

In the Royal Court of Jersey

Samedi Division

In the year two thousand and nine, the fifth day of June.

Before the Judicial Greffier.

Upon the application of Her Majesty's Solicitor General. IT IS ORDERED that the Planning Obligation Agreement between the Minister for Planning and Environment, Cowleywood Limited, Mourier Developments Limited and HSBC Bank PLC in relation to land at Cowley Farm, La Route de Maufant, St. Saviour, be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub. ✓

L1250-702--



Planning Obligation Agreement under Article 25 of the Planning and Building

(Jersey) Law 2002

relating to the development of Cowley Dairy Farm, La Rue du Pont, St. Saviour

Dated :

5th June

2009

The Minister for Planning and Environment (1)

Cowleywood Limited (2)

Mourier Developments Limited (3)

HSBC Bank Plc (4)

L1250-703--



DATE 5th June 2009

PARTIES

- (1) The Minister for Planning and Environment of States Offices, South Hill, St. Helier, Jersey, JE2 4US ("the Minister");
- (2) Cowleywood Limited, Jersey Company N° 2905 whose registered office is at 6 Britannia Place, Bath Street, St Helier, JE2 4SU ("the Dairy Owner"); and
- (3) Mourier Developments Limited, Jersey Company N° 94486 whose registered office is at Thomas Edge House, Tunnell Street, St Helier, JE2 4LU ("the Dwellings Owner").
- (4) HSBC Bank Plc ("the Hypothecator").

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 Dairy Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Dairy Site by virtue of those matters referred to in Part One of the First Schedule.
- 3 The Dwellings Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Dwellings Site by virtue of those matters referred to in Part Two of the First Schedule.
- 4 The Dairy Owner submitted the Dwellings Application to the Minister and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- 5 The Dairy Owner and the Dwellings Owner acknowledge that this Agreement is legally binding.
- 6 Having regard to the purposes of the Law the Island Plan 2002 and all other material considerations the Minister decided to grant planning permission for the Dwellings Development subject to the completion of this Agreement.
- 7 The Hypothecator has an interest in the Dwellings Site by virtue of a judicial hypothec (*hypothèque judiciaire*) dated 29th August 2008

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Agreement the following expressions shall have the following meanings:

"Implement" and "Implementation" the date on which any use or operation forming part of the Dairy Development or the Dwellings Development (as the case may be) begins to be carried out including for the avoidance of any doubt operations consisting of site clearance, demolition work,

L1250-704--



	tree removal, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements
"The Dairy Application"	the planning application submitted to the Minister for the Dairy Development and allocated reference number P/2007/1936
"The Dairy Development"	the redevelopment of the Dairy Site as set out in the Dairy Application with the description of development as 'To include part demolition and removal of buildings, slurry store and silo tower. Construct new cattle housing, storage, silage clamp and slurry store. Levelling of site and re-contouring part of adj fields 55 & 62. Filling in existing and creating new pond. Existing access reconfigured. Various external alterations.'
"The Dairy Permit"	the planning permission subject to conditions to be granted by the Minister pursuant to the Dairy Application as set out in the Second Schedule
"The Dairy Site"	the land against which this Agreement may be enforced as shown hatched black on Plan 1
"The Dwellings Application"	the planning application submitted to the Minister for the Dwellings Development and allocated reference number P2009/326
"The Dwellings Development"	the redevelopment of that part of the Dwellings Site set out in the Dwellings Application with the description of development as 'Convert existing barns into 3 No. dwellings. Construct 3 No. dwellings with garaging and landscaping. Block up 3 No. vehicular access. Create new vehicular access onto La Route de Maufant. Refurbish farmhouse to provide 1 No. dwelling.'
"The Dwellings Permit"	the outline planning permission (including the subsequent approval of any reserved matters specified therein) dated 13 August, 2008 granted by the Minister for the Dwellings Development and allocated reference number PP/2007/1799 and as modified by the Minister pursuant to Article 27 of the Law on 24 th September 2008
"the Dwellings Site"	the land against which this Agreement may be enforced as shown hatched black on the Plan 2
"GST"	means the goods and services tax under the Goods and Services Tax (Jersey) Law 2007
"Law"	the Planning and Building (Jersey) Law 2002
"Occupation" and "Occupied"	occupation for the purpose permitted by the Planning Permits but not including occupation by personnel engaged in construction, fitting out or decoration.
"Plans" and "Plan"	the plans numbered 1 and 2 or either of them attached to this Agreement

L1250-705--



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 interchangeable 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 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 Dwellings Owner and the Dairy Owner under this Agreement create planning obligations pursuant to Article 25 of the Law and are enforceable by the Minister against the Dwellings Owner and the Dairy Owner.

