

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

Law 2002

relating to the development of Victoria Street Church, St Helier

Dated

20th March

2018

The Chief Officer for the Environment (1)

JAJ Properties Limited (2)

Sancus (Jersey) Limited (3)

DATE

2018

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("**the Chief Officer**");
- (2) JAJ Properties Limited (incorporated in Jersey with company number 105373) ("**the Owner**") of Tamba Park Rue des Varvots St Lawrence Jersey JE3 1GX
- (3) Sancus (Jersey) Limited (incorporated in Jersey with company number 113391) ("**the Hypothecator**") of Windward House La Route De La Liberation St Helier Jersey JE2 3BQ

RECITALS

- 1 The Owner warrants that by right under hereditary contract of purchase of 30 June 2017 from Freedom Church Jersey Limited it is the owner in perpetuity (*à fin d'héritage*) as to the Site.
- 2 The Hypothecator has an interest in the Site by virtue of a judicial hypothec (*hypothèque judiciaire*) registered in the Public Registry of Jersey on 30 June 2017.
- 3 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Chief Officer is minded to approve the grant of planning permission for the Development subject to the prior completion of this Agreement for a financial contribution to highway infrastructure improvements as a result of Policies GD1, GD8, TT2 and TT5 of the Island Plan 2011.
- 4 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 5 The parties acknowledge that this Agreement is legally binding.
- 6 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:

"Agreement"	this agreement including the recitals and schedules hereto;

"Application"	the application for planning permission in respect of the Site and described as "Convert existing church into 6 No. one bed and 2 No. two bed apartments. Alter vehicular access onto Victoria Street." and given the reference P/2017/1361;
"Chief Officer"	the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the States responsible for planning and building in accordance with Article 1 of the Law;
"Commencement"	the date on which any operation forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out, and "Commence" and "Commenced" shall be construed accordingly;
"Development"	the development of the Site as set out in the Application;
"Highway Infrastructure Contribution"	the sum of twenty five thousand pounds (£25,000) to be paid by the Owners to the Treasurer of the States to be applied by the Minister for Infrastructure towards highway infrastructure improvements at the David Place/Victoria Street junction.
"GST"	goods and services tax or GST under the Goods and Services Tax (Jersey) Law 2007;
"Index"	the all Items Index of Retail Prices for Jersey as issued from time to time 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.
"Island Plan 2011"	The States of Jersey Island Plan, 2011 (as amended from time to time);
"Law"	the Planning and Building (Jersey) Law 2002;
"Plan"	the plan of the Site attached at the First Schedule to this Agreement;
"Planning Permit"	the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	the property once known as Freedom Church, Victoria Street, St Helier, as shown for the purpose of identification edged by a thick red line and hatched black 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 on which this Agreement has been recorded as registered in the Royal Court as evidenced by an Act of the said Court.

5 OWNER'S COVENANTS

The Owner covenants and agrees with the Chief Officer as set out in the Fourth Schedule so 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 CHIEF OFFICER COVENANTS

The Chief Officer covenants with the Owner as set out in the Fourth Schedule.

7. 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.

8 MISCELLANEOUS

- 8.1 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 - Development Control of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control of Planning 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 ordinary post to and addressed to such party at the address referred to above or as otherwise notified for the purpose by notice in writing.
- 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, cancelled, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified (other than by process under Article 10 of the Law) 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 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 Officer's statutory powers under the Law.
- 8.8 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from any third party with respect to the Development or its use any consents permits authorisations rights interests in land or servitudes.
- 8.9 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.
- 8.10 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.
- 8.11 All communications and notices served or made under this Agreement shall be in writing.

9 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.

10 CHANGE IN OWNERSHIP

The Owner agrees with the Chief Officer to give the Chief Officer written notice (as soon as reasonably practical following such change) of any change in ownership of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

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 on which this Agreement is registered in the Public Registry of Contracts 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 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.

14 GOODS AND SERVICES TAX

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

14.2 If at any time GST is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement then to the extent that GST had not previously been charged in respect of that supply the person making the supply shall have the right to issue a GST invoice to the person to whom the supply was made and the GST shall be paid accordingly.

15 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 title to the Site in which case it too will be bound by the obligations as a person deriving title from the Owner

15 JURISDICTION

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

FIRST SCHEDULE

The Plan



Notes
 Signed dimensions only are to be taken from this drawing.
 All dimensions are to be checked on site before any work is put in hand. If a detail does not fit, the contractor must be made in consultation with the architect.
 All dimensions must be read in conjunction with all other sections and drawings, schedules and specifications.
 All drawings are to be read in conjunction with relevant drawings from other consultants. In case of inconsistency the architect's drawings shall prevail.
 This drawing must not be copied or used in part without the prior written permission of origin architecture studio.

