

In the Royal Court of Jersey

Samedi Division

In the year two thousand and eighteen, the twelfth day of March.

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 Wayne Philip Le Marquand in relation to Broadlands, Le Mont Fallu, St Peter, 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 Broadlands, Le Mont Fallu, St. Peter, JE3 7EF

Dated *9th March*

2018

The Chief Officer for the Environment (1)

Wayne Philip Le Marquand (2)

DATE

2018

PARTIES

- (1) The Chief Officer for the Environment of States Offices, South Hill, St Helier, Jersey JE2 4US ("**the Chief Officer**");
- (2) Wayne Philip Le Marquand ("**the Owner**") of Broadlands, Le Mont Fallu, St. Peter, JE3 7EF

RECITALS

- 1 The Owner warrants that he is the owner in perpetuity (*à fin d'héritage*) of the Site in part by purchase by contract dated 1st May 1992 from Winter Poignand Le Marquand and as to the rest as one of the devisees to the will and codicils of immovable estate of the said Winter Poignand Le Marquand registered by Act of the Royal Court dated 6th December 2002.
- 2 The Owner submitted an application (accorded the reference P/2017/1226) for planning permission for the Development.
- 3 Having regard to the purposes of the Law the Island Plan 2011 and all other material considerations the Chief Officer is minded to approve the grant of planning permission for the Development subject to the prior completion of this Agreement for a financial contribution to the bus shelter facilities as required by the Island Plan, 2011.
- 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 "Reinstatement of residential accommodation to create 18 No. two bed and 7 No. three bed dwellings with associated parking and landscaping." and given the reference P/2017/1226;
"Chief Officer"	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;
"Commencement"	the date on which any operation forming part of the Development permitted by the Planning Permit or any subsequent planning permission for the Development begins to be carried out, and "Commence" and "Commenced" shall be construed accordingly;
"Bus Shelter Facilities Contribution"	the sum of ten thousand pounds (£10,000) to be paid by the Owner to the Treasurer of the States to be applied towards the provision of hardstanding for a bus shelter and junction improvements at the junction to the top of Le Mont Fallu with La Route de Beaumont .
"Development"	the development of the Site as set out in the Application;
"GST"	goods and services tax under the Goods and Services Tax (Jersey) Law 2007;
"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.

"Island Plan 2011"	The States of Jersey Island Plan, 2011 (as amended from time to time);
"Law"	the Planning and Building (Jersey) Law 2002;
"Plan"	the plan of the Site attached at the First Schedule to this Agreement;
"Planning Permit"	the planning permission for the Development granted by the Chief Officer pursuant to the Application, a copy of which is attached at the Second Schedule and references to the Planning Permit include where the context permits any variations to the said planning permission from time to time;
"Royal Court"	the Royal Court of the Island of Jersey;
"Site"	Broadlands, Le Mont Fallu, St. Peter, JE3 7EF, as shown for the purpose of identification edged by a broken red line on the Plan;

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 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 Third 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 CHIEF OFFICER COVENANTS

The Chief Officer covenants with the Owner as set out in the Fourth Schedule.

7. PUBLIC REGISTRY OF CONTRACTS

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

8 MISCELLANEOUS

- 8.1 Where the agreement, approval, consent or expression of satisfaction is required by the 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 of Planning at Planning and Building Services South Hill St Helier Jersey JE2 4US 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 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 ownership of its interest in the Site occurring before all the obligations under this Agreement have been discharged.

11 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.

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.