4 CONDITIONALITY

This Agreement is conditional upon:

- 4.1 being registered in the Royal Court as evidenced by an Act of the said Court; and
- 4.2 the grant of the Planning Permits

save for the provisions of Clauses 7.1 and 13 (legal costs clause and jurisdiction clause) which shall come into effect immediately upon completion of this Agreement.

5 THE OWNER'S COVENANTS

The Dairy Owner and the Dwellings Owner respectively covenant and agree with the Minister as set out in the Third Schedule to the intent that this Agreement shall be enforceable without limit of time against the Dairy Owner and the Dwellings Owner and any person claiming or deriving title through or under the Dwellings Owner to the Dwellings Site 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.

L1250-706--



7 MISCELLANEOUS

- 7.1 The Dairy Owner and the Dwellings 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 Dairy Owner or the Dwellings 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 of Planning and notice or communication to the Minister pursuant to the provisions of this Agreement shall be addressed to the Director 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 Dairy Owner or the Dwellings Owner shall be deemed to have been properly served if sent by recorded delivery to and addressed to it at the address set out above or as otherwise notified for the purpose by notice in writing and that service on one party at that address shall also be deemed to be service on the other.
- 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 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permits or either of them shall be quashed, revoked or otherwise withdrawn or (without the consent of the Dairy Owner or the Dwellings Owner as the case may be) it is modified 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 Dwellings Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 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 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 Dairy Owner or the Dwellings Owner in favour of the Minister under this Agreement are in addition to any of the Ministers' statutory powers under the Law.
- 7.8 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 Dairy Owner or the Dwellings Owner as contained herein.
- 7.9 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 for acting upon any subsequent breach or default.

L1250-707--



9 CHANGE IN OWNERSHIP

The Dwellings Owner agrees with the Minister to give the Minister immediate written notice of any change in ownership of any of its interests in the Dwellings 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 Dwellings Site or unit of occupation purchased by reference to a plan.

10 GST

All sums given in accordance with the terms of this Agreement shall be exclusive of any GST properly payable

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 Institution of Arbitrators upon the application of any party to the dispute

12. HYPOTHECATOR'S CONSENT

The Hypothecator acknowledges and declares that this Agreement has been entered into by the Dwellings Owner with its consent and that the Dwellings Site shall be bound by the obligations contained in this Agreement and that the security of the Hypothecator in the Dwellings Site shall take effect subject to this Agreement PROVIDED THAT the Hypothecator shall otherwise have no liability under this Agreement unless it takes possession of the Dwellings Site (or any part thereof) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner

13 JURISDICTION

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

L1250-708--



FIRST SCHEDULE

PART ONE

Details of the Dairy Owner's Title, and description of the Dairy Site

The Dairy Owner has an interest in the Dairy Site as follows:

DAIRY UNIT: a certain piece of land being the Eastern part of piece of land known as "Le Jardin de Soullement". "Le Jardin à Poiriers", "Le Pré à Poiriers" and "Le Jardin du Douet" (now combined in to one piece) being field number 61 on the Jersey Digital Map ("the Map") with the yards, stables, outbuildings erected on part thereof; ITEM, a certain piece of land formerly being part of field number 62 on the Map, the whole joins together to form one corpus fundi ("the Dairy Unit") with the party-ownership of seven existing boundary stones of the North and East and the party-ownership of two established boundary stones of the West and the ownership of the bank and relief of the South towards public road; the Dairy Unit joining by the North and by the East to the fields numbered 54, 55, 62 and 63 forming part of the property belonging to the Dairy Owner having right by contract of purchase dated 26th January 2007 from John Charles Ormsby Beadle), by the West to field number 61 forming part of the property called "La Porte" belonging to Mervyn Renouf Billot and bordering by the South on to the public road called "La Rue du Pont".

