

In the Royal Court of Jersey

Samedi Division

In the year two thousand and thirteen, the twenty-second day of July.

Before the Judicial Greffier.

Upon the application of Her Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between The Minister for Planning and Environment and Fiona Jean Carmichael in relation to Westward, La Marquanderie, St Brelade, be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub.

L1315-820--



Planning Obligation Agreement under Article 25 of the Planning and Building (Jersey) Law 2002

relating to the development of Westward, La
Marquanderie

Dated : 24th JULY

2013

The Minister for Planning and Environment (1)

Fiona Jean Carmichael (2)

L1315-821--



DATE 19th JULY

2013

PARTIES

- (1) The Minister for Planning and Environment of South Hill St Helier Jersey JE2 4US ("the Minister")
- (2) Fiona Jean Carmichael Douet Du Rue, La Rue Du Douet, St Mary, JE3 3EF ("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 she is the owner of the Site to which she has right in perpetuity (à fin d'héritage) by virtue of a contract of purchase from Michael Lewis Crane and Margaret Edna Crane née Plumb passed before the Royal Court on 26th August 2011

3 The Owner submitted the Application to the Minister

4 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Minister considers it expedient in the interests of proper planning that provision should be made for securing improvements to bus provision which will be necessitated as a result of the Development in the manner hereinafter appearing without which the Minister would not be so minded to grant.

The parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.

The Owner acknowledges that this Agreement is legally binding

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

DEFINITIONS

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

"Application" the application for planning permission dated 13th November, 2012 submitted to the Minister for the Development and allocated reference number P/2012/1498

L1315-822--



"Bus Lay-by Contribution"	means the sum of twenty five thousand pounds (£25,000) indexed to be paid to the Treasurer of the States and expended by the Minister in accordance with this Agreement on the Bus Lay-by Works
"Bus Lay-by Works"	means the formation creation and all works necessary for the provision of a new bus lay-by opposite the Winston Churchill Car Park
"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 and the words "Commence" and "Commenced" shall be construed accordingly.
"Development"	the Development of the Site to "Close existing vehicular access to property. Form new vehicular access to property. Form new drive within grounds to property. Form new pedestrian bus stop refuge to South of site." as set out in the Application
"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
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
"Plan"	the plan attached to this Agreement as the First Schedule
"Planning Permit"	the planning permission subject to conditions to be granted by the Minister pursuant to the Application as set out in the Second Schedule.
"Refuge"	A hardstanding area for pedestrians to wait shown on the Refuge Plans in the First Schedule.
"Refuge Works"	All construction and related works to create the Refuge
"Site"	the land against which this Agreement may be enforced as shown on the Site Plan in the First Schedule



"TTS"	Transport and Technical Services.
"TTS Director"	the relevant Director of Transport and Technical Services or his/her appointed representative for the time being to the States of Jersey.

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 shall come into effect immediately upon the date upon which it 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 covenants and agrees with the Minister as set out in the Third 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 Fourth 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 The Owner shall pay to the Minister on completion of this Agreement the reasonable legal costs of the Minister incurred in the negotiation, preparation and completion of this Agreement.
- 8.2 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 at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing
- 8.3 Any notices on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to either party at the address given in this Agreement or such other address in the Island of Jersey as otherwise notified to the Minister by the Owner for the purpose by notice in writing
- 8.4 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.
- 8.5 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.
- 8.6 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.
- 8.7 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.

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- 8.8 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
- 8.9 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from the Public (whether in its public or private capacity) or the Parish of St Brelade (whether in its public or private capacity) or any third party with respect to the Development or its use any consents permits authorisations rights interests in land or servitudes
- 8.10 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 Minister as a result of the Minister agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein
- 8.11 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 or oblige the Public to accept or take a transfer of land
- 8.12 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 or oblige TTS to take over vest or adopt (as the case may be) any apparatus drains conduits services highways or other thing capable of being taken over vested in or adopted by TTS and to that end the certificate in writing (such certificate to be accompanied by or make reference to as built drawings) of the TTS Director of Transport as to the nature and/or extent of such taking over vesting or adoption shall be final
- 8.13 The Minister and/or TTS shall have no liability to the Owner for any costs or delays occasioned by the terms of or failure to obtain or receive timely consents, permissions, orders and approvals or the timeliness of the design, construction or commissioning of any works carried out by TTS
- 8.14 The Owner shall not be entitled to any costs or compensation as a result of the making of this Agreement and the obligations contained herein
- 8.15 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 its interests 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 Third 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 JURISDICTION

