

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

relating to the development of Jersey Monumental, 80/82, New Street, St Helier, Jersey.

Dated

16 May

2022

The Chief Officer for the Environment (1)

Cotton End Properties Limited
Karnak Limited

OWNERS(2)

Albion Lending Limited AND
Structura Lending Limited

LENDERS (3)

DATE

16 May

2022

PARTIES

1. The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**");
2. Cotton End Properties Limited and Karrnak Limited ("**the Owners**"); and
3. Albion Lending Limited AND Structura Lending Limited ("**the Lenders**").

RECITALS

- 1 The Owners warrant that there are the Owners in perpetuity (*à fin d'héritage*) of the Site by virtue of contracts of purchase being (1) Cotton End Properties Limited by contract of purchase dated 16th August 2019 from Mark Edward Charles Reynolds and others and (2) Karrnak Limited by contract by contract of purchase dated 16th August 2019 from Mark Edward Charles Reynolds and others.
- 2 The Lenders have an interest in the Site by virtue of judicial hypothecs (*hypothèques judiciaires*) by virtue of the Acts of the Royal Court of Jersey dated (1) 20th November 2020 in favour of Albion Lending Limited and (2) 20th November 2020 in favour of Structura Lending Limited.
- 3 The Owners submitted the Application (accorded the reference P/2021/1700) 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 17 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 decision notice 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:

"Agreement"	this agreement including the recitals and schedules hereto;
"Application"	the application for planning permission in respect of the Site and described as "Jersey Monumental, 80/82 New Street, St Helier, Jersey" and given the reference P/2021/1700 ;
"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 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 "Commence" and "Commenced" shall be construed accordingly;
"Development"	the development of the Site as set out in the Planning Application;
"Force Majeure"	Means fire, flood or other exceptionally

	adverse weather conditions, malicious damage, terrorist action, a state of emergency declared by the Lieutenant-Governor, or other unforeseen exceptional event, cause or circumstance, outside the reasonable contract of the Developer, its contractors or agents, and which adversely affects its ability to perform any obligation relating to any works provided for in this Agreement PROVIDED THAT the same could not reasonably have been avoided or provided against by the Developer its contractors or agents, is not due to the negligence or default of the relevant party and is mitigated against to reduce any delay so far as reasonably practicable;
"GST"	goods and services tax 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 Barclays Bank Plc from time to time;
"Island Plan 2011"	the States of Jersey Island Plan, 2011 (as amended from time to time);
" Island Plan 2022"	the States of Jersey Island Plan, 2011 (as amended from time to time);
"Law"	the Planning and Building (Jersey) Law 2002;
"Occupation", "Occupy" and "Occupied"	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;
"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 site comprising the property known as "Jersey Monumental", 80/82, New Street, St Helier, Jersey, the whole as shown for the purposes of identification on the plan forming the First Schedule;

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 Owners under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Chief Officer against the Owners.

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 said Court.

5 OWNERS COVENANT

The Owners covenant and agree with the Chief Officer as set out in the Third Schedule. This Agreement shall be enforceable against any successor in title to the Owners and any person claiming or deriving title through or under the Owners to the Site (or any part or parts thereof).

6 CHIEF OFFICER COVENANTS

The Chief Officer jointly and severally covenants with the Owners 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 Owners 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 Owners 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 Owners) 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 Owners 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 Owners 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 Owners as contained in this Agreement.

8.10 The Owners 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 Owners agree 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 LENDERS' CONSENT

The Lenders acknowledge and declare that this Agreement has been entered into by the Owners with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the Lenders over the Site shall take effect subject to this Agreement PROVIDED THAT the Lenders 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 Owners.

