

**Modification of a Planning Obligation Agreement under Article 25(12) of
the Planning and Building (Jersey) Law 2002**

relating to the development of Field 621, La Route de Noirmont, St Brelade

Dated: 22ND JULY

2014

The Minister for Planning and Environment (1)

Almondale Limited (2)

Lloyds Bank International Limited (3)

**Law Officers' Department
Morier House,
ST. HELIER
Jersey
JE1 1DD**

1. Parties

DATE 22ND JULY

2014

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("the Minister")
- (2) Almondale Limited (Company Number: 594145), incorporated on 28 April 2004, of the registered address of which is Mill Mall, Suite 6, Wickhams Cay 1, Road Town, P.O, Box 3085, Tortola, British Virgin Islands but whose address for the service of any notices in respect of this Agreement shall be c/o Carey Olsen, 47 The Esplanade, St Helier, Jersey JE1 0BD ("the Owner")
- (3) Lloyds Bank International Limited of PO Box 160, 23-25 New Street, St Helier, JE4 8RG ("the Hypothecator")

2. Interpretation

2. In this Agreement –

- 2.1 The "Original Agreement" means the planning obligation agreement relating to the Site between the parties to this Agreement which was registered in the Public Registry on the 14th January, 2011
- 2.2 "this Agreement" means this modification pursuant to Article 25(12) of the 2002 Law
- 2.3 Any expression defined in the Original Agreement shall have the same meaning for the purposes of this Agreement.

3. Recitals

- 3.1 On the 14th day of January, 2011 the Original Agreement was registered in the Public Registry. The parties to the Original Agreement were as set out in clause 2.2 above.
- 3.2 The Owner has made an application to the Minister to make a revision to the Detailed Permission.
- 3.3 The Minister having regard to the Island Plan 2011 and all other material considerations has agreed that the Original Agreement shall be modified in the manner set out herein.
- 3.4 Pursuant to Article 25(12) of the 2002 Law, the Owner and the Hypothecator are the required parties to this modification (along with the Minister) as they are the person or persons against whom the planning obligations under the Original Agreement that are to be modified herein are enforceable.

4. The modification

- 4.1 The parties to this Agreement have agreed that the Original Agreement should be modified with effect from the date hereof in the way set out in Schedule 1 to this Agreement.
- 4.2 This Agreement is conditional upon being registered in the Public Registry of Contracts as evidenced by an Act of the Royal Court.

5. Public Registry of Contracts.

- 5.1 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.

5.2 The Minister shall as soon as practicable upon registration of this Agreement in the Public Registry of Contracts issue to the Owner the Decision Notice for RP/2014/0004 a draft of which is annexed hereto.

6. **Declaration**

6.1 Save as hereby modified the provisions of the Original Agreement shall remain in full force and effect and the terms of the Original Agreement are deemed to be restated here in full and incorporated in this Agreement to the extent that they have not been modified by it.

Schedule 1
Modification

1. For the purposes of those covenants set out in the Third Schedule of the Original Agreement which remain to be performed and observed as at the date of this Agreement, the Original Agreement shall be modified as follows:

1.1 In Clause 1 (DEFINITIONS) the definition of “**Detailed Permission**” shall be deemed to be modified so as to read “*the Planning Permit and the Reserved Matters Approval as varied and supplemented by the planning permission issued by the Minister in respect of the application under reference RP/2014/0004*”;

1.2 In Clause 1 (DEFINITIONS) between “**the Outline Application**” and “**Plan**” insert:

<i>“Pedestrian Footway Works”</i>	<i>all works necessary to construct a 1.5m footway across the frontage of the Site onto La Route de Noirmont, with a dropped kerb detail at the access, the whole in accordance with the Pedestrian Footway Works Specification.</i>
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<i>“Pedestrian Footway Works Specification”</i>	<i>a specification for the carrying out of the Pedestrian Footway Works.</i>
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1.3 In Clause 1 (DEFINITIONS) between **“the Site”** and **“Visual Corridor”** insert:

“TTS Minister” *The Minister for Transport and
Technical Services*

1.4 In Clause 10 (HYPOTHECATORS CONSENT) insert at the end:

"The Hypothecator agrees to be party to the conveyance to be passed by the Owner and the Public (as defined in paragraph (xix) of the Third Schedule) in respect of the land comprising the Pedestrian Footway Works to release its security over such land."

1.5 After paragraph (xii) of the Third Schedule there shall be added the following obligations:

- xiii. “Not to Commence the Development before the Pedestrian Footway Works Specification has been submitted to the Minister for his approval (in consultation with the TTS Minister) and has been approved by the Minister.*
- xiv. Not to Commence that part of the Development comprising the Pedestrian Footway Works until the Owner has given to the TTS Minister twenty-eight (28) days' notice in writing of its intention so to do*
- xv. To at its own expense carry out or cause to be carried out the Pedestrian Footway Works.*
- xvi. To on completion of the Pedestrian Footway Works provide or procure (via his architect or otherwise) that there is provided to the Minister three sets of as built plans (in such media format as the Minister requires) and other information reasonably required by the Minister plus a further copy of such plans and other information to the TTS Minister (for land survey and tying into the island co-ordinate system).*

- xvii. *Not to Occupy or cause or permit to be Occupied the Dwelling Unit on the Site until the Pedestrian Footway Works have been completed to the reasonable satisfaction of the Minister (in consultation with the TTS Minister).*
- xviii. *To on completion of the Pedestrian Footway Works notify the TTS Minister that the Owner considers that the Pedestrian Footway Works are ready and complete for transfer.*
- xix. *On completion of the Pedestrian Footway Works to cede and transfer such Pedestrian Footway Works to the Public of the Island of Jersey (the "Public") and the Public shall take conveyance of the relevant land comprising the Pedestrian Footway Works free of all charges and encumbrances (subject to the Hypothecator being party) by contract to be passed before the Royal Court the Owner paying its own and the Public's proper and reasonable costs of and incidental to the said transfer (including all and any reasonable legal and professional costs)."*

