

**PLANNING OBLIGATION AGREEMENT UNDER ARTICLE 25 OF
THE PLANNING AND BUILDING (JERSEY) LAW 2002
RELATING TO THE DEVELOPMENT OF 77-79 CARRIAGES HOUSE,
DON ROAD, ST HELIER, JE2 4QD**

Dated: 6TH JUNE

2014

The Minister for Planning and Environment (1)

Soubriquet Limited (2)

DATE 6TH JUNE

2014

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St. Helier, Jersey, JE2 4US ("the Minister"); and
- (2) Soubriquet Limited, Napier House, Halkett Place, St Helier JE2 4WH ("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 it is the owner in perpetuity (à fin d'héritage) of the Site and has right to the property as one of the devisees to the will of immovable estate of the late Colin Charles Beverley Sutton, which will was registered in the Public Registry by Act of the Royal Court dated 18th November 1997, the said Mr Sutton having right thereto as one of the devisees to the will of immovable estate, with one codicil, of his late mother, Kathleen Cecillie Sutton, née Allen, widow of William Sutton, which will and codicil were registered in the Public Registry by Act of the Royal Court dated 28th August 1984, the said Mrs Sutton having right thereto by contract of gift cession and transfer (2nd corpus fundi) dated 5th October 1979 from Soubriquet Holdings Limited, which company had right thereto, under its former name of La Motte Garages Limited, by contract of purchase dated 12th June 1948 from George Alfred Candlin, who had right thereto by contract of purchase dated 22nd February 1947 from Pierre Philippe Henri Guiton, who had right thereto, and which property was then the south-east part of the garden forming part of 'Mont Surat', by contract of purchase dated 3rd November 1945 from Beatrice Valpy.
- 3 The Application was submitted to the Minister and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 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 5 th March 2014 submitted to the Minister for the Development and allocated reference number P/2014/0426
"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 demolish existing building and construct 6 No. two bedroom and 2 No. one bedroom apartments
"Dwelling Unit"	a residential unit forming part of the Development to be constructed pursuant to the Planning Consent
"GST"	the goods and services tax under the Goods and Services Tax (Jersey) Law 2007
"Cycleway Contribution"	the sum of eight thousand pounds (£8,000) 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 (3%) 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" 77-79 Carriages House, Don Road, St Helier against which this Agreement may be enforced, as shown cross 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 Owners under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Minister against the Owners.

4 CONDITIONALITY

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

5 THE OWNERS 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 Owners Covenants with the Minister

The Owner covenants, agrees and undertakes:

Commencement

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

Eastern Cycle Route

- 2 To pay the Cycleway Contribution to the Treasurer of the States prior to the Commencement of the Development
- 3 Notwithstanding (1) above, not to Commence the Development until such time as the Cycleway Contribution has been paid to the Treasurer of the States.

SECOND SCHEDULE

Minister's Covenants

- 1 The Minister hereby covenants with the Owner to use all sums received by the Treasurer of the States from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid 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 To issue the Planning Permit to the Owner.

THIRD SCHEDULE

The Plan

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



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

Planning Application Number P/2014/0426

Dear Sir/Madam

Application Address:	Luxicabs, 77-79 Carriages House, Don Road, St. Helier, JE2 4QD.
Description of Work:	Demolish existing building and construct 6 No. two bedroom and 2 No. one bedroom apartments.

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

Jonathan Gladwin

Encl.

Planning Application Number P/2014/0426

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

IMPORTANT NOTICE

This notice gives permission under Article 19 of the Planning and Building (Jersey) Law 2002, as amended. In accordance with Article 24(i) of the Law the grant of this permission enures (except insofar as the permission otherwise provides) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land.

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

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

Demolish existing building and construct 6 No. two bedroom and 2 No. one bedroom apartments.

To be carried out at:

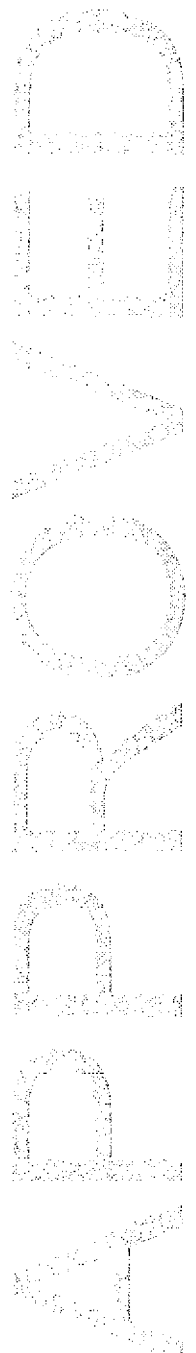
Luxicabs, 77-79 Carriages House, Don Road, St. Helier, JE2 4QD.