16 FORCE MAJEURE

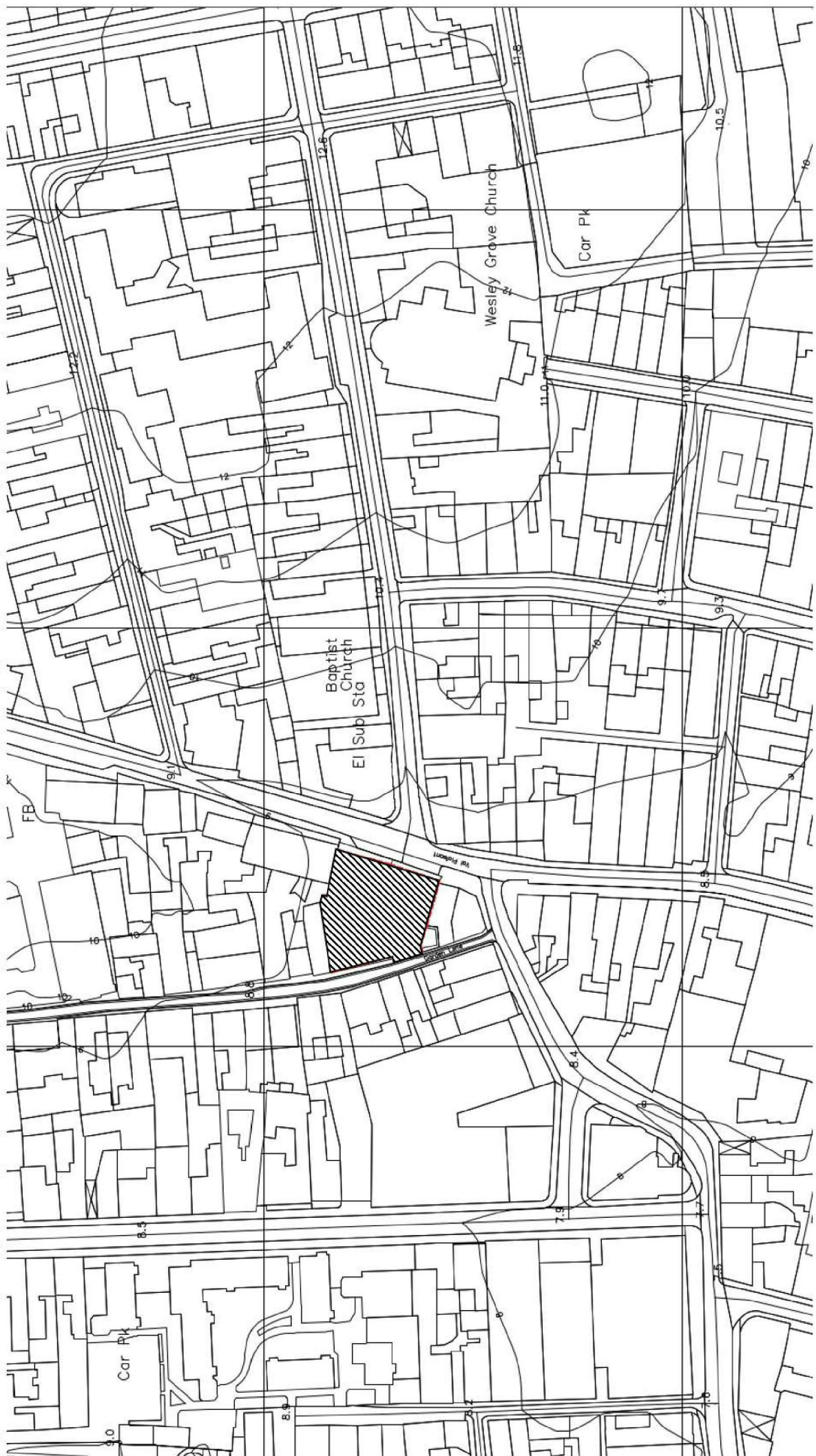
Notwithstanding any other provision of this Agreement, a party shall not be liable for any failure or delay in performing any of its obligations under or pursuant to this Agreement, and any such failure or delay in performing its obligations will not constitute a breach of this Agreement, if such failure or delay is due to Force Majeure.

17 JURISDICTION

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

FIRST SCHEDULE

The Site





Row	Description	Dwn	Ckd	Date
P1	Planning Application	k	TB	30/11/2020
P2	Planning Application II	k	MB	23/09/2021

[illegible]

Legend:



Client:	Cotton End Properties Limited
Project:	Garden Lane JMCo Building redevelopment St. Helier
Drawing Title:	Proposed Ground & First Floor Plans

AXIS MASON	Sovereign House, Valley Street 10 Valley Avenue, B2 4BB 018470 137 8000 AXISM@AXISM.COM					
LONDON GLASGOW JERSEY GENEVA DUBAI						
Scale @ A1:	1:100	Date:	DECEMBER 2020			
Project	TB	Issue	PLANNING			
Co-ordinator		Status:				
Judo No.	3576	Drawing No.	100	Revision:		P2

SECOND SCHEDULE

The Planning Permit

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1700

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

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

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

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

In respect of the following development:

Demolish warehouse to West elevation (Garden Lane). Change of use of ground floor from office and retail/ showroom (New Street and Val Plaisant), construct extension to West elevation and restore existing apartments on New Street to create 3 no. one bed and 9 no. two bed residential units with associated parking. Create vehicular access onto Garden Lane. 3D Model available.

To be carried out at:

Jersey Monumental Co site & No 1 Val Plaisant, 80 - 82, New Street, St Helier, JE2 3TE

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.

The approved scheme is for the redevelopment of the site, leading to the creation of 12 additional units of accommodation.

With reference to Policy E 1 of the Island Plan, the re-use of this existing employment site for residential purposes is considered to be acceptable, taking into account the size, location, and condition of the existing building, as well as its established use, and the general surrounding context.