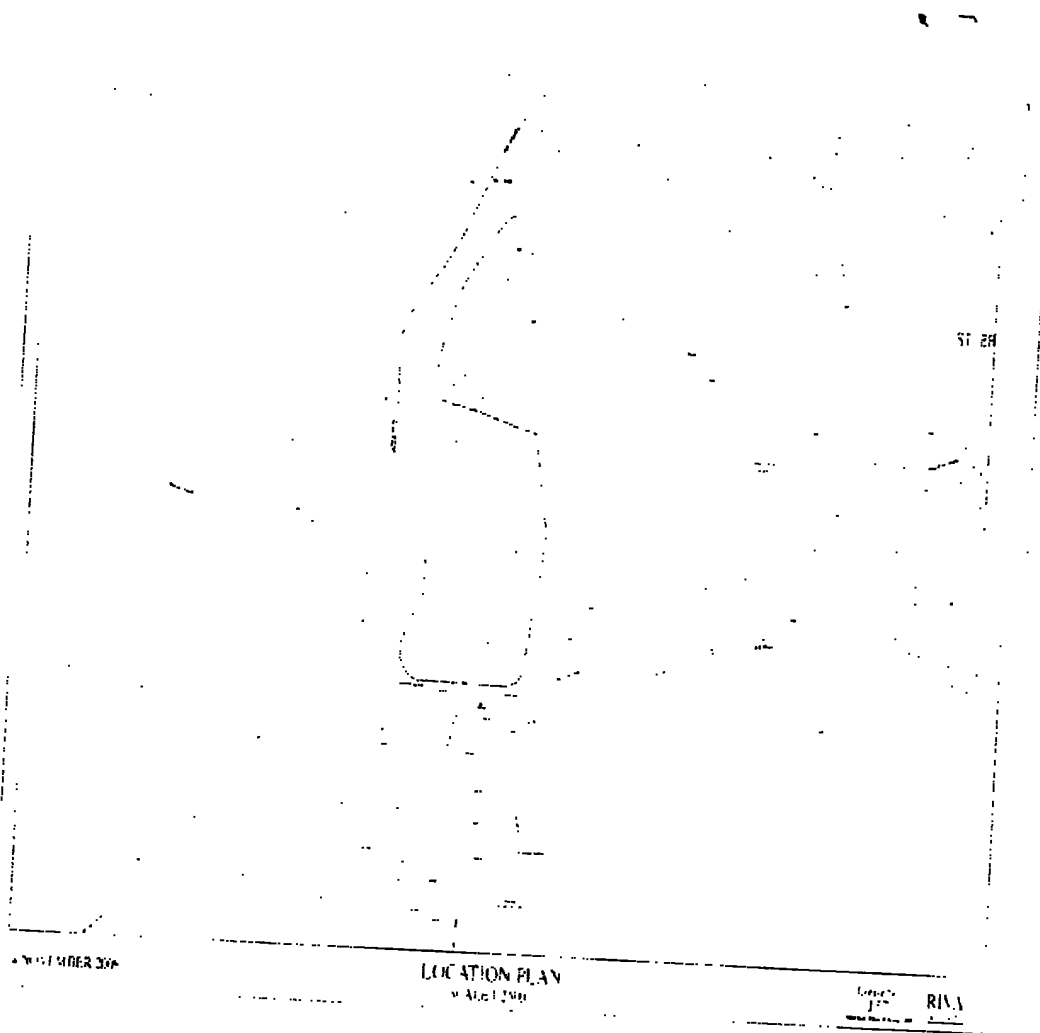
This Agreement is governed by and interpreted in accordance with the law of the Island of Jersey.

