

# *In the Royal Court of Jersey*

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Samedi Division

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**In the year two thousand and eighteen, the twenty-second day of October.**

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 LMS Properties Limited in relation to 20 La Motte Street, St Helier, 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 the development of 20 La Motte Street, St Helier, JE2 4SZ

Dated:

18 October

2018

The Chief Officer for the Environment (1)

LMS Properties Limited (2)

DATE

2018

## PARTIES

- (1) The Chief Officer for the Environment of South Hill St Helier Jersey JE2 4US ("the Chief Officer")
- (2) LMS Properties Limited (Co Regn No 123331) of International House Don Road St Helier Jersey JE2 4JE ("the Owner")

## RECITALS

- 1 The Owner warrants that it is the owner of the Site to which it has right in perpetuity (à fin d'héritage) by virtue of a contract from Gilda Limited passed before the Royal Court on 7 April 2017
- 2 The Owner submitted the Application to the Chief Officer
- 3 Pursuant to Article 9(5)(b) of the Law the Chief Officer referred the application for the Development 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 2 August 2018 resolved to approve the grant of planning permission for the Development subject to the prior completion of this Agreement to secure the obligations contained herein.
- 5 The parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement
- 6 The Owner acknowledges that this Agreement is legally binding

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 Chief Officer for the Development and allocated reference number P/2018/0504.
"Commencement of for the avoidance of any doubt operations	the date on which any use or operation forming Development" part of the Development begins to be carried out including consisting of site clearance, demolition work, 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 and the words "Commence" and "Commenced" shall be construed accordingly.
"Development"	the Development of the Site to construct two/part three additional storeys to courtyard elevation and one additional storey to La Motte Street elevation. Construct 12 No. balconies to East elevation. Convert existing offices (Class C) into 23 No. one bed and 4 No. two bed residential units. Various external alterations..
"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 HSBC Bank Plc from time to time.
"Law"	the Planning and Building (Jersey) Law 2002.
"Plan"	the plan attached to this Agreement as the First Schedule.
"Planning Permit"	the planning permission subject to conditions to be granted by the Chief Officer pursuant to the Application as set out in the Second Schedule.
"Site"	the land against which this Agreement may be enforced as shown on the Site Plan in 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 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 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 shall come into effect immediately upon the date upon which it has been recorded as registered in the Royal Court as evidenced by an Act of the said Court and the Planning Permit has been issued to the Owner.

### **5 THE OWNER'S COVENANTS**

The Owner covenants and agrees with the Chief Officer as set out in the Third Schedule to the intent 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 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.

### **7 MISCELLANEOUS**

- 7.1 All communications and notices served or made under this Agreement shall be in writing.
- 7.2 Any notices on the Owner shall be deemed to have been properly served if sent by ordinary post to and addressed to either party at the address given in this Agreement or such other address in the Island of Jersey as otherwise notified to the Chief Officer by the Owner for the purpose by notice in writing.
- 7.3 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.
- 7.4 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permit shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.5 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.

- 7.6 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.
- 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 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 Officers' statutory powers under the Law.
- 7.8 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 St Helier (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.
- 7.9 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.
- 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 or oblige the Public to accept or take a transfer of land.
- 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.

## **8 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 for acting upon any subsequent breach or default.

## **9 CHANGE IN OWNERSHIP**

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

## **10 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.

**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 JURISDICTION**

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

## FIRST SCHEDULE

**Site Plan**

[INSERT NEW PLAN IN PLACE OF THIS]

## SECOND SCHEDULE

**The Planning Permit**

[INSERT]



## THIRD SCHEDULE

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

1. The Owner covenants and agrees and undertakes not to Commence the Development until the Owner has paid to the Department for Infrastructure:
  - a. £20,000 to provide a bus shelter with real time information; and
  - b. £30,000 to provide a loading bay to the front of the site.

Signed on behalf of LMS Properties Limited

By ..... [REDACTED] .....

Signature ..

Daniel Young  
Solicitor  
Bois Bois  
PO Box 429  
4 Bond Street  
St Heller, Jersey  
Channel Islands  
JE4 5QR

In the presence of ..