It is considered that the proposed development has been well-designed, with a scale, form, and use of materials which is appropriate for the area.

APPROVED

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1700

The impact on neighbouring amenity would not be unreasonable.

The limited parking provision is acceptable in view of the central, sustainable location of the site; moreover, the applicants have agreed to make a series of contributions towards sustainable transport infrastructure in the local area.

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. In accordance with section 9 (Species Protection Plan) of the approved Preliminary Roost Inspection (NE/ES/VP.01, 02/12/2019, Nurture Ecology), the applicant must ensure that all contractors working on the site are aware of the possible presence of protected species at the site. If any such species (or their nests or dens) are found, works in the immediate area should cease, and advice from a competent ecologist should be sought before proceeding.
2. The car parking spaces shall be retained solely for the use of occupants of the development. They shall not be used or sub-let for any other purpose.
3. Notwithstanding any indications within the approved plans or other documents, prior to the first occupation of the new development, charging points for electric vehicles and electric bicycles (a minimum of 2 each) shall be installed within the car park and bicycle store.
4. A Percentage for Art contribution shall be delivered in accordance with the Percentage for Art Statement approved as part of this permission. Details of the exact form which the artistic installation will take must be submitted to, and approved in writing by, the Development Control section of Regulation, prior to the commencement of the relevant phase

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PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1700

of works on site. Thereafter, the approved work of art must be installed prior to the first use / occupation of any part of the development.

Reason(s):

1. To ensure protection of any protected species in accordance with the requirements of Policies GD 1 and NE 2 of the Jersey Island Plan, 2011 (revised 2014).
2. To restrict the use of the parking spaces, to ensure that they are not used by non-residents which would be contrary to Policy TT 11 of the adopted Island Plan 2011 (revised 2014).
3. To ensure that all of the residential units have easy access to a charging point in the future, under the provisions of Policy GD 1 of the adopted Island Plan 2011 (revised 2014).
4. To accord with the provisions of Policy GD 8 of the Jersey Island Plan 2011 (Revised 2014).

FOR YOUR INFORMATION

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

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

3576 001 P1 – Site Location
3576 100 P2 – Proposed Ground & First Floor Plans
3576 101 P2 – Proposed Second & Third Floor Plans
3576 200 P2 – Proposed Elevation (Val Plaisant)
3576 201 P3 – Proposed Elevation (Garden Lane)
3576 250 P2 – Proposed Sections A-A, B-B & C-C
3576 251 P1 – Details: External Privacy Screen
3576 800 P1 – Proposed Garden Lane 3D Visuals
3576 900 P1 – Proposed Landscape Plan
3576 901 P1 – Proposed Visibility Splay
Construction Environmental Management Plan
PFA Statement
Preliminary Roost Inspection: December 2019
Site Waste Management Plan

DECISION DATE: xx/xx/xxxx

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Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/1700

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

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

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

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THIRD SCHEDULE

The Owners Covenant with the Chief Officer

The Owners covenant, agree and undertake:

COMMENCEMENT

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

CONDITIONS

- 2 To pay a financial contribution of £11,500 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 To provide bicycle stands within Val Plaisant / New Street, as indicated within approved plan 3576-100 P2, to be delivered at the owners' expense to a technical standard agreed by the relevant highway authority prior to the Occupation of the Development;
- 4 Public realm improvements, including alterations to the existing unloading bay, within Val Plaisant / New Street, as indicated within approved plan 3576-100 P2, to be delivered at the owners' expense to a technical standard agreed by the relevant highway authority prior to the Occupation of the Development;
5. The area of land along Garden Lane (directly adjacent to apartment no. 3), which forms part of the existing building footprint (but not part of the new building footprint) – as indicated in approved plan 3576-100 P2 – shall be ceded to the public following completion of the development, and prior to first occupation;
- 6 Provision of £500 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 residential unit. The amount is per residential unit.
7. A financial contribution of £16,500 (£1,350 per new residential unit) to the Treasurer of the States towards footway / pedestrian safety improvements at the junction of Union Street and New Street 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.

FOURTH SCHEDULE

Chief Officer's covenants

1. The Chief Officer hereby covenants with the Owners to use all sums received by the Treasurer of the States from the Owners 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 Owners that he will procure or arrange that the Treasurer of the States will pay to the Owners such amount of any payment made by the Owners 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

in the presence of

this 16 day of May [] 2022

Signed on behalf of the Owners

by

in the presence of

this 7th day of April 2022 -

Signed on behalf of the Albion Lending Limited

by

in the presence of TIA FRAME.

this day of []

Signed on behalf of Structura Lending Limited

by

in the presence of

this 11 day of April 2022