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FIRST SCHEDULE

Site Plan



L1315-828--

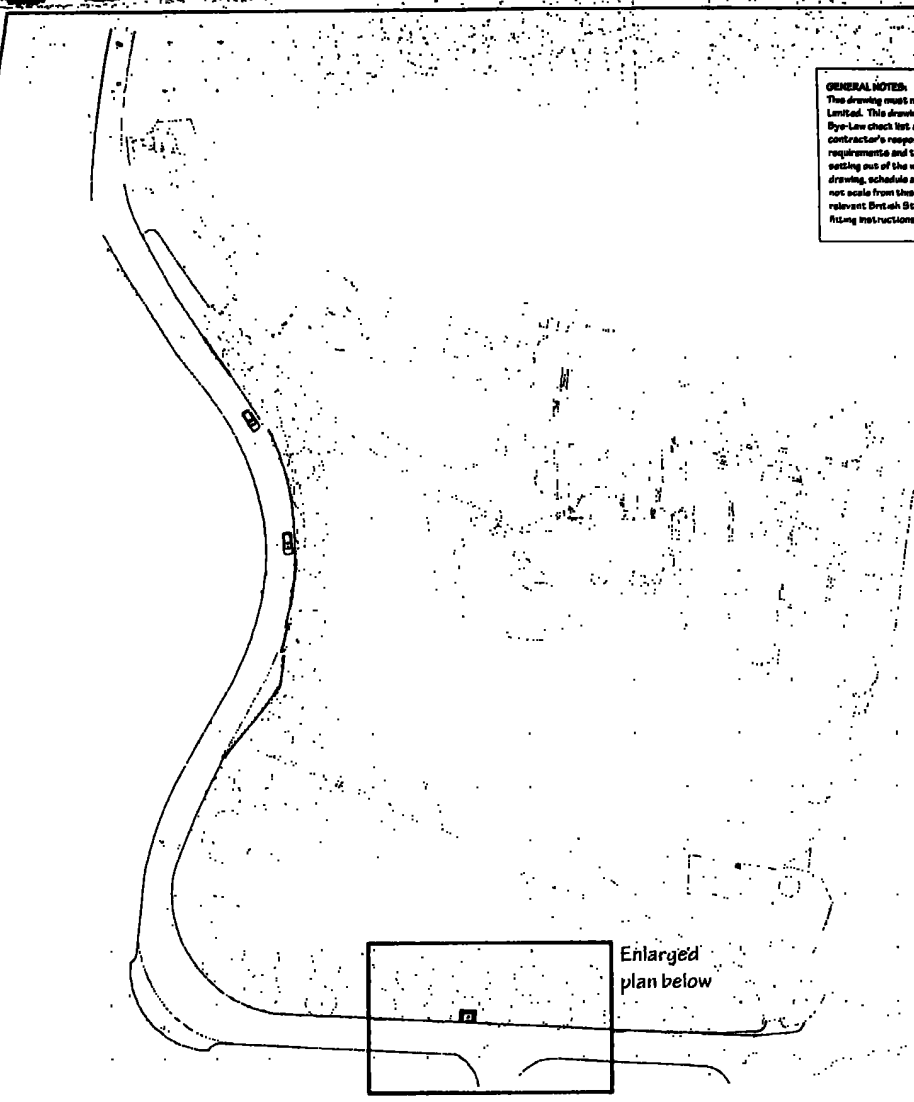


Refuge Plans

L1315-829--



GENERAL NOTES:
 The drawing must not be copied in whole or in part without prior written permission of Riva Architects Limited. This drawing must be read in conjunction with other architect's drawings & all schedules/Building Bye-Law check list and with all relevant structural engineering drawings, details and specifications. It is the contractor's responsibility to ensure that all work is carried out in accordance with all statutory requirements and to the approval of the building control officer (B.C.O). The contractor is responsible for the setting out of the works. Any discrepancy found between this drawing and any other architect's detail drawing, schedule and/or specification must be reported to the architect before the work is carried out. Do not scale from this drawing. Refer only to written dimensions. All dimensions must be checked on site. The relevant British Standards for materials and their uses are to be adhered to. Manufacturers installation & fixing instructions must be obtained and adhered to at all times.



