

# *In the Royal Court of Jersey*

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Samedi Division

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**In the year two thousand and twenty-four, the eighth day of July.**

Before the Judicial Greffier.

Upon the application of His Majesty's Attorney General, IT IS ORDERED that the Planning Obligation Agreement between The Chief Officer for the Environment, Ambrate Holdings Limited and Manuel Afonso de Souza Luiz in relation to 4-10 Cheapside & Byron Cottage, 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 (as amended)**

relating to the development of 4-10 Cheapside and Byron Cottage, Cheapside, St.Helier,  
Jersey, JE2 3PG

Dated:

5th July

2024

The Chief Officer for the Environment (1)

Ambrate Holdings Limited (2)

Manuel Afonso de Souza Luiz (3))

DATE

5 JULY

2024

PARTIES

- (1)The Chief Officer for the Environment of PO Box 228 , St Helier, Jersey JE4 9SS ("**the Chief Officer**");
- (2)Ambrate Holdings Limited whose registered office is 1-7 Cheapside, St. Helier, Jersey, JE2 3PG ("**Ambrate**")
- (3)Manuel Afonso de Souza Luiz of 4 Cheapside, St. Helier, Jersey, JE2 3PG ("**Mr Luiz**")

RECITALS

- 1The Owner warrants that they are collectively the owner in perpetuity (*à fin d'héritage*) as to the Site.
- 2An application (accorded the reference P/2023/0919) for planning permission for the Development has been submitted to the Chief Officer.
- 3Having regard to the purposes of the Law, the Island Plan 2022 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.
- 4The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
- 5Ambrate and Mr Luiz intend to sell the Site following the completion of this Agreement and the grant of the Planning Permit.
- 6The parties acknowledge that this Agreement is legally binding.
- 7This 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;

<b>"Application"</b>		the application for remodelling and refurbishing existing restaurant and commercial units. Alterations and extensions to North and East elevations to convert 6 no. residential units into 6 no.one-bed, 4 no. two-bed and 1 no. four-bed apartents with associated communal area and given the reference P/2023/0919;
<b>"Chief Officer"</b>		the person appointed from time to time as the chief executive officer (or equivalent) of the administration of the States of Jersey responsible for planning and building in accordance with Article 1 of the Law;
<b>"Commencement"</b>		the date on on which any material operation (as defined in Article 5(7) of the Law) 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;
<b>"Development"</b>		the development of the Site as set out in the Application;
<b>"GST"</b>		goods and services tax or GST under the Goods and Services Tax (Jersey) Law 2007;
<b>"Index"</b>		the all items Retail Prices Index for Jersey as issued from time to time by the Statistics Unit to the States of Jersey;
<b>"Island Plan 2022"</b>		the States of Jersey Island Plan, 2022 (as adopted on 25 <sup>th</sup> March 2022 and as may be amended from time to time);
<b>"Index-Linked"</b>		where any sum or contribution is expressed to be "Index-Linked" then that sum or contribution shall be adjusted in accordance

		with the provisions of clause 10 prior to payment;
<b>"Interest"</b>		interest at three per cent (3%) above the base lending rate of the HSBC Bank Plc from time to time;
<b>"Law"</b>		the Planning and Building (Jersey) Law 2002;
<b>"Owner"</b>		Ambrate and Mr. Luiz
<b>"Plan"</b>		the plan of the Site annexed to this Agreement as part of the First Schedule;
<b>"Planning Permit"</b>		the planning permission for the Development, a copy of which is attached at the Second Schedule, and references to the Planning Permit include where the context permits any variations and amendments to the said planning permission from time to time;
<b>"Public Realm Improvement Contribution"</b>		a financial contribution of Thirty one thousand Seven Hundred and Fifty Pounds (£31,750) towards the public realm improvements for resurfacing of Elizabeth Lane, a footpath and Percentage for Art;
<b>"Royal Court"</b>		the Royal Court of the Island of Jersey;
<b>"Site"</b>		4-10 Cheapside and Byron Cottage, Cheapside, St.Helier, Jersey, JE2 3PG as shown hatched black on the Plan and described in the First Schedule upon which the Development is to be carried out;

## **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 is conditional and shall come into effect upon the grant of the Planning Permit.

