

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

**Law 2002**

relating to the development of The Cabin, La Haule Slip, La Neuve Route, JE3 8BS

Dated

16<sup>th</sup> August

2018

The Chief Officer for the Environment (1)

The Public of the Island (2)

Lucy Morris (3)

DATE

16<sup>th</sup> August

2018

**PARTIES**

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey, JE2 4US ("**the Chief Officer**");
- (2) The Public of the Island of Jersey acting by the Minister for Infrastructure, c/o Jersey Property Holdings, Maritime House, La Route du Port Elizabeth, St Helier, Jersey, JE2 3NW ("**the Public**")
- (3) Lucy Morris ("**the Applicant**") of Villa des Fluers, La Route de St Aubin, St Helier, Jersey, JE2 3SD

**RECITALS**

- 1 The Public is the owner of the Site and the Applicant is the Tenant of the Site.
- 2 The Applicant submitted an application (accorded the reference P/2018/0489) for planning permission for the Development.
- 3 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Chief Officer is minded to approve the grant of planning permission for the Development subject to the prior completion of this Agreement.
- 4 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 5 The parties acknowledge that this Agreement is legally binding.
- 6 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:

<b>"Agreement"</b>	this agreement including the recitals and schedules hereto;
<b>"Application"</b>	the application for planning permission in respect of the Site and described as

	"Construct extension and decking area to North-East elevation and extension to South-West elevation. Various external alterations." and given the reference P/2018/0489;
<b>"Chief Officer"</b>	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;
<b>"Commencement"</b>	the date on which any operation 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;
<b>"Development"</b>	the development of the Site as set out in the Application;
<b>"GST"</b>	goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
<b>"Index"</b>	the all Items Index of Retail Prices for Jersey as issued from time to time by the Statistics Unit to the States of Jersey.
<b>"Interest"</b>	interest at three per cent above the base lending rate of the HSBC Bank Plc from time to time.
<b>"Island Plan 2011"</b>	The States of Jersey Island Plan, 2011 (as amended from time to time);
<b>"Law"</b>	the Planning and Building (Jersey) Law 2002;

<b>"Minister for Infrastructure"</b>	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
<b>"Plan"</b>	the plan of the Site attached at the First Schedule to this Agreement;
<b>"Planning Permit"</b>	the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
<b>"Royal Court"</b>	the Royal Court of the Island of Jersey;
<b>"Signage Contribution"</b>	the sum of Two Thousand pounds (£2,000) sterling to be paid by the Applicants to the Treasurer of the States to be applied by the Minister for Infrastructure towards off-site lining and signage by or adjacent to the Site;
<b>"Site"</b>	The Cabin, La Haule Slip, La Neuve Route JE3 8BS, as shown for the purpose of identification edged by a red line on the Plan.

## 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 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 Applicant under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Chief Officer against the Public and the Applicant.

### **4 CONDITIONALITY**

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

### **5 PUBLIC COVENANTS**

The Public covenants and agrees with the Chief Officer as set out in the Third Schedule so that this Agreement shall be enforceable without limit of time against the Public and any person claiming or deriving title through or under the Public to the Site or any part or parts thereof.

### **6 CHIEF OFFICER COVENANTS**

The Chief Officer covenants with the Applicant as set out in the Fourth Schedule.

### **7. 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.

### **8 MISCELLANEOUS**

- 8.1 Where the agreement, approval, consent or expression of satisfaction is required by the Applicant 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 of Planning 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 Applicant 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.
  - 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 shall be quashed, cancelled, revoked or otherwise withdrawn or (without the consent of the Applicant) 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.
  - 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) 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 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 Applicant in favour of the Chief Officer under this Agreement are in addition to any of the Chief Officer's statutory powers under the Law.
  - 8.8 Nothing contained herein shall be construed as obviating the need for the Applicant 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.
  - 8.9 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 Applicant as contained herein.
  - 8.10 The Applicant shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein.
  - 8.11 All communications and notices served or made under this Agreement shall be in writing.

## **9 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.

## **10 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 GOODS AND SERVICES TAX**

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

12.2 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.

