


In the Royal Court of Jersey

Samedi Division

In the year two thousand and sixteen, the twentieth day of May.

Before the Judicial Greffier.

Upon the application of Her Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between The Chief Officer for the Environment, Benjamin George Ollivier, Karen Elizabeth Delicia Ashworth, Christine Carey, John Dubberley, Ruth Curzon, Andrew Robert Vallois, John Peter King, Roy John Mallet, David James Quenault, Barry Roger Lennard & Kay Lennard, née Holley, Mark Nicolas Winter, Annick Suzanne Le Guen, Emily Jane Huntington and Beryl Joyce Stewart in relation to the development of Ollivier's Farm, Le Mont du Ouaisne, St Brelade, be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub.

**Memorandum of Agreement relating to a Planning Obligation Agreement under
Article 25 of the Planning and Building (Jersey) Law 2002**

**and relating to the Development of Ollivier's Farm, Le Mont du Ouaisne, St Brelade,
JE3 8AW**

Dated :

18 MAY

2016

Between:-

The Chief Officer for Planning and Environment (1)

Benjamin George Ollivier (2)

Karen Elizabeth Delicia Ashworth (3)

Christine Carey (4)

John Dubberley (5)

Ruth Curzon (6)

Andrew Robert Vallois (7)

John Peter King (8)

Roy John Mallet (9)

David James Quenault (10)

Barry Roger Lennard and Kay Lennard née Holley (11)

Mark Nicolas Winter (12)

Annick Suzanne Le Guen (13)

Emily Jane Huntington (14)

Beryl Joyce Stewart (15)

~~Anthony Davidson (16)~~

DATE

18 MAY

2016

PARTIES

- (1) The Chief Officer for Planning and Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("the Chief Officer")
- (2) Benjamin George Ollivier c/o 16 Hill Street, St Helier, Jersey, JE1 1BS ("the Owner")
- (3) Karen Elizabeth Delicia Ashworth
- (4) Christine Carey
- (5) John Dubberley
- (6) Ruth Curzon
- (7) Andrew Robert Vallois
- (8) John Peter King
- (9) Roy John Mallet
- (10) David James Quenault
- (11) Barry Roger Lennard and Kay Lennard née Holley
- (12) Mark Nicolas Winter
- (13) Annick Suzanne Le Guen
- (14) Emily Jane Huntington
- (15) Beryl Joyce Stewart
- ~~(16) Anthony Davidson~~

(the parties numbered (3) to (15) inclusive each hereinafter "a Tenant" and collectively "the Tenants" and in respect of Mr and Mrs Lennard "Tenant" shall mean them jointly and for the survivor of them)

RECITALS

- 1 The Owner warrants that he is the owner of the Site to which he has right in the manner referred to in the First Schedule.
- 2 ~~The parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.~~
- 3 The parties acknowledge that this Agreement is legally binding.
- 4 The Application was submitted by the Owner for planning permission for the Development and having regard to the purpose of the Law the Island Plan 2011 and all other material considerations the Chief Officer is minded to grant planning permission for the Development subject to the completion of this Agreement that provision should be made for regulating or facilitating the development or use of the Site in the manner hereinafter appearing and without such the Chief Officer would not be so minded.
- 5 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:

"Application"	the application for Planning Permission in respect of the Development
"Commencement"	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

"Development"	the development of the Site to demolish four (4) chalets and replace with three (3) new chalets; the whole as detailed on the Planning Permit.
"Dwelling Unit"	a dwelling to be constructed as part of the Development pursuant to the Planning Permit and/or any future dwelling constructed pursuant to a planning permission issued in the future and/or any existing twenty dwellings on the Site.
"Island Plan 2011"	The States of Jersey Island Plan, 2011 (as amended from time to time)
"Law"	the Planning and Building (Jersey) Law 2002.
"Plan"	the plan annexed to this Agreement and signed by the parties.
"Planning Permit"	the planning permission, a copy of which is attached as the Second Schedule.
"Public"	the Public of the Island of Jersey.
"Royal Court"	the Royal Court of the Island of Jersey.
"Site"	the land against which this Agreement relates as shown enclosed by the dotted line on the Plan, forming part of the Property to which the Owner has right in the manner referred to in the First Schedule
"Works"	all those construction and other works, operations and processes and the provision of all fixtures and fittings and equipment necessary to complete the Development in accordance with plans approved and building permits issued by the Chief Officer.