## **5 OWNER'S COVENANTS**

The Owner covenants and agrees with the Chief Officer as set out in the Third 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 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 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 Head of Development and Land and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Head of Development and Land, PO Box 228, St Helier, Jersey JE4 9SS or as otherwise notified for the purpose by notice in writing.
- 7.2 Any notices to be served on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to such party at the addresses referred to above or as otherwise notified for the purpose by notice in writing.
- 7.3 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.
- 7.4 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 of Article 10 of the Law) by any statutory procedure or expires prior to Commencement.
- 7.5 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.
- 7.6 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.
- 7.7 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 Officers' statutory powers under the Law.
- 7.8 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from the Public of the Island of Jersey (in its public capacity) or any third party with respect to the Development or its use any consents permits authorisations rights interests in land or servitudes.
- 7.9 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.

7.10 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.

7.11 Should there be (i) a cession générale or (ii) an adjudication of renunciation or (iii) an application for a declaration under the law relating to désastre whilst the Owner is either Ambrate or Mr Luiz (as the case may be) the Owner will be deemed to have surrendered and relinquished without claiming any compensation all rights conferred by the Planning Permit and the Planning Permit shall be deemed to be revoked. This Clause 7.11 shall cease to apply when both Ambrate and Mr Luiz dispose of their ownership in the Site.

7.12 All communications and notices served or made under this Agreement shall be in writing.

## **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 written notice (as soon as reasonably practical following such change) of any change in ownership of any of their interest in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan.

## **10 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.

## **11 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.

## **12 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 (7) 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.

## **13 GOODS AND SERVICES TAX**

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

- 13.2 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.

#### **14 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**

Certain properties known as 4-10 Cheapside and Byron Cottage, Cheapside, St. Helier to which the Owner is entitled as follows:

Mr Luiz to 4 Cheapside by contract of purchase sated 24<sup>th</sup> August 2007 from Brian Miller;

Ambrate to the Old England Inn by contract of purchase dated 22<sup>nd</sup> November 2019 from Citann Limited;

