

**PLANNING OBLIGATION AGREEMENT UNDER ARTICLE 25 OF  
THE PLANNING AND BUILDING (JERSEY) LAW 2002  
RELATING TO THE DEVELOPMENT OF 18 QUAI DU HAVRE AND  
THE OLD SAIL LOFT, GOREY PIER, ST MARTIN**

Dated: 10<sup>TH</sup> OCTOBER

2014

The Minister for Planning and Environment (1)

Sail Loft Gorey Limited (2)

DATE 10<sup>TH</sup> OCTOBER

2014

#### PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St. Helier, Jersey, JE2 4US ("the Minister"); and
- (2) Sail Loft Gorey Limited "the Owner"

#### 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 their purchase of the Site from the Public of the Island of Jersey by contract dated 25 October 2013.
- 3 The Owner submitted the Application to the Minister and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 4 The Owner acknowledges that this Agreement is legally binding.
- 5 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Minister decided to grant planning permission for the Development subject to the completion of this Agreement.

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 dated 12<sup>th</sup> June 2014 submitted to the Minister for the Development and allocated reference number P/2014/1040

"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

"Development" the development of the Site to change the use of an industrial warehouse and retail store into a restaurant and delicatessen, to include various extensions and alterations

"GST" means the goods and services tax under the Goods and Services Tax (Jersey) Law 2007

"Cycleway Contribution" means the sum of two thousand pounds (£2,000) 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 subject to conditions to be granted by the Minister pursuant to the Application a draft

	of which is annexed to this Agreement in the Fourth Schedule
"Site"	18 Quai du Harve and the Old Sail Loft, Gorey Pier 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 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 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) 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 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.

**12 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.

**13 GST**

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

**14 JURISDICTION**

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

## **FIRST SCHEDULE**

### **The Owner Covenants with the Minister**

- 1 The Owner covenants and agrees and undertakes to pay to the Treasurer of the States the Cycleway Contribution on the execution of this Agreement.