Provenance:- *The Dairy Owner* has right by contract of purchase dated 6th March 2009 from Andrew Le Gallais.

PART TWO

Details of the Dwellings Owner's Title and description of the Dwelling Site

The Dwellings Owner has an interest in the Dwelling Site as follows:

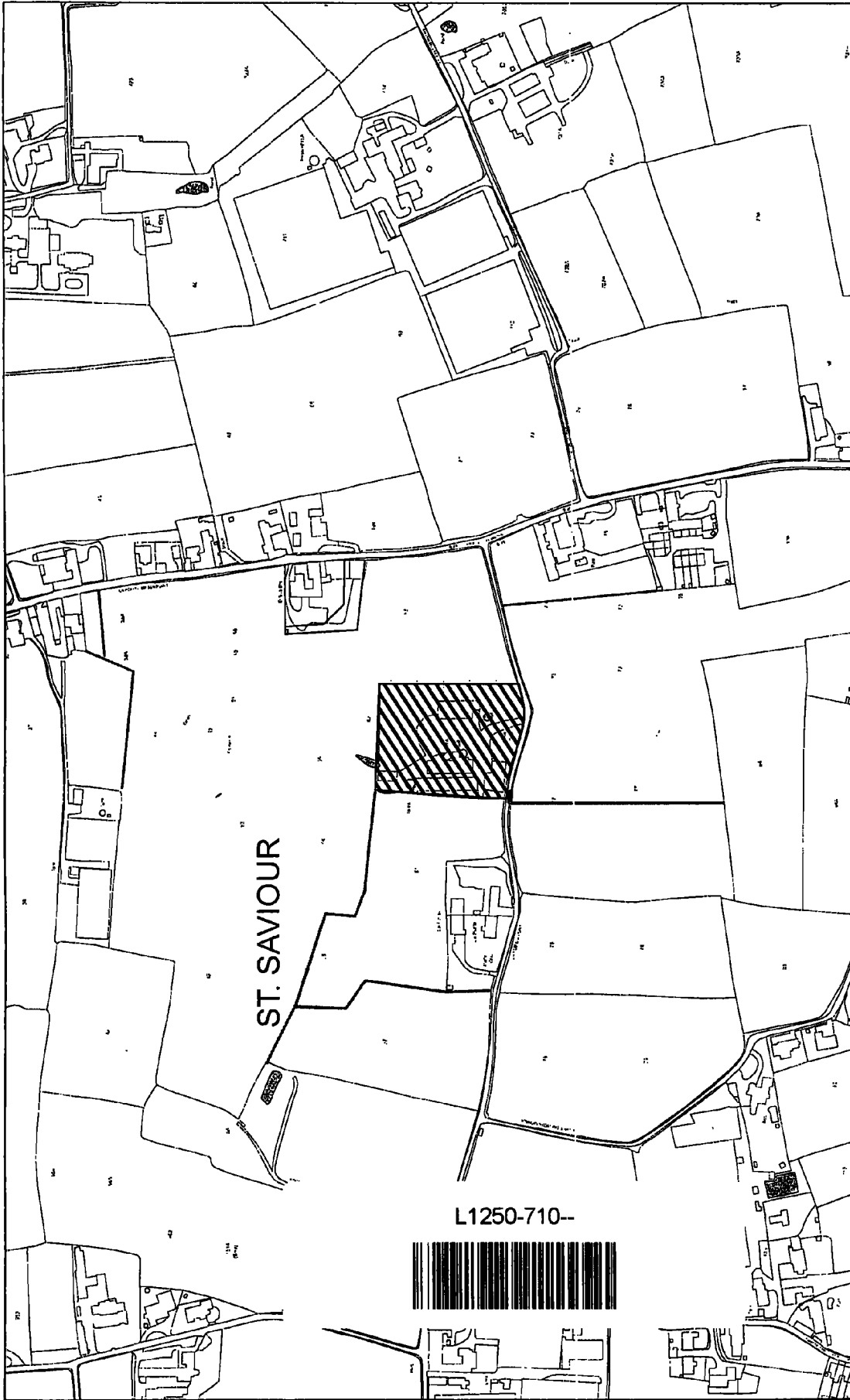
COWLEY FARM: a certain house known as "Cowley Farm" (formerly "Maufant Farm") with the outbuildings and appurtenances to the West, North-West and North thereof, the yards to the North and West of the house (having the UPRN 69113284) and a strip of land along the Southern, Eastern and Northern edges of fields called "Clos de Derrière" and "Clos de Devant" and being numbers 50, 62 and 63 on the Jersey Digital Map ("the Map"); the whole joins together to form one corpus fundi ("Cowley Farm") with the ownership of the walls and banks of the East towards the main road and the party-ownership of five boundary stones of the North, West and South; Cowley Farm joining by the North, by the West, and by the South or thereabouts to the remainder of fields being numbers 50, 62 and 63 on the Jersey Digital Map belonging to the Dairy Owner (having right by contract of purchase dated 26th January 2007 from John Charles Ormsby Beadle) and bordering by the East onto the main road called "La Grande Route de Maufant".

