


In the Royal Court of Jersey

Samedi Division

In the year two thousand and twenty, the twenty-seventh day of February.

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, Roussel Holdings Limited and Investec Bank (Channel Islands) Limited, Jersey Branch in relation to Bella Rocca, Roussel Street, St Helier, be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub.

Planning Obligation Agreement under Article 25 of the Planning and Building (Jersey) Law 2002
relating to the development of Bella Rocca, Roussel Street, St. Helier

Dated : 25th February 2020

The Chief Officer for the Environment (1)

Roussel Holdings Limited (2)

Investec Bank (Channel Islands) Limited, Jersey Branch (3)

DATE

25th February

2020

PARTIES

The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("the Chief Officer")

- (1) Roussel Holdings Limited of Rosemary Cottage, La Route du Petit Port, St. Brelade, Jersey JE3 8HH ("the Owner")
- (2) Investec Bank (Channel Islands) Limited, Jersey Branch, of One The Esplanade, St. Helier, Jersey JE2 3QA ("the Hypothecator")

RECITALS

- 1 The Owner warrants that it is the owner of the Site to which it has right in the manner referred to in the First Schedule.
- 2 The Application has been made to the Chief Officer by the Owner.
- 3 Pursuant to Article 9(5)(b) of the Law the Chief Officer referred the application for the Development to the Planning Committee for determination by that Committee.
- 4 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Planning Committee at its meeting on 16 January 2020 resolved to approve the grant of planning permission for the Development subject to the prior completion of this Agreement.
- 5 The Hypothecator has an interest in the Site by virtue of a judicial hypothec dated 22nd March 2019.
- 6 The parties acknowledge that this Agreement is legally binding.
- 7 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 Consent to "Demolish existing lodging house. Construct 7 No. one bed and 13 No. two bed residential
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		units with associated parking and landscaping. AMENDED PLANS - amended east elevation. FURTHER AMENDED PLANS - Scheme amended to construct 8 No. one bed and 11 No. two bed units with associated parking and landscaping" under Application number P/2019/0571.
"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 construction on the Site of dwelling units and associated works pursuant to the Planning Permit.
"Dwelling Unit"		a dwelling unit to be constructed on the Site as part of the Development pursuant to the Planning Permit.
"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 annexed to this Agreement and forming part of the First Schedule.
"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 may be enforced as shown enclosed by the red line on the Plan.

2 CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to a law of the States of Jersey shall include any modification, extension or re-enactment of that law for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Law or deriving validity from it.
- 2.6 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Chief Officer the successors to his statutory functions.
- 2.7 This Agreement shall be construed so as to give effect to the purpose of the Law

3 LEGAL BASIS

- 3.1 This Agreement is made pursuant to Article 25 of the Law.
- 3.2 The covenants, restrictions and requirements imposed upon the 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 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 Chief Officer in the terms set out in the Third Schedule to this Agreement which 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 **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 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 PO Box 228, St Helier Jersey JE4 9SS or as otherwise notified for the purpose by notice in writing.
- 7.3 Any notices 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 or as otherwise notified for the purpose by notice in writing.
- 7.4 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.
- 7.5 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit shall be quashed, 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;
- 7.6 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 or any part thereof but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 7.7 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.
- 7.8 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 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
- 7.9 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 Helier (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
- 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 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
- 7.12 All communications and notices served or made under this Agreement shall be in writing.
- 7.13 Any sum referred to in this Agreement 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.

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 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 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 Dwelling Unit purchased by reference to a plan.

10 HYPOTHECATORS CONSENT

The Hypothecator acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the Hypothecator over the Site shall take effect subject to this

Agreement PROVIDED THAT the Hypothecator shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as a consequence of deriving title from the Owner.