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

4 CONDITIONALITY

This Agreement is conditional upon:

- (i) the grant of the Planning Permit; and
- (ii) the Commencement of Development

save for the provisions of Clauses 9, 10 and 13 which shall come into effect immediately upon which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court.

5 THE OWNER'S COVENANTS

The Owner and the Chief Officer and the Tenants agree the terms as set out in the Third Schedule to this Agreement shall be enforceable as between the parties without limit of time 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 The Owner shall pay to the Chief Officer on completion of this Agreement the reasonable legal costs of the Chief Officer incurred in the negotiation, preparation and completion of this Agreement.
- 7.2 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Chief Officer and/or the Tenants and/or any of them 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 of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing.
- 7.3 Any notices to be served on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to the Owner at the address referred to above.
- 7.4 Any notices to be served on any of the Tenants shall be deemed to have been properly served if sent by ordinary post and addressed to the relevant Tenant at the premises of which he, she or they are Tenant at the Site.
- 7.5 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.

- 7.6 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 by any statutory procedure or expires prior to the Commencement of Development;
- 7.7 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 or any part thereof but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 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.
- 7.9 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 Owner in favour of the Chief Officer under this Agreement are in addition to any of the Chief Officers' statutory powers under the Law
- 7.10 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
- 7.11 Neither the Owner nor the Tenants shall be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein
- 7.12 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. 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

10 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer immediate written notice of any change in ownership of any of his 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 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.

12 GST

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

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

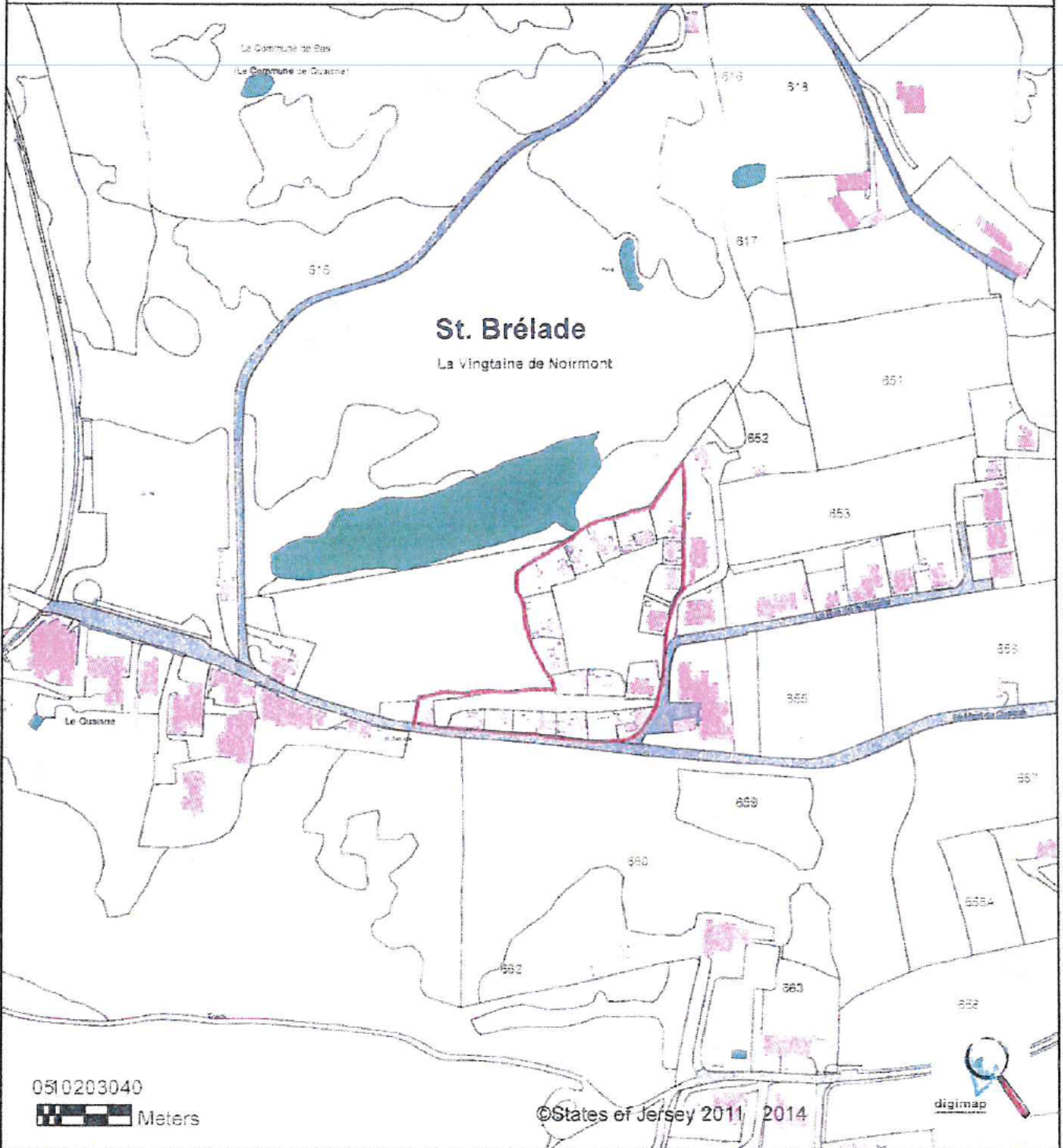
This Agreement is governed by and interpreted in accordance with the law of the Island of Jersey.