## **13 JURISDICTION**

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

FIRST SCHEDULE

**The Plan**





**Notes**  
Signed dimensions only are to be taken from this drawing.  
All dimensions are to be checked on site before any work is put in hand, if a doubt arises confirmation.  
This drawing must be read in conjunction with all other attached detail drawings, schedules and specifications.  
No changes are to be made in conjunction with without drawings from other consultants, in case of discrepancies seek clarification. In case the drawing must not be copied in whole or in part without the prior written permission of origin architecture studio.  
Copyright - origin architecture studio

Revision	Description	Date
01	First issue for p/e application	25.03.2018

**Project Name**  
the cabin, la haule slip  
la neuve route  
st brelade JE3 8BS

**Client**  
ms | morris

**origin**  
architecture studio

The Beach hut  
two watkin villa  
Victoria Avenue  
St Helier JE2 3LU  
e: origin.archstudio@icloud.com  
m: 07797757922  
t: 01534 484658

**Drawing Title**  
site location plan

**Scale**  
1:2500 at A4

**Date**  
25.03.2018



**Drawing Number**  
18014-100

**Revision**  
01



digimap licence number J169

**site location plan - 1:2500**

SECOND SCHEDULE

**The Planning Permit**

# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0489

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:**

Construct extension and decking area to North-East elevation and extension to South-West elevation. Various external alterations.

**To be carried out at:**

The Cabin, La Haule Slip, La Neuve Route, St. Brelade, JE3 8BS.

**REASON FOR APPROVAL:** Permission has been granted having taken into account the relevant policies of the approved Island Plan and all other material considerations, specifically including the consultations from the Department for Infrastructure and the Historic Environment Team set against the Applicant's objective to update the existing café to be accessible for all.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should follow the provisions of the Food Hygiene (General Provisions) (Jersey) Order, 1967. Further advice can be obtained from Environmental Health on +44 (0) 1534 443712.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that if noise complaints are received in the future, the matter may be investigated and considered under the Statutory Nuisances (Jersey) Law 1999, and noise mitigation measures may then be required. These measures may themselves require planning permission.

APPROVED



# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0489

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that the site has been identified as having the possible presence of protected wildlife species. It is the responsibility of the applicant to inform all site workers of the possibility of protected species on site and the implications under the Conservation of Wildlife (Jersey) Law (2000) and you are advised that it is your duty under the Law to stop work and notify the Department of Environment on +44 (0) 1534 441600 immediately should any species be found.

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

- 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.

### FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at [www.gov.je/planning](http://www.gov.je/planning)

The following plan(s) has/have been approved:  
Location Plan 100.01  
Site Plan 103.01  
Drainage Site Plan  
Proposed Plans, Elevations and Photos 102 Rev 05

DECISION DATE: TBC

APPROVED

# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0489

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](http://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](http://www.gov.je/planning)

APPROVED

### THIRD SCHEDULE

#### **The Applicant's Covenants with the Chief Officer**

The Applicant covenants, agrees and undertakes to pay the Signage Contribution to the Treasurer of the States forthwith on the registration of this Agreement.

#### FOURTH SCHEDULE

##### **Chief Officer's covenants**

1. The Chief Officer covenants with the Applicant to, at the written request of the Applicant from time to time, to provide written confirmation of the discharge of the obligations contained in this Agreement (or any of them) when and to the extent that the Chief Officer is satisfied that such obligations have been performed.
2. The Chief Officer hereby covenants with the Applicant to use all sums received by the Treasurer of the States from the Applicant under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
3. The Chief Officer covenants with the Applicant that he will procure or arrange that the Treasurer of the States will pay to the Applicant such amount of any payment made by the Applicant 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.

Signed on behalf of the Chief Officer:

[Redacted Signature]

Name and Position: PETER LE GRESELEY (DIRECTOR)

in the presence of

[Redacted Name]

Name and Position: SUSIE DE GOWJELA (TRAINEE PLANNER)

this 16<sup>th</sup> day of August 2018

Signed on behalf of the Public by

[Redacted Signature]

in the presence of

[Redacted Name]

Name and Position: DIRECTOR PROGRAM & SPECIAL PROJECTS

this 14<sup>th</sup> day of August 2018

Signed by Lucy Morris

[Redacted Signature]

in the presence of

Christopher Philpott

Name and Position: ADVOCATE

this 13<sup>th</sup> day of August 2018