


In the Royal Court of Jersey

Samedi Division

In the year two thousand and fourteen, the twenty-second day of December.

Before the Judicial Greffier.

Upon the application of Her Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between The Minister for Planning and Environment, Evolution Properties Limited and The Royal Bank of Scotland International Limited in relation to Silver Sands, La Grande Route de la Cote, St Clement be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub.

**PLANNING OBLIGATION AGREEMENT UNDER ARTICLE 25 OF
THE PLANNING AND BUILDING (JERSEY) LAW 2002
RELATING TO THE DEVELOPMENT OF SILVER SANDS, LA
GRANDE ROUTE DE LA COTE, ST. CLEMENT JE2 6SB**

Dated:

22nd December

2014

The Minister for Planning and Environment (1)

Evolution Properties Limited (2)

The Royal Bank of Scotland International Limited t/a Natwest (3)

DATE

22nd December

2014

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St. Helier, Jersey, JE2 4US ("the Minister"); and
- (2) Evolution Properties Limited (Company Registration Number 98736), incorporated on 20th September 2007, the registered address of which is Augres House, 16 Dumaresq Street, St Helier, JE2 3RL ("the Owner") and;
- (3) The Royal Bank of Scotland International Limited t/a Natwest (Company Registration Number 2304), incorporated on 14th July 1966, the registered address of which is 71 Bath Street, St Helier, JE4 8PJ ("the Hypothecator")

RECITALS

- 1 The Minister is the Minister of the States charged with the administration of the Law by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law.
- 2 The Owner warrants that they are the owner in perpetuity (à fin d'héritage) of the Site by virtue of a contract of purchase from Sandpiper PropertyCo 13 Limited passed before the Royal Court on 16th November 2007.
- 3 The Hypothecator has an interest in the Property by virtue of a judicial hypothec (hypothèque judiciaire) registered in the Public Registry of Jersey on 14th November 2007.
- 4 An Application was submitted to the Minister and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 5 The parties acknowledge that this Agreement is legally binding.
- 6 Having regard to the purposes of the Law (including inter alia Article 21), the Island Plan 2011 and all other material considerations the Minister decided to vary the standard condition to extend the Planning Permit for a further 5 years in accordance with the Application.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"Application"	the application dated 25 th April 2014 to vary/remove a planning condition submitted to the Minister for the Development and allocated reference number RC/2014/0675
"Commencement of Development"	the date on which any use or operation forming part of the Development begins to be carried out including for the avoidance of any doubt operations consisting of site clearance, demolition work, tree removal, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements
"Decision Notice"	notice of the decision of the Minister pursuant to the Application a draft of which is annexed to this Agreement in the Fourth Schedule
"Development"	the development of the Site to demolish bungalow and construct 5 no. apartments in accordance with the Planning Permit
"GST"	means the goods and services tax under the Goods and Services Tax (Jersey) Law 2007
"Cycleway Contribution"	means the sum of five thousand pounds (£5,000) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for the purposes of the Eastern Cycle Network or for such other planning purposes arising from the Development as the Minister shall consider being reasonably appropriate in the circumstances
"Index"	all Items Index of Retail Prices for Jersey as Issued 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
"Law"	the Planning and Building (Jersey) Law 2002
"Plan"	the plan contained in the Third Schedule to this Agreement

"Planning Permit"	the planning permission for the Development (reference P/2009/1267) to demolish existing bungalow and construct No. 5 apartments
"Decision Notice"	notice of the decision of the Minister pursuant to the Application a draft of which is annexed to this Agreement in the Fourth Schedule
"Site"	Silver Sands, La Grande Route de la Cote, St. Clement JE2 6SB against which this Agreement may be enforced as shown hatched black on the Plan
"Treasurer of the States"	the person appointed as such for the time being in accordance with Part 5 of the Public Finances (Jersey) Law 2005

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 interchangeable 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 Minister the successors to his statutory functions.

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 Owner under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Minister against the Owner.

4 CONDITIONALITY

This Agreement is conditional upon being registered in the Royal Court as evidenced by an Act of the said Court.

5 THE OWNER'S COVENANTS

The Owner covenants and agrees with the Minister as set out in the First Schedule to the intent 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 THE MINISTER'S COVENANTS

The Minister covenants with the Owner as set out in the Second Schedule.

7 PUBLIC REGISTRY OF CONTRACTS

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

8 MISCELLANEOUS

8.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Minister 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 Minister by the Director of Planning and notice or communication to the Minister 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.

8.2 Any notices on the Owner shall be deemed to have been properly served if sent by recorded delivery to and addressed to it at the address set out above or as otherwise notified for the purpose by notice in writing and that service on one party at that address shall also be deemed to be service on the other.

8.3 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.

8.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit as varied by the Decision Notice shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

8.5 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.

