

# *In the Royal Court of Jersey*

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**Samedi Division**

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**In the year two thousand and twenty-two, the nineteenth day of January.**

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 and Bay Croft Limited and in relation to Bay Croft, La Route de la Haule, St Lawrence, JE3 1BA, 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 Bay Croft, La Route de la Haule, St Lawrence JE3 1BA

Dated

19<sup>th</sup> January

2022

The Chief Officer for the Environment (1)

Bay Croft Limited (2)

DATE

19<sup>th</sup> January

2022

## PARTIES

- (1) The Chief Officer for the Environment of PO Box 228, St Helier Jersey JE4 9SS ("**the Chief Officer**") and
- (2) Bay Croft Limited, incorporated in Jersey with company number 123615, the registered office of which is situate at Fox House, Rue Des Pres, St Saviour, JE2 7QS, Jersey ("**the Owner**")

## RECITALS

- 1 The Owner warrants that it is the owner in perpetuity (*à fin d'héritage*) of the Site as described in the First Schedule.
- 2 With the agreement of the Owner, an application (accorded the reference P/2021/0289) for planning permission for the Development has been submitted by Baycroft Ltd.
- 3 Pursuant to Article 9(5)(b) of the Law, the Chief Officer referred the Application to the Planning Committee for determination by that Committee.
- 4 Having regard to the purposes of the Law, the Island Plan 2011 and all other material considerations the Planning Committee at its meeting on 30 September 2021 recommended approval of the grant of planning permission for the Development subject to the prior completion of this Agreement
4. The parties hereto have agreed to enter into this Agreement in order to secure the planning obligations contained herein.
5. The parties acknowledge that this Agreement is legally binding.
6. 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

	"Demolish existing house and garage. Construct 7 no. three bed apartments. Construct 7 no. garages with integral storage. Create surface parking bays. Create new vehicular entrance and associated hard and soft landscaping works" and given the reference P/2021/0289;
<b>"Chief Officer"</b>	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;
<b>"Commencement"</b>	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;
<b>"Cycle/Bus Contribution"</b>	means the sum of eight thousand one hundred pounds (£8,100) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure towards either cycle infrastructure within the vicinity of the Site, or a new east-bound bus shelter near to the Site;
<b>"Development"</b>	the development of the Site as set out in the Application;
<b>"Dwelling Unit"</b>	a residential unit forming part of the Development to be constructed pursuant to the Planning Permit.
<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;
"Interest"	interest at three per cent above the base lending rate of the HSBC Bank Plc from time to time;
"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;
"Plan"	the plan contained in the Second Schedule to this agreement.
"Planning Permit"	the planning permission for the Development as applied for and described in the Application (P/2021/0289) a copy of which is attached in the Third Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time.
"Road Improvement Contribution"	means the sum of six thousand and thirty four pounds (£6,034) to be paid by the Owner to the Treasurer of the States to be applied by the Minister for Infrastructure towards works to amend the road markings along La Route de la Haule in order to extend the right-turn pocket for west-bound vehicles entering the Site as shown on the KR Synergy plan 3.2 Rev. 1. attached as the Sixth Schedule

"Royal Court"	the Royal Court of the Island of Jersey.
"Site"	Bay Croft, La Route de la Haule, St Lawrence JE3 1BA identified by a thick black edging and hatched red on the Plan upon which the Development is to be carried out.

## 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 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 said Court.

## **5 OWNER COVENANTS**

The Owner covenants and agrees with the Chief Officer as set out in the Fourth 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 Site or any part or parts thereof.

## **6 MISCELLANEOUS COVENANTS**

The Chief Officer covenants with the Owners as set out in the Fifth 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 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 at Planning and Building Services La Motte Street St Helier Jersey or as otherwise notified for the purpose by notice in writing.
- 8.2 Any notices on the Owner shall be deemed to have been properly served if sent by ordinary or recorded 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 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.
- 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 herein 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 herein.
- 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 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 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 legal ownership of the Site occurring before all the obligations under this Agreement have been discharged.

## **11 INDEXATION**

Any sum referred to in the Fourth 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 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 is governed by and interpreted in accordance with the law of the Island of Jersey.

