

# *In the Royal Court of Jersey*

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**Samedi Division**

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**In the year two thousand and twenty-three, the twenty-ninth day of March.**

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, Pied Carrés Limited and Notus Enterprises Limited in relation to 5-7 Val Plaisant, 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 5-7 Val Plaisant, St Helier, Jersey JE2 4TB.

Dated 24 March 2023

The Chief Officer for the Environment (1)

Pieds Carrés Limited (2)

Notus Enterprises Limited (3)

DATE 24 March 2023

## PARTIES

1. The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS;
2. Pieds Carrés Limited (Reg No 85342) whose registered office is situate at La Vielle Fontaine, La Profonde Rue, St. Ouen, St. Ouen, JE3 2EG, Jersey ("the Owner"); and
3. Notus Enterprises Limited ("the Lender").

## RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site to which it has right by virtue of contract of purchase dated 27 June 2003 from The Royal Bank of Scotland International Limited.
- 2 The Lender has an interest in the Site by virtue of a judicial hypothec (*hypothèque judiciaire*) which was registered in the Public Registry by virtue of the Act of the Royal Court of Jersey dated 22 July 2022.
- 3 The Owner submitted the Application for planning permission for the Development.
- 4 Having regard to the purposes of the Law, the Island Plan 2011 and all other material considerations the Chief Officer on 24 March 2022 resolved to approve the grant of planning permission for the Development subject to the prior completion of this Agreement.
- 5 On 25 March 2022 the elected members of the States of Jersey approved, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, as amended by the Covid-19 (Island Plan) (Jersey) Regulations 2021, the Island Plan 2022-25, the draft for which had been lodged *au greffe* on 19 April 2021.
- 6 The Chief Officer is satisfied that in all of the circumstances, and subject to the prior completion of this Agreement, that a Planning Permit can be issued.
- 7 The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 8 The parties acknowledge that this Agreement is legally binding.
- 9 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:

<b>"Agreement"</b>	this agreement including the recitals and schedules hereto;
<b>"Application"</b>	the application for planning permission in respect of the Site and described as "Demolish existing 2 storey extension to West elevation. Construct 1 no. 2 bed residential unit with roof terrace to North East of site. Construct terraces and ground floor extensions to existing 3no. residential units. Construct balconies to first and second floor West elevation. Install fence to South and West elevations. Convert existing 26 no. unit lodging house into 10 no. 1-bed apartments to East of site. Install electrical charging points and bike racks with canopy to central courtyard. Various internal alterations. AMENDED PLANS RECEIVED" and given the reference P/2021/1981;
<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 which any constructions works forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out to exclude, for the avoidance of doubt, any investigation of the Site, any clearance of the Site, removal of any asbestos from the Site and any demolition on the Site and <b>"Commence"</b> and <b>"Commenced"</b> shall be construed

	accordingly;
<b>"Development"</b>	the development of the Site as set out in the Planning Permit;
<b>"Dwelling Unit"</b>	a residential unit of accommodation to be constructed upon the Site as part of the Development and <b>"Dwelling Units"</b> shall be construed accordingly;
<b>"GST"</b>	goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
<b>"Index"</b>	the all Items index of retail prices for Jersey as issued from time to time by the Statistics Unit to the States of Jersey;
<b>"Interest"</b>	interest at three per cent above the base lending rate of Barclays Bank Plc from time to time;
<b>"Island Plan 2011"</b>	the States of Jersey Island Plan, 2011 (as amended from time to time);
<b>"Island Plan 2022-2025"</b>	the States of Jersey Bridging Island Plan, 2022-2025 (as amended from time to time);
<b>"Law"</b>	the Planning and Building (Jersey) Law 2002;
<b>"Occupation", "Occupy" and "Occupied"</b>	means occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;

<b>"Planning Permit"</b>	the decision notice providing 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;
<b>"Royal Court"</b>	the Royal Court of the Island of Jersey; and
<b>"Site"</b>	the site comprising the property known as 5-7, Val Plaisant, St. Helier, JE2 4TA, the whole as shown for the purposes of identification on the plan forming the First Schedule; and
<b>"Treasurer of the States"</b>	the person appointed from time to time as the Minister for Treasury and Resources of the States of Jersey.

## 2 CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed 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 Unless otherwise specified, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or

statutory provision and all orders, notices, codes of practice and guidance made under it.

- 2.7 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.
- 2.8 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 upon:

- (i) the grant of the Planning Permit; and
- (ii) the Commencement of Development,

save for any relevant provision which 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 Royal Court.

