

BREACH OF CONDITION NOTICE

Planning & Building (Jersey) Law 2002

THIS NOTICE TAKES IMMEDIATE EFFECT ON THE DATE IT IS ISSUED

1 This Notice:

Is issued pursuant to the powers conferred under Article 47 of the Planning and Building (Jersey) Law 2002 because it appears that there has been a failure to comply with conditions subject to which planning or building permission was granted.

2 This Notice relates to land at:

Le Passage Development Site, Le Passage, St Lawrence, Jersey.
(*Edged in RED on the attached 'Condition Notice - Location Plan'*)

3 The Matters which appear to constitute a Breach of Condition in respect of planning permission P/2010/0653:

- 3.1 Condition 5 of planning permission P/2010/0653 requires that ***“a Work of Art shall be delivered in accordance with the advice of the appointed Approved Art Advisor and the Percentage for Art Statement dated 19th October 2010 which has been submitted to and approved by the Minister for Planning and Environment. The work of art must be installed prior to the first use of the development hereby approved unless otherwise agreed in writing.”*** No such ‘Work of Art’ has been installed, the development is now partially occupied and no agreement to delay or revoke the requirement of Condition 5 has been reached with the Minister for the Environment. Condition 5 has therefore not been complied with.
- 3.2 Condition 7 of planning permission P/2010/0653 requires that **“prior to the commencement of the development hereby permitted, full details of all**

hard landscaping on the site including any surfacing materials, walls, planters, steps and other features, must be submitted to and approved by the Minister for Planning and Environment”. No details pursuant to this condition have been submitted to or approved by the Minister for the Environment. Condition 7 has therefore not been complied with.

- 3.3 Condition 8 of planning permission P/2010/0653 requires that ***“no development shall take place on the site in pursuance of this permission until all the following details, drawn to scale in the case of plans and drawings, have been submitted to and approved by the Minister for Planning and Environment; a layout plan and details of roads and footpaths including levels and the means of surface water drainage.”*** No details of surface water drainage pursuant to this condition have been submitted to or approved by the Minister for the Environment. Condition 8 has therefore not been complied with.
- 3.4 Condition 9 of planning permission P/2010/0653 requires that ***“the development approved by this permission shall not commence until a scheme for the disposal of foul and surface waters has been approved and implemented.”*** No such ‘scheme for the disposal of foul and surface waters’ pursuant to this condition has been submitted to or approved by the Minister for the Environment. Condition 9 has therefore not been complied with.
- 3.5 Condition 10 of planning permission P/2010/0653 requires that ***“before any development first commences on site, a landscaping scheme shall be submitted to and approved in writing by the Minister for Planning and Environment. The approved scheme (which shall be submitted by a Landscape Architect, the appointment of which to have been previously agreed in writing by the Minister for Planning and Environment), shall be undertaken within the first available planting season and any trees which die, are removed or become seriously diseased within a period of five years from the date the planting first takes place, shall be replaced in the next planting season with others of a similar size and species. The Landscape Architect must give written confirmation to the Minister for Planning and Environment that they are satisfied that the works are completed in accordance with the approved plans and the quality of the materials and workmanship is of the highest order.”*** No such ‘landscaping scheme’ pursuant to this condition has been submitted to or approved by the Minister for

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the Environment. Nor has the Minister had the opportunity to agree to the appointment of a Landscape Architect. Condition 10 has therefore not been complied with.

- 3.5 Condition 12 of planning permission P/2010/0653 requires that ***“prior to the first use of the development hereby permitted visibility lines must be provided in accordance with the approved drawings. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level.”*** The approved ‘visibility lines’ have not been provided at the northern entrance to the Le Passage Development Site, and the site is now partially occupied. Condition 12 has therefore not been complied with.

4 Reasons for Issuing this Notice:

- 4.1 The failure to comply with the terms of Condition 5 under planning permission P/2010/0653 has caused an adverse impact upon the visual amenity for this residential development and the failure to comply with the terms of the condition means that a high quality of design¹ is not achieved. This is contrary to policy GD6 (Design Quality) and GD10 (Percent for Art) of the Bridging Island Plan.
- 4.2 The failure to comply with the terms of Condition 7 under planning permission P/2010/0653 has resulted in a stark and barren built environment that has had an adverse impact upon the character and visual amenity of the site which is contrary to the requirements of policy GD6 (Design Quality) of the Bridging Island Plan.
- 4.3 The failure to comply with the terms of Condition 8 under planning permission P/2010/0653 has caused an adverse impact upon amenity and the environment generally for this residential development. Given the extensive amount of hard surfacing within the Le Passage Development site and the likely longer-term increase in extreme weather events, as highlighted in core policies of the Bridging Island Plan, it is considered essential to adequately manage surface water to avoid flooding events. This is contrary to policy SP1 (Responding to Climate

Change) and WER6 (Surface Water Drainage) of the Bridging Island Plan.