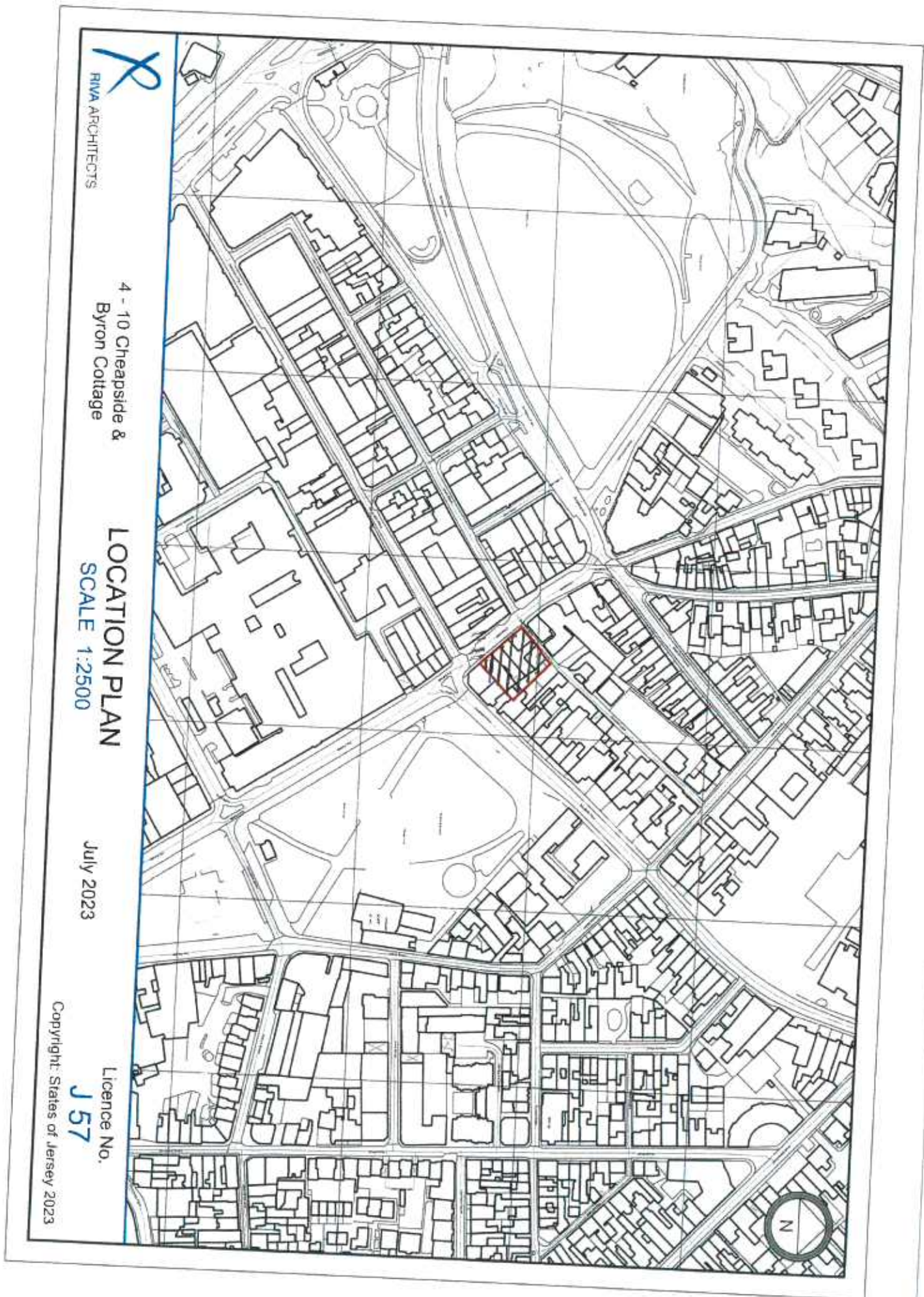
Ambrate to 6 Cheapside by contract of purchase dated 3<sup>rd</sup> May 2019 from Christian John Langlois and Christine Louise Langlois;

Ambrate to 8 Cheapside by contract of purchase dated 4<sup>th</sup> May 2012 from Diane Moore;

Mr Luiz to Byron Cottage by contract of purchase dated 11th June 2021 from Ricci Michael Gilson;

The whole situate in the Parish of St Helier, Vingtaine of Rouge Bouillon.

The Site is shown for the purposes of identification on the Plan.



## SECOND SCHEDULE

### **The Planning Permit**

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

**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 ensures (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 of the Planning and Building (Jersey) Law 2002;

### **In respect of the following development:**

Remodel and refurbish existing restaurant and commercial units. Alterations and extensions to North and East elevations to convert 6no. residential units into 6no. one-bed, 4no. two-bed and 1no. four-bed apartments with associated communal area.

### **To be carried out at:**

4-10 Cheapside & Byron Cottage, Cheapside, St. Helier, JE2 3PG.

**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.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that the site has the potential to support wildlife that is protected under the Wildlife (Jersey) Law 2021. It is an offence under this Law to cause harm to certain protected species or to remove, damage or destroy their nest, den, breeding or resting site. It is the responsibility of the applicant to inform all site workers of the legal implications should any protected species, dens or nests be found.