FIRST SCHEDULE**Details of the Owner's Title, and description of the Site**

The Owner has an interest in the Site which is shown on the Plan, as attached hereto, as the legatee to the Will of the late Bernard John Ollivier which Will was registered in the Public Registry of this Island by Act of the Royal Court dated 15th February 1991.



Licence No. 64



0510203040

Meters

©States of Jersey 2011 2014



Scale 1:2,500

OLLIVIERS FARM
LE MONT DU OUAISNE
JE3 3AVV
ST BRELADE

Vingtaine de Noirmont
Type Residential

SECOND SCHEDULE

The Planning Permission

Planning Application Number PP/2014/0915

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

In accordance with Article 19(8) of the Planning and Building 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 outline permission under Article 19 of the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Retain 16 No. chalets. Demolish 4 No. chalets and replace with 3 No. new chalets.

To be carried out at:

Olliviers Farm, Le Mont du Ouaisne, St. Brelade, JE3 8AW.

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 as a Departure from Policy NE6 of the Island Plan 2011 on the Coastal National Park.

It is considered that sufficient justification exists to approve this planning application as a Departure due to the wider benefits from this Planning Application and associated Planning Obligation Agreement in terms of security of tenure for the residents and drainage provision for the whole site as well as the improvements in design, materials and appearance of the proposed chalets which would be more sensitive to the character of the area and local relevance in the Coastal National Park than the existing structures.

In addition, the representations raised to the scheme have been assessed. However, it is considered that the proposal accords with the terms of Policies SP1, SP4, NE1, NE2, GD1 and GD7 of the 2011 Island Plan, in that it does not have an unreasonable impact on would not cause an unreasonable impact on neighbouring uses and on the natural features

APPROVED

of the Site of Special Interest, wildlife and the Coastal National Park.

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

- A. The development shall commence within five years of the decision date or within 2 years of the approval of the final reserved matters, whichever is the later.

Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.

- B. Application for the approval of Reserved Matters, as detailed in Condition C, shall be made before the expiration of three years from the date of this decision.

Reason: To accord with Article 19(6) of the Planning and Building (Jersey) Law 2002.

- C. Approvals of the details of the design, height, massing, external appearance and materials of the approved chalets, drainage system and landscaping of the site – hereinafter called the Reserved Matters – shall be obtained by application prior to any development commencing.