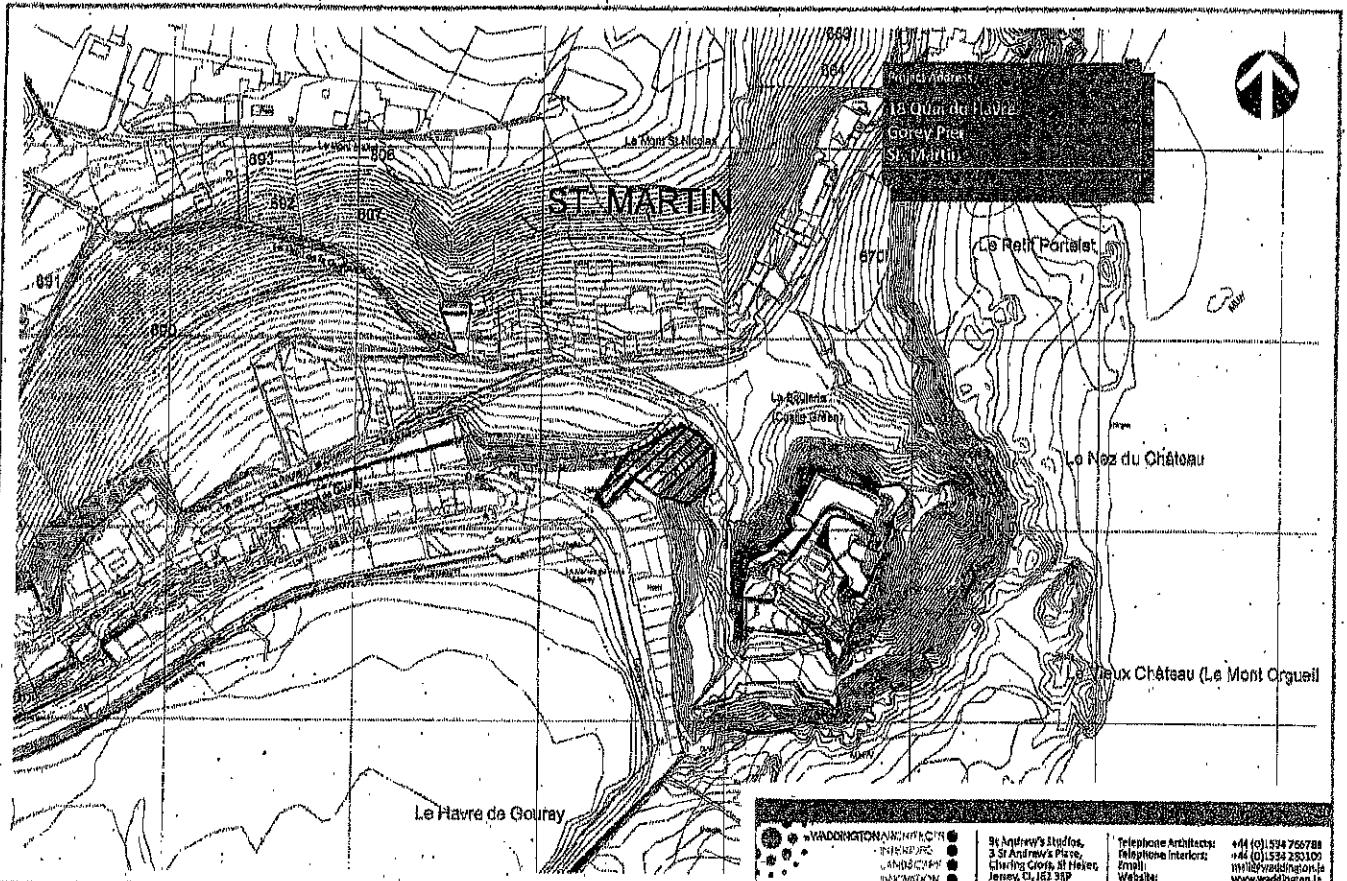
## **SECOND SCHEDULE**

### **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 Planning Permit to the Owner.



**THIRD SCHEDULE**  
**The Plan**



Project Address  
 18 Quai du Havre  
 Gorey Pier  
 St. Martin

WADDINGTON ARCHITECTS  
 INTERIORS  
 LANDSCAPE  
 ENVIRONMENT

St Andrew's Studios,  
 3 St Andrew's Place,  
 Charing Cross, St Helier,  
 Jersey, GU 1 2SP

Telephone Architects: +44 (0) 1534 755788  
 Telephone Interiors: +44 (0) 1534 250100  
 Email: [info@waddington.js](mailto:info@waddington.js)  
 Website: [www.waddington.js](http://www.waddington.js)

Client <b>Lauraine Falle</b>	Drawing Title <b>Location Plan</b> P. 3.1 / 3.1000-0100-0100-0100-0100-0100	Scale <b>1:2500</b>	
Point Title <b>18 Quai du Havre</b>	Job No. <b>5275</b> Orig No. / Rev <b>001/A</b>	Date <b>24/03/14</b>	<p><small>© Waddington Architects, Jersey, Guernsey, Channel Islands. All rights reserved. This drawing is the property of Waddington Architects and is not to be used, copied, or reproduced in any form without the written permission of Waddington Architects. The design is for the client's use only and is not to be used for any other purpose. The client is responsible for the accuracy of the information provided. Waddington Architects is not liable for any loss or damage arising from the use of this drawing.</small></p>

**FOURTH SCHEDULE**

**The Planning Permit**

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



Mr M Waddington  
Waddington Architects  
St Andrew's Studios  
Charing Cross  
3 St Andrew's Place  
St Helier  
JE2 3RP

Planning Application Number P/2014/1040

Dear Sir

<b>Application Address:</b>	The Quarry Site & The Old Sail Loft, Gorey Pier, St. Martin.
<b>Description of Work:</b>	Change of use of industrial warehouse and retail store into restaurant and delicatessen. To include various extensions and alterations.

Please find enclosed notice of The Minister for Planning & Environment's decision regarding the above application.

Please note that the Conditions imposed on the Notice are important and should be strictly adhered to and any subsequent changes to the development which may affect the requirements of the Conditions should be notified to the Minister for Planning and Environment as soon as possible.


Failure to comply with the attached Conditions may result in the Minister for Planning and Environment instigating Enforcement Action.

