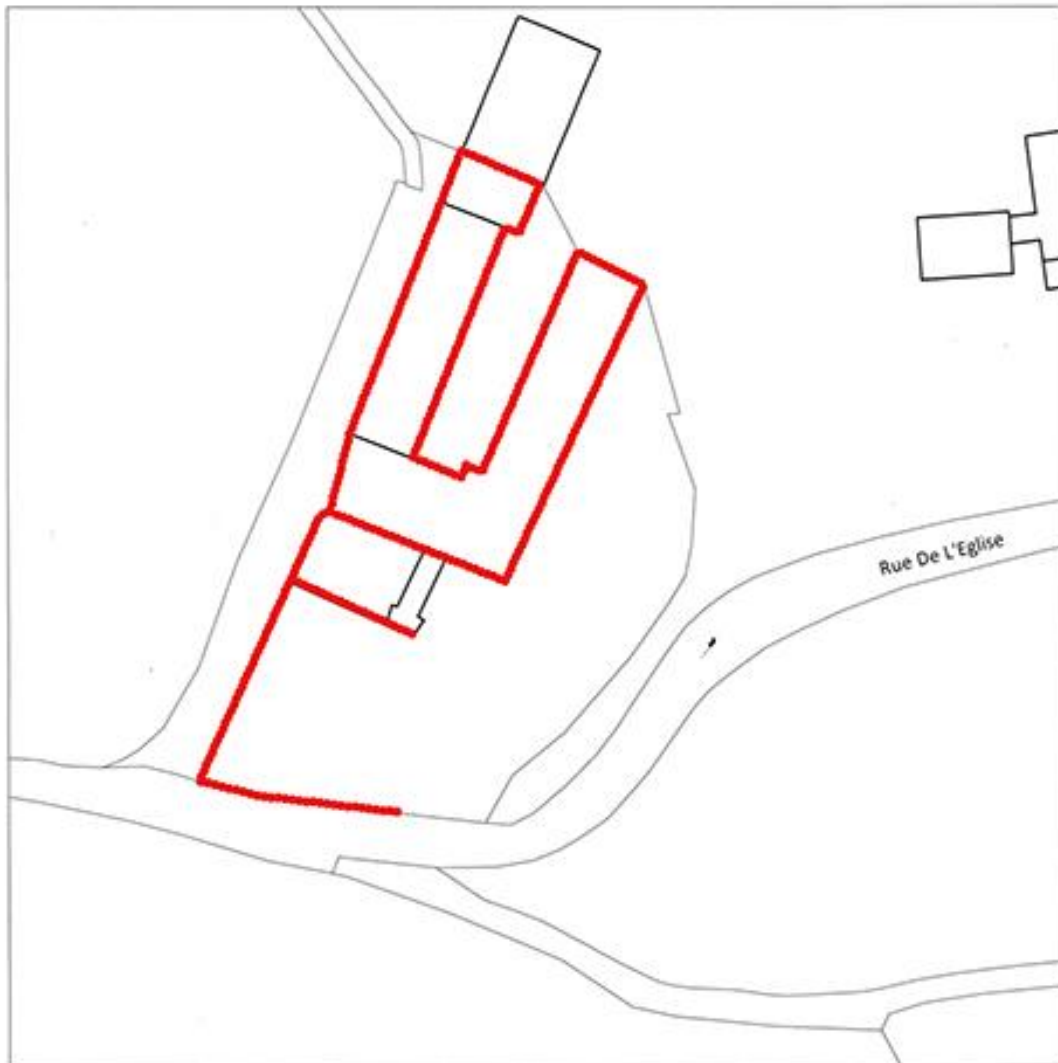
Summary of Significance:

An example of a hall house originally dating from the 14th century, with two wings comprising a chamber block and 17th century kitchen to the east, and a chamber or kitchen wing probably dating from the 17th/early 18th century to the west. The exterior stonework displays a high level of survival, including features such as numerous pigeonnières; a square-headed doorway on the front/south elevation and various authentic window openings with uprights stones in their jambs.

The building was condemned for human habitation in 1912 and renovated in the 1970s from a near ruinous condition. The historic roof was also replaced in its entirety around this time. Due to these modern interventions, there is little special interest internally. However, the external walls have high historic and traditional interest, and most historic window openings survive, albeit with modern windows inserted and some replacement first floor lintols on the south elevation.

There is some evidence of historic fabric in parts of the garden and perimeter walls and these structures make a positive contribution to the setting of the building and its integration into the landscape of the valley side. Group value with Le Manoir de la Sous l’Eglise including outbuildings and pump, and a nearby abreuveur (cattle watering place) all in separate ownership.

Site Plan Image



LOCATION AND EXTENT OF AREA SHOWN IN RED TO BE REGARDED AS PART OF THE PROTECTED BUILDING FOR THE PURPOSES OF CHAPTER 2 OF PART IV OF THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005