

Planning Obligation Agreement under Article 25 of the Planning and Building (Jersey)

Law 2002

relating to the development of La Nouvelle Chasse, La Route d'Ebenezer, Trinity, JE3 5DT

Dated

1st November

2018

The Chief Officer for the Environment(1)

Nouvelle Developments Limited (2)

Acorn Finance Limited (3)

Trevor Christopher Doyle and Karen Belinda Doyle (4)

DATE

2018

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("the Chief Officer")
- (2) Nouvelle Developments Limited (Co Regn 125018) of 7 De Carteret House Castle Street St Helier Jersey JE2 3BT ("the Owner")
- (3) Acorn Finance Limited of 2nd Floor The Le Gallais Building of 54 Bath Street St Helier Jersey JE1 1FW ("Acorn")
- (4) Trevor Christopher Doyle and Karen Belinda Doyle of Angle Lodge, La Rue de la Retraite, St Brelade Jersey JE3 8AZ ("the Lenders")

RECITALS

- 1 The Owner warrants that by virtue of a hereditary contract of sale cession and transfer dated 10 November 2017 between it and Neil Evan Wakeling and Andree Jacqueline Patricia Wakeling née Etienne it is the owner in perpetuity (*à fin d'héritage*) as to the Site.
- 2 Acorn has an interest in the Site by virtue of a judicial hypothec (hypothèque judiciaire) subscribed in its favour from the Owner on 9 November 2017 and registered on 10 November 2017.
- 3 The Lenders have an interest in the Site by virtue of a judicial hypothec (hypothèque judiciaire) subscribed in their favour from the Owner on 9 November 2017 and registered on 10 November 2017.
- 4 The Owner submitted an application (accorded the reference P/2018/0294) for planning permission for the Development.
- 5 Pursuant to Article 9(5)(b) of the Law the Chief Officer referred the application for the Development to the Planning Committee for determination by that Committee.
- 6 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Planning Committee at its meeting on 5 July 2018 resolved to approve the grant of planning permission for the Development subject to the prior completion of this Agreement.
- 7 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 8 The parties acknowledge that this Agreement is legally binding.
- 9 This Agreement shall be construed so as to give effect to the purpose and intention of the Law.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following meanings:

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| | | |
| "Bus Stop Contribution" | | the sum of eleven thousand five hundred pounds (£11,500) to be paid by the Owner to the Treasurer of the States to be applied towards highway improvement works bus shelter provision in the environ or locality of the Site |
| | | |
| "Chief Officer" | | the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the States responsible for planning and building in accordance with Article 1 of the Law. |
| | | |
| "Commencement" | | the date on which any operation (but not including any enabling, exploratory or investigative works, nor asbestos removal or demolition works) forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out, and "Commence" and "Commenced" shall be construed accordingly. |
| | | |
| "Development" | | the development of the Site in accordance with the Planning Permit. |
| | | |
| "Dwelling Unit" | | a residential unit forming part of the Development to be constructed pursuant to the Planning Permit. |
| | | |
| "GST" | | goods and services tax under the Goods and Services Tax (Jersey) Law 2007; |
| | | |
| "Index" | | the all Items Index of Retail Prices for Jersey as issued from time to time by the Statistics Unit to the States of Jersey; |
| | | |
| "Interest" | | interest at three per cent above the base lending rate of the HSBC Bank Plc from time to time. |

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| "Law" | | the Planning and Building (Jersey) Law 2002. |
| | | |
| "Minister for Infrastructure" | for | the Minister for Infrastructure, including his or her successor and any person or body to whom the functions of the Minister for Infrastructure may be transferred hereafter or lawfully delegated from time to time |
| | | |
| "Occupation" "Occupy" and "Occupied" | | means occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations. |
| | | |
| "Footpath Works" | | all works necessary to create a public footpath with kerb alterations on that part of the Site that is adjacent La Route d'Ebenezer in accordance with a specification consistent with the Footpath Works Plan . |
| | | |
| "Footpath Works Plan" | | the plan with reference Job no 2144 PO25 outlining the Footpath Works, a copy of which is contained in the Fifth Schedule.. |
| | | |
| "Plan" | | the plan contained in the First Schedule to this agreement. |
| | | |
| "Planning Application" | | the application for planning permission in respect of the Site and described as " <i>Demolish existing structures. Construct 2 No. four bed and 2 No five bed dwellings with associated parking and landscaping. 3D model available</i> " and given the reference P/2018/0294. |
| | | |
| "Planning Permit" | | the planning permission for the Development as applied for and described in the Planning Application a copy of which is attached in the Second Schedule. |
| | | |
| "Royal Court" | | the Royal Court of the Island of Jersey. |
| | | |
| "Site" | | La Nouvelle Chasse, La Route d'Ebenezer, Trinity, JE3 |