Yours faithfully

**M Jones**  
Department of the Environment  
South Hill, St Helier, Jersey, JE2 4US  
T: +44 (0)1534 448439 | F: +44 (0)1534 445528 |  
E: m.jones@gov.je

Encl.

Department of the Environment  
Planning & Building Services  
South Hill  
St Heller, Jersey, JE2 4US  
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States   
of Jersey

Planning Application Number P/2014/1040

# 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 LAND<sup>1</sup> under Article 19 of the Planning and Building (Jersey) Law 2002.

Change of use of industrial warehouse and retail store into restaurant and delicatessen. To include various extensions and alterations. (3D MODEL & VIDEO CLIP AVAILABLE)

To be carried out at:

The Quarry Site & The Old Sail Loft, Gorey Pier, St. Martin.

**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.

**APPROVED**

# Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

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**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 GD1 of the Island Plan, 2011: Revised (2014), in which there is a presumption in favour of development. In this case, the proposed change of use of an industrial warehouse and retail store into restaurant and delicatessen is regarded as acceptable because there will no visual harm to the character and setting of, 'The Old Sail Loft' building, or Mont Orgueil Castle; neither will there be a detrimental impact on surrounding neighbouring amenities. Further, the site is located within a recognised Tourist Destination Area wherein the diversity of the economy is encouraged and supported.

The scheme has also been assessed following the representations received and objections raised on the lack of car parking provision. However, it is considered that an exception to the car parking guidelines can be made in this instance given the excellent public transport links to and from the area in the form of buses and coaches and also because of the emerging eastern cycle route network proposal all of which accord with the terms of the Policies identified within the Island Plan, 2011: Revised (2014).

On balance it is considered that the proposals will not have an unreasonable impact on the existing businesses; surrounding neighbouring amenities or character and setting of the historic buildings identified.

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.

**APPROVED**

# Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2014/1040

**Condition(s):**

1. The development hereby approved shall be carried out entirely in accordance with the plans and documents permitted under this permit. No variations shall be made without the prior written approval of the Minister for Planning and Environment.
2. Prior to commencement of the works, hereby approved, constructional drawings to a scale of no less than 1:20 fully detailing the replacement windows and doors and their relationship to the adjoining fabric shall be submitted to and agreed in writing by the Minister for Planning and Environment, and once agreed, installed and completed accordance with the approved details approved details and thereafter maintained and retained as such.
3. Prior to the commencement of exterior decoration, the details of the types, colours and materials to be used in the construction of the development, hereby approved, must be submitted to and approved in writing by the Minister for Planning and Environment and installed in complete accordance with the approved details approved details and thereafter maintained and retained as such.
4. Prior to the commencement of the development, hereby approved, the details of the guarding/balustrading to the sail loft and all other external areas of the development shall be submitted to and approved in writing by the Minister for Planning and Environment and once agreed installed in complete accordance with the approved details and thereafter maintained and retained as such.
5. All new external works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods and materials, detailed execution and finished appearance unless otherwise approved in writing by the Minister for Planning and Environment.
6. If hidden features are revealed during the course of works they should be retained in situ until examined by the Historic Buildings Officer. Works shall be suspended in the relevant area of the building and the Historic Buildings Officer notified immediately with a view to agreeing the appropriate action. Failure to do so may result in unauthorised works being carried out and an offence being committed.

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# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2014/1040

7. Prior to commencement of works on site the method of ensuring the safety and stability of the building fabric to be retained throughout the period of development and details of the demolition to accommodate new development, in the form of a structural engineer's report, shall be submitted to and agreed in writing by the Minister for Planning and Environment. The agreed works shall be carried out in full accordance with the approved document.

8. A work of art shall be delivered in accordance with the advice of the appointed Approved Art Advisor (Mr Nicolas Romeril) details contained within the Percentage for Art Statement (contained the Design Statement) and e:mail of the 2nd September 2014, utilising a sum of £3,718 which is 0.75% of construction cost of the development hereby approved.

9. Prior to commencement of development on site a report shall be submitted to agreed in writing by the Minister for Planning and Environment detailing the full extent of measures taken to detect and manage any asbestos present on site.