Provenance:- The Dwellings Owner has right by contracts of purchase dated 29th August 2008 and 5th June 2009 from the Dairy Owner.

L1250-709--



PLAN I.



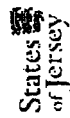
L1250-710--



PO Box 696, 6 Hill Street, St Helier, Jersey JE4 8YX
 Telephone: (01534) 760760 Facsimile : (01534) 720945

Le Gallais & Luce

Licence Number 37



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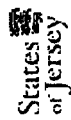
PLAN 2



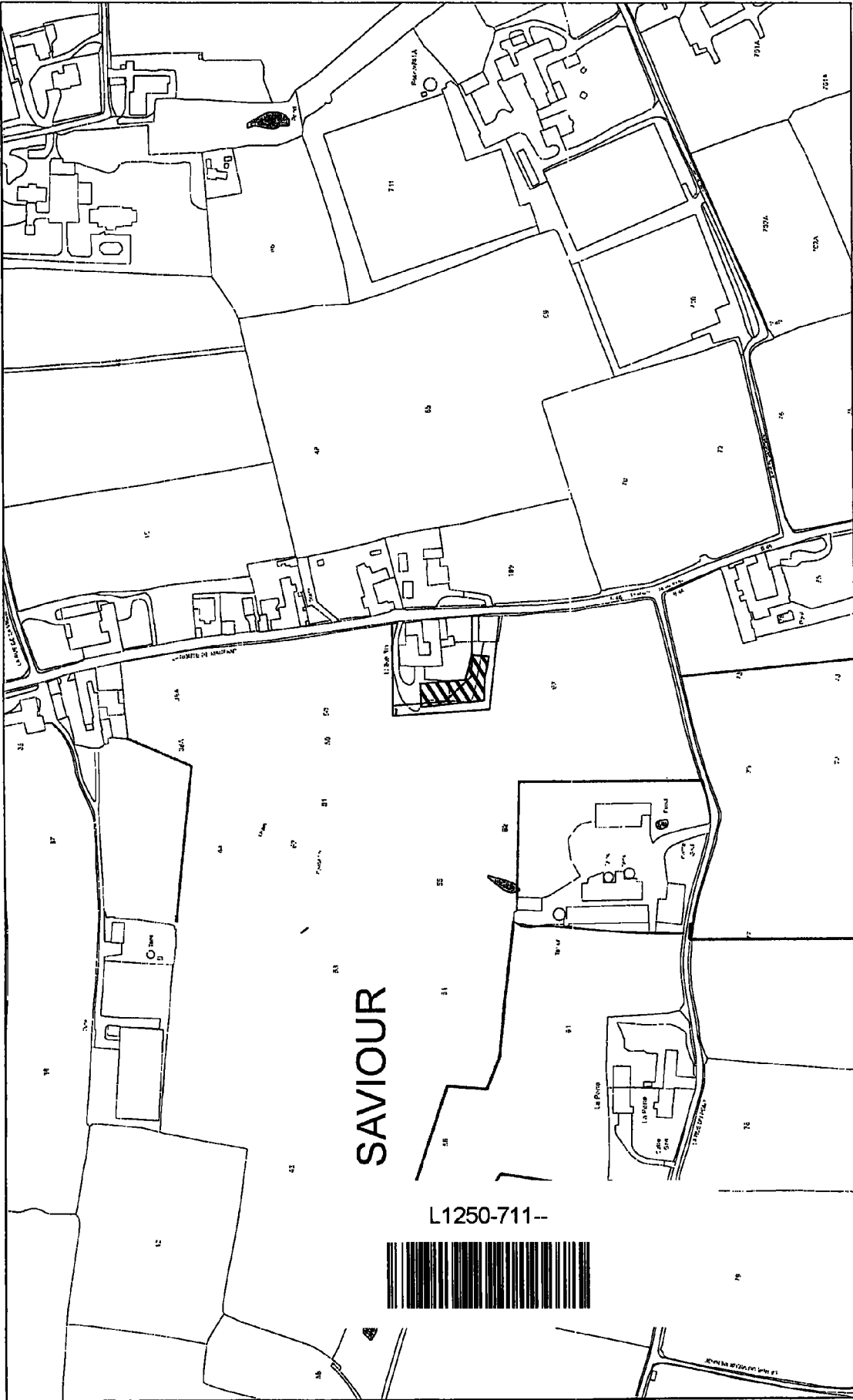
PO Box 696, 6 Hill Street, St Helier, Jersey JE4 8YX
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Le Gallais & Luce