PLEASE NOTE

This decision is purely permissive and in no way absolves the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve an applicant from the need to obtain the permission of the owner of the land to which a permission relates.

Reason for Approval: The proposed development is considered to be acceptable having considered all of the material considerations raised. The proposed development is located within the Built Up Area wherein Policy H6 is relevant and which states that proposals such as this for new housing will be permitted provided that the proposal is in accordance with the required standards for housing which it is.

There exists an extant permission P/2010/0939 which sets the principle of the redevelopment of the site including the demolition of the existing



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building. It is considered that the proposed development would be in keeping with the appearance of the area which has a mixed character and height and density of building. It is considered that despite the increased density from existing that the development is of a high quality design and would uplift the appearance of the site which has currently a rundown feel.

In addition, the representations raised to the scheme on the grounds of loss of privacy, overshadowing, noise and disturbance, access issues and parking and traffic generation have been assessed. However, it is considered that the proposal accords with the terms of policy GD1 of the 2011 Island Plan, in that it does not have an unreasonable impact on neighbouring uses subject to a condition regarding the provision of privacy measures to the roof terrace.

The existing use of the site as a taxi company with parking of taxi's to the rear is regarded as a bad neighbour use in this residential area and its replacement with a residential development is likely to reduce traffic and noise generation to the site.

The proposed development would be deficient in overall parking provision with no visitors parking provided. But the proposal is considered acceptable with regard to parking as the site is located within easy walking distance to the centre of St Helier and to Green Street/Cleveland Road car parks for public parking and would provide 1 space per residential unit which also matches the approved extant permission which accepted the principle of 1 parking space per unit and no visitors parking.

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

Standard Condition

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

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

Condition(s):

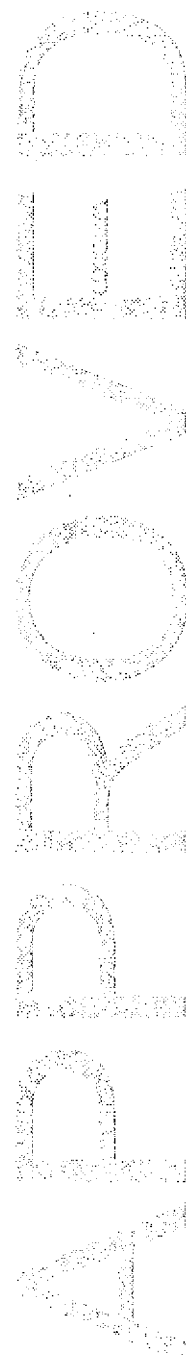


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1. The development hereby approved shall be carried out entirely in accordance with the plans and documents permitted under this permit. No variations shall be made without the prior written approval of the Minister for Planning and Environment.
2. Prior to the commencement of the development hereby approved, samples of all external materials and hard surfacing to be used to construct the development and large scale details of the windows (including the false windows to the front elevation onto Don Road) and the balustrading shall be submitted to and approved in writing with the Minister for Planning and Environment
3. A work of art shall be delivered in accordance with the advice of the appointed Approved Art Advisor and the Percentage for Art Statement detailed on approved Drawing (Architect Job number 5235) which has been submitted to and approved by the Minister for Planning and Environment. The work of art must be installed prior to the first use/occupation of the development hereby approved unless otherwise agreed in writing.
4. Notwithstanding any indications on the approved plans, the rooftop terrace to the front residential block shall provide a suitable privacy screen/structure to the perimeter of the roof terrace. Full details of this privacy screen/structure shall be submitted to and approved in writing by the Minister for Planning and Environment, to be thereafter implemented prior to first occupation and maintained in perpetuity.
5. Prior to the commencement of development (to include demolition works), details shall be submitted to and approved by the Minister for Planning and Environment, to provide a Demolition and Construction Environmental Management Plan to be thereafter implemented and maintained until completion of the development. The Demolition and Construction Environmental Management Plan shall include:
 - A. A demonstration of compliance with best practice in relation to noise and vibration control, and control of dust and emissions;
 - B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;
 - C. Specified hours of working, including deliveries (0800 to 1800, Monday to Friday, 0800 to 1300 on Saturdays, with no work on Sundays, Bank Holidays or Public Holidays).
 - D. Details of the proposed management of traffic and pedestrians.
 - E. Details of the location of the site compound, materials storage area and



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loading/unloading arrangements.

F. Details of the method of disposal of any asbestos material found on site.

6. Prior to the commencement of development, the levels of potential contaminants in the ground shall be investigated and any risks to human health or the wider environment assessed and mitigated, to the satisfaction of the Minister for Planning and Environment, in consultation with Environmental Protection and Health Protection and, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 - Development of Potentially Contaminated Land.