Signed on behalf of the Minister

by [REDACTED] (PETER L. GREGORY)

in the presence of [REDACTED] (MARION JONES)

this 17th day of July, 2014

Signed on behalf of the Owner

by [REDACTED] DAVID SHEPPARD

in the presence of [REDACTED] CHRISTA GILBERT

this 2nd day of July, 2014

Signed on behalf of the Hypothecator

by . [REDACTED] James Lawrence

in the presence of . [REDACTED] Nina Henderson

this 10th day of July, 2014.

Planning Decision Notice Revision to Original Permission

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 and Environment, having considered your application hereby GRANTS PERMISSION TO DEVELOP LAND¹ Article 19 of the Planning and Building (Jersey) Law 2002, to:

Construct 1 No. dwelling. REVISED PLANS: Various alterations. (MODEL AVAILABLE)

To be carried out at:

Field No. 621, La Route de Noirmont, St. Brelade.

PLEASE NOTED: 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 as 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 NE7 of the Adopted Island Plan, 2011 in which there is a general presumption against all forms of development. In this case, the principle of constructing a new dwelling in Field 621 proposed is regarded as acceptable as the principle of development was upheld through the Outline Permission - PP/2009/1198 and Revised Matters Permission - RM/2010/0915.

In addition, the representations raised to the scheme on the grounds of the

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Planning Permit Revision/Amendment to Original Permission

PLANNING AND BUILDING (JERSEY) LAW 2002

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scale of the development and the potential loss of privacy to neighbouring residents that will occur have been assessed. However, it is considered that the proposals which reduce the floor area of the scheme and are virtually the same as the overall scale and design as that approved under Planning Application RM/2010/0915 accords with the terms of Policies GD1; GD7; NE7; NE4; SP7 & LWM2 of the Adopted Island Plan, 2011 in that it does not have an unreasonable impact on the Green Zone or surrounding residential amenities.

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 original decision date 14th January 2011 (RM/2010/0915) this permission shall cease to be valid.

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

Condition(s)

1. The development hereby approved shall be carried out entirely in accordance with the plans and documents permitted under this permit. No variations shall be made without the prior written approval of the Minister for Planning and Environment.
2. The architect appointed in the development of the scheme hereby approved shall be retained throughout the construction phase of the development. Prior to the occupation of the dwelling, the architect must give written confirmation to the Minister that he or she is satisfied that the building has been completed in accordance with the approved plans and that the quality of materials and workmanship is of the highest possible order.

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3. A Landscape Architect, to be approved in writing by the Minister, shall prepare a landscape scheme for approval and shall, thereafter, be retained throughout the landscape (both hard and soft) phase of the development. The landscape architect must give written confirmation to the Minister that he or she is satisfied that the landscaping has been completed in accordance with those approved plans and thereafter retained and maintained as such and that the quality of materials, planting and workmanship is of the highest possible order.
4. The existing hedges or hedgerows on the northern and southern boundaries of the site shall permanently be retained and shall be protected from damage for the duration of works on the site by the erection of protective fencing. Any parts of the hedges or hedgerows removed without consent or which die or become seriously diseased or otherwise damaged within five years following completion of the approved development, shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing by the Minister for Planning and Environment.
5. The first floor bedroom window on the south elevation & first floor windows to the bathroom and bedroom of the north elevation shall be fitted with obscure glazing prior to first occupation of the dwelling and thereafter permanently retained and maintained.
6. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2008, or any amendment to or replacement of that order, no works involving the erection of a building, extension, structure, gate, wall, fence or other means of enclosure, tank, or the introduction of any hardstanding to any ground surface, other than those shown on the drawings approved with this permission, is permitted without the prior approval of the Minister for Planning and Environment.

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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 for Policy GD1 of the Adopted Island Plan, 2011.
2. To ensure that the development is undertaken and delivered as shown to the high standard required by the criteria of Policies NE7, GD1, GD7 & SP 7 of the Adopted Island Plan, 2011.
3. To ensure that the landscaping scheme is undertaken to the high standard expected for this Green Zone site in accordance with the requirements of Policies NE4 & NE7 of the Adopted Island Plan, 2011.
4. The retention of the existing hedges assists the building sit within the landscape and minimises any impact on adjoining properties amenities to accord with Policies NE4, NE7 and GD1 of the Adopted Island Plan, 2011.
5. To prevent overlooking and loss of privacy of the occupiers of the adjoining property, in accordance with Policy GD 1 of the Adopted Island Plan, 2011.
6. Permission has been granted on the basis of the specific size and design of the approved building on this sensitive site. The Minister wishes to retain control over any further development in the interests of retaining the quality of the development and respecting the amenities of the area and adjacent properties in accordance with Policy GD1 of the Adopted Island Plan, 2011.

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

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FOR YOUR INFORMATION:

The following plan(s) has/have been approved:

Design Statement 4946/16
Location Plan 4946/01
Existing Site Plan PHT 624 01A / A027 01
Proposed Site Plan 4946/10
Proposed Ground Floor Plan 4946/11
Proposed First Floor Plan 4946/12
Proposed Typical Section 4946/13
Proposed Elevations 01 4946/14
Proposed Elevations 02 4946/15

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