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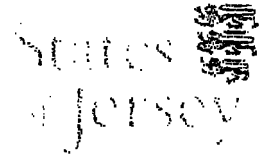
SECOND SCHEDULE
Form of notice of planning permission

L1250-712--



Planning and Environment Department
Planning and Building Services

South Hill
St Helier, Jersey, JE2 4US
Tel: +44 (0)1534 445508
Fax: +44 (0)1534 445528
www.gov.je



24/09/2008

Cowley Wood Ltd
Meadow Cottage
La Rue De Beauvoir
St Saviour
Jersey
JE2 7SN

PLANNING AND BUILDING (JERSEY) LAW 2002

ARTICLE 27

NOTICE OF MODIFICATION OF PLANNING PERMISSION

1. **THIS IS A FORMAL MODIFICATION NOTICE** issued by the Minister for Planning and Environment ("the Minister") pursuant to the powers conferred on him under Article 27 of the Planning and Building (Jersey) Law 2002;
2. **THE MINISTER GIVES NOTICE THAT THE FOLLOWING WORKS AT THE LAND AFFECTED ARE NOW THE SUBJECT OF THE MODIFICATION OF PLANNING PERMISSION PP/2007/1799. SAID WORKS HAVE THE BENEFIT OF PLANNING PERMISSION UNDER ARTICLE 19 OF THE PLANNING AND BUILDING (JERSEY) LAW 2002.**

Convert existing barns into 3 No. dwellings. Construct new garage building. Block up 3 No vehicular accesses. Create new vehicular access onto La Route de Maufant. Refurbish farmhouse to provide 1 No. dwelling. Construct 2no. dwellings with garaging and landscaping.

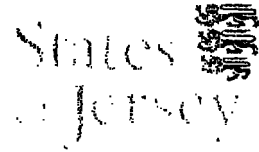
3. **HAVING CONSIDERED ALL THE ISSUES BEFORE HIM IN RELATION TO**

L1250-713--



RMPP

Director of Planning: Peter Thomas M.R.T.P.I. M.C.M.A.



THE PLANNING PERMIT PP/2007/1799 DATED 13.8.08, THE MINISTER
HEREBY GIVES YOU NOTICE THAT THE FOLLOWING WORKS AT THE
LAND AFFECTED NO LONGER HAVE THE BENEFIT OF PLANNING
PERMISSION UNDER ARTICLE 19 OF THE PLANNING AND BUILDING
(JERSEY) LAW 2002;

Convert existing barns into 3 No. dwellings. Construct new garage building. Block
up 3 No vehicular accesses. Create new vehicular access onto La Route de
Maufant. Refurbish farmhouse to provide 1 No. dwelling.