8.6 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 as varied by the Decision Notice) granted (whether or not on appeal) after the date of this Agreement.

8.7 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 Minister and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Minister by any of the obligations or covenants by the Owner in favour of the Minister under this Agreement are in addition to any of the Ministers' statutory powers under the Law.

8.8 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 Minister as a result of the Minister agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein.

8.9 All communications and notices served or made under this Agreement shall be in writing.

9 WAIVER

No waiver (whether expressed or implied) by the Minister 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 Minister from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10 CHANGE IN OWNERSHIP

The Owner agrees with the Minister to give the Minister immediate written notice of any change in Ownership of any of their interest in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

11 HYPOTHECATOR'S CONSENTS

The Hypothecator acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Property shall be bound by the obligations contained in this Agreement and that the security of the Hypothecator over the Property shall take effect subject to this Agreement PROVIDED THAT the Hypothecator shall otherwise have no liability under this Agreement unless it takes title to the Property in which case it too will be bound by the obligations as a person deriving title from the Owner.

12 INDEXATION

Any sum referred to in the First Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

13 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.

14 GST

All cause given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable.

15 JURISDICTION

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

FIRST SCHEDULE**The Owner's covenants with the Minister****COMMENCEMENT**

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

EASTERN CYCLEWAY

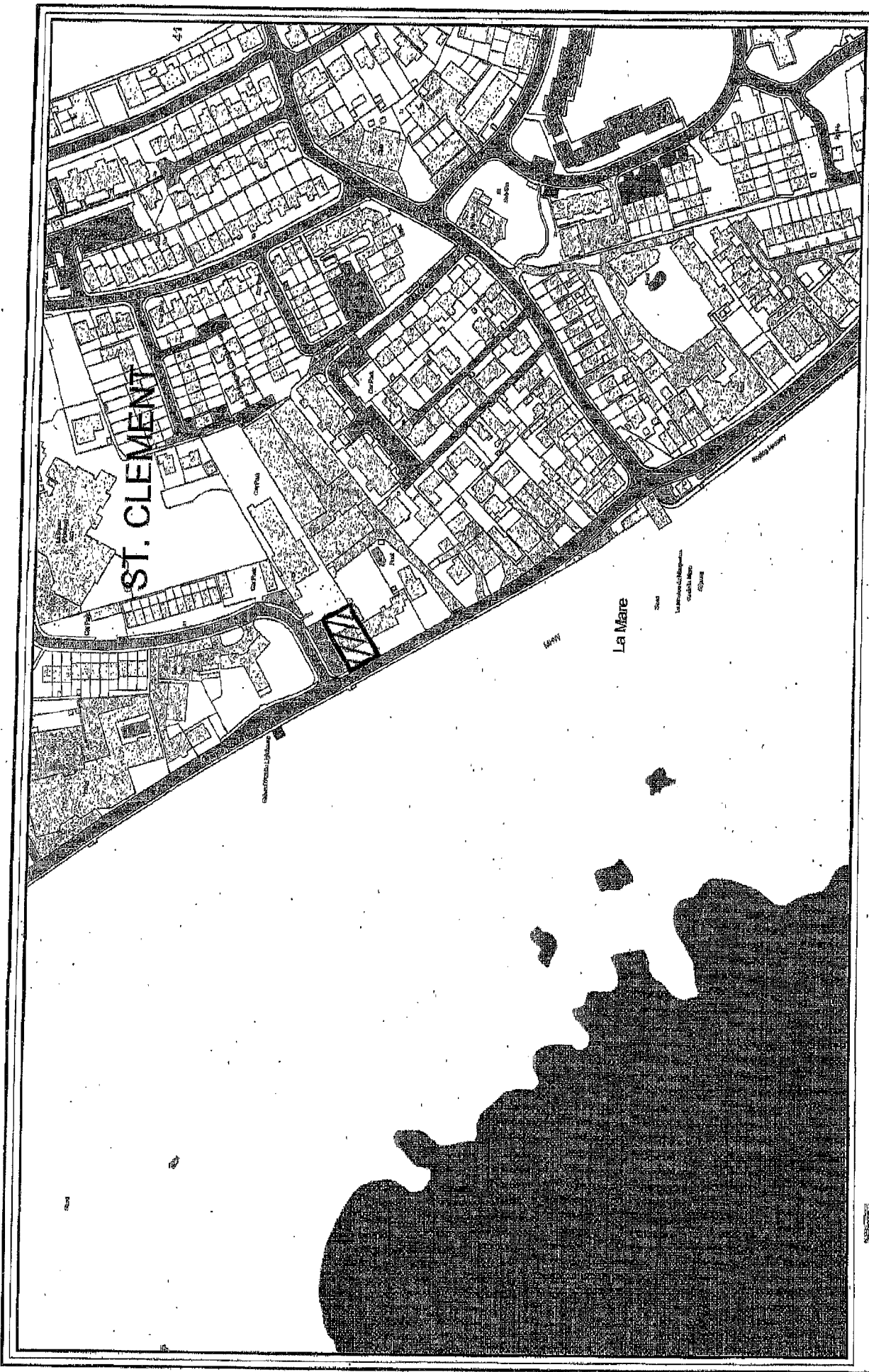
- 2 To pay the Cycleway Contribution to the Treasurer of the States prior to the Commencement of the Development
- 3 Not to Commence the Development until such time as the Cycleway Contribution has been paid to the Treasurer of the States.