## FIRST SCHEDULE

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

The Owner is the owner of all that immovable property known as Bay Croft, La Route de la Haule, St Lawrence JE3 1BA by virtue of a contract of purchase dated 28 April 2017 from [REDACTED]

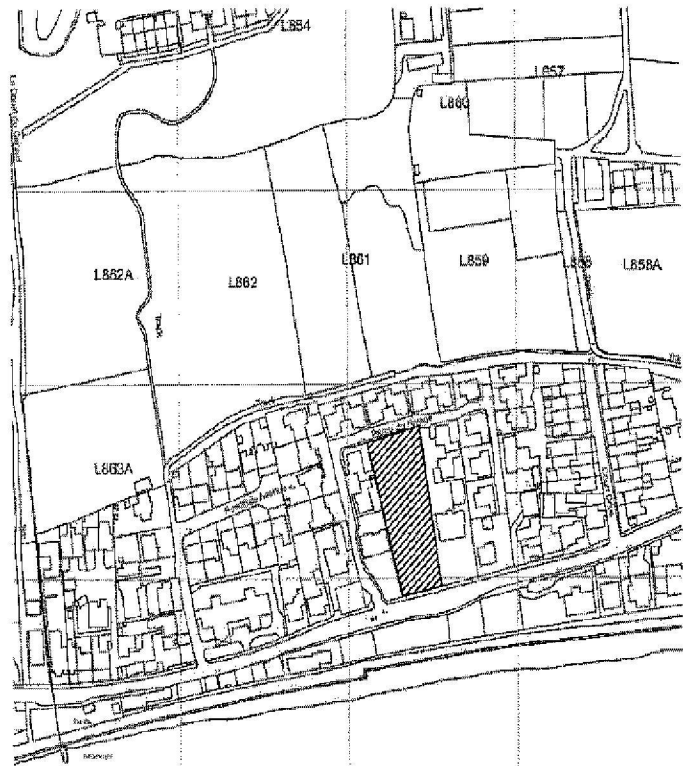
The Site is shown for the purposes of identification on the Plan.

SECOND SCHEDULE

The Plan

Baycroft, St Lawrence

As shown on the map of the area of the proposed development



**THIRD SCHEDULE**  
**The Planning Permit**

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0289

**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 existing house and garage. Construct two three bed apartments. Construct 7 no. garages with integral storage. Create surface parking bays. Create new vehicular entrance and associated hard and soft landscaping works. 3D Model available.

### To be carried out at:

Bay Croft, La Route de la Haute, St Lawrence, JE3 1BA

**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 application is for the development of 7 units of accommodation. The application follows from two earlier refusals, with the scale and mass of the development having been reduced in response to concerns, particularly in the northern part of the site.

The site forms part of the Built-Up Area, and the Island Plan requires that it be redeveloped to its highest reasonable density, commensurate with good design, adequate amenity space and parking, and without having an unreasonable impact on adjoining properties.

The Committee acknowledges the continued concerns of nearby residents; however, on balance, this application is now considered to be justified with reference to the relevant policies of the Island Plan - in particular, Policies SP 1 (Spatial Strategy), GD 1 (General Development Considerations), GD 3 (Density of Development), & H 6 (Housing Development within the Built-Up Area).

**APPROVED**

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0289

The objection of the highway authority is noted; however, the Committee considers this to be an appropriate site for redevelopment, and the re-positioning (and improvement) of the existing vehicle entrance is considered to be justified with reference to Policy TT 13.

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. Notwithstanding the details indicated within the approved plans, the development hereby permitted shall not be commenced until there has been submitted to, and approved in writing by, the Department of the Environment, a landscaping scheme which shall provide details of the following;
  - a) all existing trees, hedges and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership;
  - b) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
  - c) other landscape treatments to be carried out or features to be created, for example, any excavation works, surfacing treatments, or means of enclosure;
  - d) the measures to be taken to protect existing trees and shrubs; and,
  - e) the arrangements to be made for the maintenance of the landscaped areas.