Reason: To accord with Article 19(6) of the Planning and Building (Jersey) Law 2011.

Condition(s):

1. Prior to commencement of the development on site a detailed landscape proposal for the application site shall be included as part of the detailed planning application. This landscape plan shall be assessed firstly by the Natural Environment section and approved in writing by the Minister for Planning and Environment. The submission must include details of the number, species, and location of both existing and proposed trees and shrubs and any trees proposed for removal and must also include any new drainage ditches and connection details to main foul sewer and surface water drainage and any changes in land levels. Drawings submitted are to be supplemented with a programme of implementation with details of: (a) the method to be taken to protect existing trees and shrubs; (b) the method of planting to be adopted; (c) the arrangements to be made for the maintenance of the landscaped areas; (d) measures for the protection of the Ecological Site of Special Interest.

2. All planting and other operations comprised in the landscaping scheme approved under this permission, shall be carried out and completed in the first planting season following the commencement of the development.

3. Any trees or plant(s) planted in accordance with the approved scheme, which within a period of five years from the planting taking place; die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Minister for Planning and Environment gives written consent to a variation of the scheme.

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4. Prior to commencement of the development a full Ecological Survey shall be submitted to and approved in writing by the Minister for Planning and Environment and thereafter shall be implemented in full. This Ecological Report shall demonstrate that all potential impacts of the proposed development on amphibians, reptiles, bats, birds and other protected species found on site have been fully considered and addressed.

This report should include:

- A detailed description of the wildlife and habitat features of the site, based on valid up to date information and including where appropriate ecological survey data;
- An assessment of development impacts likely to harm protected species and/or habitats identified as present, taking into account direct and indirect effects; short-term and long-term impacts; impacts during and post construction;
- Proposed measures to mitigate for the negative impacts of the development referred to above;
- A method statement demonstrating how the mitigation measures will be implemented in full.

The ecological survey carried out in support of the assessment should meet the following requirements:

- The survey should be carried out by a suitably qualified person with appropriate experience at the appropriate time of the year.
- The methodology for the survey and presentation of the survey report should be determined in accordance with relevant best practice guidelines for the species concerned.

5. Prior to the commencement of development, a full Management Plan for the ecology of the application site to include details on how the Applicant aims to enhance the ecology of the application site by offering suitable habitat for neighbouring species shall be submitted to and approved in writing by the Minister for Planning and Environment and thereafter shall be implemented in full.

6. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011, or any amendment to or replacement of that order, no works involving the erection of a building, extension, structure, gate, wall, fence or other means of enclosure or the introduction of any hardstanding to any ground surface, other than those shown on the drawings approved with this permission, is permitted to the application site, without the prior approval of the Minister for Planning and Environment.

Reason(s):

1. To ensure a suitable landscaping scheme and to ensure the protection of the Site of Special Interest and the character of the Coastal National Park, in

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accordance with Policies NE1, NE6 & GD1 of the Island Plan, 2011.

2. To ensure that the benefits of the approved landscaping scheme are not delayed and consequently make an early contribution to the amenity of the site in the interest of sustaining and enhancing landscape quality, in accordance with Policies GD1 and NE6 of the Adopted Island Plan, 2011.

3. To mitigate against the potential failure of trees and plants, and the extent to which that failure might threaten the success of the landscaping scheme, in accordance with Policies GD1 and NE6 of the Adopted Island Plan, 2011

4. In the interests of protecting the ecological quality of the application site, in accordance with Policies NE1, NE2, NE6 & SP 4 of the Adopted Island Plan, 2011.

5. In the interests of protecting the ecological quality of the application site, in accordance with Policies NE1, NE2, NE6 & SP 4 of the Adopted Island Plan, 2011.

6. The site is located in the Coastal National Park where strict control development is considered to be necessary to protect the special character of the surrounding area.

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

Master Site Plan Drg No. MSP-1887-PL04 G

Proposed Individual Chalet Plans & Elevations Drg No. MSP-1887-PL05

Initial Ecological Assessment

Product Literature- The Retreat

Design Statement

DECISION DATE:

The development may also require building permission, 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.