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| | 5DT identified by a thick black edging and hatched black on the Plan upon which the Development is to be carried out. |
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2 CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to a law of the States of Jersey shall include any modification, extension or re-enactment of that law for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that law or deriving validity from it.
- 2.6 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Chief Officer.
- 2.7 This Agreement shall be construed so as to give effect to the purpose of the Law.

3 LEGAL BASIS

- 3.1 This Agreement is made pursuant to Article 25 of the Law.
- 3.2 The covenants, restrictions and requirements imposed upon the Owners under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Chief Officer against the Owner.

4 EFFECTIVE DATE

This Agreement shall come into effect immediately upon the date which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court on condition that the Planning Permission has been granted.

5 OWNERS COVENANTS

The Owner covenants and agrees with the Chief Officer as set out in the Fourth Schedule so that this Agreement shall be enforceable without limit of time against the

Owner and any person claiming or deriving title through or under the Owner to the Site or any part or parts thereof.

6 PUBLIC REGISTRY OF CONTRACTS

The Chief Officer shall as soon as practicable apply to the Royal Court for an order that this Agreement be registered in the Public Registry of Contracts.

7 MISCELLANEOUS

- 7.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Chief Officer under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction may be given on behalf of the Chief Officer by the Director - Development Control of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing.
- 7.2 Any notices on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to such party at the address referred to above or as otherwise notified for the purpose by notice in writing.
- 7.3 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit shall be quashed, cancelled, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified (other than by process under Article 10 of the Law) by any statutory procedure or expires prior to the Commencement of Development.
- 7.5 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permit) granted (whether or not on appeal) after the date of this Agreement.
- 7.7 Except in so far as legally or equitably permitted this Agreement shall not prejudice or fetter or affect any statutory power discretion or duty of the Chief Officer and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Chief Officer by any of the obligations or covenants by the Owners in favour of the Chief Officer under this Agreement are in addition to any of the Chief Officer's statutory powers under the Law.

- 7.8 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from any third party with respect to the Development or its use any consents permits authorisations rights interests in land or servitudes.
- 7.9 Nothing in this Agreement shall be construed or interpreted in such a way or inference to be drawn so as to place or create a duty of care upon the Chief Officer as a result of the Chief Officer agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein.
- 7.10 The Owner shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein.
- 7.11 All communications and notices served or made under this Agreement shall be in writing.

8 WAIVER

No waiver (whether expressed or implied) by the Chief Officer of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Chief Officer from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer written notice (as soon as reasonably practical following such change) of any change in ownership of any of its interest in the Site occurring before all the obligations under this Agreement have been discharged but this obligation shall not extend to the disposal by the Owner of each Dwelling Unit to a purchaser for his own or his family or his tenant's Occupation.

10 INDEXATION

Any sum referred to in the Third Schedule shall be increased by an amount equivalent to the increase in the Index from the date on which this Agreement is registered in the Public Registry of Contracts until the date on which such sum is paid.

11 INTEREST

If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment.

11 DISPUTE RESOLUTION

In the event that any dispute shall arise in respect of any provision of this Agreement it shall be referred if not resolved within seven working days to the arbitration of an independent arbitrator under the provisions of the Arbitration (Jersey) Law 1998 such

arbitrator to be named by the agreement of the parties to the dispute or in default of agreement by the President for the time being of the Royal Institution of Arbitrators upon the application of any party to the dispute.

12 LENDER'S CONSENT

- 12.1 Acorn acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of Acorn over the Site shall take effect subject to this Agreement PROVIDED THAT Acorn shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as a person deriving title from the Owner.
- 12.2 The Lenders acknowledge and declare that this Agreement has been entered into by the Owner with their consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the Lenders over the Site shall take effect subject to this Agreement PROVIDED THAT the Lenders shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case they too will be bound by the obligations as a person deriving title from the Owner.