### **5 OWNER'S COVENANT**

The Owner covenants and agrees with the Chief Officer as set out in the Third Schedule. This Agreement shall be enforceable against any successor in title to 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 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.



- 8.2 Any notices served 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 this 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.
- 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 in this Agreement 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 in this Agreement.
- 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 in this Agreement.
- 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 but this obligation shall not extend to the disposal of any individual Dwelling Units to a purchaser for his own, his family or his tenant's Occupation.

## **11 INDEXATION**

Any sum referred to in the Third Schedule shall be increased by an amount equivalent to the increase in the Index from (a) the date on which the Planning Permit becomes capable of implementation following the elapse of the statutory period for the making of a third party appeal without any such appeal having been made or, if applicable, the final determination of any third party appeal until (b) 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 LENDER'S CONSENT**

The Lender 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 Lender over the Site shall take effect subject to this Agreement **PROVIDED THAT** the Lender 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 person deriving title from the Owner.

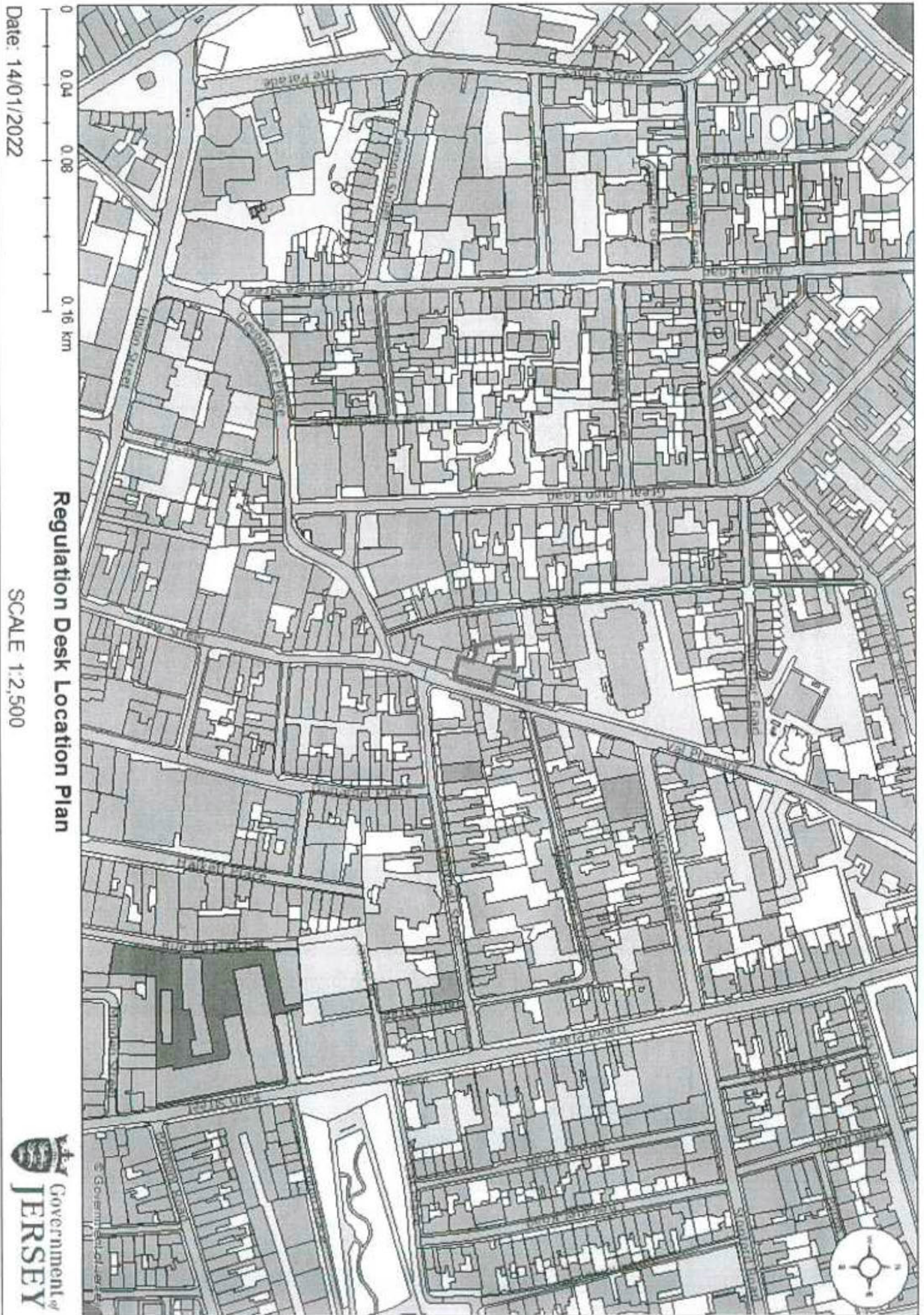
**16 JURISDICTION**

This Agreement and any dispute or claim arising out of or in connection with its subject matter or formation is governed by and interpreted in accordance with the law of the Island of Jersey and the parties irrevocably submit to the exclusive jurisdiction of the courts of the Island of Jersey.