11. DISPUTE RESOLUTION

In the event that any dispute shall arise in respect of any provision of this Agreement it shall be referred if not resolved within seven working days to the arbitration of an independent arbitrator under the provisions of the Arbitration (Jersey) Law 1998 such arbitrator to be named by the agreement of the parties to the dispute or in default of agreement by the President for the time being of the Royal Institution of Arbitrators upon the application of any party to the dispute

12 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 by hereditary purchase by contract passed before the Royal Court of Jersey on 22nd March 2019 from Clarendon Gove Lodge Limited, and the approximate extent of which is shown on the Plan, as attached hereto.



SECOND SCHEDULE

The Planning Permission

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0571

In accordance with Article 19(8) of the Planning and Building (Jersey) Law 2002, as representations were made in connection with this application, this decision shall not have effect during the period of 28 days immediately after the decision date.

This permission enures (unless otherwise stated) for the benefit of the land to which it relates and of each person for the time being having an estate or interest in that land.

This decision does not absolve the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve the need to obtain the permission of the owner of the land to which this permission relates.

This is notification of the decision to **GRANT** permission **SUBJECT TO A PLANNING OBLIGATION AGREEMENT** to develop land under Article 19 of the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Demolish existing lodging house. Construct 7 No. one bed and 13 No. two bed residential units with associated parking and landscaping. **AMENDED PLANS** - amended east elevation. **FURTHER AMENDED PLANS** - Scheme amended to construct 8 No. one bed and 11 No. two bed units with associated parking and landscaping

To be carried out at:

Bella Rocca, Roussel Street, St. Helier, JE2 3PP.

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, GD3, GD7 and BE3 of the Adopted Island Plan 2011 (Revised 2014) which presume in favour of well-designed residential developments within the Built-up Area. In this case, the proposed apartment building will provide high quality accommodation together with pavements and street trees which will be a practical and visual improvement to the area.

In addition the representations raised to the scheme on the grounds of overbearing impact and overlooking have been assessed. The proposal has been amended to reduce the height and number of windows facing Roussel Mews. It is considered that the amended proposal accords with the terms of Policy GD1 of the Adopted Island Plan 2011 (Revised 2014) in that it will not have an unreasonable impact on neighbouring uses.

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0571

This permission is granted subject to compliance with the following conditions and approved plans:

- A. The development shall commence within three years of the decision date.
Reason: The development to which this permission relates will need to be reconsidered in light of any material change in circumstance.
- B. The development hereby approved shall be carried out entirely in accordance with the plans, drawings, written details and documents which form part of this permission.
Reason: To ensure that the development is carried out and completed in accordance with the details approved.

Conditions:

1. No part of the development hereby permitted shall be begun until a scheme of landscaping has been submitted to and approved in writing by the Department of the Environment. The scheme of landscaping 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;
 - 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 including any excavation works, surfacing treatments, or means of enclosure;
 - iv) the measures to be taken to protect existing trees and shrubs;
 - v) the presence of any invasive plant species on site, and if present, a detailed method statement for the removal and long-term management/eradication of the species; and,
 - vi) A landscape management plan for the maintenance of the landscaped areas. Once agreed, the approved scheme shall be implemented in full and thereafter retained as such.
2. No part of the development hereby approved shall be occupied until all hard and soft landscape works as indicated on the approved plan have been carried out in full. For the avoidance of doubt this includes all trees within the site and the demarcation of parking spaces on Roussel Street and Roussel Mews. Following completion, the landscaping areas shall be thereafter retained as such and the car parking spaces shall thereafter be retained solely for the use of occupants of the development and shall not be sublet for any other purpose.
3. Prior to their first use on site, samples of all external materials to be used (including any hard landscaping materials) shall be submitted to and approved in writing by the Department of the Environment. The approved materials shall be implemented in full and thereafter retained as such.

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PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0571

4. No part of the development hereby approved shall be occupied until the electric car and bike charging facilities have been wholly constructed in accordance with the approved plans. The facilities shall thereafter be retained solely for the use of occupants of the development.