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0289

2. All planting and other operations comprised in the landscaping scheme hereby approved shall be completed prior to first occupation of any element of the development.
3. The measures outlined in the approved Species Protection Plan (ref. NE/ES/BCT.05, 12/07/21, Nurture Ecology) shall be implemented prior to the commencement of the development, continued throughout the phases of development (where applicable) and thereafter retained and maintained as such. Any variations that may be required as a result of findings on site are to be agreed in writing by Land Resource Management Team prior to works being undertaken.
4. Prior to the first use / occupation of the development hereby approved, visibility lines must be provided in accordance with the approved drawings. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level.
5. All of the obscure glazing and privacy screens identified within the approved plans, must be installed prior to the first occupation of the development. In addition to the obscure glazing indicated within the plans, the west-facing windows to the kitchen / living / dining rooms for Flats 3 & 5, and the west-facing windows to the kitchen / living / dining rooms for Flats 4 & 6, shall also be obscurely glazed. Thereafter, the privacy screens and obscurely glazed windows shall be maintained as such for the lifetime of the development.

### Reasons

1. To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development, as well as securing the privacy of immediate neighbours, in accordance with Policies GD 1 and NE 4 of the Jersey Island Plan 2011 (revised 2014).
2. To ensure the benefits of the landscape scheme are not delayed, in the interests of the amenities of the area and to ensure a high quality of design in accordance with Policies SP 7 and GD 7 of the Jersey Island Plan 2011 (revised 2014).
3. To ensure the protection of all protected species in accordance with Policies NE 1, NE 2, and NE 4 of the adopted Island Plan 2011 (revised 2014).
4. In the interests of highway safety, in accordance with Policy GD 1 of the Jersey Island Plan 2011 (revised 2014).

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0289

5. To safeguard the amenities and privacy of the occupants of the adjoining properties in accordance with Policy GD 1 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](http://www.gov.je/planning)

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

P01 – Location Plan  
 102 – Existing Site Plan  
 103 – Existing Building Photos  
 104 B – Proposed Site, Landscaping and Road Plan  
 105 – Proposed Level 1 Plans  
 106 – Proposed Levels 2, 3 & 4 Plans  
 107 – Vehicle Visibility  
 108 – Apartments Proposed South Elevation (From Road)  
 109 – Apartments Proposed West Elevation  
 110 – Apartments Proposed North Elevation  
 111 – Apartments Proposed East Elevation  
 112 – Southern Garages – Proposed South & North Elevations  
 113 – Northern Garages – Proposed South & North Elevations  
 114 – Contextual Elevations  
 115 – Apartments Proposed South Elevations (Full)  
 116 – Proposed Sections  
 117 – December 21st Sun Studies  
 118 – June – Sun Studies  
 119 – Equinox – Sun Studies  
 120 – South View 1  
 121 – Apartments – View from Garden  
 122 – South East View  
 123 – Apartments North View  
 124 – South West View of Garages  
 125 – NW View of Garages  
 Design Statement: March 2021  
 Drainage Statement  
 Ecological Survey Results Report 2018  
 Structural Report: March 2021  
 Transport Statement: February 2019  
 Updated Ecological Survey Report: June 2021  
 Updated Initial Ecological Assessment and Preliminary Roost Inspection: January 2021

DECISION DATE: xx/xx/xxxx



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2021/0289

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)

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APPROVED

**FOURTH SCHEDULE****The Owner's Covenants with the Chief Officer**

The Owner covenants, agrees and undertakes:

**COMMENCEMENT**

1 Not to Commence the Development until the Owner have given to the Chief Officer fourteen (14) days' notice in writing of its intention so to do.

**CYCLE INFRASTRUCTURE /BUS SHELTER**

2 To pay the Cycle/Bus Contribution to the Treasurer of the States prior to the Commencement of any part of the Development

3 Not to Commence the Development until such time as the Cycle/Bus Contribution has been paid to the Treasurer of the States.

**ROAD IMPROVEMENTS**

4 To pay the Road Improvements Contribution to the Treasurer of the States prior to the occupation of the first Dwelling Unit.

5. Not to Occupy or use or cause or permit to be Occupied the first Dwelling Unit until the Road Improvements Contribution has been paid to the Treasurer of the States.

