

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

This Planning Obligation Agreement relates to the development of Field
142, La Rue Horman, Grouville

Dated 1ST DECEMBER

2014

The Minister for Planning and Environment (1)
Antler Property C.I. Limited (2)

DATE

1 December

2014

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("the Minister")
- (2) Antler Property C.I. Limited Co Regn No 38417 whose registered office is situate at 2nd Floor 11 La Rue Grellier Rue des Pres St Saviour Jersey JE2 7QS ("the Owner")

RECITALS

- 1 The Minister is the Minister of the States charged with the administration of the Law by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law.
- 2 The Owner warrants that it is the owner in perpetuity (à fin d'héritage) of the Property by virtue of a hereditary contract of purchase from Rachel Margaret Janes Gillies dated 14th December, 2012
- 3 The Owner submitted an application to the Minister for planning permission for the Development and having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Minister is minded to grant planning permission for the Development subject to the completion of this Agreement that provision should be made for regulating or facilitating the development or use of the Property in the manner hereinafter appearing and without such the Minister would not be so minded
- 4 The parties acknowledge that this Agreement is legally binding
- 5 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:

"Application"		the application for planning permission submitted to the Minister by the Owner for the Development and allocated reference number P/2014/1012
"Commencement"		the date on which any use or operation forming part of the Development permitted by the Planning Consent or any subsequent planning permission for the Development begins to be carried out including for the avoidance of doubt operations consisting of site clearance, tree removal, archaeological investigations, investigations for the propose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, and temporary erection of site notices or advertisements and "Commence" and "Commenced" shall be construed accordingly
"Cycleway Contribution"		the sum of three thousand pounds (£3,000) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for the purposes of the Eastern Cycle Network or for such other planning purposes arising from the Development as the Minister shall consider being reasonably appropriate in the circumstances
"Development"		the development of the Property to construct 3 No. four bedroom dwellings

		and associated parking as set out in the Application
"Dwelling Unit"		a residential unit forming part of the Development to be constructed pursuant to the Planning Consent
"Eastern Cycle Way Route"		means the cycle route established or to be established by the TTS Minister to serve cyclists coming to and going from the east of the Island
"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 HSBC Bank Plc from time to time.
"Law"		the Planning and Building (Jersey) Law 2002.
"Occupation, Occupy and Occupied"		occupation for the purposes permitted by the Planning Consent 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 Consent"		the planning permission for the Development a copy of which in draft is attached at the Second Schedule.
"Pedestrian Footway Works"		all works necessary to create a pedestrian footway with kerb alterations on the land shown for the purposes of identification hatched black on the Plan.
"Pedestrian Footway Works Specification"		a specification for the carrying out of the Pedestrian Footway Works.
"Plan"		The plan attached at the Fourth Schedule
"Property"		the land owned by the Owner as shown edged with a broken black line on the Plan for the purposes of identification and upon which the Development is to be carried out.
"Public"		the Public of the Island of Jersey.
"Royal Court"		the Royal Court of the Island of Jersey.
"TTS Minister"		the Minister for Transport and Technical Services.

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 Minister or the TTS Minister 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 Minister against the Owner.

4 CONDITIONALITY

This Agreement is conditional upon:

- 4.1 the grant of the Planning Consent
- 4.2 the Commencement of the Development

save for the provisions of Clauses 7.1 and 14 which shall come into effect immediately upon completion of this Agreement

5 OWNER COVENANTS

The Owner covenants and agrees with the Minister as set out in the Second 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 Property or any part or parts thereof.

6 PUBLIC REGISTRY OF CONTRACTS

The Minister shall as soon as practicable apply to the Royal Court for an order that this Agreement be registered in the Public Registry of Contracts.

7 MISCELLANEOUS

7.1 The Owner shall pay to the Minister on completion of this Agreement the reasonable legal costs of the Minister incurred in the negotiation, preparation and completion of this Agreement.

7.2 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Minister 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 Minister by the Director - Development Control of Planning and notice or communication to the Minister pursuant to the provisions of this Agreement shall be addressed to the Director - Development Control at Planning and Building Services South Hill St Helier Jersey JE2 4US or as otherwise notified for the purpose by notice in writing.

7.3 Any notices on the Owner 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.

7.4 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.

7.5 Without prejudice to the provisions of Clause 4 this Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Consent 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 of Development;

7.6 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 Property but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

7.7 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with a planning permission (other than the Planning Consent) granted (whether or not on appeal) after the date of this Agreement.

7.8 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 Minister and without prejudice to the generality of the foregoing it is agreed between the parties hereto that any benefit or power conferred on the Minister by any of the obligations or covenants by the Owner in favour of the Minister under this Agreement are in addition to any of the Ministers' statutory powers under the Law

7.9 Nothing contained herein shall be construed as obviating the need for the Owner to obtain or acquire from the Public (whether in its public or private capacity) or the Parish of Grouville (whether in its public or private capacity) or any third party with respect to the Development or its use any consents permits authorisations rights interests in land or servitudes

7.10 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 Minister as a result of the Minister agreeing to accept the covenants agreements and undertakings on the part of the Owner as contained herein

7.11 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

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

8 WAIVER

No waiver (whether expressed or implied) by the Minister 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 Minister 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 Minister to give the Minister written notice (as soon as reasonably practical following such change) of any change in ownership of any of its interest in the Property 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 Property purchased by reference to a plan

10 INDEXATION

Any sum referred to in the Second 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 paid.

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 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.

Department of the
Planning & Building
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St Helier, Jersey, JF1 1LH
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FIRST SCHEDULE
Draft Permit



xx/xx/xxxx

Antler Property C.I. Limited
Fox House
Rue des Pres
St Saviour
JE2 7QS

Planning Application Number P/2014/1012

Dear Sir/Madam

Application Address:	Field No. 142, La Rue Horman, Grouville.
Description of Work:	Construct 3 No. four bedroom dwellings and associated parking.

Please find enclosed notice of The Minister for Planning & Environment's decision regarding the above application.

Please note that the Conditions imposed on the Notice are important and should be strictly adhered to and any subsequent changes to the development which may affect the requirements of the Conditions should be notified to the Minister for Planning and Environment as soon as possible.

Failure to comply with the attached Conditions may result in the Minister for Planning and Environment instigating Enforcement Action.

Yours faithfully

Lawrence Davies
Planner, Development Control
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Encl.