The Modification of Planning Permission PP/2007/1799 will be subject to the
following Conditions:

Standard Conditions

- A. If the development hereby permitted has not commenced within five years of the
decision date, this permission shall cease to be valid.
Reason: The Minister for Planning and Environment reserves the right to
reconsider this proposal consequent on any future change of circumstances or
policy.
- B. Application for the approval of Reserved Matters, as detailed in condition C, shall
be made before the expiration of three years from the date of this decision.
Reason: To accord with Article 19(4) of the Planning and Building (Jersey) Law
2002.
- C. Approval of the details of the siting, design and external appearance of the
buildings, means of access thereto and landscaping of the site – hereinafter
called the Reserved Matters – shall be obtained by application to the Minister for
Planning and Environment prior to any development commencing. **Reason:** To
accord with Article 19(4) of the Planning and Building (Jersey) Law 2002.

Condition(s)

1. Before any development first commences on site, a Planning Obligation shall be
completed to ensure that funds generated from the sale of Cowley Farmhouse
development are used entirely for the development of the Cowley Farm dairy
complex States Planning Reference P/2007/1936 and if the Planning Obligation

RMPIP

Director of Planning: Peter Thorne

L1250-714-



Agreement is not completed within 3 months of the date of this decision, then the planning permission shall cease to have effect.

2. Before any development first commences on site, details of the proposed construction and location of nesting boxes for birds and roosting arrangements for bats shall be submitted to and approved in writing by the Minister for Planning and Environment. The approved scheme shall be implemented in full before the development is first brought into use and shall thereafter be retained and maintained as such.
3. Before any development first commences on site, precise details of the proposed surface water drainage arrangements to serve the development hereby permitted shall be submitted to and approved in writing by the Minister for Planning and Environment. The approved scheme shall be implemented in full and shall be retained and maintained as such.
4. Notwithstanding the requirements of Standard Condition C above, the reserved matters application shall include details of the following information for the prior approval of the Minister for Planning and Environment:
 - No more than 2 new build units with a maximum aggregate floorspace of no more than 4800 sq ft.
 - The physical alterations to the buildings and structures
 - The access and circulation on the site
 - The parking and garaging arrangements
 - The amenity space and enclosure arrangements
 - A full structural survey by an appropriately qualified person demonstrating the stability of the buildings to be converted.
5. Prior to the commencement of the development hereby permitted, a scheme that agrees a contribution and a timetable for public art provision in connection with the development, shall be submitted to and approved in writing by the Minister for Planning and Environment, implemented and thereafter maintained.

Reason(s)

1. To ensure that the linked enabling development is used entirely for the redevelopment of Cowley Farm dairy complex in accordance with planning permission P/2007/1936 and the requirements of Policy G2 of the Adopted Island Plan 2002.

RMPP

Director of Planning: Peter Thorn

L1250-715--



2. To safeguard the natural habitats for birds and bats on site in accordance with the requirements of Policy C13 of the Adopted Island Plan 2002.
3. To ensure satisfactory drainage arrangements in accordance with Policy G3 of the Adopted Island Plan 2002.
4. To ensure that the development is of an appropriate standard in accordance with the requirements of Policy G3 of the Adopted Island Plan 2002.
5. To comply with the requirements of Policy BE12 of the Adopted Island Plan 2002.

INFORMATIVE

The permission hereby approved relates to the conversion of the buildings. It does not convey any authority for the demolition of the buildings and their subsequent re-building.