The application relates to a building which will require compliance with the Licensing (Jersey) Law 1974. The applicant is advised to forward copies of all plans to this department once approved by the Planning Department showing all active and passive fire safety measures and

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

**access and facilities for firefighting personnel, in accordance with the Building Bye-Laws(Jersey) 2007 Technical Guidance Document Part 2.**

This permission is granted subject to compliance with the following conditions and approved plan(s):

- 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.

### Condition(s):

1. 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 Chief Officer. The approved materials shall be implemented in full, and thereafter retained as such.
2. No part of the development hereby permitted shall be begun until details in respect of the following matters have been submitted to and approved in writing by the Chief Officer. These works shall thereafter be carried out in full in accordance with such approved details and thereafter retained as such:
  - A. Full joinery details for new windows, doors and dormers (particularly but not limited to the Listed buildings);
  - B. A full schedule of external materials appropriate to the heritage context.
  - C. Confirmation of the depth of groundbreaking works with confirmation from an archaeologist to there are no likely archaeological impacts.
3. Prior to the commencement of development, details shall be submitted to, and agreed in writing by, the Chief Officer of Regulation, which demonstrate that the new development hereby approved will exceed Building Byelaw requirements, in terms of energy efficient homes, by 20%. Thereafter, the agreed details shall be implemented in full, and retained as such.
4. No part of the development hereby approved shall be occupied until the bicycle parking spaces have been fully provided (complete with electric vehicle charging facilities), as indicated on the approved plans. Thereafter, the agreed details shall be implemented in full, and retained as such.

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

5. No part of the development hereby approved shall be occupied until the roof terraces in the north elevation at first floor level, serving units 6,7 and 11 are fitted with an obscure privacy screen along the length of the northern, western and eastern side, to a height of 1800mm from finished floor level. Once constructed, the screen shall be retained as such thereafter.

6. Prior to the first use of any residential dwelling hereby approved, the Percentage for Art contribution shall be delivered on site, in accordance with the planning obligation agreement dated (xx.xx.2024), pursuant to Article 25 of the Planning and Building (Jersey) Law, 2002 (as amended).

7. The mitigation measures outlined in the approved Bat Survey Results report (ref.NE/ES/CS.01 October 2023, Nurture Ecology) shall be implemented prior to commencement of the development and continued throughout; and the compensation and enhancement measures given in the Initial Ecological Assessment report (IEA 1251, 20th June 2023, Sangan Island Conservation) shall be fully implemented as specified. Sign-off by the consultant ecologist must be completed and submitted for approval by Land Resource Management in order for the relevant planning condition to be fully discharged upon completion of the development. Any variations to the approved mitigation, compensation and enhancement measures required as a result of findings on site are to be agreed in writing by the land Resource Management Team prior to works being undertaken.

8. Prior to commencement of the development hereby approved, a Demolition/Construction Environmental Management Plan shall be submitted to and approved by the department of the Environment. The Demolition/Construction Environmental Management Plan shall be thereafter implemented in full until the completion of the development and any variations agreed in writing by the Chief Officer prior to such work commencing. The plan shall secure proposal on the environment, and shall include but not be limited to:

- A.Demonstration of compliance with best practice in controlling, monitoring, recording, and reporting on any emissions to the environment (such as noise and vibration, air, land and water pollution);
- B.Details of a published complains procedure, including office hours and out of hours contact numbers;
- C.Details of any proposed crushing/sorting of waste material on site;
- D.Specified hours of working.

9. No mechanical plant or equipment shall be installed as part of the development, until an approved scheme, is submitted to and approved in writing by the Chief Officer of the Environment. These works shall thereafter be carried out in full in accordance with such approved details and thereafter retained as such.

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

10. Prior to the commencement of the development hereby approved, details of all means of externally mounted illumination, including design and external appearance of structures housing/mounting the means of illumination, and type and strength of illumination, shall be submitted to and approved in writing by the Chief Officer. The external illumination of the development shall only be carried out in accordance with such details as may be approved, and thereafter be retained as such.