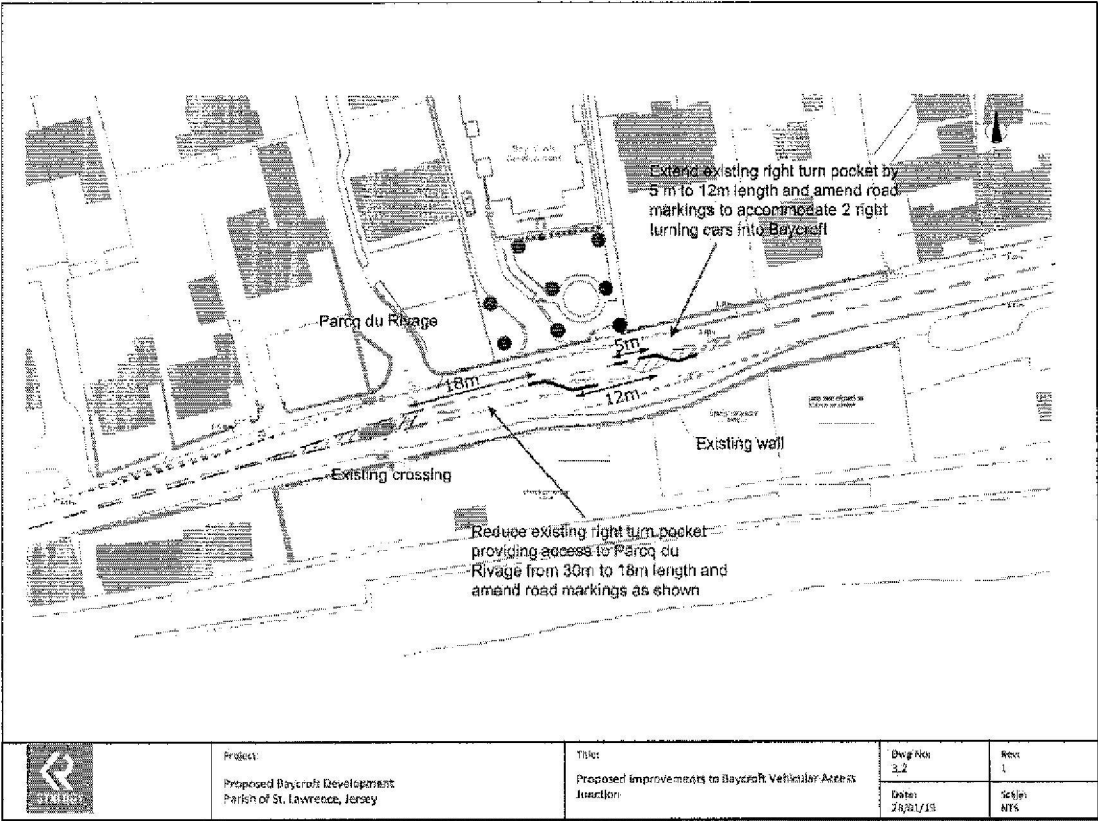
6. To apply for a permit as required under the Road Works and Events (Jersey) Law 2016 ("the RWEL Permit") in respect of the relocation of the site access and creating a new road side wall ("the Access Works") prior to the occupation of the first Dwelling Unit, which RWEL Permit will not be issued by the Minister for Infrastructure until such time as the detailed design of the Access Works has been agreed and approved in writing by the delegated officer.

7. Not to Occupy or use or cause or permit to be Occupied the first Dwelling Unit until the Access Works have been completed in accordance with the RWEL Permit.

**FIFTH SCHEDULE****Chief Officer's Covenants**

1. 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.
2. 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.

SIXTH SCHEDULE  
Plan of Road Improvement Scheme



Signed on behalf of the Chief Officer:

[REDACTED]

Name and Position

[REDACTED] HEAD OF DEVELOPMENT AND LAND

in the presence of

[REDACTED]

Name and Position

[REDACTED] (PLANNER)

this 19<sup>th</sup> day of January 2022

Signed by Baycroft Limited:

[REDACTED]

in the presence of

[REDACTED]

Name and Position

[REDACTED] PARALEGAL

this 18<sup>th</sup> day of January 2022