FOR YOUR INFORMATION:

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

- A: Location Plan 1
- I: Location Plan 2
- M: Site Survey

4. **THE LAND AFFECTED:** Part of fields 50 & 63
Cowley Farmhouse
La Route de Maufant
St. Saviour
St. Saviour

SIGNED: _____

For and on behalf of the Minister for Planning and Environment

RMPP

Director of Planning: Peter Thu

L1250-716--



Planning and Environment Department
Planning and Building Services

South Hill
St Helier, Jersey, JE2 4US
Tel: +44 (0)1534 445508
Fax: +44 (0)1534 445528



22/01/2009

Cowley Wood Ltd
Meadow Cottage
La Rue De Beauvoir
St Saviour
JE2 7SN

Application Number PP/2007/1799
Property Number 15748

Dear Mr. Le Gallais

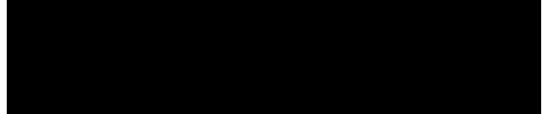
Application Address: Part of fields 50 & 63, Cowley Farmhouse, La Route de Maufant, St. Saviour.

Description of Work: Convert existing barns into 3 No. dwellings. Construct 3 No. dwellings with garaging and landscaping. Block up 3 No. vehicular access. Create new vehicular access onto La Route de Maufant. Refurbish farmhouse to provide 1 No. dwelling. **AMENDED PLANS:** Convert existing barns into 3 No. dwellings. Construct new garage building. Block up 3 No. vehicular accesses. Create new vehicular access onto La Route de Maufant. Refurbish farmhouse to provide 1 No. dwelling. **REVISED DESCRIPTION:** Convert existing barns into 3 No. dwellings. Construct new garage building. Block up 3 No. vehicular accesses. Create new vehicle access onto La Route de Maufant. Refurbish farmhouse to provide 1 No. dwelling. Construct 2 No. dwellings with garaging and landscaping.

I understand that my colleague Peter Thorne (Director of Planning) has asked me to write to you to clarify that the maximum aggregate floor space allowed of no more than 4800 sq ft only indicated on the Planning Permit 00/2007/1799 dated 24.9.08 refers to the area of habitable accommodation and does not refer to the erection of other ancillary structures such as garages etc.

I hope this clarifies the situation for you.