11. No part of the development hereby approved shall be occupied until the approved drainage works, showing the new surface water connections with no surface water entering public highway is completed in accordance with the approved plans and thereafter be retained as such.

12. No part of the development hereby approved shall be occupied until all hard and soft landscape works, as indicated on the approved plans, have been carried out in full. Following completion, the landscaping areas shall, thereafter, be maintained as such.

### **Reason(s):**

1. To promote good design and to protect the character and identity of the area, in accordance with Policies GD6 and HE1 of the adopted 2022 Bridging Island Plan 2022.

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 Chief Officer. The approved materials shall be implemented in full, and thereafter retained as such.

2. 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 SP 4, HE1 and HE5 of the adopted Bridging Island Plan 2022.

3. To accord with Policy ME1 of the adopted Bridging Island Plan 2022.

4. To ensure the provision of adequate bicycle parking facilities (in the absence of any vehicle parking), in accordance with Policy TT2 of the adopted 2022 Bridging Island Plan 2022.

5. To safeguard the amenities and privacy of the occupants of nearby properties in accordance with policy GD1 of the adopted Bridging Island Plan 2022.

6. To ensure compliance with policy GD10 of the Adopted Bridging Island Plan 2022.

7. To ensure the protection and improvement of biodiversity in accordance with Policies NE1, and NE3 of the adopted Bridging Island Plan 2022.

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

8. To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with policies GD1, TT1 and ME3 of the adopted Bridging Island Plan 2022.

9. To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with policies GD1 of the adopted Bridging Island Plan 2022.

10. In the interests of visual and residential amenity, and to comply with policy GD1, GD6 and HE1 of the adopted Bridging Island Plan 2022.

11. To ensure that the completed development is provided with satisfactory infrastructure in accordance with policies WER6 and WER7 of the adopted Bridging Island Plan 2022.

12. 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 SP3, SP4 and GD6 of the adopted Bridging Island Plan 2022.

### FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at [www.gov.je/planning](http://www.gov.je/planning)

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

- 1.Location Plan
- 2.Proposed Site Plan - 111A
- 3.Proposed Basement Floor Plan - 128A
- 4.Proposed Ground Floor Plan - 112A
- 5.Proposed First Floor Plan - 113B
- 6.Proposed Second Floor Plan - 114A
- 7.Proposed Roof Plan - 115A
- 8.Proposed Elevations AA&BB - 117A
- 9.Proposed North, South and West Elevations - 116A
- 10.Proposed Sections CC &DD - 118A
- 11.Proposed Sections EE &FF - 119A
- 12.Initial Ecological Assessment Report - 20/06/2023
- 13.Bat Survey Report - October 2023
- 14.Drainage Plan (Foul and Surface Water)

DECISION DATE: xx.xx.xxxx

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2023/0919

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](http://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](http://www.gov.je/planning)

APPROVED

### THIRD SCHEDULE

#### The Owner's Covenants with the Chief Officer

The Owner in regard to the Site covenants, agrees and undertakes:

##### COMMENCEMENT

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

##### CONTRIBUTION

- 2 To pay to the Treasurer of the States the Public Realm Improvement Contribution not more than twenty-eight (28) days prior to the Commencement of the Development.
- 3 Not to Commence the Development until the Public Realm Improvement Contribution has been paid to the Treasurer of the States.

#### FOURTH SCHEDULE

##### **Chief Officer's Covenants**

###### **Repayment of contributions**

- 1 The Chief Officer hereby covenants with the Owner to use or procure the use of all sums received by the Treasurer of the States from 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 they 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 five (5) years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of the Chief Officer

by

ANDREW MARK

in the presence of

this 5 day of July 2024

Signed on behalf of Ambrate Holdings Limited

by

in the presence of

this 24th day of June 2024

Signed by Manuel Afonso de Souza Luiz

in the presence of

this 24th day of June 2024