5. No part of the development hereby approved shall be occupied until the cycle parking facilities as indicated on the approved plan have been wholly constructed in accordance with the approved plans. The facilities shall thereafter be retained solely for the use of occupants of the development and maintained as such.

6. The findings and required mitigation measures outlined in the in the report (ref NE/ES/BR.02, 20/06/19 - Nurture Ecology) shall be implemented prior to the commencement of development, continued throughout the phases of development (where applicable) and thereafter retained as such. Any variations that may be required as a result of findings on site are to be agreed in writing by the Department of the Environment prior to works being undertaken.

Reasons:

1. To safeguard the character and appearance of the area in accordance with Policies GD1, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
2. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
3. To promote good design and to safeguard the character and appearance of the surrounding area, in accordance with Policies GD1 and GD7 of the Adopted Island Plan 2011 (Revised 2014).
4. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 of the Adopted Island Plan 2011 (Revised 2014).
5. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 of the Adopted Island Plan 2011 (Revised 2014).
6. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).

Informative - the applicant's attention is drawn to the letter from the Parish of St Helier dated 12/06/19 with regard to the need to liaise with them on the

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Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2019/0571

following matters: the design of the footpath, demarcation of ownership, kerb lowering, arrangements for servicing of the site once construction commences, and refuse collection arrangements. Any damage to the road surface caused during construction works must be made good at the applicant's expense.

FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at www.gov.je/planning

The following plans have been approved:

1. Location Plan PL001
2. Proposed Site Plan PL010/C
3. Proposed Ground Floor Plan PL200/F
4. Proposed First Floor Plan PL201/C
5. Proposed Second Floor Plan PL202/C
6. Proposed Third Floor Plan PL203/B
7. Proposed High Level Roof Plan PL204/B
8. Proposed South Elevation PL402C
9. Proposed East Elevation PL401/D
10. Proposed North Elevation PL400A
11. Proposed West Elevation PL403B
12. Proposed South Section AA PL500/A
13. Proposed South Section BB PL501/A
14. Proposed East Section CC PL502/A
15. Proposed Section and Proposed illustrated East Elevation PL600
16. Proposed Street Elevation PL420/C
17. Proposed Bicycle Canopy PL-601

DECISION DATE: NOT YET DECIDED

The development may also require building permission, for which a separate application will need to be made. You can find out if building permission is required on our website www.gov.je/planningbuilding

The approved plans and any conditions attached to the decision are important and should be complied with. If there is any variation from the approved plans or the conditions you need to notify us immediately. Failure to comply with the approved plans or conditions may result in enforcement action.

If you are unhappy with a condition attached to this permission, you may request a review or make an appeal. You can find out how to do this on our website www.gov.je/planning

APPROVED

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants, agrees and undertakes:

1. To pay the sum of Eleven thousand seven hundred and fifty pounds (£11,750) sterling to the Treasurer of the States for the Parish of St. Helier to use towards improvements to the highway network and general public realm in the vicinity of the Site which funds will be applied by the Parish of St. Helier in such manner as it shall determine in its absolute discretion.
2. To pay the sum of Ten thousand pounds (£10,000) sterling to the Treasurer of the States for the Parish of St Helier. To provide for and finance a revised pavement alignment at the corner of Roussel Street and Roussel Mews to be carried out by the Parish of St Helier.
3. To pay the sums referenced to in paragraphs 1 and 2 of this Third Schedule no later than one week before commencement of any works permitted on the Site by the Planning Permit.

Signed on behalf of the Chief Officer

by

in the presence of

this 25th day of February 2020

Signed on behalf of Roussel Holdings Limited

by SIMON GEORGE WHITE, DIRECTOR

in the presence of

this 29th day of January 2020

Signed on behalf of

Investec Bank (Channel Islands) Limited, Jersey Branch

by Kevin Allen and Claire Smith, Authorised Signatories

in the presence

this 14th day of FEBRUARY 2020