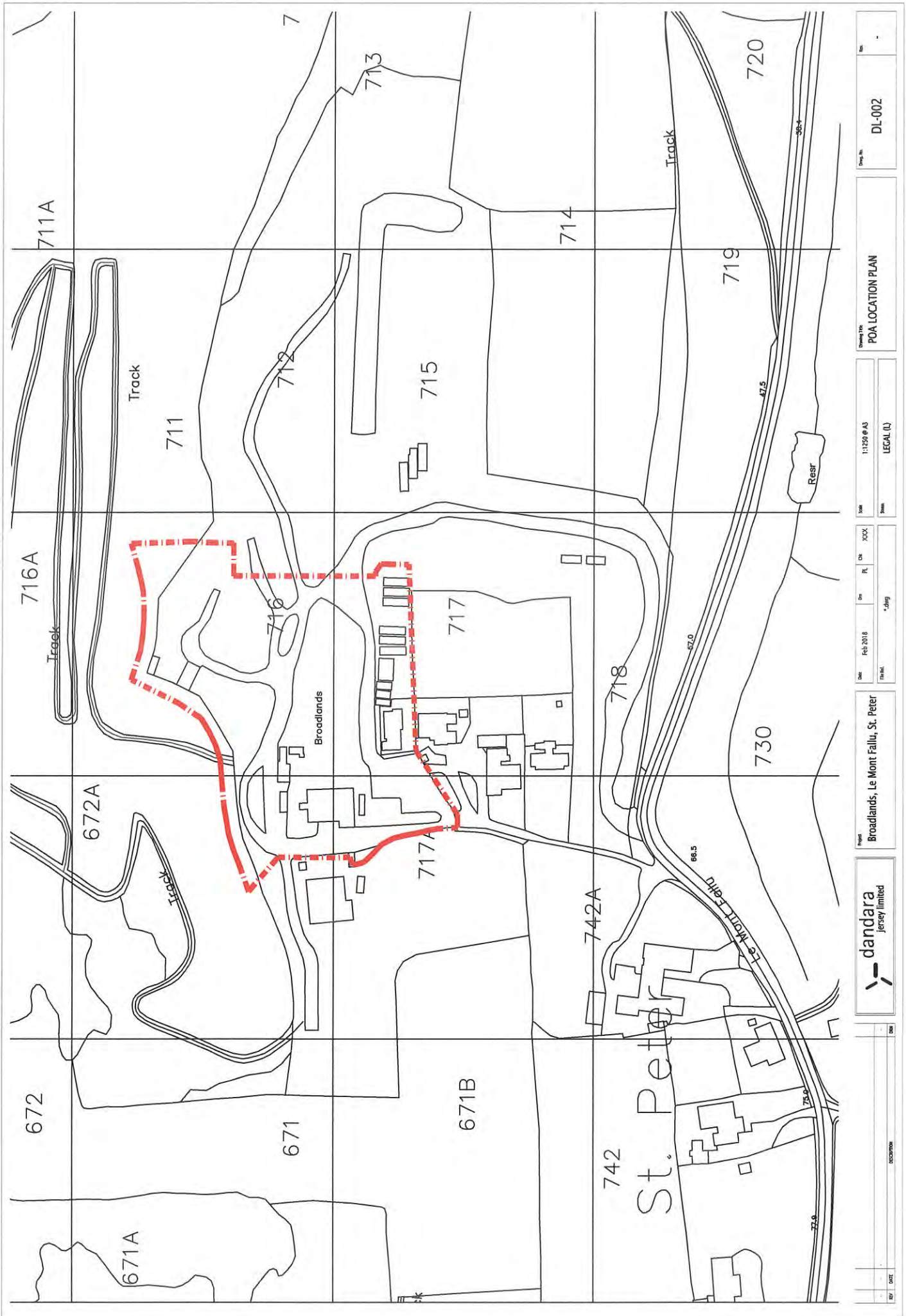
14.2 If at any time GST is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement then to the extent that GST had not previously been charged in respect of that supply the person making the supply shall have the right to issue a GST invoice to the person to whom the supply was made and the GST shall be paid accordingly.