Yours sincerely,


C. E. JONES
Senior Planning Officer
01534 448464
c.jones2@gov.je

L1250-717--

LOWN
Chief Executive Officer: Andrew S
Director of Planning: Peter Thorne



THIRD SCHEDULE

The Owner's Covenants with the Minister

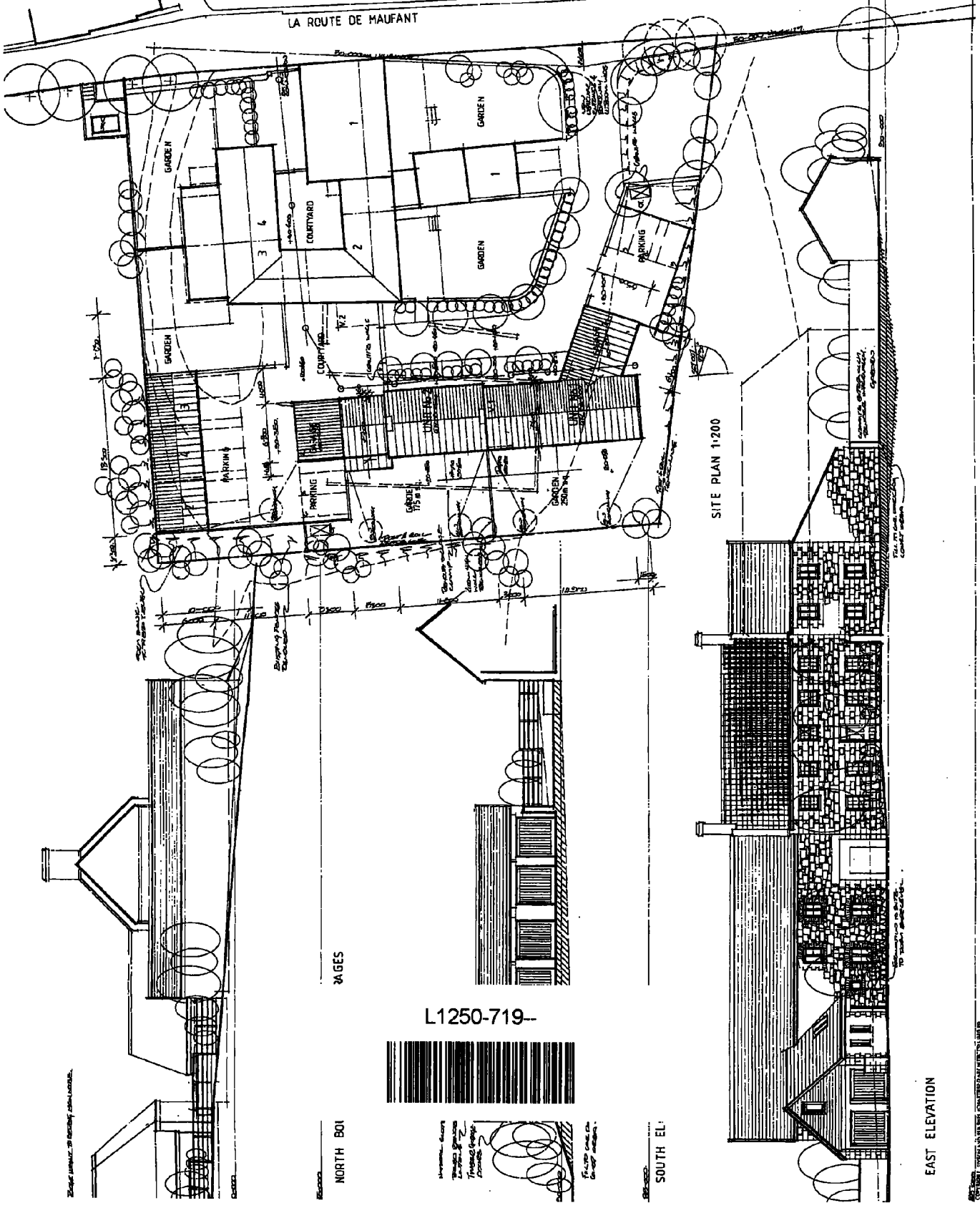
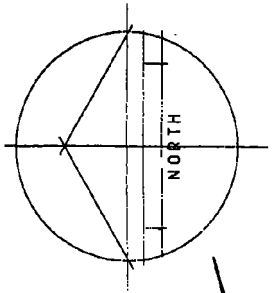
The Dairy Owner and the Dwelling Owner respectively covenant and agree and undertake:

Enabling Development

- 1 At least twenty-one days prior to Implementation the Dairy Owner shall notify in writing the Minister of its intention to Implement the Dairy Permit
- 2 The Dwelling Owner will not Implement that part of the Dwellings Permit which relates to the two new build units (shown on drawing 476/08/A01) with a maximum aggregate floor space of no more than 4,800 square feet until such time as the Dairy Owner has proved to the reasonable satisfaction of the Minister which he shall signify in writing that it has commenced the Dairy Development and has spent or has entered into irrevocable commitment or commitments to spend not less than £600,000 on the Dairy Development. Prior to Implementation the Dairy Owner shall provide without unreasonable delay to the Minister such evidence, as the Minister shall reasonably require in order to confirm the expenditure or commitment of the sums paid by or committed to be paid by the Dairy Owner for the Dairy Development

L1250-718--





Application No. Drawing
 P 200 0331 C

CLIENT
MOURIER DEVELOPMENTS LTD

PROJECT
**PROPOSED 2 No. DWELLINGS
 ENABLING CONTRACT**

REV. NUMBER
**COWLEY FARM
 LA ROUTE DE MAUFANT
 ST SAVIDOUR**

DATE
SITE PLAN & ELEVATIONS

DATE
11/00/1200

DATE
JAN 2008

CONTRACT NUMBER
1100/1200

CONTRACT NUMBER
JAN 2008

REVISIONS

A	BY	DATE
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DATE
4/26/08/1A01

AGES

L1250-719-



NORTH BOI

SOUTH EL

EAST ELEVATION

CONTRACT NUMBER 1100/1200

Signed

By

In the presence of

This 4th day of June 2009

Signed on [redacted] Developments Limited

By

In the presence of

This 4th day of June 2009

Signed on [redacted] Bank Plc

By

In the presence of

This 5th day of June 2009

Signed on [redacted]

By

In the presence of

This 5 day of June 2009

L1250-720--