Revisions	Description	Date
01	First issue for P+E application	25.09.2017

Project details
 victoria street church
 victoria street
 st helier
 JE2 4TG

Client
 JAJ Properties limited

origin
 architecture studio

100 beach road
 two waters villa
 victoria victoria
 st helier JE2 4LJ

e: origin.archstudio@icloud.com
 t: 0779 7757822
 f: 01534 484054

Drawing title
 site location plan

Scale
 1:2500 at A4

Date
 25.09.2017

Drawn by
 JAJ Properties

Drawing number
 17030-100

Version
 01



digimap licence number J109

site location plan - 1:2500

SECOND SCHEDULE

The Planning Permit

Planning Application Number P/2017/1361

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

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

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

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

This is notification of the decision to GRANT permission to develop land under Article 19 the Planning and Building (Jersey) Law 2002;

In respect of the following development:

Convert existing church into 6 No. one bed and 2 No. two bed apartments. Alter vehicular access onto Victoria Street.

To be carried out at:

Victoria Street Church, St. Helier, JE2 4TG.

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.

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.

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2017/1361

Reason: To ensure that the development is carried out and completed in accordance with the details approved.

Conditions:

1. The recommendations of the ecological enhancement proposals, as set out under para 4.2 of the Initial Ecological Assessment and Preliminary Roost Inspection (report reference: NE/ES/VSC.01) shall be carried out in full and in accordance with the recommendations of the approved report and retained as such, unless otherwise agreed in writing with the Department of the Environment.
2. No part of the development hereby approved shall be occupied until the cycle parking facilities as illustrated on dwg no103 02, 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 retained as such, unless otherwise agreed in writing with the Department of the Environment.
3. No part of the development hereby approved shall be occupied until details for the separation of foul and surface waters up to the property boundary have been submitted to and agreed in writing with the Department of the Environment; are thereafter implemented in full in accordance with the approved details; and, thereafter are retained as such unless otherwise agreed in writing with the Department of the Environment.
4. No part of the development hereby approved shall be occupied until the provisions and arrangements to be made for the storage, sorting, recycling and disposal of refuse are submitted to and agreed in writing with the Department of the Environment; are thereafter completed in accordance with the approved details; and, thereafter are retained as such unless otherwise agreed in writing with the Department of the Environment.
5. Prior to commencement of the development hereby approved, details in respect of the following matters shall be submitted to and approved in writing by the Department of the Environment. These works shall thereafter be carried out in full in accordance with such approved details:
 - i) Large scale (1:10 or 1:20) details of the means of enclosure to the southern road frontage of Victoria Street; and,
 - ii) Large scale (1:10 or 1:20) elevation and vertical cross section of the aluminium replacement windows.

Reasons:

1. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2017/1361

2. In the interests of promoting sustainable patterns of development, in accordance with Polict TT4 of the Adopted Island Plan 2011 (Revised 2014).
3. To ensure that that the completed development is provided with satisfactory infrastructure and to have regard for highway safety, in accordance with Policies LWM2, LWM3 and GD1 of the Adopted Island Plan 2011 (Revised 2014).
4. In accordance with Policy WM1 of the Adopted Island Plan 2011 (Revised 2014).
5. These details are not included in the application and are required to be submitted and agreed by the Department of the Environment to ensure that special regard is paid to the interests of protecting the architectural and historical interest, character and integrity of the building or place, in accordance with Policies HE1 and HE2 of the Adopted Island Plan 2011 (Revised 2014).

FOR YOUR INFORMATION

1. Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware of the possible presence of ASBESTOS within the development site. It is recommended that further advice is sought from a suitably qualified professional prior to the commencement of development so as to reduce the risk to public health.
2. Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should refer to the guidance on The Control of Dust and Emissions from Construction and Demolition, which can be found online at: http://www.london.gov.uk/thelondonplan/guides/bpg/bpg_04.jsp
3. Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should refer to the guidance contained in the document 'Guidelines on Noise Control for Construction Sites' which is available online at <http://www.gov.je/Industry/Construction/Pages/ConstructionSite.aspx> and 'British Standard BS5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites'.

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

The following plans have been approved:
Location Plan

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2017/1361

Proposed Velux Rooflight and External Construction
Proposed Ground Floor Plan, South and East Elevations 103.02
Proposed First and Second Floor Plans, West and North Elevations 104.01
Proposed Refurbishments Works 105.01
Proposed Section 110.01

DECISION DATE:

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

APPROVED

THIRD SCHEDULE

The Owner's Covenants with the Chief Officer

The Owner covenants agrees and undertakes:

COMMENCEMENT

- 1 Not to Commence the Development until the Owner has given to the Chief Officer seven (7) days' notice in writing of its intention so to do.

HIGHWAY INFRASTRUCTURE

- 2 To pay the Highway Infrastructure Contribution to the Treasurer of the States prior to the Commencement of any part of the Development.
- 3 Not to Commence any part of the Development until such time as the Highway Infrastructure Contribution has been paid to the Treasurer of the States.

FOURTH SCHEDULE

Chief Officer's covenants

1. The Chief Officer 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.
2. The Chief Officer 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.

Signed on [REDACTED] (PETER LE GREYLEY)
by

in the presence of [REDACTED] (RICHARD GREIG)
this 20th day of March 2018

Signed on behalf of JAJ Properties Limited [REDACTED]

by

in the presence of [REDACTED]
this 14th day of March 2018

Signed by Sancus (Jersey) Limited
[REDACTED]

in the presence of [REDACTED]

this 15 day of March 2018