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THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner and the Chief Officer agree:-

A. Association of Co-owners

That in the event that the Owner or his successors in title dispose in perpetuity (whether by sale, gift or other transfer, but not upon any bequest pursuant to a Will or on intestacy or the insolvency of the Owner) any part of the Site the contract of disposal of that part of the Site will establish an association of co-owners at the Site to provide for the proper administration of those parts of the Site which will be owned in common and in particular the contract of disposal of any part of the Site will include provision substantially in the following terms:-

- a) That the direction and control of the maintenance, repair, cleaning, resurfacing, replacement and landscaping of the Common Areas shall be the responsibility of a professional Estate Manager who shall be appointed by the majority of the Owners in the Development at a general meeting, which Estate Manager shall be entitled to a reasonable remuneration for its services; the total amount of the costs for the above mentioned works of maintenance, repair, cleaning, resurfacing, replacement landscaping and the Estate Manager's reasonable remuneration for each year shall be fixed in the month of January of each year, as it is hereafter stipulated, by the Owners in the Site and each Owner in the Site shall be obliged to pay his share or contribution before the expiration of twenty-one days after the amount shall have been fixed; the proportion that each owner shall pay of the total costs aforesaid shall be calculated by reference to the area of the Site owned by the relevant owner pro rata to the aggregate area of the sites forming part of the development;
- b) That to these ends there shall be opened and maintained a bank account by the Estate Manager for the benefit of the Site and in which shall be placed the shares or contributions received from the Owners in the Site as aforesaid; in the case that any Owner in the Site fails to pay their share or contribution in the hereinbefore stipulated time allowed the Estate Manager shall be obliged and shall be permitted to take the appropriate action in Law in the names of the other Owners in the Site against such Owner for the payment of their share or contribution;
- c) It is understood that the Estate Manager shall give notice of at least fourteen days in writing to the Owners in the Site before a general meeting is to take place and shall convene a meeting if one third or more of the Owners in the Site so request; it being nevertheless understood that a general meeting of the Owners in the Site shall be held during the month of January of each year and the total amount of the

costs mentioned in sub-paragraph (a) shall be fixed at the meeting. At such meetings each Owner in the Development shall have one vote for each site owned in the Development and in the case where there is an equal number of votes for and against one or several resolutions at such meetings then the Estate Manager shall have the casting vote;

- d) It is further understood that at least two thirds of the Owners of the properties in the Site or persons appointed by them (with written notice of such appointment having been delivered to the Estate Manager no less than 72 hours before the meeting shall be due to commence) shall be present before any meeting mentioned in sub-paragraph (c) can take place and in the case that such quorum is not present such meeting shall take place seven days later (the "adjourned meeting") at the same time and at the same place, notwithstanding that a quorum is not present at this adjourned meeting;
- e) The Estate Manager shall have the right (after having obtained authority at a general meeting or other meeting as is hereinbefore stipulated in sub-paragraphs (c) and (d) of this clause) to bind the Owners in the Site to engage workmen and gardeners or other persons and such materials, tools or other things which may be necessary for the maintenance, repair, resurfacing, cleaning and replacement of the Common Areas; and
- f) The Estate Manager shall obtain and keep in place a policy of public liability insurance in relation to the Common Areas, it being understood that the cost of such insurance shall be a communal charge and shall form part of and be paid from the shares or contributions mentioned in sub-paragraph (a) above."

B. Option to Lease

Within 3 calendar months of the Commencement the Owner shall grant to each Tenant the option to take a lease of the site of the Dwelling Unit for which he holds a tenancy at the date thereof, including the following terms (hereinafter "the Lease Option Notice") which Lease Option Notice shall be served on the relevant Tenant in accordance with the terms of this Agreement:-

- i. The lease shall be for a fixed term of 3 years.
- ii. The lease shall be for the site of the relevant Dwelling Unit only and in particular the Owner will have no obligation in respect of repair or maintenance of any part thereof including (without prejudice to the generality of the foregoing) any chalet or other structure established thereon.