- 4.4 The failure to comply with the terms of Condition 9 under planning permission P/2010/0653 means that there has not been adequate control over the disposal of foul and surface water and therefore it is not possible to have satisfactory confidence that the development will not cause harm to the water environment and to living conditions of residents of Le Passage Development site. The development that has been carried out in respect of the disposal of foul and surface waters is therefore contrary to the requirements of policy WER7 (Foul Sewage) and WER6 (Surface Water Drainage) which requires development to provide a system of drainage that adequately connects to the public foul and surface sewer system.
- 4.5 The failure to comply with the terms of Condition 10 under planning permission P/2010/0653 has resulted in a stark and barren built environment devoid of landscape relief to built-form which has had an adverse impact upon the character and visual amenity of the site which is contrary to the requirements of policy GD6 (Design Quality) of the Bridging Island Plan.
- 4.6 The failure to comply with the terms of Condition 12 under planning permission P/2010/0653 has resulted in the only vehicle entrance and exit to the Le Passage Development Site to have inadequate visibility splays such that the entrance is harmful to the safe use of the public highway, contrary to policy TT1 (Integrated and Inclusive Travel).

5 Steps Required to Rectify the Breach:

- Step 1 In respect of the failure to comply with the terms of Condition 5 under planning permission P/2010/0653, within 3 months of the effective date of the Notice, to install the 'Work of Art' as approved and as set out in the Percentage for Art Statement submitted with the planning application P/2010/0653.

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- Step 2 In respect of the failure to comply with the terms of Condition 8 under planning permission P/2010/0653, within 3 months of the effective date of the Notice, to submit a detailed scheme of the drainage that has been implemented, and that which will be installed in the remainder of the development, with appropriate evidence to support the design of the drainage system.
- Step 3 In respect of the failure to comply with the terms of Condition 8 under planning permission P/2010/0653, within 3 months of the Chief Officer's approval of details submitted pursuant to step 2, to implement any changes to the drainage scheme that may be set out in those approved details.
- Step 4 In respect of the failure to comply with the terms of Condition 9 under planning permission P/2010/0653, within 3 months of the effective date of the Notice, to submit a detailed scheme for the disposal of foul and surface waters that has been implemented, and that which will be installed in the remainder of the development, with appropriate evidence to support the design of the drainage system.
- Step 5 In respect of the failure to comply with the terms of Condition 9 under planning permission P/2010/0653, within 3 months of the Chief Officer's approval of details submitted pursuant to step 4, to implement any changes to the drainage scheme that may be set out in those approved details.
- Step 6 In respect of the failure to comply with the terms of Condition 7 under planning permission P/2010/0653 within 3 months of the effective date of the Notice, to submit a detailed hard landscaping scheme,
- Step 7 In respect of the failure to comply with the terms of Condition 7 under planning permission P/2010/0653, within 3 months of the Chief Officer's approval of details submitted pursuant to step 6, to implement the scheme as may be approved within 3 months following approval of those details.

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Step 8 In respect of the failure to comply with the terms of Condition 10 under planning permission P/2010/0653 within 3 months of the effective date of the Notice, to submit a detailed landscaping scheme,

Step 9 In respect of the failure to comply with the terms of Condition 10 under planning permission P/2010/0653, within the first planting season following the Chief Officer’s approval of details submitted pursuant to step 8, to implement the scheme as may be approved.

Step 10 In respect of the failure to comply with the terms of Condition 12 under planning permission P/2010/0653 within 3 months of the effective date of the Notice, to implement the previously approved visibility lines.

6 Time for Compliance: 3 months

Date of Issue:

Signed:Date

(Authorising Officer)

For and on behalf of the Chief Officer;

Peter Le Gresley (Head of Development and Land)

Infrastructure Housing and Environment, Development Control,

28-30 The Parade, St Helier. JE49SS

Enclosures.

1. Breach of Condition Notice – Location Plan.
2. Breach of Condition Notice – Visibility Splay Plan.

Informative. Any other item or issue not specified in this enforcement notice may be subject of a separate enforcement notice.

ADVISORY NOTES

What will happen if this Notice is not complied with:

If you fail to comply with the requirements of this Notice you may be liable to prosecution under the appropriate Article of the Planning and Building (Jersey) Law 2002.

Your Rights of Appeal:

In accordance with Article 109 of the above Law, you may appeal against this Notice to the Judicial Greffier by writing to the Planning Tribunal, First Floor, International House, 41 The Parade, St Helier JE2 3QQ no later than 28 days from the date this Notice is issued, enclosing the required fee.