15 JURISDICTION

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

FIRST SCHEDULE

The Plan



SECOND SCHEDULE

The Planning Permit

Department of the Environment
Planning and Building Services

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



Dandara Jersey Limited
Spectrum House
Gloucester Street
St Helier
JE2 3DG

Planning Application Number P/2017/1226

Dear Sir/Madam

Application Address:	Broadlands, Le Mont Fallu, St. Peter, JE3 7EF.
Description of Work:	Reinstatement of residential accommodation to create 18 No. two bed and 7 No. three bed dwellings with associated parking and landscaping. EIS submitted. 3D Model available.

Please find enclosed the decision notice for the above application.

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 please 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. How to do this is set out in Supplementary Planning Guidance Practice Note No. 3 available online at www.gov.je

Yours faithfully

Jonathan Gladwin

Department of the Environment
Planning and Building Services

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



Planning Application Number P/2017/1226

Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

In accordance with Article 19(8) of the Planning and Building 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:

Reinstatement of residential accommodation to create 18 No. two bed and 7 No. three bed dwellings with associated parking and landscaping. EIS submitted. 3D Model available.

To be carried out at:

Broadlands, Le Mont Fallu, St. Peter, JE3 7EF.

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 refer to the guidance on The Control of Dust and Emissions from Construction and Demolition, which can be found online at:

http://www.london.gov.uk/thelondonplan/guides/bpg/bpg_04.jsp

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should refer to the guidance contained in the document 'Guidelines on Noise Control for Construction Sites' which is available online at

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<http://www.gov.je/Industry/Construction/Pages/ConstructionSite.aspx> and 'British Standard BS5228:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites'.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that if noise complaints are received in the future, the matter may be investigated and considered under the Statutory Nuisances (Jersey) Law 1999, and noise mitigation measures may then be required. These measures may themselves require planning permission.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should be aware that permission must be obtained from Transport and Technical Services - Highways Maintenance and/or Streetworks Team on +44 (0)1534 445509 . The agreed work will be required to be carried out by an approved contractor to the TTS's specification at the cost of the developer.

Given comments received during the assessment of the application, the States of Jersey recommends that the applicant should follow the provisions of the Conservation of Wildlife (Jersey) Law (2000). Prior to any felling, hedge removal or clearance works, the site should be checked by a qualified and competent person to ensure that there are no nesting birds or other protected wildlife in any of the trees or hedgerows to be felled or removed. Further information can be obtained from Department of the Environment on +44 (0) 1534 441600.

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. Prior to commencement of the development hereby approved, details of the additional sound insulation, to accord with the recommendations of the

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submitted Noise Impact Assessment, shall be submitted to and approved in writing by the Department of the Environment. The approved mitigation measures shall thereafter be implemented in full, retained and maintained as such.

2. Notwithstanding the conclusions reached within the Phase 1 Desktop Study, following the commencement of development during the demolition and construction phases, should any contamination not previously identified be found, the Department of the Environment shall be informed as soon as possible. No further development shall be carried out (unless otherwise agreed in writing with the Department) until the levels of potential contaminants in the ground have been investigated and any risks to human health or the wider environment assessed and mitigated, in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 - Development of Potentially Contaminated Land as amended.

3. No part of the development hereby approved shall be occupied until a completion report and contaminated land completion certificate demonstrating completion of the works and the effectiveness of any remediation set out in the approved scheme, is submitted to and approved in writing by the Department of the Environment. Where required by the Department the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Department.

4. Prior to commencement of the development hereby approved, a Bird Hazard Assessment of the site must be submitted to and approved in writing by the Department of the Environment. The Bird Hazard Assessment shall be undertaken by a suitably qualified person and to a methodology to be first agreed in writing by the Department of the Environment. All mitigation measures shall be carried out in full and in accordance with the recommendations of the Bird Hazard Assessment.

5. No part of the development hereby approved shall be occupied until details of the means of vehicular access from Le Mont Fallu to the access road to the application site have been submitted to and approved in writing by the Department of the Environment. The access arrangements shall be wholly constructed in accordance with the approved plans and shall thereafter be retained and maintained as such.

6. The findings and required mitigation measures outlined in the Ecology Assessment shall be implemented prior to the commencement of 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 the Department of the Environment prior to works being undertaken.