- iii. The Tenant will be obliged to pay all reasonable outgoings incurred by the Owner in respect of the maintenance and upkeep of the common areas forming part of the Site as reasonably determined from time to time together with all Parochial rates.
- iv. The rental for each site will be determined by reference to the fair value assessment calculated in accordance with the International Valuation Standards published by the Royal Chartered Institute of Surveyors (RCIS).
- v. In default of agreement as to the fair value rental between the parties within twenty-eight days of the service of the Lease Option Notice, the Tenant shall notify the Owner in writing that the proposed rental is not agreed whereupon the fair value rental for the site of the relevant Dwelling Unit shall be determined by two surveyors who will be members of RCIS, one appointed by the Owner and one appointed by the Tenant, such appointments to be made within fourteen days of the issuing of written notice by the Tenant to the Owner that the fair value rental is not agreed. The two surveyors so appointed shall endeavour to agree the fair value rental within twenty-eight days of their appointment and in the event of continuing disagreement between the two valuers so appointed the two valuers shall immediately appoint a third surveyor who will consider the opinions of the two valuers and determine within twenty-eight days of his appointment in his absolute discretion a fair value rental which determination shall be binding upon the Owner and the Tenant. In the event that a third valuer is appointed the costs of the determination shall be paid equally by the Owner and the Tenant.
- vi. Upon Agreement or determination of the fair value rental the valuers or the appointed surveyor as the case may be shall give written notice thereof to the Owner and the Tenant within fourteen days thereof. The Tenant shall then within fourteen days of such notification notify the Owner in writing whether he wishes to proceed to take the option to lease the site of the Dwelling Unit at the agreed or determined fair value rental.
- vii. In the event that the Tenant shall exercise his option to take a lease of the Site he will be bound to execute the Deed of Lease within twenty-eight days of submission of the Deed of Lease setting out the terms herein appearing and the agreed or determined fair value rental.
- viii. In the event that the Tenant shall fail to exercise any of his rights within the time limits herein the Lease Option Notice shall be deemed to have lapsed. It being specifically recorded that time shall be of the essence in all matters relating to the option hereby created.
- ix. The option shall only be granted to persons holding a valid tenancy of a site of a Dwelling Unit at the date of this Agreement and the option and any lease granted as a consequence shall be personal to them. Neither the option nor any lease

- granted as a consequence shall be assignable to any third party and no sub letting of the site will be permitted.
- x. The fair value rental agreed or determined as the case may be will be increased in accordance with the Jersey Retail Prices index on each anniversary of the commencement date of the lease.
- xi. That the lease or any renewal thereof will be renewable (at the option of the Tenant) at each termination thereof for a further 3 year term provided always that the rental payable at the commencement of the new lease will be the rental payable at the termination of the previous lease increased in accordance with the increase in the Jersey Retail Price Index between the date of the last anniversary of the commencement of the previous lease and the commencement of the new lease.
- xii. In the event that a Tenant shall cease to occupy the site of the Dwelling Unit let to him for a continuous period of nine months without the Owner's written consent (which consent shall not be unreasonably withheld where the Tenant demonstrates to the reasonable satisfaction of the Owner that the reasons for the continuous period of absence from occupation were outside of the control of the Tenant) the lease shall forthwith be deemed to be terminated and the Owner shall be entitled to recover possession thereof, without prejudice to the Owner's right to enforce the obligations arising (including as to payment of rental) during the subsistence of the Lease.
- xiii. A Tenant shall have the right to terminate the lease upon giving to the Owner three months notice in writing.
- xiv. A Tenant shall have the right to park one motor vehicle in the parking space allocated to him by the Owner on the Site.
- xv. The Owner and the Tenant shall each bear their own costs of and incidental to the granting of the Option and the execution of any lease.
- xvi. In the event that the Owner shall fail to issue to a Tenant the Lease Option Notice or otherwise materially fail to perform his obligations arising under this Schedule 3 Section B, after having received from the Tenant fourteen days' notice in writing to remedy such default, the Owner shall be liable to pay to the Tenant damages in the amount equivalent to 25% of the fair value rent which would otherwise be payable by the Tenant to the Owner under a lease arising from the exercise by the Tenant of his Lease Option Notice.
- xvii. In the event that the Tenant, having exercised his option pursuant to the Lease Option Notice (and where applicable related procedures hereunder for the

