

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

relating to the development of
Mayfair, La Rue de la Mare Ballam, St. John, JE3 4EJ

Dated 29th November 2021

The Chief Officer for the Environment (1)

David Colin Peter Troy and Anne-Marie Troy née Copp (2)

HSBC Bank Plc (3)

DATE

29th November

2021

PARTIES

- (1) The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**"); and
- (2) David Colin Peter Troy and Anne-Marie Troy née Copp ("**the Owners**") Mayfair, La Rue de la Mare Ballam, St. John, JE3 4EJ
- (3) HSBC Bank Plc of HSBC House, Esplanade, St Helier, Jersey, JE1 1HS ("**the Lender**")

RECITALS

1. The Owners warrant that they own in perpetuity (*à fin d'héritage*) as to the Site known as Mayfair having right by contract of purchase dated 20 September 2019 between Rosemary June Baudin and David Colin Peter Troy and Anne-Marie Troy née Copp.
2. The Lender has an interest in the Site by virtue of a judicial hypothec (*hypothèque judiciaire*) registered in the Public Registry of Jersey on 20 September 2019.
3. The Owners submitted an application (accorded the reference P/2021/0536) for planning permission for the Development.
4. Having regard to the purposes of the Law the States of Jersey Island Plan 2011 (as amended from time to time) 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.
5. ~~The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.~~
6. The parties acknowledge that this Agreement is legally binding.
7. 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 " Construct two Storey extension to South and East elevations to form one bed ancillary accommodation. Widen existing vehicle access onto La Rue de la Mare Ballam." and given the reference P/2021/0536;
"The Chief Officer"	the person appointed from time to time as the Chief Officer (or equivalent) (previously known as the Chief Officer) of the administration of the States responsible for planning and building in accordance with Article 1 of the Law;
"Commencement"	the date on which any operation forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out, and "Commence" and "Commenced" shall be construed accordingly;
"Dependent Relative Accommodation"	the separate one bedroomed unit shown on Floor Plan PI 05 and submitted as part of the Application for the Development;
"Development"	the development of the Site as set out in the Application;
"GST"	goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
"Island Plan 2011"	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"	occupation for the purposes permitted by the Planning Permit but not including occupation by personnel engaged in demolition, site clearance, construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	Mayfair, La Rue de la Mare Ballam, St. John, JE3 4EJ and shown for the purpose of identification

	edged red on the Plan upon which the Development is to be carried out.
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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 or the Minister for Infrastructure or the Treasury Minister or the Minister for Housing or the successors to his (their respective) 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 and shall come into effect upon:

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

save for the provisions of Clauses 14 (Jurisdiction) and the Third Schedule Paragraph 1 and any other 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 Court.

5. OWNERS COVENANT

The Owners covenant and agree with the Chief Officer as set out in the Third Schedule so that this Agreement shall be enforceable without limit of time against 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 COVENANT

The Chief Officer 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 Director - Development Control of Planning and notice or communication to the Chief Officer pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control.
- 8.2 Any notices 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 herein 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 herein.
- 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 herein.
- 8.11 All communications and notices served or made under this Agreement shall be in writing.

9. WAIVER

No waiver (whether expressed or implied) by the Chief Officer of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Chief Officer from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

10. CHANGE IN OWNERSHIP

The Owners 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 their interest in the Site occurring before all the obligations under this Agreement have been discharged.

11. 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 Institute of Chartered Surveyors upon the application of any party to the dispute.

12. GOODS AND SERVICES TAX

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

12.2 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.

13 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.

14 JURISDICTION

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

FIRST SCHEDULE

The Plan



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GENERAL NOTES:
This drawing must be read in conjunction with other drawings / schedules / specifications. This drawing must not be copied in whole or in part without prior written permission of CAD STUDIO. This drawing is partially diagrammatic and therefore does not show complete details of construction, materials, performance or installation. All dimensions and details must be confirmed by the contractor with client prior to commencement of works.

Client:
Mr & Mrs Troy

Project:
Mayfair
La Rue de la Mare Ballam
St John
JE3 4EJ

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Drawing Title:
Location Plan

Scale:
1:2500 @ A4

Drawing No:
267 - PL 01

Date:
April 2021

Issued For:
Planning Application

SECOND SCHEDULE

The Planning Permit

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0536

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:

Construct two Storey extension to South and East elevations to form one bed ancillary accommodation. Widen existing vehicle access onto La Rue de la Mare Ballam.

To be carried out at:

Mayfair, La Rue de la Mare Ballam, St. John, JE3 4EJ.

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 received.

This application is the subject of a Planning Obligation Agreement.

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.

APPROVED

THIRD SCHEDULE

The Owners Covenants with the Chief Officer

The Owners covenant, agree and undertake:

CONDITIONS

- 1 That the Dependent Relative Accommodation shall not be used or occupied or permitted to be used or occupied otherwise than:
 - 1.1 for the accommodation of a dependent relative of bona fide residents of the main house known as Mayfair, and/or
 - 1.2 in conjunction with and ancillary to the main house known as Mayfair.
- 2 The Dependent Relative Accommodation shall not be sold, let, alienated or otherwise disposed of separately from the main house known as Mayfair.

FOURTH SCHEDULE

The Chief Officer's covenants

1. The Chief Officer covenants with the Owners to use reasonable endeavours to issue the Planning Permit as soon as practically possible after this Agreement is recorded as registered in the Royal Court as evidence by an Act of the said Court.

Signed on behalf of [REDACTED]
by PETER LG GRESLEY

in the presence of [REDACTED] CHRISTOPHER JONES.
this 29th day of November 2021

Signed by David Colin Peter Troy
[REDACTED]
this 8th day of October 2021

Signed by Anne-Marie Troy née Copp
[REDACTED]
in the presence of [REDACTED]
this 8th day of October 2021

Signed on behalf of HSBC Bank Plc
by . . [REDACTED]
in the presence of . [REDACTED]
this 17th day of November 2021