13 GOODS AND SERVICES TAX

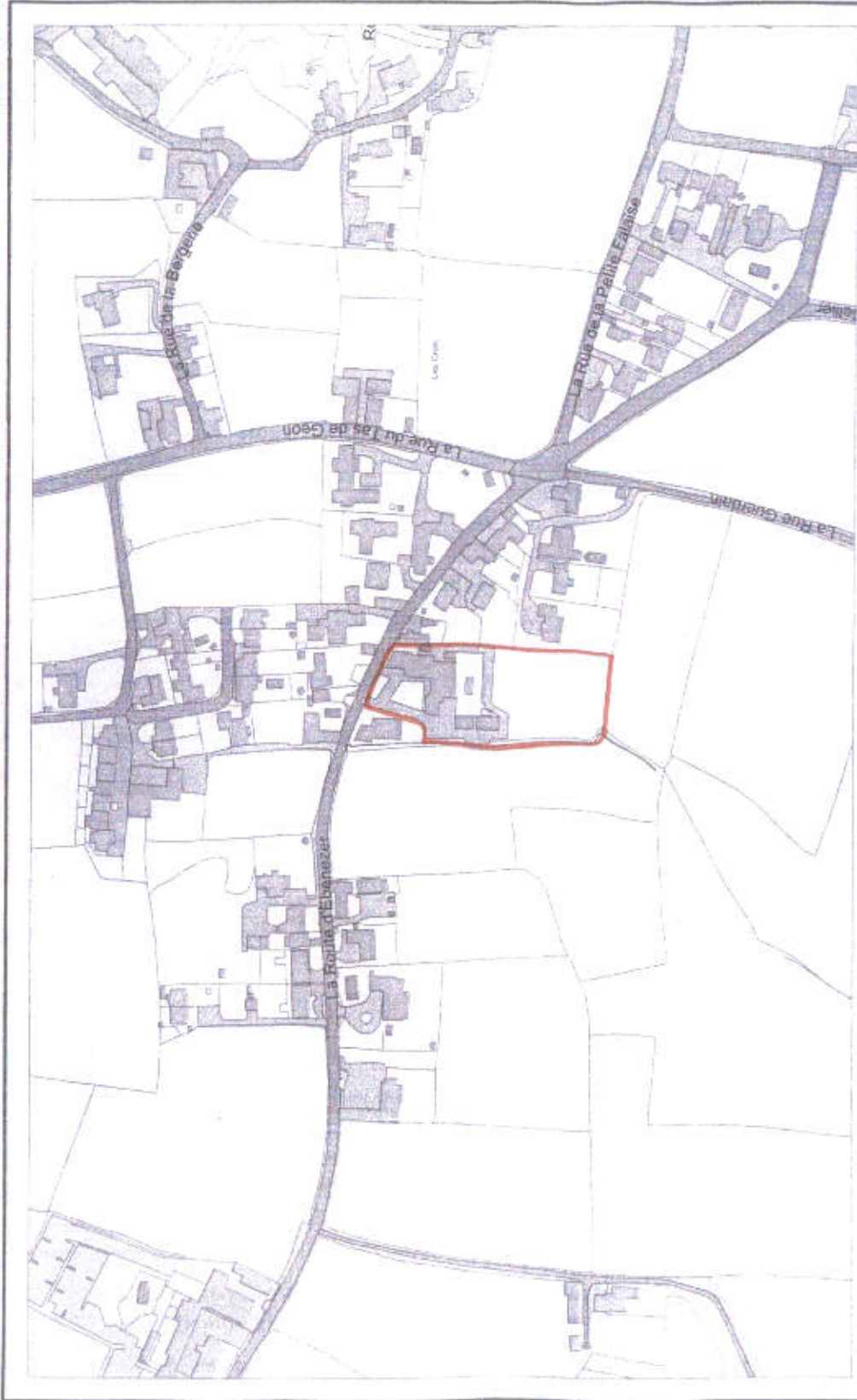
- 13.1 All *cause* given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable in respect thereof.
- 13.2 If at any time GST is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement then to the extent that GST had not previously been charged in respect of that supply the person making the supply shall have the right to issue a GST invoice to the person to whom the supply was made and the GST shall be paid accordingly.