determination of fair value rent) shall fail to execute the Deed of Lease issued in accordance with the terms hereof or otherwise materially fails to perform his obligations arising under this Schedule 3 Section B, after having received from the Owner fourteen days' notice in writing to remedy such default the Tenant shall be liable to pay to the Owner damages in the amount equivalent to 25% of the fair value rent which would otherwise be payable by the Tenant to the Owner under a lease arising from the exercise by the Tenant of his Lease Option Notice.

- xviii. The damages provided for hereinabove area accepted by the parties as a fair and accurate pre-assessment of all of the loss that will be suffered by either party in the event of default and shall not be open to challenge. Provided always that nothing herein shall prevent either party from seeking and enforcing an order for specific performance of any party's obligations arising hereunder.
- xix. In addition to the option to purchase to be granted to a Tenant on Commencement, should at any time during the subsistence of a lease granted to a Tenant in accordance with the terms hereof the Owner wish to dispose in perpetuity of the ownership of the site for which the Tenant has a tenancy (whether by sale, gift or other transfer, but not upon any bequest pursuant to a Will or on intestacy or upon the insolvency of the Owner) and provided the Tenant shall have at all times observed the terms of his lease, the Owner shall grant to the Tenant a first right of refusal to purchase the site upon such terms and at such price as the Owner shall determine in his absolute discretion by serving upon the Tenant a written Sale Notice setting out the terms upon which the Owner would be prepared to sell to the Tenant. Upon receipt of such Sale Notice the Tenant shall within fourteen days serve upon the Owner notice of acceptance of the proposed sale terms and the parties shall thereafter be bound to proceed to pass before the Royal Court a Deed of Sale of the site for which the Tenant has a tenancy by the Owner to the Tenant within twenty-eight days of the date of the Owner's notice of acceptance.

C. Option to Purchase

1. Within three months of the Commencement the Owner shall grant to each Tenant an option to purchase for himself and his heirs in perpetuity (*à fin d'heritage*) the site of the Dwelling Unit for which he holds a tenancy by service of a notice in writing (hereinafter the Purchase Option Notice).
2. The option to purchase the site of a Dwelling Unit shall be granted at a price being the higher of:-

- i. The development value of the site of the relevant Dwelling Unit on a residual land basis; or
 - ii. The market value thereof;
 - iii. Each calculated in accordance with the International Valuation Standards published by RCIS.
3. The Tenant shall within twenty-eight days from the date of the Purchase Option Notice notify the Owner that he wishes to exercise the said option such notice to be given in writing.
4. In default of agreement between the Tenant and the Owner as to the value of the land pursuant to clause 2 above, within fourteen days of service of the Purchase Option Notice the Tenant shall notify the Owner in writing that the proposed value is not agreed whereupon the matter shall be determined by agreement between two valuers who will be members of RCIS, one appointed by the Tenant and one appointed by the Owner such appointments to be made within fourteen days of the issuing of written notice by the Tenant that the value is not agreed. The two valuers so appointed shall endeavour within twenty-eight days of their appointment to agree the value and in the event of a continuing disagreement between the two valuers so appointed the two valuers shall immediately appoint a third surveyor who will consider the opinions of the two valuers and determine within twenty-eight days of his appointment in his absolute discretion the value to be applied pursuant to paragraph 3 above which determination shall be binding upon the Tenant and the Owner. In the event that a third surveyor is appointed the costs of the determination shall be paid equally by the Owner and the Tenant.
5. Upon determination of the value in respect of the site of the Dwelling Unit the two valuers or the surveyor as the case may be shall give written notice thereof to the Owner and the Tenant within fourteen days thereof. The Tenant shall within fourteen days of such notification give written notice to the Owner that he wishes to proceed to exercise the Purchase Option.
6. Upon receipt of notice that the Tenant wishes to exercise his option to purchase in accordance with clause 3 or 5 hereof the Owner will deliver to the Tenant within twenty-one days of such notification a draft contract of sale and the Tenant shall be bound to pass the relevant contract of purchase before the Royal Court within twenty-eight days of receipt of the said draft contract.