Planning Tribunal:

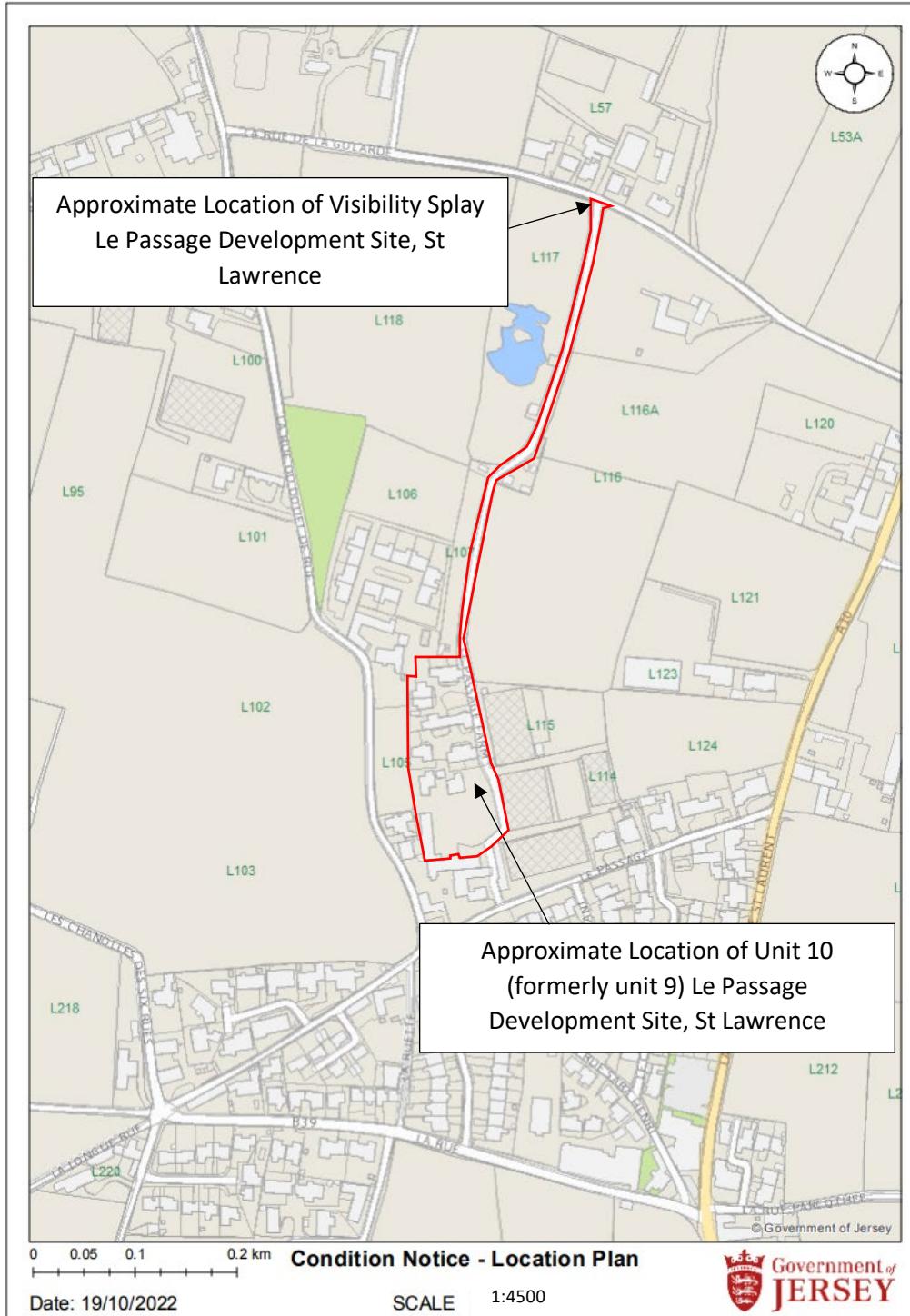
planningtribunal@courts.je

Appeal Information:

<https://www.gov.je/planningbuilding/appealscomplaints/pages/appealplanningbuildingdecision.aspx>

BREACH OF CONDITION NOTICE – LOCATION PLAN
Le Passage Development Site, St Lawrence.

ENF/2021/00012



Approximate Location of Visibility Splay
Le Passage Development Site, St
Lawrence

Approximate Location of Unit 10
(formerly unit 9) Le Passage
Development Site, St Lawrence

0 0.05 0.1 0.2 km

Condition Notice - Location Plan

Date: 19/10/2022

SCALE 1:4500



BREACH OF CONDITION NOTICE – VISIBILITY SPLAY PLAN
Las Passage Development Site, St Lawrence.

ENF/2021/00012