SITE PLAN SCALE 1:1000 @ A3

REFUGE CENTRED BETWEEN EXISTING TREES

For extent of Refuge, see Drawing No. 787-114

REFUGE LOCA

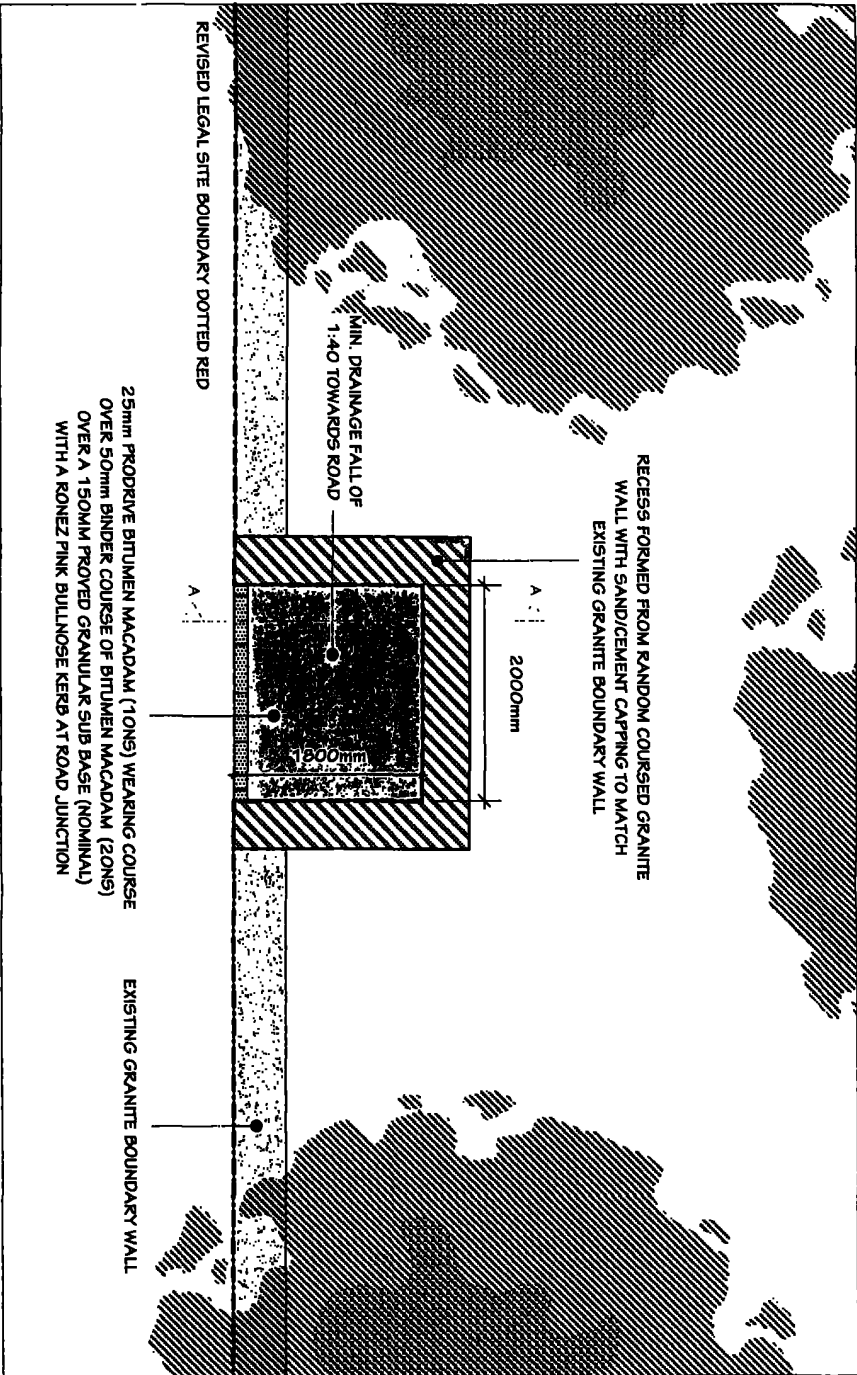
L1315-830-



REV	DESCRIPTION	DATE
-	LEGAL PLAN ISSUED	3/7/13
JOB TITLE		
PROPOSED ACCESS & DRIVEWAY		
WESTWARD		
La Maquandene, St Brelade		
Mrs. F. Carmichael		
DRAWING TITLE		
PROPOSED PEDESTRIAN		
REFUGE - SITE / LOCATION PLAN		
DATE	RIVA ARCHITECTS	
July 2013		
SCALE		
AS SHOWN		
DRAWN	CHECKED	
AB		
DRAWING NO	REV	
787 - 113		

PROPOSED PEDESTRIAN HARDSTANDING TO SERVE NEW BUS STOP

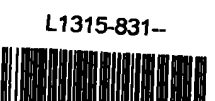
SCALE 1:50 @ A3



GENERAL NOTES:
 This drawing must not be copied or used in whole or in part without prior written permission of Riva Architects Limited. This drawing must be read in conjunction with other architect's drawings & specifications. It is the responsibility of the contractor to ensure that the work is carried out in accordance with the specifications and standards of the building industry. The contractor is responsible for the safety of the work and any other architect's details for the building. The contractor must be approved by the architect before the work is carried out. Do not scale from this drawing. Refer only to written dimensions. All dimensions must be checked on site. The relevant British Standards for materials and their uses are to be adhered to. Manufacturers' instructions & fitting instructions must be obtained and adhered to at all times.