14 JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of the Island of Jersey.

FIRST SCHEDULE

The Plan



State of
New Jersey
Department of
Transportation

COPYRIGHT PLANNING & TRANSPORTATION DEPARTMENT

LOCATION PLAN

SCALE 1: 2500

15 February 2018

SECOND SCHEDULE

The Planning Permit

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0294

In accordance with Article 19(8) of the Planning and Building (Jersey) Law 2002, as representations were made in connection with this application, this decision shall not have effect during the period of 28 days immediately after the decision date.

This permission enures (unless otherwise stated) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land.

This decision does not absolve the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve the need to obtain the permission of the owner of the land to which this permission relates.

This is notification of the decision to **GRANT** permission to develop land under Article 19 of the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Demolish existing structures. Construct 2 No. four bed and 2 No five bed dwellings with associated parking and landscaping. 3D model available.

To be carried out at:

La Nouvelle Chasse, La Route d'Ebenezer, Trinity, JE3 5DT.

Reason For Approval: The proposed development is considered to be acceptable having due regard all of the material considerations raised. In particular, the development has been assessed against Policy H6 of the Adopted Island Plan 2011 (Revised 2014), which is supportive of proposals for new dwellings within the boundary of the Built-up Area, as defined on the Island Proposals Map, provided that the proposal is in accordance with the required standards for housing as established and adopted by the Minister for Planning and Environment through supplementary planning guidance. (insert thrust of policy). In this case, the proposed accords with all relevant policies and guidance.

The representations raised to the scheme on the grounds of highway safety, impact on neighbours and overdevelopment of the site have been assessed. The scheme has been amended to address these to some extent. However, it is considered that the proposal accords with the terms of Policy GD1 and GD7 of the Adopted Island Plan 2011 (Revised 2014) in that it will not have an unreasonable impact on the amenity of neighbouring uses.

This permission is granted subject to compliance with the following conditions and approved plan(s):

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0294

- A. The development shall commence within three years of the decision date.
Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.
- B. The development hereby approved shall be carried out entirely in accordance with the plans, drawings, written details and documents which form part of this permission.
Reason: To ensure that the development is carried out and completed in accordance with the details approved.

Conditions:

1. Prior to the development being brought into first use, visibility splays shall be laid out and constructed in accordance with the approved plans. The visibility splays shall then be retained thereafter and no visual obstruction of any kind over the height of 900mm shall be erected within them.
2. Prior to occupation of the residential units hereby agreed, works within the site to form the footpath on the road edge, which is then to be ceded to the Department For Infrastructure, shall be completed in line with details illustrated on Drawing P003 Rev A.
3. All surface water run-off shall be dealt with on site via soak-away and in particular shall not be discharged onto the highway.
4. The measures outlined in the Species Protection Plan (06/06/18 Nurture Ecology) shall be implemented prior to the commencement of the development, continued throughout the phases of the development (where applicable) and thereafter retained and maintained as such. Any variation that may be required as a result of findings on site are to be agreed in writing by the Dept. of the Environment prior to works being undertaken.
5. No part of the development hereby approved shall be occupied until all hard and soft landscape works as indicated on the approved plan have been carried out in full. Following completion, the landscaping areas shall be thereafter maintained as such.
6. No part of Unit 4 of the development hereby approved shall be occupied until the balcony on the southern elevation at first floor level is fitted with an obscure glazed privacy screen along the length of the eastern side, to a height of 1700mm from finished floor level. Once constructed, the screen shall be retained as such thereafter.

Reasons:

1. In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0294

2. In the interests of highway safety, to accord with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
3. In the interests of highway safety, to accord with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
4. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
5. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
6. To safeguard the amenities and privacy of the occupants of the adjoining properties in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at www.gov.je/planning

The following plan(s) has/have been approved:

Location Plan
Proposed Ground Floor Site Plan P003 RevA
Proposed First Floor Site Plan P004
Proposed Second Floor Site Plan P005
Proposed Site Sectional Elevation 1 P006
Proposed Site Sectional Elevations 2 P007
Proposed Ground Floor Site Plan P008
Proposed Improved Visibility Splay P010
Plot 1 House Plans and Elevations P011
Plot 1 House 3D Visuals P012 Rev A
Plot 2 House Plans and Elevations P013 Rev A
Plot 2 House 3D Visuals P014
Plot 3 Plans P015 Rev A
Plot 3 Elevations and Visuals P016 Rev A
Plot 4 P017
Supporting Sectional Drawing SK01
Landscape Site Plan 002 Rev P2

DECISION DATE: 01/11/18

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0294

The development may also require building permission, for which a separate application will need to be made. You can find out if building permission is required on our website www.gov.je/planningbuilding

The approved plans and any conditions attached to the decision are important and should be complied with. If there is any variation from the approved plans or the conditions you need to notify us immediately. Failure to comply with the approved plans or conditions may result in enforcement action.

If you are unhappy with a condition attached to this permission, you may request a review or make an appeal. You can find out how to do this on our website www.gov.je/planning

APPROVED

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

COMMENCEMENT

- 1 Not to Commence the Development until the Owner has given to the Chief Officer not less than twenty-eight (28) days' notice in writing of its intention so to do.

CONTRIBUTIONS

- 2 To pay each of the Bus Stop Contribution to the Treasurer of the States prior to the Commencement of the Development.
- 3 Not to Commence the Development until such time as the Bus Stop Contribution has been paid to the Treasurer of the States.

FOOTPATH WORKS AND TRANSFER

- 4 To carry out and complete the Footpath Works at the cost of the Owner prior to the Occupation of any part of the Development.
- 5 Not to Occupy any part of the Development until such time as the Footpath Works have been carried out and completed to the reasonable satisfaction of the Chief Officer (in consultation with the Minister for Infrastructure).
- 6 Following completion of the Footpath Works the Owner shall cede and transfer that part of the Site upon which any of the Footpath Works have been carried out and the Public shall take conveyance of the relevant property free of all charges and encumbrances by contract to be passed before the Royal Court the Owner paying the proper and reasonable costs of and incidental to the said transfer (including all and any reasonable legal and professional costs).