## FIRST SCHEDULE

### The Site





SECOND SCHEDULE

**The Planning Permit**



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1981

In accordance with Article 19(8) of the Planning and Building (Jersey) Law 2002, if 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 of the Planning and Building (Jersey) Law 2002;

### In respect of the following development:

Demolish existing 2 storey extension to West elevation. Construct 1 no. 2 bed residential unit with roof terrace to North East of site. Construct terraces and ground floor extensions to existing 3no. residential units. Construct balconies to first and second floor West elevation. Install fence to South and West elevations. Convert existing 26 no. unit lodging house into 10 no. 1-bed apartments to East of site. Install electrical charging points and bike racks with canopy to central courtyard. Various internal alterations. AMENDED PLANS RECEIVED.

### To be carried out at:

5-7, Val Plaisant, St. Helier, JE2 4TA.

**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 representation received.

Notably, the proposed balconies have been specifically considered in relation to the loss of privacy and character of the area. Based on submissions and consultation responses it is considered that the proposal will not result in unreasonable harm to the amenities of the neighbouring properties nor harm to the character to the area.

This application is the subject of a POA.

APPROVED

# Decision Notice

## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1981

**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.

### Additional Conditions:

1. No part of the development hereby permitted shall be begun until an Initial Ecological Assessment of the site and if required, appropriate mitigation measures, have been submitted to and approved in writing by the Department of the Environment. All findings and required mitigation measures outlined in the Initial Ecological Assessment shall be implemented prior to the commencement of development, continued throughout the phases of development 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.
2. No part of the development hereby approved shall be occupied until the obscure glazed privacy screens as shown on approved drawings have been fitted to a height of 1800mm from finished floor level. Once constructed, the screen shall be maintained as such thereafter.

### 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).
2. To safeguard the amenities and privacy of the occupants of the adjoining properties in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).

### Informative:

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should follow the provisions of the Drainage (Jersey) Law 2005. Further advice can be obtained from Transport and Technical Services – Maintenance Works on +44 (0) 1534 445509.

APPROVED



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1981

### 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 plans have been approved:

Location plan

Proposed Section AA 1027\_L\_54

Proposed Section BB 1027\_L\_55

Proposed Section CC 1027\_L\_56

Second floor - GA - as proposed 1027\_L\_20

Third floor - GA - as proposed -1027\_L\_30

South Elevation - as proposed -1027\_L\_52

West Elevation - as proposed -1027\_L\_51

East Elevation - as proposed -1027\_L\_50

North Elevation - as proposed - 1027\_L\_53

First floor - GA - as proposed 1027\_L\_10

Ground Floor-GA-as proposed 1027\_L\_01A

### DECISION DATE:

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 Covenant 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.

#### CONDITIONS

- 2 To pay a financial contribution of £5,000 to the Treasurer of the States towards the provision of a new bus shelter within the vicinity of the Site prior to the Commencement of any part of the Development and not to Commence the Development until such time as the aforementioned contribution has been paid.
- 3 Provision of £250 voucher to Evie electric car / bicycle club (or similar 'car club' organisation), together with appropriate education, to be provided to the first occupant(s) of each new Dwelling Unit. The amount is per Dwelling Unit.

#### FOURTH SCHEDULE

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

1. The Chief Officer covenants with the Owner to, at the written request of the Owner from time to time, provide written confirmation of the discharge of the obligations contained in this Agreement (or any of them) when and to the extent that the Chief Officer is satisfied that such obligations have been performed.

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

2. 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.
3. 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 five years of the date of receipt by the Treasurer of the States of such payment.

Signed on behalf of the Chief Officer

by

K WHITEHEAD

in the presence of

LAWRENCE DAVIES

this 24 day of March 2023

Signed on behalf of the Owner

by

in the presence of

SShu

this 8th day of March 2023

Signed on behalf of Notus Enterprises Limited

by

S BOND

in the presence of

MDINEEN

this 16th day of February 2023