SECOND SCHEDULE**Minister's Covenants**

- 1 The Minister 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 or for such other planning purposes arising from the Development as the Minister shall in his discretion consider to be reasonably appropriate in the circumstances.
- 2 The Minister 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 seven years of the date of receipt by the Treasurer of the States of such payment.
- 3 The Minister covenants with the Owner to issue the Decision Notice to the Owner.

THIRD SCHEDULE

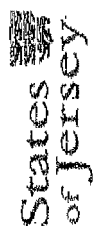
The Plan



Scale:1:2500

Date:25:04:14

Location Plan



COPYRIGHT STATES OF JERSEY 2005

FOURTH SCHEDULE

The Decision Notice

Department of the Environment
 Planning & Building Services
 South Hill
 St Heller, Jersey, JE2 4US
 Tel: +44 (0) 1534 445508
 Fax: +44 (0) 1534 445528



Planning Application Number RC/2014/0675

DRAFT Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

IMPORTANT NOTICE

This notice gives permission under Article 19 of the Planning and Building (Jersey) Law 2002, as amended. In accordance with Article 24(i) of the Law the grant of this permission enures (except insofar as the permission otherwise provides) 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.

The development stated below may also require Building consent under Article 34, for which a separate application will need to be made. If you are in any doubt as to whether building permission is required please telephone the Building Applications Team on 448407 who will be pleased to help.

The Minister for Planning & Environment, having considered your application hereby GRANTS PERMISSION TO DEVELOP LAND¹ under Article 19 of the Planning and Building (Jersey) Law 2002.

Vary standard condition to extend permit P/2009/1267 for a further 5 years.
 (Demolish bungalow and construct 5 No. apartments)

To be carried out at:

Silver Sands, La Grande Route de la Cote, St. Clement, JE2 6SB.

PLEASE NOTE

This decision is purely permissive and in no way absolves 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 an applicant from the need to obtain the permission of the owner of the land to which a permission relates.

REASON FOR APPROVAL: Permission has been granted having taken into account the relevant policies of the approved Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received.

APPROVED



Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number RC/2014/0675

Subject to compliance with the following conditions and approved plan(s):

Standard Condition

- A. If the development hereby permitted has not commenced within five years of the decision date, this permission shall cease to be valid.

Reason: The Minister for Planning & Environment reserves the right to reconsider this proposal consequent on any future change of circumstances or policy.

Condition(s):

1. That if the development hereby permitted under Planning Permission P/2009/1267 has not commenced by 1st October 2019, the permission shall cease to be valid. All other conditions attached to the original Permission for the development under P/2009/1267 remain valid and legally chargeable.

Reason(s):

1. For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011 as revised.

FOR YOUR INFORMATION:

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

The following plan has been approved.

Location Plan

If written representations were made on this application this permission shall not have effect for a period of 28 days from the date of this notice, in order to allow for the lodging of any 'third party' appeal against the decision under Article 114 of the Law of the Planning and Building (Jersey) Law 2002.

If during this period a person appeals in accordance with Article 114 of the Law, the decision shall not have effect until either the appeal is withdrawn or is determined. When any such appeal is determined the decision shall have effect, if at all, in accordance with that determination.

APPROVED

Signed on behalf of Evolution Properties Limited

[Redacted Signature]

Name and position: SHAWN GEORGE O'CONNOR
DIRECTOR / SHAREHOLDER

In the presence of ...

[Redacted Signature]

Name and Position..... CHARLES CC. MAISTRE - LEGAL ASSISTANT - COLLES GRILL

This 27th day of NOVEMBER 2014

Signed on behalf of The Royal Bank of Scotland International Limited t/a Natwest

[Redacted Signature]

Name and position: JOANNA ZINOWKO
DOCUMENTATION MANAGER

In the presence of

[Redacted Signature]

Name and Position... MALCOLM TUCKER
SENIOR DOCUMENTATION MANAGER

This 27 day of NOVEMBER 2014

Signed on behalf of the Minister

by.....



Name and Position... ANDY SCATE CED DEPT. ENVIRONMENT

in the presence of....



Name and Position... CHRISTOPHER JONES - SENIOR PLANNING OFFICER.

This day of 2014