FOUNDATION TO THE DESIGN OF THE STRUCTURAL ENGINEER. GROUND CONSTRUCTION & COVERING TO TTS SPECIFICATION: 25MM PRODRIBE BITUMEN MACADAM (10NS) WEARING COURSE OVER 50MM BINDER COURSE OF BITUMEN MACADAM (20NS) OVER A 150MM PRODRIBE GRANULAR SUB BASE LAID TO MIN. FALL OF 1:40 TOWARDS ROAD FOR DRAINAGE. USE RONEZ PINK BULLNOSE KERB AT ROAD JUNCTION (KERB HEIGHT 50mm). MAKE GOOD ANY DAMAGE TO EXISTING ROAD SURFACE. A TTS APPROVED CONTRACTOR MUST BE USED TO CARRY OUT ANY WORKS ADJACENT TO THE PUBLIC HIGHWAY. TTS TO BE CONTACTED PRIOR TO COMMENCEMENT OF WORKS. IF TRAFFIC MANAGEMENT MEASURES ARE TO BE USED, THE TTS STREETWORKS MANAGER MUST BE CONTACTED (448256) FOR HIS APPROVAL.

Job Description	LEGAL PLAN ISSUED
Job Title	PROPOSED ACCESS
Client	WESTWA La Maguanderie, 5 Mrs. F. Cami
Drawing Title	PROPOSED PEDES. REFUGE - EXTENTS
Date	July 2013
Scale	1:50 @ A3
Drawn	AB
Checked	AB
Drawn No	787 - 114
Architects	RIVA ARCHITECTS



SECOND SCHEDULE
The Planning Permit

L1315-832--



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

Planning Application Number P/2012/1498

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.

Close existing vehicular access to property. Form new vehicular access to property. Form new drive within grounds to property. Form new pedestrian bus stop refuge to South of site.

To be carried out at:

Westward, La Marquanderie, St. Brelade, JE3 8EP.

PLEASE NOTE

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

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

INFORMATIVE: The applicant's attention is drawn to the Planning Obligation Agreement to secure off site public transport improvements.

L1315-833--

Chief Executive

), Dip TP, MRTPI



Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2012/1498

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

Standard Condition

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

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

Condition(s):

1. Notwithstanding the details submitted on the approved drawings, prior to the first use of the access, hereby approved, the existing access shall be extinguished and the roadside wall made good to the satisfaction of the Minister for Planning and Environment.
2. Notwithstanding the details submitted on the approved drawings, prior to the creation of the new access, the new bus stop refuge to the south of the site, shown on the approved drawings, shall be provided and completed to the satisfaction of the Minister for Planning and Environment.
3. Prior to the first use of the development hereby permitted visibility lines must be provided in accordance with the approved drawings. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level.
4. Notwithstanding the details submitted on the approved drawings, surface water shall be discharged to the driveway soakaway and shall not be discharged onto the highway.
5. 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;

L1315-834--

Chief E



Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2012/1498

- 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 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.

6. 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.

7. 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.

8. Notwithstanding any indication on this permit or on any of the application drawings/details hereby approved, no trees shall be felled, hedgerows removed or dense scrub vegetation cleared within the period 1st March to 31st July (in any calendar year) unless the applicant has first prepared a written risk assessment from a qualified and competent person which confirms that there are no nesting birds in any of the trees to be felled, nor in hedges nor vegetation to be removed. The written risk assessment shall include details of the site survey undertaken, together with a statement of the findings, and shall be submitted to the Environment Department for comment 5 working days in advance of any felling.

Reason(s):

1. In the interests of highway safety, in accordance with Policy GD1 of the Jersey Island Plan, 2011.
2. In order to provide a replacement bus refuge in accordance with the requirements of Policies GD1 and TT7 of the Jersey Island Plan, 2011.
3. In the interests of highway safety, in accordance with Policy GD 1 of the Island Plan, 2011.