Signature ..

this 2<sup>nd</sup> day of October 2018

Signed on behalf of the Chief Officer for the Environment

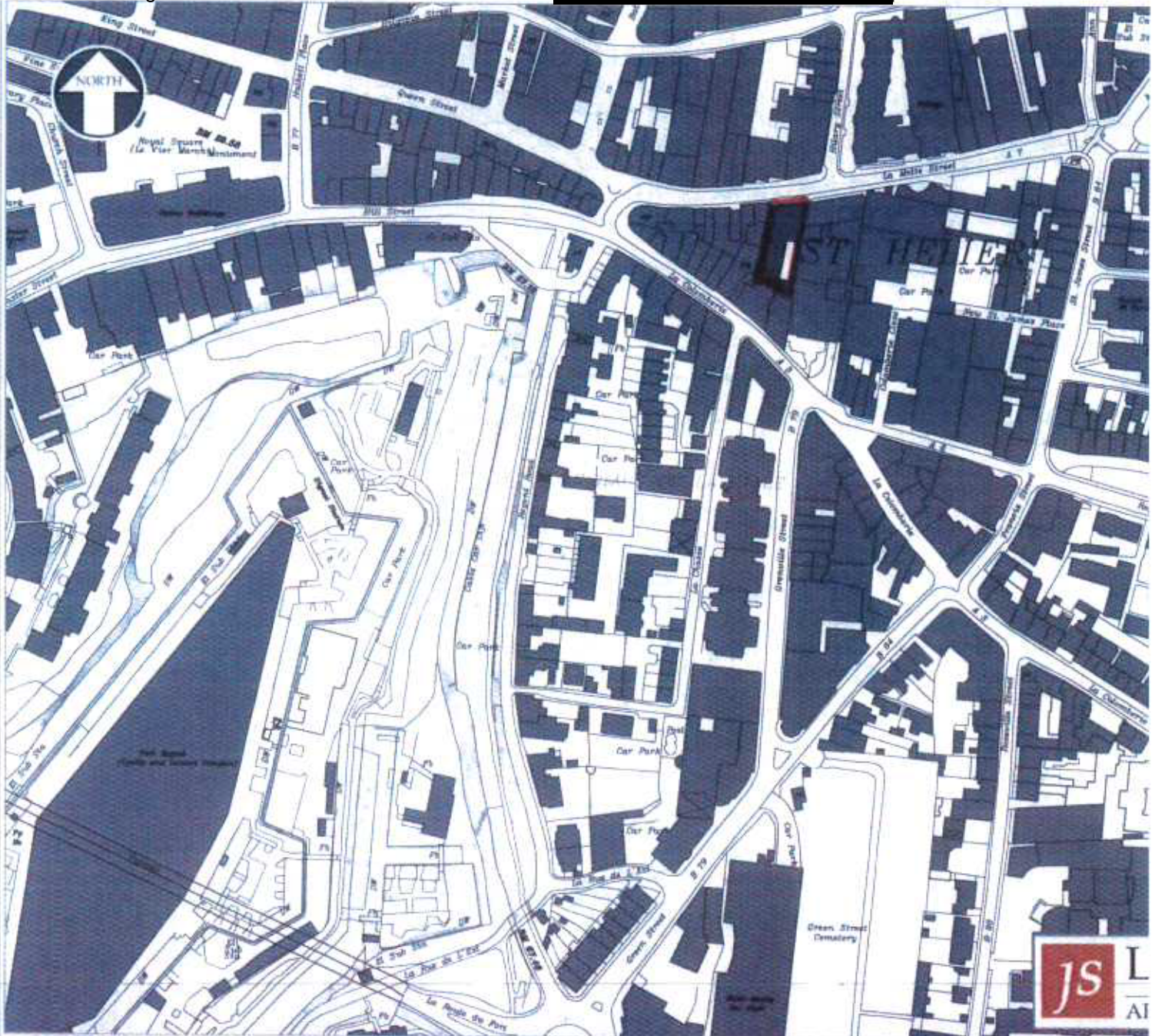
By PETER LE GREY .....  
[REDACTED]

Signature ..... [REDACTED] .....

In the presence of ..... Jonathan Gladwin (Senior Planner) .....

Signature .. [REDACTED] .....

this 18 day of October 2018



Site : 20 La Motte Street St. Helier.

Drawing : Site Location Plan

Project : Residential Development

Client : LMS Properties Limited

Drawing No.

Scale : 1 : 250



# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0504

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:**

Construct two/part three additional storeys to courtyard elevation and one additional storey to La Motte Street elevation. Construct 12 No. balconies to East elevation. Convert existing offices (Class C) into 23 No. one bed and 4 No. two bed residential units. Various external alterations.