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PLANNING AND BUILDING (JERSEY) LAW 2002

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7. Prior to their first use on site, samples of all external materials to be used (including windows/doors/any hard landscaping materials) 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.

8. No part of the development hereby approved shall be occupied until all hard and soft landscape works as indicated on the approved plan have been carried out in full. Following completion, the landscaping areas shall be thereafter maintained as such.

9. No part of the development hereby approved shall be occupied until details of a suitable landscaping screen to the southern boundary of the application site has been submitted to and approved by the Department of the Environment. Following completion, the landscaping areas shall be thereafter maintained as such.

Reason(s):

1. To protect the amenities of occupiers of neighbouring properties, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
2. To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policies GD1 and GD6 of the Adopted Island Plan 2011 (Revised 2014).
3. To ensure the development does not have an adverse impact on public health or the wider environment, in accordance with Policies GD1 and GD6 of the Adopted Island Plan 2011 (Revised 2014).
4. To ensure the public safety within the public safety zone of the Airport in accordance with Policy TT17 of the Adopted Island Plan 2011 (Revised 2014).
5. In the interests of highway safety, in accordance with Policy GD1 of the Adopted Island Plan 2011 (Revised 2014).
6. To ensure the protection of all protected species in accordance with Policies NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).
7. 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).
8. To ensure that the benefits of the approved landscaping scheme are carried out and completed, making a positive contribution to the amenities of

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the site in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).

9. 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 and on neighbouring properties in accordance with Policies GD1, GD7, NE1, NE2 and NE4 of the Adopted Island Plan 2011 (Revised 2014).

FOR YOUR INFORMATION

The approved plans can be viewed on the Planning Register at www.gov.je/planning

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

Location Plan
Environmental Impact Statement
Non-Technical Summary
Transport Statement
Crime Impact Statement
Construction Environmental Management Plan
Percentage for Art Statement
Site Waste Management Plan
Drainage Strategy Philosophy
Drainage Strategy Layout
Location Plan 0010 P7
Proposed Site Plan 0030 P10
Proposed Site Plan Level 00 100 P10
Proposed Front Elevations 200 P10
Proposed Rear Elevations 201 P9
Existing and Proposed Site Sections Sheet 1 300 P10
Existing and Proposed Site Sections Sheet 2 301 P8
Proposed Facade Detail Sheet 1 400 P8
Proposed Facade Detail Sheet 2 401 P8
Proposed Landscape Plan 900 P8
Plots 1-7 Plans, Elevations, Sections 110 P7
Plot 9-14 Plans, Elevations, Sections 111 P7
Plots 15-19 Plans, Elevations, Sections 112 P7
Plots 20-25 Plans, Elevations, Sections 113 P7
Plot 8 Plans, Elevations, Sections & Visualisations 114 P7
TV/Sat Dish Location Strategy 10030 P1

DECISION DATE:

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Decision Notice

PLANNING AND BUILDING (JERSEY) LAW 2002

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The development may also require building permission, for which a separate application will need to be made. If you are in any doubt as to whether building permission is required please telephone the Building Applications Team on 448407.

APPROVED

THIRD 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 has given to the Chief Officer seven (7) days' notice in writing of its intention so to do.

BUS SHELTER FACILITIES

- 2 To pay the Bus Shelter Facilities Contribution to the Treasurer of the States prior to the Commencement of any part of the Development.
- 3 Not to Commence any part of the Development until such time as the Bus Shelter Facilities Contribution has been paid to the Treasurer of the States.

FOURTH 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 four years of the date of receipt by the Treasurer of the States of such payment.

Signed on [redacted]
by

(PETER LE GRESLEY)
DIRECTOR

in the presence [redacted]

(Jonathan Gladwin)
Senior Planner

this 9th day of March 2018

Signed by Wayne Philip Le Marquand

[redacted signature]

in the presence of

this 22nd day of February 2018