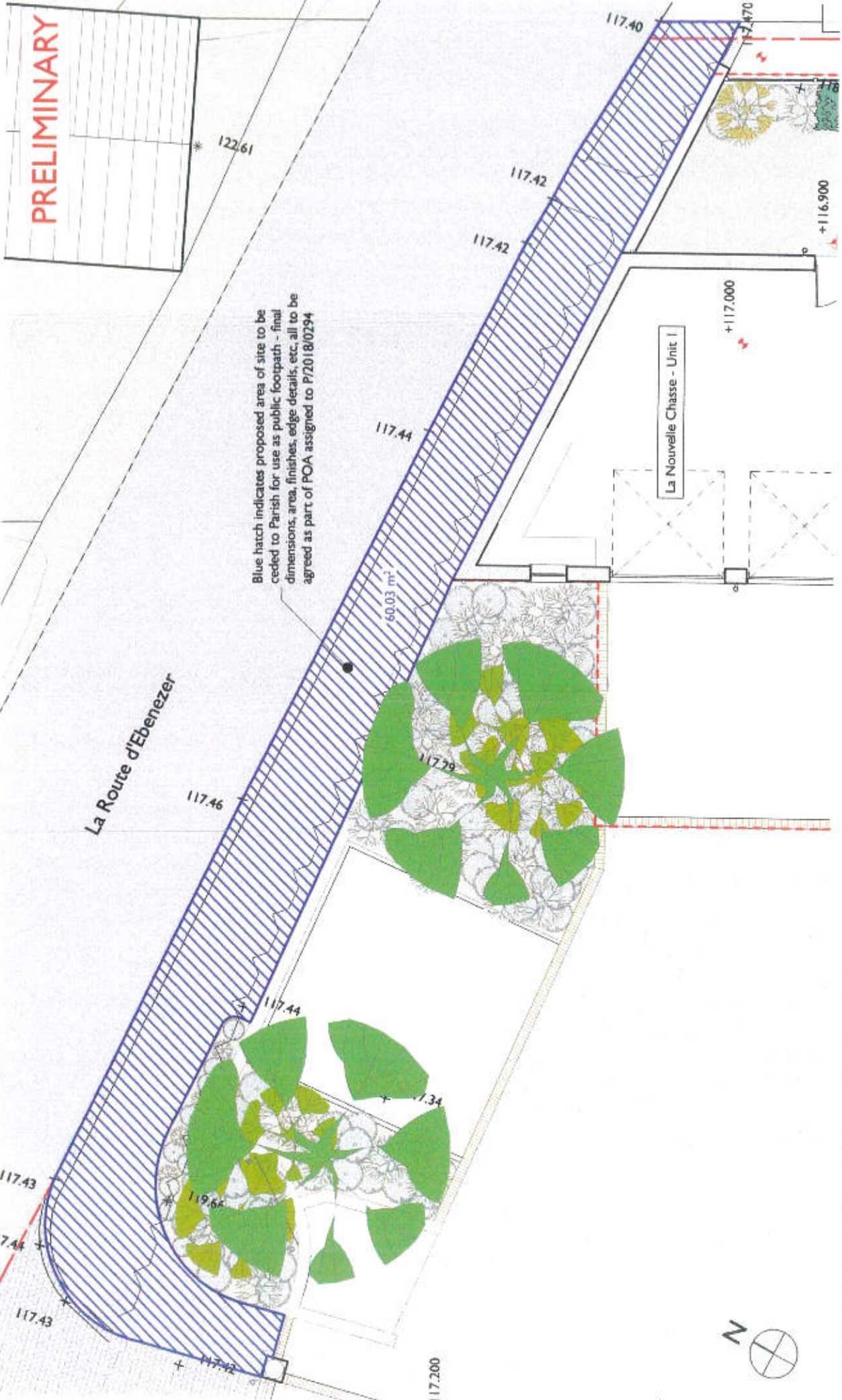
FOURTH SCHEDULE

Chief Officer's covenants

1. The Chief Officer hereby covenants with the Owner to use all sums received by the Treasurer of the States from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
2. The Chief Officer covenants with the Owner that he will procure or arrange that the Treasurer of the States will pay to the Owner such amount of any payment made by the Owner to the Treasurer of the States under this Agreement which has not been expended in accordance with the provisions of this Agreement within four years of the date of receipt by the Treasurer of the States of such payment.

FIFTH SCHEDULE

Footpath Works Plan



Blue hatch indicates proposed area of site to be ceded to Parish for use as public footpath - final dimensions, area, finishes, edge details, etc. all to be agreed as part of POA assigned to P7201810294

La Route d'Ebenezer

La Nouvelle Chasse - Unit 1

60.03 m²



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|---|--|--|----------------------------|
| <p>La Nouvelle Chasse</p> <p>Client: POA Roadside Plan</p> <p>Client: Nouvelle Developments Ltd</p> | | <p>Project No: 2144</p> <p>Date: June 2018</p> <p>Scale: 1:100</p> <p>Client: C. Dunne</p> <p>PI</p> | <p>ARCHITECTURE</p> |
| <p><small>This drawing is a preliminary work of architectural design and is not to be used for construction purposes. It is the responsibility of the client to ensure that all work is carried out in accordance with the relevant building codes and regulations. The architect is not responsible for any errors or omissions in this drawing. The client is responsible for obtaining all necessary permits and approvals from the relevant authorities. The architect is not responsible for any delays or costs incurred as a result of the client's failure to provide the necessary information or approvals in a timely manner. The architect is not responsible for any damage to the site or any other property as a result of the construction of the work.</small></p> | | | |

Signed on behalf of [REDACTED]
by (PETER LG GRESLEY)

in the presence of [REDACTED]

this 18th day of November 2018

Signed on behalf of Nouvelle Developments Limited

by [REDACTED]
KATYA PETTY

in the presence of [REDACTED]
CHANTELLE EGAN

this 1st day of November 2018

Signed on behalf of Acorn Finance Limited

by [REDACTED]
NICOLA ROBSON - DIRECTOR

in the presence of [REDACTED]
MELANIE TRUSCOTT MICHEL
EXECUTIVE ASSISTANT TO THE
DIRECTORS

this 27 day of SEPTEMBER 2018

Signed by Trevor Christopher Doyle

.....
.....
.....

in the presence of

K Marshall

this 12th day of October 2018

Signed by Karen Belinda Doyle

by

in the presence of

K Marshall

this 12th day of October 2018