L1315-835--

Chiel



Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2012/1498

4. In order to prevent the unacceptable discharge of surface water on the public highway, in accordance with Policy LWM3 of the Jersey Island Plan, 2011.
5. 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 NE 7 of the Island Plan, 2011.
6. 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 Policy NE 4 and NE 7 of the Island Plan, 2011.
7. 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 Policy NE 4 and NE 7 of the Island Plan, 2011.
8. Article 6 of the Conservation of Wildlife (Jersey) Law, 2000 makes it an offence for any person knowingly to
 - (a) damage or destroy the den of any protected wild animal while that den is in use;
 - (b) take, damage or destroy the nest of any protected wild bird while that nest is in use or being built;
 - (c) obstruct access to the den of any protected wild animal, or the nest of any protected wild bird, while that den or nest is in use; or
 - (d) disturb any protected wild animal occupying a den or any protected wild bird occupying a nest.

This applies to all birds except Carrion crow, magpie, feral pigeon, wood pigeon and starling. It also applies to bats and squirrels and other protected mammals. Full details may be found in the Conservation and Wildlife (Jersey) Law, 2000. In accordance with Policy NE2 of the Jersey Island Plan, 2011.

L1315-836--



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Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2012/1498

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 Map

Existing Survey 00.787

Proposed Entrance Sections/Elevations SK 03.787.12

Proposed Site Plan SK 02.787.12

Design Statement

Site Photographs

Proposed Detailed Roadside Site Plan & Elevation SK 787.05

Proposed Bus Stop Recess SK 02.787.06

Cross Section and Elevation 787.SK04

Proposed Landscape Plan 12062

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

L1315-837--



THIRD SCHEDULE

The Owner's Covenants with the Minister

The Owner covenants and agrees and undertakes:

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

BUS LAYBY

- 2 to pay the Bus Lay-by Contribution to the Treasurer of the States prior to the Commencement of Development.
- 3 not to Commence the Development until such time as the Owner has paid to the Treasurer of the States the Bus Lay-by Contribution.

REFUGE

- 4 on completion of the Refuge Works the land on which the Refuge is situated shown on the Refuge Plans in the First Schedule shall be ceded and transferred free of all charges and encumbrances by the Owner to the Public by contract to be passed before the Royal Court the Owner paying the proper and reasonable costs of and incidental to the said transfer (including all and any reasonable legal and professional costs)



FOURTH SCHEDULE

MINISTER'S COVENANTS

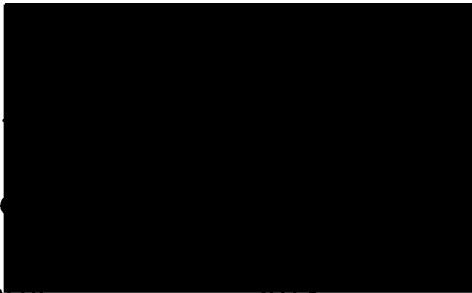
Repayment of contributions

- 1 The Minister hereby covenants with the Owner to use all sums received 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 consider to be reasonably appropriate in the circumstances.
- 2 The Minister covenants with the Owner that he will pay to the Owner such amount of any payment made by the Owner to the Minister under this Agreement which has not been expended in accordance with the provisions of this Agreement within five years of the date of receipt by the Minister of such payment.

L1315-839--



Signed by Fiona Jean Carmichael

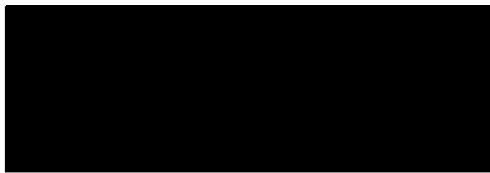


In the presence

this day of 2013

JAMES W. ANGUS
WALNUT FARM ANNEXE
LE MONT DU BUI DE LA RUE
ST. LAWRENCE
JERSEY

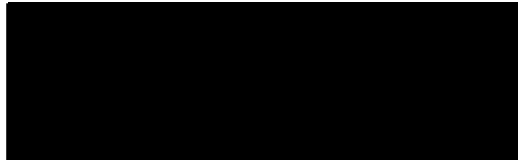
Signed on behalf of the Minister for Planning and Environment



by

PETER LE GREZLEY

in the presence of



this 17th day of July 2013

L1315-840--