7. Without prejudice to clause 10 below, in the event that the Tenant shall fail to exercise any of his rights within the time limits herein the option shall be deemed to have lapsed. It being specifically recorded that time is of the essence in matters relating to the option to purchase.
8. The option granted under the Purchase Option Notice shall be personal to the Tenant and shall not be assignable or exercised by any person, corporate body or entity.
9. In the event that the Owner shall fail to issue to a Tenant the Purchase Option Notice or otherwise materially fail to perform his obligations arising under this Schedule 3 Section C after having received from the Tenant fourteen days' notice in writing to remedy such default the Owner shall be liable to pay to the Tenant damages in the amount equivalent to 25% of the value of the site which would otherwise be payable by the Tenant to the Owner in respect of the purchase of the site arising from the exercise by the Tenant of his Purchase Option Notice.
10. In the event that the Tenant, having exercised his option pursuant to the Purchase Option Notice (and where applicable related procedures hereunder for the determination of the value of the site) shall fail to pass before the Royal Court the Deed of Purchase issued in accordance with the terms hereof or otherwise materially fails to perform his obligations arising under this Schedule 3 Section C after having received from the Owner fourteen days' notice in writing to remedy such default the Tenant shall be liable to pay to the Owner damages in the amount equivalent to 25% of the value of the site which would otherwise be payable by the Tenant to the Owner in respect of the purchase of the site arising from the exercise by the Tenant of his Purchase Option Notice.
11. The damages provided for hereinabove are accepted by the parties as a fair and accurate pre-assessment of all of the loss that will be suffered by either party in the event of default.

FOURTH SCHEDULE

Chief Officer's Covenants

The Chief Officer undertakes to issue the Planning Permit to the Owner.

Signed on behalf of the Chief Officer

by

[Redacted]

(PETER LE GREGLBY)

in the presence of

[Redacted]

(Jonathan Gladwin)

this 18th day of May 2016

Signed on behalf of Benjamin George Ollivier

by

[Redacted]

in the presence of

[Redacted]

this 20th day of APRIL 2016

Signed by Karen Elizabeth Delicia Ashworth

[Redacted]

(AS ATTORNEY)

in the presence of

[Redacted]

this 3rd day of March 2016

Signed by Christine Carey

[Redacted]

in the presence of

[Redacted]

this 21st day of February 2016

Signed by John Dubberley

[Redacted]

in the presence of

[Redacted]

this 21st day of February 2016

Signed by Ruth Curzon

[Redacted]

in the presence of

[Redacted]

this 21st day of February 2016

Signed by John Peter King

[Redacted]

in the presence of

[Redacted]

this 22nd day of February, 2016

Signed by Roy John Mallet.
 in the presence of
 this 21st day of February 2016

Signed by David James Quenault.
 in the presence of
 this 21st day of February 2016

Signed by Barry Roger Lennard
 in the presence of
 this 21st day of February 2016

Signed by Kay Lennard née Holley
 in the presence of
 this 21st day of February 2016

Signed by Mark Nicolas Winter. (AS ATTORNEY)
 in the presence of
 this ~~21st~~^{3rd} day of March 2016

Signed by Annick Suzanne Le Guen.
 in the presence of
 this 22nd day of February 2016

Signed by Emily Jane Huntington. (AS ATTORNEY)
 in the presence of
 this 3rd day of March 2016

Signed by Beryl Joyce Stewart.



(AS ATTORNEY)

in the presence of



this 3rd day of March 2016

~~Signed by Anthony Davidson.~~

~~in the presence of~~

~~this day of 2016~~

Signed by Andrew Vallois



in the presence of



21st February, 2016.