**To be carried out at:**

20, La Motte Street, St. Helier, JE2 4SZ.

**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.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that the site has been identified as having the possible presence of protected wildlife species. It is the responsibility of the applicant to inform all site workers of the possibility of protected species on site and the implications under the Conservation of Wildlife (Jersey) Law (2000) and you are advised that it is your duty under the Law to stop work and notify the Department of Environment on +44 (0) 1534 441600 immediately should any species be found.

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0504

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. No part of the development hereby approved shall be occupied until the drainage works, including that the foul and surface waters are fully separated to the property boundary to the existing connection in La Motte Street, are fully completed in accordance with Operational Services - Drainage comments.

2. No part of the development hereby approved shall be occupied until the balconies in the east courtyard elevation at 3rd floor level to Unit 19 and the 4th floor level to Unit 24 are fitted with obscure privacy screens along the length of the south sides, to a height of 1800mm from finished floor level. Once constructed, the screen shall be maintained as such thereafter.

3. Prior to their first use on site, samples of all external materials to be used (including any hard landscaping materials and the external paint colour and finish on the La Motte Street elevation) shall be submitted to and approved in writing by the Department of the Environment. The approved materials shall be implemented in full and thereafter retained and maintained as such.

4. No part of the development hereby approved shall be occupied until the cycle parking facilities as indicated on the approved plan have been wholly constructed in accordance with the approved plans. The facilities shall thereafter be retained solely for the use of occupants of the development and maintained as such.

5. Prior to commencement of the development hereby approved, details in respect of the following matters shall be submitted to and approved in writing by the Department of the Environment. These works shall thereafter be carried out in full in accordance with such approved details:

A. Height, siting and use of materials of the privacy screen and landscaping to the rear boundary wall to the southern boundary of the application site.

6. No part of the development hereby approved shall be occupied unless

APPROVED

# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0504

agreed otherwise in writing by the Department of the Environment, until all hard and soft landscape works as indicated on the approved plans 'Design courtyard area' and 'Design roof terrace' have been carried out in full. Following completion, the landscaping areas shall be thereafter maintained as such.

7. The courtyard extension/raised roof to the rear of 20 La Motte Street hereby approved, shall be no higher than the opposite building at La Motte Chambers to the ridge of the roof and mansard top eaves as per drawing 'Proposed South Section/Elevation 2588-P11 rev G'

### Reason(s):

1. To ensure that the property has adequate foul and surface water drainage and in order to prevent any pollution of groundwater in accordance with Policy LWM2 of the Adopted Island Plan 2011 (Revised 2014).
2. To safeguard the amenities and privacy of the occupants of the adjoining properties in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
3. To promote good design and to safeguard the character and appearance of the surrounding area, in accordance with Policies GD1 and GD7 of the Adopted Island Plan 2011 (Revised 2014).
4. In the interests of promoting sustainable patterns of development, in accordance with Policies TT9 and SP6 of the Adopted Island Plan 2011 (Revised 2014).
5. These details are required to be submitted and agreed by the Department of the Environment to ensure that regard is paid to the interests of the neighbouring properties, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
6. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
7. For the avoidance of doubt and to safeguard the amenities of the occupants of the adjoining properties in accordance with Policy GD1 of the Adopted Island Plan 2011

**FOR YOUR INFORMATION**

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# Decision Notice



## PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0504

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:

Location Plan

Proposed Ground Floor Plan P1 G

Proposed First Floor Plan P2 D

Proposed Second Floor Plan P3 C

Proposed Third Floor Plan P4 D

Proposed Fourth Floor Plan P5 D

Proposed Fifth Floor Plan P6 D

Proposed Roof Plan P7 D

Proposed Road Side Elevation P8 E

Proposed East Section / Elevation P9 E

Proposed Site Plan P10

Proposed South Section / Elevation P11 G

Proposed Site Sections P12

Streetscape Elevations P14

Design Courtyard Area

Design Roof Terrace

Public Art Statement

### DECISION DATE:

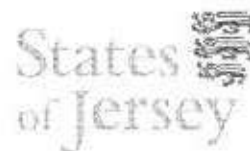
The development may also require building permission, for which a separate application will need to be made. You can find out if building permission is required on our website [www.gov.je/planningbuilding](http://www.gov.je/planningbuilding)

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)

APPROVED

# Decision Notice



PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2018/0504

APPROVED