10. The approved works shall be carried out in accordance with the mitigation methods contained within the Ecological Survey & Bat Roost Assessment Planning Document Ref: NE/ES/TA01 by Nurture Ecology.

11. All site workers should be made aware of the possibility of protected species on site especially all lizards and swallows/martins that are historically known in this area. They should be advised that it is their responsibility under the Wildlife Law to stop work & notify the Department of the Environment immediately should protected species, their dens or nests be found, in order that mitigation can be arranged.

12. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Minister for Planning and Environment, a scheme of landscaping which shall provide details of the following;

- i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership;
- ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
- iii) other landscape treatments to be carried out or features to be created, for

APPROVED



# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2014/1040

example, any excavation works, surfacing treatments, or means of enclosure;  
iv) the measures to be taken to protect existing trees and shrubs; and,  
v) the arrangements to be made for the maintenance of the landscaped areas.

13. 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.

14. Prior to first use the new development, hereby approved, shall be connected to main foul sewer and surface water sewer and thereafter retained and maintained as such.

### Reason(s):

1. To ensure that the development is carried out and completed in accordance with the details approved by the Minister for Planning and Environment of Policy GD1 of the Island Plan, 2011: Revised (2014).
2. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).
3. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).
4. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).
5. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).
6. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).

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# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

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7. To ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building under the provisions of Policies SP4; NE6 & HE1 of the Island Plan, 2011: Revised (2014).
8. To accord with the provisions of Policy GD 8 of the Island Plan 2011: Revised (2014).
9. In the interests of the amenities of the area, and to accord with Policies GD1 and WM1 of the Island Plan, 2011: Revised (2014).
10. To ensure that significant harm is not caused to protected species and / or their habitats, in accordance with Policies NE1; NE2; NE6 & SP4 of the Island Plan 2011: Revised (2014).
11. To ensure that the proposed development does not cause significant harm to animal, plant species or their habitats in accordance with Policies NE1; NE2; NE6 & SP4 of the Island Plan, 2011: Revised (2014).
12. To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development and help to assimilate it into the landscape, in accordance with Policies NE 1, NE 6 & GD 1 of the Island Plan, 2011: Revised (2014).
13. 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 NE 1, NE 6 & GD 1 of the Island Plan, 2011: Revised (2014).
14. The Minister wishes to prevent any pollution of the groundwater, and so requires this use to be connected to the mains sewer system in accordance with Policy LWM2 of the Island Plan, 2011: Revised (2014).

**INFORMATIVE:-** As the site is located within the area where the Eastern Cycle Route will potentially pass through the application will be subject to a Planning Obligation Agreement (P.O.A.) for the delivery of a financial contribution towards the delivery of the Eastern Cycle Route as required by Policy TT3 of the Island Plan, 2011: Revised (2014).

**APPROVED**

# Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2014/1040

The Terms of the P.O.A. shall be agreed within 3 months of the determination date of the application.

**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 001/A  
Existing Elevations 5275-009A  
Existing Ground Floor Plan 5275-010A  
Interior Mood Images 5275-011A  
Interior Mood Images 5275-012A  
Proposed Ground Floor Plan 5275-003F  
Proposed First Floor Plan 5275-004F  
Proposed Sections 5275-006C  
Proposed South West & South East Elevations 5275-013D  
Proposed North & North East Elevations 5275-014A  
Perspective Views 5275-015A  
Perspective View 5275-016A  
Waste Management Plan  
Heritage Appraisal  
Site Appraisal  
Ecological Survey & Bat Roost Assessment  
Geological Report  
Design Statement

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.

Signed for Director

**APPROVED**

Signed on behalf of Sail Loft Gorey Limited

.....  
Name and position.....

*Director*

*LS FALLE*

In the presence of ...

Name and Position.....

*DANIEL YOUNG SOLICITOR*

This *5<sup>th</sup>* day of *October* 2014

Signed on behalf of the Minister

by.....

Name and Position.....

*PETER LE GRESELEY (DIRECTOR)*

in the presence of..

Name and Position.....

*MARTIN JONES (PHYSICIAN)*

This *9<sup>th</sup>* day of *October* 2014