7. Notwithstanding any indications on the approved plans, 1 parking space for each approved residential apartment on the application site shall be provided and maintained as such in perpetuity.

8. 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 roof terrace area and the car parking and amenity areas.

9. Prior to the commencement of development on site details of separated waste facilities and communal satellite television reception system (or other communications infrastructure) shall be submitted to and approved in writing by the Minister for Planning and Environment, to be thereafter implemented prior to first occupation and maintained in perpetuity

10. Informative: All site workers should be aware of the possibility of bats on site, especially in the case of roof work. They should be advised that it is their responsibility under the Wildlife Law to stop work and notify the Department of the Environment immediately should bats be found, so that mitigation can be arranged.

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.

2. To safeguard the visual amenities of the area, in accordance with Policy GD 7 of the Island Plan, 2011.

3. So as to accord with the provisions of Policy GD8 of the Jersey Island



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Plan 2011.

4. To prevent overlooking and loss of privacy of the occupiers of the adjoining property, in accordance with Policy GD 1 of the Island Plan, 2011.
5. In the interests of protecting the amenities of the area generally and to accord with Policy GD 1 of the Jersey Island Plan 2011.
6. To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1 and GD6 of the Jersey Island Plan 2011.
7. For the avoidance of doubt and to ensure satisfactory car parking arrangements in accordance with Policies GD1 and H6 of the Jersey Island Plan 2011.
8. 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 Policy NE 4 and BE 6 of the Island Plan, 2011.
9. In the interest of sustainable development and adequate service infrastructure, and to accord with Policies GD1 and H6 of the Jersey Island Plan 2011.
10. To ensure that the proposed development does not contravene the terms of the Wildlife Law through the disturbance of protected species at their roost.

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 5235_001A
Survey Plan 5235-002A
Ground & First Floor Plans 5235-003B
Second Floor & Roof Plans 5235-004B
Elevations 5235-005B
Visual Images 5235-010A
Elevations 5235-008B
Design Statement



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Waste Management Plan
Percentage for Art 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



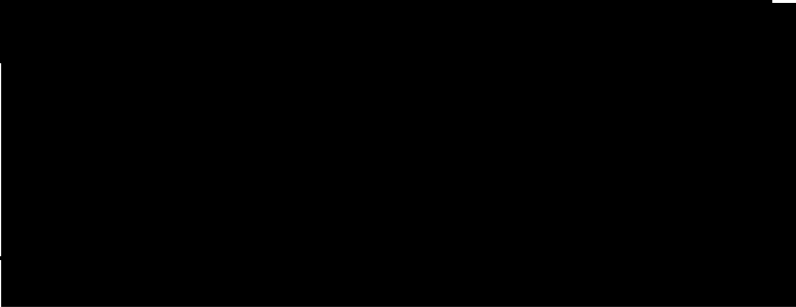
Signed on behalf of



Name and Position

In the presence of

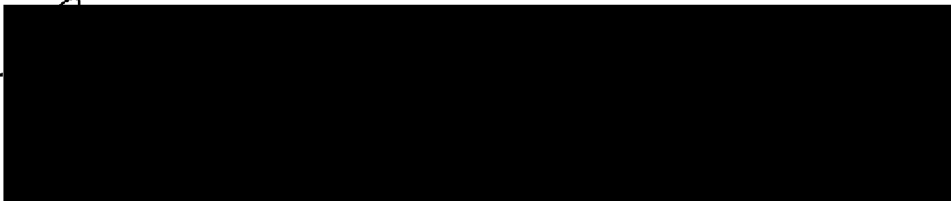
Name and Position.....



This 5th day of June 2014

Signed on behalf of the Minister

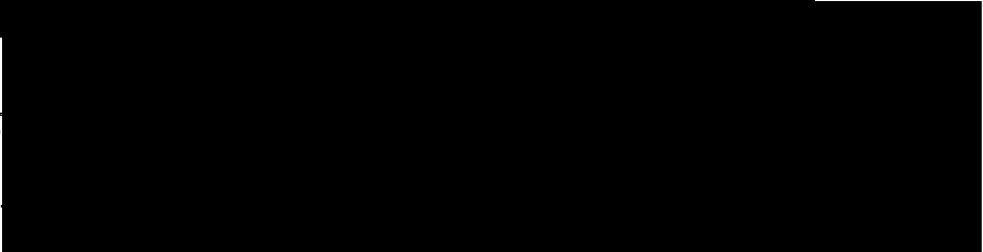
by.....



Name and

in the presence of.....

Name and Position.....



this 5th day of June, 2014